

Public Comment on S.133

4/11/2019

Esteemed House Judiciary Committee,

**I am requesting a change in 33VSAss5285 to address the violation of a young person in Youthful Offender (YO) Court's constitutional**

**rights.** 33VSAss5285(d) states, "If a youth's status as a youthful offender is revoked and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this section, the court shall hold a sentencing hearing and impose sentence." This is a violation of the Sixth Amendment of the United States Constitution, specifically the right to a trial by jury.

Currently, as the YO law stands, a young adult (ages 18-22) can be found guilty by a judge in family court and sentenced in Criminal Court, IF this young person is charged with, not convicted, of another crime. In Criminal Court, the option to have a trial by jury is already recognized as a constitutional right. In Family Court, guilt or innocence is determined by the judge, there is no mention of waiving your right to a trial when the case is accepted into YO Court. It only becomes apparent in section 33VSAss5285(d), where sentencing is concerned.

**Please change the law to protect the constitutional right to a jury trial for young adults in Youthful Offender Court.** No young person in YO Court has the time to bring the case before the Vermont Supreme Court, nor should they be forced to waive their right, and hope no new charges are filed.

An additional side note, when the State Attorney recommends that a youthful offender proceeding be public for 18-22-year-old young people, it supports the public shaming, rejection, and isolation currently practiced, rather than to support young adults' successful outcomes. At any point, the judge can move the proceeding to criminal court. Why not start the proceeding in Family Division, and not compound the situation by adding the court of public opinion to ruin a young person life before adjudication? The Saint Albans Police Department is a great example of allowing those charged with a crime to be crucified by community members without those members having to be accountable or responsible for their comments. You don't need a conviction to ruin a young person's future. Community rejection and ejection of our youth takes care of that.

**I also want our young adults in Youthful Offender proceedings to have a parent or support person allowed into the courtroom.** I would like that added to the law. It seems the current practice is for the young person to attend court proceedings with just their lawyer. I expect as these YO cases become more frequent, this practice will

emerge as the statewide practice as well. Currently, a minor has the support of a parent or guardian, or court support person. If that person's case is in the Criminal Division, an open courtroom allows for anyone to attend. This is vital to a successful outcome. It is similar going to a doctor for the prognosis of an illness; the doctor asks you to bring someone who can listen and take notes on the information being discussed. The extreme distress you experience doesn't allow for your brain to receive and interpret the information. In the case of a youthful offender, it has been decided that as an adult, they cannot have identified support people attend (such as parents), because the case is being determined in the privacy of Family Court; no one can attend to support. Adding this language creates support for young adults in Family Court; a bridge that allows a young adult the opportunity for connection, not isolation, from vital supports. This age group developmentally need support people for successful outcomes, which is the goal of YO Court. Lindy Boudreau and Leslie Wilson discussed in their testimony today the importance of colloquy. "Colloquy is important so that the youth understands the potential benefits of YO as well as the rights they are forgoing." A little concerning since one of those rights is the Sixth Amendment. However, I ask this committee to make the change to **Allow support persons in YO Court proceedings to explain and process YO proceedings and support continuity and connection to increase successful outcomes.** Support persons in court allows our young people to continually process and understand the gravity of a situation and have everyone on the same page so that successful completion is achieved.

Respectfully,

Mary Pickener, LICSW, LADC

Saint Albans, Vermont