



April 17, 2024

RE: S.58 Testimony

Dear House Judiciary Committee Members:

For the record, I am Lauren Higbee, Deputy Advocate of the Office of the Child, Youth and Family Advocate (OCYFA) established in early 2023. The purpose of our office is to advance the interests of Vermont children and youth impacted by the child protection and juvenile justice systems. Also relevant to mention are my five years of experience at the Department for Children and Families (DCF) as a family services worker and supervisor in the Residential Licensing and Special Investigations unit. I note that because I connected with youth who need Raise the Age and would otherwise be negatively impacted by S.58 as it is written right now. There are many components in the S.58 omnibus bill that warrant continued discussion. This morning I'd like to focus on the portions of S.58 impacting youth and emerging adults, highlighting what the data implies and what research tells us.

Data Implications

It was somewhat of a bombshell when DCF released their December 2023 report¹ essentially requesting a third delay in Raise the Age for otherwise eligible 19-year-old Vermonters. The report is titled "DCF Raise the Age, High End System of Care Report." The title alone should signal pause to determine who DCF is particularly identifying as the driver to delay Raise the Age yet again. Several populations of Vermont youth are combined in that report. I would like us to be clear that Youthful Offenders are not Raise the Age youth. Children in Need of Supervision or "CHINS" children and youth are not Raise the Age youth. Reports and data analyses that conflate these groups often create a vastly different and more desperate picture of what the systemic impact could be from continuing with Raise the Age implementation.

When we talk about Raise the Age, we are specifically talking about 19-year-olds who are not accused of "Big 12" offenses and "will be prosecuted in the Family Division of the Superior Court (rather than the adult Criminal Division), with supervision and coordination of services provided by the Department for Children and Families (DCF) rather than the Department of Corrections (DOC)."² DCF has provided some data for 19-year-olds within its testimony and reports. However, I would like to point out that we cannot equate the number of filings associated with 19-year-olds as an unduplicated number of 19-year-olds eligible for Raise the Age. Filing data is not caseload data. A single 19-year-old could have multiple filings from one incident. Caseload data projections are key and, from my understanding, have not been provided.

¹ [dd \(vermont.gov\)](https://www.vermont.gov)

² [W~Department of Children and Family Services~Act 201 Implementation Plan Report and Recommendations ~11-12-2019.pdf \(vermont.gov\)](#)

Columbia Justice Lab’s “Update on the Implementation of Vermont’s ‘Raise the Age’ Law”³ analysis for 18-year-olds shows that Raise the Age is actually working. The number of youth in DCF custody due to delinquency, youth on probation, all continue to decrease. The data does not show the anticipated high impact that DCF predicts in their modeling. When 18-year-olds were added, there was a small uptick and then the numbers stabilize. And I would be remiss if I didn’t also emphasize, as Columbia Justice Lab did in their report, that the purpose of Raise the Age is to increase public safety and this is done by providing individualized and developmentally appropriate treatment and support to emerging adults.

We cannot delay innovative policy and practice that is based in brain science and supports public safety for a third time. OCYFA connected with two programs specifically providing Raise the Age community programming and services to youth and emerging adults. From 2022 through the end of 2023 (when the data request was made), the programs reported serving five youth and four youth respectively. Nine in all. They even hinted at needing more referrals from DCF. Raise the Age is not the issue. I am worried that DCF is requesting this delay because of the pressures of other statutory obligations and not because of the added workload 19-year-olds would bear. DCF’s inability to meet the statutory mandate of one population does not negate the responsibility of existing statutory obligations to another population. We cannot place the burden of larger deficiencies in our system of care onto 19-year-old Vermonters.

Early in this legislative session, Department of Corrections testified, in Senate Judiciary that, they were serving 13 19-year-olds with seven incarcerated and six under field supervision. Five of the seven incarcerated were under the current “Big 12.” Therefore, DCF would potentially only have to place two 19-year-olds from this point-in-time cohort. Given OCYFA discussions with Raise the Age programs, there would be plenty of space to serve this population. The data does not support the third delay of Raise the Age. The data does not support the passage of S.58 as written.

Vermont may not be exceptional to the national challenges of youth mental health and workforce capacity issues. But I urge the committee to follow Vermont’s own numbers. The State’s Attorney’s Office also testified earlier in the session that the number of crimes committed by youth and emerging adults is decreasing. Youth and emerging adults are more likely to be victims of crimes not perpetrators. This leads me to the topics of best practices and research implications.

Best Practices & Research Implications

Raise the Age is working. The Vermont Legislature recognized that brain science shows youth are risk takers, that is the point of this developmental stage. They practice being adults and sometimes fail. That is the point of this developmental stage. The Vermont legislature recognized how youth of color and other marginalized populations are disproportionately impacted by juvenile and adult justice systems. Vermont accepted this knowledge when designing and planning for Raise the Age implementation.

³ [EAJP Justice Lab Update on RtA Issue Brief FINAL 1.30 \(squarespace.com\)](https://www.squarespace.com)



Charging 16-year-olds with drug trafficking as “Big 12” offenses list completely ignores the dynamics of power and control and lack of safety and autonomy that is at the heart of trafficking. The expansion of the “Big 12” to include trafficking in S.58 completely ignores what the research shows us about trauma-informed practices. We are criminalizing possible survivors. S.58 limits opportunities for positive youth development in Vermont.

I recognize the attempt to balance competing pressures in Senate Judiciary with delaying Raise the Age implementation and requiring bimonthly reporting. But I must be honest and say that I do not want another handful of reports from DCF between July 2024 and April 2025. The required reporting lists updates on “discussing enhancing long-term treatment options and community-based services” and “expanding the developmental services capacity.” DCF is not exclusively responsible for those categories, yet I do not see the Department of Mental Health (DMH) or the Department for Aging and Independent Living (DAIL) listed. If DCF cannot meet the needs of Raise the Age 19-year-olds without delay, then the Agency of Human Services (AHS) must be willing to leverage other resources to meet that statutory obligation.

I would like to close with a quote from the Executive Director of Outright Vermont, Dana Kaplan, as he was coming into that role in May 2023. He said the organization is “trying to move at the speed that young people need us to move...” That phrasing has always stuck with me; it conveys a healthy sense of urgency without being reactionary. A third delay in Raise the Age is not the speed Vermont youth need us to move in. Criminalizing youth being trafficked or coercively trafficking drugs is not the speed Vermont youth need us to move in. It is not the direction we should move in. And so, this may be the only time I ask this of a legislative committee, please do nothing. Do not vote on S.58. It is not sound law. But if you must vote, vote no.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "LHigbee".

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Sources:

DCF Raise the Age, High End System of Care Update Report, December 2023: [dd \(vermont.gov\)](#)

DCF Raise the Age Act 201 Implementation Plan and Report: [W~Department of Children and Family Services~Act 201 Implementation Plan Report and Recommendations ~11-12-2019.pdf \(vermont.gov\)](#)



Columbia Justice Lab Analysis: [EAJP Justice Lab Update on RtA Issue Brief FINAL 1.30 \(squarespace.com\)](#)

OCYFA Annual Report: [2023 OCYFA Annual Report \(vermont.gov\)](#)

Outright Vermont Article: [‘The world is changing’: Dana Kaplan steers Outright Vermont through an evolution - VTDigger](#)