

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

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
21 necessary to the proceedings; and

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.