

Act 201 Implementation

Vermont's Raise the Age Initiative

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CHILD PROTECTION OVERSIGHT PRESENTATION
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JUDGE BRIAN GREARSON

CHIEF SUPERIOR COURT JUDGE

Act 201: Overview

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- Raises the age of Juvenile Court Jurisdiction to include 18-year-olds and 19-year-olds starting July 1, 2020 and July 1, 2022 respectively.
- DCF was required to prepare a report for the legislature on Nov.1st, 2019 with a plan for implementation.

Overview of Presentation

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- Introduction and Background
- Impact of Raise the Age
- Diverting from Formal Justice Processing
- Maximizing Court Efficiencies
- Post-Merits Options
- Physical Custody
- Victims' Rights
- Operational Plan
- Statutory Changes
- Data

Introduction: Process for Preparing this Report

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- Court Data Review
- Community/District Meetings
- Columbia University Justice Lab
- Juvenile Justice Stakeholder Group
 - Judiciary, State's Attorneys & Sheriffs Dept., Office of the Defender General, Attorney General's Office, Victim Advocates, Dept. of Corrections, DCF
- DCF Leadership
- Off-site Learning Opportunities
- Conference at VT Law School

Introduction: Background on Emerging Adults

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- 18-25 year olds constitute a distinct and important developmental stage
 - Overly motivated by reward-seeking behavior
 - Susceptible to peer influence
 - Prone to risk-taking and impulsive behavior
- Transition to adulthood is prolonged
- Nearly all youth will mature and age out of crime
- Responsive to rehabilitation

Introduction: Background on Emerging Adults

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5 Domains of Positive Youth Development Framework

- Physical & Mental Health
- Nurturing/Positive Relationships
- Safe Places to Live and Learn
- Educational and Economic Opportunity
- Structured Activities & Civic Participation

Introduction: Why is this important?

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Effective, age-appropriate interventions with Emerging Adults, such as their inclusion in the juvenile justice system, achieves:

- Increased public safety
- Improved outcomes for youth
- Increased accountability and personal responsibility
- Reduced costs

Impact of Raise the Age

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**DATA AND SYSTEM INFORMATION THAT
INFORMED THE RECOMMENDATIONS IN THE
REPORT**

IMPACT: SYSTEM Background

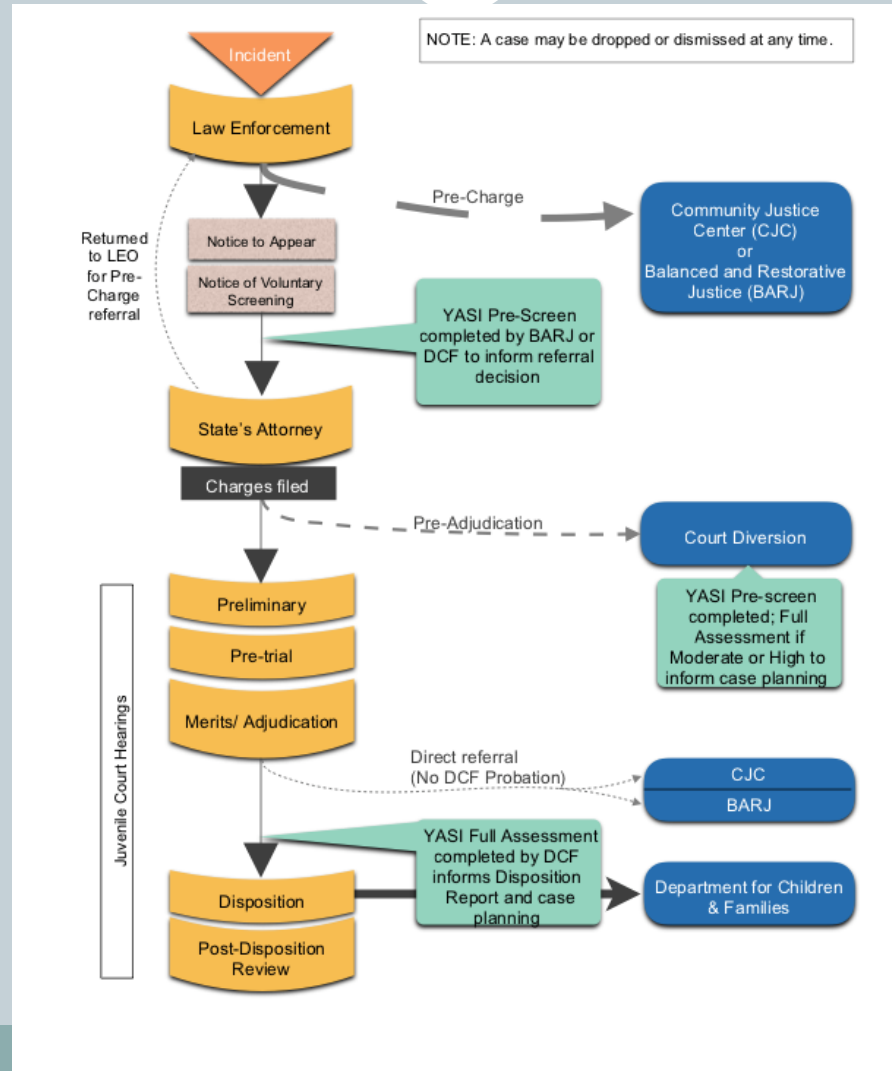
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Youth Justice Glossary:

