

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 58  
3 entitled “An act relating to increasing the penalties for subsequent offenses for  
4 trafficking and dispensing or sale of a regulated drug with death resulting”  
5 respectfully reports that it has considered the same and recommends that the  
6 bill be amended by striking out all after the enacting clause and inserting in  
7 lieu thereof the following:

8 \* \* \* Drug Crimes \* \* \*

9 Sec. 1. 18 V.S.A. § 4201 is amended to read:

10 § 4201. DEFINITIONS

11 \* \* \*

12 (29) “Regulated drug” means:

13 (A) a narcotic drug;

14 (B) a depressant or stimulant drug, other than methamphetamine;

15 (C) a hallucinogenic drug;

16 (D) Ecstasy;

17 (E) cannabis; ~~or~~

18 (F) methamphetamine; or

19 (G) xylazine.

20 \* \* \*

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) “Knowingly” means actual knowledge that one or more  
7           preparations, compounds, mixtures, or substances contains the regulated drug  
8           identified in the applicable section of this chapter, or consciously ignoring a  
9           substantial risk that one or more preparations, compounds, mixtures, or  
10           substances contains the regulated drug identified in the applicable section of  
11           this chapter.

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

15           Sec. 2. 18 V.S.A. § 4233b is added to read:

16           § 4233b. XYLAZINE

17           (a) No person shall possess, dispense, or sell xylazine except as provided in  
18           subsection (b) of this section.

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

20           (1) dispensing or prescribing for, or administration to, a nonhuman  
21           species of a drug containing xylazine approved by the Secretary of Health and

1 Human Services pursuant to section 512 of the Federal Food, Drug, and  
2 Cosmetic Act as provided in 21 U.S.C. § 360b;

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

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

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

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

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

19 Sec. 3. 18 V.S.A. § 4250 is amended to read:

20 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH  
21 DEATH RESULTING

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

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

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

17 (2) Notwithstanding subdivision (1) of this subsection, the court may  
18 impose a sentence that does not include a term of imprisonment or that  
19 includes a term of imprisonment of less than two years if the court makes  
20 written findings on the record that the sentence will serve the interests of  
21 justice.

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

2 § 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH

3 CITATION; CONDITIONS OF RELEASE

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

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

12 \* \* \* Eviction process based on tenant's criminal activity, illegal drug activity,  
13 or acts of violence \* \* \*

14 Sec. 5. 9 V.S.A. § 4467 is amended to read:

15 § 4467. TERMINATION OF TENANCY; NOTICE

16 \* \* \*

17 (b) Termination for breach of rental agreement.

18 (1) The landlord may terminate a tenancy for failure of the tenant to  
19 comply with a material term of the rental agreement or with obligations  
20 imposed under this chapter by actual notice given to the tenant at least 30 days  
21 prior to the termination date specified in the notice.

1           (2) When termination is based on criminal activity, illegal drug activity,  
2           or acts of violence, any of which threaten the health or safety of other  
3           residents, the landlord may terminate the tenancy by providing actual notice to  
4           the tenant of the date on which the tenancy will terminate, which shall be at  
5           least 14 seven days from the date of the actual notice.

6                                           \* \* \*

7           Sec. 6. 9 V.S.A. § 4468 is amended to read:

8           § 4468. TERMINATION OF TENANCY; ACTION FOR POSSESSION

9           (a) If the tenant remains in possession after termination of the rental  
10           agreement without the express consent of the landlord, the landlord may bring  
11           an action for possession, damages, and costs under 12 V.S.A. chapter 169,  
12           subchapter 3.

13           (b) An action against a tenant for possession based on the tenant’s criminal  
14           activity, illegal drug activity, or acts of violence, any of which threaten the  
15           health or safety of other residents, under subdivision 4467(b)(2) of this title  
16           shall be subject to the expedited eviction process under 12 V.S.A. § 4857.

17           Sec. 7 10 V.S.A. § 6237 is amended to read:

18           § 6237. EVICTIONS

19           (a)(1) A leaseholder may be evicted only for nonpayment of rent or for a  
20           substantial violation of the lease terms of the mobile home park, or if there is a

1 change in use of the park land or parts thereof or a termination of the mobile  
2 home park, and only in accordance with the following procedure:

3 ~~(1)~~(A) A leaseholder shall not be evicted by force or any other self-help  
4 measure.

5 ~~(2)~~(B) Prior to the commencement of any eviction proceeding, the park  
6 owner shall notify the leaseholder by certified or registered mail, except as  
7 provided in subdivision ~~(3)~~(C) of this ~~subsection~~ subdivision (a)(1):

8 ~~(A)~~(i) of the grounds for an eviction proceeding;

9 ~~(B)~~(ii) for an eviction based on nonpayment of rent, that an eviction  
10 proceeding may be commenced if the leaseholder does not pay the overdue  
11 rent within 20 days from the date of the mailing of the notice; and

12 (iii) for an eviction based on the leaseholder's criminal activity,  
13 illegal drug activity, or acts of violence, any of which threaten the health or  
14 safety of other residents, that an eviction proceeding may be commenced seven  
15 days following the date of the mailing of the notice.

