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*Agency of Human Services*

## Memorandum

**To:** Members of Senate Judiciary.  
**From:** Ken Schatz, Commissioner, Department for Children and Families (DCF)   
**Subject:** **H.95/Juvenile Jurisdiction – Youthful Offender Information**  
**Date:** March 31, 2016

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For your review, we've provided a summary of the youthful offender system as it is now. Please see the two attachments detailing this.



## Summary of Current Practice with Youthful Offender Status – 3.31.16

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### Population:

- Youth between the age of 10-18 charged in criminal court

### Who can request Youthful Offender Status:

- State's Attorney;
- Youth through their attorney; and
- Judge

### Once Youthful Offender status is requested:

- The youth enters a conditional plea of guilty
- Criminal Court postpones sentencing
- Case transferred to Family Court
- Youth complies with Criminal Court Conditions of Release/DOC supervision until Family Court motion approving Youthful Offender status and Juvenile Probation has been ordered

### Consideration of Youthful Offender status in Family Court:

- DCF social worker files written disposition plan within 35 days
- Court determines whether if by treating the youth as a Youthful Offender the interest of public safety will be maintained.
- If yes, then the Court will consider if the youth is amenable to treatment as a Youthful Offender, and;
- If DCF can provide sufficient services to meet youth's treatment needs both pre and post age 18.

### If Approved:

- The Court may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth, or DCF; provided that any transfer of custody shall expire on the youth's 18th birthday. The youth may not remain in DOC custody once approval of youthful offender status has taken place.
- DOC PO assigned to work with DCF social worker
- Either DOC or DCF could be lead agency and will involve the partner agency
- Both DOC and DCF will keep documentation according to their policies

### If Denied:

- Family Court Case closes, case transferred to Criminal Court, plea withdrawn; or
- Youth may request through their attorney transfer to Family Court and youth adjudicated as delinquent

### If youth does not comply with conditions of juvenile probation, lead case manager may:

- File a Violation of Probation in Family Court, or
- File a Motion to Modify or revoke Family Court Disposition, or

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- Lodge the youth, if 18 or older, in DOC facility.

### Violation of Probation Hearing outcomes include:

- Maintain Youthful Offender status and modify Juvenile Probation
- Youthful Offender Status can be maintained and lead supervision is transferred to DOC
- Youthful Offender Status can be revoked (in which case criminal court has access to family court records)

### Three Months Prior to 18<sup>th</sup> Birthday there is a mandatory Court Review - Considerations:

- Probation completion
- Is it in the best interests of the Youthful Offender and consistent with public safety to extend jurisdiction past age 18?
  - o If yes - the Court will make an order continuing jurisdiction up to the age of 22, and determine which agency will be the lead
  - o If no – the Court will discharge the Youthful Offender and dismiss the criminal case.

### Case Closed when:

- Family Court discharges the youthful offender
- Family Court revokes youthful offender status and transfers case back to the Criminal Court; or
- Youthful Offender reaches his/her 22<sup>nd</sup> birthday (if the Court had previously extended its jurisdiction).

### Role of Victim:

- To be notified by the prosecutor of Court proceedings;
- To be present during all Court proceedings subject to Rule 615 of the Vermont Rules of Evidence and to express reasonably their views concerning the offense and the youthful offender;
- To request notification by the agency having custody of the youthful offender before the youthful offender is released from a residential facility;
- To be notified by the prosecutor as to the final disposition of the case; and
- To be notified by the prosecutor of the victim's rights.
- At the youthful offender disposition hearing the Court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding disposition. If the victim is not present, the Court shall ask whether the victim has expressed views regarding disposition either orally or in writing, and shall take those views into consideration in ordering disposition

**Appendix 1: Task List**

STAGE OF CASE	FAMILY SERVICES SOCIAL WORKER (DCF) TASKS	DOC PROBATION OFFICER TASKS
Pre-Adjudication	Immediately notify the local DOC field office and develop joint dispositional case plan in these circumstances.	Participate in developing joint dispositional case plan. A DOC Probation Officer will attend these Youthful Offender Dispositional Hearings.
Once YO Status has been Granted by the court	When DCF assigned as lead agency, send copy of Family-Court-approved dispositional case plan to DOC.  Arrange with DOC to meet jointly with youth within first month.	Assign a DOC Probation Officer who will maintain collaboration with DCF.  Arrange with DCF to meet jointly with youth.
Ongoing Work	When DCF is lead agency, keep DOC connected to the case by inviting them to case meetings and include them in any documentation, including treatment team notes, etc. Notify DOC prior to any Court action on the case.  When DOC is lead agency, DCF maintains monthly contact with the youth and DOC, attend meetings as appropriate, attend all Court proceedings, and review any documentation received by DOC on the case.	When DCF is lead agency, attend meetings as appropriate and review any documentation received from DCF. Attend any Court proceedings when an action is being considered which may eventually lead to a recommendation that DOC assume the lead agency role.  When DOC is lead agency, DOC maintains contact with the youth as dictated by Department standards, invite DCF to case meetings and include them in any documentation. Notify DCF prior to any Court action on the case.
Youth's 18 <sup>th</sup> Birthday	Work collaboratively with DOC to develop joint plan and report for mandatory Court review prior to the youth's 18 <sup>th</sup> birthday. In report, jointly agree on who will assume lead agency duties once the youth turns 18. If an agreement cannot be reached, seek guidance from administration team.	Work collaboratively with DCF to develop joint plan and report for mandatory Court review prior to the youth's 18 <sup>th</sup> birthday. In report, jointly agree on who will assume lead agency duties once the youth turns 18. If an agreement cannot be reached, seek guidance from administration team.
Ongoing Work Specific to 18-22 Year-Old Youth	DCF continues as lead if specified in Court Order extending jurisdiction. If feel appropriate as lead agency to utilize the adult correctional system to house the youth, notify DOC Probation Officer. Follow " <i>Procedure for Lodging of Youthful Offender in an Adult Correctional Facility Operated by DOC.</i> "	DOC assumes lead agency responsibilities when the youth turns 18 if the Court Order from review designates DOC as lead agency upon age 18. If appropriate may utilize the adult correctional system to house the youth, notify DCF worker. Follow " <i>Procedure for Lodging of Youthful Offender in an Adult Correctional Facility Operated by DOC.</i> "
Closure	If closing case as lead agency at youth's completion; follow regular DCF case closure procedures and treat as regular juvenile case; details cannot be disclosed without release or Court Order.	If closing case at youth's completion treat as confidential juvenile record and destroy accordingly; details cannot be disclosed without release or Court Order. If case closure resulting in return to Criminal Court, DOC assumes sole supervision and responsibilities.

Participate in developing joint dispositional case plan. A DOC Probation Officer will attend these Youthful Offender Dispositional Hearings.

**Appendix 2: Youthful Offender Flow**

