

§ 5204a. Jurisdiction over adult defendant for crime committed when defendant was under age 18

- (a) A proceeding may be commenced in the Family Division against a defendant who has attained the age of 18 if:
- (1) the petition alleges that the defendant;
    - (A) before attaining the age of 18, violated a crime listed in subsection 5204(a) of this title; or
    - (B) after attaining the age of 14 and before attaining the age of 18, committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; and
  - (2) a juvenile petition was never filed based upon the alleged conduct; and
  - (3) the statute of limitations has not tolled on the crime which the defendant is alleged to have committed; and
  - (4) there was good cause for not filing a delinquency petition in the Family Division when the defendant was less than 18 years of age; and
  - (5) there has not been an unreasonable delay in filing the petition.
- (b) (1) ~~The Family Division shall, except as provided in subdivision (2) of this subsection,~~ The Family Division may transfer a petition filed pursuant to subsection (a)(1)(A) of this section to the Criminal Division if the Family Division finds that:
- (A) there is probable cause to believe that while the defendant was less than 18 years of age he or she committed an act listed in subsection 5204(a) of this title;
  - ~~(B) there was good cause for not filing a delinquency petition in the Family Division when the defendant was less than 18 years of age;~~
  - ~~(C) there has not been an unreasonable delay in filing the petition; and~~
  - (D) transfer would be in the interest of justice and public safety.
- (2) (A) The Family Division may ~~order that the defendant be treated as a~~ set a petition filed pursuant to subsection (a)(1)(A) of this section for youthful offender consideration consistent with the applicable provisions of ~~subchapter 5 of chapter 52~~ chapter 52A of this title if the defendant is under 23 years of age and the Family Division:
- (i) makes the findings required by subdivisions (1)(A), and (B), ~~and (C)~~ of this subsection;
  - (ii) finds that the youth is amenable to treatment or rehabilitation as a youthful offender; and
  - (iii) finds that there are sufficient services in the Family Division system and the Department for Children and Families or the Department of Corrections to meet the youth's treatment and rehabilitation needs.

- (B) If the Family Division orders that the defendant be treated as a youthful offender, the Court shall approve a disposition case plan and impose conditions of probation on the defendant.
- (C) If the Family Division finds after hearing that the defendant has violated the terms of his or her probation, the Family Division may:
  - (i) maintain the defendant's status as a youthful offender, with modified conditions of probation if the Court deems it appropriate; or
  - (ii) revoke the defendant's youthful offender status and transfer the petition to the Criminal Division pursuant to subdivision (1) of this subsection.
- (3) The Family Division shall, if a petition is filed pursuant to subsection (a)(1)(B) of this section, treat the case in all respects as if it was filed pursuant to 33 V.S.A. § 5201 except:
  - (A) The court's jurisdiction shall end on or before the defendant's 22<sup>nd</sup> birthday
- (4) In making the determination required by subdivision (1)(D) of this subsection, the Court may consider, among other matters:
  - (A) the maturity of the defendant as determined by consideration of his or her age; home; environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community;
  - (B) the extent and nature of the defendant's prior criminal record and record of delinquency;
  - (C) the nature of past treatment efforts and the nature of the defendant's response to them;
  - (D) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
  - (E) the nature of any personal injuries resulting from or intended to be caused by the alleged act;
  - (F) whether the protection of the community would be best served by transferring jurisdiction from the Family Division to the Criminal Division of the Superior Court.
- (c) If the Family Division does not transfer a petition filed pursuant to subsection (a)(1)(A) of this section ~~the case~~ to the Criminal Division or order that the defendant be treated as a youthful offender pursuant to subsection (b) of this section, the petition shall be dismissed.