

1 H.2

2 Representative LaLonde of South Burlington moves that the bill be
3 amended by striking out all after the enacting clause and inserting in lieu
4 thereof the following:

5 * * * Family Division Delinquency Jurisdiction * * *

6 Sec. 1. 33 V.S.A. § 5102 is amended to read:

7 § 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

8 As used in the juvenile judicial proceedings chapters:

9 * * *

10 (2) “Child” means any of the following:

11 * * *

12 (C) an individual who has been alleged to have committed or has
13 committed an act of delinquency after becoming ~~10~~ 12 years of age and prior
14 to becoming 22 years of age, unless otherwise provided in chapter 52 or 52A
15 of this title; provided, however:

16 (i) that an individual who is alleged to have committed an act
17 before attaining ~~10~~ 12 years of age that would be murder as defined in
18 13 V.S.A. § 2301 if committed by an adult may be subject to delinquency
19 proceedings; and

20 (ii) that an individual may be considered a child for the period of
21 time the court retains jurisdiction under section 5104 of this title.

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Sec. 2. 33 V.S.A. § 5103(c) is amended to read:

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a delinquency may be extended until six months beyond the child's:

(i) ~~19th~~ 20th birthday if the child was 16 or 17 years of age when ~~he or she~~ the child committed the offense; or

(ii) ~~20th~~ 21st birthday if the child was 18 years of age when ~~he or she~~ the child committed the offense.

* * *

* * * Raise the Age * * *

Sec. 3. 2024 Acts and Resolves No. 125, Secs. 7–11 are amended to read:

Sec. 7. [Deleted.]

Sec. 8. [Deleted.]

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Sec. 11. [Deleted.]

Sec. 4. 2024 Acts and Resolves No. 125, Sec. 21 is amended to read:

1 (c) If it appears to the State’s Attorney that the defendant was under ~~19~~ 20
2 years of age at the time the felony offense charged was alleged to have been
3 committed and the felony charged is not an offense specified in subsection
4 5204(a) or subdivision 5201(c)(2) or (3) of this title, the State’s Attorney shall
5 file charges in the Family Division of the Superior Court, pursuant to section
6 5201 of this title. The Family Division may transfer the proceeding to the
7 Criminal Division pursuant to section 5204 of this title.

8 * * *

9 Sec. 7. 33 V.S.A. § 5204 is amended to read:

10 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
11 COURT

12 (a) After a petition has been filed alleging delinquency, upon motion of the
13 State’s Attorney and after hearing, the Family Division of the Superior Court
14 may transfer jurisdiction of the proceeding to the Criminal Division of the
15 Superior Court if the child had attained 16 years of age but not ~~19~~ 20 years of
16 age at the time the act was alleged to have occurred and the delinquent act set
17 forth in the petition is a felony not specified in subdivisions (1)–(11) of this
18 subsection or if the child had attained 12 years of age but not 14 years of age at
19 the time the act was alleged to have occurred, and if the delinquent act set forth
20 in the petition was any of the following:

21 * * *

1 Sec. 8. 33 V.S.A. § 5103(c) is amended to read:

2 (c)(1) Except as otherwise provided by this title and by subdivision (2) of
3 this subsection, jurisdiction over a child shall not be extended beyond the
4 child’s 18th birthday.

5 (2)(A) Jurisdiction over a child with a delinquency may be extended
6 until six months beyond the child’s:

7 (i) 20th birthday if the child was 16 or 17 years of age when the
8 child committed the offense; ~~or~~

9 (ii) 21st birthday if the child was 18 years of age when the child
10 committed the offense; or

11 (iii) 22nd birthday if the child was 19 years of age when the child
12 committed the offense.

13 * * *

14 Sec. 9. 33 V.S.A. § 5206 is amended to read:

15 § 5206. CITATION OF 16- TO ~~18-YEAR-OLDS~~ 19-YEAR-OLDS

16 (a)(1) If a child was over 16 years of age and under ~~19~~ 20 years of age at
17 the time the offense was alleged to have been committed and the offense is not
18 specified in subsection (b) of this section, law enforcement shall cite the child
19 to the Family Division of the Superior Court.

