

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 95
3 entitled “An act relating to jurisdiction over delinquency proceedings by the
4 Family Division of the Superior Court” respectfully reports that it has
5 considered the same and recommends that the Senate propose to the House that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 *Effective 2018*

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

10 § 5103. JURISDICTION

11 (a) The Family Division of the Superior Court shall have exclusive
12 jurisdiction over all proceedings concerning a child who is or who is alleged to
13 be a delinquent child or a child in need of care or supervision brought under
14 the authority of the juvenile judicial proceedings chapters, except as otherwise
15 provided in such chapters.

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

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

4 (2)(A) Jurisdiction over a child who has been adjudicated delinquent
5 may be extended until six months beyond the child's ~~18th~~ 19th birthday if ~~the~~
6 ~~offense for which the child has been adjudicated delinquent is a nonviolent~~
7 ~~misdemeanor~~ and the child was 16 or 17 years old when he or she committed
8 the offense.

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

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

13 ~~(D) As used in this subdivision, "nonviolent misdemeanor" means a~~
14 ~~misdemeanor offense which is not a listed crime as defined in 13 V.S.A. §~~
15 ~~5301(7), an offense involving sexual exploitation of children in violation of 13~~
16 ~~V.S.A. chapter 64, or an offense involving violation of a protection order in~~
17 ~~violation of 13 V.S.A. § 1030.~~

18 (d) The Court may terminate its jurisdiction over a child prior to the child's
19 18th birthday by order of the Court. If the child is not subject to another
20 juvenile proceeding, jurisdiction shall terminate automatically in the following
21 circumstances:

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

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

5 (3) upon the adoption of a child following a termination of parental
6 rights proceeding.

7 *Effective 2016*

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

9 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

10 (a) Proceedings under this chapter shall be commenced by:

11 (1) transfer to the Court of a proceeding from another court as provided
12 in section 5203 of this title; or

13 (2) the filing of a delinquency petition by a State's Attorney.

14 (b) If the proceeding is commenced by transfer from another court, no
15 petition need be filed; however, the State's Attorney shall provide to the Court
16 the name and address of the child's custodial parent, guardian, or custodian and
17 the name and address of any noncustodial parent if known.

18 (c) ~~Consistent with applicable provisions of Title 4, any~~ Any proceeding
19 concerning a child who is alleged to have committed ~~an act~~ a misdemeanor
20 offense ~~specified in subsection 5204(a) of this title after attaining the age of 14,~~
21 ~~but not the age of 18, shall originate in the Criminal Division of the Superior~~

1 ~~Court, before attaining the age of 17 shall originate in the Family Division of~~
2 ~~the Superior Court provided that jurisdiction may be transferred in accordance~~
3 ~~with this chapter.~~

4 *Effective 2017*

5 (d) Any proceeding concerning a child who is alleged to have committed a
6 felony offense other than those specified in section 5204(a) of this title before
7 reaching the age of 17 shall originate in the Family Division of the Superior
8 Court provided that jurisdiction may be transferred in accordance with this
9 chapter.

10 (e) Any proceeding concerning a child who is alleged to have committed an
11 offense specified in subsection 5204(a) after reaching the age of 16 may
12 originate in either the Criminal Division of the Superior Court or the Family
13 Division of the Superior Court provided that jurisdiction may be transferred in
14 accordance with this chapter.

15 (f) If the State requests that custody of the child be transferred to the
16 Department, a temporary care hearing shall be held as provided in subchapter 3
17 of this chapter.

18 ~~(e)~~(g) A petition may be withdrawn by the State's Attorney at any time
19 prior to the hearing thereon, in which event the child shall be returned to the
20 custodial parent, guardian, or custodian, the proceedings under this chapter

1 terminated, and all files and documents relating thereto sealed under section
2 5119 of this title.

3 *Effective 2018*

4 Sec. 3. 33 V.S.A. § 5201 is amended to read:

5 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

6 (a) Proceedings under this chapter shall be commenced by:

7 (1) transfer to the Court of a proceeding from another court as provided
8 in section 5203 of this title; or

9 (2) the filing of a delinquency petition by a State's Attorney.

10 (b) If the proceeding is commenced by transfer from another court, no
11 petition need be filed; however, the State's Attorney shall provide to the Court
12 the name and address of the child's custodial parent, guardian, or custodian and
13 the name and address of any noncustodial parent if known.

14 (c) Any proceeding concerning a child who is alleged to have committed a
15 misdemeanor offense before attaining the age of ~~47~~18 shall originate in the
16 Family Division of the Superior Court.

