
**Report to
The Vermont Legislature**

**Annual Report on
Act 201 Implementation Plan & Recommendations**

In Accordance with 2018 Act 201 Sec. 12(3)

**Submitted to: Joint Legislative Justice Oversight Committee
Joint Legislative Child Protection Oversight Committee**

**Submitted by: Sean Brown, Commissioner
Department for Children and Families**

**Prepared by: Tyler Allen, Adolescent Services Director, FSD
Lindy Boudreau, Juvenile Justice Director, FSD
Elizabeth Morris, Juvenile Justice Coordinator, FSD**

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Executive Summary

On July 1, 2020, Vermont became the first state in the nation to raise the age of juvenile jurisdiction to include 18-year-olds for most crimes. Most young people accused of breaking the law at age 18 (excluding the more serious “Big 12” offenses) will be adjudicated in the Family Division of the Superior Court (rather than the adult Criminal Division), with supervision and coordination of services provided by the Department for Children and Families (DCF), rather than the Department of Corrections. On July 1, 2022, 19-year-olds will be included in the juvenile justice system, making the 20th birthday the upper age of juvenile jurisdiction in the state. As the first state to embark on this approach for young adults, Vermont has the opportunity to demonstrate positive outcomes associated with raising the age, thereby increasing the likelihood that other states will follow Vermont’s example.

To accomplish such an undertaking, the State enlisted the support of a multitude of partners, stakeholders, and subject matter experts in the development of an implementation plan. On November 1, 2019, a comprehensive and ambitious implementation plan was presented to the legislature. This report is meant to read largely as a status update regarding the strategies laid out in that implementation plan. This report is structured around the recommended objectives which are arranged into six categories that correlate to the strategies and key components laid out in the implementation plan.

The past year has been fraught with challenges for every system and agency engaged in implementation efforts. Most significantly, the COVID-19 Pandemic and related economic disruption stalled or set back nearly every objective laid out in the implementation plan. The Juvenile Justice Stakeholder Group (JJSG) has continued to meet throughout the pandemic, diligently working through the implementation plan challenges despite reduced capacity. Similarly, the Children and Family Council for Prevention Programs (CFCPP), the state advisory group to the federal Juvenile Justice Delinquency Prevention Act, continued to meet unabated, working closely with DCF and the JJSG, identifying and supporting efforts that are aligned with implementation plan strategies.

Beyond the immediate impact of COVID-19, other challenges have surfaced during this reporting period. Increased pressure on the more secure levels of Vermont’s system of care has created placement challenges and stakeholder concerns for providing adequate services for this age group. Known insufficiencies within data systems, coupled with a changing Judicial data system, have significantly hampered data collection efforts.

Despite all challenges and setbacks, it is the opinion of the reporting body that the state will be able to implement the second phase of the plan as scheduled by July 2022.

Part I: Introduction

Research in adolescent brain science, developmental psychology, and sociology demonstrates that emerging adulthood, between the ages of 18 and 25, is a distinct developmental stage that is critically important to the transition into mature, independent, and productive adulthood. This research indicates that, to some degree, risky and even illegal conduct is normative for adolescents and emerging adults. This developmental period is marked by malleability, which makes this cohort more effectively served by the juvenile justice system’s rehabilitative approach than by the adult system’s more punitive approach. Fortunately, research shows that: (1) nearly all youth will mature and age out of crime if given the opportunity to do so, and (2) that there are times when less formal intervention is better, as the justice system can unintentionally interfere with the natural desistance process.

Until recently, the adult criminal system paid scant attention to this age group, automatically treating them like 40- or 50-year-olds, and failing to provide effective and developmentally appropriate responses, programs, and opportunities. The failure of this approach is evident: emerging adults are over-represented in the justice system, have the highest recidivism rates, and experience the largest racial disparities of any age group. By incorporating those accused of breaking the law as 18- and 19-year-olds into the juvenile justice system, Vermont has created an opportunity to simultaneously improve outcomes for all youth, increase public safety, and reduce costs. Though this reporting period has presented challenges, DCF and all the partnering agencies remain committed to the efforts identified in the 2019 Implementation Plan Report.

Part II: Status Update

The prior legislative report outlined several key strategies for smooth implementation of Act 201 and preparation for the inclusion of 18- and 19-year-old youth in Vermont's juvenile justice system by:

- Increasing opportunities to divert cases from formal justice processing
- Maximizing the efficiency of the Family Court Division
- Ensuring a full continuum of post-dispositional options

Additional topics that were identified as important components to implementation include:

- Victims' rights
- The DCF Operational Plan
- Ongoing data collection/analysis

The prior legislative report also identified a detailed chart of recommended activities related to the noted strategies and components. Progress on those strategies (and more specific objectives in italics) is outlined below.

