

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 4
3 entitled “An act relating to reducing crimes of violence associated with
4 juveniles and dangerous weapons” respectfully reports that it has considered
5 the same and recommends that the House propose to the Senate that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 Sec. 1. 33 V.S.A. § 5204 is amended to read:

9 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
10 COURT

11 (a) After a petition has been filed alleging delinquency, upon motion of the
12 State’s Attorney and after hearing, the Family Division of the Superior Court
13 may transfer jurisdiction of the proceeding to the Criminal Division of the
14 Superior Court if the child had attained 16 years of age but not 19 years of age
15 at the time the act was alleged to have occurred and the delinquent act set forth
16 in the petition is a felony not specified in subdivisions (1)-(12) of this
17 subsection or if the child had attained 12 years of age but not 14 years of age at
18 the time the act was alleged to have occurred, and if the delinquent act set forth
19 in the petition was any of the following:

20 (1) arson causing death as defined in 13 V.S.A. § 501 **or an attempt to**
21 **commit that offense;**

1 (2) assault and robbery with a dangerous weapon as defined in

2 13 V.S.A. § 608(b) **or an attempt to commit that offense;**

3 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.

4 § 608(c) **or an attempt to commit that offense;**

5 (4) aggravated assault as defined in 13 V.S.A. § 1024 **or an attempt to**

6 **commit that offense;**

7 (5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as

8 defined in 13 V.S.A. § 2311 **or an attempt to commit either of those offenses;**

9 (6) manslaughter as defined in 13 V.S.A. § 2304 **or an attempt to**

10 **commit that offense;**

11 (7) kidnapping as defined in 13 V.S.A. § 2405 **or an attempt to commit**

12 **that offense;**

13 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407 **or an**

14 **attempt to commit that offense;**

15 (9) maiming as defined in 13 V.S.A. § 2701 **or an attempt to commit**

16 **that offense;**

17 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) **or an**

18 **attempt to commit that offense;**

19 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and

20 aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a **or an**

21 **attempt to commit either of those offenses;** or

1 (12) burglary into an occupied dwelling as defined in 13 V.S.A.

2 § 1201(c) or an attempt to commit that offense.

3 (b)(1) The State’s Attorney of the county where the juvenile petition is
4 pending may move in the Family Division of the Superior Court for an order
5 transferring jurisdiction under subsection (a) of this section at any time prior to
6 adjudication on the merits. The filing of the motion to transfer jurisdiction
7 shall automatically stay the time for the hearing provided for in section 5225 of
8 this title, which stay shall remain in effect until such time as the Family
9 Division of the Superior Court may deny the motion to transfer jurisdiction.

10 (2)(A)(i) The Family Division of the Superior Court shall hold a hearing
11 under subsection (c) of this section to determine whether jurisdiction should be
12 transferred to the Criminal Division under subsection (a) of this section if the
13 delinquent act set forth in the petition is:

14 (I) a felony violation of 18 V.S.A. chapter 84 for selling or
15 trafficking a regulated drug;

16 (II) human trafficking or aggravated human trafficking in
17 violation of 13 V.S.A. § 2652 or 2653

18 (III) defacing a firearm’s serial number in violation of 13
19 V.S.A. § 4024; or

20 (IV) straw purchasing of firearm in violation of 13 V.S.A. §
21 4025; and

1 (ii) the child had attained 16 years of age but not 19 years of age at
2 the time the act was alleged to have occurred.

3 (B) A transfer hearing required by this subdivision (2) shall occur
4 without delay and as soon as practicable, and the State shall have the burden of
5 proof. The court decision to hold the transfer hearing shall automatically stay
6 the time for the hearing provided for in section 5225 of this title, which stay
7 shall remain in effect until such time as the Family Division of the Superior
8 Court may deny the motion to transfer jurisdiction.

9 (c) Upon the filing of a motion to transfer jurisdiction under subsection (b)
10 subdivision (b)(1) of this section, or in cases where a hearing is required under
11 subdivision (b)(2) of this section, the Family Division of the Superior Court
12 shall conduct a hearing in accordance with procedures specified in subchapter
13 2 of this chapter to determine whether:

14 (1) there is probable cause to believe that the child committed the
15 charged offense; and

16 (2) public safety and the interests of the community would not be served
17 by treatment of the child under the provisions of law relating to the Family
18 Division of the Superior Court and delinquent children.

19 (d) In making its determination as required under subsection (c) of this
20 section, the court may consider, among other matters:

1 (1) the maturity of the child as determined by consideration of the
2 child's age, home, and environment; emotional, psychological, and physical
3 maturity; and relationship with and adjustment to school and the community;

4 (2) the extent and nature of the child's prior record of delinquency;

5 (3) the nature of past treatment efforts and the nature of the child's
6 response to them, including the child's mental health treatment and substance
7 abuse treatment and needs;

8 (4) the nature and circumstances of the alleged offense, including
9 whether the alleged offense was committed in an aggressive, violent,
10 premeditated, or willful manner;

11 (5) the nature of any personal injuries resulting from or intended to be
12 caused by the alleged act;

13 (6) the prospects for rehabilitation of the child by use of procedures,
14 services, and facilities available through juvenile proceedings;

15 (7) whether the protection of the community would be better served by
16 transferring jurisdiction from the Family Division to the Criminal Division of
17 the Superior Court;

18 (8) the youth's residential housing status;

19 (9) the youth's employment and educational situation;

20 (10) whether the youth has complied with conditions of release;

1 (11) the youth’s criminal record and whether the youth has engaged in
2 subsequent criminal or delinquent behavior since the original charge;

3 (12) whether the youth has connections to the community; and

4 (13) the youth’s history of violence and history of illegal or violent
5 conduct involving firearms.

6 (e) A transfer under this section shall terminate the jurisdiction of the
7 Family Division of the Superior Court over the child only with respect to those
8 delinquent acts alleged in the petition with respect to which transfer was
9 sought.

10 (f)(1) The Family Division, following completion of the transfer hearing,
11 shall make findings and, if the court orders transfer of jurisdiction from the
12 Family Division, shall state the reasons for that order. If the Family Division
13 orders transfer of jurisdiction, the child shall be treated as an adult. The State’s
14 Attorney shall commence criminal proceedings as in cases commenced against
15 adults.

16 (2) Notwithstanding subdivision (1) of this subsection, the parties may
17 stipulate to a transfer of jurisdiction from the Family Division at any time after
18 a motion to transfer is made pursuant to subsection (b) of this section. The
19 court shall not be required to make findings if the parties stipulate to a transfer
20 pursuant to this subdivision. Upon acceptance of the stipulation to transfer
21 jurisdiction, the court shall transfer the proceedings to the Criminal Division

1 and the child shall be treated as an adult. The State’s Attorney shall commence
2 criminal proceedings as in cases commenced against adults.

3 (3) Notwithstanding subdivision (1) of this subsection, the parties may
4 stipulate to convert the juvenile proceeding to a youthful offender proceeding
5 under chapter 52A of this title. If the parties stipulate to convert the
6 proceeding pursuant to this subdivision, the court may proceed immediately to
7 a youthful offender consideration hearing under section 5283 of this title. The
8 Court shall request that the Department complete a youthful offender
9 consideration report under section 5282 of this title before accepting a case for
10 youthful offender treatment pursuant to this subdivision.

11 * * *

12 Sec. 2. 33 V.S.A. § 5201 is amended to read:

13 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

14 * * *

15 (c)(1) Any proceeding concerning a child who is alleged to have committed
16 an act specified in subsection 5204(a) of this title after attaining 14 years of
17 age, but not 22 years of age, shall originate in the Criminal Division of the
18 Superior Court, provided that jurisdiction may be transferred in accordance
19 with this chapter and chapter 52A of this title, unless the State’s Attorney files
20 the charge directly as a youthful offender petition in the Family Division.

1 (2)(A) Any proceeding concerning a child who is alleged to have
2 committed one of the following acts after attaining 14 years of age, but not 22
3 years of age, shall originate in the Criminal Division of the Superior Court,
4 provided that jurisdiction may be transferred in accordance with this chapter
5 and chapter 52A of this title, unless the State’s Attorney files the charge
6 directly as a youthful offender petition in the Family Division:

7 (i) a violation of a condition of release as defined in 13 V.S.A.
8 § 7559 imposed by the Criminal Division for any of the offenses listed in
9 subsection 5204(a) of this title; or

10 (ii) a violation of a condition of release as defined in 13 V.S.A.
11 § 7559 imposed by the Criminal Division for an offense that was transferred
12 from the Family Division pursuant to section 5204 of this title.

13 (B) This subdivision (2) shall not apply to a proceeding that is the
14 subject of a final order accepting the case for youthful offender treatment
15 pursuant to subsection 5281(d) of this title.