20 * * *

1 * * * Expedited Transfer From Family Division to Criminal Division * * *

2 Sec. 10. 33 V.S.A. § 5262 is amended to read:

3 § 5262. CONDITIONS OF PROBATION

4 (a)(1) The conditions of probation shall be such as the court in its
5 discretion deems necessary to ensure to the greatest extent reasonably possible
6 that the juvenile will be provided a program of treatment, training, and
7 rehabilitation consistent with the protection of the public interest.

8 (2) The court shall provide as an explicit condition of every juvenile
9 probation certificate that if the juvenile is adjudicated a delinquent or is
10 convicted of an adult crime while on probation, then the court may find the
11 juvenile in violation of the conditions of probation.

12 (3) If the child has attained the age of 18 but not the age of 20, the court
13 shall provide as an explicit condition of the juvenile probation certificate that if
14 the child violates the terms of juvenile probation for a second or subsequent
15 time, the court may transfer the case to the Criminal Division on an expedited
16 basis pursuant to section 5265a of this title.

17 (b) The court may, as a condition of probation, require that the juvenile:

18 (1) Work faithfully for a prescribed number of hours at a community
19 service activity acceptable to the court or, if so ordered by the court, at a
20 community service activity acceptable to a probation officer.

1 (2) Make restitution or reparation to the victim of the juvenile’s conduct
2 for the damage or injury that was sustained. When restitution or reparation is a
3 condition of probation, the court shall fix the amount thereof. The court shall
4 further determine the amount the juvenile can or will be able to pay and fix the
5 manner of performance. In the alternative, the court may refer the
6 determination of the amount, the ability to pay, and the manner of performance
7 to a restorative justice panel.

8 (3) Participate in programs designed to develop competencies to enable
9 the child to become a responsible and productive member of the community.

10 (4) Refrain from purchasing or possessing a firearm or ammunition, any
11 destructive device, or any dangerous weapon unless granted written permission
12 by the court or juvenile probation officer.

13 (5) Report to a juvenile probation officer at reasonable times as directed
14 by the court or the probation officer.

15 (6) Permit the juvenile probation officer to visit the juvenile at
16 reasonable times at home or elsewhere.

17 (7) Remain within the jurisdiction of the court unless granted permission
18 to leave by the court or the probation officer.

19 (8) Answer all reasonable inquiries by the juvenile probation officer and
20 promptly notify the probation officer of any change in address or employment.

1 (9) Satisfy any other conditions reasonably related to the juvenile’s
2 rehabilitation.

3 (10) Reside at home or other location specified by the court.

4 (11) Attend or reside at an educational or vocational facility or a facility
5 established for the instruction, recreation, or residence of persons on probation.

6 (12) Work faithfully at suitable employment or faithfully pursue a
7 course of study or of vocational training that will equip the juvenile for suitable
8 employment.

9 (13) Undergo available medical treatment, participate in psychiatric
10 treatment or mental health counseling, and participate in alcohol or drug abuse
11 assessment or treatment on an outpatient or inpatient basis.

12 Sec. 11. 33 V.S.A. § 5263 is amended to read:

13 § 5263. JUVENILE PROBATION CERTIFICATE

14 (a) When a juvenile is placed on probation, the court shall issue a written
15 juvenile probation certificate setting forth:

16 (1) the name of the juvenile;

17 (2) the nature of the delinquent act committed by the juvenile;

18 (3) the date and place of the juvenile delinquency hearing;

19 (4) the order of the court placing the juvenile on probation; and

20 (5) the conditions of the juvenile’s probation.

1 (b) The juvenile probation certificate shall be furnished to and signed by
2 the juvenile and a custodial parent, guardian, or custodian of the child, if other
3 than parent. It shall be fully explained to them, and they shall be informed
4 about the consequences of violating the conditions of probation, including the
5 possibility of revocation of probation and the possibility of transfer to the
6 Criminal Division on an expedited basis pursuant to section 5265a of this title.

7 A copy of the juvenile probation certificate shall also be furnished to the
8 Commissioner. The probation certificate is not invalidated if it is not signed as
9 required by this subsection.

