

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 * * * Big 12 Juvenile Offenses * * *

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

10 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

11 * * *

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

18 (2)(A) Any proceeding concerning a child who is alleged to have
19 committed one of the following acts after attaining 14 years of age, but not
20 22 years of age, shall originate in the Criminal Division of the Superior Court,
21 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 * * *

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

5 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
6 COURT

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

16 * * *

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; or

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(e) or an attempt to commit that offense.~~

3 * * *

4 * * * Raise the Age * * *

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

6 Sec. 17. [Deleted.]

7 Sec. 18. [Deleted.]

8 Sec. 19. [Deleted.]

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

12 Sec. 21. EFFECTIVE DATES

13 * * *

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

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

16 Sec. 3. [Deleted.]

17 Sec. 7. [Deleted.]

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

21 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, 2024.~~ [Deleted.]

3 * * *

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

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

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

11 § 5203. TRANSFER FROM OTHER COURTS

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

19 * * *

20 (c) If it appears to the State’s Attorney that the defendant was under ~~19~~ 20
21 years of age at the time the felony offense charged was alleged to have been

1 committed and the felony charged is not an offense specified in subsection
2 5204(a) of this title, the State’s Attorney shall file charges in the Family
3 Division of the Superior Court, pursuant to section 5201 of this title. The
4 Family Division may transfer the proceeding to the Criminal Division pursuant
5 to section 5204 of this title.

6 * * *

7 Sec. 9. 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~~ 20 years of
14 age at the time the act was alleged to have occurred and the delinquent act set
15 forth in the petition is a felony not specified in subdivisions (1)–(11) 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 Sec. 10. 33 V.S.A. § 5103(c) is amended to read:

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

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

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

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

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

13 * * *

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

15 § 5206. CITATION OF 16- TO ~~18-YEAR-OLDS~~ 19-YEAR-OLDS

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

20 * * *

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

3 (a) On or before the last day of every other month from July 2024 through
4 March 2025, the Department for Children and Families shall report to the Joint
5 Legislative Justice Oversight Committee, the Senate and House Committees on
6 Judiciary, the House Committee on Corrections and Institutions, the House
7 Committee on Human Services, and the Senate Committee on Health and
8 Welfare on its progress toward implementing the requirement of Secs. 7–11 of
9 this act that the Raise the Age initiative take effect on April 1, 2025. The
10 progress reports required by this section shall describe the steps taken to
11 implement the following goals:

12 (1) establishing a secure residential facility;

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

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

17 (4) expanding capacity for Balanced and Restorative Justice (BARJ)
18 contracts;

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

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

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

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

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

10 (10) installation of a comprehensive child welfare information system;
11 and

12 (11) plans for and measures taken to secure funding for the goals listed
13 in this section.

14 (b) Failure to meet one or more of the progress report elements listed in
15 subsection (a) of this section shall not be a basis for extending the
16 implementation of the Raise the Age initiative beyond April 1, 2025.

17 * * * Drug Crimes * * *

18 Sec. 13. 18 V.S.A. § 4201 is amended to read:

19 § 4201. DEFINITIONS

20 * * *

21 (29) “Regulated drug” means:

- 1 (A) a narcotic drug;
- 2 (B) a depressant or stimulant drug, other than methamphetamine;
- 3 (C) a hallucinogenic drug;
- 4 (D) Ecstasy;
- 5 (E) cannabis; ~~or~~
- 6 (F) methamphetamine; or
- 7 (G) xylazine.

8 * * *

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

14 (49) “Knowingly” means actual knowledge that one or more
15 preparations, compounds, mixtures, or substances contain the regulated drug
16 identified in the applicable section of this chapter, or consciously ignoring a
17 substantial risk that one or more preparations, compounds, mixtures, or
18 substances contain the regulated drug identified in the applicable section of this
19 chapter.

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

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

5 § 4233b. XYLAZINE

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

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

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

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

16 (3) manufacturing, distribution, or use of xylazine as an active
17 pharmaceutical ingredient for manufacturing an animal drug approved under
18 section 512 of the Federal Food, Drug, and Cosmetic Act as provided in
19 21 U.S.C. § 360b or issued an investigation use exemption pursuant to section
20 512(j);

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

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

5 (c) A person knowingly and unlawfully dispensing xylazine shall be
6 imprisoned not more than three years or fined not more than \$75,000.00, or
7 both. A person knowingly and unlawfully selling xylazine shall be imprisoned
8 not more than five years or fined not more than \$100,000.00, or both.

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

10 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
11 DEATH RESULTING

12 (a) If the death of a person results from the selling or dispensing of a
13 regulated drug to the person in violation of this chapter, the person convicted
14 of the violation shall be imprisoned not less than two years nor more than
15 20 years.

16 (b) This section shall apply only if the person’s use of the regulated drug is
17 the proximate cause of ~~his or her~~ the person’s death. The fact that a dispensed
18 or sold substance contains more than one regulated drug shall not be a defense
19 under this section if the proximate cause of death is the use of the dispensed or
20 sold substance containing more than one regulated drug. There shall be a

1 permissive inference that the proximate cause of death is the person’s use of
2 the regulated drug if the regulated drug contains fentanyl.

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

8 (2) Notwithstanding subdivision (1) of this subsection, the court may
9 impose a sentence that does not include a term of imprisonment or that
10 includes a term of imprisonment of less than two years if the court makes
11 written findings on the record that the sentence will serve the interests of
12 justice.

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

14 § 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH
15 CITATION; CONDITIONS OF RELEASE

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

20 (b) Unless the person is held without bail for another offense, the State’s
21 Attorney shall request conditions of release for a person subject to subsection

1 (a) of this section. The court may include as a condition of release that the
2 person is prohibited from coming within a fixed distance of the dwelling.

3 Sec. 17. 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 * * * Effective Dates * * *

10 Sec. 18. EFFECTIVE DATES

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

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

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

15

16

17

18

19 (Committee vote: _____)

20

21

Senator _____

1

FOR THE COMMITTEE