<u>Family Division</u>	<u>Criminal Division</u>
Adjudication (of a delinquent act)	Conviction (of an offense)
Disposition	Sentence
Merits	Trial

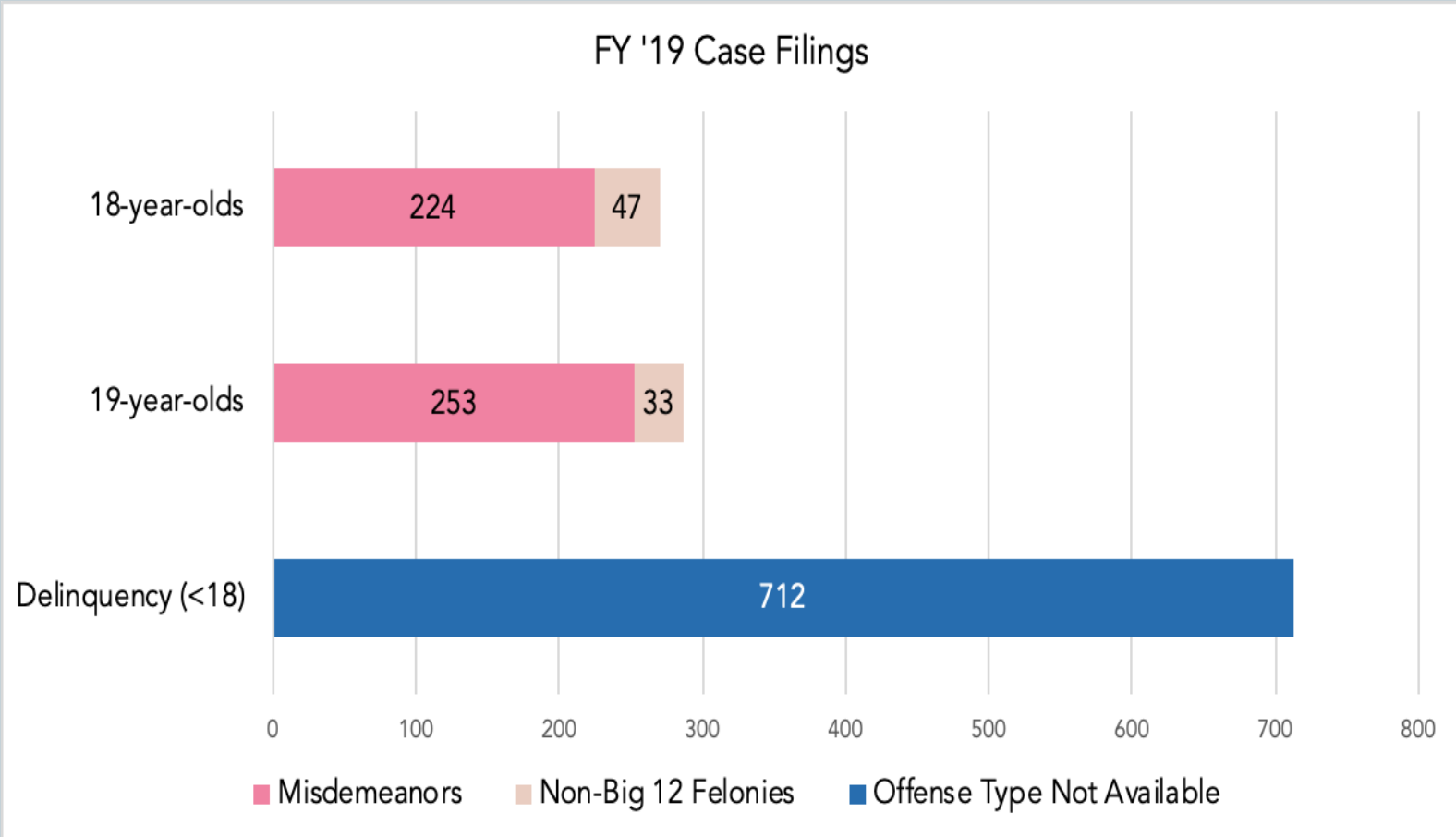
IMPACT: System Background

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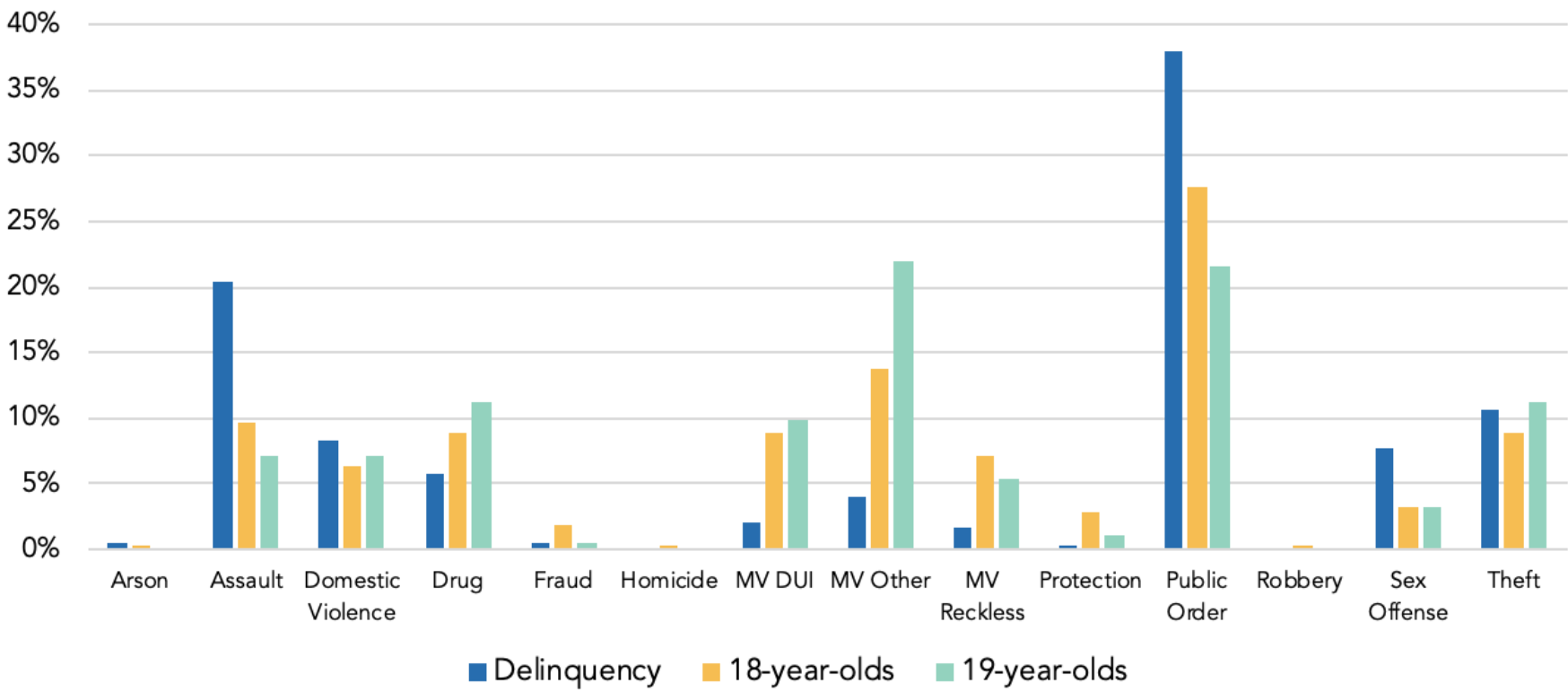
IMPACT: CASE FILINGS FY19

11



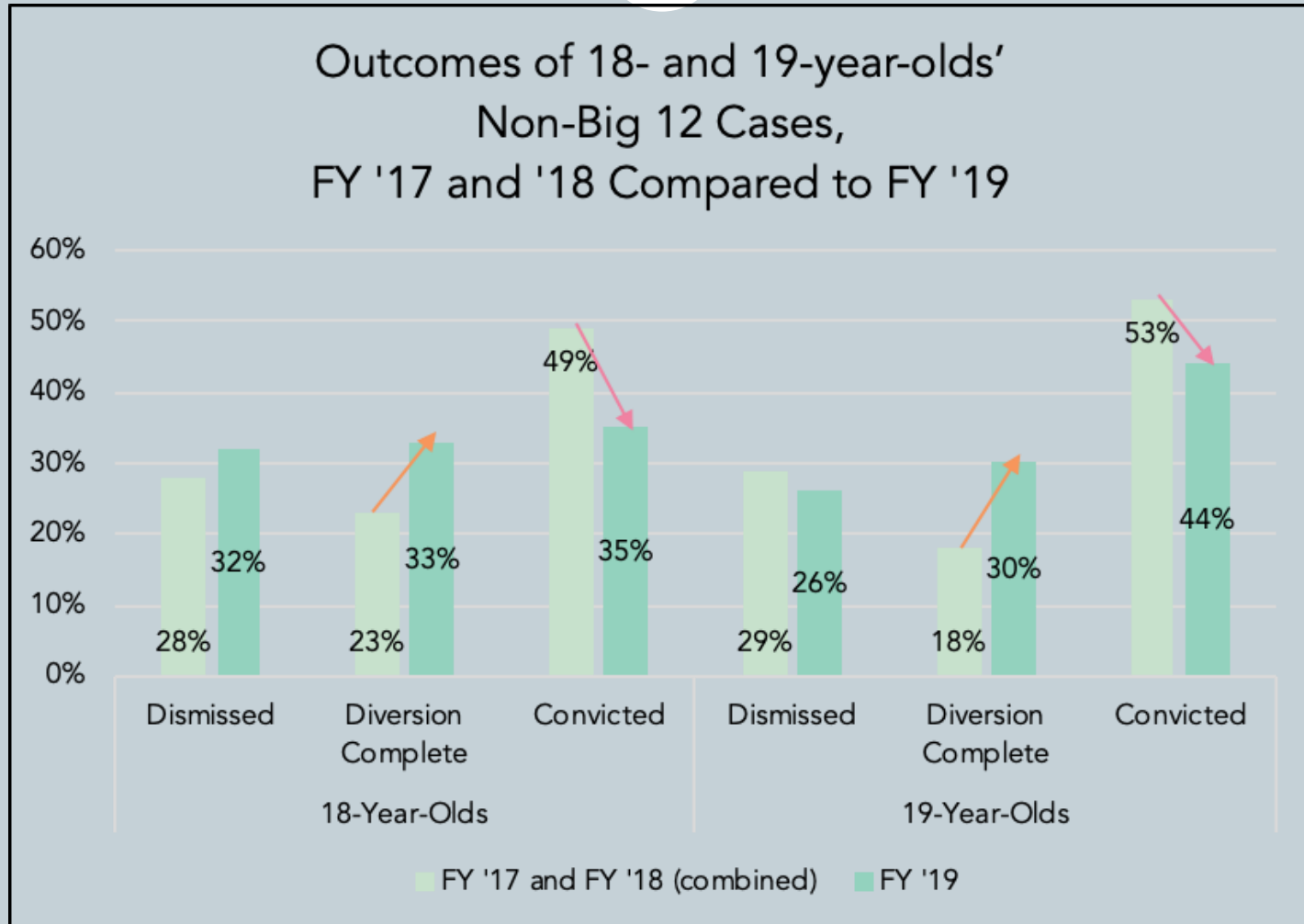
IMPACT: FY18 Offense Type Distribution

FY 2018 Offense Type Distribution
Based on % of Cases Filed per Age Group
(excluding 18- & 19-year olds' Big 12 offenses)



IMPACT: Outcomes of 18- and 19-year-olds

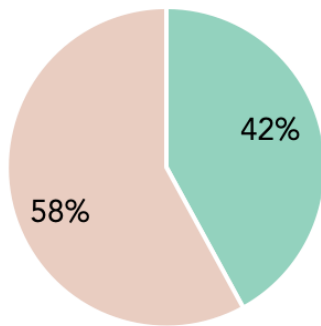
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IMPACT: Convictions resulting in fine-only

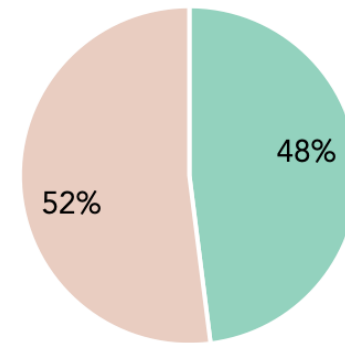
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% of 18-year-olds' Non-Big 12
Convictions Resulting in Fine Only
FY '19



■ Fine Only ■ Other

% of 19-year-olds' Non-Big 12 Convictions
Resulting in Fine Only
FY '19



■ Fine Only ■ Other

IMPACT: Conclusions from Court Data

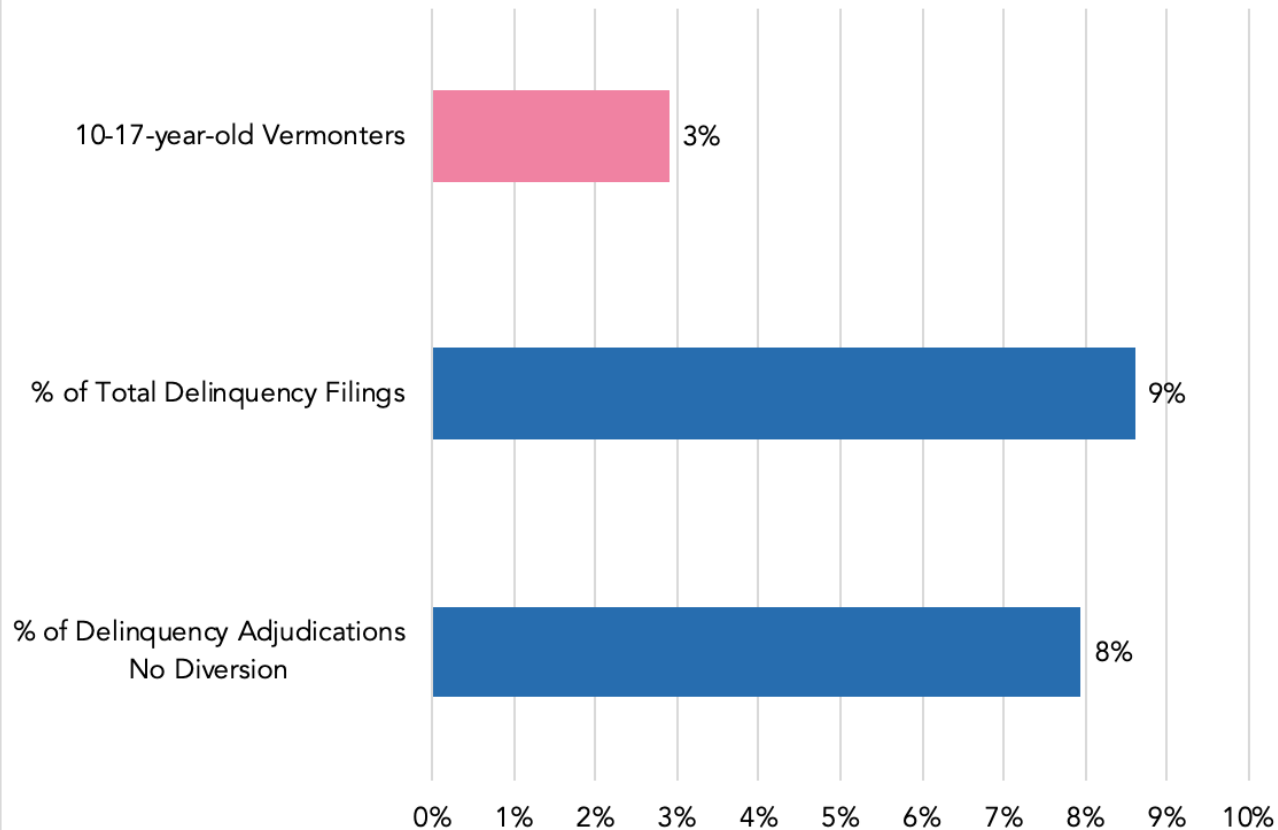
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- Overall, the numbers of cases are going down.
- The system has accommodated the addition of 16- and 17-year-olds fairly seamlessly.
- 18/19-year-olds are committing similar offenses to their younger counterparts.
- 80% of the potential cases are low-level and should be considered for diversion from the system.
- 42-48% of 18/19-year-olds convicted in adult court end up with a fine-only and no supervision.

