

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) 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 non-qualifying
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.

* * * Juvenile Delinquency Proceedings * * *

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

3 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

4 (a) Preliminary hearing. A preliminary hearing shall be held at the time
5 and date specified on the citation or as otherwise ordered by the court. If a
6 child is taken into custody prior to the preliminary hearing, the preliminary
7 hearing shall be at the time of the temporary care hearing. Counsel for the
8 child shall be assigned prior to the preliminary hearing.

9 (b) Risk and needs screening.

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

15 (2) If the child participates in such a screening, the Department or the
16 community provider shall report the risk level result of the screening, the
17 number and source of the collateral contacts made, and the recommendation
18 for charging or other alternatives to the State's Attorney. The State's Attorney
19 shall consider the results of the risk and needs screening in determining
20 whether to file a charge. In lieu of filing a charge, the State's Attorney may
21 refer a child directly to a youth-appropriate community-based provider that has

1 been approved by the Department, which may include a community justice
2 center or a balanced and restorative justice program. Referral to a community-
3 based provider pursuant to this subsection shall not require the State’s Attorney
4 to file a charge. If the community-based provider does not accept the case or if
5 the child fails to complete the program in a manner deemed satisfactory and
6 timely by the provider, the child’s case shall return to the State’s Attorney for
7 charging consideration.

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

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

1 (d) Guardian ad litem. At the preliminary hearing, the court shall appoint a
2 guardian ad litem for the child. The guardian ad litem may be the child's
3 parent, guardian, or custodian. On its own motion or motion by the child's
4 attorney, the court may appoint a guardian ad litem other than a parent,
5 guardian, or custodian.

6 (e) Admission; denial. At the preliminary hearing, a denial shall be entered
7 to the allegations of the petition, unless the juvenile, after adequate
8 consultation with the guardian ad litem and counsel, enters an admission. If
9 the juvenile enters an admission, the disposition case plan required by section
10 5230 of this title may be waived and the court may proceed directly to
11 disposition, provided that the juvenile, the custodial parent, the State's
12 Attorney, the guardian ad litem, and the Department agree.

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

15 **Sec. 4. 3 V.S.A. § 163 is amended to read:**

16 § 163. JUVENILE COURT DIVERSION PROJECT

17 * * *

18 (c) All diversion projects receiving financial assistance from the Attorney
19 General shall adhere to the following provisions:

1 ~~Court under the authority of this chapter~~ an offense not specified in subsection
2 5204(a) of this title, that court shall forthwith transfer the proceeding to the
3 Family Division of the Superior Court under the authority of this chapter, and
4 the minor shall then be considered to be subject to this chapter as a child
5 charged with a delinquent act.

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

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19 * * * Youthful Offender Proceedings * * *

20 Sec. 6. 33 V.S.A. § 5280 is amended to read:

21 § 5280. COMMENCEMENT OF YOUTHFUL OFFENDER

1 PROCEEDINGS IN THE FAMILY DIVISION

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

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

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

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

6 (b) A State’s Attorney may commence a proceeding in the Family Division

7 of the Superior Court concerning a child who is alleged to have committed an

8 offense after attaining 16 years of age but not 22 years of age that could

9 otherwise be filed in the Criminal Division.

10 (c) If a State’s Attorney files a petition under subdivision (a)(1) of this

11 section, the case shall proceed as provided under subsection 5281(b) of this

12 title.

13 (d) Within 15 days after the commencement of a youthful offender

14 proceeding pursuant to subsection (a) of this section, the youth shall be offered

15 a risk and needs screening, which shall be conducted by the Department or by

16 a community provider that has contracted with the Department to provide risk

17 and needs screenings. The risk and needs screening shall be completed prior to

18 the youthful offender status hearing held pursuant to section 5283 of this title.

19 Unless the court extends the period for the risk and needs screening for good

20 cause shown, the Family Division shall reject the case for youthful offender

1 treatment if the youth does not complete the risk and needs screening within
2 15 days.

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

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

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

1 Sec. 7. 33 V.S.A. § 5282 is amended to read:

2 § 5282. REPORT FROM THE DEPARTMENT

3 (a) Within 30 days after the ~~case is transferred to the Family Division or a~~
4 ~~youthful offender petition is filed in the Family Division,~~ youth has completed
5 the risk and needs screening pursuant to section 5280 of this title, unless the
6 court extends the period for good cause shown, the Department for Children
7 and Families shall file a report with the Family Division of the Superior Court.

8 * * *

9 Sec. 8. 33 V.S.A. § 5801 is amended to read:

10 § 5801. WOODSIDE JUVENILE REHABILITATION CENTER

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

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

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

20 (d) No person who has reached his or her 18th birthday may be placed at
21 Woodside. Notwithstanding any other provision of law, a person under ~~the age~~

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

10 Sec. 9. DEPARTMENT FOR CHILDREN AND FAMILIES; EXPANDING
11 JUVENILE JURISDICTION; REPORT

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

1 November 1, 2018. The Department shall report a status update to the Joint
2 Legislative Justice Oversight Committee on or before November 1, 2019.

3 * * * Effective July 1, 2020 * * *

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

5 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

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

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

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

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

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

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

1 Division of the Superior Court, provided that jurisdiction may be transferred in
2 accordance with this chapter.

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

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

11 (g) A petition may be withdrawn by the State's Attorney at any time prior
12 to the hearing thereon, in which event the child shall be returned to the
13 custodial parent, guardian, or custodian, the proceedings under this chapter
14 terminated, and all files and documents relating thereto sealed under section
15 5119 of this title.

