

**Issue Statement:** The 2017 (Act 72) and 2018 (Act 201) statutory amendments to move youth aged 19-21 into Family Court to be adjudicated as Youthful Offenders has unnecessarily complicated the process; multiple jurisdictional transfers delay justice for victims and services for offenders; and in the most egregious cases put community and victim safety at risk:

1. The whole point of rehabilitation in Family Court is to ensure consequences are swift and proportional to the act and services are delivered timely. The process for transfer from Criminal to Family, particularly in light of court backlogs, can take months, and that is simply to get to the Youthful Offender Consideration hearing.
2. Due to the limitations on when the State can direct file YO petitions in the Family Division, sometimes to obtain YO status, the State needs to file a delinquency petition in Family Court, move to have the case transferred to the Criminal Division, and then file a motion for youthful offender status.
3. While awaiting a jurisdictional determination, in some cases young adults who have been charged with violent crimes are released into the community due to the lack of an appropriate placement.
4. Prior to 2017, a young adult was required to make a conditional plea of guilty prior to receiving the benefits of Youthful Offender status. This is no longer the case and this has generally resulted in a lack of accountability, especially for repeat offenders.
5. Confidentiality of the Family Court process makes it difficult to have meaningful conversations about bail and conditions of release when a Youthful Offender on probation faces new charges in the Criminal Division.
6. Individuals who commit violent crimes may still age out of Family Court jurisdiction before they can be apprehended, charged, and fully prosecuted. This deprives the individual of the rehabilitative services juvenile proceedings are designed to provide and, in some cases, may put public and victim safety at risk.
7. Individuals subject to delinquency and YO proceedings may have difficulty understanding the laws that apply to them.

**Solution:** Change the venue for all YO proceedings to the Criminal Division and proceed under seal in order to simplify, streamline and facilitate the disposition process with all of the benefits of the Family Court process and rehabilitative services in appropriate cases.

1. All youth aged 14-21 seeking YO status begin with sealed proceedings in Criminal Court (this may require a transfer from Family Court in the

- case of those under 19, but would avoid the double transfer back to Family).
2. Consideration for YO status may be on motion of State's Attorney, defendant or Court on its own motion.
  3. Victims shall be provided with notice of initial appearance and arraignment and opportunity to be heard on issue of YO designation.
  4. Return to requirement for a conditional plea in order to take advantage of YO status and proceed to the disposition hearing.
  5. YO Disposition Hearing would be heard in Criminal Court which may retain jurisdiction as youth ages.
  6. Presume YO ineligibility for certain violent crimes.
  7. Presume YO ineligibility if defendant refuses conditional plea.
  8. Expand ability of prosecutors to file criminal charges for delinquent offenders directly in the Criminal Division from just the "Big 12" to a greater range of violent crimes against a person, thereby also expanding flexibility to direct file as a YO in accordance with 33 V.S.A. § 5201(c).
  9. Further defer "Raise the Age" of automatic Family Court jurisdiction for those up to 20 through July 1, 2025.

**Proposed legislative changes:**

\*\*\*Expanded authority to file criminal charges for violent offenses in Criminal  
Division\*\*\*

Sec. 1. Amend 33 V.S.A. § 5204 to read:

33 V.S.A. § 5204. Transfer from Family Division of the Superior Court

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court if the child had attained 16 years of age but not 19 years of age at the time the act was

alleged to have occurred and the delinquent act set forth in the petition is a felony not specified ~~in subdivisions 1-12 of~~ below in this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following (for purposes of 33 V.S.A. Chapter 52 and Chapter 52A, each, a “crime of violence against a person”):

(1) arson causing death as defined in 13 V.S.A. § 501, first degree arson as defined in 13 V.S.A. § 502, or second degree arson as defined in 13 V.S.A. § 503;

(2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b) and assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

(3) aggravated assault as defined in 13 V.S.A. § 1024;

(4) stalking as defined in 13 V.S.A. § 1062 and aggravated stalking as defined in 13 V.S.A. § 1063(a)(3);

(5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as defined in 13 V.S.A. § 2311;

(6) manslaughter as defined in 13 V.S.A. § 2304;

(7) kidnapping as defined in 13 V.S.A. § 2405;

(8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

(9) maiming as defined in 13 V.S.A. § 2701;

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2), aggravated sexual assault as defined in 13 V.S.A. § 3253, or aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a;

(11) domestic assault as defined in 13 V.S.A. § 1042, first degree aggravated domestic assault a defined in 13 V.S.A. § 1043 and second degree aggravated domestic assault a defined in 13 V.S.A. § 1044;

(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c);

(13) trafficking a regulated drug as defined in 18 V.S.A. §§ 4230(c), 4231(c), 4233(c), or 4234a(c);

(14) selling or dispensing a regulated drug with death resulting as defined in 18 V.S.A. § 4250;

(15) using a firearm while selling or dispensing a drug as defined in 18 V.S.A. § 4253;

(16) carrying a dangerous or deadly weapon while committing a felony as defined in 13 V.S.A. § 4005;

(17) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602;

(18) eluding a police officer with serious bodily injury or death resulting as defined in 23 V.S.A. § 1133(b);

(19) willful and malicious injuries caused by explosives as defined in 13 V.S.A. § 1601, injuries caused by destructive devices as defined in 13 V.S.A. § 1605 or injuries caused by explosives as defined in 13 V.S.A. § 1608;

(20) human trafficking in violation of 13 V.S.A. § 2652 or aggravated human trafficking in violation of 13 V.S.A. § 2653;

(21) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the person as defined in 13 V.S.A. § 2503;

(22) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(23) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(24) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(25) a hate-motivated crime as defined in 13 V.S.A. § 1455;

(26) conspiracy as defined in 13 V.S.A. § 1404;

(27) an attempt to commit any of the preceding offenses as defined in 13 V.S.A. § 9;

(28) a violation of an abuse prevention order as defined in 13 V.S.A. § 1030 or violation of an order against stalking or sexual assault as defined in 12 V.S.A. § 5138; or

(29) a violation of a condition of release imposed by the Criminal Division as defined 13 V.S.A. § 7559 for any of the foregoing.

**Sec. 1.** 2018 Acts and Resolves No. 201, Sec. 21, as amended by 2022 Acts and Resolves No. 160, Sec. 1 is amended to read:

Sec. 21. EFFECTIVE DATES \* \* \* (d) Secs. 17–19 shall take effect on ~~July 1, 2023~~ July 1, 2025

**Sec. 2.** 2020 Acts and Resolves No. 124, Sec. 12, as amended by 2022 Acts and Resolves No. 160, Sec. 2 is amended to read:

Sec. 12. EFFECTIVE DATES (a) Secs. 3 (33 V.S.A. § 510(c)) (33 V.S.A. § 5103(c)) and 7 (33 V.S.A. § 5206) shall take effect on ~~July 1, 2023~~ July 1, 2025

**Sec. 3.** 33 V.S.A. § 5280 is amended to read:

33 V.S.A. § 5280. Commencement of Youthful Offender Proceeding. ~~in the Family Division~~

(a) A youthful offender proceeding under this chapter shall be commenced by

(1) the filing of a youthful offender petition by a State’s Attorney in the

Criminal Division of the Superior Court; or

(2) the filing of a motion in the Criminal Division of the Superior Court requesting that a defendant under 22 years of age in a criminal proceeding who had attained the age of 14 but not the age of 22 at the time of the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the State's Attorney, the defendant or the Court on its own motion transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) Except as set forth in section 5283(c)(2), upon the commencement of a youthful offender proceeding under this section, future proceedings shall be sealed until youthful offender status is denied or revoked.

(c) Upon the filing of a motion under this a section and the entering of a conditional plea of guilty by the youth, the Criminal Division shall enter an order deferring the sentence and hold a hearing on the motion.

(d) If a youth declines to enter a conditional plea youthful offender status shall be denied.

(e) If a State's Attorney files a petition under subdivision (a)(1) of this section, The case shall proceed as provided under subsection 5281(ab) of this title.

(f) The term “conditional plea” as used in this chapter means “a plea of guilty that is conditioned on the granting of youthful offender status that may be withdrawn in the event that youthful offender status is denied.”

~~(g)(1) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section~~ Upon the commencement of a youthful offender proceeding under this section, the court shall notify the youth that the youth is required to complete a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The notice shall inform the youth that youthful offender status may be denied if the youth fails to participate in the risk and needs screening.

(2) The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the ~~Family Division~~ court shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days after the offer for the risk and needs screening.



(3) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(4) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

(eh) The State's Attorney shall refer directly to court diversion a youth alleged to have committed any offense other than ~~those specified in subsection 5204(a) of this title and~~ crimes of violence against a person specified in subsection 5204(a) of this Title who presents a low to moderate risk to reoffend based on the results of the risk and needs screening, unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

(fi) The State's Attorney shall not refer a youth to court diversion if it is the third or more such referral.

Sec 4. 33 V.S.A. § 5281 is amended to read:

33 V.S.A. § 5281 ~~Motion in~~ **Commencement of Youthful Offender Proceedings in the Criminal Division of Superior Court**

(a) ~~A motion may be filed in the Criminal Division of the Superior Court requesting that a defendant under 22 years of age in a criminal proceeding who had attained 12 years of age but not 22 years of age at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the State's Attorney, the defendant, or the court on its own motion.~~

(b) Unless the State's Attorney refers the youth directly to court diversion pursuant to subsection 5280(h) of this title, upon the filing of a motion ~~under this section~~ or the filing of a youthful offender petition-pursuant to section 5280 of this title, the court ~~Family Division~~ shall hold a hearing pursuant to section 5284 of this title.

~~Pursuant to section 5110 of this title, †~~ The hearing shall be confidential as set forth in section 5284 of this title. ~~Copies of all records relating to the case shall be forwarded to the Family Division.~~

~~(eb)(1) If the court Family Division rejects the case for youthful offender treatment pursuant to section 5284 of this title, the case shall be transferred to the Criminal Division. The conditions of release imposed by the Criminal Division shall remain in effect, any previously sealed proceedings shall be unsealed and the case shall proceed as though the motion for youthful offender treatment or youthful offender petition had not been filed.~~

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the court's ~~Family Division's~~ denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any purpose in the subsequent criminal proceeding.

(d) If the court ~~Family Division~~ accepts the case for youthful offender treatment, ~~the case shall proceed to a confidential merits hearing or admission pursuant to sections 5227-5229 of this title.~~ the youth shall not be permitted to withdraw their plea of guilty after youthful offender status is approved except to correct manifest injustice pursuant to Rule 32(d) of the Vermont Rules of Criminal Procedure.

**Sec. 4.** 33 V.S.A. § 5282 is amended to read:

33 V.S.A. § 5282. **Report from the Department**

~~(a) Within 30 days after the youth has completed the risk and needs screening pursuant to section 5280 of this title, unless the court extends the period for good~~

~~cause shown or the State's Attorney refers the youth directly to court diversion pursuant to subsection 5280(e) of this title, the Department for Children and Families shall file a report with the Family Division of the Superior Court.~~

~~(b) A report filed pursuant to this section shall include the following elements:~~

~~(1) a recommendation as to whether diversion is appropriate for the youth because the youth is a low to moderate risk to reoffend; (2) a recommendation as to whether youthful offender status is appropriate for the youth;~~

~~and~~

~~(3) a description of the services that may be available for the youth.~~

~~(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than:~~

~~(1) the Department;~~

~~(2) the court;~~

~~(3) the State's Attorney;~~

~~(4) the youth, the youth's attorney, and the youth's guardian ad litem;~~

~~(5) the youth's parent, guardian, or custodian if the youth is under 18 years of age, unless the court finds that disclosure would be contrary to the best interests of the child;~~

~~(6) the Department of Corrections; or]~~

~~(7) any other person when the court determines that public safety or the best interests of the youth would make such a disclosure desirable or helpful.~~

[Repealed.]

**Sec. 5.** 33 V.S.A. § 5283 is hereby amended to read:

33 V.S.A. § 5283. Youthful Offender Disposition Hearing in Family Division

(a) Timeline. Unless the State's Attorney refers the youth directly to court diversion pursuant to subsection 5280(e) of this title, a youthful offender ~~consideration~~ disposition hearing shall be held within 45 days of the filing of a motion or the filing of a youthful offender petition filed in accordance with Section 5280 of this title. not later than 60 days after the transfer of the case from the Criminal Division or filing of a youthful offender petition in the Family Division.

(b) Notice. Notice of the hearing shall be provided to the State's Attorney; the youth; the youth's parent, guardian, or custodian; the victim; the Department; and the Department of Corrections. The court shall not exclude any victim from such proceeding or any portion thereof unless, after hearing from the parties and the victim and for good cause shown, which shall be clearly and specifically stated on the record, the court orders otherwise. For the purposes of this subsection,

“victim” means a person who is the victim of a crime for which a youth is charged, a parent or guardian of such person, the legal representative of such person or a victim advocate for such person.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied on to the extent of its probative value. If reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) For individuals who had attained 18 years of age but not 22 years of age at the time the act is alleged to have been committed, hearings under 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

(d) Burden of proof. The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a ~~child~~ youth should be granted youthful offender status. If the Court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

**Sec. 6.** 33 V.S.A. § 5284 is hereby amended to read:

**33 V.S.A. § 5284. Youthful Offender Determination and Disposition Order**

(a)(1) In a hearing on a motion or a petition for youthful offender status, the court shall first consider whether public safety will be protected by treating the youth as a youthful offender. If the court finds that public safety will not be protected by treating the youth as a youthful offender, the court shall deny the motion, the conditions of release imposed by the Criminal Division shall remain in effect; and the case shall proceed as though the motion for youthful offender treatment or youthful offender petition had not been filed.

~~.. and transfer the case to the Criminal Division of the Superior Court pursuant to subsection 5281(d) of this title.~~ If the court finds that public safety will be protected by treating the youth as a youthful offender, the court shall proceed to make a determination under subsection (b) of this section.

(2) When determining whether public safety will be protected by treating the youth as a youthful offender, the court shall consider, on the basis of the evidence admitted:

(A) the nature and circumstances of the charge and whether violence was involved;

- (B) the youth's mental health treatment history and needs;
- (C) the youth's substance abuse history and needs;
- (D) the youth's residential housing status;
- (E) the youth's employment and educational situation;
- (F) whether the youth has complied with conditions of release;
- (G) the youth's criminal record and whether the youth has engaged in subsequent criminal or delinquent behavior since the original charge;
- (H) whether supervising the youth on youthful offender probation is appropriate considering the nature of the charged offense and the age and specialized needs of the youth;
- (I) whether the youth has connections to the community; and
- (J) the youth's history of violence and history of illegal or violent conduct involving firearms or other deadly weapons.

(b)(1) The court shall deny the motion if the court finds that:

- (A) public safety will not be protected by treating the youth as a youthful offender;
- (B) the youth is not amenable to treatment or rehabilitation as a youthful offender; or



(BC) there are insufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(2) The court shall grant the motion if the court finds that:

(A) public safety will be protected by treating the youth as a youthful offender;

(B) the youth is amenable to treatment or rehabilitation as a youthful offender; and

(BC) there are sufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(c) If the court approves the motion for youthful offender treatment ~~after an adjudication pursuant to subsection 5281(d) of this title~~, the court shall:

(1) place the youth on conditions of probation pursuant to Chapter 5 of Title 28. The requirements of this provision may be satisfied by entering the single condition required under subparagraph (3) of this subsection or such additional conditions as are imposed by the Court;

(2) ~~shall approve a disposition case plan as set forth in Section 5230 of this title and impose conditions of juvenile probation on the youth;~~ and

(3) include as a condition of probation adherence to the disposition plan approved by the Court.

(d) The Court may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth or the Commissioner of the Department for Children and Families, provided that any transfer of custody shall expire on the youth's 18th birthday.

(-e) The Department for Children and Families and the Department of Corrections, shall be responsible for supervision of and providing services to the youth until the earlier of (i) he or she the youth successfully completes treatment and supervision reaches 22 years of age; or (ii) youthful offender designation is revoked in accordance with 33 V.S.A. 5285. Both the Department for Children and Families and the Department of Corrections shall designate a case manager who together shall appoint a lead Department to have final decision-making authority over the case plan and the provision of services to the youth. The youth shall be eligible for all appropriate community-based programming and services . provided by both Departments provided by the Agency of Human Services.

Sec. 7.33 V.S.A. § 5285 is amended to read as follows:

**33 V.S.A. § 5285. Modification or revocation of disposition**

(a) If it appears that the youth has violated the terms of probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the ~~Family~~ Criminal Division of the Superior Court. The court shall set the motion for hearing ~~as soon as practicable~~ within 30 days. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title. A supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained 18 years of age for violating conditions of probation in a manner consistent with Section 301 of Title 28. A youthful offender who has not achieved the age of 18 may be detained in a facility for juveniles pursuant to Section 5266 of this title. A youthful offender who is detained prior to the age of 18 who subsequently achieves the age of 18 may be transferred to an adult facility.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the court finds after the hearing that the youth has violated the terms of ~~his or her~~ the youth's probation, the court may:

- (1) maintain the youth's status as a youthful offender, with modified conditions of probation if the court deems it appropriate;

(2) revoke the youth's status as a youthful offender ~~and transfer the case with a record of the petition, affidavit, adjudication, disposition, and revocation to the Criminal Division for sentencing;~~ or (3) transfer supervision of the youth to the Department of Corrections with all of the powers and authority of the Department and the Commissioner under Title 28, including graduated sanctions and electronic monitoring.

