

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2016**

**Bill Number:** S.154      **Name of Bill:** An act relating to stalking, criminal threatening, and enhanced penalties for assault

**Agency/ Dept:** AHS/DCF      **Author of Bill Review:** Leslie Wisdom, General Counsel, DCF  
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**Date of Bill Review:** May 26, 2016      **Related Bills and Key Players:** Senators Sears, Campbell, Ayer, Flory and Pollina

**Status of Bill: (check one):** ☐ Upon Introduction      ☐ As passed by 1<sup>st</sup> body      ☒ As passed by both

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**Recommended Position:**

☒ Support      ☐ Oppose      ☐ Remain Neutral      ☐ Support with modifications identified in #8 below

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**Analysis of Bill**

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**1. Summary of bill and issue it addresses.** This bill provides for enhanced criminal penalties for convictions of simple or aggravated assault against “protected professionals” which includes law enforcement, firefighters, health care workers, emergency medical personnel, and now employees, contractors and grantees of the Department for Children and Families. The enhanced penalties for all of these assaults are prison up to one year for the first offense and up to ten years for subsequent offenses. During the legislative session, DCF supported this section of the bill in terms of Family Services Employees – we continue to support this section of the bill with the expansion to all DCF employees, grantees and contractors.

Sec. 6a requires DCF to conduct a statewide review of safety trainings in collaboration with VSEA and DCF’s contractors and grantees. This review is to include safety trainings available to all state employees, and DCF contractors and grantees. This report’s findings and recommendations are due to the legislature 1/15/2017. There is some overlap with Act 109 (H.74 – safety policies for employees) but DCF will work with the AHS Secretary’s office to implement both.

This bill creates a new crime of criminal threatening for threats that place a person in reasonable fear of death or serious bodily injury. This new crime applies to all persons, against any person. The penalty is prison up to one year and not more than a \$1,000 fine. In addition to the new crime, there is also an enhanced penalty (prison up to two years instead of just one and not more than a \$1,000 fine) for a crime of criminal threatening with the intent to prevent a person from making a report of alleged child abuse or neglect to DCF.

The bill also includes language surrounding stalking, aggravated stalking, and sexual assault. It now includes language that allows a youth of 16 years of age or older to file a complaint seeking relief on their own behalf. Please note that

**2. Is there a need for this bill?** Last legislative session DCF proposed enhanced criminal penalties for assaults against social workers and Family Services Division staff as FSD staff have historically faced many threats due to the complex nature of their work with families. Since the murder of Lara Sobel, threats to DCF social workers have increased. While it is not completely clear that enhanced penalties actually deter crime, the Department supports the enhanced penalty and message that assaults on our staff are not tolerated.

This new criminal threatening crime has enhanced penalties for threats that are intended to deter reporters of child abuse from making reports to DCF. We appreciate that this new crime has a specific child protection focus.

DCF appreciates that the definition of criminal threatening is a lower standard than the current definitions of criminal assault as it is a threat that places a person in reasonable fear of death or serious bodily injury compared to attempts of threats by physical menace. It may be that the Department of Public Safety is the more appropriate department to speak to this new crime.

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** DCF does not anticipate any fiscal or programmatic implications of this bill.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** DPS and the Department of Corrections will likely see increased workload because of the new enhanced penalties for assaulting social workers (very slight increase) and creation of a new crime of criminal threatening (potential significant increase).
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)* Local law enforcement may see some increase in workload due to the new crimes in this bill.

6. **Other Stakeholders:**

6.1 **Who else is likely to support the proposal and why?**

The VSEA supported the enhanced penalties for assaulting FSD staff, and proposed to broaden the scope of the proposal to all state employees potentially.

VSEA likely supported the new crime of criminal threatening as it would apply to threats made staff.

The Vermont Network supported the new crime of criminal threatening and the revised stalking language as it applies to victims of domestic or sexual violence who are threatened.

Others in the child protection system affected by threats, including mandated reporters, attorneys, judges, guardians ad litem and others likely supported this bill including the criminal threatening crime.

6.2 **Who else is likely to oppose the proposal and why?**

Criminal defense attorneys opposed this bill. The ACLU also opposed.

7. **Rationale for recommendation:** DCF supported enhanced penalties for assaults against FSD staff and for assaulting any DCF staff member.
8. **Specific modifications that would be needed to recommend support of this bill:**  
NA: Bill has passed both bodies
9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?** No.

**Secretary/Commissioner has reviewed this document:** \_\_\_\_\_ **Date:** \_\_\_\_\_