

This Memo outlines a Joint proposal by the Department for Children and Families (DCF), and the Department of Corrections (DOC), with the support of The Juvenile Jurisdiction Stakeholders group (JJSG), for a statutory amendment that brings the State of Vermont in compliance with the Juvenile Justice Delinquency and Prevention Act of 1974, as amended in Juvenile Justice Reform Act of 2018 (JJRA).

As of December 21, 2021, the JJRA requires that juveniles charged as adults are not to be held in an adult jail or lockup (nor shall they have sight or sound contact with adult inmates) unless the court finds after a hearing and in writing that it is in the interest of justice to do so. The intent, in part, of the JJRA is to ensure that juveniles are offered protections from exposure to adult criminal justice systems. The federal language relevant to this proposal may be found 34 USC 11133 [Section 223(a)(11)(B)].

### **Description of the Problem**

This federal requirement impacts all states, but Vermont is particularly vulnerable due to its limited access to Juvenile detention. Most states circumvent this need by housing youths within a juvenile detention center until they are sentenced in an adult (criminal) court. Vermont has relatively few juveniles annually who would need to be held securely on criminal charges, but each instance of a juvenile being held in an adult correctional facility without interest of justice hearings will now result in a new federal violation being incurred every 30 days.

Utilizing the courts to provide that it is in the interest of justice to hold a youth being charged as an adult in a DOC facility allows us to avoid violations and offers the safest placement to the youth and community. The confounding variable in this is that there presently is no state statutory language enabling court jurisdiction over such of hearing, which this proposal seeks to remedy.

### **Proposed Solution**

The Members of the JJSG; which include the Chief Superior Judge, representation from the Juvenile Public Defenders office, Department of State's Attorneys & Sheriffs, DOC, DCF, Vermont Network Against Domestic and Sexual Violence, and Vermont Center for Crime Victim Services have discussed this problem at length. The JJSG has found consensus in supporting the italicized language below, which it believes will resolve the issue of court jurisdiction and provide clarity regarding expected timeliness. In addition to DOC and DCF, JJSG Members Marshall Pahl and Evan Meenan both expressed a willingness to speak with the committee on behalf of this proposal, should the committee be interested in such testimony.

*No later than the next business day after a juvenile who is awaiting trial or other legal process and who is treated as an adult for prosecution in the Criminal Division is taken into custody, the court shall hold a hearing and issue a written order, pursuant to 34 U.S.C. 11133, that it is in the interests of justice to hold the juvenile in a jail or other secure facility for adults owned*



*or operated by the Department of Corrections and in finding so, whether to allow sight or sound contact with adult inmates. Such hearings and order shall conform with the requirements of 34 U.S.C. 11133.*