

1 TO THE HONORABLE SENATE:

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 bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

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

8 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
9 COURT

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

19 (1) arson causing death as defined in 13 V.S.A. § 501;

20 (2) assault and robbery with a dangerous weapon as defined in 13
21 V.S.A. § 608(b);

- 1 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
- 2 § 608(c);
- 3 (4) aggravated assault as defined in 13 V.S.A. § 1024;
- 4 (5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as
- 5 defined in 13 V.S.A. § 2311;
- 6 (6) manslaughter as defined in 13 V.S.A. § 2304;
- 7 (7) kidnapping as defined in 13 V.S.A. § 2405;
- 8 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- 9 (9) maiming as defined in 13 V.S.A. § 2701;
- 10 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- 11 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and
- 12 aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a; ~~or~~
- 13 (12) burglary into an occupied dwelling as defined in 13 V.S.A.
- 14 § 1201(c);
- 15 (13) carrying a firearm while committing a felony in violation of 13
- 16 V.S.A. § 4005;
- 17 (14) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
- 18 subchapter 1;
- 19 (15) human trafficking or aggravated human trafficking in violation of
- 20 13 V.S.A. § 2652 or 2653;
- 21 (16) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3);

1 (17) an attempt to commit any of the offenses listed in this subsection;

2 or

3 (18) a violation of a condition of release as defined in 13 V.S.A. § 7559

4 imposed by the Criminal Division for any of the offenses listed in this

5 subsection or for any other offense that was transferred from the Family

6 Division pursuant to this section, unless the proceeding is the subject of a final

7 order accepting the case for youthful offender treatment pursuant to subsection

8 5281(d) of this title.

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

16 (c) Upon the filing of a motion to transfer jurisdiction under subsection (b)
17 of this section, the Family Division of the Superior Court shall conduct a
18 hearing in accordance with procedures specified in subchapter 2 of this chapter
19 to determine whether:

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

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

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

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

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

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

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

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

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

1 (7) whether the protection of the community would be better served by
2 transferring jurisdiction from the Family Division to the Criminal Division of
3 the Superior Court;

4 (8) the youth’s residential housing status;

5 (9) the youth’s employment and educational situation;

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

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

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

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

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

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

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(2) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to a transfer of jurisdiction from the Family Division at any time after a motion to transfer is made pursuant to subsection (b) of this section. The court shall not be required to make findings if the parties stipulate to a transfer pursuant to this subdivision. Upon acceptance of the stipulation to transfer jurisdiction, the court shall transfer the proceedings to the Criminal Division and the child shall be treated as an adult. The State’s Attorney shall commence criminal proceedings as in cases commenced against adults.

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

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1 Sec. 2. 18 V.S.A. § 4252 is amended to read:

2 § 4252. ~~PENALTIES FOR DISPENSING OR SELLING~~ KNOWINGLY
3 OR RECKLESSLY PERMITTING SALE OR DISPENSING OF
4 REGULATED DRUGS IN A DWELLING

5 (a) No person shall knowingly or recklessly permit a dwelling, building, or
6 structure owned by or under the control of the person to be used for the
7 purpose of illegally dispensing or selling a regulated drug.

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

12 (c) A person who violates this section shall be imprisoned not more than
13 ~~two~~ five years or fined not more than ~~\$1,000.00~~ \$15,000.00, or both.

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

18 (e) As used in this section, “recklessly” means consciously disregarding a
19 substantial and unjustifiable risk.

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

3 (c) As used in this section:

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

5 (2) “Importer” means any person engaged in the business of importing
6 or bringing firearms or ammunition into the United States for purposes of sale
7 or distribution.

8 (3) “Manufacturer” means any person engaged in the business of
9 manufacturing firearms or ammunition for purposes of sale or distribution.

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

13 Sec. 5. 13 V.S.A. § 4025 is added to read:

14 § 4025. STRAW PURCHASING OF FIREARMS

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

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

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

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

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

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

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

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

6 (d) As used in this section, “firearm” has the same meaning as in section
7 4017 of this title.

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

11 Sec. 6. 13 V.S.A. § 4017a is added to read:

12 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
13 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
14 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
15 POSSESSION OF FIREARMS

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

17 (1) is a fugitive from justice;

18 (2) is the subject of a final relief from abuse order issued pursuant to
19 15 V.S.A. § 1104;

20 (3) is the subject of a final order against stalking issued pursuant to 12
21 V.S.A. § 5133; or

1 (4) against whom charges are pending for:

2 (A) carrying a dangerous weapon while committing a felony in
3 violation of section 4005 of this title;

4 (B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
5 subchapter 1; or

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

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

10 (c) As used in this section:

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

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

14 Sec. 7. 13 V.S.A. § 4005 is amended to read:

15 § 4005. WHILE COMMITTING A ~~CRIME~~ FELONY

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

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

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

7 Sec. 8. 33 V.S.A. § 5117 is amended to read:

8 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

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

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* * *

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

2 (1) State’s Attorneys and all other law enforcement officers in
3 connection with record checks and other legal purposes; and

4 (2) the National Instant Criminal Background Check System in
5 connection with a background check conducted on a person under 21 years of
6 age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(l).