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

17 § 5202. ORDER OF ADJUDICATION; NONCRIMINAL

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

20 (A) be deemed a conviction of crime;

1 (B) impose any civil disabilities sanctions ordinarily resulting from a
2 conviction; or

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

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

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

16 Sec. 12. 33 V.S.A. § 5203 is amended to read:

17 § 5203. TRANSFER FROM OTHER COURTS

18 (a) If it appears to a Criminal Division of the Superior Court that the
19 defendant was under ~~18~~ 19 years of age at the time the offense charged was
20 alleged to have been committed and the offense charged is an offense not
21 specified in subsection 5204(a) of this title, that court shall forthwith transfer

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

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

11 (c) If it appears to the State's Attorney that the defendant was under ~~18~~ 19
12 years of age at the time the felony offense charged was alleged to have been
13 committed and the felony charged is not an offense specified in subsection
14 5204(a) of this title, the State's Attorney shall file charges in the Family
15 Division of the Superior Court, pursuant to section 5201 of this title. The
16 Family Division may transfer the proceeding to the Criminal Division pursuant
17 to section 5204 of this title.

18 (d) A transfer under this section shall include a transfer and delivery of a
19 copy of the accusatory pleading and other papers, documents, and transcripts
20 of testimony relating to the case. Upon any such transfer, that court shall order
21 that the defendant be taken forthwith to a place of detention designated by the

1 Family Division of the Superior Court or to that court itself, or shall release the
2 child to the custody of his or her parent or guardian or other person legally
3 responsible for the child, to be brought before the Family Division of the
4 Superior Court at a time designated by that court. The Family Division of the
5 Superior Court shall then proceed as provided in this chapter as if a petition
6 alleging delinquency had been filed with the court under section 5223 of this
7 title on the effective date of such transfer.

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

10 Sec. 13. 33 V.S.A. § 5204 is amended as follows:

11 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
12 COURT

13 (a) After a petition has been filed alleging delinquency, upon motion of the
14 State's Attorney and after hearing, the Family Division of the Superior Court
15 may transfer jurisdiction of the proceeding to the Criminal Division of the
16 Superior Court, if the child had attained 16 years of age but not ~~18~~ 19 years of
17 age at the time the act was alleged to have occurred and the delinquent act set
18 forth in the petition is a felony not specified in subdivisions (1)-(12) of this
19 subsection or if the child had attained 12 years of age but not 14 years of age at
20 the time the act was alleged to have occurred, and if the delinquent act set forth
21 in the petition was any of the following:

- 1 (1) arson causing death as defined in 13 V.S.A. § 501;
 - 2 (2) assault and robbery with a dangerous weapon as defined in
 - 3 13 V.S.A. § 608(b);
 - 4 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
 - 5 § 608(c);
 - 6 (4) aggravated assault as defined in 13 V.S.A. § 1024;
 - 7 (5) murder as defined in 13 V.S.A. § 2301;
 - 8 (6) manslaughter as defined in 13 V.S.A. § 2304;
 - 9 (7) kidnapping as defined in 13 V.S.A. § 2405;
 - 10 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
 - 11 (9) maiming as defined in 13 V.S.A. § 2701;
 - 12 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
 - 13 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
 - 14 (12) burglary into an occupied dwelling as defined in 13 V.S.A.
 - 15 § 1201(c).
- 16 (b) The State’s Attorney of the county where the juvenile petition is
- 17 pending may move in the Family Division of the Superior Court for an order
- 18 transferring jurisdiction under subsection (a) of this section at any time prior to
- 19 adjudication on the merits. The filing of the motion to transfer jurisdiction
- 20 shall automatically stay the time for the hearing provided for in section 5225 of

1 this title, which stay shall remain in effect until such time as the Family
2 Division of the Superior Court may deny the motion to transfer jurisdiction.

3 * * *

4 * * * Effective July 1, 2022 * * *

5 Sec. 14. 33 V.S.A. § 5201 is amended as follows:

6 § 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

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

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

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

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

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

20 (d) Any proceeding concerning a child who is alleged to have committed
21 any offense other than those specified in subsection 5204(a) of this title before

1 attaining ~~19~~ 20 years of age shall originate in the Family Division of the
2 Superior Court, provided that jurisdiction may be transferred in accordance
3 with this chapter.

4 * * *

5 Sec. 15. 33 V.S.A. § 5203 is amended to read:

6 § 5203. TRANSFER FROM OTHER COURTS

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

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

1 (c) If it appears to the State’s Attorney that the defendant was under ~~19~~ 20
2 years of age at the time the felony offense charged was alleged to have been
3 committed and the felony charged is not an offense specified in subsection
4 5204(a) of this title, the State’s Attorney shall file charges in the Family
5 Division of the Superior Court, pursuant to section 5201 of this title. The
6 Family Division may transfer the proceeding to the Criminal Division pursuant
7 to section 5204 of this title.

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

19 (e) Motions to transfer a case to the Family Division of the Superior Court
20 for youthful offender treatment shall be made under section 5281 of this title.
21 Sec. 16. 33 V.S.A. § 5204 is amended as follows:

1 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
2 COURT

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

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

13 (2) assault and robbery with a dangerous weapon as defined in
14 13 V.S.A. § 608(b);

15 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.
16 § 608(c);

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

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

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

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

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

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* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) This section, Sec. 5, and Sec. 17 shall take effect on passage.

(b) Secs. 1-4 and 6-9 shall take effect on July 1, 2018.

(c) Secs. 10-13 shall take effect on July 1, 2020.

(d) Secs. 14-16 shall take effect on July 1, 2022.

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

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE