

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: S 195 **Name of Bill:** An act relating to increasing the penalties for second or subsequent convictions for disorderly conduct, and creating a new crime of aggravated disorderly conduct

Agency/Dept: Vermont State Police **Author of Bill Review:** Lieutenant Michael Henry

Date of Bill Review: 05/21/14 **Status of Bill: (check one):**

 Upon Introduction **As passed by 1st body** X **As passed by both bodies**

Recommended Position:

 Support **Oppose** **Remain Neutral** X **Support with modifications identified in # 8 below**

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill proposes to increase the penalties for second or subsequent convictions for disorderly conduct, and conduct directed at a specific person; it creates a new crime of aggravated disorderly conduct. The penalties are enhanced for aggravated disorderly conduct, but still a misdemeanor crime. Senator Joe Benning advised the bill was drafted at the behest of two subjects who reported to him on-going problems with a neighbor. It was reported the neighbor is probably affected by mental health issues and spends quite a bit of the day and night yelling profanities at his neighbors, playing his drums and horn, and generally creating an untenable situation for his neighbors to live in peace.

Senator Benning advised that the man has been prosecuted a couple of times, but the court doesn't have enough power to do much based on the current language of the law. According to Senator Benning, the intent of this bill is to kick up the penalty provisions of disorderly conduct so that more appropriate steps can be taken to assist victims and deal with offenders involved with disorderly behavior.

2. Is there a need for this bill? *Please explain why or why not.*

There is a need for this change in language to enhance the penalties for second offenses and disorderly behavior that it directed at a specific person with the intent to cause the person inconvenience or annoyance, or disturb the person's peace, quiet or right to privacy.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

This bill would have little impact on the agency as a whole from a fiscal stand point or on law enforcement or the overall judicial system. The change is merely in the language to enhance penalties and allow for protections against conduct direct at a person.

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?

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The only problematic issue would be the removal of the word or in the statute T-13 VSA 1026. Does this make it all inclusive or not?

1026. DISORDERLY CONDUCT

(a) A person is guilty of disorderly conduct if he or she, with intent to cause public inconvenience, or annoyance, or recklessly creating creates a risk thereof:

(1) engages in fighting or in violent, tumultuous, or threatening behavior; or

(2) makes unreasonable noise; or

(3) in a public place, uses abusive or obscene language; or

(4) without lawful authority, disturbs any lawful assembly or meeting of persons; or

There would be no other impact with the bill.

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)

Victims and advocates will find this helpful. This enhancement would provide a tool to hold offenders accountable and provide closure for victims for crimes that otherwise might fall through the cracks.

6. Other Stakeholders:

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

Victims, advocates, prosecutorial staff and law enforcement.

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

7. Rationale for recommendation: *Justify recommendation stated above.*

The new language would cover some situations that the current Disorderly Conduct Statute does not address. It would allow for action to be taken in scenarios that do not occur in a public venue and are directed at a specific person. It would also provide prosecutorial staff with additional enhancements for repeat offenders of continued disorderly behavior.

The bill also addresses the disturbing peach by use of telephone or other electronic communication issue by removing the word "anonymous". The statute T-13 VSA 1027 was unable to be applied for enforcement if the victim knew the offender. The removal of the word "anonymous" allows for prosecution in this situation.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*
The only problematic issue would be the removal of the word or in the statute T-13 VSA 1026.

Secretary/Commissioner has reviewed this documents:



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Deputy Commissioner Note: There is not an opportunity to make changes at this point in time. As the comment seems to be a question and there appears to be universal support with regard to the need and stakeholders information the Department of Public Safety supports this legislation and if the “or” is problematic it can be addressed in subsequent legislative sessions.

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