

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 234
3 entitled “An act relating to adjudicating all teenagers in the Family Division,
4 except those charged with a serious violent felony” respectfully reports that it
5 has considered the same and recommends that the House propose to the Senate
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 * * * Findings * * *

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

10 § 5101. LEGISLATIVE FINDINGS AND PURPOSES

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

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

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

1 charge options that keep low-risk offenders out of the criminal justice system
2 altogether.

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

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

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

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

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

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

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

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

1 (5) to achieve the foregoing purposes, whenever possible, in a family
2 environment, recognizing the importance of positive parent-child relationships
3 to the well-being and development of children; and

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

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

11 * * * Expungement * * *

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

13 § 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN
14 INDIVIDUAL 18-21 YEARS OF AGE

15 (a) Procedure. Except as provided in subsection (b) of this section, the
16 record of the criminal proceedings for an individual who was 18-21 years of
17 age at the time the individual committed a qualifying crime shall be expunged
18 within 30 days after the date on which the individual successfully completed
19 the terms and conditions of the sentence for the conviction of the qualifying
20 crime, absent a finding of good cause by the court. The court shall issue an
21 order to expunge all records and files related to the arrest, citation,

1 investigation, charge, adjudication of guilt, criminal proceedings, and
2 probation related to the sentence. A copy of the order shall be sent to each
3 agency, department, or official named in the order. Thereafter, the court, law
4 enforcement officers, agencies, and departments shall reply to any request for
5 information that no record exists with respect to such individual.

6 Notwithstanding this subsection, the record shall not be expunged until
7 restitution has been paid in full.

8 (b) Exceptions.

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

11 (2) The Vermont Crime Information Center shall retain a special index
12 of sentences for sex offenses that require registration pursuant to chapter 167,
13 subchapter 3 of this title. This index shall only list the name and date of birth
14 of the subject of the expunged files and records, the offense for which the
15 subject was convicted, and the docket number of the proceeding that was the
16 subject of the expungement. The special index shall be confidential and shall
17 be accessed only by the Director of the Vermont Crime Information Center and
18 an individual designated for the purpose of providing information to the
19 Department of Corrections in the preparation of a presentence investigation in
20 accordance with 28 V.S.A. §§ 204 and 204a.

1 Sec. X. 33 V.S.A. § 3309 is added to read:

2 § 3309. COMPLIANCE WITH THE JUVENILE JUSTICE AND

3 DELINQUENCY PREVENTION ACT

4 The Department for Children and Families, within the Agency of Human
5 Services, is the state agency designated for supervising the preparation and
6 administration of the Juvenile Justice and Delinquency Prevention Act state
7 plan and is also designated as the state agency responsible for monitoring and
8 data collection for purposes of compliance with the Juvenile Justice and
9 Delinquency Prevention Act.

10 Sec. X. 33 V.S.A. § 5103 is amended to read:

11 § 5103. JURISDICTION

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

17 * * *

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

1 by the Department or by a community provider that has contracted with the
2 Department to provide risk and need screenings for children alleged to have
3 committed delinquent acts.

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

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

1 (c) ~~Counsel for the child shall be assigned prior to the preliminary hearing.~~
2 Referral to diversion. Based on the results of the risk and needs screening, if a
3 child presents a low to moderate risk to reoffend, the State’s Attorney shall
4 refer the child directly to court diversion unless the State’s Attorney states on
5 the record why a referral to court diversion would not serve the ends of justice.
6 If the court diversion program does not accept the case or if the child fails to
7 complete the program in a manner deemed satisfactory and timely by the
8 provider, the child’s case shall return to the State’s Attorney for charging
9 consideration.

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

15 (e) Admission; denial. At the preliminary hearing, a denial shall be entered
16 to the allegations of the petition, unless the juvenile, after adequate
17 consultation with the guardian ad litem and counsel, enters an admission. If
18 the juvenile enters an admission, the disposition case plan required by section
19 5230 of this title may be waived and the court may proceed directly to
20 disposition, provided that the juvenile, the custodial parent, the State’s
21 Attorney, the guardian ad litem, and the Department agree.

