

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 234  
3 entitled “An act relating to juvenile justice” 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 \* \* \* Findings \* \* \*

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

8 § 5101. LEGISLATIVE FINDINGS AND PURPOSES

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

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

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

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(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 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;

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;

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

1 adjudication of guilt, criminal proceedings, and probation related to the  
2 sentence. A copy of the order shall be sent to each agency, department, or  
3 official named in the order. Thereafter, the court, law enforcement officers,  
4 agencies, and departments shall reply to any request for information that no  
5 record exists with respect to such individual. Notwithstanding this subsection,  
6 the record shall not be expunged until restitution has been paid in full.

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

17 \* \* \* Juvenile Delinquency Proceedings \* \* \*

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

19 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

20 (a) Preliminary hearing. A preliminary hearing shall be held at the time  
21 and date specified on the citation or as otherwise ordered by the court. If a

1 child is taken into custody prior to the preliminary hearing, the preliminary  
2 hearing shall be at the time of the temporary care hearing. Counsel for the  
3 child shall be assigned prior to the preliminary hearing.

4 (b) Risk and needs screening.

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

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

1 timely by the provider, the child’s case shall return to the State’s Attorney for  
2 charging consideration.

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

7 (c) ~~Counsel for the child shall be assigned prior to the preliminary hearing.~~  
8 Referral to diversion. Based on the results of the risk and needs screening, if a  
9 child presents a low to moderate risk to reoffend, the State’s Attorney shall  
10 refer the child directly to Court Diversion unless the State’s Attorney states on  
11 the record why a referral to Court Diversion would not serve the ends of  
12 justice. The court shall have the discretion to refer the child to Court Diversion  
13 over the objection of the State’s Attorney. If the Court Diversion program  
14 does not accept the case or if the child fails to complete the program in a  
15 manner deemed satisfactory and timely by the provider, the child’s case shall  
16 return to the State’s Attorney for charging consideration.

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

1 (e) Admission; denial. At the preliminary hearing, a denial shall be entered  
2 to the allegations of the petition, unless the juvenile, after adequate  
3 consultation with the guardian ad litem and counsel, enters an admission. If  
4 the juvenile enters an admission, the disposition case plan required by section  
5 5230 of this title may be waived and the court may proceed directly to  
6 disposition, provided that the juvenile, the custodial parent, the State's  
7 Attorney, the guardian ad litem, and the Department agree.

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

10 Sec. 4. 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 18 years of age at the time the offense charged was  
14 alleged to have been committed and the offense charged is ~~a misdemeanor, that~~  
15 ~~court shall forthwith transfer the case to the Family Division of the Superior~~  
16 ~~Court under the authority of this chapter~~ an offense not specified in subsection  
17 5204(a) of this title, that court shall forthwith transfer the proceeding to the  
18 Family Division of the Superior Court under the authority of this chapter, and  
19 the minor shall then be considered to be subject to this chapter as a child  
20 charged with a delinquent act.

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

13 \* \* \*

14 \* \* \* Youthful Offender Proceedings \* \* \*

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

16 § 5280. COMMENCEMENT OF YOUTHFUL OFFENDER

17 PROCEEDINGS IN THE FAMILY DIVISION

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

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

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

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



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

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

8 (d) Within 15 days after the commencement of a youthful offender  
9 proceeding pursuant to subsection (a) of this section, the youth shall be offered  
10 a risk and needs screening, which shall be conducted by the Department or by  
11 a community provider that has contracted with the Department to provide risk  
12 and needs screenings. The risk and needs screening shall be completed prior to  
13 the youthful offender status hearing held pursuant to section 5283 of this title.  
14 Unless the court extends the period for the risk and needs screening for good  
15 cause shown, the Family Division shall reject the case for youthful offender  
16 treatment if the youth does not complete the risk and needs screening within  
17 15 days.

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

1 Attorney. Except on agreement of the parties, the results shall not be provided  
2 to the court until after a merits finding has been made.

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

9 (e) If a youth presents a low to moderate risk to reoffend based on the  
10 results of the risk and needs screening, the State's Attorney shall refer a youth  
11 directly to Court Diversion unless the State's Attorney states on the record at  
12 the hearing held pursuant to section 5283 of this title why a referral would not  
13 serve the ends of justice. The court shall have the discretion to refer the child  
14 to Court Diversion over the objection of the State's Attorney. If the Court  
15 Diversion program does not accept the case or if the youth fails to complete the  
16 program in a manner deemed satisfactory and timely by the provider, the  
17 youth's case shall return to the State's Attorney for charging consideration.

