

Re-Envisioning Youth Justice in Vermont

Senate Committee on the Judiciary

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Office of the Child, Youth, and Family Advocate (OCYFA)



What is the Office of the Child, Youth, and Family Advocate (OCYFA)?

- We are an independent, non-partisan, state office that engages in individual and systemic advocacy on behalf of children, youth, and families served by DCF, with an emphasis on child welfare and juvenile justice.
- We are charged with examining systems as a whole and articulating youth-centered systemic reforms that also benefit government.
- “The Office shall: ... provide systemic information concerning child, youth, and family welfare to the public, the Governor, State agencies, legislators, and others, as necessary.” 33 VSA § 3203(5)

Summary of OCYFA Positions on H.2:

- As currently written, if Yea/Nay on full bill, OCYFA is opposed to H.2.
- Taken as individual components:
 - OCYFA opposes delaying Raise the Age (Sections 3-9, 11).
 - OCYFA supports the reporting requirements in H.2 Sec. 10, with suggested amendments.
 - OCYFA opposes Section 2, extending juvenile jurisdiction.
 - OCYFA supports Section 1: raising VT minimum age of jurisdiction.
- Rationale: H. 2 fails to achieve its own goals: increase public safety and accountability, support DCF, ensure appropriate treatment

What Does H. 2 Do, Generally Speaking?

- Delays implementation of Phase 2 of Raise the Age (adding delinquencies for 19-year-olds to Family Court) until July of 2027.
- Extends delinquency jurisdiction of Family Court (e.g. probation) an additional year for older youth (16-18), depending on age at time of offense.
 - If child was 16 or 17 at time of offense, H.2 extends Family Court jx six months beyond 20th birthday (current law says 19th birthday).
 - If child was 18 at time of offense, H.2 extends Family Court jx six months beyond 21st birthday (current law says 20th birthday).
- Raises the minimum age of delinquency from 10 to 12 years old.
- Requires DCF to submit two additional reports to the Legislature in 2026.
- That's basically it.

What Does H. 2 Not Do?

- Increase public safety by reducing the likelihood of a youth reoffending.
- Address DCF's resource issues.
- Have *any* effect on DCF's ability to ensure "accountability" of youth.
- Have *any* effect on prosecutors' ability to charge older youth for serious crimes.
- Reduce court backlogs or address Youthful Offender "ping-pong effect."
- Increase capacity of Vermont's system of care, whether in locked or unlocked facilities, or through community services.
- Generate meaningful data to analyze the success of Phase I of Raise the Age.
- Save money.
- Support young people.

Raise the Age Mythbusting: Supporting DCF

Myth: Delaying or repealing Raise the Age supports DCF.

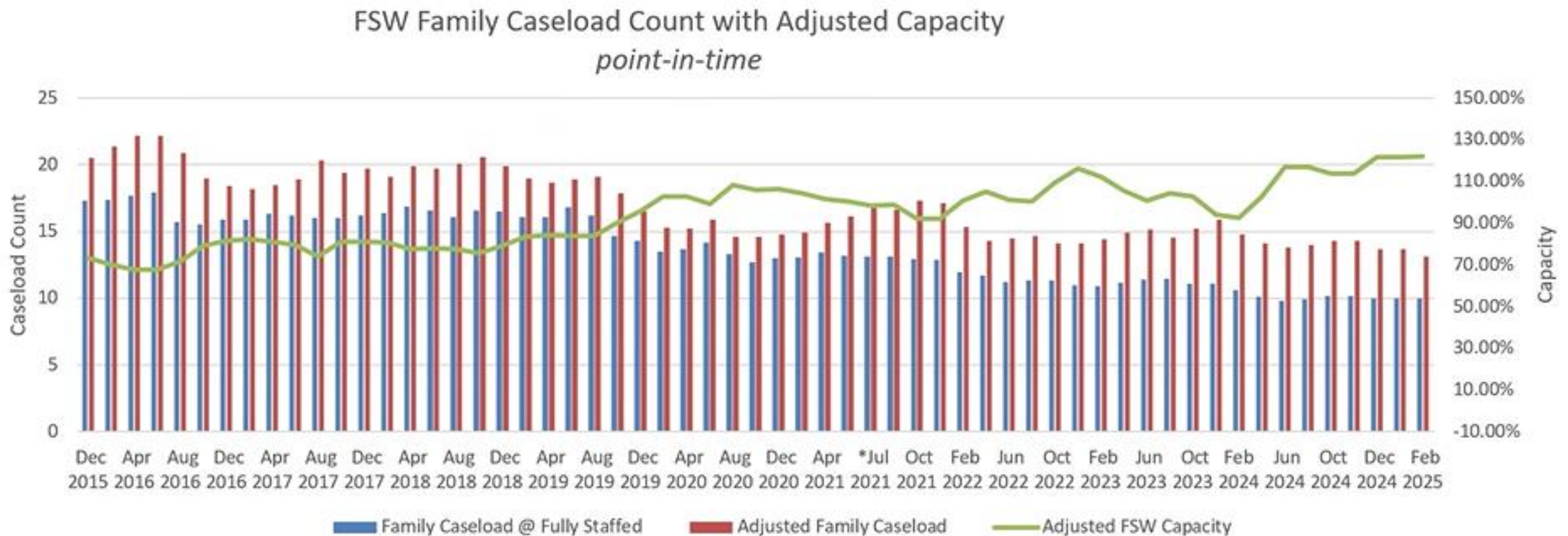
- **Facts:** The best way to support DCF is by bolstering the BARJ program and other community-based services, and by giving DCF resources.
- **Facts:** DCF has had a large and positive impact on its own caseloads by reducing the number of children who have come into foster care. This work has a far greater impact on caseloads than Raise the Age.
- **Facts:** Only a handful of new cases will be added to DCF caseloads through Raise the Age Phase II.