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

3 Sec. 4. 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 misdemeanor, that~~
8 ~~court shall forthwith transfer the case to the Family Division of the Superior~~
9 ~~Court under the authority of this chapter~~ an offense not specified in subsection
10 5204(a) of this title, that court shall forthwith transfer the proceeding to the
11 Family Division of the Superior Court under the authority of this chapter, and
12 the minor shall then be considered to be subject to this chapter as a child
13 charged with a delinquent act.

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

1 committed, that court may forthwith transfer the proceeding to the Family
2 Division of the Superior Court under the authority of this chapter, and the
3 minor shall then be considered to be subject to this chapter as a child charged
4 with a delinquent act.

5 * * *

6 * * * Youthful Offender Proceedings * * *

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

8 § 5280. COMMENCEMENT OF YOUTHFUL OFFENDER

9 PROCEEDINGS IN THE FAMILY DIVISION

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

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

12 (2) transfer to the Family Court of a proceeding from the Criminal

13 Division of the Superior Court as provided in section 5281 of this title.

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

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

1 (d) Within 15 days after the commencement of a youthful offender
2 proceeding pursuant to subsection (a) of this section, the youth shall be offered
3 a risk and needs screening, which shall be conducted by the Department or by
4 a community provider that has contracted with the Department to provide risk
5 and needs screenings. The risk and needs screening shall be completed prior to
6 the youthful offender status hearing held pursuant to section 5283 of this title.
7 Unless the court extends the period for the risk and needs screening for good
8 cause shown, the Family Division shall reject the case for youthful offender
9 treatment if the youth does not complete the risk and needs screening within
10 15 days.

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

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

1 Family Division of the Superior Court. The court shall set the motion for
2 hearing as soon as practicable. The hearing may be joined with a hearing on a
3 violation of conditions of probation under section 5265 of this title. A
4 supervising juvenile or adult probation officer may detain in an adult facility a
5 youthful offender who has attained 18 years of age for violating conditions of
6 probation.

7 (b) A hearing under this section shall be held in accordance with section
8 5268 of this title.

9 (c) If the court finds after the hearing that the youth has violated the terms
10 of his or her probation, the court may:

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

13 (2) revoke the youth's status as a youthful offender and transfer the case
14 with a record of the petition, affidavit, adjudication, disposition, and revocation
15 to the Criminal Division for sentencing; or

16 (3) transfer supervision of the youth to the Department of Corrections
17 with all of the powers and authority of the Department and the Commissioner
18 under Title 28, including graduated sanctions and electronic monitoring.

19 (d) If a youth's status as a youthful offender is revoked and the case is
20 transferred to the Criminal Division pursuant to subdivision (c)(2) of this
21 section, the court shall hold a sentencing hearing and impose sentence. **The**

1 case shall not be transferred back to the Family Division pursuant to section
2 5203 of this title. When determining an appropriate sentence, the court may
3 take into consideration the youth's degree of progress toward or regression
4 from rehabilitation while on youthful offender status. The Criminal Division
5 shall have access to all Family Division records of the proceeding.

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

7 § 5801. WOODSIDE JUVENILE REHABILITATION CENTER

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

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

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

17 (d) No person who has reached his or her 18th birthday may be placed at
18 Woodside. Notwithstanding any other provision of law, a person under ~~the age~~
19 of 18 years of age may be placed at Woodside, provided that he or she meets
20 the admissions criteria for treatment as established by the Department for
21 Children and Families. Any person already placed at Woodside may

1 voluntarily continue receiving treatment at Woodside beyond his or her 18th
2 birthday, provided that he or she continues to meet the criteria established by
3 the Department for continued treatment. The Commissioner shall ensure that a
4 child placed at Woodside has the same or equivalent due process rights as a
5 child placed at Woodside in its previous role as a detention facility ~~prior to the~~
6 ~~enactment of this act.~~

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

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

12 (1) consider the implications of expanding juvenile jurisdiction under
13 33 V.S.A. chapter 52 to encompass 18- and 19-year-olds beginning in fiscal
14 year 2021;

15 (2) report on the status and plan for the expansion, including **specific**
16 **milestones and** necessary funding, to the Joint Legislative Justice Oversight
17 Committee **and the House and Senate Committees on Judiciary** on or before
18 November 1, 2018; and

19 (3) provide status update reports to the Joint Legislative Justice
20 Oversight Committee **and the House and Senate Committees on Judiciary** on or
21 before November 1, 2019 and November 1, 2020.

1 but not 18 years of age, shall originate in the Criminal Division of the Superior
2 Court, provided that jurisdiction may be transferred in accordance with this
3 chapter.

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

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

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

17 (g) A petition may be withdrawn by the State's Attorney at any time prior
18 to the hearing thereon, in which event the child shall be returned to the
19 custodial parent, guardian, or custodian, the proceedings under this chapter
20 terminated, and all files and documents relating thereto sealed under section
21 5119 of this title.

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

2 § 5202. ORDER OF ADJUDICATION; NONCRIMINAL

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

5 (A) be deemed a conviction of crime;

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

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

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

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

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

2 § 5203. TRANSFER FROM OTHER COURTS

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

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

17 (c) If it appears to the State's Attorney that the defendant was under ~~18~~ 19
18 years of age at the time the felony offense charged was alleged to have been
19 committed and the felony charged is not an offense specified in subsection
20 5204(a) of this title, the State's Attorney shall file charges in the Family
21 Division of the Superior Court, pursuant to section 5201 of this title. The

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

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

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

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

17 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
18 COURT

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

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

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

8 (2) assault and robbery with a dangerous weapon as defined in
9 13 V.S.A. § 608(b);

10 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
11 § 608(c);

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

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

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

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

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

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

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

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

20 (12) burglary into an occupied dwelling as defined in 13 V.S.A.
21 § 1201(c).

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

8 * * *

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

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

11 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

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

13 (1) transfer to the court of a proceeding from another court as provided
14 in subsection (c) of this section; or

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

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

20 (c) Any proceeding concerning a child who is alleged to have committed an
21 act specified in subsection 5204(a) of this title after attaining 14 years of age,

1 but not 18 years of age, shall originate in the Criminal Division of the Superior
2 Court, provided that jurisdiction may be transferred in accordance with this
3 chapter.

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

9 * * *

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

11 § 5203. TRANSFER FROM OTHER COURTS

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

19 (b) If it appears to a Criminal Division of the Superior Court that the
20 defendant had attained 14 years of age but not 18 years of age at the time an
21 offense specified in subsection 5204(a) of this title was alleged to have been

1 committed, that court may forthwith transfer the proceeding to the Family
2 Division of the Superior Court under the authority of this chapter, and the
3 minor shall then be considered to be subject to this chapter as a child charged
4 with a delinquent act.

5 (c) If it appears to the State’s Attorney that the defendant was under ~~19~~ 20
6 years of age at the time the felony offense charged was alleged to have been
7 committed and the felony charged is not an offense specified in subsection
8 5204(a) of this title, the State’s Attorney shall file charges in the Family
9 Division of the Superior Court, pursuant to section 5201 of this title. The
10 Family Division may transfer the proceeding to the Criminal Division pursuant
11 to section 5204 of this title.

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

1 alleging delinquency had been filed with the court under section 5223 of this
2 title on the effective date of such transfer.

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

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

6 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
7 COURT

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

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

18 (2) assault and robbery with a dangerous weapon as defined in
19 13 V.S.A. § 608(b);

20 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
21 § 608(c);

- 1 (4) aggravated assault as defined in 13 V.S.A. § 1024;
- 2 (5) murder as defined in 13 V.S.A. § 2301;
- 3 (6) manslaughter as defined in 13 V.S.A. § 2304;
- 4 (7) kidnapping as defined in 13 V.S.A. § 2405;
- 5 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- 6 (9) maiming as defined in 13 V.S.A. § 2701;
- 7 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- 8 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- 9 (12) burglary into an occupied dwelling as defined in 13 V.S.A.
- 10 § 1201(c).

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

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* * * 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.

(Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE