

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 642
3 entitled “An act relating to youthful offender proceedings” respectfully reports
4 that it has considered the same and recommends that the bill be amended by
5 striking out all after the enacting clause and inserting in lieu thereof the
6 following:

7 ~~Sec. 1. 33 V.S.A. § 5284 is amended to read:~~

8 § 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION
9 ORDER

10 (a)(1) In a hearing on a motion for youthful offender status, the court shall
11 first consider whether public safety will be protected by treating the youth as a
12 youthful offender. If the court finds that public safety will not be protected by
13 treating the youth as a youthful offender, the court shall deny the motion and
14 transfer the case to the Criminal Division of the Superior Court pursuant to
15 subsection 5281(d) of this title. If the court finds that public safety will be
16 protected by treating the youth as a youthful offender, the court shall proceed
17 to make a determination under subsection (b) of this section.

18 (2) When determining whether public safety will be protected by
19 treating the youth as a youthful offender, the court shall consider, on the basis
20 of the evidence admitted:

1 (A) the nature and circumstances of the charge and whether violence
2 was involved;

3 (B) the youth's mental health treatment history and needs;

4 (C) the youth's substance abuse history and needs;

5 (D) the youth's residential housing status;

6 (E) the youth's employment and educational situation;

7 (F) whether the youth has complied with conditions of release;

8 (G) the youth's criminal record and whether the youth has engaged in
9 subsequent criminal or delinquent behavior since the original charge;

10 (H) whether supervising the youth on youthful offender probation is
11 appropriate considering the nature of the charged offense and the age and
12 specialized needs of the youth;

13 (I) whether the youth has connections to the community; and

14 (J) the youth's history of violence and history of illegal or violent
15 conduct involving firearms or other deadly weapons; and

16 ~~(K) whether the youth has acknowledged that harm was caused by~~
17 ~~the youth's alleged conduct, provided that information related to the present~~
18 ~~offense directly or indirectly derived from the acknowledgement shall not be~~
19 ~~used against the youth in the youth's criminal, youthful offender, or juvenile~~
20 ~~case for any purpose, including impeachment or cross-examination.~~

21 (b)(1) The court shall deny the motion if the court finds that:

1 (A) the youth is not amenable to treatment or rehabilitation as a
2 youthful offender; or

3 (B) there are insufficient services in the juvenile court system and the
4 Department for Children and Families and the Department of Corrections to
5 meet the youth's treatment and rehabilitation needs.

6 (2) The court shall grant the motion if the court finds that:

7 (A) the youth is amenable to treatment or rehabilitation as a youthful
8 offender; and

9 (B) there are sufficient services in the juvenile court system and the
10 Department for Children and Families and the Department of Corrections to
11 meet the youth's treatment and rehabilitation needs.

12 (c)(1) If the court approves the motion for youthful offender treatment after
13 an adjudication pursuant to subsection 5281(d) of this title, the court:

14 (A) shall approve a disposition case plan and impose conditions of
15 juvenile probation on the youth; and

16 (B) may transfer legal custody of the youth to a parent, relative,
17 person with a significant relationship with the youth, or Commissioner,
18 provided that any transfer of custody shall expire on the youth's 18th birthday.

19 (2) Prior to the approval of a disposition case plan, the court may refer a
20 child directly to a youth-appropriate community-based provider that has been
21 approved by the ~~department~~ Department and which may include a community

1 justice center or a balanced and restorative justice program. Referral to a
2 community-based provider pursuant to this subdivision shall not require the
3 court to place the child on probation. If the community-based provider does
4 not accept the case or if the child fails to complete the program in a manner
5 deemed satisfactory and timely by the provider, the child shall return to the
6 court for further proceedings, including the imposition of the disposition order.

7 (d) The Department for Children and Families and the Department of
8 Corrections shall be responsible for supervision of and providing services to
9 the youth until the youth reaches 22 years of age. Both Departments shall
10 designate a case manager who together shall appoint a lead Department to have
11 final decision-making authority over the case plan and the provision of services
12 to the youth. The youth shall be eligible for appropriate community-based
13 programming and services provided by both Departments.

14 Sec. 2. 33 V.S.A. § 5285 is amended to read:

15 § 5285. MODIFICATION OR REVOCATION OF DISPOSITION

16 (a)(1) If it appears that the youth has violated the terms of juvenile
17 probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a
18 motion for modification or revocation of youthful offender status may be filed
19 in the Family Division of the Superior Court. The court shall set the motion
20 for hearing as soon as practicable. The hearing may be joined with a hearing
21 on a violation of conditions of probation under section 5265 of this title. A

1 supervising juvenile or adult probation officer may detain in an adult facility a
2 youthful offender who has attained 18 years of age for violating conditions of
3 probation.

4 (2) Notwithstanding subdivision 5103(c)(2)(B) of this title, when a
5 motion for ~~modification or~~ revocation of youthful offender status is pending
6 pursuant to this section, the Family Division's jurisdiction over the youth shall
7 remain in effect until the youth is discharged or until probation is revoked.
8 The Family Division may extend its jurisdiction over the youth beyond the
9 youth's 22nd birthday to the extent necessary to maintain jurisdiction under this
10 subdivision (2).

11 (b) A hearing under this section shall be held in accordance with section
12 5268 of this title.