IMPACT: Racial & Ethnic Disparities

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African American/Black as % of Youth Population, and as % of FY19 Delinquency Filings with Known Dispositions and Delinquency Adjudications Not Diverted



IMPACT: Racial & Ethnic Disparities

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- National data indicate emerging adults have the most racially disparate justice system outcomes of any age group.
- Vermont has a monitoring structure in place to identify and address racial disparities in the juvenile justice system.
 - This will be extended to 18/19-year-olds.

Diversion

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**INCREASE OPPORTUNITIES
TO DIVERT CASES FROM
FORMAL JUSTICE
PROCESSING**

Diverting cases from formal justice processing

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- Research shows that diversion is effective and reduces costs.
- When diverting youth, more attention and resources are reserved for cases that need to be handled in the formal juvenile justice system.
- Vermont has a robust diversion network throughout the state that includes many off-ramps:
 - Pre-charge
 - Post-charge
 - Post adjudication

Diverting Cases: Current State

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Providers/Funders:

- Community Justice Centers (CJCs) – DOC is primary funder
- Balanced & Restorative Justice (BARJ) – DCF is primary funder
- Court Diversion – Attorney General's Office

Diverting Cases: Recommendations

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- Seek opportunities to collaborate with schools.
- Outreach to members of law enforcement.
- Goal: increase the use of pre-charge diversion to 50-60%.
- Goal: divert 25-30% of cases pre-merits.
 - Expand programs targeted at particular issues.
- Evaluate and address barriers for youth participation (such as text reminders).

Family Division of Superior Court

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**MAXIMIZE EFFICIENCY
OF THE COURT PROCESS**

Maximize Family Division Efficiency

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- Statutory timelines are 60 days from filing to disposition.
 - The timelines are not adhered to consistently.
- Timely intervention is the developmentally appropriate response.
 - It benefits victims to see cases resolved sooner.

Maximize Family Division Efficiency

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Strategies **OUTSIDE** of formal delinquency proceedings:

- Increase pre-charge diversion
- Increase collaboration among stakeholders
- Use calendar calls to prioritize scheduling
- Continue exploration of ways to reduce other Family Division dockets (such as CHINS reform)

Maximize Family Division Efficiency

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Strategies **WITHIN** formal delinquency proceedings:

- 45-day court process from the preliminary hearing to merits or disposition.
- Court will block schedule for “pre-trial conferences” 15 days after preliminary hearing:
 - Parties (and DCF, when appropriate) meet at court to discuss potential settlement of case
 - Parties ensure victim’s voice is incorporated
 - Cases not resolved will have merits set within 30 days of the conference.
- Use of calendar calls to prioritize scheduling

Post-Merits Options

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**ENSURE A FULL CONTINUUM OF
NON-CUSTODIAL POST-MERITS
OPTIONS**

Post-Merits Options: Background

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Best practices for youth on probation:

- Avoid placing youth who are low-risk and accused of lesser offenses on probation, as it can increase their likelihood of re-offense.
- Shorter and more focused probation terms
- Incorporate incentives in supervision strategy, in accordance with Positive Youth Development model

Post-Merits Options: Findings

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- Research opposes use of fines in the Family Division.
- Post-merits options are limited and so there appears to be an over-reliance on probation.
- There isn't a short, rapid-response program available.