16 **Sec. 3. 18 V.S.A. § 4252 is amended to read:**

17 **§ 4252. PENALTIES FOR DISPENSING OR SELLING KNOWINGLY**

18 **PERMITTING SALE OF REGULATED DRUGS**

19 **IN A DWELLING**

1 (a) No person shall knowingly permit a dwelling, building, or structure
2 owned by or under the control of the person to be used for the purpose of
3 illegally ~~dispensing or~~ selling a regulated drug.

4 ~~(b) A landlord shall be in violation of subsection (a) of this section only if~~
5 ~~the landlord knew at the time he or she signed the lease agreement that the~~
6 ~~tenant intended to use the dwelling, building, or structure for the purpose of~~
7 ~~illegally dispensing or selling a regulated drug. [Repealed.]~~

8 (c) A person who violates this section shall be imprisoned not more than
9 **two years** or fined not more than **\$1,000.00 \$15,000.00**, or both.

10 (d) It shall not be a violation of this section if the person who owns or
11 controls the dwelling, building, or structure takes action to address the
12 unlawful activity. **including reporting the unlawful activity to law enforcement**
13 **or initiating eviction proceedings.**

14 Sec. 4. 13 V.S.A. chapter 60, subchapter 1, is amended to read:

15 Subchapter 1. Criminal Acts

16 * * *

17 **§ 2659. KNOWINGLY PERMITTING HUMAN**

18 **TRAFFICKING IN A DWELLING**

19 (a) No person shall knowingly permit a dwelling, building, or structure
20 owned by or under the control of the person to be used for the purpose of

1 human trafficking or aggravated human trafficking in violation of section 2652
2 or 2653 of this title.

3 (b) A person who violates this section shall be imprisoned not more than
4 two years or fined not more than \$15,000.00, or both.

5 (c) It shall not be a violation of this section if the person who owns or
6 controls the dwelling, building, or structure takes action to address the
7 unlawful activity. including reporting the unlawful activity to law enforcement
8 or initiating eviction proceedings.

9 Sec. 5. 13 V.S.A. § 4024 is added to read:

10 § 4024. DEFACING OF FIREARM'S SERIAL NUMBER

11 (a) A person shall not knowingly possess a firearm that has had the
12 importer's or manufacturer's serial number removed, obliterated, or altered.

13 (b) A person who violates this section shall be imprisoned not more than
14 five years or fined not more than \$50,000.00, or both.

15 (c) As used in this section:

16 (1) "Firearm" has the same meaning as in section 4017 of this title.

17 (2) "Importer" means any person engaged in the business of importing
18 or bringing firearms or ammunition into the United States for purposes of sale
19 or distribution.

20 (3) "Manufacturer" means any person engaged in the business of
21 manufacturing firearms or ammunition for purposes of sale or distribution.

1 ~~(d) Conduct constituting the offense of defacing a firearm’s serial number~~
2 ~~may be considered a violent act for the purposes of determining whether a~~
3 ~~person is eligible for bail under section 7553a of this title.~~

4 Sec. 6. 13 V.S.A. § 4025 is added to read:

5 § 4025. STRAW PURCHASING OF FIREARMS

6 (a) A person shall not purchase a firearm for, on behalf of, or at the request
7 of another person if the purchaser knows or reasonably should know that the
8 other person:

9 (1) is prohibited by state or federal law from possessing a firearm;

10 (2) intends to carry the firearm while committing a felony; or

11 (3) intends to transfer the firearm to another person who:

12 (A) is prohibited by state or federal law from possessing a firearm; or

13 (B) intends to carry the firearm while committing a felony.

14 (b) It shall not be a violation of this section if the person purchased the
15 firearm as a result of threats or coercion by another person.

16 (c) A person who violates this section shall be imprisoned not more than
17 five years or fined not more than \$50,000.00, or both.

18 (d) As used in this section, “firearm” has the same meaning as in section
19 4017 of this title.

1 ~~(e) Conduct constituting the offense of straw purchasing of firearms may~~
2 ~~be considered a violent act for the purposes of determining whether a person is~~
3 ~~eligible for bail under section 7553a of this title.~~

4 Sec. 7. 13 V.S.A. § 4017a is added to read:

5 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
6 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
7 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
8 POSSESSION OF FIREARMS

9 (a) A person shall not possess a firearm if the person:

10 (1) is a fugitive from justice;

11 (2) is the subject of a final relief from abuse order issued pursuant to

12 15 V.S.A. § 1104;

13 (3) is the subject of a final order against stalking issued pursuant to

14 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm;

15 or

16 (4) against whom charges are pending for:

17 (A) carrying a dangerous weapon while committing a felony in

18 violation of section 4005 of this title;

19 (B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,

20 subchapter 1; or

1 (C) human trafficking or aggravated human trafficking in violation of
2 section 2652 or 2653 of this title.

