

Act No. 153 (H.95). Judiciary

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

This act makes incremental changes in how youth are adjudicated in Vermont, various changes to the children in need of supervision (CHINS), permanent guardianship, and victim notification statutes, and directs the Joint Legislative Justice Oversight Committee to study further potential changes to Vermont's juvenile court jurisdiction.

Beginning on July 1, 2016:

- A juvenile 12 years of age or older who commits a Big 12 offense may be adjudicated in the Criminal Division; juveniles under 12 years of age who commit a Big 12 offense shall be adjudicated in the Family Division.
- Broadens the authority of the Commissioner of Department for Children and Families (DCF) to include the ability to administer graduated sanctions as established by Department policy.
- Provides that the State's Attorney may, instead of filing a charge, refer a child to a community-based provider approved by DCF, such as a justice center or restorative justice center. If the provider does not accept the case or the child does not complete the program, the case returns to the State's Attorney for charging.
- Provides that if a juvenile violates the terms of probation, the Family Court may transfer supervision of the youth to the Department of Corrections (DOC) with all the powers and authority of the DOC, including graduated sanctions and electronic monitoring.
- Provides that DOC must provide separate facilities for custody of offenders under 25 years of age.
- Provides that law enforcement shall cite youths 16–17 years of age to the Family Division, except for certain offenses.
- Provides that youths 14–16 years of age who are charged with listed crimes must be arraigned within 24 hours of arrest.
- Expands the Family Division's jurisdiction to include proceedings involving misdemeanor motor vehicle offenses.
- Provides that the victim of a listed crime has the right to be notified of the name of the delinquent child and any conditions of release that are related to the victim or member of the victim's family or household. For nonlisted crimes, provides that the victim is notified of the name of the child only if the court imposes probation conditions related to the victim, the victim's family, or household members.

- Provides for notification of DCF, the State's Attorney, and the Family Division of the Superior Court upon the termination of a permanent guardianship.
- Changes the deadline for filing a disposition case plan in the CHINS and juvenile delinquency chapters.
- Provides that in a CHINS proceeding, a decision on the merits can only be appealed after the disposition order is entered.
- Authorizes parties to a CHINS proceeding to stipulate to a finding of CHINS and a case plan under certain circumstances.
- Provides that a minor 16 years of age or older may file a request for relief on his or her own behalf.
- Directs DOC and DCF Commissioners to consider the implications of raising the age for youthful offender status to youths 18–20 years of age who have not been charged with a Big 12 offense.
- Directs Justice Oversight to study several issues during the 2016 legislative interim.
- Directs Agency of Education to explore the use of restorative justice practices regarding school climate, including truancy, bullying, harassment, and school discipline.

Beginning on January 1, 2017

- A youth 16 years of age or younger charged with a misdemeanor shall be charged and adjudicated as a juvenile delinquent in the Family Division.
- A youth 16 years of age or younger charged with a felony (not Big 12) shall be charged as a juvenile delinquent in the Family Division, but upon motion, the court may transfer the proceeding to the Criminal Division.
- The Criminal Division shall transfer any misdemeanor or felony (not Big 12) charge against a youth 16 years of age or younger to the Family Division.
- The State's Attorney shall file felony (not Big 12) charges against a youth 16 years of age or younger in the Family Division.
- The Family Court may transfer a juvenile delinquency petition to the Criminal Division if the child is 16 or 17 years of age and is charged with a felony (not Big 12).
- If a youth 16 years of age or older adjudicated as an adult was charged with a felony (not Big 12) but is convicted of a lesser included misdemeanor, the case shall be transferred to the Family Division for disposition and the conviction shall be treated as an adjudication of delinquency.

Beginning on January 1, 2018:

- If a child is 16 or 17 years of age when he or she commits any offense for which he or she is adjudicated juvenile delinquent, the jurisdiction of the Family Court may be extended six months beyond his or her 19th birthday.
- A youth 17 years of age or younger charged with a misdemeanor shall be charged and adjudicated as a juvenile delinquent in the Family Division.
- A youth 17 years of age or younger charged with a felony (not Big 12) shall be charged as a juvenile delinquent in the Family Division, but upon motion, the court may transfer the proceeding to the Criminal Division.
- The Criminal Division shall transfer any misdemeanor or felony (not Big 12) charge against a youth 17 years of age or younger to the Family Division.
- The State's Attorney will file felony (not Big 12) charges against a youth 17 years of age or younger in the Family Division.

Beginning on July 1, 2018:

- Youthful offender proceedings in the Family Division can begin by a State's Attorney initiating a case there against a youth 16–21 years of age as a youthful offender. The proceeding can also commence as it can under current law by a transfer from the Criminal Division.
- Juveniles 12–21 years of age can move to be treated as youthful offenders in the Family Division.
- The requirement that a juvenile must enter a conditional plea of guilty in Criminal court prior to transferring to Family court for youthful offender status is eliminated. If the Family Division accepts the case for youthful offender status and the youth is adjudicated as a youthful offender, the court will create a criminal case that reflects the charge and conviction.

Multiple effective dates, beginning on July 1, 2016