Post-merits: Recommendations

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- Continue practice of not applying fines in the Family Division
- Expand immediate, short-term targeted options
- Increase post-adjudication direct-referral to community-based restorative justice program
- End the routine use of probation post-merits
- Set lengths of probation proportional to offense
 - 6 months for misdemeanor, 12 for felony
- Use Positive Youth Development Model
 - Incorporate incentive-based supervision.
- Training & Support for FSD staff

PHYSICAL CUSTODY

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**DEFINING WHAT TYPE OF
CUSTODY IS APPROPRIATE
FOR 18/19-YEAR-OLDS**

Physical Custody: Background

- Currently, DCF can have legal custody of youth under supervision.
- For 18/19-year-olds, when appropriate, DCF will need to be granted physical custody by the court.
- DCF will need to consider where it will place youth, including secure or non-secure settings.
- DOC currently holds very few 18/19-year-olds in its custody (6 non-big 12 cases at the writing of the report)

Physical Custody: Recommendations

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- DCF should continue its aim of operating a continuum of care for residential treatment/out of home placements for **all** youth in the delinquency system.
- Modify statute such that if DCF has custody of an 18/19-year-old, it's physical custody.
- DCF will continue its simultaneous work on preparing a legislative report (due 1.15.20) regarding placement and treatment options that will delve into this deeper.

VICTIMS' RIGHTS

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**ENSURING THAT SYSTEMS
ARE IN PLACE TO AFFORD
VICTIMS OF DELINQUENT
ACTS THEIR FULL RIGHTS**

Victims' Rights in Delinquency Cases: Background & Findings

- VT has a strong statutory scheme that supports victims' rights.
- DCF rarely receives requests for notification.
- DCF's Domestic & Sexual Violence Unit can assist in cases involving DV/SV.
- The process for requesting restitution in delinquency cases is confusing and goes under-utilized.
- There is a need to strengthen communication between the victim advocates, the Family Division and DCF.

Victims' Rights in Del. Cases: Recommendations

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- Clarify that victim advocates should be provided in all cases and strive for consistent dissemination of information.
- Evaluate the process for requesting and receiving restitution.
- Formally create regular opportunities for DCF family services workers and victim advocates to ensure strong coordination.

Operational Plan for DCF

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INCORPORATION OF 18-AND 19-YEAR-OLDS UNDER DCF SUPERVISION

DCF Operational Plan: Background

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- The Family Services Division (FSD) has a broad and diverse mandate: child protection and supervision of youth adjudicated delinquent.
- FSD applies social work principles to case work.
- FSD has seen significant case-load pressures from both child protection and youth adjudicated as Youthful Offenders.
- Only one person in FSD central office is in a dedicated role of supporting field staff and policy on juvenile delinquency, at-risk youth, and adolescents.

DCF Operational Plan: Findings

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- DCF staff work closely with their local BARJ provider; this is key for supporting youth in successful completion.
- Many DCF staff who handle juvenile cases also have child protection cases.
- The FSD Deputy Commissioner does not have any direct reports focused on juvenile justice.
- Victim Advocates requested a DCF point of contact.
- The Commissioner's Office's Juvenile Justice Coordinator staffs the Children & Family Council for Prevention Programs. This federally funded role can implement Act 201.

DCF Operational Plan: Recommendations

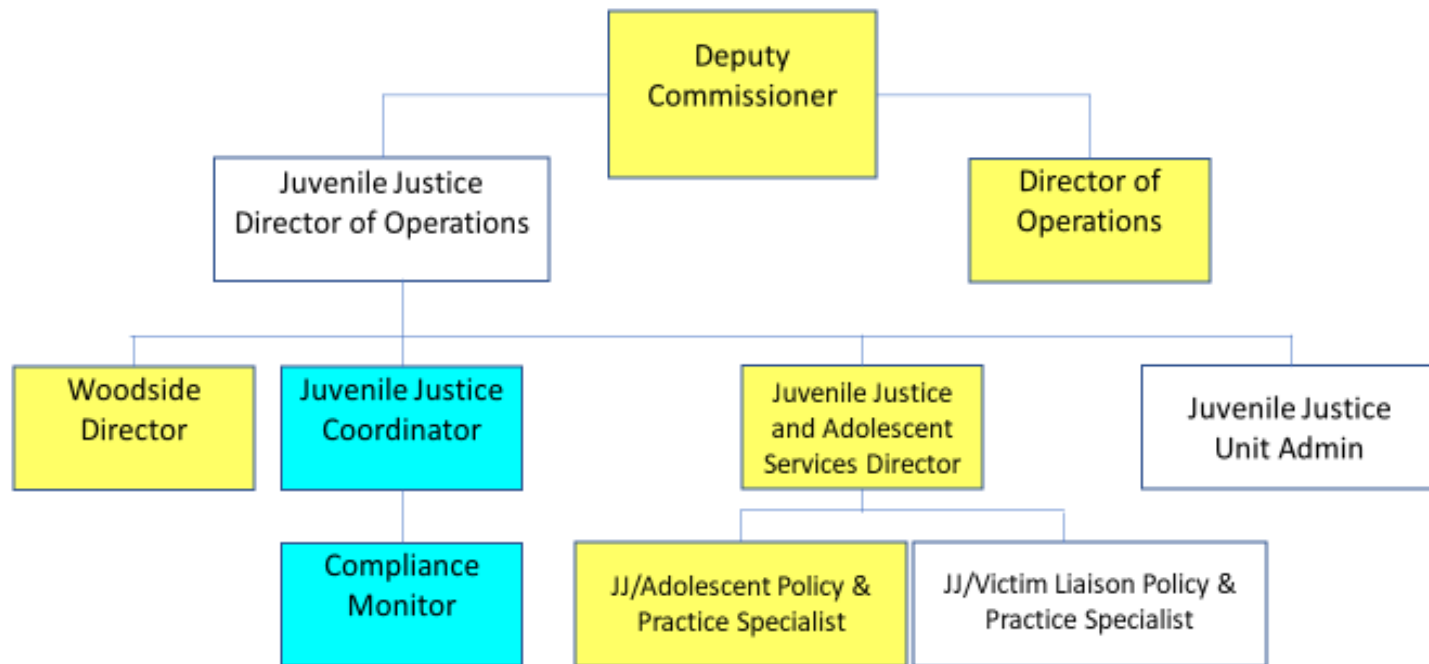
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- Clearly differentiate casework, policy, training and leadership structure within FSD between child protection and juvenile justice/at-risk youth.
 - Phase 1: Address central office infrastructure by restructuring staff to grow needed expertise, coordination of the system, and better geographic consistency.
 - Phase 2: Re-assess needs of direct service staff.
- Increase resources to community providers to support diversion from the system.

DCF Operational Plan: Recommendations

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Proposed Family Services Division Organization Chart



Yellow - Current positions

Blue - Current positions in the Commissioner's Office to be moved to Family Services

White - Proposed Positions

Statutory Changes

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**CHANGES NEEDED TO
IMPLEMENT ACT 201**

Statutory Changes

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- 1.** Clarify/Set age of supervision by DCF
- 2.** Clarify/Adjust custody to reflect that 18 and 19-year-olds are in the juvenile justice system
- 3.** Ensure the Tamarack program is available to all 18- and 19-year-olds, regardless of the court handling their case.
- 4.** Technical Corrections to address references to age.
- 5.** Citation of Emerging Adults

Data

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ONGOING DATA COLLECTION, EVALUATION AND ANALYSIS

Data Collection: Background & Findings

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- Some key data are readily available (e.g., court filings) while others are not (e.g., arrests by age, recidivism data).
- Data varies in terms of coverage and reliability.
- Data are not connected to positive youth outcomes (employment, educational achievements, stable housing, etc.).

Data Collection: Recommendations

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- Compile currently available data and assess which are critical to aggregate and review on a regular basis.
- Identify an entity to aggregate existing data and generate an annual report.
- Identify missing data and any barriers for collection.
- Engage on outcome study.

Conclusion

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LOOKING FORWARD

Conclusion

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The key to successful implementation will be Vermont's:

- (1) use of robust and effective diversion;
- (2) streamlining the court process;
- (3) strengthening inter-agency communication to improve service delivery for youth, families, and victims, and
- (4) ensuring a full continuum of dispositional options.

Conclusion

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- Stakeholders have been given an opportunity to collectively examine the current system, identify critical areas to improve upon, and find ways to better serve *all* youth.
- Vermont will be tapping into the expertise and capacity of its juvenile justice system to provide effective, fair, and developmentally appropriate responses to older adolescents.
- Vermont leads the nation in emerging adult justice reform.