7 * * *

8 Sec. 9. 18 V.S.A. § 13 is added to read:

9 § 13. COMMUNITY VIOLENCE PREVENTION PROGRAM

10 (a) There is established the Community Violence Prevention Program to be
11 administered by the Department of Health in consultation with the Department
12 of Public Safety, the Director of Violence Prevention, and the Executive
13 Director of Racial Equity. The Program shall work with communities to
14 implement innovative, evidence-based, and evidence-informed programs
15 addressing causes of youth and community violence. Grants awarded pursuant
16 to this section shall be at the discretion of the Commissioner of Health.

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

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

8 (c) The Community Violence Prevention Program shall collect data to
9 monitor youth and community violence and its related risk and protective
10 factors and to evaluate the impact of prevention efforts and shall use the data to
11 plan and implement programs. The Program shall use monitoring and
12 evaluation data to track the impact of interventions.

13 (d) Statewide strategies organized by the Department of Health may
14 include technical assistance contracts, statewide evaluation of the Program, or
15 other strategies that would benefit grantees and enhance the effectiveness of
16 the Program.

17 Sec. 10. APPROPRIATION

18 (a) The sum of \$10,000,000.00 is appropriated from the General Fund to
19 the Department of Health in fiscal year 2024 for the purpose of supporting the
20 Community Violence Prevention Program established by 18 V.S.A. § 13.

1 Unexpended appropriations shall carry forward into the subsequent fiscal year
2 and remain available for use for this purpose.

3 (b) The Department of Health is authorized to seek and accept grant
4 funding for the purpose of supporting the Community Violence Prevention
5 Program to supplement State appropriations.

6 (c) If funding is available for the Community Violence Prevention Program
7 from federal grants or legal settlements related to drug use or criminal activity:

8 (1) such federal or settlement funds shall be utilized first for the
9 Program; and

10 (2) an amount of the General Fund appropriation made under subsection
11 (a) of this section equal to the total amount of federal grants or legal
12 settlements received by the Program shall be reverted to the General Fund.

13 Sec. 11. 2018 Acts and Resolves No. 201, Sec. 21, as amended by 2022 Acts
14 and Resolves No. 160, Sec. 1, is further amended to read:

15 Sec. 21. EFFECTIVE DATES

16 * * *

17 (d) Secs. 17–19 shall take effect on July 1, ~~2023~~ 2024.

18 Sec. 12. 2020 Acts and Resolves No. 124, Sec. 12, as amended by 2022 Acts
19 and Resolves No. 160, Sec. 2, is further amended to read:

20 Sec. 12. EFFECTIVE DATES

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. 13. 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 and the Senate and House Committees on Judiciary
8 describing the progress made toward implementing the requirement of Secs. 11
9 and 12 of this act that the Raise the Age initiative take effect on July 1, 2024.

10 Sec. 14. SENTENCING COMMISSION REPORT

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

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

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

19 (3) domestic assault as defined in 13 V.S.A. § 1042, first degree
20 aggravated domestic assault as defined in 13 V.S.A. § 1043, and second degree
21 aggravated domestic assault a defined in 13 V.S.A. § 1044;

1 (4) selling or dispensing a regulated drug with death resulting as defined
2 in 18 V.S.A. § 4250;

3 (5) using a firearm while selling or dispensing a drug as defined in 18
4 V.S.A. § 4253;

5 (6) carrying a dangerous or deadly weapon while committing a felony as
6 defined in 13 V.S.A. § 4005;

7 (7) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or
8 lascivious conduct with a child as defined in 13 V.S.A. § 2602;

9 (8) eluding a police officer with serious bodily injury or death resulting
10 as defined in 23 V.S.A. § 1133(b);

11 (9) willful and malicious injuries caused by explosives as defined in
12 13 V.S.A. § 1601, injuries caused by destructive devices as defined in
13 13 V.S.A. § 1605, or injuries caused by explosives as defined in 13 V.S.A.
14 § 1608;

15 (10) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the
16 person as defined in 13 V.S.A. § 2503;

17 (11) operating vehicle under the influence of alcohol or other substance
18 with either death or serious bodily injury resulting as defined in 23 V.S.A.
19 § 1210(f) and (g);

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

- 1 (13) leaving the scene of an accident with serious bodily injury or death
2 as defined in 23 V.S.A. § 1128(b) or (c);
3 (14) a hate-motivated crime as defined in 13 V.S.A. § 1455;
4 (15) conspiracy as defined in 13 V.S.A. § 1404; or
5 (16) a violation of an abuse prevention order as defined in 13 V.S.A.
6 § 1030 or violation of an order against stalking or sexual assault as defined in
7 12 V.S.A. § 5138.

8 Sec. 15. SEVERABILITY

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

14 Sec. 16. EFFECTIVE DATE

15 This act shall take effect on passage.

16 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE