

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 58
3 entitled “An act relating to public safety” respectfully reports that it has
4 considered the same and recommends that the House propose to the Senate that
5 the bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 * * * Big 12 Juvenile Offenses * * *

8 Sec. 1. 33 V.S.A. § 5201 is amended to read:

9 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

10 * * *

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

17 (2)(A) Any proceeding concerning a child who is alleged to have
18 committed one of the following acts after attaining 14 years of age, but not
19 22 years of age, shall originate in the Criminal Division of the Superior Court,
20 provided that jurisdiction may be transferred in accordance with this chapter

1 and chapter 52A of this title, unless the State’s Attorney files the charge
2 directly as a youthful offender petition in the Family Division:

3 (i) a violation of a condition of release as defined in 13 V.S.A.
4 § 7559 imposed by the Criminal Division for any of the offenses listed in
5 subsection 5204(a) of this title; or

6 (ii) a violation of a condition of release as defined in 13 V.S.A.
7 § 7559 imposed by the Criminal Division for an offense that was transferred
8 from the Family Division pursuant to section 5204 of this title.

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

12 (3) Any proceeding concerning a child who is alleged to have
13 committed one of the following acts after attaining 16 years of age, but not 22
14 years of age, shall originate in the Criminal Division of the Superior Court,
15 provided that jurisdiction may be transferred in accordance with this chapter
16 and chapter 52A of this title, unless the State’s Attorney files the charge
17 directly as a youthful offender petition in the Family Division:

18 (i) using a firearm while committing a felony in violation of
19 13 V.S.A. § 4005, or an attempt to commit that offense;

20 (ii) trafficking a regulated drug in violation of 18 V.S.A. chapter
21 84, subchapter 1, or an attempt to commit that offense; or

1 (iii) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3), or
2 an attempt to commit that offense.

3 (d) Any proceeding concerning a child who is alleged to have committed
4 any offense other than those specified in subsection 5204(a) of this title or
5 subdivision (c)(2) or (3) of this section before attaining 19 years of age shall
6 originate in the Family Division of the Superior Court, provided that
7 jurisdiction may be transferred in accordance with this chapter.

8 * * *

9 Sec. 1a. 33 V.S.A. § 5203 is amended to read:

10 § 5203. TRANSFER FROM OTHER COURTS

11 (a) If it appears to a Criminal Division of the Superior Court that the
12 defendant was under 19 years of age at the time the offense charged was
13 alleged to have been committed and the offense charged is an offense not
14 specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title,
15 that court shall forthwith transfer the proceeding to the Family Division of the
16 Superior Court under the authority of this chapter, and the minor shall then be
17 considered to be subject to this chapter as a child charged with a delinquent
18 act.

19 (b) If it appears to a Criminal Division of the Superior Court that the
20 defendant had attained 14 years of age but not 18 years of age at the time an
21 offense specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this

1 title was alleged to have been committed, that court may forthwith transfer the
2 proceeding to the Family Division of the Superior Court under the authority of
3 this chapter, and the minor shall then be considered to be subject to this chapter
4 as a child charged with a delinquent act.

5 (c) If it appears to the State’s Attorney that the defendant was under 19
6 years of age at the time the felony offense charged was alleged to have been
7 committed and the felony charged is not an offense specified in subsection
8 5204(a) or subdivision 5201(c)(2) or (3) of this title, the State’s Attorney shall
9 file charges in the Family Division of the Superior Court, pursuant to section
10 5201 of this title. The Family Division may transfer the proceeding to the
11 Criminal Division pursuant to section 5204 of this title.

12 * * *

13 Sec. 2. 33 V.S.A. § 5204 is amended to read:

14 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
15 COURT

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

1 subsection or if the child had attained 12 years of age but not 14 years of age at
2 the time the act was alleged to have occurred, and if the delinquent act set forth
3 in the petition was any of the following:

4 * * *

5 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an
6 attempt to commit that offense; or

7 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and
8 aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an
9 attempt to commit either of those offenses; ~~or~~

10 ~~(12) burglary into an occupied dwelling as defined in 13 V.S.A.~~
11 ~~§ 1201(e) or an attempt to commit that offense.~~

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

19 (2)(A)(i) The Family Division of the Superior Court shall hold a hearing
20 under subsection (c) of this section to determine whether jurisdiction should be

1 transferred to the Criminal Division under subsection (a) of this section if the
2 delinquent act set forth in the petition is:

