

Department of State's
Attorneys and Sheriffs

January 22, 2025

House Committee on
Judiciary

Raise the Age



Field Observations:

“I support the goals of RTA, but at this point **30% of my delinquency cases** that come in [involve persons who are 18+... and] 30% is not ballpark—I ran the numbers for delinquency cases submitted 7/1/23--6/30/24 and exactly 30% were 18+.”

“Juviles Already Involved in Delinquency Proceedings – [One further aspect] of Raise the Age that is tricky here is that there are some kids who are subject to delinquency proceedings already, are on juvenile probation, and still continue to commit new crimes.

My concern is that with Raise the Age these same kids are going to keep breaking the law **realizing that there are no real consequences in juvenile court for violating DCF probation** and these kids will get the benefit of raise the age and continue to commit new crimes until they are 20. This is a small sect of juveniles here in [County X], maybe a handful. But it does have the adverse effect on local businesses where these kids keep stealing and will continue to steal with seemingly no consequences until they are 20.”



Field Observations



“For the 18-year-old delinquents with felony charges, I can file a motion to transfer to the criminal division, however it CAN TAKE A LONG TIME --- **AND IT only applies to children who show up.** The family division cannot rule on such a motion without jurisdiction over the child, which requires the child to have appeared on the delinquency and been given notice of the motion. The true reality of the law is this: **We are holding minor delinquents (individuals who are still in the custody of their parents) to a higher level of accountability than adult delinquents (people who are in their own custody and can vote).** Such a result is fundamentally unfair to minors.”



Field Observations: resources

“For example: ___ weeks ago, I was in court on a probation review for a juvenile. The juvenile had been on probation since January. At a probation review in May, DCF had not yet made the BARJ referral that was required as part of probation. Last month when we returned to court, DCF had made no contact with the juvenile since the prior hearing, nor had it made the BARJ referral. **We just decided to discharge probation without completion because the situation was unfair to the juvenile.** I want to remind you that the juvenile was in the court process because they returned high-risk on the YASI. They needed the higher level DCF intervention and did not get it. ... This is not the only time this has happened. I recognize that DCF is understaffed, overworked, and constantly triaging their cases, **but this does not serve our community.**”

“Supports in the Community – I know at least here in [County X] when trying to rehabilitate a juvenile or get a juvenile connected with resources we are usually speaking about [County X] Mental Health, _____, BARJ, etc. My understanding now is that even without raise the age [Phase 2], our community resources have long waiting lists to even get an initial appointment or screening. I wonder if anything has been done to ensure community supports have enough resources and funding to ensure they can handle this further expansion of raise the age.”



Aging Out

“[Concerning the issue of ‘aging out’ of jurisdiction], I keep track of my cases and report statistics for [County X]. In 2020, when RTA occurred halfway in the year to 18-year-old juveniles, 0 cases aged out of jurisdiction without case resolution. In 2021, 2 cases aged out of jurisdiction without case resolution. In 2022, 4 cases aged out of jurisdiction without case resolution, 1 with a pending arrest warrant. In 2023, **8 cases aged out of jurisdiction without case resolution**, 1 with pending arrest warrant. (I haven’t analyzed 2024 yet.) It will only get worse when we add 19-year-old individuals to the delinquency roster.”



Aging Out

- ▶ Delinquent
- ▶ Credit Card Fraud
- ▶ Age at time of offense 17
- ▶ Age at time of filing 17
- ▶ Never got to disposition: I referred the case to Diversion. Child failed Diversion and case returned. Never came to court. Aged out at age 19 years, 6 months. Diversion took forever to return the case to court.



Aging out (YO example from last week)

- ▶ Youthful Offender
- ▶ Filed Originally in Criminal Division
- ▶ Aggravated Domestic Assault
- ▶ Age 19 years, 4 months at time of Offense, Charged & arraigned same day.
- ▶ Accepted as YO within 3 months of Offense, still 19.
- ▶ Age 20 years, 1 month at disposition.
- ▶ 2 VOPs filed (new charges out of state, missed PO meetings, failed to complete programming)
- ▶ Absconded supervision. Arrested out of state, had mental health issues. Upon release, returned to Vermont, but absconded the next day. Arrest Warrant Issued. Never appeared in court again since disposition.
- ▶ Aged out at 22 with arrest warrant still pending.

