

## Memorandum

**To:** Members of House Judiciary  
**From:** Ken Schatz, Commissioner, Department for Children and Families   
**Subject:** **H.95: Juvenile Jurisdiction Bill**  
**Date:** April 27, 2016

We whole-heartedly support the H.95 changes as passed by the Senate revising juvenile jurisdiction to be more aligned with brain development research and best practices.

For a number of years, advocates (including me) for juvenile justice have worked to address jurisdiction for 16 and 17 year olds in our state. Vermont is one of the few states where 16 and 17 year olds may be charged as an adult in Court for any offense, including a misdemeanor. This proposed legislation would result in fewer youth entering the adult criminal system, thus avoiding the long term consequences of a criminal record. The collateral consequences for youth charged in adult court includes having a public record, employment obstacles, exclusion from the military, ineligibility for college loans and the inability to own guns. This approach is antithetical to best practices for youth and what we've learned about brain science. Studies have shown that youth are much more amenable to treatment and rehabilitation, and as such, should be treated differently from adults. Studies have also shown that youth incarcerated with adults, or supervised along-side adults, have poorer outcomes - including higher rates of recidivism (please see: <http://dcf.vermont.gov/sites/dcf/files/Youth/Juvenile-Recidivism-Study.pdf>).

Ultimately, my position is that 16 and 17 year olds should be initially charged in Family Court. Prosecutors should be able to request a transfer to adult Court for 16 and 17 year olds accused of felonies. However, we want to be sure we have the necessary resources for this increased caseload in our juvenile system. Our analysis is that we believe DCF has adequate resources to implement the Senate's proposal with respect to charging 16 year olds in Family Court as of January 1, 2017. With respect to 17-year-old youth, we support the delayed implementation commencing January 1, 2018 which would allow the FY18 budget to address the need for additional resources if required. With respect to expanding the youthful offender status to youth up to age 22, a July 1<sup>st</sup>, 2018 start date would allow DCF and the courts to identify the needed resources and logistical enhancements to implement this change.

The following chart describes the proposed jurisdiction changes, age of youth, and implementation date:



Policy Change in H.95 as passed by the Senate	Ages of Youth to be included in policy	Effective Date
<b>Pre-filing Alternatives</b>		
States Attorneys have the option to refer a youth to a DCF approved community-based restorative justice program in lieu of filing in family court. (Youth can be referred back to SA if not accepted or successful in completing program) (section 14 of the bill)	Any youth referred to Family Court	7.1.16
<b>Court Jurisdiction</b>		
Age of Youthful Offender status is extended and cases can be filed in Family Court thus protecting confidentiality (sections 1 – 5 of the bill)	Youth up to age 22	7.1.18
Jurisdiction: Youth charged in juvenile court with no ability to transfer to Criminal Court (section 12)	10 & 11 year olds	7.1.16
Jurisdiction: - All cases are charged in family court (section 12) - For the Big 12, cases can be transferred to Criminal Court with Judicial Waiver (section 12)	12 & 13 year olds	7.1.16
Jurisdiction: - All misdemeanor and felony cases (excluding the Big 12) are charged in family court.	16 year olds (sections 9 & 10)	1.1.17
	17 year olds (sections 7 & 8)	1.1.18
- Felony cases can be transferred to Criminal Court with Judicial Waiver (section 11) - If these transferred felony cases result in a lesser misdemeanor conviction, the case is transferred back to family court for disposition (section 11)	16 & 17 year olds	1.1.17



Supervision		
DCF extended supervision for 16 & 17 year olds charged in family court (section 6)	Youth up to 19.5 years' old	1.1.18
DCF Supervision enhanced to include graduated sanctions (section 13)	Any youth under supervision	7.1.16
Youthful offenders who violate DCF conditions of probation can be referred to DOC where any terms of probation defined in T28 may be applied – including graduated sanctions and electronic monitoring (section 15)	Any youthful offender	7.1.16
Younger offenders who are incarcerated will be housed in a dedicated facility for youth (section 16)	18-25 year olds	7.1.16

In addition to these changes in jurisdiction, we also support the bill provisions that help keep low risk youth who committed low level offenses out of the court system completely by utilizing pre-filing options, such as community-based restorative justice programs. DCF utilizes the YASI screening tool to assess risk and therefore pursued new statutory language to specifically authorize the use of graduated sanctions. This allows the flexibility needed to handle older adolescents requiring more or less supervision based on their risk level.

We also support the Justice Oversight Committee discussing an expansion of the juvenile system to include even older youth; and the idea of an Office for Youth Justice which could consist of a blending or co-location of DCF's youth justice and DOC.

We have greatly appreciated the collaborative process that we and other stakeholders engaged in with the Senate Judiciary Committee to create the bill before you. We look forward to continued discussions with other stakeholders and the Committee about ideas to improve our system.