1. Increasing opportunities to divert cases from formal justice processing

JJSG to approach Agency of Education to collaborate on the schools' role for oversight and guidance to handle school-based issues internally.

Nationwide, youth of color make up a larger portion of students subject to school discipline than their white counterparts. Specifically, the rates of suspension and expulsion is much higher for youth of color. In 2015, a report from Vermont Legal Aid found that students of color and students with disabilities were two to three times more likely to be disciplined than their white, non-disabled peers. A school-based community approach to reduce ethnic and racial disparities within suspension rates and school-based discipline has effectively lowered youth arrest rates and can simultaneously provide desired supports to the youth through a preventative approach.

The role of school resource officers and school-based discipline has come to the forefront of the public's attention in recent months. The overarching question of how schools handle their discipline issues seems to be changing in each of the different jurisdictions depending on the town and pressure from the public. DCF and the Ethnic and Racial Disparities Committee of the CFCPP is in the process of executing two different contracts to address racial disparities within the school discipline. The contractor in both grant agreements shall:

- work directly with youth of color who may be at-risk for school discipline and suspension to reduce ethnic and racial disparities in the School District

- continue to work directly with youth who have been expelled from school in the School District, in addition to those who may be at-risk
- collaborate and work with organizations within their community to develop a school-based community approach to reduce ethnic and racial disparities within suspension rates and school-based discipline to lower youth arrest rates and provide supports to youth through a preventative approach
- report their suspension, expulsion, etc. data as part of the grant

In the coming year, the JJSJ will determine how they may further engage the Agency of Education regarding policies and practices towards this objective.

Outreach to law enforcement (Department of Public Safety and the Criminal Justice Training Council) regarding increasing training and support for schools and police. Subsequent collaboration to increase training.

Specific law enforcement trainings have not yet been developed, but DCF has put several intentional preparatory efforts in place to support stakeholders. DCF held community meetings in all 12 district offices prior to the 7/1/20 implementation. All district offices have committed to holding ongoing community meetings with stakeholders to monitor how the implementation is going and address any concerns as they arise. Identified contacts at DCF’s Central Office support stakeholders in managing the implementation and any issues that arise. DCF and the Attorney General’s Office have staff available to field questions from the various stakeholders regularly. This has been helpful in understanding where there is confusion about the statute and where we may need to make legislative or policy changes to assist in a smooth implementation.

The CFCPP has expressed interest in using federal funding to support training for law enforcement in a few different ways – restorative justice training, anti-racism training, systemic racism training, and positive youth development training for law enforcement.

Expand and refine the Family Division’s diversion programs, with the four-year goal of diverting an additional 25-30% of cases pre-merits. Expand programs targeted at particular issues such as the Youth Substance Abuse Safety Program, Tamarack, and other youth specific programming. Evaluate BARJ’s role with respect to its delineation of services and whether it’s the correct balance of delinquent and non-delinquent caseload (i.e. truancy).

DCF continues to educate stakeholders and partners in the options available to youth that do not include prosecution. The practice related to making direct referrals to a community justice provider will hopefully increase as the awareness around these options grows. Over the past year, the data on this had been inconsistently captured by Community Justice Center (CJC) providers. This data has since been added to the Balanced & Restorative Justice (BARJ) tracking, however, there is not yet a full year of data to provide.

The CFCPP has funded an analysis of domestic violence programming for emerging adults, and the development of a program for Vermont. Findings from this study will be included in the 2021 Implementation Plan Report. Sustained research past 2021 in this initiative will require alternative funding.

2. Maximizing the efficiency of the Family Court Division

*Establish new mandatory court timelines – Preliminary hearing to disposition within 45 days.
Improve case processing so cases move through the court process as quickly as possible.
Strengthen the use of non-court time to manage schedules and reach case resolution by adding required (pre-trial) case conferences where the parties confer on case.*

A pilot program to streamline the process for hearing delinquency cases is in the early stages of implementation in two counties. The data collection window within the Lamoille County Family Court began in September 2020; Bennington County Family Court is slated to begin in January 2021. Findings from the pilot programs will be included in the 2021 Implementation plan report.

3. Ensuring a full continuum of post-dispositional options

Expand immediate, short-term, targeted and discrete options (could be in lieu of formal probation, when appropriate) including e-courses that can be used by CJC, BARJ, Court Diversion, direct-referral programs (post disposition), and probation, and encourage their use.