Current big 14 Offenses (33 VSA 5204)	Listed Offenses (13 VSA 5301) not included in big 14	Additional offenses not included in big 14
arson causing death	stalking	§ 3521. Domestic Terrorism
assault and robbery with a dangerous weapon	domestic assault	§ 3502. Possession and use of weapons of mass destruction
assault and robbery causing bodily injury	first degree aggravated domestic assault	§ 3503. Threats regarding weapons of mass destruction
aggravated assault	second degree aggravated domestic assault	§ 1601. Willful and malicious injuries caused by explosives
murder/aggravated murder	lewd or lascivious conduct	§ 1602. Attempts with explosives
manslaughter	lewd or lascivious conduct with a child	§ 1612. Placing a hoax device
kidnapping	recklessly endangering another person	Chapter 64: Sexual Exploitation of Children
unlawful restraint/2406 or 2407	Violation of abuse prevention order	§ 4003. Carrying dangerous weapons with intent to injure multiple
maiming	operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting	§ 4005. Carrying dangerous weapons while committing a felony
sexual assault	negligent or grossly negligent operation resulting in serious bodily injury or death	
aggravated sexual assault/of a child	leaving the scene of an accident with serious bodily injury or death	
for age 16+	burglary into an occupied dwelling	
using a firearm while committing a felony	abuse, abuse by restraint, neglect, sexual abuse, financial exploitation, and exploitation of services (of vulnerable adult)	
trafficking a regulated drug	human trafficking	
aggravated stalking	aggravated human trafficking	



With RTA, case filed in Family Division and case stays in Family Division

- ▶ Domestic assault 13 VSA 1042
- ▶ Violation of a Prevention Order 13 VSA 1030
- ▶ Sexual exploitation of a minor 13 VSA 3258
- ▶ Prohibited conduct 13 VSA 2601a
- ▶ Stalking 13 VSA 1062
- ▶ Reckless endangerment 13 VSA 1025
- ▶ Criminal threatening 13 VSA 1702
- ▶ Elder abuse 13 VSA 1376(a) and (b) (13 VSA 1376(c) aggravated abuse is a felony)



With RTA, case filed in Family Division and *may* be transferred to Criminal Division

- Sexual Assaults (not including 13 VSA 3252(a)(1) (no consent) or (a)(2) (by threat or coercion) which are part of Big 11)
- Lewd and Lascivious conduct
- Lewd and Lascivious conduct with a child
- Sexual exploitation of a children Chapter 64 (13 VSA 2821-2828)
 - Use of a child in a sexual performance
 - Consenting to a sexual performance (less likely unless 19-year-old is parent or guardian of child)
 - Promoting a recording of sexual conduct
 - Possession of child sexual material
 - Luring a child
- Disclosure of sexually explicit images without consent , for financial profit 13 VSA 2606(b)(2)
- Domestic assault – second or subsequent
- VAPO – second or subsequent
- Aggravated abuse of a vulnerable person
- Human trafficking 13 VSA 2652 – (a possible life offense)
- Domestic Terrorism – 13 VSA 3521



Jurisdictional Pathway for Felonies not Included in 13 VSA 5204(a)

- ▶ (d) Any proceeding concerning a child who is alleged to have committed any offense **other than those specified in subsection 5204(a)** of this title or subdivision (c)(2) or (3) of this section before attaining 20 years of age **shall originate in the Family Division** of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter. 33 VSA 5201(d).
- ▶ (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 20 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)-(11) of 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: ...(list of Big 11 offenses follows). 33 VSA 5204(a).
- ▶ (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. 33 VSA 5281(a).



But what about Youthful Offender?

- ▶ 33 VSA 5280(a) A proceeding under this chapter shall be commenced by:
 - ▶ (1) the filing of a youthful offender petition by a State's Attorney; or
 - ▶ (2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in [section 5281](#) of this title.
- ▶ 33 VSA 5280(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 14 years of age but not 22 years of age **that could otherwise be filed in the Criminal Division.**