

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 23
3 entitled “An act relating to juvenile jurisdiction” respectfully reports that it has
4 considered the same and recommends that the bill be amended by striking out
5 all after the enacting clause and inserting in lieu thereof the following:

6 Sec. 1. 13 V.S.A. § 5401 is amended to read:

7 § 5401. DEFINITIONS

8 As used in this subchapter:

9 * * *

10 (15)(A) “Conviction” means a judgment of guilt following a verdict or
11 finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford Plea, or a
12 judgment of guilt pursuant to a deferred sentence. A sex offender whose
13 sentence is deferred shall have no duty to register after successful completion
14 of the terms of the deferred sentence agreement for the duration specified in
15 the agreement.

16 (B) A sex offender treated as a youthful offender pursuant to
17 33 V.S.A. chapter 52, subchapter 5 shall have no duty to register unless the
18 offender’s youthful offender status is revoked and he or she is sentenced for
19 the offense in the Criminal Division of Superior Court.

1 Sec. 2. 28 V.S.A. chapter 16 is added to read:

2 CHAPTER 16. YOUTHFUL OFFENDERS

3 § 1161. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER

4 REGARDING SUPERVISION OF YOUTHFUL OFFENDERS

5 In accordance with 33 V.S.A. chapter 52, subchapter 5, the Commissioner
6 shall be charged with the following powers and responsibilities regarding
7 supervision of youthful offenders:

8 (1) consistent with 33 V.S.A. § 5284(d), to designate a case manager
9 who, together with a case manager appointed by the Commissioner for
10 Children and Families, will preside over the case plan and the provision of
11 services to youths who are adjudicated as youthful offenders;

12 (2) together with the Commissioner for Children and Families, to
13 maintain the general supervision of youths adjudicated as youthful offenders
14 and placed on conditions of juvenile probation; and

15 (3) to supervise the administration of probation services and establish
16 policies and standards regarding youthful offender probation investigation,
17 supervision, case work, record keeping, and the qualification of probation
18 officers working with youthful offenders.

1 (C) An individual who has been alleged to have committed or has
2 committed an act of delinquency after becoming 10 years of age and prior to
3 becoming ~~18~~ 22 years of age; provided, however:

4 (i) that an individual who is alleged to have committed an act
5 specified in subsection 5204(a) of this title after attaining ~~the age of 10~~ 12
6 years of age but not ~~the age of 14~~ years of age may be treated as an adult as
7 provided therein;

8 * * *

9 (9) “Delinquent act” means an act designated a crime under the laws of
10 this State, or of another state if the act occurred in another state, or under
11 federal law. A delinquent act shall include 7 V.S.A. ~~§§ 656 and 657~~ § 656;
12 however, it shall not include:

13 (A) snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and
14 motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations
15 of sections 3207a, 3207b, 3207c, 3207d, and 3323;

16 (B) pursuant to 4 V.S.A. § 33(b), felony motor vehicle offenses
17 committed by an individual who is ~~at least~~ 16 years of age or older, except for
18 violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.

19 * * *

20 (22) “Party” includes the following persons:

21 (A) the child with respect to whom the proceedings are brought;

1 (B) the custodial parent, the guardian, or the custodian of the child in
2 all instances except a hearing on the merits of a delinquency petition;

3 (C) the noncustodial parent for the purposes of custody, visitation,
4 and such other issues ~~which~~ that the ~~Court~~ court may determine are proper and
5 necessary to the proceedings, provided that the noncustodial parent has entered
6 an appearance;

7 (D) the State's Attorney;

8 (E) the Commissioner for Children and Families;

9 (F) such other persons as appear to the ~~Court~~ court to be proper and
10 necessary to the proceedings; and

11 (G) in youthful offender cases brought under 33 V.S.A. chapter 52,
12 the Commissioner of Corrections.

13 * * *

14 Sec. 4. 33 V.S.A. § 5104 is amended to read:

15 § 5104. RETENTION OF JURISDICTION OVER YOUTHFUL

16 OFFENDERS

17 ~~(a)~~ The Family Division of the Superior Court may retain jurisdiction over
18 a youthful offender up to ~~the age of 22~~ years of age.

19 ~~(b) In relation to the retention of jurisdiction provision of subsection (a) of~~
20 ~~this section, any party may request, or the Court on its own motion may~~
21 ~~schedule, a hearing to determine the propriety of extending the jurisdictional~~

1 ~~time period. This hearing shall be held within the three month time period~~
2 ~~immediately preceding the child's 18th birthday, and the order of continued~~
3 ~~jurisdiction shall be executed by the Court on or before that birthday. In~~
4 ~~determining the need for continued jurisdiction, the Court shall consider the~~
5 ~~following factors:~~

6 ~~(1) the extent and nature of the child's record of delinquency;~~

7 ~~(2) the nature of past and current treatment efforts and the nature of the~~
8 ~~child's response to them;~~

9 ~~(3) the prospects for reasonable rehabilitation of the child by use of~~
10 ~~procedures, services, and facilities currently available to the Court; and~~

11 ~~(4) whether the safety of the community will best be served by a~~
12 ~~continuation of jurisdiction.~~

13 ~~(c) A hearing under subsection (b) of this section shall be held in~~
14 ~~accordance with the procedures provided in section 5113 of this title.~~

15 Sec. 5. 33 V.S.A. § 5281 is amended to read:

16 § 5281. MOTION IN CRIMINAL DIVISION OF SUPERIOR COURT

17 * * *

18 (d) If the Family Division accepts the case for youthful offender treatment,
19 the case shall proceed to a confidential merits hearing or admission pursuant to
20 sections 5227-5229 of this title. ~~If the youth is adjudicated, the Court will~~
21 ~~create a criminal case reflecting the charge and conviction.~~

1 Sec. 6. 33 V.S.A. § 5284 is amended to read:

2 § 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION
3 ORDER

4 (a) In a hearing on a motion for youthful offender status, the court shall
5 first consider whether public safety will be protected by treating the youth as a
6 youthful offender. If the court finds that public safety will not be protected by
7 treating the youth as a youthful offender, the court shall deny the motion and
8 transfer the case to the Criminal Division of the Superior Court pursuant to
9 subsection 5281(d) of this title. If the court finds that public safety will be
10 protected by treating the youth as a youthful offender, the court shall proceed
11 to make a determination under subsection (b) of this section.

12 (b)(1) The court shall deny the motion if the court finds that:

13 (A) the youth is not amenable to treatment or rehabilitation as a
14 youthful offender; or

15 (B) there are insufficient services in the juvenile court system and the
16 Department to meet the youth's treatment and rehabilitation needs.

17 (2) The court shall grant the motion if the court finds that:

18 (A) the youth is amenable to treatment or rehabilitation as a youthful
19 offender; and

1 (B) there are sufficient services in the juvenile court system and the
2 ~~Department~~ Departments for Children and Families and of Corrections to meet
3 the youth's treatment and rehabilitation needs.

4 (c) If the court approves the motion for youthful offender treatment after an
5 adjudication pursuant to subsection 5281(d) of this title, the court:

6 (1) shall approve a disposition case plan and impose conditions of
7 juvenile probation on the youth; and

8 (2) may transfer legal custody of the youth to a parent, relative, person
9 with a significant relationship with the youth, or Commissioner, provided that
10 any transfer of custody shall expire on the youth's 18th birthday.

11 (d) The ~~Department~~ Departments for Children and Families and of
12 Corrections shall be responsible for supervision of and providing services to
13 the youth until he or she reaches ~~18~~ 22 years of age. ~~A lead~~ Both Departments
14 shall designate a case manager ~~shall be designated~~ who together shall have
15 final decision-making authority over the case plan and the provision of services
16 to the youth. The youth shall be eligible for appropriate community-based
17 programming and services provided by ~~the Department~~ both Departments.

18 (e) ~~The youth shall not be permitted to withdraw his or her plea of guilty~~
19 ~~after youthful offender status is approved except to correct manifest injustice~~
20 ~~pursuant to Rule 32(d) of the Vermont Rules of Criminal Procedure.~~

21 [Repealed.]

1 Sec. 7. 33 V.S.A. § 5285 is amended to read:

2 § 5285. MODIFICATION OR REVOCATION OF DISPOSITION

3 * * *

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

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

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

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

14 (d) If a youth's status as a youthful offender is revoked and the case is
15 ~~returned~~ transferred to the Criminal Division ~~under~~ pursuant to subdivision
16 (c)(2) of this section, the ~~Court~~ court shall hold a sentencing hearing and
17 impose sentence. When determining an appropriate sentence, the ~~Court~~ court
18 may take into consideration the youth's degree of progress toward
19 rehabilitation while on youthful offender status. The Criminal Division shall
20 have access to all Family Division records of the proceeding.

1 Sec. 8. 33 V.S.A. § 5286 is amended to read:

2 § 5286. REVIEW PRIOR TO ~~THE AGE OF 18~~ YEARS OF AGE

3 (a) ~~The~~ If a youth is adjudicated as a youthful offender prior to reaching 18
4 years of age, the Family Division shall review the youth's case before he or she
5 reaches ~~the age of 18~~ years of age and set a hearing to determine whether the
6 Court's jurisdiction over the youth should be continued past ~~the age of 18~~ years
7 of age. The hearing may be joined with a motion to terminate youthful
8 offender status under section 5285 of this title. The Court shall provide notice
9 and an opportunity to be heard at the hearing to the State's Attorney, the youth,
10 the Department for Children and Families, and the Department of Corrections.

