



To: House Judiciary Committee

From: Council for Equitable Youth Justice

Re: H. 642 – A bill to amend Vermont’s Youthful Offender System

Date: February 25, 2026

At its monthly meeting on February 18, 2026, the Council for Equitable Youth Justice (CEYJ) reviewed H. 642’s proposed amendments to Vermont’s Youthful Offender (YO) system. While we support the right of victims to be present at YO consideration hearings and to comment on the appropriateness of YO status (Section 3 of H. 642), we cannot support the other two sections for the reasons set forth below.

By way of background, the Youthful Offender system which allows the transfer of jurisdiction from the Criminal Division to the Family Division for cases involving youth aged 14 to 21, is premised on the science related to adolescent brain development and data. The data tells us that when a youth’s case is prosecuted in the Criminal Division, the outcomes as measured by recidivism are not good. According to CRG’s 2022 recidivism study funded by the CEYJ, youth aged 18 and 19 who were convicted in the Criminal Division for non-Big 12 offenses between 2016 and 2019, had a three-year recidivism rate of 46%. By contrast, according to the CRG data cited by the Defender General in testimony, the two-year recidivism rate for YO youth was only 16%.¹ These YO youth included youth who had committed Big 12 offenses as well as youth who had not. When the YO program is evaluated based on data rather than “worst case” anecdotes, the results are impressive.

1. New Criterion for Youthful Offender Consideration

The amendment in Section One of H. 642 proposes to add an eleventh criterion to be considered when determining the appropriateness of YO status: “*whether the youth has acknowledged that harm was caused by the youth’s alleged conduct.*” CEYJ opposes this amendment because it does not align with Constitutional guarantees, restorative justice best practices or adolescent brain development. A YO consideration hearing takes place before a determination has been made as to whether the youth committed the offense. Under the Fifth Amendment, the youth has the right to remain silent. The State must prove its case against the youth beyond a reasonable doubt without the youth’s testimony. How can the

¹ Based on CRG data provided to House Judiciary there were 98 unique individuals who had a finding of YO in family court from 2021-2023. 19 of those youth earned a subsequent criminal conviction in adult court for an offense that occurred after the YO finding. 10 of those 19 committed the new offense within 1 year. 16 within 2 years. The one-year recidivism rate is 10%, the two-year recidivism rate is 16%.

youth acknowledge that harm was caused by the alleged behavior without incriminating himself or herself?

It was suggested at Tuesday's hearing that this problem could be solved by prohibiting the prosecution from using any statements that the youth makes at the consideration stage at the merits/trial stage. Even if such protection could be provided, requiring such an acknowledgment at this stage of the proceeding is putting the cart before the horse. Acknowledgment of harm is a desired outcome at the end of the restorative justice process. At the YO consideration stage, the restorative justice process has not even started. What we know from experience with the restorative justice process, is that the ability for a youth to understand the harm that has been caused takes time. It is unrealistic and contrary to what we know about adolescent behavior, to expect that a youth at this preliminary stage will have that understanding.

Finally, protecting the youth's statements from later being used against the youth at merits or the trial stage, will do little to enhance a youth's perception regarding the fairness of the youth justice system. To the contrary, it is only likely to confirm the youth's view that the system is rigged against him/her.

2. Revocation of YO Status

H. 642 proposes two grounds for revocation of youthful offender status and return to the criminal division: (a) the youth *charged with a crime an element of which is an act of violence against a person*; and (b) *failure to appear at a probation revocation hearing*. The problem with (a) is that it relies on a charge that has not been proven – causing a due process/Fifth Amendment issue similar to the problem caused by requiring an acknowledgment of harm prior to merits as discussed above. Revocation, which requires the ultimate penalty of transfer back to the Criminal Division should not occur solely based on a charge that has not been adjudicated. In addition, a charge involving an act of violence against a person is unconscionably broad in this context. It could include a misdemeanor disorderly conduct charge involving a push or a shove. Unlike the bail statute, 13 V.S.A. §7553a, the amendment does not require that the charge be a felony.

The second ground is revocation for failure to appear at a probation revocation hearing unless the court finds that there is good cause for the youth's failure to appear. Currently revocation in this instance is left up to the court's discretion. What is the data that suggests that courts currently do not revoke YO status when a youth fail to appear at revocation hearings without good cause? And how can the court revoke until the youth actually does appear – a hearing is required as a matter of due process before revocation can be ordered.

In discussing these two amendments at the hearing on Tuesday, it was suggested that currently the statute does not give much guidance to the court with respect to the criteria it should consider when deciding whether to revoke YO status. Rather than insert mandatory reasons for revocation, it would seem that giving the courts guidance in terms of the criteria the court should consider would be a better approach.