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RESTORATIVE CENTER
Restoring relationships.
Rebuilding community.
Renewing hope.

BARJ (Balanced and Restorative Justice)

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Balanced and Restorative Justice (BARJ) Definition and Purpose:

- BARJ is DCF funded and prevention oriented.
- BARJ serves adjudicated youth, truant youth and youth at risk of involvement in the criminal legal system, ages 10-18 (or up to 21 if a youthful offender).
- BARJ provides supports to youth who are involved with, or are at-risk of becoming involved with, the juvenile justice system in Vermont.
- Referrals are made by court order or community partners, schools, parents.
- Except for youth who are court-ordered, or referred by DCF, participation is voluntary and requires parents' permission.

Read the Mission Statement to learn more.

PRACTICE PHILOSOPHY

BARJ provides a balanced, restorative approach to juvenile justice that focuses on:

- Giving youth opportunities to:
  - take responsibility for their actions,
  - make amends to their victims & communities, and
  - repair the harm they caused
- Increasing youth competency in areas such as communication and conflict resolution.
- Providing victims and community members meaningful opportunities to participate in the restorative process, make decisions, and seek resolution.

SUPPORTS & SERVICES

- Supports and services are based on the individual needs of the youth and family, focus on interventions that reduce and eliminate further involvement in the juvenile justice system, and encourage youth to choose healthy behaviors. These include:

    - **Restorative Processes**

    Victims and community members are given the opportunity to interact with youth to discuss the harm caused and actions needed to repair the damage. This may include processes such as circles, restorative panels, and restorative family group conferences,

    - **Screening and Assessment**

    The Youth Assessment and Screening Instrument (YASI) is used to determine risk to re-offend and refer youth for services based on assessed risk and needs.

    - **Case Management**

    Services for families and youth are coordinated. This may include individualized case management, attendance at court hearings and referrals to community providers.

    - **Skills Development**

    Help youth develop skills in areas such as conflict resolution, social skills, problem solving, decision making, community service/leadership, and effective communication.

Referral or Program-related Questions:

Bobby Blanchard-Lewis

bblanchard@lrcvt.org

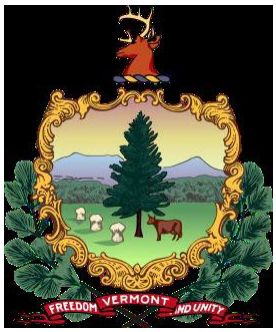
(914) 589-8481

YASI/Case Management/Client-related Questions:

Erin Whitcomb, BARJ Project Manager

ewhitcomb@lrcvt.org

(802) 373-6553



Office of the Lamoille County State's Attorney (LCSA)

Aliena Gerhard, Esq.

Diversion Program Eligibility Guidelines (November 2024)

CRIMINAL CHARGES

Post Charge: Lamoille County State's Attorney (LCSA) may refer cases involving an alleged criminal act to the Lamoille Restorative Center (LRC), including Court Diversion and Tamarack programming, in lieu of prosecution in court. Referred cases may include those in which the defendant has a prior record of a criminal conviction, as well as cases involving a defendant who has been referred to these programs in the past.

Purpose: The purpose of this policy statement is to outline the programming that the LCSA may refer individuals to in lieu of prosecution, as well as programming that the LCSA may refer individuals to, post-conviction, during the sentencing process.

Pre-Charge: While LCSA intends to eventually consider pre-charge referrals, LCSA does not currently utilize pre-charge programming as there is no funding to support this service at LRC.[1]

Discretion: LCSA retains final discretion over the referral of each case to LRC. LRC reserves the right to accept or reject any case referred by LCSA.

POST-CHARGE ADULT COURT DIVERSION PROGRAM

Purpose stated in statute: To assist adults and youth (10 – 18 yrs) who have been charged with a first or second misdemeanor or a first nonviolent felony (3 V.S.A. § 164(b)(l)) repair any harm they have caused, deepen their connection with their community, and avoid becoming more deeply involved in the criminal justice system.

Eligibility criteria:

- The individual is charged with a first or second offense of a non-listed felony or a listed misdemeanor, or a DLS regardless of criminal history.
- The individual may or may not have substance use or mental health needs.
- The individual may have previous convictions for crimes that are not eligible for expungement (i.e.,

[1] Once the LRC informs the LCSA that there is funding to support pre-charge programming at LRC, the LCSA will engage with the LRC to amend this document to draft and produce a pre-charge policy. If pre-charge does become available at LRC, referrals from LCSA will occur as to the merits and circumstances of each matter on an individual basis. It should be noted that the analysis for a pre-charge referral may not be far adrift from the analysis that the LCSA currently undertakes (*as noted in this document*) when recommending a referral to post-charge (*other than the referral is to take place at a different point in the intercept model*). Important to note that law enforcement, is not forbidden, and may choose to refer matters to programming in the pre-charge context.

DUI).

- The charge meets the screening criteria of the VACDP IPV (Intimate Partner Violence) policy.
- The following offenses are excluded from eligibility for referral to Court Diversion:
    - Felony listed crimes as defined by 13 V.S.A. § 5301.
    - Offenses involving intimate partner violence, sexual violence or intimate partner stalking, as outlined in the VT Association of Court Diversion Programs Intimate Partner Violence policy.
    - Offenses involving deadly force; or physical, emotional, or sexual maltreatment of a minor child; or sexual assault, rape, kidnapping or homicide.
    - An offense is a predicate offense carrying a greater penalty for a second conviction and the defendant already has a conviction, excluding DUI and related charges.
    - DUI related offenses that involve injury or death, or where there has been a previous DUI or related charge conviction in Criminal Court.
    - Any other matter where the State's Attorney does not believe that the referral will serve the interests of justice based on the facts and circumstances.[2]

LRC may at their discretion accept or reject any case referred by the LCSA. To be accepted for participation in the program, the defendant must be able to engage in a process to take accountability for their actions, agree not to contest the charge(s) and demonstrate a willingness to repair any harm or loss they may have caused another.

Completion: Upon successful completion of the court diversion program, the LCSA will dismiss the charge(s) associated with the case. In the event a defendant fails to complete their program, the case will be returned to the jurisdiction of the LCSA for further action. If dismissal of the charges does not serve the interests of justice, at their discretion, the LCSA may choose not to dismiss the charges, and may object to any future expungement of the conviction. The LCSA may, at their discretion, choose to dismiss the charges with or without prejudice.

POST-CHARGE DUI PROGRAM

Purpose: First time offenders may access appropriate treatment or other resources to improve the person's health and reduce the likelihood of future adverse involvement in the justice system.

Eligibility Criteria:

- The individual tested low/moderate on a Preliminary Breath Test (PBT) or Data Master Test (DMT).
- The individual does not have a prior DUI conviction.
- The individual does not have a previous DUI dismissed through Diversion.
- The individual was not involved in a Motor Vehicle Accident (MVA) unless it involved only their vehicle.

Completion: Upon successful completion of the DUI Program, the LCSA will dismiss the charge(s) associated with the case. In the event a defendant fails to complete their program, the case will be returned to the jurisdiction of the LCSA for further action. If dismissal of the charges does not serve the interests of justice, at their discretion, the LCSA may choose not to dismiss the charges, and may object to any future expungement of the conviction. The LCSA may at their discretion choose to dismiss the charges with or without prejudice.

[2] *3 V.S.A. § 164(e)(1).*

POST-CHARGE TAMARACK PROGRAM

Purpose stated in statute: To assist charged adults with substance abuse or mental health treatment needs regardless of the person's prior criminal history record. Tamarack programming is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system.

Eligibility criteria:

- A person charged with a felony offense that is a listed crime pursuant to 13 V.S.A. § 5301 shall not be eligible under this section. 3 V.S.A. § 164(b)(2)
- The prosecutor has determined there is probable cause.
- The individual may or may not have prior criminal convictions.
- The individual is charged with a non-listed crime or a listed misdemeanor.
- Screening indicates a need for substance use or mental health treatment.
- The prosecutor or defense attorney indicates there is a need for substance use or mental health treatment.
- May include violations of conditions of probation and violations of conditions of release.
- The charge is not one prohibited by the VACDP IPV (Intimate Partner Violence) policy.