3 (I) ~~a felony violation of 18 V.S.A. chapter 84 for selling or~~
4 ~~trafficking a regulated drug~~ [Repealed.];

5 (II) human trafficking or aggravated human trafficking in
6 violation of 13 V.S.A. § 2652 or 2653;

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

9 (IV) straw purchasing of firearm in violation of 13 V.S.A.
10 § 4025; and

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

13 * * *

14 * * * Raise the Age * * *

15 Sec. 3. 2018 Acts and Resolves No. 201, Secs. 17–19, are amended to read:

16 Sec. 17. [Deleted.]

17 Sec. 18. [Deleted.]

18 Sec. 19. [Deleted.]

19 Sec. 4. 2018 Acts and Resolves No. 201, Sec. 21, as amended by 2022 Acts
20 and Resolves No. 160, Sec. 1, and 2023 Acts and Resolves No. 23, Sec. 12, is
21 further amended to read:

1 (a) If it appears to a Criminal Division of the Superior Court that the
2 defendant was under ~~19~~ 20 years of age at the time the offense charged was
3 alleged to have been committed and the offense charged is an offense not
4 specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title,
5 that court shall forthwith transfer the proceeding to the Family Division of the
6 Superior Court under the authority of this chapter, and the minor shall then be
7 considered to be subject to this chapter as a child charged with a delinquent
8 act.

9 * * *

10 (c) If it appears to the State’s Attorney that the defendant was under ~~19~~ 20
11 years of age at the time the felony offense charged was alleged to have been
12 committed and the felony charged is not an offense specified in subsection
13 5204(a) or subdivision 5201(c)(2) or (3) of this title, the State’s Attorney shall
14 file charges in the Family Division of the Superior Court, pursuant to section
15 5201 of this title. The Family Division may transfer the proceeding to the
16 Criminal Division pursuant to section 5204 of this title.

17 * * *

18 Sec. 9. 33 V.S.A. § 5204 is amended to read:

19 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
20 COURT

1 (a) After a petition has been filed alleging delinquency, upon motion of the
2 State’s Attorney and after hearing, the Family Division of the Superior Court
3 may transfer jurisdiction of the proceeding to the Criminal Division of the
4 Superior Court if the child had attained 16 years of age but not ~~19~~ 20 years of
5 age at the time the act was alleged to have occurred and the delinquent act set
6 forth in the petition is a felony not specified in subdivisions (1)–(11) of this
7 subsection or if the child had attained 12 years of age but not 14 years of age at
8 the time the act was alleged to have occurred, and if the delinquent act set forth
9 in the petition was any of the following:

10 * * *

11 Sec. 10. 33 V.S.A. § 5103(c) is amended to read:

12 (c)(1) Except as otherwise provided by this title and by subdivision (2) of
13 this subsection, jurisdiction over a child shall not be extended beyond the
14 child’s 18th birthday.

15 (2)(A) Jurisdiction over a child with a delinquency may be extended
16 until six months beyond the child’s:

17 (i) 19th birthday if the child was 16 or 17 years of age when ~~he or~~
18 ~~she~~ the child committed the offense; ~~or~~

19 (ii) 20th birthday if the child was 18 years of age when ~~he or she~~
20 the child committed the offense; or

1 (iii) 21st birthday if the child was 19 years of age when the child
2 committed the offense.

3 * * *

4 Sec. 11. 33 V.S.A. § 5206 is amended to read:

5 § 5206. CITATION OF 16- TO ~~18-YEAR-OLDS~~ 19-YEAR-OLDS

6 (a)(1) If a child was over 16 years of age and under ~~19~~ 20 years of age at
7 the time the offense was alleged to have been committed and the offense is not
8 specified in subsection (b) of this section, law enforcement shall cite the child
9 to the Family Division of the Superior Court.