11 (b) After receiving a notice of review under this section, the State may file
12 a motion to modify or revoke pursuant to section 5285 of this title. If such a
13 motion is filed, it shall be consolidated with the review under this section and
14 all options provided for under section 5285 of this title shall be available to the
15 Court.

16 (c) The following reports shall be filed with the Court prior to the hearing:

17 (1) ~~The Department~~ Departments for Children and Families and of
18 Corrections shall jointly report ~~its~~ their recommendations, with supporting
19 justifications, as to whether the Family Division should continue jurisdiction
20 over the youth past ~~the age of 18~~ years of age and, if continued jurisdiction is
21 recommended, ~~whether the Department or the Department of Corrections~~

1 ~~should be responsible for supervision of the youth~~ propose a case plan for the
2 youth to ensure compliance with and completion of the juvenile disposition.

3 (2) If the ~~Department recommends that the Department of Corrections be~~
4 ~~responsible for~~ Departments recommend continued supervision of the youthful
5 offender past ~~the age of 18~~ years of age, the ~~Department shall notify the~~
6 ~~Department of Corrections, which~~ Departments shall report on the services
7 which would be available for the youth ~~in the event supervision over him or~~
8 ~~her is transferred to the Department of Corrections.~~

9 (d) If the ~~Court~~ court finds that it is in the best interest of the youth and
10 consistent with community safety to continue the case past ~~the age of 18~~ years
11 of age, it shall make an order continuing the ~~Court's~~ court's jurisdiction up to
12 ~~the age of 22~~ years of age. ~~The order shall specify whether the youth will be~~
13 ~~supervised by the Department or the Department of Corrections. Irrespective of~~
14 ~~which department is specified in the order, the Department~~ The Departments
15 for Children and Families and ~~the Department~~ of Corrections shall jointly
16 develop a case plan for the youth and coordinate services and share
17 information to ensure compliance with and completion of the juvenile
18 disposition.

19 (e) If the ~~Court~~ court finds that it is not in the best interest of the youth to
20 continue the case past ~~the age of 18~~ years of age, it shall terminate the

1 disposition order, discharge the youth, and dismiss the case in accordance with
2 subsection 5287(c) of this title.

3 Sec. 9. 33 V.S.A. § 5291 is amended to read:

4 § 5291. DETENTION OR TREATMENT OF MINORS CHARGED AS
5 ~~DELINQUENTS IN SECURE FACILITIES FOR THE DETENTION~~
6 ~~OR TREATMENT OF DELINQUENT CHILDREN~~ WOODSIDE
7 JUVENILE REHABILITATION CENTER

8 (a) ~~Unless ordered otherwise at or after a temporary care hearing, the~~
9 ~~Commissioner shall have sole authority to place the child who is in the custody~~
10 ~~of the Department in a secure facility for the detention or treatment of minors.~~

11 (b) ~~Upon a finding at the temporary care hearing that no other suitable~~
12 ~~placement is available and the child presents a risk of injury to him or herself,~~
13 ~~to others, or to property, the Court may order that the child be placed in a~~
14 ~~secure facility used for the detention or treatment of delinquent children~~ Prior
15 to disposition and when secure placement at Woodside Juvenile Rehabilitation
16 Center is recommended by the Department, the court shall have the sole
17 authority to place a child in the custody of the Department in Woodside until
18 the Commissioner determines that a suitable placement is available for the
19 child. ~~Alternatively, the Court may order that the child be placed in a secure~~
20 ~~facility used for the detention or treatment of delinquent children for up to~~
21 ~~seven days. Any order for placement at a secure facility shall expire at the end~~

1 ~~of the seventh day following its issuance unless, after hearing, the Court~~
2 ~~extends the order for a time period not to exceed seven days. This order shall~~
3 ~~include a finding that no other suitable placement is available and the child~~
4 ~~presents a risk of injury to others or to property. Prior to disposition, the court~~
5 ~~is responsible for the continued review of the secure placement decision as~~
6 ~~long as the child is placed in Woodside.~~

7 (b) Following disposition, the Commissioner shall have the sole authority
8 to place a child in the custody of the Department in Woodside.

9 Sec. 10. EFFECTIVE DATES

10 This act shall take effect on July 1, 2017, except for Secs. 2 (powers and
11 responsibilities of the Commissioner regarding youthful offenders) 4 (retention
12 of jurisdiction over youthful offenders), 5 (motion in Criminal Division of
13 Superior Court), 6 (youthful offender determination and disposition order), 7
14 (modification or revocation of disposition), and 8 (review prior to 18 years of
15 age), which shall take effect on July 1, 2018.

16
17 (Committee vote: _____)

18 _____

19 Senator _____

20 FOR THE COMMITTEE