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

19 § 5282. REPORT FROM THE DEPARTMENT

20 (a) ~~Within 30 days after the case is transferred to the Family Division or a~~  
21 ~~youthful offender petition is filed in the Family Division, youth has completed~~

1 the risk and needs screening pursuant to section 5280 of this title, unless the  
2 court extends the period for good cause shown, the Department for Children  
3 and Families shall file a report with the Family Division of the Superior Court.

4 \* \* \*

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

6 § 5801. WOODSIDE JUVENILE REHABILITATION CENTER

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

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

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

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

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

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

8 The Department for Children and Families, in consultation with the  
9 Department of State's Attorneys and Sheriffs, the Office of the Defender  
10 General, **the Court Administrator**, and the Commissioner of Corrections, shall  
11 consider the implications of adjudicating as juvenile delinquent or youthful  
12 offender all defendants up to and including 21 years of age, excluding those  
13 defendants who have been charged with an offense specified in 33 V.S.A.  
14 § 5204(a). The Department shall report on the findings of the group, including  
15 necessary funding, and any associated recommendations or proposed  
16 legislation to the Joint Legislative Justice Oversight Committee on or before  
17 November 1, 2018. The Department shall report a status update to the Joint  
18 Legislative Justice Oversight Committee on or before November 1, 2019.

19 \* \* \* **Effective July 1, 2020** \* \* \*

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

21 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

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

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

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

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

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

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

19 ~~(e) Any proceeding concerning a child who is alleged to have committed a~~  
20 ~~felony offense other than those specified in subsection 5204(a) of this title~~  
21 ~~before attaining 18 years of age shall originate in the Family Division of the~~

1 ~~Superior Court provided that jurisdiction may be transferred in accordance~~  
2 ~~with this chapter. [Repealed.]~~

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

6 (g) A petition may be withdrawn by the State's Attorney at any time prior  
7 to the hearing thereon, in which event the child shall be returned to the  
8 custodial parent, guardian, or custodian, the proceedings under this chapter  
9 terminated, and all files and documents relating thereto sealed under section  
10 5119 of this title.

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

12 § 5202. ORDER OF ADJUDICATION; NONCRIMINAL

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

15 (A) be deemed a conviction of crime;

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

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

20 (2) Notwithstanding subdivision (1) of this subsection, an order of  
21 delinquency in proceedings ~~transferred under subsection 5203(b) of this title,~~

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

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

10 Sec. 11. 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 ~~18~~ 19 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 ~~18~~ 19  
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. 12. 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 ~~18~~ 19 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.

18 \* \* \*

19 \* \* \* **Effective July 1, 2022** \* \* \*

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

21 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

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

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

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

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

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

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

19 \* \* \*

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

21 § 5203. TRANSFER FROM OTHER COURTS

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

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

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

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

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

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

15 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR  
16 COURT

17 (a) After a petition has been filed alleging delinquency, upon motion of the  
18 State's Attorney and after hearing, the Family Division of the Superior Court  
19 may transfer jurisdiction of the proceeding to the Criminal Division of the  
20 Superior Court, if the child had attained 16 years of age but not ~~19~~ 20 years of  
21 age at the time the act was alleged to have occurred and the delinquent act set

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

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

6             (2) assault and robbery with a dangerous weapon as defined in  
7       13 V.S.A. § 608(b);

8             (3) assault and robbery causing bodily injury as defined in 13 V.S.A.  
9       § 608(c);

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

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

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

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

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

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

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

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

18            (12) burglary into an occupied dwelling as defined in 13 V.S.A.  
19       § 1201(c).

20            (b) The State's Attorney of the county where the juvenile petition is  
21       pending may move in the Family Division of the Superior Court for an order

1 transferring jurisdiction under subsection (a) of this section at any time prior to  
2 adjudication on the merits. The filing of the motion to transfer jurisdiction  
3 shall automatically stay the time for the hearing provided for in section 5225 of  
4 this title, which stay shall remain in effect until such time as the Family  
5 Division of the Superior Court may deny the motion to transfer jurisdiction.

6 \* \* \*

7 \* \* \* Effective Dates \* \* \*

8 Sec. 16. EFFECTIVE DATES

9 (a) This section and Secs. 1-8 shall take effect on July 1, 2018.

10 (b) Secs. 9-12 shall take effect on July 1, 2020.

11 (c) Secs. 13-15 shall take effect on July 1, 2022.

12 and that after passage the title of the bill be amended to read: “An act relating  
13 to adjudicating all teenagers in the Family Division, except those charged with  
14 a serious violent felony”

15  
16 (Committee vote: \_\_\_\_\_)

17 \_\_\_\_\_

18 Senator \_\_\_\_\_

19 FOR THE COMMITTEE