

1 S.58

2 An act relating to public safety

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 * * * Big 12 Juvenile Offenses * * *

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

6 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

7 * * *

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

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

1 (i) a violation of a condition of release as defined in 13 V.S.A.
2 § 7559 imposed by the Criminal Division for any of the offenses listed in
3 subsection 5204(a) of this title; or

4 (ii) a violation of a condition of release as defined in 13 V.S.A.
5 § 7559 imposed by the Criminal Division for an offense that was transferred
6 from the Family Division pursuant to section 5204 of this title.

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

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

16 (i) using a firearm while committing a felony in violation of
17 13 V.S.A. § 4005, or an attempt to commit that offense;

18 (ii) trafficking a regulated drug in violation of 18 V.S.A. chapter
19 84, subchapter 1, or an attempt to commit that offense; or

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

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

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
COURT

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

* * *

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

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

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

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* * * Raise the Age * * *

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

Sec. 17. [Deleted.]

Sec. 18. [Deleted.]

Sec. 19. [Deleted.]

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

Sec. 21. EFFECTIVE DATES

* * *

~~(d) Secs. 17–19 shall take effect on July 1, 2024.~~ [Deleted.]

Sec. 5. 2020 Acts and Resolves No. 124, Secs. 3 and 7, are amended to read:

Sec. 3. [Deleted.]

Sec. 7. [Deleted.]

Sec. 6. 2020 Acts and Resolves No. 124, Sec. 12, as amended by 2022 Acts and Resolves No. 160, Sec. 2, and 2023 Acts and Resolves No. 23, Sec. 13, is further amended to read:

Sec. 12. EFFECTIVE DATES

~~(a) Secs. 3 (33 V.S.A. § 5103(e)) and 7 (33 V.S.A. § 5206) shall take effect on July 1, 2024.~~ [Deleted.]

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Sec. 7. 33 V.S.A. § 5201(d) is amended to read:

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

Sec. 8. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

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

* * *

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family

1 Division of the Superior Court, pursuant to section 5201 of this title. The
2 Family Division may transfer the proceeding to the Criminal Division pursuant
3 to section 5204 of this title.

4 * * *

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

6 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
7 COURT

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

17 * * *

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

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

1 Judiciary, the House Committee on Corrections and Institutions, the House
2 Committee on Human Services, and the Senate Committee on Health and
3 Welfare on its progress toward implementing the requirement of Secs. 7–11 of
4 this act that the Raise the Age initiative take effect on April 1, 2025. The
5 progress reports required by this section shall describe the steps taken to
6 implement the following goals:

7 (1) establishing a secure residential facility;

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

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

12 (4) expanding capacity for Balanced and Restorative Justice (BARJ)
13 contracts;

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

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

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

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

1 (F) methamphetamine; or

2 (G) xylazine.

3 * * *

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

9 (49) “Knowingly” means actual knowledge that one or more
10 preparations, compounds, mixtures, or substances contain the regulated drug
11 identified in the applicable section of this chapter, or consciously ignoring a
12 substantial risk that one or more preparations, compounds, mixtures, or
13 substances contain the regulated drug identified in the applicable section of this
14 chapter.

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

18 Sec. 14. 18 V.S.A. § 4233b is added to read:

19 § 4233b. XYLAZINE

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

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

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

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

9 (3) manufacturing, distribution, or use of xylazine as an active
10 pharmaceutical ingredient for manufacturing an animal drug approved under
11 section 512 of the Federal Food, Drug, and Cosmetic Act as provided in
12 21 U.S.C. § 360b or issued an investigation use exemption pursuant to section
13 512(j);

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

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

18 (c) A person knowingly and unlawfully dispensing xylazine 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 xylazine shall be imprisoned
21 not more than five years or fined not more than \$100,000.00, or both.

1 Sec. 15. 18 V.S.A. § 4250 is amended to read:

2 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
3 DEATH RESULTING

4 (a) If the death of a person results from the selling or dispensing of a
5 regulated drug to the person in violation of this chapter, the person convicted
6 of the violation shall be imprisoned not less than two years nor more than
7 20 years.

8 (b) This section shall apply only if the person's use of the regulated drug is
9 the proximate cause of ~~his or her~~ the person's death. The fact that a dispensed
10 or sold substance contains more than one regulated drug shall not be a defense
11 under this section if the proximate cause of death is the use of the dispensed or
12 sold substance containing more than one regulated drug. There shall be a
13 permissive inference that the proximate cause of death is the person's use of
14 the regulated drug if the regulated drug contains fentanyl.

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

20 (2) Notwithstanding subdivision (1) of this subsection, the court may
21 impose a sentence that does not include a term of imprisonment or that

1 includes a term of imprisonment of less than two years if the court makes
2 written findings on the record that the sentence will serve the interests of
3 justice.

4 Sec. 16. 18 V.S.A. § 4252a is added to read:

5 § 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH
6 CITATION; CONDITIONS OF RELEASE

7 (a) Except for good cause shown, a person cited or arrested for dispensing
8 or selling a regulated drug in violation of this chapter shall be arraigned on the
9 next business day after the citation or arrest if the alleged illegal activity
10 occurred at a dwelling where the person is not a legal tenant.

11 (b) Unless the person is held without bail for another offense, the State's
12 Attorney shall request conditions of release for a person subject to subsection
13 (a) of this section. The court may include as a condition of release that the
14 person is prohibited from coming within a fixed distance of the dwelling.

15 Sec. 17. 18 V.S.A. § 4254(j) is added to read:

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

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* * * Effective Dates * * *

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Sec. 18. EFFECTIVE DATES

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(a) Secs. 1–6, 12–17, and this section shall take effect on July 1, 2024.

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