



VERMONT
OFFICE OF THE CHILD, YOUTH, AND FAMILY ADVOCATE
11 KILBURN ST., SUITE 212
BURLINGTON, VT 05401

February 6, 2024

Commissioner Chris Winters
Deputy Commissioner Aryka Radke
Adolescent Services Director Tyler Allen
Vermont Department of Children and Families
280 State Drive, HC 1 North
Waterbury, VT 05671-1080

Re: DCF Act 23 Letter of December 1, 2023

Dear Commissioner Winters, Deputy Radke, and Director Allen:

Pursuant to this Office’s statutory obligations to “work in collaboration with relevant parties to strengthen services for children, youths, and families,” and to “provide systemic information concerning child, youth, and family welfare to the public, the Governor, State agencies, legislators, and others, as necessary,” we write in response to your December 1, 2023, Act 23 Report, in which you requested that the Vermont legislature “indefinitely” pause Vermont’s landmark “Raise the Age” law.¹

Our response to your report can be summarized as follows:

1. As your report makes clear, DCF unquestionably needs more support to bolster its workforce, build a stronger continuum of care, and connect young people with age-appropriate services that promote public safety.
2. Despite these challenges, the available evidence strongly indicates that there is no need to pause Raise the Age *at all*.

New data this Office recently obtained for calendar year 2023 indicates that juvenile delinquency case filing remains at its lowest point since the inception of reforms to Vermont’s criminal justice system in 2016.² From January 1, 2023 through December 31, 2023, there were a total of 656 delinquency cases filed in the Family Division. This number continues the ongoing trend of lower case filings. In almost five years of phase one of Raise the Age—in which 18-year-olds were added to the Family Court system—average court filings have been lower for than the five years pre-implementation.³ In other words, even as the pool of potential juvenile defendants expanded, the total number of delinquencies declined. The data shows that the addition of 19-year-olds to the juvenile justice system on July 1, 2024 will likely have only minimal effects on DCF caseloads. It is

¹ [33 V.S.A. § 3203, Act-23-Status-Report-Dec-2023.pdf \(vermont.gov\)](#). See also [ACT201 As Enacted.pdf \(vermont.gov\)](#).

² Unpublished OCYFA data. See also [CJL Report January 2024](#).

³ *Id.*

unclear why there has been such a significant reduction in cases filed. But what we do know is that Raise the Age is working, and without significantly adding to caseloads. Vermont is doing what it set out to do: focusing on treatment rather than incarceration, promoting economic development, and reducing impacts on courts, families, and young people themselves. We should be championing the success of Raise the Age, not trying to shut it down.

Nonetheless, we strongly believe that it is crucial to acknowledge and address the significant systemic challenges DCF faces, whether or not one takes Raise the Age into account. These challenges include workforce shortages, a diminished system of care, an obsolete data system, and insufficient prevention resources in our communities. Foster home capacity is down, “staffings” of youth are at an all-time high, and Vermont lacks high quality short-term stabilization settings. These are large systemic problems that warrant a direct and targeted response. But pausing Raise the Age does little to address them. It feels to us like DCF’s call to pause Raise the Age is driven primarily by a sense that the Department cannot take on *any* significant new responsibilities, even those whose benefits to children and youth far outweigh their impact on DCF. While we understand that added pressure on the Department can have ripple effects on youth in care, we ask you to resist the urge to offload your burdens onto the backs of Vermont’s children, youth, and families.

Our Office strongly supports your call in the Act 23 report for at least six new FSW positions, an expansion of restorative justice funding, a new data system, and increased treatment capacity. We stand as your partners in pushing for *those* reforms, because we believe they will ultimately improve the welfare of Vermont’s most vulnerable children, youth, and families. In fact, we recommended many of these initiatives ourselves in our 2023 Annual Report.⁴ But we believe strongly that DCF should not seek to relieve these systemic pressures at the expense of our young people, which is exactly what a pause of Raise the Age would do. Raise the Age is nation-leading legislation that was enacted by the Vermont General Assembly after years of careful consideration. It is data driven, based in consensus brain science, and, according to DCF’s own words, created with “a multitude of partners, stakeholders, and subject matter experts in the development of an implementation plan.”⁵ Raise the Age is one part of a set of comprehensive criminal justice reforms in Vermont that have shown success in promoting public safety, reducing recidivism, and supporting young people.⁶

We call on you, as leaders of DCF, to reframe Vermont’s systemic needs to focus on the most urgent problems our state faces. We should prioritize prevention, treatment, and family preservation rather than criminalization and an overemphasis on secure facilities. We understand that DCF is in crisis and that every day you must make hard choices about where to place the children in your care—especially those in foster care. We recognize that fear-based rhetoric in the political and popular discourse has promoted crisis-driven policy making. We also know that DCF cannot make positive systemic changes on its own—it needs support from AHS, the legislature, the governor, the courts, and even this Office. But we feel strongly that DCF should actively push against the narratives that juvenile crime is out of control, Raise the Age is overly burdensome, and secure facilities will remedy the problems you mention in your report.