16 ~~(3)~~(C) A substantial violation of the lease terms of the mobile home  
17 park or an additional nonpayment of rent occurring within six months of the  
18 giving of the notice referred to in subdivision ~~(2)~~(B) of this ~~subsection~~  
19 subdivision (a)(1) may result in immediate eviction proceedings.

20 ~~(4)~~(D) A substantial violation of the lease terms, other than an uncured  
21 nonpayment of rent, will be insufficient to support a judgment of eviction

1 unless the proceeding is commenced within 60 days of the last alleged  
2 violation. A substantial violation of the lease terms based upon criminal  
3 activity will be insufficient to support a judgment of eviction unless the  
4 proceeding is commenced no later than 60 days after arraignment.

5 ~~(5)(E)~~ [Repealed.]

6 (2) Any criminal activity, illegal drug activity, or acts of violence, any  
7 of which threaten the health or safety of other residents, by the leaseholder  
8 shall be deemed a substantial violation of the lease terms of the mobile home  
9 park for purposes of this section. An eviction proceeding commenced against  
10 a leaseholder on this basis shall be subject to the expedited eviction process  
11 under 12 V.S.A. § 4857.

12 (b)(1) A Except as provided in subdivision (2) of this subsection, a  
13 leaseholder shall not be evicted when there is proof that the lease terms the  
14 leaseholder has been accused of violating are not enforced with respect to the  
15 other leaseholders or others on the park premises.

16 (2) This subsection shall not apply to eviction proceedings commenced  
17 against a leaseholder based on the leaseholder’s criminal activity, illegal drug  
18 activity, or acts of violence, any of which threaten the health or safety of other  
19 residents.

20 \* \* \*



1 Sec. 8. 12 V.S.A. § 4857 is added to read:

2 § 4857. EVICTION BASED ON CRIMINAL ACTIVITY, ILLEGAL DRUG  
3 ACTIVITY, OR ACTS OF VIOLENCE; EXPEDITED PROCESS

4 For any action against a tenant or leaseholder for possession based on the  
5 tenant's or leaseholder's criminal activity, illegal drug activity, or acts of  
6 violence, any of which threaten the health or safety of other residents, under 9  
7 V.S.A. § 4467(b)(2) or 10 V.S.A. § 6237(a), a tenant or leaseholder shall:

8 (1) answer the summons and complaint within 10 days after being  
9 served; and

10 (2) file any counterclaims within 14 days after being served.

11 Sec. 9. 12 V.S.A. § 4854 is amended to read:

12 § 4854. JUDGMENT FOR PLAINTIFF; WRIT OF POSSESSION

13 (a) If the court finds that the plaintiff is entitled to possession of the  
14 premises, the plaintiff shall have judgment for possession and rents due,  
15 damages, and costs, and when a written rental agreement so provides, the court  
16 may award reasonable attorney's fees.

17 (b) A writ of possession shall issue on the date judgment is entered, unless  
18 the court for good cause orders a stay. The writ shall direct the sheriff of the  
19 county in which the property or a portion thereof is located to serve the writ  
20 upon the defendant and, not earlier than 14 days after the writ is served, to put  
21 the plaintiff into possession.

1        (c) Notwithstanding subsection (b) of this section, if the basis for  
2        termination of the tenancy giving rise to the eviction action was the tenant’s or  
3        leaseholder’s criminal activity, illegal drug activity, or acts of violence, any of  
4        which threaten the health or safety of other residents, under 9 V.S.A.  
5        § 4467(b)(2) or 10 V.S.A. § 6237(a), the writ of possession shall direct the  
6        sheriff to put the plaintiff into possession not earlier than seven days after the  
7        writ is served.

\* \* \* Transfer of Cases from Family Division \* \* \*

9        Sec. 10. 33 V.S.A. § 5204 is amended to read:

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

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

\* \* \*

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

4           (12) burglary into ~~an occupied dwelling as defined in a currently~~  
5           occupied dwelling in violation of 13 V.S.A. § 1201(c) or an attempt to commit  
6           that offense;

7           (13) using a firearm while committing a felony in violation of 13 V.S.A.  
8           § 4005;

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

11          (15) human trafficking or aggravated human trafficking in violation of  
12          13 V.S.A. § 2652 or 2653, unless:

13                 (A) the offender is a victim of human trafficking as defined in  
14                 13 V.S.A. § 2658(a)(2); or

15                 (B) a law enforcement agency, a State’s Attorneys’ office, or the  
16                 Office of the Attorney General has notified the Victim’s Compensation  
17                 Program at the Center for Crime Victims Services Unit pursuant to 13 V.S.A.  
18                 § 2663(a)(1) that the person reasonably appears to be a victim of human  
19                 trafficking; or

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

\* \* \* Effective Date \* \* \*

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

and that after passage the title of the bill be amended to read: “An act relating to     ”

(Committee vote: \_\_\_\_\_)

\_\_\_\_\_  
Senator \_\_\_\_\_

FOR THE COMMITTEE