10 * * *

11 Sec. 12. 33 V.S.A. § 5265a is added to read:

12 § 5265a. SECOND OR SUBSEQUENT PROBATION VIOLATION;

13 MOTION FOR EXPEDITED TRANSFER FROM FAMILY

14 DIVISION TO CRIMINAL DIVISION

15 (a) If it appears that a child who has attained the age of 18 but not the age
16 of 20 has for a second or subsequent time violated the terms of juvenile
17 probation ordered by the court pursuant to section 5262 of this title, the State's
18 Attorney or the court on its own motion may file a motion in the Family
19 Division pursuant to this section for an expedited transfer of the case to the
20 Criminal Division.

1 (b) A hearing on a motion for expedited transfer filed pursuant to this
2 section shall be held in accordance with section 5268 of this title. The court
3 shall schedule the hearing as soon as practicable, but in no event later than 15
4 days after the motion is filed. The hearing may be joined with a hearing on a
5 violation of conditions of probation under section 5265 of this title.

6 (c)(1) At the hearing on the motion for expedited transfer, the court shall
7 consider the nature of the probation violation and whether it demonstrates that
8 continuing to treat the youth child in the Family Division poses an
9 unreasonable risk to public safety.

10 (2)(A) If the court finds that the probation violation demonstrates that
11 continuing to treat the youth child in the Family Division poses an
12 unreasonable risk to public safety, the court shall grant the motion for
13 expedited transfer and immediately transfer the case to the Criminal Division.
14 The State’s Attorney shall commence criminal proceedings as in cases
15 commenced against adults, and the case shall proceed as though the juvenile
16 proceeding had not occurred.

17 (B) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and
18 Rule 410 of the Vermont Rules of Evidence, the Family Division’s grant of the
19 motion for transfer and any information related to the juvenile proceeding shall
20 be inadmissible against the youth for any purpose in the subsequent Criminal
21 Division proceeding, including impeachment or cross-examination.

1 (3) If the court does not find that that the probation violation
2 demonstrates that continuing to treat the youth child in the Family Division
3 poses an unreasonable risk to public safety, the court shall deny the motion for
4 expedited transfer and the case shall proceed in the Family Division pursuant
5 to this subchapter.

6 * * * Repetitive Transfer Between Family and Criminal Divisions * * *

7 Sec. 13. 33 V.S.A. § 5204 is amended to read:

8 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR

9 COURT

10 * * *

11 (b)(1) The State’s Attorney of the county where the juvenile petition is
12 pending may move in the Family Division of the Superior Court for an order
13 transferring jurisdiction under subsection (a) of this section at any time prior to
14 adjudication on the merits. The filing of the motion to transfer jurisdiction
15 shall automatically stay the time for the hearing provided for in section 5225 of
16 this title, which stay shall remain in effect until such time as the Family
17 Division of the Superior Court may deny the motion to transfer jurisdiction.

18 * * *

19 (f)(1) The Family Division, following completion of the transfer hearing,
20 shall make findings and, if the court orders transfer of jurisdiction from the
21 Family Division, shall state the reasons for that order. If the Family Division

1 orders transfer of jurisdiction, the child shall be treated as an adult. The State’s
2 Attorney shall commence criminal proceedings as in cases commenced against
3 adults.

4 * * *

5 (3)(A) Notwithstanding subdivision (1) of this subsection, or any other
6 provision of law:

7 (i) the parties may stipulate to convert the juvenile proceeding to a
8 youthful offender proceeding under chapter 52A of this title; or

9 (ii) a motion may be filed by the State’s Attorney, the defendant,
10 or the court on its own motion, to convert the juvenile proceeding to a youthful
11 offender proceeding under chapter 52A of this title.

12 (B) If the parties stipulate to or move to convert the proceeding
13 pursuant to this subdivision, the court may proceed immediately to a youthful
14 offender consideration hearing under section 5283 of this title. The Court shall
15 request that the Department complete a youthful offender consideration report
16 under section 5282 of this title before accepting a case for youthful offender
17 treatment pursuant to this subdivision (3). If the court denies a motion to
18 convert the proceeding to a youthful offender proceeding filed under
19 subdivision (A)(ii) of this subdivision (f)(3), the proceeding shall remain in the
20 Family Division as a juvenile proceeding.

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* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES; APPLICABILITY

(a) Secs. 1, 2, and 13 shall take effect on July 1, 2025.

(b) Secs. 3 and 4 and this section shall take effect on March 31, 2024.

(c) Secs. 5–12 shall take effect on July 1, 2027 and shall only apply to proceedings filed on or after that date.