17 (d) Any proceeding concerning a child who is alleged to have committed a
18 felony offense other than those specified in section 5204(a) of this title before
19 reaching the age of ~~47~~18 shall originate in the Family Division of the Superior
20 Court provided that jurisdiction may be transferred in accordance with this
21 chapter.

1 (e) Any proceeding concerning a child who is alleged to have committed an
2 offense specified in subsection 5204(a) after reaching the age of ~~16~~ 17 may
3 originate in either the Criminal Division of the Superior Court or the Family
4 Division of the Superior Court provided that jurisdiction may be transferred in
5 accordance with this chapter.

6 * * *

7 *Effective 2016*

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

9 § 5203. TRANSFER FROM OTHER COURTS

10 (a) If it appears to a Criminal Division of the Superior Court that the
11 defendant was under the age of ~~16~~17 years at the time the offense charged was
12 alleged to have been committed and the offense charged is a misdemeanor ~~not~~
13 ~~one of those specified in subsection 5204(a) of this title~~, that Court shall
14 forthwith transfer the case to the Family Division of the Superior Court under
15 the authority of this chapter.

16 (b) If it appears to a Criminal Division of the Superior Court that the
17 defendant was over the age of 16 years and under the age of 18 years at the
18 time ~~the~~ a felony offense charged not listed in section 5204(a) of this title was
19 alleged to have been committed, ~~or that the defendant had attained the age of~~
20 ~~14 but not the age of 16 at the time an offense specified in subsection 5204(a)~~
21 ~~of this title was alleged to have been committed~~, that Court may forthwith

1 transfer the proceeding to the Family Division of the Superior Court under the
2 authority of this chapter, and the minor shall thereupon be considered to be
3 subject to this chapter as a child charged with a delinquent act.

4 (c) If it appears to the State's Attorney that the defendant was over the age
5 of 16 and under the age of 18 at the time the offense charged was alleged to
6 have been committed and the offense charged is ~~not~~ an offense specified in
7 subsection 5204(a) of this title, the State's Attorney may file charges in the
8 Family or Criminal Division of the Superior Court. If charges in such a matter
9 are filed in the Criminal Division of the Superior Court, the Criminal Division
10 of the Superior Court may forthwith transfer the proceeding to the Family
11 Division of the Superior Court under the authority of this chapter, and the
12 person shall thereupon be considered to be subject to this chapter as a child
13 charged with a delinquent act.

14 (d) A transfer under this section shall include a transfer and delivery of a
15 copy of the accusatory pleading and other papers, documents, and transcripts
16 of testimony relating to the case. Upon any such transfer, that court shall order
17 that the defendant be taken forthwith to a place of detention designated by the
18 Family Division of the Superior Court or to that court itself, or shall release the
19 child to the custody of his or her parent or guardian or other person legally
20 responsible for the child, to be brought before the Family Division of the
21 Superior Court at a time designated by that court. The Family Division of the

1 Superior Court shall then proceed as provided in this chapter as if a petition
2 alleging delinquency had been filed with the Court under section 5223 of this
3 title on the effective date of such transfer.

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

6 *Effective 2018*

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

8 § 5203. TRANSFER FROM OTHER COURTS

9 (a) If it appears to a Criminal Division of the Superior Court that the
10 defendant was under the age of ~~17~~¹⁸ years at the time the offense charged was
11 alleged to have been committed and the offense charged is a misdemeanor, that
12 Court shall forthwith transfer the case to the Family Division of the Superior
13 Court under the authority of this chapter.

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

1 (c) If it appears to the State's Attorney that the defendant was ~~over the age~~
2 ~~of 16 and~~ under the age of 18 at the time the offense charged was alleged to
3 have been committed and the offense charged is an offense specified in
4 subsection 5204(a) of this title, the State's Attorney may file charges in the
5 Family or Criminal Division of the Superior Court. If charges in such a matter
6 are filed in the Criminal Division of the Superior Court, the Criminal Division
7 of the Superior Court may forthwith transfer the proceeding to the Family
8 Division of the Superior Court under the authority of this chapter, and the
9 person shall thereupon be considered to be subject to this chapter as a child
10 charged with a delinquent act.

11 * * *

12 *Effective 2016*

13 Sec. 5. 33 V.S.A. § 5204 is amended to read:

14 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
15 COURT

16 (a) After a petition has been filed alleging delinquency, upon motion of the
17 State's Attorney and after hearing, the Family Division of the Superior Court
18 may transfer jurisdiction of the proceeding to the Criminal Division of the
19 Superior Court, if the child had attained the age of 16 but not the age of 18 at
20 the time the act was alleged to have occurred and the delinquent act set forth in
21 the petition was not one of those specified in subdivisions (1)-(12) of this

1 subsection or if the child had attained the age of ~~10~~12 but not the age of ~~14~~16
2 at the time the act was alleged to have occurred, and if the delinquent act set
3 forth in the petition was any of the following:

4 (1) arson causing death as defined in 13 V.S.A. § 501;

5 (2) assault and robbery with a dangerous weapon as defined in 13
6 V.S.A. § 608(b);

7 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
8 608(c);

9 (4) aggravated assault as defined in 13 V.S.A. § 1024;

10 (5) murder as defined in 13 V.S.A. § 2301;

11 (6) manslaughter as defined in 13 V.S.A. § 2304;

12 (7) kidnapping as defined in 13 V.S.A. § 2405;

13 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

14 (9) maiming as defined in 13 V.S.A. § 2701;

15 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

16 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or

17 (12) burglary into an occupied dwelling as defined in 13 V.S.A. §
18 1201(c).

19 (b) The State's Attorney of the county where the juvenile petition is
20 pending may move in the Family Division of the Superior Court for an order
21 transferring jurisdiction under subsection (a) of this section at any time prior to

1 adjudication on the merits. The filing of the motion to transfer jurisdiction shall
2 automatically stay the time for the hearing provided for in section 5225 of this
3 title, which stay shall remain in effect until such time as the Family Division of
4 the Superior Court may deny the motion to transfer jurisdiction.

5 (c) Upon the filing of a motion to transfer jurisdiction under subsection (b)
6 of this section, the Family Division of the Superior Court shall conduct a
7 hearing in accordance with procedures specified in subchapter 2 of this chapter
8 to determine whether:

9 (1) there is probable cause to believe that the child committed ~~an act~~
10 ~~listed in subsection (a) of this section~~ the charged offense; and

11 (2) public safety and the interests of the community would not be served
12 by treatment of the child under the provisions of law relating to the Family
13 Division of the Superior Court and delinquent children.

14 (d) In making its determination as required under subsection (c) of this
15 section, the Court may consider, among other matters:

16 (1) the maturity of the child as determined by consideration of his or her
17 age, home, environment; emotional, psychological and physical maturity; and
18 relationship with and adjustment to school and the community;

19 (2) the extent and nature of the child's prior record of delinquency;

20 (3) the nature of past treatment efforts and the nature of the child's
21 response to them;

1 (4) whether the alleged offense was committed in an aggressive, violent,
2 premeditated, or willful manner;

3 (5) the nature of any personal injuries resulting from or intended to be
4 caused by the alleged act;

5 (6) the prospects for rehabilitation of the child by use of procedures,
6 services, and facilities available through juvenile proceedings;

7 (7) whether the protection of the community would be better served by
8 transferring jurisdiction from the Family Division to the Criminal Division of
9 the Superior Court.

10 (e) A transfer under this section shall terminate the jurisdiction of the
11 Family Division of the Superior Court over the child only with respect to those
12 delinquent acts alleged in the petition with respect to which transfer was
13 sought.

14 (f)(1) The Family Division, following completion of the transfer hearing,
15 shall make findings and, if the Court orders transfer of jurisdiction from the
16 Family Division, shall state the reasons for that order. If the Family Division
17 orders transfer of jurisdiction, the child shall be treated as an adult. The State's
18 Attorney shall commence criminal proceedings as in cases commenced against
19 adults.

20 (2) Notwithstanding subdivision (1) of this subsection, the parties may
21 stipulate to a transfer of jurisdiction from the Family Division at any time after

1 a motion to transfer is made pursuant to subsection (b) of this section. The
2 Court shall not be required to make findings if the parties stipulate to a transfer
3 pursuant to this subdivision. Upon acceptance of the stipulation to transfer
4 jurisdiction, the Court shall transfer the proceedings to the Criminal Division
5 and the child shall be treated as an adult. The State's Attorney shall commence
6 criminal proceedings as in cases commenced against adults.

7 (g) The order granting or denying transfer of jurisdiction shall ~~not~~
8 constitute a final judgment or order within the meaning of Rules 3 and 4 of the
9 Vermont Rules of Appellate Procedure.

10 (h) If a person who has not attained the age of 16 at the time of the alleged
11 offense has been prosecuted as an adult and is not convicted of one of the acts
12 listed in subsection (a) of this section but is convicted only of one or more
13 lesser offenses, jurisdiction shall be transferred to the Family Division of the
14 Superior Court for disposition. A conviction under this subsection shall be
15 considered an adjudication of delinquency and not a conviction of crime, and
16 the entire matter shall be treated as if it had remained in the Family Division
17 throughout. In case of an acquittal for a matter specified in this subsection and
18 in case of a transfer to the Family Division under this subsection, the Court
19 shall order the sealing of all applicable files and records of the Court, and such
20 order shall be carried out as provided in subsection 5119(e) of this title.

1 (i) If a juvenile age 16 or older has been prosecuted as an adult for an
2 offense not listed in subsection (a) of this section and is not convicted of a
3 felony, but is convicted of a lesser included misdemeanor, jurisdiction shall be
4 transferred to the Family Division of the Superior Court for disposition. A
5 conviction under this subsection shall be considered an adjudication of
6 delinquency and not a conviction of a crime, and the entire matter shall be
7 treated as if it had remained in the Family Division throughout. In case of an
8 acquittal for a matter specified in this subsection and in case of a transfer to the
9 Family Division under this subsection, the Court shall order the sealing of all
10 applicable files and records of the Court, and such order shall be carried out as
11 provided in subsection 5119(e) of this title.

12 (j) The record of a hearing conducted under subsection (c) of this section
13 and any related files shall be open to inspection only by persons specified in
14 subsections 5117(b) and (c) of this title in accordance with section 5119 of this
15 title and by the attorney for the child.

16 *Effective 2017*

17 Sec. 6. 33 V.S.A. § 5204 is amended to read:

18 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
19 COURT

20 (a) After a petition has been filed alleging delinquency, upon motion of the
21 State's Attorney and after hearing, the Family Division of the Superior Court

1 may transfer jurisdiction of the proceeding to the Criminal Division of the
2 Superior Court, if the child had attained the age of 16 but not the age of 18 at
3 the time the act was alleged to have occurred and the delinquent act set forth in
4 the petition ~~was not one of those specified in subdivisions (1)-(12) of this~~
5 subsection is a felony not specified in subdivisions (1)-(12) of this subsection
6 or if the child had attained the age of 12 but not the age of 16 at the time the
7 act was alleged to have occurred, and if the delinquent act set forth in the
8 petition was any of the following:

9 (1) arson causing death as defined in 13 V.S.A. § 501;

10 (2) assault and robbery with a dangerous weapon as defined in 13
11 V.S.A. § 608(b);

12 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
13 608(c);

14 (4) aggravated assault as defined in 13 V.S.A. § 1024;

15 (5) murder as defined in 13 V.S.A. § 2301;

16 (6) manslaughter as defined in 13 V.S.A. § 2304;

17 (7) kidnapping as defined in 13 V.S.A. § 2405;

18 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

19 (9) maiming as defined in 13 V.S.A. § 2701;

20 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

21 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or

1 (12) burglary into an occupied dwelling as defined in 13 V.S.A. §
2 1201(c).

3 * * *

4 Sec. 7. 33 V.S.A. § 5206 is added to read:

5 § 5206. CITATION OF 16- AND 17-YEAR-OLDS

6 (a)(1) If a child was over 16 years of age and under 18 years of age at the
7 time the offense was alleged to have been committed and the offense is not
8 specified in subsection (b) of this section, law enforcement shall cite the child
9 to the Family Division of the Superior Court.

10 (2) If, after the child is cited to the Family Division, the State’s Attorney
11 chooses to file the charge in the Criminal Division of the Superior Court, the
12 State’s Attorney shall state in the information the reason why filing in the
13 Criminal Division is in the interest of justice.

14 (b) Offenses for which a law enforcement officer is not required to cite a
15 child to the Family Division of the Superior Court shall include:

16 (1) 23 V.S.A. §§ 674 (driving while license suspended or revoked);
17 1128 (accidents—duty to stop); and 1133 (eluding a police officer).

18 (2) Fish and wildlife offenses that are not minor violations as defined by
19 10 V.S.A. § 4572.

20 (3) A listed crime as defined in 13 V.S.A. § 5301.

21 (4) An offense listed in subsection 5204(a) of this title.

1 Sec. 8. REPORT

2 (a) On or before March 1, 2016, each State’s Attorney shall adopt a written
3 protocol regarding his or her approach to deciding whether to file a
4 delinquency petition or criminal charges against a child that reflects the
5 purposes of 33 V.S.A. § 5101.

6 (b) On or before April 1, 2016, the Executive Director of the Department of
7 State’s Attorneys and Sheriffs shall report to the House and Senate Committees
8 on Judiciary regarding State’s Attorneys’ implementation of subsection (a) of
9 this section.

10 Sec. 9. 33 V.S.A. § 5234 is amended to read:

11 § 5234. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS

12 INVOLVING A LISTED CRIME

13 (a) The victim in a delinquency proceeding involving a listed crime shall
14 have the following rights:

15 (1) To be notified by the prosecutor’s office in a timely manner;

16 (A) when a delinquency petition has been filed, the name of the child,
17 and any conditions of release ordered for the child that are materially related to
18 the victim or intended to protect the safety of the victim;

19 (B) his or her rights as provided by law, information regarding how a
20 case proceeds through a delinquency proceeding, the confidential nature of

1 delinquency proceedings, and that it is unlawful to disclose confidential
2 information concerning the proceedings to another person;

3 (C) when a predispositional or dispositional court proceeding is
4 scheduled to take place and when a court proceeding of which he or she has
5 been notified will not take place as scheduled; and

6 ~~(2)(D) To be notified by the prosecutor's office as to whether~~
7 ~~delinquency has been found and disposition has occurred, including any~~
8 ~~conditions of release that are materially related to the victim or intended to~~
9 ~~protect the safety of the victim and restitution relevant to the victim, when~~
10 ~~ordered.~~

11 ~~(3)(2) To attend the disposition hearing and to present a victim's impact~~
12 ~~statement, including a statement why restitution may be appropriate, at the~~
13 ~~disposition hearing in accordance with subsection 5233(b) of this title and to~~
14 ~~be notified as to the disposition pursuant to subsection 5233(d) of this title.~~
15 The Court shall consider the victim's statement when ordering disposition.

16 ~~(4)(3) Upon request, to~~ To be notified by the agency having custody of
17 the delinquent child before he or she is discharged from a secure or
18 staff-secured residential facility. The name of the facility shall not be
19 disclosed. An agency's inability to give notification shall not preclude the
20 release. However, in such an event, the agency shall take reasonable steps to
21 give notification of the release as soon thereafter as practicable. Notification

1 efforts shall be deemed reasonable if the agency attempts to contact the victim
2 at the address or telephone number provided to the agency in the request for
3 notification.

4 (5) ~~To obtain the name of the child in accordance with sections 5226~~
5 ~~and 5233 of this title. [Repealed.]~~

6 (6) ~~To be notified by the Court of the victim's rights under this section.~~
7 ~~[Repealed.]~~

8 (b) The prosecutor's office shall keep the victim informed and consult with
9 the victim through the delinquency proceedings.

10 Sec. 10. 33 V.S.A. § 5234a is added to read:

11 § 5234a. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS
12 INVOLVING A NONLISTED CRIME

13 The victim in a delinquency proceeding based on an act that is not a listed
14 crime shall have the following rights:

15 (1) To be notified by the Court of his or her rights as provided by law
16 and his or her responsibilities regarding the confidential nature of juvenile
17 proceedings.

18 (2) To be notified promptly by the Court when conditions of release are
19 initially ordered or modified by the Court and shall be notified promptly of the
20 identity of the child when the conditions of release relate to the victim or a
21 member of the victim's family or current household. Victims are entitled only

1 to information contained in the conditions of release that pertain to the victim
2 or a member of the victim’s family or current household.

3 (3) To file with the Court a written or recorded statement of the impact
4 of the delinquent act on the victim and the need for restitution.

5 (4) To be present at the disposition hearing for the sole purpose of
6 presenting to the Court the impact of the delinquent act on the victim and the
7 need for restitution if the Court finds the victim’s presence at the disposition
8 hearing is in the best interests of the child and the victim.

9 (5) To have the Court take a victim’s views into consideration in the
10 Court’s disposition order.

11 (6) To be allowed not to be personally present at any portion of the
12 disposition hearing except to present the impact statement unless authorized by
13 the Court.

14 (7) To be informed by the Court after an adjudication of delinquency
15 has been made of the disposition of the case. Upon request of the victim, the
16 Court may release to the victim the identity of the child if the Court finds that
17 release of the child’s identity to the victim is in the best interests of both the
18 child and the victim. Disposition in the case shall include whether the child
19 was placed on probation and information regarding conditions of probation
20 relevant to the victim.

21 Sec. 11. 33 V.S.A. § 5285 is amended to read:

1 § 5285. MODIFICATION OR REVOCATION OF DISPOSITION

2 (a) If it appears that the youth has violated the terms of juvenile probation
3 ordered by the Court pursuant to subdivision 5284(c)(1) of this title, a motion
4 for modification or revocation of youthful offender status may be filed in the
5 Family Division of the Superior Court. The Court shall set the motion for
6 hearing as soon as practicable. The hearing may be joined with a hearing on a
7 violation of conditions of probation under section 5265 of this title. A
8 supervising juvenile or adult probation officer may detain in an adult facility a
9 youthful offender who has attained the age of 18 for violating conditions of
10 probation.

11 (b) A hearing under this section shall be held in accordance with section
12 5268 of this title.

13 (c) If the Court finds after the hearing that the youth has violated the terms
14 of his or her probation, the Court may:

15 (1) maintain the youth's status as a youthful offender, with modified
16 conditions of juvenile probation if the Court deems it appropriate;

17 (2) revoke the youth's status as a youthful offender status and return the
18 case to the Criminal Division for sentencing; or

19 (3) transfer supervision of the youth to the Department of Corrections
20 with all of the powers and authority of the Department and the Commissioner
21 under title 28 including graduated sanctions and electronic monitoring.

1 (d) If a youth's status as a youthful offender is revoked and the case is
2 returned to the Criminal Division under subdivision (c)(2) of this section, the
3 Court shall hold a sentencing hearing and impose sentence. When determining
4 an appropriate sentence, the Court may take into consideration the youth's
5 degree of progress toward rehabilitation while on youthful offender status. The
6 Criminal Division shall have access to all Family Division records of the
7 proceeding.

8 Sec. 12. 13 V.S.A. § 7554 is amended to read:

9 * * *

10 (j) Any juvenile between the ages of 14 and 16 who is charged with a listed
11 crime as defined in subsection 5301(7) of this title shall appear before a
12 judicial officer and be ordered released pending trial in accordance with this
13 section within 24 hours juvenile's arrest.

14 Sec. 13. 28 V.S.A. § 1101 is amended to read:

15 § 1101. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER
16 REGARDING JUVENILE SERVICES

17 The Commissioner is charged with the following powers and
18 responsibilities regarding the administration of juvenile services:

19 (1) to provide appropriate, separate facilities for the custody and
20 treatment of ~~children~~ offenders under 25 years of age committed to his or her
21 custody in accordance with the laws of the State;

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Sec. 14. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
OFFICE OF YOUTH JUSTICE

During the 2016 legislative interim, the Joint Legislative Justice Oversight Committee shall evaluate:

(1) the potential for an Office of Youth Justice within the Department for Children and Families or the Department of Corrections to improve Vermont’s juvenile justice system;

(2) expanding youthful offender status eligibility to offenders aged 24 and younger, while requiring 22-24 year old offenders to be under Department of Corrections supervision; and

(3) housing 16 and 17 year old offenders serving a sentence for an offense specified in 33 V.S.A. § 5204(a).

Sec. 15. STATE BOARD OF EDUCATION; RESTORATIVE JUSTICE PRACTICES

The State Board of Education shall develop a policy to promote the use of restorative practices regarding school climate and culture, truancy, and school discipline. The Board shall consider the research that demonstrates that restorative approaches lead to reductions in absenteeism, suspensions, and expulsions, and to improved educational outcomes. In developing the policy, the Board shall collaborate with community restorative justice providers. The

1 Board shall provide a report, which shall include the policy, the process by
2 which the policy was developed, and policy implementation plans to the Joint
3 Legislative Justice Oversight Committee on or before November 1, 2016.

4 Sec. 16. REPEAL

5 33 V.S.A. §§ 5226 (notification of conditions of release) and 5233 (victim’s
6 statement at disposition) are repealed.

7 Sec. 17. EFFECTIVE DATES

8 (a) This section and Sec. 8 (state’s attorney report) of this act shall take
9 effect on passage.

10 (b) Secs. 2 (commencement of delinquency proceedings) and 6 (transfer
11 from Family Division of the Superior Court) of this act shall take effect on
12 January 1, 2017.

13 (c) Secs. 1 (Jurisdiction) and 3 (commencement of delinquency
14 proceedings) of this act shall take effect on January 1, 2018.

15 (d) The remaining sections of this act shall take effect on July 1, 2016.

16
17
18 (Committee vote: _____)

19 _____

20 Senator _____

21 FOR THE COMMITTEE