3 (b) A person who violates this section shall be imprisoned not more than
4 two years or fined not more than \$1,000.00, or both.

5 (c) As used in this section:

6 (1) “Firearm” has the same meaning as in section 4017 of this title.

7 (2) “Fugitive from justice” means a person who has fled to avoid
8 prosecution for a crime or to avoid giving testimony in a criminal proceeding.

9 Sec. 8. 13 V.S.A. § 4005 is amended to read:

10 § 4005. WHILE COMMITTING A CRIME **FELONY**

11 (a) Except as otherwise provided in 18 V.S.A. § 4253, a person who carries
12 a dangerous or deadly weapon, openly or concealed, while committing a felony
13 shall be imprisoned not more than five years or fined not more than \$500.00,
14 or both.

15 (b)(1) Carrying a firearm while committing a felony in violation of this
16 section may be considered a violent act for the purposes of determining
17 whether a person is eligible for bail under section 7553a of this title.

18 (2) An offense that is a felony rather than a misdemeanor solely because
19 of the monetary value of the property involved shall not be considered a
20 violent act under this subsection.

21 Sec. 9. 33 V.S.A. § 5117 is amended to read:

1 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

2 (a) Except as otherwise provided, court and law enforcement reports and
3 files concerning a person subject to the jurisdiction of the court shall be
4 maintained separate from the records and files of other persons. Unless a
5 charge of delinquency is transferred for criminal prosecution under chapter 52
6 of this title or the court otherwise orders in the interests of the child, such
7 records and files shall not be open to public inspection nor their contents
8 disclosed to the public by any person. However, upon a finding that a child is
9 a delinquent child by reason of commission of a delinquent act that would have
10 been a felony if committed by an adult, the court, upon request of the victim,
11 shall make the child's name available to the victim of the delinquent act. If the
12 victim is incompetent or deceased, the child's name shall be released, upon
13 request, to the victim's guardian or next of kin.

14 * * *

15 (d) Such records and files shall be available to:

16 (1) State's Attorneys and all other law enforcement officers in
17 connection with record checks and other legal purposes; and

18 (2) the National Instant Criminal Background Check System in
19 connection with a background check conducted on a person under 22 years of
20 age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(l).

21 * * *

1 Sec. 10. 18 V.S.A. § 13 is added to read:

2 § 13. COMMUNITY VIOLENCE PREVENTION PROGRAM

3 (a)(1) There is established the Community Violence Prevention Program to
4 be administered by the Department of Health in consultation and collaboration
5 with the Chief Prevention Officer, the Department of Public Safety, the
6 Director of Violence Prevention, the Executive Director of Racial Equity, and
7 the Council for Equitable Youth Justice. The Program shall work with
8 communities to implement innovative, evidence-based, and evidence-informed
9 programs addressing causes of youth and community violence.

10 (2) Grants awarded pursuant to this section shall be at the discretion of
11 the Commissioner of Health. Preference shall be given to communities where
12 there has been an increase in violence associated with illegal drug use, gang
13 activity, or human trafficking. Grants shall:

14 (A) build on and complement existing programs addressing the
15 causes of youth and community violence; and

16 (B) be for the purpose of funding efforts that address violence and
17 associated community harm using approaches that may include the following:

18 (i) best available research evidence;

19 (ii) experiential evidence;

20 (iii) contextual evidence;

21 (iv) lived experience of impacted communities;

1 (v) trauma-responsive programming; and

2 (vi) other qualitative or quantitative factors that may inform the
3 decision-making of the Commissioner.

4 (b)(1) A Vermont municipality or nonprofit organization may submit an
5 application for a Community Violence Prevention Program grant to the
6 Commissioner of Health. Grants awarded under this section shall be for the
7 purpose of funding innovative, evidence-based, or evidence-informed
8 approaches to reducing violence and associated community harm.

9 (2) The Commissioner of Health, in consultation with the Department of
10 Public Safety and the Executive Director of Racial Equity, shall develop and
11 publish guidelines, for the award of Community Violence Prevention grants.
12 The guidelines shall include a focus on increasing community capacity to
13 implement approaches for human services, public health, and public safety
14 collaboration to address root causes of community violence and substance use
15 through data-driven projects.

16 (c) The Community Violence Prevention Program shall collect data to
17 monitor youth and community violence and its related risk and protective
18 factors and to evaluate the impact of prevention efforts and shall use the data to
19 plan and implement programs. The Program shall use monitoring and
20 evaluation data to track the impact of interventions.