10 * * *

11 Sec. 12. BIMONTHLY PROGRESS REPORTS TO JOINT LEGISLATIVE
12 JUSTICE OVERSIGHT COMMITTEE

13 (a) On or before the last day of every other month from July 2024 through
14 March 2025, the Agency of Human Services shall report to the Joint
15 Legislative Justice Oversight Committee, the Senate and House Committees on
16 Judiciary, the House Committee on Corrections and Institutions, the House
17 Committee on Human Services, and the Senate Committee on Health and
18 Welfare on its progress toward implementing the requirement of Secs. 7–11 of
19 this act that the Raise the Age initiative take effect on April 1, 2025. The
20 progress reports required by this section shall describe progress toward

1 implementation of the Raise the Age initiative, as measured by qualitative and
2 quantitative data related to the following priorities:

3 (1) establishing a secure residential facility;

4 (2) expanding capacity for nonresidential treatment programs to provide
5 community-based services;

6 (3) ensuring that residential treatment programs are used appropriately
7 and to their full potential;

8 (4) expanding capacity for Balanced and Restorative Justice (BARJ)
9 contracts;

10 (5) expanding capacity for the provision of services to children with
11 developmental disabilities;

12 (6) establishing a stabilization program for children who are
13 experiencing a mental health crisis;

14 (7) enhancing long-term treatment for children;

15 (8) programming to help children, particularly 18- and 19-year-olds,
16 transition from youth to adulthood;

17 (9) developing district-specific data and information on family services
18 workforce development, including turnover, retention, and vacancy rates; times
19 needed to fill open positions; training opportunities and needs; and instituting a
20 positive culture for employees;

1 (48) “Fentanyl” means any quantity of fentanyl, including any
2 compound, mixture, or preparation including salts, isomers, or salts of isomers
3 containing fentanyl. “Fentanyl” also means fentanyl-related substances as
4 defined in rules adopted by the Department of Health pursuant to section 4202
5 of this title.

6 (49) “Xylazine” means any compound, mixture, or preparation
7 including salts, isomers, or salts of isomers containing N-(2,6-
8 dimethylphenyl)-5,6-dihydro-4H-1,3-thiazin-2-amine.

9 Sec. 14. 18 V.S.A. § 4233a is amended to read:

10 § 4233a. FENTANYL

11 (a) Selling or dispensing.

12 (1) A person knowingly and unlawfully dispensing fentanyl shall be
13 imprisoned not more than three years or fined not more than \$75,000.00, or
14 both. A person knowingly and unlawfully selling fentanyl shall be imprisoned
15 not more than five years or fined not more than \$100,000.00, or both.

16 (2) A person knowingly and unlawfully selling or dispensing fentanyl in
17 an amount consisting of four milligrams or more of one or more preparations,
18 compounds, mixtures, or substances containing fentanyl shall be imprisoned
19 not more than 10 years or fined not more than \$250,000.00, or both.

20 (3) A person knowingly and unlawfully selling or dispensing fentanyl in
21 an amount consisting of 20 milligrams or more of one or more preparations,

1 compounds, mixtures, or substances containing fentanyl shall be imprisoned
2 not more than 20 years or fined not more than \$1,000,000.00, or both.

3 (4) In lieu of a charge under this subsection, but in addition to any other
4 penalties provided by law, a person knowingly and unlawfully selling or
5 dispensing any regulated drug containing a detectable amount of fentanyl shall
6 be imprisoned not more than five years or fined not more than \$250,000.00, or
7 both.

8 (b) Trafficking. A person knowingly and unlawfully possessing fentanyl in
9 an amount consisting of 70 milligrams or more of one or more preparations,
10 compounds, mixtures, or substances containing fentanyl with the intent to sell
11 or dispense the fentanyl shall be imprisoned not more than 30 years or fined
12 not more than \$1,000,000.00, or both. There shall be a permissive inference
13 that a person who possesses fentanyl in an amount of 70 milligrams or more of
14 one or more preparations, compounds, mixtures, or substances containing
15 fentanyl intends to sell or dispense the fentanyl. The amount of possessed
16 fentanyl under this subsection to sustain a charge of conspiracy under 13
17 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

18 (c) Transportation into the State. In addition to any other penalties
19 provided by law, a person knowingly and unlawfully transporting more than 20
20 milligrams of fentanyl into Vermont with the intent to sell or dispense the

1 fentanyl shall be imprisoned not more than 10 years or fined not more than
2 \$100,000.00, or both.

3 (d) As used in this section, “knowingly” means:

4 (1) the defendant had actual knowledge that one or more preparations,
5 compounds, mixtures, or substances contained the regulated drug identified in
6 the applicable section of this chapter; or

7 (2) the defendant:

8 (A) subjectively believed that there is a high probability that one or
9 more preparations, compounds, mixtures, or substances contained the regulated
10 drug identified in the applicable section of this chapter; and

11 (B) took deliberate actions to avoid learning that one or more
12 preparations, compounds, mixtures, or substances contained the regulated drug
13 identified in the applicable section of this chapter.