Raise the Age Mythbusting: Caseloads

Myth: April 1 implementation of Raise the Age will overwhelm caseloads

- Facts: The likely impact of the April 1 implementation will be minimal—just a few cases coming onto DCF caseloads each month.
- DCF caseloads are at *historic lows* (see next slide).
- Facts: Raise the Age implementation will reduce the number of Youthful Offender cases going forward. These cases take up significant court and DCF resources. Delaying Raise the Age will exacerbate these issues, not solve them.

Raise the Age Mythbusting: DCF Caseloads Are at Historic Lows



Month Case Filed`	Year	Delinquencies 18-year-olds	Misdemeanors, 19-year-olds
July	2022	11	9
August	2022	15	16
September	2022	17	13
October	2022	8	11
November	2022	18	16
December	2022	10	11
January	2023	9	8
February	2023	16	9
March	2023	11	8
April	2023	8	5
May	2023	9	9
June	2023	8	12
July	2023	13	10
August	2023	4	20
September	2023	13	8
October	2023	12	5
November	2023	7	14
December	2023	9	4
18 Month Total		198	188

Mythbusting: RTA II Adds Just Five New Cases Per Month

“An analysis of the current delinquency caseload in the Family Division and the cases of 18- and 19-year-olds now prosecuted in the adult criminal system indicates that approximately half of these cases can be appropriately diverted, making the overall caseload of delinquency cases manageable when Raise the Age is fully implemented.”

—2019 Act 201
Implementation Report,
p. 6

Raise the Age Mythbusting: “Accountability”

Myth: Delaying or repealing Raise the Age increases the accountability of emerging adults.

- Facts: There is no accountability problem with Raise the Age. Youth who commit serious offenses are charged as Big 11+3 or as Youthful Offenders. RTA has no effect on those cases. H.2 has no effect either.
- Facts: If by “accountability” we mean the ability of the State to order a young person to services and incarcerate them if they do not comply, then we are misunderstanding the purpose of the juvenile justice system, which is to treat youth like youth.

Raise the Age Mythbusting: Facilities

Myth: Raise the Age requires additional locked bed capacity.

Facts: Raise the Age does not affect the need for locked facilities. Raise the Age pertains almost entirely to low-level offenses. Youth charged as adults can be held in adult facilities under federal law.

Myth: Federal /state law prohibits older youth from being held by DCF.

Facts: Neither federal nor state law prohibit youth charged as juveniles from being held in DCF locked facilities. Other states hold youth as old as 25 in juvenile facilities.

- The issue is program development.

Raise the Age Mythbusting: Facilities

Myth: Vermont needs to build a locked youth treatment facility because it doesn't have one.

Facts: Vermont does currently have a locked facility ("Red Clover") with four beds. It has been adequate thus far.

- There is no evidence that supports the need to build a new facility at significant taxpayer cost.
- There is no evidence to support the need for 12 additional beds.
- We should continue to collect data on Red Clover to see if four beds are sufficient before rushing to build a new facility.

Raise the Age Mythbusting: Safety

Myth: Raise the Age makes communities less safe.

Facts: Raise the Age makes communities safer.

- Research shows that: (1) nearly all youth mature and age out of crime if given the opportunity to do so, and (2) there are times when less formal intervention is better, as the justice system can unintentionally interfere with the natural desistance process.
- The alternative to the juvenile justice system for 19-year-olds accused of RTA-level crimes is the adult criminal system. Research shows that for ages 18 and 19, treatment in the adult criminal system is more likely to result in the youth committing more crimes than the juvenile system.

Suggestions for Amending H. 2 (If You Reject the Best Idea: Do Nothing)

- Remove from H.2 any charge for 19-year-olds that would be a misdemeanor if charged in criminal court (i.e. all less serious charges).
 - This would further reduce DCF's caseloads and would phase in the lowest level RTA offenses first.
- Reduce the two-year delay for all other charges to one year.
- Add language ensuring that DCF is reporting *relevant* data:
 - Require disaggregation of youth already on DCF caseloads and youth charged under Big 11+3, Youthful Offender statutes, or CHINS cases.
 - Track # of RTA youth (not Big 11/YO/CHINS etc.) in secure facilities each day.
 - Track # of RTA youth who have active or past CHINS involvement.

Conclusion

- H.2 fails to address its own goals.
- Instead of continuing to waste time on delaying Raise the Age as a proxy for other issues, let's actually support DCF, address the underlying issues, and create the necessary supportive services.
- From a youth-centered perspective, there is a high cost to another RTA delay. We invite you to come talk to youth and tour facilities.
- The first phase of Raise the Age was implemented successfully and without any major issues.
- Vermont is ready for phase two implementation.
- The nation is watching Vermont on Raise the Age.

Thank you

- Source mentioned: DCF, [Report on Act 201 Implementation Plan Report & Recommendations](#), 2019.
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