

JUVENILE JUSTICE

House Judiciary Committee

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JUVENILE JUSTICE REFORM WORK

Vermont has adopted 3 laws beginning in 2016:

- Act 153 (2016)
- Act 72 (2017)
- Act 201 (2018)

JUVENILE JUSTICE REFORM WORK

Keep youth out of criminal court so that they can avoid long-term collateral consequences for behavior that they are likely to grow out of.

Adolescent brain development – youth’s brains are not fully developed until mid-late twenties which means:

- Low impulse control
- Social affirmation is prioritized
- Long-term decision making not completely on-line.
- More likely to respond to treatment

JUVENILE JUSTICE BACKGROUND

Core Principles of Effective Supervision Employed by DCF Workers:

Risk Principle:

The level of supervision or services should be matched to the risk level of the youth to reoffend. (ie: higher risk should receive more intensive services).

Need Principle:

The targets for interventions should target youth characteristics that have the most effect on the likelihood of re-offending.

Responsivity Principle:

Interventions should be matched, or responsive, to the characteristics and values of the youth.

YOUTH ASSESSMENT AND SCREENING INSTRUMENT (YASI)

Pre-Screen – provides the level of risk to reoffend. The screening is only using static factors to identify risk and should not be used as a case planning tool. Used to inform the presumption of diversion and length of termed probation.

Full Assessment – provides an assessment of the areas that are contributing to risk. The youth's motivation to change, barriers and strengths are factored into the assessment and development of a plan to address the risk and increased protective factors. Used to inform the disposition and on-going case plan.

