



S.133 – House Judiciary Committee: Youthful Offender

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Thank you for taking testimony today on S.133, which addresses several technical and substantive issues related to the successful implementation of Act 153. The Vermont Network Against Domestic and Sexual Violence is Vermont's leading voice on domestic and sexual violence in our state. The Vermont Network represents 15 Member Organizations throughout the state which provide advocacy and support to victims of domestic and sexual violence. Together, these organizations served 8,550 individuals last year in Vermont. On behalf of our members and the victims they serve, the Vermont Network supports the intent of Act 153 and the changes made in S. 133.

The Network is deeply appreciative of the work that the Department for Children and Families has done to engage key stakeholders in the implementation of recent juvenile justice reforms. The Network has worked closely with the Vermont Center for Crime Victim Services and other key stakeholders as these laws have been passed and implemented. The Vermont Network is happy to see this bill improve the implementation of the youthful offender statute.

Advances in neuroscience have demonstrated that the brain is not fully developed until an individual reaches their twenties, and that the adolescent brain is highly responsive to risk-taking, peer influence and reward systems.¹ We are also deepening our understanding of the impacts of trauma on the lives of youth, and the ways that responses to trauma can manifest as harmful, and even criminal, behaviors. We believe that it is essential that youth who commit crimes have access to resources and interventions outside of the traditional criminal legal system. Access to systems of accountability, supervision and support help ensure that youth can grow and develop into full and productive members of our communities.

I would like to highlight two areas of particular interest to the Network related to S.133:

§5281(e) (proposed in S.133)

In the cases of youth between the ages of 20-22 years who have committed certain crimes (often referred to as the "big 12"), State's Attorneys can file a motion in the criminal division requesting that the offender be treated as a Youthful Offender.

The Network supports this language. We appreciate this responsibility being situated with State's Attorneys because prosecutors are often in contact with victims through Victim Advocates based in their offices and can communicate changes in status of the case easily and more directly to victims. It is important that State's Attorneys make these decisions with the best interest of victims in mind. We

¹ Massachusetts General Hospital, Center for Law, Brain & Behavior: <http://clbb.mgh.harvard.edu/>



believe it is essential that victims have every opportunity possible to be informed about their case and to have the opportunity to have a voice in these decisions.

§5280 (e) (existing law)

When a youthful offender proceeding has commenced, youth are screened using a risk assessment tool. If the results of the screen indicate a low to moderate risk to reoffend, the statute indicates that a State's Attorney *shall* refer a youth directly to court diversion. There is allowance in the statute for State's Attorneys to decline to send a case to diversion if it will not serve the interests of justice.

The Network is monitoring the impact of the implementation of this section. We have heard directly from some victims that youthful offenders charged with sex crimes who score low to moderate risk on a risk assessment are being referred to diversion programs. ***There is currently, however, no risk assessment tool that is validated in Vermont for individuals under 18 who commit sex offenses.***

Historically, it has not been the practice of State's Attorneys to refer these cases to Court Diversion, or for Court Diversion to accept such referrals. The Court Diversion programs across the state are being asked to consider taking sex offense cases but have not received additional training or capacity building on how best to handle these complex cases. The dynamics of sexual crimes are complex and unique and require a careful and nuanced approach to both hold those accused of harm accountable and allow victims to experience some measure of justice or closure.

Last year, the legislature passed Act 146 which created a study committee to examine the potentials for using restorative approaches (including pre-charge options such as Court Diversion) for domestic violence, sexual violence and stalking. The study committee process is anticipated to conclude their work in June. The Network is very supportive of the work of the Act 146 Study Committee including the interim recommendations presented to this Committee in January. However, until a plan has been implemented to provide restorative justice programs (including Diversion) with appropriate training and resources to respond to these cases, we remain deeply concerned about State's Attorneys referring sexual offense cases, regardless of the risk assessment level, to Court Diversion.

When youthful offender cases are sent to Diversion and then rejected or screened out by Diversion programs, it lengthens the timeline of cases and further limits the information available to victims and their sense of resolution or justice. A swift and transparent process to resolve these cases is often essential to victims' healing.

While we are not requesting any language change at this time, we would like to highlight this as an area of significant concern for the Network. We are currently in conversation with DCF regarding this issue and look forward to working with the juvenile justice stakeholder group that has been convened by DCF to address this immediate implementation issue.

We thank the committee for your consideration, and for all of your efforts to advance policies that increase safety for victims of crime.