

Overview of Act 153 (H.95), an act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court

Joint Legislative Child Protection Oversight Committee
June 30, 2016

Juvenile Delinquency Statutes: Pre-Act 153 Overview

- Currently the Family Division (FD) generally has exclusive jurisdiction over delinquency proceedings, subject to exceptions, until a child reaches 18.
- Exceptions:
 - For juveniles ages 10 to 13 who commit a “Big 12” offense, the proceeding starts in the FD and may be transferred up to the Criminal Division (CD).
 - Juveniles age 14 and over who commit a “Big 12” are charged in the CD, the proceeding may be transferred down to the FD.
 - Juveniles age 16 and over who commit something other than the “Big 12” can be charged in either the FD or the CD, and either Division may transfer.
- “Big 12” = arson causing death, assault and robbery with a dangerous weapon, assault and robbery causing bodily injury, aggravated assault, murder, manslaughter, kidnapping, unlawful restraint, maiming, sexual assault, aggravated sexual assault, and burglary into an occupied dwelling.
- Youthful offender status: State’s Attorney, defendant, or Court may file a motion in the CD requesting that a juvenile under 18 be treated as a youthful offender. FD determines YO on a case-by-case basis.

Act 153 (H.95): An act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court

Makes incremental changes in how youth are adjudicated in Vermont:

- July, 2016: 10-11 year olds charged with a Big 12 offense can only be charged and adjudicated in the Family Division.
- January, 2017: 16 year olds who commit a misdemeanor or felony (not Big 12) must be charged in the FD. Misdemeanors shall be adjudicated in FD, but felony charges may be transferred to Criminal Division on motion.
- January, 2018: 17 year olds are treated the same as 16 year olds.
- July, 2018: extends youthful offender status from 17 year olds to 21 year olds.

Act 153 (H.95) Rollout:

July 1, 2016

- A juvenile 12 or older who commits a Big 12 offense may be adjudicated in the CD; juveniles under 12 who commit a Big 12 offense shall be adjudicated in the FD.
- Broadens the authority of the Commissioner of DCF to include the ability to administer graduated sanctions as established by Department policy.
- Provides that if a juvenile violates the terms of probation, the FD may transfer supervision of the youth to the DOC with all the powers and authority of the DOC, including graduated sanctions and electronic monitoring.
- Allows State's Attorney to refer a child to a community-based provider approved by DCF instead of filing a charge. 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 youths 14–16 who are charged with listed crimes must be arraigned within 24 hours of arrest.
- Expands the FD's jurisdiction to include proceedings involving misdemeanor motor vehicle offenses.
- Directs Agency of Education to explore the use of restorative justice practices regarding school climate, including truancy, bullying, harassment, and school discipline.

Act 153 (H.95) Rollout: January 1, 2017

- A youth 16 or younger charged with a misdemeanor shall be charged and adjudicated as a juvenile delinquent in the FD.
- A youth 16 or younger charged with a felony (not Big 12) shall be charged as a juvenile delinquent in the FD, but upon motion, the court may transfer the proceeding to the CD.
- As a result...
 - The CD shall transfer any misdemeanor or felony (not Big 12) charge against a youth 16 or younger to the FD.
 - The FD may transfer a juvenile delinquency petition to the CD if the child is 16 or 17 and is charged with a felony (not Big 12).
 - If a youth 16 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 FD for disposition and the conviction shall be treated as an adjudication of delinquency.

Act 153 (H.95) Rollout: January 1, 2018

- If a juvenile is 16 or 17 when he or she commits any offense for which he or she is adjudicated juvenile delinquent, the jurisdiction of the FD may be extended six months beyond his or her 19th birthday.
- A youth 17 or younger charged with a misdemeanor shall be charged and adjudicated as a juvenile delinquent in the FD.
- A youth 17 or younger charged with a felony (not Big 12) shall be charged as a juvenile delinquent in the FD, but upon motion, the court may transfer the proceeding to the CD.
- The CD shall transfer any misdemeanor or felony (not Big 12) charge against a youth 17 or younger to the FD.

Act 153 (H.95) Rollout: July 1, 2018

- Youthful offender proceedings in the FD 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 by a transfer from the CD.
- The requirement that a juvenile must enter a conditional plea of guilty in the CD prior to transferring to the FD for youthful offender status is eliminated. If the FD 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.
- Juveniles 12–21 years of age can move to be treated as youthful offenders in the FD.