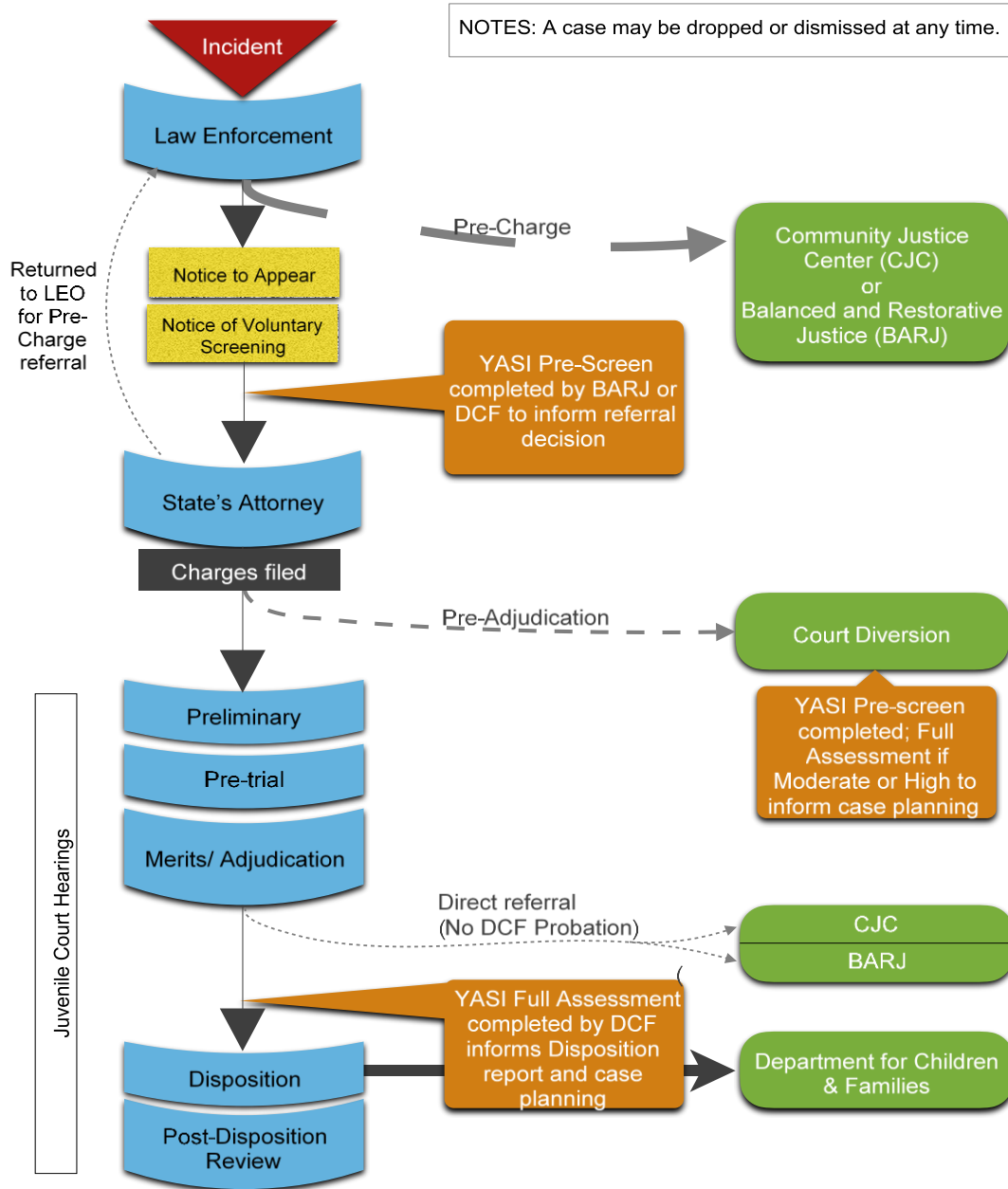
YASI

- YASI is an evidence-based tool, validated for ages 10-25 across socio-economic strata
- YASI was validated for Vermont in 2011
- YASI is not validated to assess risk of sexual re-offending (other assessments will be completed to provide risk to sexually reoffend.)
- Required by DCF Policy for truancy, at-risk, delinquent youth, and youthful offenders

YOUTH JUSTICE OPTIONS

- Pre-charge Program or a community-based response (no Court or DCF case)
- Direct Referral to CJC or BARJ (no Court or DCF case)
- Court Diversion (no DCF case)
- Direct Referral (post merits) to CJC or BARJ (in lieu of probation/no DCF case)
- Juvenile Probation (termed)
- Juvenile Probation with DCF Custody
- Youthful Offender Status
- Charges filed in Criminal Division

Youth Justice Flowchart



PRESUMPTION OF DIVERSION

- Since a change to T33 in 2012, youth are afforded the opportunity to have a risk and needs screening prior to the preliminary hearing.
- Act 201 requires prosecutors to consider results of risk and needs screenings in all decisions about prosecutions.
- Act 201 also creates a presumption of diversion for low and moderate risk youth for both delinquency and youthful offender cases.
- The YASI prescreen informs presumption of diversion question, except where the youth has been alleged to have committed a sexual offense.
 - Youth under 18 at the time of the offense will need to complete an evaluation with a trained clinician to inform this decision. Youth 18 or over at the time of the offense will be assessed with validated screening tools by DOC.
- State's Attorneys may overcome the presumption by stating on the record why the interests of justice will not be served by diverting the case. This is a decision solely within the prosecutor's discretion.

CHANGES TO DELINQUENCY

- Presumption of diversion for low to moderate risk youth.
- For youth under 18, most cases must begin in the Family Division.
- 10- and 11-year-olds stay in the Family Division and may never go to Criminal Division.
- Act 201 expands jurisdiction in the future to include 18 and 19-year-olds and planning for that expansion.
- For youth who are adjudicated at 16 or 17, they can remain on probation until they are 19.5.

Juvenile Jurisdiction

AGE at time of alleged offense	OFFENSE	
	OFFENSES other than big 12	BIG TWELVE
10-11	Proceedings start in Family; NO Transfer 33 VSA 5201(d) & (e) 33 VSA 5204(a)	Proceedings start in Family; NO Transfer 33 VSA 5201(c)
12-13		Proceedings start in Family (5201(c)); Transfer to Criminal is an option (5204(a))
14-15		Proceedings start in Crim. (5201(c)); Transfer to Family as a delinquency is an option (5203(b)) or as YO (see chart below)
16-17	All Proceedings start in Family (5201(d) & (e)) Misdemeanors: NO Transfer Felonies: Transfer to Criminal upon motion (5204(a))	Proceedings start in Crim. (5201(c)) Transfer to Family as a delinquency is an option (5203(b)) or as YO (see chart below)
18-21	Only juvenile jurisdiction now is through YO (see chart below) <ul style="list-style-type: none"> • 18-year-olds will be treated as delinquents in 2020 per Act 201 • 19-year-olds will follow in 2022 	

CHANGES TO YOUTHFUL OFFENDER

- Presumption of diversion for low to moderate risk youth
- YO consideration up to the age of 21
- Option for direct filing in Family Division for 18 – 21-year-olds **for any offense** (as well as motion to transfer from Criminal Division for YO Consideration)
- No longer have the conditional plea of guilty in criminal court, so there are fewer collateral consequences for youth.
- Cases now have a YO consideration hearing prior to adjudication
 - Youth are required to participate in a risk and needs screening
 - YO Consideration hearing is no longer open to the public – victims can attend all hearings
- Cases that have been accepted for YO treatment will have confidential merits adjudications in the Family Division
- Court involvement around determination of Department lead on YO cases is no longer required.
- DOC is now a party to the YO cases.

YOUTHFUL OFFENDER JURISDICTION

- YO is only an option for cases that have the potential to be heard in criminal court
- Changes to the jurisdiction laws for youth 10 – 17 years-old means that most cases for these youth are not eligible for YO

Cases that may be eligible for YO consideration

Age at time of alleged offense	Cases with Criminal Court Jurisdiction	YO Eligibility
10 -11	None	Not applicable
12 -13	Big 12	Big 12 cases must be filed in the Family Division per 33 VSA 5201(c) Court may transfer to Criminal per 33 VSA 5204(a) Can be transferred back down as YO per 33 VSA 5281(a)
14-15	Big 12	Big 12 must be filed in Criminal per 33 VSA 5201(c) Can be transferred back down as YO per 33 VSA 5281(a)
16-17	Felonies Big 12	Felonies must be filed in Family per 33 VSA 5201(e), but can be transferred to Criminal per 33 VSA 5204(a) and then transferred back down as YO (33 VSA 5281(a)) Big 12 shall be filed in Criminal per 33 VSA 5201(c),* but may be transferred down as YO (33 VSA 5281(a)) * The YO statutes currently provide that 16 and 17-year-olds with Big 12 cases could also be directly filed in the Family Division as a YO. This is not also true for 14 and 15-year-olds.
18-21	Any offense	All cases start in Criminal unless SA decides to file YO petition directly in Family (33 VSA 5280(b)). Applies to <u>any</u> alleged offense. Any case that starts in Criminal may be transferred to Family for YO status consideration upon motion (33 VSA 5281(b))

YO TIMELINE UNDER NEW LAWS

- YO case transferred from criminal or YO petition filed
 - The case in Criminal Division is inactive and Conditions/Bail remain in effect
- Within 15 days, youth is offered a risk and needs screening
- Youth has 15 days to complete risk and needs screening or Family Court will deny YO (option for extending period for good cause)
- Screening results are reported to SA
- If low/moderate risk, presumption of Court Diversion
- If the case is not diverted, DCF report #1 Youthful Offender Consideration Report— due within 30 days after screening
 - recommendation whether YO is appropriate; description of services that may be available

YO TIMELINE UNDER NEW LAWS

- YO consideration hearing, the Court determines:
 - whether public safety will be protected by treating the youth as YO
 - whether the youth is amendable to treatment or rehabilitation
 - whether there are sufficient services in the juvenile system to meet the youth's treatment needs

- If the Court accepts the case for YO status, a confidential merits hearing in Family Division
 - DCF is not a party until merits are found.

- Disposition – DCF report #2 – the report can be waived and YO probation termed

YO INFORMED DECISION-MAKING

- Confidentiality
- Longer supervision (up to 22) and opportunity for rehabilitation
- Dual supervision with DCF and DOC
- Opportunities for revocation back to criminal court if youth is not successful
- Colloquy is important so that the youth understands the potential benefits of YO as well as the rights they are foregoing

YOUTHFUL OFFENDER VOPS

When a VOP (Violation of Probation) is filed, Court has the following options:

- maintain YO status with modified conditions
- transfer supervision to DOC with all of the powers and authority under title 28, including graduated sanctions and electronic monitoring
- revoke YO

If YO status is revoked, case is transferred to Criminal for sentencing with record of petition, affidavit, adjudication, disposition and revocation.

- In determining sentence, court may take into account progress toward or regression from rehabilitation while on YO
- Criminal Division has access to all Family Division records

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