Completion: Upon successful completion of the Tamarack Program, the LCSA will dismiss the charge(s) associated with the case and the record may be expunged. In the event a defendant fails to complete their program, the case will be returned to the jurisdiction of the LCSA for further action. If dismissal of the charges does not serve the interests of justice, at their discretion, the LCSA may choose not to dismiss the charges, and may object to any future expungement of the conviction. The LCSA may, at their discretion, choose to dismiss the charges with or without prejudice.

POST-COVICTION REPARATIVE PROGRAM

Purpose stated in statute: Referral to a community reparative program pursuant to 28 V.S.A. chapter 12 is appropriate when an offender has pled guilty to a felony, a misdemeanor, or a conviction that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative program pursuant to this subdivision does not require the court to place the offender on probation.

Eligibility criteria:

- An individual has pled guilty to a felony or a misdemeanor, that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967.
- The individual is able and willing to engage in a process of taking accountability for their actions and repairing any harm or loss they may have caused another.
- The court may order a condition of participation in a reparative panel for an individual sentenced to probation supervision, sentenced to a term of incarceration, or as part of a plea agreement without Vermont Department of Corrections supervision.

Completion: When successful completion of the Reparative Program is a condition of a sentence of probation, and the individual is unable to complete successfully, they are in violation of their probation conditions and the Reparative Program coordinator at LRC will inform their probation officer. When an individual was referred directly from court as part of a plea agreement without probation, the LCSA and their defense attorney will be informed of a failure to complete.

POST-FILING YOUTH-RELATED MATTERS AND DELINQUENCY CASES

The LCSA may refer delinquency cases or other youth-related matters to LRC after a petition or charges have been filed. LCSA retains final discretion over the referral of a delinquency case to court diversion (described above) or Balanced and Restorative Justice (BARJ)**.**

BALANCED AND RESTORATIVE JUSTICE (BARJ)

Purpose: BARJ is DCF funded and prevention oriented. BARJ provides restorative processes and case management for adjudicated youth, truant youth and youth at risk of involvement in the criminal legal system, to prevent further involvement in the juvenile justice system in Vermont.

Eligibility criteria:

- Youth must be between 10 and 18 years of age, or up to 21 years of age if a youthful offender.
- Referrals may be made by LCSA, DCF, court order, Court Diversion, or by community partners, schools, or parents.
- Unless court-ordered or referred by DCF as part of a probation case plan, participation is voluntary and requires parents' permission.
- Prior to receiving services all youth referred to BARJ must be provided with the Youth Assessment Screening Instrument (YASI) to determine their risk to re-offend.
- Youth whose score on the YASI indicates a high risk of reoffending will not be eligible for referral to Court Diversion programming but may be referred to BARJ post delinquency adjudication.

Completion: When a youth completes BARJ programming the BARJ case manager reports their successful or unsuccessful completion to the referring party (DCF, LCSA, court, community partner etc.). If referred directly by the LCSA or by the court in lieu of adjudication or post adjudication without DCF probation, and a youth is unsuccessful in completing their BARJ requirement, the LCSA and/or the court may adjudicate or re-sentence the youth at their discretion.

THIS DOCUMENT IS SUBJECT TO CHANGE PURSUANT TO THE DISCRETION OF THE LCSA.

STATE OF VERMONT

SUPERIOR COURT **FAMILY DIVISION**

Unit **Case No. _____**

In Re:

REFERRAL TO APPROVED COMMUNITY JUSTICE PROGRAM

Pursuant to 3 3 V.S.A. § 5232 (b) (7)

Based on this court's finding that the youth named above committed the delinquent act(s) of _____ it is ORDERED that the youth be referred to the following community justice program:

☐	acjp	Addison County Restorative Justice Services	802-388-3888
☐	barjan	Easter Seals of Vermont	802-398-5000
☐	barjca	NEKCA Community and Social Justice (St. Johnsbury)	802-334-8224
☐	barjfn	Franklin Grand Isle Restorative Justice Center	802-524-7006
☐	barjle	Lamoille Court Diversion Restorative Center Justice Programs	802-888-5871
☐	barjos	NEKCA Community and Social Justice (Newport)	802-334-8224
☐	barjrd	Rutland County Court Diversion & Restorative Justice Center Inc.	802-775-2479 (YSASP) 802-786-3840 (main #)
☐	barjwm	Interaction - Youth Services and Restorative Justice	802-257-0361
☐	barjwn	Washington County Diversion	802-479-1900
☐	barjwr	Valley Court Diversion Programs	802-295-5078
☐	bcrj	Bennington Center for Restorative Justice	802-447-1595
☐	btsy	Burlington Community Justice Center	802-865-7155
☐	ecjc	Community Justice Center Essex	802-872-7690
☐	bcjc	Barre Community Justice Center	802-476-0276
☐	gfcjc	Greater Falls Community Justice Center	802-376-6998 802-376-9794
☐	hcjc	Hartford Community Restorative Justice Center	802-291-7173
☐	mcjc	Montpelier Community Justice Center	802-223-9606
☐	ocrjc	Orange County Restorative Justice Center	802-685-3172
☐	rdccj	Rutland County Community Justice Center/BROC	802-665-1731
☐	sbcj	South Burlington Community Justice Center	802-846-4215
☐	sjcj	The Community Restorative Justice Center (St. Johnsbury)	802-748-2977
☐	wlcjb	Williston Community Justice Center	802-764-1151

The youth shall complete the program no later than _____.

If the community justice program does not accept the youth's case or if the youth fail to complete the program to the satisfaction of the program, the program shall immediately notify the Court in writing and the youth shall return to Court for disposition. Upon receipt of such notice from the program, the Court will schedule this matter for a disposition.

Date _____ _____

Superior Court Judge

Acceptance of Referral by Youth

I have received this order and understand that I might be asked to pay a fee to participate in the community justice program. I understand that my case will be returned to Court for disposition if:

1. I do not contact the community justice program,
2. the community justice program does not accept my case, or
3. I fail to satisfactorily complete the program.

In that case, I understand that I am required to attend a disposition hearing when one is scheduled.

Date

_____ _____

Signature of Youth

Date

_____ _____

Signature of Parent/Guardian

cc: State's Attorney
Youth's Attorney GAL
(if not present)
Community Justice Program DCF (if DCF is a party)
Court

TO COMMUNITY JUSTICE PROGRAM:

This notice serves as a referral by the Superior Court, Family Division to your community justice program pursuant to 33 V.S.A. § 5232 (b)(7). **The youth has been instructed to contact you within a week of the date of the referral Order. Please use this form to communicate with the Court.** Enclosed are a copy of the Referral Order, Petition and Affidavit, and victim impact statement (if one has been filed with the Court).

Please note: juvenile matters are **CONFIDENTIAL**. Unlawful dissemination of information is a crime punishable by a fine up to $2,000. 33 V.S.A. § 5117 (b)(2). Any records or reports relating to a matter within the jurisdiction of this Court shall not be disseminated by the receiving persons or agencies to any persons or agencies, other than those persons or agencies authorized to receive documents. 33 V.S.A. § 5117 (e).

STATE OF VERMONT

SUPERIOR COURT **FAMILY DIVISION**

Unit **Case No. _____**

In Re:

COMMUNITY JUSTICE PROGRAM NOTICE TO COURT

Date: _____ Case No. _____

Youth's Name & Date of Birth *Most Current Address for Youth*

In Re: _____ _____

Date of Birth: _____ _____

TO SUPERIOR COURT, FAMILY DIVISION:

- ☐ failed to contact this Community Justice Program within 7 days of the Court's referral.
- ☐ was not accepted by the Community Justice Program.
- ☐ failed to complete the Program.
- ☐ successfully completed the Community Justice Program.

Date

_____ _____

Signature of Community Justice Staff Person

_____

Printed Name

cc: Client/Youth
State's Attorney
Court

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BARJ Program Referral

(For organizations/individuals. Not for use by court)

Email to ewhitcomb@lrcvt.org and bblanchard@lrcvt.org

Name of youth:_____

DOB:_____

Lives with:_____

Address:_____

Phone:_____

Who can make decisions for youth:

_____

School grade: _____ or last grade completed: _____

Current school:_____

School contact name and phone:_____

_____

Special Education status: IEP ☐ 504 ☐ N/A or unsure ☐

1-29-25

Presenting issue, please refer to BARJ Definition and Purpose document attached: (What is motivating the referral?):_____

_____

_____

Youth's interests/strengths:_____

_____

_____

_____

Current services youth/family is/are receiving: _____

_____

_____

_____

Barriers to success: _____

_____

Date of referral: _____

Referral source (School/org): _____

Referral contact name:_____

Referral contact email and phone:_____

Does parent/guardian know you are making a referral?

Yes ☐ No ☐

Acts 23 and Act 46 – Juvenile Proceedings

In 2016, the Vermont State legislature made changes to the juvenile jurisdiction system to align our system more closely with brain development research and best practices for serving youth. Charging youth as adults in the Criminal Division has the potential to cause life-long collateral consequences, including their ability to seek future employment, vote or obtain student loans. Studies have shown that youth are much more amenable to treatment and rehabilitation, especially when the intervention is matched to their risk and need level. Therefore, the intent of the legislative changes was to ensure that these youth were treated differently than adults. The legislation included changes to juvenile jurisdiction with built in implementation dates.

In 2023, the legislature passed Acts 23 and 46, which provide additional clarification for the juvenile jurisdiction changes enacted in previous years. This memo provides an overview of the legislation that passed this year.

Act 23 makes the following changes:

Juvenile Jurisdiction

Implementation of 19-year-old youth coming under the jurisdiction of Family Division will go into effect on July 1,2024.

Transfer from Family Division (33 V.S.A. § 5204)

(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)-(12) 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;
(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; or
(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c) or an attempt to commit that offense.

(2)(A)(i) The Family Division of the Superior Court shall 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:

(I) a felony violation of 18 V.S.A. chapter 84 for selling or trafficking a regulated drug;

(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.

(B) A transfer hearing required by this subdivision (2) shall occur without delay and as soon as practicable, and the State shall have the burden of proof. The court decision to hold the transfer hearing 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.

(3) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to convert the juvenile proceeding to a youthful offender proceeding under chapter 52A of this title. If the parties stipulate to convert the proceeding pursuant to this subdivision, the court may proceed immediately to a youthful offender consideration hearing under section 5283 of this title. The Court shall request that the Department complete a youthful offender consideration report under section 5282 of this title before accepting a case for youthful offender treatment pursuant to this subdivision.

Commencement of Delinquency Proceedings (33 V.S.A. § 5201)

(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.

Records of Juvenile Judicial Proceedings (33 V.S.A. § 5117)

(d) Such records and files shall be available to:

(1) State's Attorneys and all other law enforcement officers in connection with record checks and other legal purposes; and

(2) the National Instant Criminal Background Check System in connection with a background check conducted on a person under 22 years of age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(l).

Plan for Secure Placements

On or before September 1, 2023, and December 1, 2023, the Department for Children and Families shall file a status report to the Joint Legislative Justice Oversight Committee, the Senate and House Committees on Judiciary, the House Committee on Corrections and Institutions, the House Committee on Human Services, and the Senate Committee on Health and Welfare describing the progress made toward implementing the requirement of Secs. 12 and 13 of this act that the Raise the Age initiative take effect on July 1, 2024.

Sentencing Commission Report

On or before December 15, 2023, the Vermont Sentencing Commission shall report to the Joint Legislative Justice Oversight Committee and the Senate and House Committees on Judiciary on whether the offenses for which transfer from the Family Division to the Criminal Division is permitted under 33 V.S.A. § 5204(a) should be expanded to include:

(1) first degree arson as defined in 13 V.S.A. § 502 or second degree arson as defined in 13 V.S.A. § 503;

(2) stalking as defined in 13 V.S.A. § 1062;

(3) domestic assault as defined in 13 V.S.A. § 1042, first degree aggravated domestic assault as defined in 13 V.S.A. § 1043, and second degree aggravated domestic assault as defined in 13 V.S.A. § 1044;

(4) selling or dispensing a regulated drug with death resulting as defined in 18 V.S.A. § 4250;

(5) using a firearm while selling or dispensing a drug as defined in 18 V.S.A. § 4253;

(6) carrying a dangerous or deadly weapon while committing a felony as defined in 13 V.S.A. § 4005;

(7) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602;

(8) eluding a police officer with serious bodily injury or death resulting as defined in 23 V.S.A. § 1133(b);

(9) willful and malicious injuries caused by explosives as defined in 13 V.S.A. § 1601, injuries caused by destructive devices as defined in 13 V.S.A. § 1605, or injuries caused by explosives as defined in 13 V.S.A. § 1608;

(10) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the person as defined in 13 V.S.A. § 2503;

(11) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(12) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(13) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(14) a hate-motivated crime as defined in 13 V.S.A. § 1455;

(15) conspiracy as defined in 13 V.S.A. § 1404;

(16) a violation of an abuse prevention order as defined in 13 V.S.A. § 1030 or violation of an order against stalking or sexual assault as defined in 12 V.S.A. § 5138;

(17) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1;

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

(19) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3). (b) The report required by this section shall also consider whether burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c) should continue to be included in the offenses for which transfer from the Family Division to the Criminal Division is permitted under 33 V.S.A. § 5204(a) or whether an alternate or redefined version of the offense should be included.

Community Violence Prevention Program (18 V.S.A. § 13)

(a)(1) There is established the Community Violence Prevention Program to be administered by the Department of Health in consultation and collaboration with the Chief Prevention Officer, the Department of Public Safety, the Director of Violence Prevention, the Executive Director of Racial Equity, and the Council for Equitable Youth Justice. The Program shall work with communities to implement innovative, evidence-based, and evidence-informed programs addressing causes of youth and community violence.

(2) Grants awarded pursuant to this section shall be at the discretion of the Commissioner of Health. Preference shall be given to communities where there has been an increase in violence associated with illegal drug sales and trafficking, gang activity, or human trafficking. Grants shall:

(A) build on and complement existing programs addressing the causes of youth and community violence; and

(B) be for the purpose of funding efforts that address violence and associated community harm using approaches that may include the following:

(i) best available research evidence;

(ii) experiential evidence;

(iii) contextual evidence;

(iv) lived experience of impacted communities;

(v) trauma-responsive programming; and

(vi) other qualitative or quantitative factors that may inform the decision-making of the Commissioner.

(b)(1) A Vermont municipality or nonprofit organization may submit an application for a Community Violence Prevention Program grant to the Commissioner of Health. Grants awarded under this section shall be for the purpose of funding innovative, evidence-based, or evidence-informed approaches to reducing violence and associated community harm.

(2) The Commissioner of Health, in consultation with the Department of Public Safety and the Executive Director of Racial Equity, shall develop and publish guidelines for the award of Community Violence Prevention Program grants. The guidelines shall include a focus on increasing community capacity to implement approaches for human services, public health, and public safety collaboration to address root causes of community violence and substance use through data-driven projects.

(c) The Community Violence Prevention Program shall collect data to monitor youth and community violence and its related risk and protective factors and to evaluate the impact of prevention efforts and shall use the data to plan and implement programs. The Program shall use monitoring and evaluation data to track the impact of interventions.

(d)(1) The Commissioner of Health, in consultation and collaboration with the Chief Prevention Officer, the Department of Public Safety, the Director of Violence Prevention, the Executive Director of Racial Equity, and the Council for Equitable Youth Justice, shall report on the Community Violence Prevention Program:

(A) on or before September 1, 2023, and December 1, 2023 to the Joint Legislative Justice Oversight Committee; and (B) on or before January 15, 2024, and annually on that date thereafter, to the Senate and House Committees on Judiciary, the Senate Committee on Health and Welfare, the House Committee on Human Services, and the House Committee on Health Care.

(2) The report required by this subsection shall include:

(A) a complete description of the Community Violence Prevention Program grant application and award process;

(B) guidelines for the award of grants developed under subdivision (b)(2) of this section;

(C) the number of applications submitted, and grants awarded, and the amount of each grant awarded;

(D) detailed descriptions of the programs and purposes for which all grants were awarded;

(E) the impacts and outcomes of funded projects; and

(F) descriptions of any grants applied for or awarded.

Act 46 makes the following changes:

<u>Record of Juvenile Judicial Proceedings (33 V.S.A. § 5117)</u>

(a) Except as otherwise provided, court and law enforcement reports and files concerning a person subject to the jurisdiction of the court shall be maintained separate from the records and files of other persons. Unless a charge of delinquency is transferred for criminal prosecution under chapter 52 of this title or the court otherwise orders in the interests of the child, such records and files shall not be open to public inspection, nor their contents disclosed to the public by any person. However, upon a finding that a child is a delinquent child by reason of commission of a delinquent act that would have been a felony if committed by an adult, the court, upon request of the victim, shall make the child's name available to the victim of the delinquent act. If the victim is incompetent or deceased, the child's name shall be released, upon request, to the victim's guardian or next of kin.

(b)(1) Notwithstanding the foregoing, inspection of such records and files by or dissemination of such records and files to the following is not prohibited:

(I) the Department for Children and Families; and

(J) the Office of the Child, Youth, and Family Advocate for the purpose of carrying out the provisions in chapter 32 of this title;
(K) a service provider named in a disposition order adopted by the court, or retained by or contracted with a party to fulfill the objectives of the disposition order, including referrals for treatment and placement;
(L) a court diversion program or youth-appropriate community-based provider to whom the child is referred by the State's Attorney or the court, if the child accepts the referral; and
(M) other State agencies, treatment programs, service providers, or those providing direct support to the youth, for the purpose of providing supervision or treatment to the youth.

Preliminary Hearing; Risk Assessment (33 V.S.A. § 5225)

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or from other conversations with the Department or community-based provider shall not be used against the youth in the youth's case for any purpose, including impeachment or cross-examination, provided that the fact of the youth's participation in risk and needs screening may be used in subsequent proceedings.

Youthful Offender Determination and Disposition Order (33 V.S.A. § 5284)

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

(A) shall approve a disposition case plan and impose conditions of juvenile probation on the youth; and
(B) may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth, or Commissioner, provided that any transfer of custody shall expire on the youth's 18th birthday.

(2) Prior to the approval of a disposition case plan, the court may refer a child directly to a youth-appropriate community-based provider that has been approved by the department and which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the court to place the child on probation. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child shall return to the court for further proceedings, including the imposition of the disposition order.

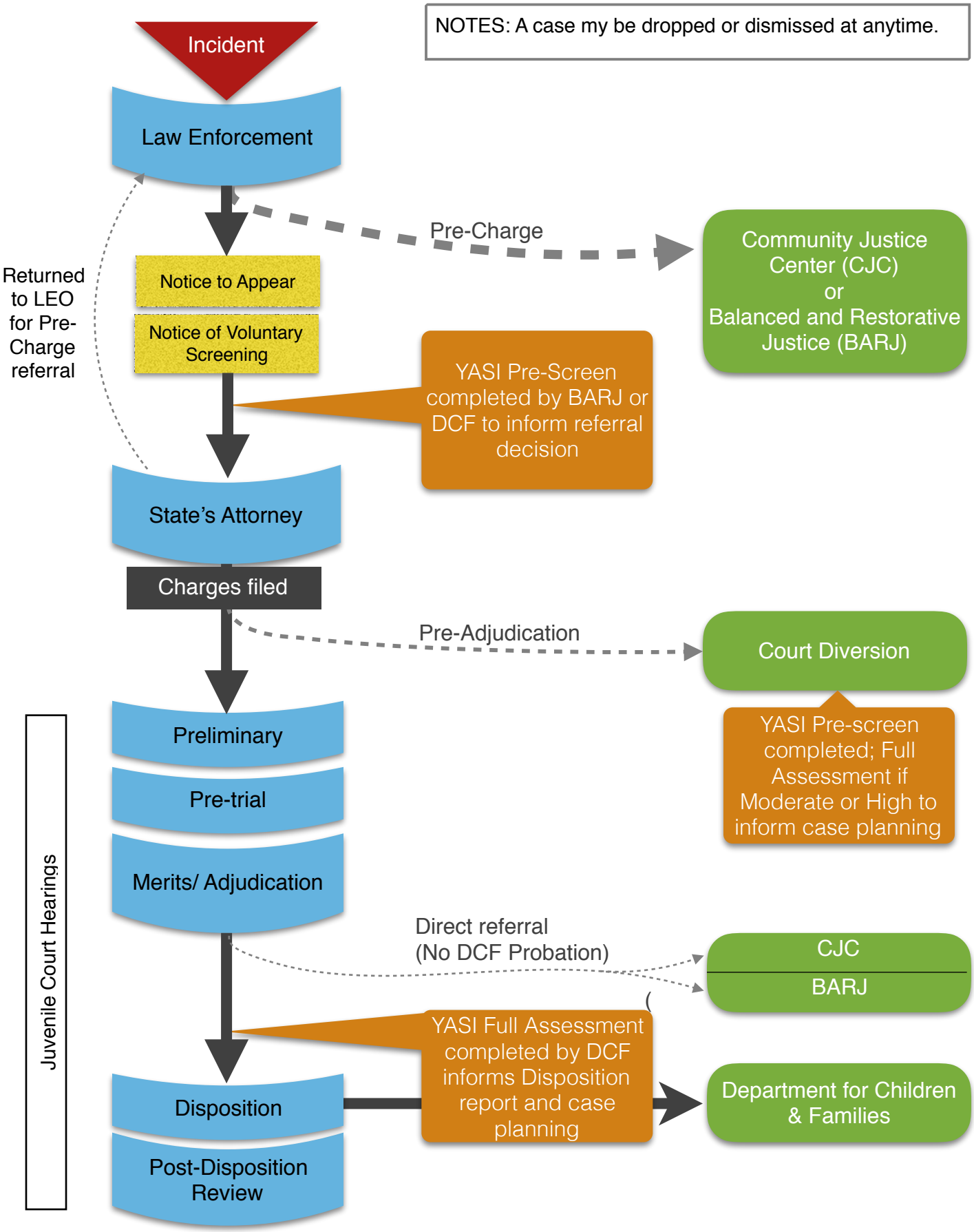
Juvenile Jurisdiction Chart

AGE at time of alleged offense	OFFENSE	
	OFFENSES other than big 12	**BIG TWELVE**
10-11	Proceedings start in Family; NO Transfer 33 VSA 5201(d) & (e) 33 VSA 5204(a)	Proceedings start in Family; NO Transfer 33 VSA 5201(c)
12-13		Proceedings start in Family (5201(c)); Transfer to Criminal is an option (5204(a))
14-15		Proceedings start in Crim. (5201(c)); Transfer to Family as a delinquency is an option (5203(b)) or as YO (see chart below)
16-18	All Proceedings start in Family (5201(d) & (e)) Misdemeanors: NO Transfer Felonies: Transfer to Criminal upon motion (5204(a))	Proceedings start in Crim. (5201(c)) Transfer to Family as a delinquency is an option (5203(b)) or as YO (see chart below)
19-21	Only juvenile jurisdiction now is through YO (see chart below) • 19-year-olds will be treated as delinquents on 7/1/24 unless changed by the Legislature on 7/1/24 unless changed by the Legislature	

Youthful Offender Jurisdiction Chart
(Cases that may be eligible for YO consideration)

Age at time of alleged offense	Cases with Criminal Court Jurisdiction	YO Eligibility
10 -11	None	Not applicable
12 -13	Big 12	Big 12 cases must be filed in the Family Division per 33 VSA 5201(c) Court may transfer to Criminal per 33 VSA 5204(a) Can be transferred back down as YO per 33 VSA 5281(a)
14-15	Big 12	Big 12 must be filed in Criminal per 33 VSA 5201(c), but may be transferred to Family as YO per 33 VSA 5281(a) & 5280(a) Alternatively, SAs may directly file Big 12 cases for 14 and 15-year-olds in the Family Division as a YO (33 VSA 5280(b) & 5280(a)(1)) – this is new per Act 45 of 2019
16-18*	Felonies Big 12	Felonies must be filed in Family per 33 VSA 5201(e), but can be transferred to Criminal per 33 VSA 5204(a) and then transferred back down as YO (33 VSA 5281(a)) Big 12 shall be filed in Criminal per 33 VSA 5201(c), but may be transferred to Family as YO per 33 VSA 5281(a) & 5280(a) Alternatively, SAs may directly file Big 12 cases for 16 and 17-year-olds in the Family Division as a YO per 33 VSA 5280(b) & 5280(a)(1) * This will include 19-year-olds on 7/1/24. unless changed by the Legislature
19-21	Any offense	All cases start in Criminal unless SA decides to file YO petition directly in Family (33 VSA 5280(b) & 5280(a)(1). Applies to <u>any</u> alleged offense. Any case that starts in Criminal may be transferred to Family for YO status consideration upon motion (33 VSA 5281(a) & 5280(a)(2)).

Youth Justice Flowchart



Youthful Offender Proceedings
Flowchart

Preliminary Hearing - YO petition filed in Family Division 33 VSA §5281 (b)

Charge(s) filed in Criminal Division 33 VSA § 5281

Motion filed in Criminal Division for case to be transferred to Family Division for Youthful Offender Consideration 33 VSA § 5281 (a)

Within 15 Days of the commencement of the Youthful Offender proceeding in the Family Division, youth shall be offered a **Risk & Needs Screening (YASI)** conducted by the Department or BARJ 33 VSA §5280 (d)

If the youth **does not complete the YASI in 15 days,** and the Court does not extend the timeframe for good cause, the Family Division shall reject the case for Youthful Offender Treatment 33 VSA §5280

Presumption of Diversion
BARJ or Department shall report the risk level to the SA. If low or moderate risk youth shall be referred to Diversion. SA's have sole authority to overcome presumption. 33 VSA § 5280 (e)

If the case is not diverted, **30 days** after youth has completed Risk & Needs Assessment (YASI) DCF files Youthful Offender Consideration Report with the Family Division 33 VSA § 5282 (a)

YO Consideration Hearing in Family Division, 33 VSA § 5283 and 5284

Court **denies YO Status**, case returns to Criminal Division 33 VSA §5284 (b) (1)

Merits Hearing: If accepted for YO status, case proceeds to Merits like delinquency cases. 33 VSA § 5281 (d) and 5227-5229

If Merits found, **Disposition Hearing** is held. DCF in collaboration with DOC submits Disposition Report.
33 VSA § 5284

When appropriate, Court review prior to 18 years of age
DCF will make recommendation for either case closure or need for further supervision 33 VSA § 5286 (a)

Modification or revocation of disposition
DCF in collaboration with DOC will file a VOP or Motion to request revocation to the Disposition Order 33 VSA § 5285

Case Closure

Discharge of YO Probation: A motion may be filed at any time in the Family Division requesting that the court terminate the youth's status as a youthful offender and discharge them from probation. The motion may be filed by the SA, the youth, the Department, or the court on its own motion. 33 V.S.A. § 5287

Chapter:	Working with Youth and Families in Court	
Subject:	Juvenile Court Proceedings – Delinquency	
Approved:	Aryka Radke, Deputy Commissioner	Effective: 7/25/2024
Supersedes:	Family Services Policy 83	Dated: 7/27/2022

Purpose

To outline the division's responsibilities during juvenile court proceedings for delinquency. This policy does not address youthful offender status (Family Services Policy 164).

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Related Policies

Family Services Policy 80: Working with Families in Court – Definitions
Family Services Policy 82: Juvenile Court Proceedings – CHINS
Family Services Policy 84: Conditional Custody Orders (CCOs)
Family Services Policy 91: Kinship Care and Collaboration with Relatives
Family Services Policy 99: Confidential Placements
Family Services Policy 122: Case Plan Reviews and Permanency Hearings for Children and Youth in Custody
Family Services Policy 124: Family Time
Family Services Policy 125: Permanency Planning for Children and Youth
Family Services Policy 162: Youth Justice and Juvenile Probation
Family Services Policy 163: Engaging and Supporting Victims and Impacted Parties

Policy

Delinquency Filing Options

Juvenile Jurisdiction (Delinquency) Chart		
AGE at the time of the alleged offense	**OFFENSE**	
	OFFENSES other than BIG ELEVEN	**BIG ELEVEN and other exceptions**
10-11	Proceedings start in Family; NO transfer per 33 V.S.A. § 5204(a)	Proceedings start in Family; NO Transfer per 33 V.S.A. § 5204(a)
12-13	Proceedings start in Family; NO transfer per 33 V.S.A. § 5204(a)	Proceedings start in Family per 33 V.S.A. § 5201(c); Transfer to Criminal is an option (5204(a))
14-15	Proceedings start in Family; NO transfer per 33 V.S.A. § 5204(a)	Proceedings start in Criminal per 33 V.S.A. § 5201(c); Transfer to Family as a delinquency is an option (5203(b)) or as YO
16-18*	Proceedings start in Family per 33 V.S.A. § 5201(d) Misdemeanors: NO transfer	Proceedings start in Criminal per 33 V.S.A. § 5201(c) and 33 V.S.A. § 5201(c)(2) or (3)

*** 19-year-olds will be treated as delinquents on 4/1/2025.**	Felonies: Transfer to Criminal upon motion per 33 V.S.A. § 5204(a)	Transfer to Family as a delinquency is an option per 33 V.S.A. § 5203(b) or as YO
19-21	Only juvenile jurisdiction now is through YO	

Youth's Presence Required at Hearings

The youth must be present at all hearings unless the court has waived their appearance. If the youth is in DCF custody, the family services worker must arrange for the child to be present.

Seeking an Emergency Care Order (ECO)

Division staff will request that law enforcement seek an emergency care order for a youth alleged to have committed a delinquent act only when the child's immediate welfare, the protection of the community, or both, requires removal from the home; or the child's welfare is otherwise endangered. Only a law enforcement officer has the authority to take a child into physical custody.

The procedure for initiating custody for an 18-year-old youth is the same for children and youth that come into care under age 18. It will be a rare occurrence that we will need to seek custody of an 18-year-old, however, when we are granted custody, staff should follow the same family finding protocols to identify natural supports for consideration as placement resources. Refer to Family Services Policy 91 (Kinship Care and Collaboration with Relatives) for guidance.

Emergency Care Order (ECO)

At the emergency care hearing, the division may recommend:

- A conditional custody order (CCO) allowing the child to remain with the custodial parent, subject to conditions necessary and sufficient to protect the child, the community or both; or
- An order transferring temporary custody of the child to a noncustodial parent or relative; or
- A transfer of temporary custody to DCF pending a temporary care hearing.

The division has information brochures for custodial parents, non-custodial parents, and relatives:

- Information for Custodial Parents
- Information for Non-Custodial Parents
- Information for Relatives & Friends

Providing Notice to the Noncustodial Parent

Division staff must make reasonable efforts to locate any noncustodial parent and provide the parent with:

- A copy of the emergency care order or conditional custody order, and
- Notice of the temporary care hearing, and of their right to counsel.

If applicable, the division's brochure titled Your Child is in DCF Custody: Information for Non-Custodial Parents should be shared with noncustodial parents.

If the noncustodial parent cannot be located, division staff must provide the court with a summary of the efforts made to locate the parent.

Providing Information to Parents

If, as a result of a court hearing, a child is ordered into the custody of the commissioner, division staff shall promptly notify the child's parents of their rights to appeal certain decisions made by the division. The division's brochure titled Your Child is in DCF Custody: Information for Custodial Parents will be given to the parents of all children in custody, including temporary custody.

Special Considerations for Confidential Placements

The division typically informs parents of the location of their child's placement. In rare instances, a confidential placement may be necessary for safety reasons. Confidential placements may be considered if informing the parents of the child's placement would compromise the safety of the child or resource family. See Family Services Policy 99 (Confidential Placements) for additional information.

Division Responsibilities at the Temporary Care Hearing

At the temporary care hearing, the division must provide information about:

(1) Any reasons for the child's removal which are not set forth in the officer's affidavit, which includes the division's history with the child and family;
(2) Services, if any, provided to the child and the family in an effort to prevent removal;

(3) The need, if any, for continued custody of the child with the department, pending a hearing to adjudicate the merits of the petition;
(4) Services which could facilitate the return of the child to the custodial parent, guardian, or custodian;
(5) The identity and location of a noncustodial parent, a relative, or person with a significant relationship with the child known to the division who may be appropriate, capable, willing, and available to assume temporary custody of the child;
(6) Additional information as required by:
   a. the Uniform Child Custody Jurisdiction Act pursuant to 15 V.S.A. § 1037 regarding the child's residence over the last five years, and
   b. The Indian Child Welfare Act pursuant to 25 U.S.C. § 1901 et seq. regarding the child's membership or possible eligibility for members in a federally recognized Indian tribe.

The FS-605 (Information for the Temporary Care Hearing) is used to report this information.

Indian Child Welfare Act

The division recognizes and supports the intent of the Indian Child Welfare Act to support and preserve the family, tribal, and cultural affiliations of Indian children. Briefly summarized, the requirements of the Act that are relevant in Vermont are:
(1) The state must identify Indian children subject to the act, including a child who is a member of an Indian tribe or is eligible for membership in an Indian tribe or is the biological child of a member of the Indian tribe.
(2) Indian parents and tribes have the right to notice of and to intervene in state proceedings involving Indian children;
(3) In placing an Indian child, special preference must be given to a member of the child's extended family, other members of the child's tribe, and other Indian families, in that order.

Therefore, the division will inquire if a child is or may be an Indian child as defined in the Act. If so, the district office will promptly contact the Assistant Attorney General for DCF for specific instruction on compliance with the Indian Child Welfare Act.

Identifying and Notifying Kinship Resources

See Family Services Policy 91 (Kinship Care and Collaboration with Relatives) for information on federal requirements to notify the child's relatives of the child's removal within 30 days.

Assessing Suitability of Noncustodial Parent, Relatives, and/or Persons with Significant Relationship

When the division has identified a person who may be appropriate, capable, willing, and available to assume temporary custody of the child, the division must conduct an assessment of suitability to care for the child. The assessment of suitability shall include consideration and documentation of the person's ability to care for the child's needs, a criminal history record check, and a check of allegations of prior child abuse or neglect by the person or by other adults in the person's home. The court may request that the hearing be continued when necessary to complete the assessment.

Consideration will be given to relatives who have a relationship with the child and proximity that would allow the child to remain in the same school.

Protective Orders

Under 33 V.S.A. § 5115, the division (or any other party) may file a motion for the court to make an order restraining or otherwise controlling the conduct of a person when that conduct is or may be detrimental or harmful to a child. Such orders may be issued ex parte or after a hearing and may be reviewed at subsequent hearings.

A person subject to a protective order who intentionally violates provisions concerning contact with the child is subject to punishment as provided in 13 V.S.A. § 1030.

Protective Supervision

Protective supervision is the authority granted by the court to the Department for Children and Families (DCF) in a juvenile case to take reasonable steps to monitor compliance with the court's conditional custody order, including unannounced visits to the home in which the child currently resides.

At a temporary care hearing, the court may make an order establishing protective supervision and requiring the department to make appropriate service referrals for the child and the family, if custody is transferred to an individual other than the commissioner.

The court may order protective supervision as part of a disposition order.

Filing of Initial Case Plan within Sixty (60) Days of the Custody Order

If the court grants or continues DCF custody at the temporary care hearing, the division must file an initial case plan for the child and the family within 60 days of the initial

order transferring custody. The department must provide a copy of the case plan to the parties, their attorneys, and the guardian ad litem. If the disposition takes place within 60 days of the court transferring custody to DCF, the disposition case plan may serve as the initial case plan. This includes 18-year-old youth who are placed in the custody of the department.

33 V.S.A. § 5314(b) specifies that the initial case plan shall not be used or referred to as evidence prior to a finding that a child is in need of care or supervision. If a parent or their attorney has questions about the use of this information in upcoming court proceedings, they should be referred to the state's attorney.

Refer to Family Services Policy 122 (Case Plan Reviews and Permanency Hearings for Children and Youth in DCF Custody) for information on case plans and plan reviews.

Direct Referral from Court to a DCF Approved Community Justice Program

Following adjudication, in lieu of probation, the court may refer a youth to a community-based provider approved by the division (either a community justice center (CJC) or a balanced and restorative justice program (BARJ)). The youth does not need to be placed on probation to exercise this option. If the community-based provider does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth will return to the court for disposition.

Disposition Case Plan for Youth Adjudicated for a Delinquency

Once the court makes a merits finding and order, the division must submit a disposition case plan no later than seven (7) business days before the scheduled disposition hearing. To the extent that the safety of the public and the youth allow, plans for the youth should focus on the family and allow him or her to remain in their own community.

The division may recommend one or more of the following dispositional options:

(1) Juvenile probation for fixed period of time or until further order of the court; in addition to this a youth who has been adjudicated delinquent may be extended on probation under the supervision of the division until age 19.5 if the youth was 16 or 17 years old when they committed the offense, and up to age 20.5 if the youth was 18 at the time of the offense.

(2) Continuing or returning custody to the custodial parent, guardian, custodian, or back to the youth if they are 18 years old The division may recommend that for a fixed period, this order be subject to such conditions necessary and sufficient to provide for the safety of the child and the community, including protective supervision for up to six months unless further extended by court order.

(3) Transfer of custody to a noncustodial parent, relative, or person with a significant connection to the child. This may be a conditional custody order, and include protective supervision, for a period of up to six months unless further extended by court order.
(4) Transfer of custody to DCF;
(5) Termination of parental rights without limitation to adoption or permanent guardianship;
(6) Directly referring a youth to a community-based provider approved by the division (either a community justice center (CJC) or a balanced and restorative justice program (BARJ)). This option is used in lieu of probation, so the youth should not also be placed on probation if this option is exercised.

Child Support and Other Benefits

The division may apply to receive any financial benefits for which the child is or may be eligible, including child support, based on the best interests of the child and the circumstances of the family. The division will treat income received on behalf of the child as recovery of expenses incurred by the division in caring for the child. When the court discharges the child from custody or the division is no longer supporting the child, any income not expended on the child's care will be refunded to the child or their legal guardian, as appropriate.

When the division continues to support an individual over the age of 18, the division will continue to receive benefits on behalf of the individual unless another agreement has been made. When the individual receives those payments directly, the division will subtract the amount from payments to or on behalf of the individual.

The payment of child support is one way that parents continue their commitment to and responsibility for their children who are in DCF custody. The division will request that the court address child support to be paid by each parent for all children in custody except:

- A parent who is supported by Reach Up or SSI will not be asked to pay child support;
- In rare cases, in which requesting child support is clearly detrimental to the child's best interest, including when the Office of Child Support has granted a domestic violence waiver.

The child benefits specialist will address child support at disposition for each new custody entrant. When the court has not already addressed child support issues, the child benefits specialist will request that child support be addressed at the next permanency hearing.

Genetic Testing

Where parentage of a child is in question, or the court orders genetic testing, the child benefits specialist will assist the district office in obtaining genetic testing.

Family Contact

33 V.S.A. Chapter 52 on delinquency does not contain detailed provisions for parent-child contact. However, the act specifies that a disposition case plan for a youth in DCF custody contain a recommendation for parent-child contact if appropriate. Both a temporary care order and a disposition order may contain orders for parent-child contact under such terms and conditions as are necessary for the protection of the child.

See Family Services Policy 124 (Family Time (Parent/Child Contact)) for additional information on family time.

Sixty Day Post-Disposition Review

For any youth whose custody is transferred to DCF, or who is the subject of a conditional custody order, the court will hold a post-disposition review within 60 days of the date of the disposition for the purpose of monitoring progress and reviewing the parent-child contact order. Family services workers should use the division's *Post-Disposition Review Template* for this report.

The division must notify the child's foster parent, pre-adoptive parent, relative caregiver, or any custodian of the post-disposition hearing using the Foster Parent Court Notification Card. Per 33 V.S.A. § 5320, caregivers have the right to be heard at post-disposition hearings. Judges may ask caregivers to share their perspective verbally in court or in writing. Any individual without party status seeking inclusion in the hearing may petition the court for admittance by filing a request with the clerk of the court. See Family Services Policy 122 for information on case plan reviews.

Conditional Custody Orders – Duration, Review, and Division Responsibilities

CCOs are meant to be time limited. Division staff will make efforts to ensure a timely ending to CCOs and safe closure of these cases.

CCOs with Custodial Parents	The presumptive duration of the order is no longer than six months from the date of the disposition order or conditional custody order, whichever occurs later, unless otherwise extended by the court. If the

	department, or any party, recommends that the order remain in effect for a longer period, they **must file a petition at least 14 days before the presumptive expiration date**. Following a hearing, the court may extend the order for a period not to exceed six months. When the final order expires, the court will issue an order vacating the conditions, and transferring full custody to the parent without conditions.
CCOs with Noncustodial Parents and Non-Parents	These orders will be reviewed at a hearing to be held six months from the date of the disposition order or conditional custody order, whichever occurs later. At the hearing, the court shall determine whether it is in the child's best interest to: • Transfer either full or conditional custody to a parent; • Establish a permanent guardianship; • Move towards termination of parental rights and adoption; OR • If the court determines that reasonable progress has been made towards reunification, and that reunification is in the best interest of the child, the court may extend the CCO for a period not to exceed six months, and set the matter for further hearing.

During the period of a CCO, the division shall maintain an open case with a case plan and provide appropriate service referrals to the parent(s) and custodian. See Family Services Policy 84 for additional information on conditional custody orders.

Permanency Hearing

The transfer of custody to the department is for an indeterminate period but is subject to periodic review at a permanency hearing. The permanency hearing must be held within 12 months of the transfer of custody away from the custodial parent, and every 12 months thereafter.

The division must file with the court a notice of permanency review together with a case plan and recommendation for a permanency goal. The court must hold a permanency review hearing within 30 days of that filing.

The division must provide notice to the state's attorney, all parties to the proceeding, and the youth's foster, pre-adoptive or relative caregivers. Division staff will utilize the

Foster Parent Court Notification Card to notify caregivers of their right to be heard at permanency hearings.

Permanency Reasonable Efforts Finding

The division must also file a petition for a finding of reasonable efforts and a report or affidavit, with notice to all parties. Reasonable efforts to finalize a permanency plan may consist of:

(1)Reasonable efforts to reunify the child and family following the child's removal from the home, where the permanency plan for the child is reunification; or

(2) Reasonable efforts to arrange and finalize an alternate permanent living arrangement for the child, in cases where the permanency plan for the child does not include reunification.

Modifying Court Orders and Violations of Probation

A disposition order is a final order. The division or any other party may file a motion to modify the disposition order, or any other order when there are changed circumstances that require the modification to serve the child's best interests.

During the period of probation, the division may request that the court modify or add to the conditions of probation, including when the youth fails to comply with conditions of probation.

Refer to Family Services Policy 162 for additional information on juvenile probation and violations of probation.

Placement of Probationer

Division family services workers may place a youth on probation or authorize any law enforcement officer to do so by giving the officer a written statement (FS-316: Detention of Juvenile Probationer), which specifies the violation.

This method of initiating violation of probation proceedings may be employed when the youth has violated a condition of their probation certificate and the youth's behaviors constitute:

- immediate risk to public safety;
- immediate risk to abscond; or
- a pattern of minor violations.

Vacating Court Orders

The division or any other party may petition the court to vacate some or all of its disposition order and/or to terminate its jurisdiction over the child. Unless all parties waive their right to a hearing, the court must hold a hearing on the petition and give notice to all parties.

Once the juvenile court's jurisdiction has been terminated, any previous orders regarding the legal relationships between the child and his other parents and/or guardians are fully effective. Examples of these types of orders include custody orders from a parentage or divorce proceeding, or a guardianship order from a probate proceeding. There is an important exception to this: if a judge in a disposition order (1) transfers custody of a child to the parent who was formerly the noncustodial parent and (2) closes the juvenile court case, this disposition order is not confidential and will be made part of the record in any existing parentage or divorce proceeding. In these limited circumstances, the juvenile court's disposition order replaces the previous custody order in the divorce/parentage case.

If the family services worker recommends a different custody arrangement other than the arrangement that was in place prior to the commencement of the juvenile court proceedings, the juvenile court should not be asked to vacate orders and terminate jurisdiction. Rather, at the next permanency hearing, the family services worker should make their recommendations for the child's custodial arrangements to the court. If either parent owes court-ordered child support to the division, the child support order should not be vacated. Rather, it should be modified to order the parents to pay arrearages.

STATE OF VERMONT

SUPERIOR COURT **FAMILY DIVISION**

Unit **Case No. _____**

In Re:	DOB

JUVENILE PROBATION CERTIFICATE

☐ **Delinquency**

☐ **Youthful Offender**

Date of Adjudication: _____

Date of Majority: _____

Date of Disposition: _____

To: _____

You have been found by the Court to have committed the following delinquent act(s):

_____

_____

_____

_____

At a hearing held on_____, the Judge placed you on probation. Failure to comply with the conditions of your probation certificate may result in a graduated sanction, a violation of probation filing, placement at a secure juvenile facility, or incarceration. A finding that you have violated your probation could result in additional probation conditions, an extension of the term of probation, a change in custody, or placement at a secure facility. If you commit a new offense and are adjudicated or convicted while on probation, that may constitute a violation. The Court orders that you follow these additional conditions while you are on probation:

☐ 1. You shall actively participate in a restorative process and complete all conditions set forth. Members that participate in the process will sign an agreement that restricts any discussion of your case to their participation in the panel process. In order to participate in the process, you will have to tell the members about the facts of your offense and take responsibility.

☐ 2. Engage in a service-learning project, community service or opportunity to repair the harm with victim or community as determined by your Probation Officer or BARJ.

☐ 3. For the duration of your probation, do not associate with the following individuals without prior approval of your probation officer: _____

☐ 4. You shall not harass, nor cause anyone else to harass, the following: _____

☐ 5. Do not go to the following place:_____, unless approved by your Probation Officer.

☐ 6. Be home at_____, or with your parent/guardian or other adult approved by the Court or probation officer during the following hours:_____to_____, unless modified by your probation officer.

☐ 7. Do not have any weapons or other destructive devices on you or accessible to you at your home, including (but not limited to) firearms, ammunition, explosives, and bows.

☐ 8. When your probation officer reasonably suspects that you have been using drugs or alcohol, your probation officer may require you to submit to a urine and/or breath test for drugs or alcohol.

☐ 9. You shall successfully complete a treatment program at_____.

☐ 10. Be drug and alcohol free. Do not buy, possess, or use alcohol, marijuana, illegal drugs, or any regulated drugs unless they are prescribed to you by a medical provider.

☐ 11. Faithfully attend school or training at_____.

☐ 12. Work faithfully at_____or seek employment.

☐ 13. Remain within the State of Vermont unless granted permission to leave by your probation officer.

☐ 14. Reside at_____.

☐ 15. You shall submit to a drug or alcohol assessment and follow recommendations for treatment.

☐ 16. Notify your probation officer within 24 hours of any change of address or place of residence.

☐ 17. Report to your juvenile probation officer as directed. Answer all reasonable inquiries by your juvenile probation officer.

☐ 18. Allow your juvenile probation officer to visit you at reasonable times at home or elsewhere.

☐ 19. Sign appropriate releases of information to allow your probation officer to monitor the compliance with your probation conditions.

☐ 20 **For Youthful Offender Only**: Participate in electronic monitoring as directed by your probation officer and abide by all electronic monitoring, user agreements, controls and conditions as directed.

☐ 21. Other: _____
_____
_____

Special Conditions Related to Sexual Offenses

☐ 22. You shall successfully enroll, participate in, and complete a program/treatment for sex offenders as directed by your probation officer or designee.

☐ 23. You shall not have any contact with your victim(s) _____
(Victim's Initials)

(Including letters, phone calls, tapes, visits, videos, electronically or any form of contact through a third party) unless approved and documented in advance by your probation officer.

☐ 24. You may not purchase, possess, or use pornography or erotica. You may not go to adult bookstores, sex shops, topless bars.

☐ 25. You may not own, possess or use a camera, recorder, cell phone, or other electronic device that has recording capabilities, without prior permission of your probation officer or designee. If permission is granted you must enable your probation officer to access these devices to monitor compliance with probation conditions.

☐ 26. You may not access or loiter in places where children congregate, e.g., parks, playgrounds, schools, etc., unless otherwise approved and documented in advance by your probation officer.

☐ 27. Your probation officer may place restrictions on your interactions with certain groups of people. You shall inform your probation officer of the following relationships/social connections:

- ☐ A dating relationship that involves or will likely involve intimate or sexual acts.
- ☐ A social or dating relationship with any person who has children underage.
- ☐ Other relationships/interactions: _____

☐ 28. Other: _____

☐ Discharge from probation is to be reviewed at a Review Hearing scheduled for _____ months from the date of this order.

Probation will be termed and be discharged on _____ unless that date is changed by order of the Court.

Date

_____ _____

Superior Court Judge

Youth's Acknowledgment of Receipt of the Probation Conditions

I,_____, have received a copy of this Probation Certificate. I have read the above conditions of probation and I have had them explained to me. I understand them and agree to follow them. I understand that violations of any of the conditions may cause the Court to issue a pick-up order for my apprehension. **Additional conditions** may be imposed upon me, or I may be placed at a secure juvenile facility. I also understand that if I do not comply with any of the above conditions, if I am found by a judge to be delinquent in the future, or if I am later convicted of an adult crime, the Court may find me in violation of probation. I understand that the Court can then give me more conditions to complete and take other appropriate action, such as revocation of probation. 33 V.S.A §5263(b).

Parent/Guardian Acknowledgment

I,_____, the parent/ guardian of_____, have read the above conditions of probation ordered by the Court and understand them. I agree to facilitate and support my child's compliance with these conditions. I agree to attend treatment programs with my child as recommended by the treatment provider. 33 V.S.A. §5263(c). I understand that adjudication of further delinquent acts, conviction of a crime, and / or violation of any of the above conditions is a violation of probation and may result in further court action.

Signatures:

_____	_____
Juvenile / Youth	Date
_____	_____
Parent / Guardian	Date
_____	_____
Parent / Guardian	Date
_____	_____
Guardian Ad Litem	Date
_____	_____
DCF Probation Officer	Date
_____	_____
DOC Probation Officer	Date

If you have any questions about the conditions of probation, please call: _____

Lamoille
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Restoring relationships.
Rebuilding community.
Renewing hope.

YASI Definition and Purpose:

- YASI is the Youth Assessment and Screening Instrument validated for use with youth ages 10-25.

- YASI pre-screen:
  - assesses risk to reoffend
  - determines eligibility for Court Diversion (CD)
  - informs BARJ case planning

- By statute (Title 33, Chpt. 52) every charged youth is entitled to a YASI pre-screen.

- The Lamoille Restorative Center or DCF administers the YASI pre-screen to all charged youth.

- Youth who are not charged but are referred to BARJ because they are at risk of delinquency are administered the YASI pre-screen by LRC as part of their intake process.

- YASI pre-screen must be completed before a charged youth is referred to Court Diversion and before their preliminary hearing.

- Law enforcement officers should advise charged youth at the time of their citation or arrest that they may be eligible for alternatives to the court process and to contact LRC for YASI pre-screening (see Notice to Report for Risk Screening).

- Youth who score low or moderate risk to re-offend are eligible for Court Diversion, assuming they meet all other criteria.

- Youth whose scores indicate high risk to re-offend are not eligible for Court Diversion unless provided the full YASI by DCF to further assess their eligibility, and Court Diversion seems otherwise appropriate.

- Adjudicated youth placed on probation under the supervision of DCF will be assessed by DCF with the full YASI, which informs case planning.

- Youth under consideration for Youthful Offender status are provided a full YASI by DCF.

- YASI is not validated to predict risk to reoffend in a sexual manner.

    - If 18 or over youth are referred to VT Department of Corrections for VASOR (VT Assessment of Sex Offender Risk) if Youthful Offender status is sought.
    - If under 18 they must be further evaluated by a clinician, regardless of their YASI risk score.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

The Vermont Statutes Online does not include the actions of the 2024 session of the General Assembly. We expect them to be updated by November 1st.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 33 : Human Services

Chapter 052 : Delinquency Proceedings

Subchapter 002 : Petition, Merits, and Disposition

(Cite as: 33 V.S.A. § 5225)

§ 5225. Preliminary hearing; risk assessment

(a) Preliminary hearing. A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing. Counsel for the child shall be assigned prior to the preliminary hearing.

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or from other conversations with the Department or community-based provider shall not be used against the youth in the youth's case for any

purpose, including impeachment or cross-examination, provided that the fact of the youth's participation in risk and needs screening may be used in subsequent proceedings.

(4) If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney.

(c) Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(d) Guardian ad litem. At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the court may appoint a guardian ad litem other than a parent, guardian, or custodian.

(e) Admission; denial. At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian ad litem, and the Department agree.

(f) Conditions. The court may order the child to abide by conditions of release pending a merits or disposition hearing. (Added 2007, No. 185 (Adj. Sess.), § 2, eff. Jan. 1, 2009; amended 2011, No. 159 (Adj. Sess.), § 6; 2015, No. 153 (Adj. Sess.), § 14; 2017, No. 201 (Adj. Sess.), § 6; 2023, No. 46, § 18, eff. June 5, 2023.)

Youth Screening - Delinquency

Risk Level Report

Youth: _____DOB: _____

Youth Contact Information: _____

Date of first contact with/from youth: _____ Date of meeting with youth: _____

Collateral Contacts: ***DCF Family Services;*** _____

If youth did not complete YASI, outline attempts to engage the youth: _____

_____

_____

_____

Prescreen Risk Level: _____ Date of YASI Completion: _____

Recommendation:

Pre-Charge: ☐ Balanced and Restorative Justice Program (BARJ)

☐ Community Justice Center (CJC)

Post Charge: ___Court Diversion

33 V.S.A. § 5225c states, "Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory by the provider, the child's case shall return to the State's Attorney."

☐ Juvenile Probation

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Restoring relationships.
Rebuilding community.
Renewing hope.

NOTICE TO REPORT FOR SCREENING

You are receiving this notice because you have been given a juvenile citation. Please contact Lamoille Restorative Center (LRC) at 802.888.5871 to schedule an appointment for a screening.

Individuals under the age of 18 must be accompanied by a parent or legal guardian for all appointments.

Purpose: The purpose of the screening is to determine whether the case is resolved with or without the court process.

Confidentiality: The screening is a confidential interview with a staff member at LRC. Only the results of the screening will be shared with the Public Defender, State's Attorney, and the Court.

How much will this cost?
There is no cost for the screening.

How long will this take?
The screening will take about 45 – 60 minutes to complete.

Contact:

Lamoille Restorative Center
221 Main Street
PO Box 148
Hyde Park, VT 05655

(802) 888-5871

info@lrcvt.org
www.lrcvt.org