

1 H.618

2 Introduced by Representatives Wizowaty of Burlington, Grad of Moretown,  
3 and Waite-Simpson of Essex

4 Referred to Committee on

5 Date:

6 Subject: Human services; delinquency proceedings

7 Statement of purpose of bill as introduced: This bill proposes to require that  
8 all charges involving criminal conduct by children under 18 years of age be  
9 filed as delinquency proceedings in the Family Division of the Superior Court  
10 rather than the Criminal Division. The bill provides the Family Division with  
11 exclusive jurisdiction over the proceedings and permits the Family Division to  
12 extend jurisdiction over the child until he or she reaches 21 years of age.

13 An act relating to exclusive jurisdiction over delinquency proceedings by  
14 the Family Division of the Superior Court

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

16 Sec. 1. 33 V.S.A. § 5103 is amended to read:

17 § 5103. JURISDICTION

18 (a) The Family Division of the Superior Court shall have exclusive  
19 jurisdiction over all proceedings concerning a child who is or who is alleged to  
20 be a delinquent child or a child in need of care or supervision brought under

1 the authority of the juvenile judicial proceedings chapters, ~~except as otherwise~~  
2 ~~provided in such chapters.~~

3 (b) Orders issued under the authority of the juvenile judicial proceedings  
4 chapters shall take precedence over orders in other Family Division  
5 proceedings and any order of another court of this State, to the extent they are  
6 inconsistent. This section shall not apply to child support orders in a divorce,  
7 parentage, or relief from abuse proceedings until a child support order has been  
8 issued in the juvenile proceeding.

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

12 (2)(A) Jurisdiction over a child who has been adjudicated delinquent  
13 may be extended until ~~six months beyond~~ the child's ~~18th~~ 21st birthday if the  
14 ~~offense for which the child has been adjudicated delinquent is a nonviolent~~  
15 ~~misdemeanor and the child was 17 years old when he or she committed the~~  
16 ~~offense~~ Court finds that doing so would be in the best interests of the child and  
17 public safety.

18 (B) In no case shall custody of a child ~~aged~~ 18 years of age or older  
19 be retained by or transferred to the Commissioner for Children and Families.

20 (C) Jurisdiction over a child in need of care or supervision shall not  
21 be extended beyond the child's 18th birthday.

1           (D) ~~As used in this subdivision, “nonviolent misdemeanor” means a~~  
2 ~~misdemeanor offense which is not a listed crime as defined in 13 V.S.A.~~  
3 ~~§ 5301(7), an offense involving sexual exploitation of children in violation of~~  
4 ~~13 V.S.A. chapter 64, or an offense involving violation of a protection order in~~  
5 ~~violation of 13 V.S.A. § 1030. [Repealed.]~~

6           (d) The Court may terminate its jurisdiction over a child prior to the child’s  
7 18th birthday by order of the Court. If the child is not subject to another  
8 juvenile proceeding, jurisdiction shall terminate automatically in the following  
9 circumstances:

10           (1) ~~Upon~~ upon the discharge of a child from juvenile probation,  
11 providing the child is not in the legal custody of the Commissioner;

12           (2) ~~Upon~~ upon an order of the Court transferring legal custody to a  
13 parent, guardian, or custodian without conditions or protective supervision; or

14           (3) ~~Upon~~ upon the adoption of a child following a termination of  
15 parental rights proceeding.

16           Sec. 2. 33 V.S.A. § 5201 is amended to read:

17           § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

18           (a) All delinquency proceedings under this chapter shall be in the Family  
19 Division of the Superior Court. Proceedings under this chapter shall be  
20 commenced by:



1 the Commissioner of Motor Vehicles to require proof of financial  
2 responsibility under 23 V.S.A. chapter 11.

3 Sec. 4. 33 V.S.A. § 5203 is amended to read:

4 § 5203. TRANSFER FROM OTHER COURTS

5 (a) If it appears to a Criminal Division of the Superior Court that the  
6 defendant was under ~~the age of 16~~ 18 years of age at the time the offense  
7 charged was alleged to have been committed ~~and the offense charged is not~~  
8 ~~one of those specified in subsection 5204(a) of this title~~, that Court shall  
9 forthwith transfer the case to the Family Division of the Superior Court under  
10 the authority of this chapter.

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

20 (c) ~~If it appears to the state's attorney that the defendant was over the age~~  
21 ~~of 16 and under the age of 18 at the time the offense charged was alleged to~~

1 ~~have been committed and the offense charged is not an offense specified in~~  
2 ~~subsection 5204(a) of this title, the state's attorney may file charges in the~~  
3 ~~Family or Criminal Division of the Superior Court. If charges in such a matter~~  
4 ~~are filed in the Criminal Division of the Superior Court, the Criminal Division~~  
5 ~~of the Superior Court may forthwith transfer the proceeding to the Family~~  
6 ~~Division of the Superior Court under the authority of this chapter, and the~~  
7 ~~person shall thereupon be considered to be subject to this chapter as a child~~  
8 ~~charged with a delinquent act.~~

9 (d) Any ~~such~~ transfer pursuant to this section shall include a transfer and  
10 delivery of a copy of the accusatory pleading and other papers, documents, and  
11 transcripts of testimony relating to the case. Upon ~~any such~~ the transfer, that  
12 court shall order that the defendant be taken forthwith to a place of detention  
13 designated by the Family Division of the Superior Court or to that court itself,  
14 or shall release the child to the custody of his or her parent or guardian or other  
15 person legally responsible for the child, to be brought before the Family  
16 Division of the Superior Court at a time designated by that court. The Family  
17 Division of the Superior Court shall then proceed as provided in this chapter as  
18 if a petition alleging delinquency had been filed with the court under section  
19 5223 of this title on the effective date of ~~such~~ the transfer.

20 (e) ~~Motions to transfer a case to the Family Division of the Superior Court~~  
21 ~~for youthful offender treatment shall be made under section 5281 of this title.~~

1       Sec. 5. REPEALS

2           33 V.S.A. §§ 5104 (Retention of jurisdiction over youthful offenders), 5204  
3       (Transfer from Family Division of the Superior Court) and 5281–88 (all  
4       relating to youthful offenders) are repealed.

5       Sec. 6. EFFECTIVE DATE

6           This act shall take effect on passage.