



Senate Judiciary Committee: Juvenile Proposal

Jessica Barquist, Director of Policy and Organizing

November 4, 2021

The Vermont Network would like to offer the following proposal to strengthen the victim's access and rights during the delinquency process. This proposal attempts to rectify the Network's concerns regarding victim access to court proceedings, notification of treatment conditions and changes in status and the strict interpretation of confidentiality imposed on victims. [In prior testimony](#), the Network also raised additional concerns regarding the victim compensation program. The Center for Crime Victim Services administers this program and will make specific recommendation to remedy these concerns. The Network fully supports the proposal from the Center regarding Victim Compensation changes.

The Vermont Network respectfully suggests the following language changes:

33 V.S.A § 5234. Rights of victims in delinquency proceedings involving a listed crime

(a) The victim in a delinquency proceeding involving a listed crime shall have the following rights:

(1) To be notified by the prosecutor's office in a timely manner of the following:

(A) when a delinquency petition has been filed, the name of the child and any conditions of release initially ordered for the child or modified by the court that are related to the victim or a member of the victim's family or current household;

(B) his or her rights as provided by law, information regarding how a case proceeds through a delinquency proceeding, the confidential nature of delinquency proceedings, ~~and that it is unlawful to disclose confidential information concerning the proceedings to another person;~~

(C) when a predispositional or dispositional court proceeding is scheduled to take place and when a court proceeding of which he or she has been notified will not take place as scheduled; and

(D) whether delinquency has been found and disposition has occurred, and any conditions of release or conditions of probation that are related to the victim or a member of the victim's family or current household and any restitution, when ordered.

(2) To file with the court a written or recorded statement of the impact of the delinquent act on the victim and the need for restitution.

(3) ~~To be present during all court proceedings subject to the provisions of Rule 615 of the Vermont Rules of Evidence and to express reasonably his or her views concerning the offense and the youth, attend the disposition all hearings, and to~~ present a victim impact statement, including testimony in support of his or her claim for restitution pursuant to section 5235 of this title, and to be notified as to the disposition,



including probation. The court shall consider the victim's statement when ordering disposition. ~~The victim shall not be personally present at any portion of the disposition hearing except to present a victim impact statement or to testify in support of his or her claim for restitution unless the court finds that the victim's presence is necessary in the interest of justice.~~

(4) ~~Upon request,~~ To be notified by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility. The name of the facility shall not be disclosed. An agency's inability to give notification shall not preclude the release. However, in such an event, the agency shall take reasonable steps to give notification of the release as soon thereafter as practicable. Notification efforts shall be deemed reasonable if the agency attempts to contact the victim at the address or telephone number provided to the agency in the request for notification.

(5) To have the court take his or her views into consideration in the court's disposition order. If the victim is not present, the court shall consider whether the victim has expressed, either orally or in writing, views regarding disposition and shall take those views into account when ordering disposition.

(6) [Repealed.]

(b) The prosecutor's office shall keep the victim informed and consult with the victim through the delinquency proceedings. (Added 2007, No. 185 (Adj. Sess.), § 2, eff. Jan. 1, 2009; amended 2015, No. 153 (Adj. Sess.), § 21.)

33 V.S.A. § 5110. Conduct of hearings

(a) Hearings under the juvenile judicial proceedings chapters shall be conducted by the court without a jury and shall be confidential.

(b) The general public shall be excluded from hearings under the juvenile judicial proceedings chapters, and only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, **victims of record, their counsel, and designated victims advocates** and such other persons as the court finds to have a proper interest in the case or in the work of the court, including a foster parent or a representative of a residential program where the child resides, may be admitted by the court. An individual without party status seeking inclusion in the hearing in accordance with this subsection may petition the court for admittance by filing a request with the clerk of the court. This subsection shall not prohibit a victim's exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law.

(c) There shall be no publicity given by any person to any proceedings under the authority of the juvenile judicial proceedings chapters except with the consent of the child, the child's guardian ad litem, and the child's parent, guardian, or custodian. A person who violates this provision may be subject to contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family Proceedings. (Added 2007, No. 185 (Adj. Sess.), § 1, eff. Jan. 1, 2009; amended 2015, No. 60, § 6.) **This subsection shall not prohibit a**



victim's exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law. (Add: Explicitly clarify that victims may talk about their experiences or even name their offender publicly but it is not lawful to say they were charged as a juvenile or provide details about the proceedings)