

## Memorandum

To: Senator Sears, Chair, Senate Judiciary Committee  
From: The Governor's Council for Equitable Youth Justice  
Date: February 6<sup>th</sup>, 2024  
Re: Raising the Age of Juvenile Jurisdiction

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### Summary:

The Council for Equitable Youth Justice (the Council), is the state advisory group for juvenile justice and delinquency prevention, as required by the federal Juvenile Justice Reform Act of 2018 (34 U.S. Code § 11133 (Sec.223)). For more than two decades, the Council's policy advocacy focus has been juvenile court jurisdiction and ensuring that the system is developmentally appropriate. The Council respectfully submits this memo in response to several policy recommendations from both the administration and the legislature regarding the juvenile justice system, specifically the age of juvenile court jurisdiction.

The Council supports Department for Children & Families' (DCF) vision for a right-sized, developmentally appropriate residential system of care for youth. However, we do not support their request that the expansion of juvenile jurisdiction to include 19-year-olds be indefinitely postponed until the high-end system of care is functional. In addition, we request full funding for BARJ and other services critical to the Raise the Age initiative.

### Background:

We wish to acknowledge DCF's concerted effort to ensure safe options are available to youth who require high-end care. We are encouraged by the developments outlined in their December report on the High-End System of Care and the ongoing commitment to both further development and increase stakeholder engagement.

We appreciate and thank DCF for including some data regarding emerging adults. We are aware that the workforce challenge for DCF is not insignificant, and Act 201 implementation did not result in meaningful increases in staffing levels. The closing of Woodside without a secure residential system for youth has further exacerbated the challenges that DCF has faced over the past three years. The result has been that 19-year-olds who should have been treated as delinquents under the original provisions of Act 201, are still treated as criminals in the Criminal Division.

The State of Vermont has taken bold steps to acknowledge that emerging adults, specifically 18 and 19-year-olds, are adolescents from a brain development perspective and therefore not that different from their 16 and 17-year-old counterparts. They are therefore best served by the rehabilitative and developmentally appropriate juvenile justice system rather than the adult criminal justice system. In Miller v. Alabama, the U.S. Supreme Court citing Roper v. Simmons, 543 U.S. 551 (2005), recognized that youth: "have a 'lack of maturity and an underdeveloped

sense of responsibility' leading to recklessness, impulsivity and heedless risk taking." Miller v. Alabama, 567 U.S. 460, 471 (2012). Impulsivity typically accounts for most youth crime. Vermont's workforce, education system and businesses do not benefit when youth, who could otherwise outgrow impulsive behavior, are prevented from fully engaging in employment or education opportunities because of a criminal record. Supporting positive youth development makes the state of Vermont safer and healthier.

### **Data Challenges**

We are concerned that the data challenges experienced both within DCF and the other juvenile justice system stakeholders result in none of these entities having enough information to paint a complete picture of what is happening in the system with case and crime rates. Based on what we are able to see from the available data, the inclusion of 18-year-olds does not appear to be the cause of increased filings in the Family Division's delinquency docket or of numbers of youth on DCF probation. Moreover, some have inferred that the raise the age initiative is responsible for or somehow connected to recent increases in crime rates without citing any data to support this contention. In FY23, 700 delinquency petitions were filed which is nearly identical to those filed in FY19, two years before the family division jurisdiction was expanded to include 18-year-olds. Further, in FY19, there were 504 Youth Offender Petitions, compared to 314 in FY23. To turn back the clock on the hard-won system reforms without having a clear and irrefutable rationale to do so, makes no sense to us.

### **Policy and Budget Recommendation:**

We recommend that the state budget provide additional resources to support adequate staffing levels at DCF and funding for BARJ programs. We oppose indefinitely postponing the inclusion of 19-year-olds in the juvenile justice system. We propose instead that their inclusion either go forward on July 1<sup>st</sup>, 2024, as is set out in law, *or* that it be postponed for one year only with a requirement that DCF and its juvenile justice stakeholders submit quarterly reports to the Joint Justice Oversight Commission on their progress towards this goal.

In closing, thank you for considering our proposed recommendation. We would welcome the opportunity to discuss this with you further.