13 (c)(1) If the court finds after the hearing that the youth has violated the
14 terms of ~~his or her~~ the youth's probation, the court may:

15 ~~(1)(A)~~ maintain the youth's status as a youthful offender, with modified
16 conditions of juvenile probation if the court deems it appropriate;

17 ~~(2)(B)~~ revoke the youth's status as a youthful offender and transfer the
18 case with a record of the petition, affidavit, adjudication, disposition, and
19 revocation to the Criminal Division for sentencing; or

20 ~~(3)(C)~~ transfer supervision of the youth to the Department of
21 Corrections with all of the powers and authority of the Department and the

1 Commissioner under Title 28, including graduated sanctions and electronic
2 monitoring.

3 (2) For purposes of making its determination under subdivision (1) of
4 this subsection, the court shall consider whether:

5 (A) under the criteria of subdivision 5284(a)(2) of this title, public
6 safety will be protected by continuing to treat the youth as a youthful offender;

7 (B) the youth ~~is~~ continues to be amenable to treatment or
8 rehabilitation as a youthful offender; and

9 (C) there are ~~insufficient~~ sufficient services in the juvenile court
10 system and the Department for Children and Families and the Department of
11 Corrections to meet the youth's treatment and rehabilitation needs.

12 (d) If the youth fails to appear at a probation revocation hearing under this
13 section, the court ~~shall~~ may, unless it finds there was good cause for the failure
14 to appear, ~~summon the juvenile to appear before it or may issue an order for~~
15 ~~the juvenile's apprehension for purposes of transporting the youth to the court~~
16 ~~to appear at the hearing~~ issue an order pursuant to subsection 5108(c) of this
17 title for an officer to pick up the youth and bring the youth to court.

18 (e) If a youth's status as a youthful offender is revoked and the case is
19 transferred to the Criminal Division pursuant to subdivision ~~(e)~~(2) ~~(c)~~(1)(B) of
20 this section, the court shall enter a conviction of guilty based on the admission
21 to or finding of merits, hold a sentencing hearing, and impose sentence.

1 Unless it serves the ~~interest~~ interests of justice, the case shall not be transferred
2 back to the Family Division pursuant to section 5203 of this title. When
3 determining an appropriate sentence, the court may take into consideration the
4 youth's degree of progress toward or regression from rehabilitation while on
5 youthful offender status. The Criminal Division shall have access to all Family
6 Division records of the proceeding.

7 Sec. 3. 33 V.S.A. § 5288 is amended to read:

8 § 5288. RIGHTS OF VICTIMS IN YOUTHFUL OFFENDER
9 PROCEEDINGS

10 (a) The victim in a proceeding involving a youthful offender shall have the
11 following rights:

12 (1) To be notified by the prosecutor in a timely manner:

13 (A) when a court proceeding is scheduled to take place and when a
14 court proceeding ~~to~~ of which the victim has been notified will not take place as
15 scheduled; and

16 (B) of any conditions of release or conditions of probation and of any
17 restitution unless otherwise limited by court order.

18 (2) To be present during all court proceedings subject to the provisions
19 of Rule 615 of the Vermont Rules of Evidence; to attend the hearing on the
20 motion to consider youthful offender status and the disposition hearing to
21 present a victim impact statement and to express reasonably the victim's views

1 concerning the offense ~~and~~ the youth, and the appropriateness of youthful
2 offender status, including testimony in support of the victim's claim for
3 restitution; and to submit oral or written statements to the court at such other
4 times as the court may allow. The court shall consider the victim's statement
5 when ordering disposition.

6 (3) To be notified by the agency having custody of the youth before the
7 youth is released into the community from a secure or staff-secured residential
8 facility.

9 (4) To be notified by the prosecutor as to the final disposition of the
10 case.

11 (5) To be notified by the prosecutor of the victim's rights under this
12 section.

13 (b) In accordance with court rules, at a hearing on a motion ~~for~~ to consider
14 youthful offender ~~treatment~~ status, the court shall ask if the victim is present
15 and, if so, whether the victim would like to be heard regarding ~~disposition~~ the
16 motion. In ordering youthful offender status or disposition, the court shall
17 consider any views offered at the hearing by the victim. If the victim is not
18 present, the court shall ask whether the victim has expressed, either orally or in
19 writing, views regarding youthful offender status or disposition and shall take
20 those views into consideration in ordering youthful offender status or
21 disposition.

1 (c) No youthful offender proceeding shall be delayed or voided by reason
2 of the failure to give the victim the required notice or the failure of the victim
3 to appear.

4 (d) As used in this section, “victim” ~~shall have~~ has the same meaning as in
5 13 V.S.A. § 5301(4).

6 (e) This section shall not prohibit a victim from discussing underlying facts
7 of the alleged offense that resulted in death or physical, emotional, or financial
8 injury to the victim, provided that, unless otherwise provided by law or court
9 order, a victim shall not disclose what occurs during a court proceeding or
10 information learned through a court proceeding that is not an underlying fact of
11 the alleged offense that resulted in death or physical, emotional, or financial
12 injury to the victim.

13 Sec. 4. EFFECTIVE DATE

14 This act shall take effect on ~~passage~~ July 1, 2026.

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21 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE