

# YOUTH JUSTICE IN VERMONT



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# DELINQUENT VS. “RAISE THE AGE” VS. YOUTHFUL OFFENDER

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In many ways, Vermont leads the nation in its approach to serving justice involved youth that considers both the needs of the youth and the needs of Vermont’s communities. This dynamic approach can lead to some confusion regarding how young people interface with Vermont’s legal systems.

This presentation is designed to clarify the nuances between the various ways youth may be prosecuted.



# ADJUDICATED YOUTH/JUVENILE PROBATION

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- Sometimes referred to as “delinquent youth”- these case types describe youths being served by the Family Division. These youth are afforded confidentiality and served by the Department for Children and Families (DCF).
- Since the enactment of Act 201 (Raise the Age), youth aged 18 who are accused or adjudicated of most offenses are afforded the same protections as youth below the age of 18.
- These “Raise the Age” (RTA) youth retain adult rights related to treatment but may be in the custody of DCF for the purposes of placement. Beyond that discrepancy, RTA youth are indistinguishable from other adjudicated youth in DCF’s care.
- As a child welfare/youth justice agency DCF’s focus is on public safety as well as addressing the well-being of youth served by the division.
- For youth who are on juvenile probation whose needs or the risks to public safety cannot be addressed in their families, placement outside the home may be necessary.

# ADJUDICATED YOUTH/JUVENILE PROBATION

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- Court ordered conditions and supervision is overseen by Family Services Workers to assure the needs of the youth, the victim, and the community are addressed.
- Typically, supervision ends at 18, however, for 16-17-year old's they can have supervision to age 19.5, and 18-year-old youth can have supervision up to age 20.5.
- A youth may fall under the jurisdiction of the Family Court or the Criminal Court, based on:
  - The nature of the offense
  - Their age at the time of offense
  - The discretion of the State's Attorney

# Juvenile Jurisdiction

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

# YOUTHFUL OFFENDER STATUS

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“Youthful Offender” is a status that allows older youth with more serious offense types an avenue to avoid criminal sentencing by meaningfully addressing their crime within the juvenile services array.

- FSD and DOC jointly supervise youthful offenders – supervision can occur up to the age of 22
- Youth have fewer collateral consequences as a result of not having a criminal conviction.
- Sex offenders treated as YO shall have no duty to register as a sex offender unless YO status is revoked
- Option of direct filing in Family Division for 16-21-year-olds which would allow for full confidentiality
- Youth are eligible for YO consideration through the age of 21

# YOUTHFUL OFFENDER STATUS

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- Cases now have a YO consideration hearing prior to adjudication
- Youth are required to participate in a risk and needs screening within 15 days of notification
- Victims can attend all hearings
- Public safety portion of the YO Consideration hearing for alleged offenders ages 18 to 21 is open to the public
- If the youth is not successful, the case can be returned to Criminal Division for sentencing

## 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	<p>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)</p>
14-15	Big 12	<p>Big 12 must be filed in Criminal per 33 VSA 5201(c), but may be transferred to Family as YO per 33 VSA 5281(a) &amp; 5280(a)</p> <p>Alternatively, SAs may directly file Big 12 cases for 14 and 15-year-olds in the Family Division as a YO (33 VSA 5280(b) &amp; 5280(a)(1)) – this is new per Act 45 of 2019</p>
16-18	<p>Felonies</p> <p>Big 12</p>	<p>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))</p> <p>Big 12 shall be filed in Criminal per 33 VSA 5201(c), but may be transferred to Family as YO per 33 VSA 5281(a) &amp; 5280(a)</p> <p>Alternatively, SAs may directly file Big 12 cases for 16 and 17-year-olds in the Family Division as a YO per 33 VSA 5280(b) &amp; 5280(a)(1)</p>
19-21	Any offense	<p>All cases start in Criminal unless SA decides to file YO petition directly in Family (33 VSA 5280(b) &amp; 5280(a)(1). Applies to <u>any</u> alleged offense.</p> <p>Any case that starts in Criminal may be transferred to Family for YO status consideration upon motion (33 VSA 5281(a) &amp; 5280(a)(2))</p>



# THANK YOU

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