1	S.23
2	Introduced by Senator Sears
3	Referred to Committee on
4	Date:
5	Subject: Judicial procedure; delinquency; youthful offender
6	Statement of purpose of bill as introduced: This bill proposes to provide a
7	mechanism to transfer Family Division cases to the Criminal Division when
8	youthful offender status is revoked, grant party status to the Commissioner of
9	Corrections in youthful offender proceedings, and clarify that the Family
10	Division has jurisdiction over certain motor vehicle offenses.
11	An act relating to juvenile jurisdiction
12	It is hereby enacted by the General Assembly of the State of Vermont:
13	Sec. 1. 33 V.S.A. § 5102 is amended to read:
14	§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION
15	As used in the juvenile judicial proceedings chapters, unless the context
16	otherwise requires:
17	* * *
18	(9) "Delinquent act" means an act designated a crime under the laws of
19	this State, or of another state if the act occurred in another state, or under

21

necessary to the proceedings; and

1	federal law. A delinquent act shall include 7 V.S.A. §§ 656 and 657; however,
2	it shall not include:
3	(A) snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and
4	motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations
5	of sections 3207a, 3207b, 3207c, 3207d, and 3323;
6	(B) pursuant to 4 V.S.A. § 33(b), felony motor vehicle offenses
7	committed by an individual who is at least 16 years of age or older, except for
8	violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.
9	* * *
10	(22) "Party" includes the following persons:
11	(A) the child with respect to whom the proceedings are brought;
12	(B) the custodial parent, the guardian, or the custodian of the child in
13	all instances except a hearing on the merits of a delinquency petition;
14	(C) the noncustodial parent for the purposes of custody, visitation,
15	and such other issues which that the Court court may determine are proper and
16	necessary to the proceedings, provided that the noncustodial parent has entered
17	an appearance;
18	(D) the State's Attorney;
19	(E) the Commissioner of the Department for Children and Families;
20	(F) such other persons as appear to the Court court to be proper and

1	(G) in youthful offender cases brought under 33 V.S.A. chapter 52,
2	the Commissioner of the Department of Corrections.
3	* * *
4	Sec. 2. 33 V.S.A. § 5281 is amended to read:
5	§ 5281. MOTION IN CRIMINAL DIVISION OF SUPERIOR COURT
6	* * *
7	(d) If the Family Division accepts the case for youthful offender treatment,
8	the case shall proceed to a confidential merits hearing or admission pursuant to
9	sections 5227-5229 of this title. If the youth is adjudicated, the Court will
10	create a criminal case reflecting the charge and conviction.
11	Sec. 3. 33 V.S.A. § 5285 is amended to read:
12	§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION
13	* * *
14	(c) If the court finds after the hearing that the youth has violated the terms
15	of his or her probation, the court may:
16	(1) maintain the youth's status as a youthful offender, with modified
17	conditions of juvenile probation if the court deems it appropriate;
18	(2) revoke the youth's status as a youthful offender status and return
19	transfer the case, with a record of the charge, conviction, disposition, and
20	revocation, to the Criminal Division for sentencing; or

1	(3) transfer supervision of the youth to the Department of Corrections
2	with all of the powers and authority of the Department and the Commissioner
3	under Title 28, including graduated sanctions and electronic monitoring.
4	(d) If a youth's status as a youthful offender is revoked and the case is
5	returned transferred to the Criminal Division under pursuant to subdivision
6	(c)(2) of this section, the Court court shall hold a sentencing hearing and
7	impose sentence. When determining an appropriate sentence, the Court court
8	may take into consideration the youth's degree of progress toward
9	rehabilitation while on youthful offender status. The Criminal Division shall
10	have access to all Family Division records of the proceeding.
11	Sec. 4. EFFECTIVE DATES
12	(a) This section and Secs. 1 (definitions and provisions of general
13	application) and 3 (modification or revocation of disposition) shall take effect
14	on July 1, 2017.
15	(b) Sec. 2 (motion in Criminal Division of Superior Court) shall take effect
16	on July 1, 2018.