14 Sec. 15. 18 V.S.A. § 4234 is amended to read:

15 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

16 (a) Possession.

17 (1)(A) Except as provided by subdivision (B) of this subdivision (1), a
18 person knowingly and unlawfully possessing a depressant, stimulant, or
19 narcotic drug, other than heroin or cocaine, shall be imprisoned not more than
20 one year or fined not more than \$2,000.00, or both.

1 (B) A person knowingly and unlawfully possessing 224 milligrams
2 or less of buprenorphine shall not be punished in accordance with subdivision
3 (A) of this subdivision (1).

4 (2) A person knowingly and unlawfully possessing a depressant,
5 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100
6 times a benchmark unlawful dosage or its equivalent shall be imprisoned not
7 more than five years or fined not more than \$25,000.00, or both.

8 (3) A person knowingly and unlawfully possessing a depressant,
9 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000
10 times a benchmark unlawful dosage or its equivalent shall be imprisoned not
11 more than 10 years or fined not more than \$100,000.00, or both.

12 (4) A person knowingly and unlawfully possessing a depressant,
13 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000
14 times a benchmark unlawful dosage or its equivalent shall be imprisoned not
15 more than 20 years or fined not more than \$500,000.00, or both.

16 (b) Selling or dispensing.

17 (1) A person knowingly and unlawfully dispensing a depressant,
18 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be
19 imprisoned not more than three years or fined not more than \$75,000.00, or
20 both. A person knowingly and unlawfully selling a depressant, stimulant, or

1 narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not
2 more than five years or fined not more than \$25,000.00, or both.

3 (2) A person knowingly and unlawfully selling or dispensing a
4 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
5 consisting of 100 times a benchmark unlawful dosage or its equivalent shall be
6 imprisoned not more than 10 years or fined not more than \$100,000.00, or
7 both.

8 (3) A person knowingly and unlawfully selling or dispensing a
9 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
10 consisting of 1,000 times a benchmark unlawful dosage or its equivalent shall
11 be imprisoned not more than 20 years or fined not more than \$500,000.00, or
12 both.

13 (4) As used in this subsection, “knowingly” means:

14 (A) the defendant had actual knowledge that one or more
15 preparations, compounds, mixtures, or substances contained the regulated drug
16 identified in the applicable section of this chapter; or

17 (B) the defendant:

18 (i) subjectively believed that there is a high probability that one or
19 more preparations, compounds, mixtures, or substances contained the regulated
20 drug identified in the applicable section of this chapter; and

1 (ii) took deliberate actions to avoid learning that one or more
2 preparations, compounds, mixtures, or substances contained the regulated drug
3 identified in the applicable section of this chapter.

4 (c) Possession of buprenorphine by a person under 21 years of age.

5 (1) Except as provided in subdivision (2) of this subsection, a person
6 under 21 years of age who knowingly and unlawfully possesses 224
7 milligrams or less of buprenorphine commits a civil violation and shall be
8 subject to the provisions of section 4230b of this title.

9 (2) A person under 16 years of age who knowingly and unlawfully
10 possesses 224 milligrams or less of buprenorphine commits a delinquent act
11 and shall be subject to the provisions of section 4230j of this title.

12 Sec. 16. 18 V.S.A. § 4233b is added to read:

13 § 4233b. XYLAZINE

14 (a) No person shall dispense or sell xylazine except as provided in
15 subsection (b) of this section.

16 (b) The following are permitted activities related to xylazine:

17 (1) dispensing or prescribing for, or administration to, a nonhuman
18 species a drug containing xylazine approved by the Secretary of Health and
19 Human Services pursuant to section 512 of the Federal Food, Drug, and
20 Cosmetic Act as provided in 21 U.S.C. § 360b;

1 (2) dispensing or prescribing for, or administration to, a nonhuman
2 species permissible pursuant to section 512(a)(4) of the Federal Food, Drug,
3 and Cosmetic Act as provided in 21 U.S.C. § 360b(a)(4);

4 (3) manufacturing, distribution, or use of xylazine as an active
5 pharmaceutical ingredient for manufacturing an animal drug approved under
6 section 512 of the Federal Food, Drug, and Cosmetic Act as provided in
7 21 U.S.C. § 360b or issued an investigation use exemption pursuant to section
8 512(j);

9 (4) manufacturing, distribution, or use of a xylazine bulk chemical for
10 pharmaceutical compounding by licensed pharmacists or veterinarians; and

11 (5) any other use approved or permissible under the Federal Food, Drug,
12 and Cosmetic Act.

