

**4.18.2024 Family Services Division Testimony**

**Prepared and submitted by:**

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I want to start by saying that in response to the potential delay of final implementation of RTA that we support the research behind expansion of juvenile jurisdiction and having a response that is tailored to the young person's developmental stage. However, we want to make sure we move forward with implementation of RTA at a time when our system has increased capacity to support not only the 19-year-olds but also the youth we currently have. You will see in my testimony that should the delay occur, that will not impact our ability to serve 19-year-old youth through youthful offender status.

I was asked to address the question you asked Tyler Allen related to the initial step in the youthful offender process, which is how the case should be filed. I would say that the initial decision point is based on public safety, and how the case is filed allows for different responses. Criminal court allows for hold without bail and detention, whereas Family Court may not. As Tim mentioned yesterday, this often occurs after hours with law enforcement contacting the SA's office. Tim spoke to the various considerations that might come into play for the SA in making the initial filing decision.

When there are situations where a crime has occurred, and the circumstances allow for it, the SA may reach out to DCF because they know that we have been or are currently involved with that youth. This allows for discussion about what might be available to that youth in the way of placement if there are concerns about them remaining in the home/community, treatment to address the risk, and ongoing support to reduce their risk. This may result in a request for DCF custody of the youth if they are age 17 or under which would allow DCF to place the youth out of the home if that is what is needed.

It is important to remember that youthful offender status is available to youth ages 14-18 for non-Big 12 felony cases. The difference is that the non-Big 12 felony cases need to be filed in the Family Division to start and can be transferred to Criminal Division. At that point any party can motion for youthful offender status, and the case returns to the Family Division for youthful offender consideration. This has been referred to as the ping pong effect. Chair Lalonde referenced the different jurisdiction charts that have been submitted to the committee which highlight the filing requirements based on age and charge.

In 2018 we expanded eligibility for youthful offender status from age 18 to age 21, we also created the presumption of diversion for low or moderate risk youth who committed a non-Big 12 offense, the SA can overcome the presumption of diversion by stating on the record that diverting the case does not meet the ends of justice, as well as a new step in the process which is the youthful offender consideration hearing. This requires DCF to provide a report to the Court for all YO cases either filed as or motioned for YO status. The reports require our



staff to interview the youth and collateral contacts in order to answer the legislatively required questions to make a recommendation about appropriateness for YO status. (Will public safety be afforded if treated as a YO<sup>1</sup>, is the youth amenable to treatment, and are there services available through DCF/DOC to meet the youth's needs.)

If the Court finds that the youth is appropriate for youthful offender status, the case proceeds to Merit's, and assuming Merits are found, then on to the Disposition stage where final recommendations are made about how to provide support and treatment to the youth through youthful offender probation.

We are currently serving 110 youth<sup>2</sup> who are on youthful offender probation:

- Low Risk: 22
- Moderate Risk: 52
- High Risk: 34
- No YASI: 2

In addition, we have 112 Youthful Offender cases open with our field staff that are pending the outcome of the YO consideration process.

I have submitted a youthful offender flow chart for the committee that outlines the various steps and decision points in the youthful offender process.

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<sup>1</sup> 33 V.S.A. § 5284 (2) When determining whether public safety will be protected by treating the youth as a youthful offender, the court shall consider, on the basis of the evidence admitted:

- (A) the nature and circumstances of the charge and whether violence was involved;
- (B) the youth's mental health treatment history and needs;
- (C) the youth's substance abuse history and needs;
- (D) the youth's residential housing status;
- (E) the youth's employment and educational situation;
- (F) whether the youth has complied with conditions of release;
- (G) the youth's criminal record and whether the youth has engaged in subsequent criminal or delinquent behavior since the original charge;
- (H) whether supervising the youth on youthful offender probation is appropriate considering the nature of the charged offense and the age and specialized needs of the youth;
- (I) whether the youth has connections to the community; and
- (J) the youth's history of violence and history of illegal or violent conduct involving firearms or other deadly weapons.

<sup>2</sup> These are unduplicated numbers.