⁴ [2023 OCYFA Annual Report.pdf \(vermont.gov\)](#).

⁵ [APSR2024.pdf \(vermont.gov\)](#), p. 75. See also [Act 201 Implementation Plan 2018](#).

⁶ See “Preparing to Implement Act 201: Using Court Data to Understand the Impact of Act 201 on the Juvenile Justice System,” December 1, 2018, prepared by for DCF by Judge Amy Davenport.

Instead, here is what we believe Vermont can do right now to address DCF’s workforce shortages, rebuild our systems of care, and ease budgetary pressures:

- Accept the open offer from Casey Family Services to review the most serious recent DCF “staffings” of youth, with a specific focus on youth with developmental and intellectual disabilities.
- Fully fund a new CCWIS data-system for Vermont that will allow DCF to leverage millions of dollars in federal funding to improve our systems of care and save General Fund dollars.⁷
- Adopt the system-wide recommendations from AHS’s 2020 “Analysis of Children’s Residential System of Care.”⁸
- Capitalize on uncapped federal Title IV-E funding and new federal regulations to:
 - Keep children with kin, elevate youth voice in court, and support guardians ad litem.
 - Bring high quality, evidence-based prevention programs to Vermont.
 - Fund prevention-focused professional development, education, and training for workers in child-related fields, including childcare providers, mental health clinicians, mentors, birth parents, foster/kin caregivers, DCF workers, treatment providers, and school personnel.
 - Fund civil legal supports for families struggling with housing, public benefits, domestic violence, and other poverty-related legal issues.
 - Pay for high-quality legal representation for parents, children, and DCF, including pre-petition and substantiation appeal support for parents, peer mentors, social workers, and interpreters.⁹
- Continue the positive changes DCF has made that have reduced the number of youth in foster care to decade lows.
- Implement the recommendations of the OCYFA 2023 Annual Report.¹⁰

Vermont law enforcement data demonstrates that children are more likely survivors of violence and abuse than its perpetrators.¹¹ Recent high-profile media cases are more accurately seen as examples of our lack of support for Vermont’s young people than a sign that youth violence is out of control.¹² It is primarily youth in the foster care system in Vermont who end up in facilities like the former Woodside detention center, not those solely involved in the juvenile justice system. DCF has a duty to ensure that young people receive developmentally appropriate programming and services that increase public safety while also ensuring that Vermont youth do not face unnecessary barriers to becoming thriving members of our state, region, and nation. If our policy is driven by a rush to respond to crisis, we will only make the problems you identify in your Act 23 letter worse.

⁷ See [2023 OCYFA CCWIS Report.pdf \(vermont.gov\)](#).

⁸ [AHS Executive Summary of Children’s Residential System of Care~2-5-2021.pdf](#).

⁹ For more detail on Title IV-E opportunities, see [2023 OCYFA Annual Report.pdf \(vermont.gov\)](#).

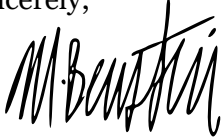
¹⁰ [2023 OCYFA Annual Report.pdf \(vermont.gov\)](#).

¹¹ [W~Shawn Loan~Unclassified Juvenile Offender and Victim Statistics~10-26-2023.pdf \(vermont.gov\)](#), showing that in 2023, incidents in which young people ages 10-19 are victims have risen to their highest rate ever, both by raw numbers and percentage. See also [OCYFA letter to Joint Justice 10-26-2023.pdf \(vermont.gov\)](#).

¹² See [2 recent drug busts have teens — and teen trafficking — at the center of the trade - VTDigger](#) and [Bennington pair accused of being accessory to killing of Massachusetts teen in 2022 - VTDigger](#).

Thank you for your attention. While we strongly disagree with your request to pause Raise the Age, we know you share our commitment to Vermont's young people. We remain ready to support all key stakeholders, including DCF, when the changes to Raise the Age go into effect this July 1.

Sincerely,

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

Matthew Bernstein, Esq.
Vermont Child, Youth, and Family Advocate

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

Lauren Higbee, MSW
Deputy Child, Youth, and Family Advocate