

H.781

Introduced by Representatives Dobrovich of Williamstown, Bosch of
Clarendon, Boutin of Barre City, Burt of Cabot, Coffin of
Cavendish, Galfetti of Barre Town, Goslant of Northfield,
Maguire of Rutland City, Morgan, M. of Milton, Nelson of
Derby, Nielsen of Brandon, and Wells of Brownington

Referred to Committee on

Date:

Subject: Juvenile proceedings

Statement of purpose of bill as introduced: This bill proposes to expand the
number of offenses that commence in the Criminal Division of the Superior
Court rather than the Family Division when committed by a juvenile.

An act relating to filing certain juvenile offenses in the Criminal Division

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

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

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

* * *

(c)(1) Any proceeding concerning a child who is alleged to have committed
an act specified in subsection 5204(a) of this title after attaining 14 years of
age, but not 22 years of age, shall originate in the Criminal Division of the

1 Superior Court, provided that jurisdiction may be transferred in accordance
2 with this chapter and chapter 52A of this title, unless the State's Attorney files
3 the charge directly as a youthful offender petition in the Family Division.

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

10 (i) a violation of a condition of release as defined in 13 V.S.A.
11 § 7559 imposed by the Criminal Division for any of the offenses listed in
12 subsection 5204(a) of this title; or

13 (ii) a violation of a condition of release as defined in 13 V.S.A.
14 § 7559 imposed by the Criminal Division for an offense that was transferred
15 from the Family Division pursuant to section 5204 of this title.

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

19 ~~(3) Any proceeding concerning a child who is alleged to have committed~~
20 ~~one of the following acts after attaining 16 years of age, but not 22 years of~~
21 ~~age, shall originate in the Criminal Division of the Superior Court, provided~~

1 ~~that jurisdiction may be transferred in accordance with this chapter and chapter~~
2 ~~52A of this title, unless the State's Attorney files the charge directly as a~~
3 ~~youthful offender petition in the Family Division:~~

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

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

8 ~~(C) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3), or an~~
9 ~~attempt to commit that offense.~~

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

15 * * *

16 Sec. 2. 33 V.S.A. § 5203 is amended to read:

17 § 5203. TRANSFER FROM OTHER COURTS

18 (a) If it appears to a Criminal Division of the Superior Court that the
19 defendant was under 19 years of age at the time the offense charged was
20 alleged to have been committed and the offense charged is an offense not
21 specified in subsection 5204(a) or subdivision 5201(c)(2) ~~or (3)~~ of this title,

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

5 (b) If it appears to a Criminal Division of the Superior Court that the
6 defendant had attained 14 years of age but not 18 years of age at the time an
7 offense specified in subsection 5204(a) or subdivision 5201(c)(2) ~~or (3)~~ of this
8 title was alleged to have been committed, that court may forthwith transfer the
9 proceeding to the Family Division of the Superior Court under the authority of
10 this chapter, and the minor shall then be considered to be subject to this chapter
11 as a child charged with a delinquent act.

12 (c) If it appears to the State's Attorney that the defendant was under 19
13 years of age at the time the felony offense charged was alleged to have been
14 committed and the felony charged is not an offense specified in subsection
15 5204(a) or subdivision 5201(c)(2) ~~or (3)~~ of this title, the State's Attorney shall
16 file charges in the Family Division of the Superior Court, pursuant to section
17 5201 of this title. The Family Division may transfer the proceeding to the
18 Criminal Division pursuant to section 5204 of this title.

19 * * *

1 Sec. 3. 33 V.S.A. § 5204 is amended to read:

2 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
3 COURT

4 (a) After a petition has been filed alleging delinquency, upon motion of the
5 State's Attorney and after hearing, the Family Division of the Superior Court
6 may transfer jurisdiction of the proceeding to the Criminal Division of the
7 Superior Court if the child had attained 16 years of age but not 19 years of age
8 at the time the act was alleged to have occurred and the delinquent act set forth
9 in the petition is a felony not specified in subdivisions (1)–~~(11)~~(30) of this
10 subsection or if the child had attained 12 years of age but not 14 years of age at
11 the time the act was alleged to have occurred, and if the delinquent act set forth
12 in the petition was any of the following:

13 (1) arson causing death as defined in 13 V.S.A. § 501 or an attempt to
14 commit that offense;

15 (2) assault and robbery with a dangerous weapon as defined in 13
16 V.S.A. § 608(b) or an attempt to commit that offense;

17 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
18 § 608(c) or an attempt to commit that offense;

19 (4) aggravated assault as defined in 13 V.S.A. § 1024 or an attempt to
20 commit that offense;

1 (5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as
2 defined in 13 V.S.A. § 2311 or an attempt to commit either of those offenses;

3 (6) manslaughter as defined in 13 V.S.A. § 2304 or an attempt to
4 commit that offense;

5 (7) kidnapping as defined in 13 V.S.A. § 2405 or an attempt to commit
6 that offense;

7 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407 or an
8 attempt to commit that offense;

9 (9) maiming as defined in 13 V.S.A. § 2701 or an attempt to commit
10 that offense;

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

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

16 (12) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3) or an
17 attempt to commit that offense;

18 (13) first degree aggravated domestic assault as defined in 13 V.S.A.
19 § 1043 or second degree aggravated domestic assault as defined in 13 V.S.A.
20 § 1044 or an attempt to commit any of those offenses;

1 (14) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or an
2 attempt to commit that offense;

3 (15) lewd or lascivious conduct with a child as defined in 13 V.S.A.
4 § 2602 or an attempt to commit that offense;

5 (16) carrying a dangerous or deadly weapon while committing a felony
6 in violation of 13 V.S.A. § 4005 or an attempt to commit that offense;

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

9 (18) human trafficking as defined in 13 V.S.A. § 2652 and aggravated
10 human trafficking as defined in 13 V.S.A. § 2653 or an attempt to commit
11 either of those offenses.

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on passage.