(d) If a youth's status as a youthful offender is revoked ~~and the case is transferred to the Criminal Division~~ pursuant to subdivision (c)(2) of this section, the court shall ~~enter a conviction of guilty based on the admission to or finding of merits,~~ hold a sentencing hearing, and impose sentence. ~~Unless it serves the interest of justice, the case shall not be transferred back to the Family Division pursuant to section 5203 of this title.~~ When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward or regression from rehabilitation while on youthful offender status. The court shall have access to all records of the proceeding.

Sec.8. 33 V.S.A. § 5286 is amended to read:

**33 V.S.A. § 5286. Review prior to 19 years of age**

(a) If a youth is on probation as a youthful offender prior to reaching 19 years of age, the court shall review the youth's case before ~~he or she~~ the youth reaches 19 years of age and set a hearing to determine whether the court's youthful offender jurisdiction over the youth should be continued past 19 years of age. The hearing may be joined with a motion to terminate youthful offender status under section 5285 of this title. The court shall provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families, and the Department of Corrections.

(b) After receiving a notice of review under this section, the State may file a motion to modify or revoke pursuant to section 5285 of this title. If such a motion is filed, it shall be consolidated with the review under this section and all options provided for under section 5285 of this title shall be available to the court.

(c) The following reports shall be filed with the court prior to the hearing:

(1) The Department for Children and Families and the Department of Corrections shall jointly report their recommendations, with supporting justifications, as to whether the court should continue youthful offender jurisdiction over the youth past 19 years of age and, if continued youthful offender jurisdiction is recommended, propose a case plan for the youth to ensure compliance with and completion of the youthful offender disposition.

(2) If the Departments recommend continued supervision of the youthful offender past 19 years of age, the Departments shall report on the services that would be available for the youth.

(d) If the court finds that it is in the best interests of the youth and consistent with community safety to continue youthful offender jurisdiction past 18 years of age, it shall make an order continuing the court's youthful offender jurisdiction up to 22 years of age. The Department for Children and Families and the Department of Corrections shall jointly develop a case plan for the youth and coordinate services and share information to ensure compliance with and completion of the youthful offender ~~juvenile~~ disposition.

(e) If the court finds that it is not in the best interests of the youth or community safety to continue the case past 19 years of age, it shall terminate the disposition order, discharge the youth, and dismiss the case in accordance with subsection 5287(c) of this title.

**Sec. 9.** 33 V.S.A. § 5287 is amended to read:

**33 V.S.A. § 5287. Termination or continuance of probation**

(a) A motion or stipulation may be filed at any time in the ~~Family~~ Criminal Division requesting that the court terminate the youth's status as a youthful offender and discharge ~~him or her~~ the youth from probation. The motion may be filed by the State's Attorney, the youth, the Department, or the court on its own motion.

(b) In determining whether a youth has successfully completed the terms of probation, the court shall consider:

- (1) the degree to which the youth fulfilled the terms of the case plan and the probation order;
- (2) the youth's performance during treatment;
- (3) reports of treatment personnel; and
- (4) any other relevant facts associated with the youth's behavior.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the ~~Family Division~~ case. ~~The Family Division shall provide notice of the dismissal to the Criminal Division, which shall dismiss the criminal case.~~

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the Criminal Division shall be ~~expunged~~ sealed. Such records and files shall be available to:

- (1) the defendant and the defendant's attorney;
- (2) any court or State's attorneys for the purposes of a pending criminal action;
- (3) federal and state law enforcement agencies when acting within the scope of their law enforcement duties;
- (4) the court, prosecutor and defense counsel if the defendant becomes a witness in a criminal proceeding or the claimant and respondent if the defendant becomes a witness in a civil proceeding;
- (5) when an individual is a defendant in a criminal action and the sealed records of the defendant are integral to their defense;
- (6) entities that are required by state or federal law to request a fingerprint-based background check of criminal history information
- (7) any prospective employer of the defendant if the defendant seeks employment as a law enforcement officer;
- (8) any federal, state or local officer or agency with responsibility for the issuance of licenses to possess a firearm or with the responsibility of conducting background checks before transfer or sale of a firearm or explosive, including the criminal justice information services division of the federal bureau of investigation, for purposes of responding to queries



to the national instant background check system regarding attempts to purchase or otherwise take possession of firearms; and

(9) for purposes of civilian investigation or evaluation of a civilian complaint or civil action concerning law enforcement or prosecution actions. ~~and all records relating to the case in the Family Court shall be sealed pursuant to section 5119 of this title.~~

(e) If the court denies the motion to discharge the youth from probation, the court may extend or amend the probation order as it deems necessary.

(f) Upon the termination of the period of probation, the youth shall be discharged from probation.