13 (c) A person knowingly and unlawfully dispensing xylazine shall be
14 imprisoned not more than three years or fined not more than \$75,000.00, or
15 both. A person knowingly and unlawfully selling xylazine shall be imprisoned
16 not more than five years or fined not more than \$100,000.00, or both.

17 Sec. 17. 18 V.S.A. § 4250 is amended to read:

18 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
19 DEATH RESULTING

20 (a) If the death of a person results from the selling or dispensing of a
21 regulated drug to the person in violation of this chapter, the person convicted

1 of the violation shall be imprisoned not less than two years nor more than
2 20 years.

3 (b) This section shall apply only if the person’s use of the regulated drug is
4 the proximate cause of ~~his or her~~ the person’s death. The fact that a dispensed
5 or sold substance contains more than one regulated drug shall not be a defense
6 under this section if the proximate cause of death is the use of the dispensed or
7 sold substance containing more than one regulated drug.

8 (c)(1) Except as provided in subdivision (2) of this subsection, the two-year
9 minimum term of imprisonment required by this section shall be served and
10 may not be suspended, deferred, or served as a supervised sentence. The
11 defendant shall not be eligible for probation, parole, furlough, or any other type
12 of early release until the expiration of the two-year term of imprisonment.

13 (2) Notwithstanding subdivision (1) of this subsection, the court may
14 impose a sentence that does not include a term of imprisonment or that
15 includes a term of imprisonment of less than two years if the court makes
16 findings on the record that the sentence will serve the interests of justice.

17 Sec. 18. 18 V.S.A. § 4252a is added to read:

18 § 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH

19 CITATION

20 Except for good cause shown, a person cited or arrested for dispensing or
21 selling a regulated drug in violation of this chapter shall be arraigned on the

1 next business day after the citation or arrest if the alleged illegal activity
2 occurred at a dwelling where the person is not a legal tenant.

3 Sec. 19. 18 V.S.A. § 4254(j) is added to read:

4 (j) To encourage persons to seek medical assistance for someone who is
5 experiencing an overdose, the Department of Health, in partnership with
6 entities that provide education, outreach, and services regarding substance use
7 disorder, shall engage in continuous efforts to publicize the immunity
8 protections provided in this section.

9 * * * Report * * *

10 Sec. 20. WORKING GROUP ON TRANSFERS OF JUVENILE
11 PROCEEDINGS FROM THE FAMILY DIVISION TO THE
12 CRIMINAL DIVISION

13 (a) On or before December 15, 2025, a joint report on options for creating
14 an expedited process for transfers of juvenile proceedings from the Family
15 Division of the Superior Court to the Criminal Division of the Superior Court
16 shall be submitted to the House and Senate Committees on Judiciary by a
17 working group composed of the following parties:

18 (1) the Chief Superior Judge or designee, who shall be chair of the
19 working group;

20 (2) the Defender General or designee;

1 (3) the Executive Director of the Department of State’s Attorneys and
2 Sheriffs or designee; and

3 (4) the Commissioner of the Department for Children and Families or
4 designee.

5 (b) the report required by this section may be in the form of proposed
6 legislation and shall include recommendations on the following topics:

7 (1) the changes in law that would be necessary if the Vermont juvenile
8 justice system were restructured so that all cases alleging criminal violations
9 by youths under 19 years of age started in the Family Division of the Superior
10 Court, including alleged violations of 33 V.S.A. §§ 5204(a) and 5201(c)(2) or
11 (3);

12 (2) whether cases alleging criminal violations by youths under 20 years
13 of age should also begin in the Family Division; and

14 (3) statutory options for creating an expedited court process for more
15 serious offenses that would permit transfer of proceedings from the Family
16 Division of the Superior Court to the Criminal Division of the Superior Court
17 without requiring the full transfer hearing process of 33 V.S.A. § 5204,
18 including the offenses and offender age ranges that would qualify for the
19 expedited process.

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* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) Secs. 1–6, 12–20, and this section shall take effect on July 1, 2024.

(b) Secs. 7–11 shall take effect on April 1, 2025.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE