

1 S.234

2 Introduced by Senator Sears

3 Referred to Committee on Judiciary

4 Date: January 3, 2018

5 Subject: Judiciary; juvenile delinquency; youthful offender

6 Statement of purpose of bill as introduced: This bill proposes to allow
7 automatic expungement of criminal history records under certain
8 circumstances for an individual 18-21 years of age and directs the Department
9 for Children and Families to review current screening and assessment tools and
10 diversion practices and report to the General Assembly on proposed changes.

11 ~~An act relating to juvenile justice.~~

An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 ~~Sec. 1. 13 V.S.A. § 7609 is added to read:~~

14 § 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN
15 INDIVIDUAL 18-21 YEARS OF AGE

16 (a) As used in this section, “qualifying crime” means any misdemeanor
17 offense that is not a listed crime as defined in subdivision 5301(7) of this title
18 and that is not an offense involving sexual exploitation of children in violation
19 of chapter 64 of this title.

1 ~~(b) Except as provided in subsection (c) of this section, the record of the~~
2 ~~criminal proceedings for an individual who was 18-21 years of age at the time~~
3 ~~the individual committed a qualifying crime shall be expunged within 30 days~~
4 ~~after the date on which the individual successfully completed the terms and~~
5 ~~conditions of the sentence for the conviction of the qualifying crime, absent a~~
6 ~~finding of good cause by the court. The court shall issue an order to expunge~~
7 ~~all records and files related to the arrest, citation, investigation, charge,~~
8 ~~adjudication of guilt, criminal proceedings, and probation related to the~~
9 ~~sentence. A copy of the order shall be sent to each agency, department, or~~
10 ~~official named in the order. Thereafter, the court, law enforcement officers,~~
11 ~~agencies, and departments shall reply to any request for information that no~~
12 ~~record exists with respect to such individual. Notwithstanding this subsection,~~
13 ~~the record shall not be expunged until restitution has been paid in full.~~

14 ~~(c) The Vermont Crime Information Center shall retain a special index of~~
15 ~~sentences for sex offenses that require registration pursuant to chapter 167,~~
16 ~~subchapter 3 of this title. This index shall only list the name and date of birth~~
17 ~~of the subject of the expunged files and records, the offense for which the~~
18 ~~subject was convicted, and the docket number of the proceeding that was the~~
19 ~~subject of the expungement. The special index shall be confidential and shall~~
20 ~~be accessed only by the director of the Vermont Crime Information Center and~~
21 ~~an individual designated for the purpose of providing information to the~~

1 ~~Department of Corrections in the preparation of a presentence investigation in~~
2 ~~accordance with 28 V.S.A. §§ 204 and 204a.~~

3 Sec. 2. 33 V.S.A. § 5203 is amended to read:

4 § 5203. TRANSFER FROM OTHER COURTS

5 (a) If it appears to a Criminal Division of the Superior Court that the
6 defendant was under 18 years of age at the time the offense charged was
7 alleged to have been committed and the offense charged is a:

8 (1) misdemeanor, that court shall forthwith transfer the case to the
9 Family Division of the Superior Court under the authority of this chapter; or

10 (2) felony offense not specified in subsection 5204(a) of this title, that
11 court shall forthwith transfer the proceeding to the Family Division of the
12 Superior Court under the authority of this chapter, and the minor shall then be
13 considered to be subject to this chapter as a child charged with a
14 delinquent act.

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

1 ~~an offense specified in subsection 5204(a) of this title was alleged to have been~~
2 committed, that court may forthwith transfer the proceeding to the Family
3 Division of the Superior Court under the authority of this chapter, and the
4 minor shall then be considered to be subject to this chapter as a child charged
5 with a delinquent act.

6 * * *

7 Sec. 3. DEPARTMENT FOR CHILDREN AND FAMILIES; JUVENILE
8 DELINQUENCY AND YOUTHFUL OFFENDER PROCEEDINGS;
9 SCREENING AND ASSESSMENT TOOLS; DIVERSION;
10 REPORT

11 The Department for Children and Families, in consultation with the
12 Department of State's Attorneys and Sheriffs and the Office of the Defender
13 General, shall conduct a review of current policies and practices regarding
14 diversion and the screening and assessment tools used during proceedings
15 under 33 V.S.A. chapters 52 and 52a, including the Youth Assessment and
16 Screening Instrument (YASI). On or before January 1, 2019, the Department
17 shall report to the Senate and House Committees on Judiciary with an analysis
18 of how current screening and assessment tools and diversion policies and
19 practices are working and any recommendations for legislative changes.

20 Sec. 4. EFFECTIVE DATE

21 ~~This act shall take effect on passage.~~

** * * Findings * * **

Sec. 1. 33 V.S.A. § 5101 is amended to read:

§ 5101. LEGISLATIVE FINDINGS AND PURPOSES

(a) The General Assembly finds and declares as public policy that an effective youth justice system: protects public safety; connects youths and young adults to age-appropriate services that reduce the risk of reoffense; and, when appropriate, shields youths from the adverse impact of a criminal record.

(b) In order to accomplish these goals, the system should be based on the implementation of data-driven evidence-based practices that offer a broad range of alternatives, such that the degree of intervention is commensurate with the risk of reoffense.

(c) High-intensity interventions with low-risk offenders not only decrease program effectiveness, but are contrary to the goal of public safety in that they increase the risk of recidivism. An effective youth justice system includes pre-charge options that keep low-risk offenders out of the criminal justice system altogether.

(d) The juvenile judicial proceedings chapters shall be construed in accordance with the following purposes:

(1) to provide for the care, protection, education, and healthy mental, physical, and social development of children coming within the provisions of the juvenile judicial proceedings chapters;

(2) to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to provide supervision, care, and rehabilitation ~~which~~ that ensure:

(A) balanced attention to the protection of the community;

(B) accountability to victims and the community for offenses; and

(C) the development of competencies to enable children to become responsible and productive members of the community;

(3) to preserve the family and to separate a child from his or her parents only when necessary to protect the child from serious harm or in the interests of public safety;

(4) to ensure that safety and timely permanency for children are the paramount concerns in the administration and conduct of proceedings under the juvenile judicial proceedings chapters;

(5) to achieve the foregoing purposes, whenever possible, in a family environment, recognizing the importance of positive parent-child relationships

to the well-being and development of children; and

(6) to provide judicial proceedings through which the provisions of the juvenile judicial proceedings chapters are executed and enforced and in which the parties are ensured a fair hearing, and that their constitutional and other legal rights are recognized and enforced.

(b)(e) The provisions of the juvenile judicial proceedings chapters shall be construed as superseding the provisions of the criminal law of this State to the extent the same are inconsistent with this chapter.

** * * Expungement * * **

Sec. 2. 13 V.S.A. § 7609 is added to read:

§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN INDIVIDUAL 18-21 YEARS OF AGE

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18-21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution has been paid in full.

(b) Exceptions.

(1) A criminal record that includes both qualifying and nonqualifying offenses shall not be eligible for expungement pursuant to this section.

(2) The Vermont Crime Information Center shall retain a special index of sentences for sex offenses that require registration pursuant to chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and shall be accessed only by the director of the Vermont Crime Information Center and an individual designated for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in

accordance with 28 V.S.A. §§ 204 and 204a.

** * * Juvenile Delinquency Proceedings * * **

Sec. 3. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) Preliminary hearing. A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing. Counsel for the child shall be assigned prior to the preliminary hearing.

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney. ~~Except on agreement of the parties, the results shall not be provided to the court until after a merits finding has been made.~~

(c) ~~Counsel for the child shall be assigned prior to the preliminary hearing.~~ Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice.

If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(d) Guardian ad litem. At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the court may appoint a guardian ad litem other than a parent, guardian, or custodian.

(e) Admission; denial. At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian ad litem, and the Department agree.

(f) Conditions. The court may order the child to abide by conditions of release pending a merits or disposition hearing.

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

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 18 years of age at the time the offense charged was alleged to have been committed and the offense charged is a misdemeanor, that court shall forthwith transfer the case to the Family Division of the Superior Court under the authority of this chapter an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant was under 18 years of age at the time a felony offense not specified in subsection 5204(a) of this title was alleged to have been committed, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the

minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

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* * * Youthful Offender Proceedings * * *

Sec. 5. 33 V.S.A. § 5280 is amended to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER
PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

(d) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the youth shall be offered a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the Family Division shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days.

(1) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(2) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk

and needs screening may be used in subsequent proceedings.

(e) If a youth presents a low to moderate risk to reoffend based on the results of the risk and needs screening, the State's Attorney shall refer a youth directly to court diversion unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

Sec. 6. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, youth has completed the risk and needs screening pursuant to section 5280 of this title, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.

** * **

Sec. 7. 33 V.S.A. § 5801 is amended to read:

§ 5801. WOODSIDE JUVENILE REHABILITATION CENTER

(a) The Woodside Juvenile Rehabilitation Center in the town of Essex shall be operated by the Department for Children and Families as a residential treatment facility that provides in-patient psychiatric, mental health, and substance abuse services in a secure setting for adolescents who have been adjudicated or charged with a delinquency or criminal act.

(b) The total capacity of the facility shall not exceed 30 beds.

(c) The purpose or capacity of the Woodside Juvenile Rehabilitation Center shall not be altered except by act of the General Assembly following a study recommending any change of use by the Agency of Human Services.

(d) No person who has reached his or her 18th birthday may be placed at Woodside. Notwithstanding any other provision of law, a person under ~~the age of 18 years of age~~ may be placed at Woodside, provided that he or she meets the admissions criteria for treatment as established by the Department for Children and Families. Any person already placed at Woodside may voluntarily continue receiving treatment at Woodside beyond his or her 18th birthday, provided that he or she continues to meet the criteria established by the Department for continued treatment. The Commissioner shall ensure that a child placed at Woodside has the same or equivalent due process rights as a

child placed at Woodside in its previous role as a detention facility ~~prior to the enactment of this act.~~

*Sec. 8. DEPARTMENT FOR CHILDREN AND FAMILIES; EXPANDING
JUVENILE JURISDICTION; REPORT*

The Department for Children and Families, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Court Administrator, and the Commissioner of Corrections, shall:

(1) consider the implications of expanding juvenile jurisdiction under 33 V.S.A. chapters 52 and 52a to encompass 18- and 19-year-olds beginning in fiscal year 2021;

(2) report on the status and plan for the expansion, including necessary funding, to the Joint Legislative Justice Oversight Committee on or before November 1, 2018; and

(3) provide status update reports to the Joint Legislative Justice Oversight Committee on or before November 1, 2019 and November 1, 2020.

** * * Effective July 1, 2020 * * **

Sec. 9. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

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

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

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

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

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed a ~~misdemeanor~~ any offense other than those specified in subsection 5204(a) of this title before attaining 18 19 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

~~(e) Any proceeding concerning a child who is alleged to have committed a felony offense other than those specified in subsection 5204(a) of this title before attaining 18 years of age shall originate in the Family Division of the Superior Court provided that jurisdiction may be transferred in accordance with this chapter. [Repealed.]~~

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

~~(g) A petition may be withdrawn by the State's Attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.~~

~~Sec. 10. 33 V.S.A. § 5202 is amended as follows:~~

~~§ 5202. ORDER OF ADJUDICATION; NONCRIMINAL~~

~~(a)(1) An order of the Family Division of the Superior Court in proceedings under this chapter shall not:~~

~~(A) be deemed a conviction of crime;~~

~~(B) impose any civil disabilities sanctions ordinarily resulting from a conviction; or~~

~~(C) operate to disqualify the child in any civil service application or appointment.~~

~~(2) Notwithstanding subdivision (1) of this subsection, an order of delinquency in proceedings transferred under subsection 5203(b) of this title, where the offense charged in the initial criminal proceedings was concerning a child who is alleged to have committed a violation of those sections of Title 23 specified in subdivision 23 V.S.A. § 801(a)(1), shall be an event in addition to those specified therein, enabling the Commissioner of Motor Vehicles to require proof of financial responsibility under 23 V.S.A. chapter 11.~~

~~(b) The disposition of a child and evidence given in a hearing in a juvenile proceeding shall not be admissible as evidence against the child in any case or proceeding in any other court except after a subsequent conviction of a felony in proceedings to determine the sentence.~~

~~Sec. 11. 33 V.S.A. § 5203 is amended to read:~~

~~§ 5203. TRANSFER FROM OTHER COURTS~~

~~(a) If it appears to a Criminal Division of the Superior Court that the~~

defendant was under ~~18~~ 19 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~18~~ 19 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

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

Sec. 12. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the

Superior Court, if the child had attained 16 years of age but not ~~18~~ 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;*
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);*
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);*
- (4) aggravated assault as defined in 13 V.S.A. § 1024;*
- (5) murder as defined in 13 V.S.A. § 2301;*
- (6) manslaughter as defined in 13 V.S.A. § 2304;*
- (7) kidnapping as defined in 13 V.S.A. § 2405;*
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;*
- (9) maiming as defined in 13 V.S.A. § 2701;*
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);*
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or*
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).*

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

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** * * Effective July 1, 2022 * * **

Sec. 13. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

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

- (1) transfer to the court of a proceeding from another court as provided*

in subsection (c) of this section; or

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

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

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

* * *

Sec. 14. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter; and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter; and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The

Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

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

Sec. 15. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~19~~ 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;*
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);*
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);*
- (4) aggravated assault as defined in 13 V.S.A. § 1024;*
- (5) murder as defined in 13 V.S.A. § 2301;*
- (6) manslaughter as defined in 13 V.S.A. § 2304;*
- (7) kidnapping as defined in 13 V.S.A. § 2405;*

- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;*
- (9) maiming as defined in 13 V.S.A. § 2701;*
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);*
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or*
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).*

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

** * **

** * * Appropriation * * **

Sec. 16. FUNDING

To the extent the sum of \$200,000.00 is appropriated in fiscal year 2019 from the General Fund to the Department for Children and Families, the Department shall prepare for the expansion of services to juvenile offenders 18 and 19 years of age pursuant to 33 V.S.A. chapters 52 and 52A beginning in fiscal year 2021, and shall carry forward any unexpended funds.

** * * Effective Dates * * **

Sec. 17. EFFECTIVE DATES

- (a) This section, Sec. 4, and Sec. 16 shall take effect on passage.*
- (b) Secs. 1-3 and 5-8 shall take effect on July 1, 2018.*
- (c) Secs. 9-12 shall take effect on July 1, 2020.*
- (d) Secs. 13-15 shall take effect on July 1, 2022.*