

## Nate Biscotti

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**From:** Martin LaLonde  
**Sent:** Friday, February 21, 2025 3:38 PM  
**To:** Nate Biscotti  
**Subject:** Fw: H.2 - DCF custody on 18+

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*Representative, Chittenden 12, South Burlington, VT*  
*Chair, House Judiciary Committee*  
*Chair, House Ethics Panel*  
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**From:** Boudreau, Lindy <Lindy.Boudreau@vermont.gov>  
**Sent:** Thursday, February 20, 2025 7:17 PM  
**To:** Erik FitzPatrick <EFITZPATRICK@leg.state.vt.us>; Martin LaLonde <MLaLonde@leg.state.vt.us>; Zonay, Thomas <Thomas.Zonay@vtcourts.gov>; Pahl, Marshall <Marshall.Pahl@vermont.gov>; Timothy Lueders-dumont <timothy.lueders-dumont@vermont.gov>  
**Subject:** H.2 - DCF custody on 18+

Hello,

I am following up on DCF's testimony earlier this week when we agreed to send along additional information in relation to DCF custody of youth ages 18+. To that end, we wanted to bring a couple of things to your attention.

1. It is DCF's understanding that the juvenile justice statutes already include provision for the placement of youth over 18 and under age 22.

First, the definition of "child" at 33 VSA § 5102(2)(C) includes the following:

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

- (i) that an individual who is alleged to have committed an act before attaining 10 years of age that would be murder as defined in 13 V.S.A. § 2301 if committed by an adult may be subject to delinquency proceedings; and
- (ii) that an individual may be considered a child for the period of time the court retains jurisdiction under section 5104 of this title.

Couple that with 5102(16)(C), which includes the following authority:

(C) Custody for individuals who are 18 years of age or older means the status created by order of the court under the authority of chapter 52 of this title that invests in the Commissioner the authority to make decisions regarding placements.

And finally, chapter 52 authorizes a court, prior to disposition, to place a child in DCF custody in a secure facility. 33 V.S.A. § 5291(a). Post-disposition, DCF's Commissioner has "sole authority to place a child who is in the custody of the Department in a secure facility for the detention or treatment of delinquent children." 33 V.S.A. § 5291(e). Since a "child" includes youth under age 22, "custody" includes placement authority, and Chapter 52 specifically authorizes placement in a secure facility for such a child, the statute allows placements of youth up to age 22 to be placed in secure facilities.

As noted in testimony, the continued sticking point is that Vermont has no facilities in which a youth 18-22 may be held in a secure facility that is not a DOC facility.

2. DCF continues to believe that the best course of action on H. 2 is to proceed with the delay of RTA and raising the minimum age of prosecution from 10 to 12.
3. Unrelated to any of the above or the legislation being discussed, is that 33 V.S.A. § 5102(2)(C)(ii) references § 5104, but § 5104 has been repealed. It may be that the citation needed in that section is §5103(c)(D).

Thank you.

Lindy

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