



TO: Senate Judiciary Committee
House Judiciary Committee

FROM: Hon. Thomas A. Zonay, Chief Superior Judge, Chair

RE: Report of Working Group on Transfers of Juvenile Proceedings from the Family Division to the Criminal Division pursuant to subsection (b) of Section 20 of Act 125 (S. 58) (2024) (the “Act”)

DATE: November 25, 2025

Report Requirements

Pursuant to Subsection (b) of Section 20 of Act 125 (S. 58) (2024), on or before December 15, 2025, the Working Group shall submit a written report, which may be in the form of proposed legislation, to the Senate Committee on Judiciary and the House Committee on Judiciary.

Membership

The Members of the Working Group are:

1. Thomas A. Zonay, Chief Superior Judge (Chair)
2. Marshal Pahl, Defender General designee
3. Kimberly McManus, Department of State’s Attorneys and Sherriff’s designee
4. Aryka Radke, DCF designee

Report Requirements

The Act sets forth that the Report may be in the form of proposed legislation and shall include recommendations on the following topics:

(1) the changes in law that would be necessary if the Vermont juvenile justice system were restructured so that all cases alleging criminal violations by youths under 19 years of age started in the Family Division of the Superior Court, including alleged violations of 33 V.S.A. §§ 5204(a) and 5201(c)(2) or (3);

(2) whether cases alleging criminal violations by youths under 20 years of age should also begin in the Family Division; and

(3) statutory options for creating an expedited court process for more serious offenses that would permit transfer of proceedings from the Family Division of the Superior Court to the Criminal Division of the Superior Court without requiring the full transfer hearing process of 33 V.S.A. § 5204, including the offenses and offender age ranges that would qualify for the expedited process.

The enabling statute is available here [ACT125 As Enacted.pdf](#)

Discussion

In drafting this Report, the Working Group recognizes that there are statutes which address transfer of proceedings between the Family and Criminal Divisions, including those for Youthful Offender, which are not discussed herein. In this regard, the Working Group has restricted its recommendations to the specific topics identified in Section 20 (b) of Act 125.

1. Changes necessary to start all cases for youth under 19 in Family Division

The first topic which the Working Group was asked to address was “the changes in law that would be necessary if the Vermont juvenile justice system were restructured so that all cases alleging criminal violations by youths under 19 years of age started in the Family Division of the Superior Court, including alleged violations of 33 V.S.A. §§ 5204(a) and 5201(c)(2) or (3).”

Notably, this topic does not seek a recommendation as to whether the Working Group supports the underlying policy determination for such a restructure. Rather, the request is for the Working Group to make a recommendation on how to effectuate a restructure to start the identified cases in Family Division. Accordingly, the recommendations set forth herein as to the necessary changes to accomplish the restructure are not intended, nor should they be construed, as expressing any view by the Working Group as to the underlying policy determination being advanced in section (b)(1) to start the cases in Family Division.

The following changes to statutes would be necessary in the event of a restructure as indicated in section (b)(1):

33 V.S.A. § 5201. Commencement of delinquency proceedings

(a) Proceedings under this chapter shall be commenced by:

~~(1) transfer to the court of a proceeding from another court as provided in section 5203 of this title; or~~

~~(2) the filing of a delinquency petition by a State’s Attorney.~~

~~(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State’s Attorney shall provide to the court the name and address of the child’s custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.~~

~~(c)(1) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division.~~

~~(2)(A) Any proceeding concerning a child who is alleged to have committed one of the following acts after attaining 14 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division:~~

~~(i) a violation of a condition of release as defined in 13 V.S.A. § 7559 imposed by the Criminal Division for any of the offenses listed in subsection 5204(a) of this title; or~~

~~(ii) a violation of a condition of release as defined in 13 V.S.A. § 7559 imposed by the Criminal Division for an offense that was transferred from the Family Division pursuant to section 5204 of this title.~~

~~(B) This subdivision (2) shall not apply to a proceeding that is the subject of a final order accepting the case for youthful offender treatment pursuant to subsection 5281(d) of this title.~~

~~(3) Any proceeding concerning a child who is alleged to have committed one of the following acts after attaining 16 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division:~~

~~(A) using a firearm while committing a felony in violation of 13 V.S.A. § 4005, or an attempt to commit that offense;~~

~~(B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1, or an attempt to commit that offense; or~~

~~(C) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3), or an attempt to commit that offense.~~

~~[Subsection (d) effective until April 1, 2025. See also subsection (d) effective April 1, 2025, set out below.]~~

~~(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 19 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.~~

~~[Subsection (d) effective April 1, 2025. See also subsection (d) effective until April 1, 2025, set out above.]~~

~~(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.~~

~~(e) [Repealed.]~~

~~(f) (b)~~ If the State requests that custody of the child be transferred to the Department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

~~(g) (c)~~ A petition may be withdrawn by the State's Attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

~~§ 5203. Transfer from other courts [Repealed]~~

~~[Subsection (a) effective until April 1, 2025; see also subsection (a) effective April 1, 2025 set out below.]~~

~~(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 19 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.~~

~~[Subsection (a) effective April 1, 2025; see also subsection (a) effective until April 1, 2025 set out above.]~~

~~(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.~~

~~(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.~~

~~[Subsection (c) effective until April 1, 2025; see also subsection (c) effective April 1, 2025 set out below.]~~

~~(c) If it appears to the State's Attorney that the defendant was under 19 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201~~

~~of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.~~

~~[Subsection (c) effective April 1, 2025; see also subsection (c) effective until April 1, 2025 set out above.]~~

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

~~(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.~~

~~(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.~~

2. Whether cases alleging criminal violations by youths under 20 years of age should also begin in the Family Division.

The second topic which the Working Group was asked to address is whether cases alleging criminal violations by youths under 20 years of age should also begin in the Family Division.

The Working Group observes that the recommendation sought on this topic relates to a policy determination for "Raise the Age" statutes which is properly within the purview of the Legislature and the Executive Branches. It further observes that this very question is the subject of ongoing discussions, policy considerations, and legislative enactments. Further, the constituencies which the members of the Working Group represent each have institutional policy positions which they may offer during the legislative process. In light of these considerations, the members of the Working Group do not have a consensus on this question and do not believe it is appropriate to otherwise weigh in on the question in this Report.

3. Statutory options for expedited process for more serious offenses for transfer from Family Division to Criminal Division.

The final topic the Working Group was asked to address is to create an expedited court process for more serious offenses, a term not defined in the Act, that would permit transfer of proceedings from the Family Division of the Superior Court to the Criminal Division of the Superior Court without requiring the full transfer hearing process of 33 V.S.A. § 5204, including the offenses and offender age ranges that would qualify for the expedited process.

Notably, and as with topic 1 discussed *supra*, this request does not seek a recommendation as to whether the Working Group supports the underlying policy determination for an expedited court process. Rather, the request is for the Working Group to make a recommendation on how to create an expedited transfer of proceedings from the Family Division to the Criminal Division. Accordingly, the recommendations set forth herein as to the necessary changes to accomplish the stated objective are not intended, nor should they be construed, as expressing any view by the Working Group as to the underlying policy determination being advanced in section (b)(3).

In considering this topic, the Working Group notes that in Act 23 (S. 4) (2023), 33 V.S.A. § 5204 (b)(2)(A) was amended to require a transfer hearing be held for certain identified offenses without the necessity of a motion being filed by the State for such a hearing. Subsection (b)(2)(B) was also added to require that the hearing “occur without delay and as soon as practicable[.]”

The Working Group is familiar with these Act 23 amendments which were, *inter alia*, designed to reduce crimes of violence associated with juveniles and dangerous weapons, to enhance public safety, and to ensure due process in transfer proceedings, while at the same time expediting the court process to transfer certain serious offenses from the Family Division to the Criminal Division.

The Working Group concludes that the structure resulting from the amendments adopted in Act 23 for transfers under § 5204 (b)(2)(A) can be expanded upon to include the offenses currently referred to as the Big 11 offenses which the Legislature has already identified as serious offenses within the existing statutory framework.

The following changes to statutes would effectuate an expedited court process as contemplated in section (b)(3):

33 V.S.A. § 5204. Transfer from Family Division of the Superior Court

~~[Subsection (a) effective until April 1, 2025; see also subsection (a) effective April 1, 2025, set out below.]~~

(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 19 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~~ 16 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:

- (1) arson causing death as defined in 13 V.S.A. § 501 or an attempt to commit that offense;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b) or an attempt to commit that offense;
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c) or an attempt to commit that offense;
- (4) aggravated assault as defined in 13 V.S.A. § 1024 or an attempt to commit that offense;

(5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as defined in 13 V.S.A. § 2311 or an attempt to commit either of those offenses;

(6) manslaughter as defined in 13 V.S.A. § 2304 or an attempt to commit that offense;

(7) kidnapping as defined in 13 V.S.A. § 2405 or an attempt to commit that offense;

(8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407 or an attempt to commit that offense;

(9) maiming as defined in 13 V.S.A. § 2701 or an attempt to commit that offense;

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an attempt to commit that offense; or

(11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an attempt to commit either of those offenses;

(12) human trafficking or aggravated human trafficking in violation of 13 V.S.A. § 2652 or 2653;

(13) defacing a firearm's serial number in violation of 13 V.S.A. § 4024; or

(14) straw purchasing of firearm in violation of 13 V.S.A. § 4025.

[Subsection (a) effective April 1, 2025; see also subsection (a) effective until April 1, 2025, set out above.]

~~(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:~~

~~(1) arson causing death as defined in 13 V.S.A. § 501 or an attempt to commit that offense;~~

~~(2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b) or an attempt to commit that offense;~~

~~(3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c) or an attempt to commit that offense;~~

~~(4) aggravated assault as defined in 13 V.S.A. § 1024 or an attempt to commit that offense;~~

~~(5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as defined in 13 V.S.A. § 2311 or an attempt to commit either of those offenses;~~

~~(6) manslaughter as defined in 13 V.S.A. § 2304 or an attempt to commit that offense;~~

~~(7) kidnapping as defined in 13 V.S.A. § 2405 or an attempt to commit that offense;~~

~~(8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407 or an attempt to commit that offense;~~

~~(9) maiming as defined in 13 V.S.A. § 2701 or an attempt to commit that offense;~~

~~(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an attempt to commit that offense; or~~

~~(11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an attempt to commit either of those offenses.~~

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

(2)(A)(i) The Family Division of the Superior Court shall, immediately upon the filing of the petition, schedule ~~hold~~ a hearing under subsection (c) of this section to determine whether jurisdiction should be transferred to the Criminal Division under subsection (a) of this section if the delinquent act set forth in the petition is: an offense listed in subsection (a) of this section and the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred.

~~(I) [Repealed.]~~

~~(II) human trafficking or aggravated human trafficking in violation of 13 V.S.A. § 2652 or 2653;~~

~~(III) defacing a firearm's serial number in violation of 13 V.S.A. § 4024; or~~

~~(IV) straw purchasing of firearm in violation of 13 V.S.A. § 4025; and~~

~~(ii) the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred.~~