21 Sec. 11. APPROPRIATION

1 (a) Secs. 3 (33 V.S.A. § 5103(c)) and 7 (33 V.S.A. § 5206) shall take effect
2 on July 1, ~~2023~~ 2024.

3 * * *

4 Sec. 14. PLAN FOR SECURE PLACEMENTS

5 On or before September 1, 2023 and December 1, 2023, the Department for
6 Children and Families shall file a status report to the Joint Legislative Justice
7 Oversight Committee, the Senate and House Committees on Judiciary, the
8 House Committee on Corrections and Institutions, the House Committee on
9 Human Services, and the Senate Committee on Health and Welfare describing
10 the progress made toward implementing the requirement of Secs. 11 and 12 of
11 this act that the Raise the Age initiative take effect on July 1, 2024.

12 Sec. 15. SENTENCING COMMISSION REPORT

13 (a) On or before December 15, 2023, the Vermont Sentencing Commission
14 shall report to the Joint Legislative Justice Oversight Committee and the
15 Senate and House Committees on Judiciary on whether the offenses for which
16 transfer from the Family Division to the Criminal Division is permitted under
17 33 V.S.A. § 5204(a) should be expanded to include:

18 (1) first degree arson as defined in 13 V.S.A. § 502 or second degree
19 arson as defined in 13 V.S.A. § 503;

20 (2) stalking as defined in 13 V.S.A. § 1062;

- 1 (3) domestic assault as defined in 13 V.S.A. § 1042, first degree
2 aggravated domestic assault as defined in 13 V.S.A. § 1043, and second degree
3 aggravated domestic assault as defined in 13 V.S.A. § 1044;
4 (4) selling or dispensing a regulated drug with death resulting as defined
5 in 18 V.S.A. § 4250;
6 (5) using a firearm while selling or dispensing a drug as defined in
7 18 V.S.A. § 4253;
8 (6) carrying a dangerous or deadly weapon while committing a felony as
9 defined in 13 V.S.A. § 4005;
10 (7) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or
11 lascivious conduct with a child as defined in 13 V.S.A. § 2602;
12 (8) eluding a police officer with serious bodily injury or death resulting
13 as defined in 23 V.S.A. § 1133(b);
14 (9) willful and malicious injuries caused by explosives as defined in
15 13 V.S.A. § 1601, injuries caused by destructive devices as defined in
16 13 V.S.A. § 1605, or injuries caused by explosives as defined in 13 V.S.A.
17 § 1608;
18 (10) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the
19 person as defined in 13 V.S.A. § 2503;

1 (11) operating vehicle under the influence of alcohol or other substance
2 with either death or serious bodily injury resulting as defined in 23 V.S.A.
3 § 1210(f) and (g);

4 (12) careless or negligent operation resulting in serious bodily injury or
5 death as defined in 23 V.S.A. § 1091(b);

6 (13) leaving the scene of an accident with serious bodily injury or death
7 as defined in 23 V.S.A. § 1128(b) or (c);

8 (14) a hate-motivated crime as defined in 13 V.S.A. § 1455;

9 (15) conspiracy as defined in 13 V.S.A. § 1404;

10 (16) a violation of an abuse prevention order as defined in 13 V.S.A.
11 § 1030 or violation of an order against stalking or sexual assault as defined in
12 12 V.S.A. § 5138;

13 (17) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
14 subchapter 1;

15 (18) human trafficking or aggravated human trafficking in violation of
16 13 V.S.A. § 2652 or 2653; or

17 (19) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3).

18 ~~(21) an attempt to commit any of the offenses listed in this section.~~

19 (b) The report required by this section shall also consider whether burglary
20 into an occupied dwelling as defined in 13 V.S.A. § 1201(c) should continue to
21 be included in the offenses for which transfer from the Family Division to the

1 Criminal Division is permitted under 33 V.S.A. § 5204(a) or whether an
2 alternate or redefined version of the offense should be included.

3 Sec. 16. SEVERABILITY

4 As set forth in 1 V.S.A. § 215, the provisions of this act are severable, and if
5 a court finds any provision of this act to be invalid, or if any application of this
6 act to any person or circumstance is invalid, the invalidity shall not affect other
7 provisions or applications that can be given effect without the invalid provision
8 or application.

9 Sec. 17. EFFECTIVE DATE

10 This act shall take effect on passage.

11

12

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14

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16 (Committee vote: _____)

17

18

Representative _____

19

FOR THE COMMITTEE