

# Juvenile Jurisdiction in Vermont

Office of the Defender General - 2025



# The Questions

1. Someone 17 or under charged with a misdemeanor
  2. Someone 17 or under charged with a violent felony that is not a big-14 offense
  3. An 18-year-old charged with a misdemeanor
  4. An 18-year-old charged with a violent felony that is not a big-14 offense
- What capacity do available rehabilitation programs have? What are their needs?
  - What happens if a juvenile is not meeting conditions?
  - What data is available for different age groups in delinquency proceedings? What charges? What dispositions? Recidivism rates?
  - How are individuals in youthful offender status treated differently than juveniles in delinquency proceedings?
  - How many individuals are in youthful offender status? By County?

# What Happens for someone under age 17 charged with a misdemeanor? (Scenario 1)

1. Charging decision by the state – charge in the juvenile division, refer for pre-trial diversion, or decline
2. Preliminary hearing – similar to an arraignment/Rule 5 hearing in the criminal division
3. Merits – a bench trial in the juvenile division, if adjudicated, then case dismissed, if not adjudicated, then to disposition
4. Disposition – individualized case plan including custody, placement, programming, and conditions of probation.
  - a. Most cases do not involve state custody, most cases do involve required programming or treatment and a term of probation with individualized probation conditions.
5. Post-disposition – if youth is in custody- regular permanence hearings, violation of probation hearings, out-of-state-placement-hearings, etc.
6. Case closure – at end of term of probation unless discharged early

What happens  
for someone  
under 17  
charged with a  
violent felony  
*not* listed in  
§5204(a) or  
§5201(c)(3)?  
(Scenario 2)

1. Charging decision by the state – charge in the juvenile division, refer for pre-trial diversion, or decline
2. Preliminary hearing – similar to an arraignment/Rule 5 hearing in the criminal division
3. Motion to transfer – if the child is 16 or 17 and charged with a *felony* that is not listed in §5204(a) or §5201(c)(3), the state may move to transfer the case to the criminal division. If the offense is listed in §5204(b)(2)(A)(i), the court must hold a hearing whether the prosecutor requests it or not.
  - a) Transfer hearing – the state must show by a preponderance of the evidence (50%+) that “public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to the Family Division of the Superior Court and delinquent children.” If transferred, the case proceeds as a normal criminal case.
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6. Post-disposition – if youth is in custody- regular permanence hearings, violation of probation hearings, out-of-state-placement-hearings, etc.
7. Case closure – at end of term of probation unless discharged early

# What Happens for someone age 18 charged with a misdemeanor? (Scenario 1)

1. Charging decision by the state – charge in the juvenile division, refer for pre-trial diversion, or decline
2. Preliminary hearing – similar to an arraignment/Rule 5 hearing in the criminal division
3. Merits – a bench trial in the juvenile division, if adjudicated, then case dismissed, if not adjudicated, then to disposition
4. Disposition – individualized case plan including custody, placement, programming, and conditions of probation.
  - a. Most cases do not involve state custody, most cases do involve required programming or treatment and a term of probation with individualized probation conditions.
5. Post-disposition – if youth is in custody- regular permanence hearings, violation of probation hearings, out-of-state-placement-hearings, etc.
6. Case closure – at end of term of probation unless discharged early

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## Capacity of rehabilitative programs? Needs?

- Broad question because there are so many services that are “rehabilitative programs.”
- Generally, experience of our attorneys is that we do not have problems accessing community-based services.
- Things get trickier as you move up the continuum of need – attorneys report long delays getting children into more specialized programs. Some of this is unavoidable due to the procedures dictated by interstate compacts.
- Greatest needs seen in higher levels of care – need for appropriate inpatient adolescent substance abuse treatment, inappropriate use of short-term placements, need for placements in Vermont communities, need for placements at the highest levels of treatment and security.
- Our experience with Red Clover has been very positive – it has highlighted the needs at the lower levels of care.



# What happens if a juvenile is not meeting conditions?

- There's at least three different kinds of conditions that a juvenile might not meet: Conditions of Release, Conditions of Probation, and Institutional Conditions.
- Conditions of Release:
  - If the VCR is a new offense, the child can be charged with the new offense
  - VCRs that are not new offenses are considered at disposition
  - If a child is committing repeated VCRs, they may be taken into DCF custody
  - If a child is committing repeated VCRs, the court may order the child into detention
- Conditions of Probation:
  - DCF works with children to address minor violations of probation through a graduated sanction system, like DOC
  - If the VOP is more serious, it can be filed in court, and if the violation is found to have occurred, the court can impose new conditions of probation or extend the term of probation
  - If the court wants to go further, the court can order a child into custody and DCF may place the child at a treatment or detention facility
- Institutional Conditions:
  - Every institution is different in terms of their rules and how they enforce them. It is very common that residential treatment programs work on a system of levels where continued good behavior and engagement in treatment earns privileges and violations of institutional rules results in the loss of privileges.
  - Often, following the rules at a program is a condition of probation, so a violation of institutional rules can be a violation of probation addressed by the court. That is most often seen when a child is discharged from a program for rule-breaking.

What data is available?

- Very little.

## What data is available?

- Our office collects data on each juvenile case, but our office does not represent every juvenile, so while our data is internally useful, it does not contribute to conclusions about the juvenile justice system as a whole.
- We lack recidivism data – we have very little information to show which programs and practices work.
- We lack outcome data – recidivism is not the only (or even the most important) measure of success. We do not know how our clients fair as they transition into adulthood. We don't have measures of educational or training completion, employment, housing, or any other measure of success and satisfaction.
- We lack the ability to look at granular data– the data we see is in the aggregate, so we cannot identify if we have a small number of children responsible for a large proportion of particular charges or problems, we cannot see if a particular program is successful, a particular attorney is not achieving positive outcomes, a particular judge is ruling in an unorthodox or outlier manner.
- We should be in the StatCast\* era of criminal and juvenile justice by now and we are not even close.

\*<https://jasher.substack.com/p/crime-data-needs-a-statcast-era>

# How is Youthful Offender different from Juvenile Court?

- First, they are wholly different things. Youthful Offender is a *deferred-adjudication criminal court status* intended for *high-risk, high-need youth*. When you are a youthful offender, you are facing criminal charges and criminal punishment. It is a high-stakes, high-reward status.
- In juvenile court, everything is confidential, in Youthful Offender status, parts of the process are *not* confidential.
- In juvenile court, children are supervised by DCF and cannot be held in DOC facilities, in Youthful Offender status, youth are supervised by DCF and DOC and can be held in DOC facilities.
- If you violate juvenile probation conditions, you may be held in juvenile detention for as long as DCF can supervise you, but you age out. If you violate Youthful Offender conditions, you are sent to the criminal division for a criminal sentencing.
- I do not have data on the numbers of Youthful Offender cases in each county, but our data shows that approximately 50% of Youthful Offender petitions are granted.

# Juvenile Jurisdiction Today.

- The juvenile justice system is better for youth than the criminal justice system in almost all cases:
  - Justice systems are successful (measured by recidivism) with young people when they are able to work quickly. Delay undermines success.
  - The criminal court system is very backlogged and cases are not progressing quickly. Ironically, the less-serious cases (like those that most young people are charged with) can take the longest time because they are not as high a priority.
  - Many of the cases that the juvenile court resolves with individualized case planning and probation supervision would be resolved as fine-only cases in the criminal court – without addressing underlying risk and need and without any rehabilitative effect.
- The most concerning criminal conduct we are experiencing is not being driven by young offenders (with a couple exceptions):
  - Young people are committing fewer crimes, using less drugs, and engaging in less risky behavior than at any time since 1990.
  - Car thefts have gone up and that has been a very youth-involved increase driven by a Tik-Tok trend.
  - Serious drug and violence charges for youth are up slightly, but importantly, in a manner that mirrors the increase in drug use by a primarily adult population