Educational opportunities are currently used in a variety of ways around the state by restorative justice providers. The exploration of creative approaches and operationalizing the various practices is an ongoing function of DCF and its partners. The current BARJ budget does not include dedicated funding for evaluative procedures, but this is an area of potential future learning.

Increase direct referral, post-adjudication/pre-DCF supervision by the court to community-based restorative justice providers.

As described in the previous section regarding diversion efforts, DCF continues to educate stakeholders in the options available to youth that do not include prosecution. The practice related to making direct referrals to a community justice provider will hopefully increase as the awareness around this option grows. In 2020, the direct referrals post-adjudication to a community justice provider increased by 43% over 2019, as described in the table below. This increase likely would have been even more marked were it not for the impact of the COVID-19 pandemic. This is evidenced by the 2021 Quarter 1 data, which shows a utilization rate lower than 2019 data.

Family Division	FY 2019	FY 2020	FY 2021 Quarter 1
Addison	10	16	2
Bennington	20	24	11
Caledonia	8	10	2
Chittenden	46	107	0
Essex	3	0	3
Franklin	36	54	5
Grand Isle	2	5	1
Lamoille	16	18	1
Orange	6	17	2
Orleans	18	14	4
Rutland	18	29	3
Washington	48	34	15
Windham	16	28	4
Windsor	27	36	7
Total	274	392	60

Use the Positive Youth Development (PYD) Model – Engage youth throughout the life of their case using concrete conditions of probation that are age appropriate, incentive-driven, and take into account important positive relationships outside of traditional family.

The Youth Justice Summit was scheduled to occur in May 2020 however was cancelled due to the pandemic. This is a multidisciplinary training that would have captured a significant number of stakeholders across the state. This may be the topic for the 2021 Youth Justice Summit. A smaller PYD training is being provided to DCF staff in November 2020.

Clarify/adjust statute(s) to reflect that 18- and 19-year-olds are in the juvenile justice system and that if DCF has custody over them, it is “physical,” not “legal” custody.

This objective was achieved by the Legislature on July 1, 2020.

Continue to analyze best placement and treatment options for all youth in DCF custody (legal or physical) in the delinquency system.

Discussions have been ongoing within DCF about how to best meet the needs of this new population considering limitations in the current system of care. DCF, in consultation with stakeholder groups, will continue to analyze the need, capacity, and opportunities for increased community-based supports to ensure the system of care can meet all of this population’s needs during the next reporting period.

4. Victims’ rights

Clarify that victim advocates should be provided in all cases to provide support, information, consultation, and notification and ensure they are assigned in all cases.

DCF and the JJSG remains committed to supporting victim’s rights work. At present, there is anecdotal evidence to suggest that victim’s advocates are not always involved in cases, particularly in juvenile cases. Both the JJSG and the CFCPP have States Attorney’s Victim’s Advocate (VA) representation within their membership. At present, the JJSG is exploring this question to determine if the challenges are related to capacity or procedural barriers.

Create consistency in forms used by victim advocates. Clarify the procedure for disseminating the Victim Impact Statement to all parties, the request for notice of release, and the notice of victims’ rights to the victim.

DCF met with VAs to outline a process for systematically sending key information to victims in all cases, and to collect victim impact statements and requests for notification. This information is shared with DCF and DCF has a practice for tracking victim notifications and providing the information to victims in qualifying cases.

Evaluate the process for requesting and receiving restitution in delinquency cases and release an informational memo to instruct practitioners on operations.

This is a target area of exploration for the JJSG over the coming months. The JJSG has determined that, at present, there is some inconsistency on how restitution is ordered across the state. Some judges are inclined to consider amount of loss associated with a crime, while others are more inclined to set restitution based on the offender’s ability to pay. A complicating factor was also identified in that the court has limited ability to collect restitution from young offenders. The JJSG will work with the restitution unit to identify areas of improvement and develop clarification on when and how it is most appropriate to use.

Formally create regular opportunities for DCF family services workers and victim advocates to meet and communicate.

DCF created several opportunities to bring family services workers and victims' advocates (VAs) together during this reporting period. DCF held a meeting with the VAs to discuss DCF policy changes, Juvenile Justice (JJ) reform, the Raise The Age (RTA) initiative, and its impact on victims. Additionally, DCF provided an overview of the JJ reform, the RTA initiative, and its impact on victims to the Domestic Violence Council. Lastly, connections were made with local providers and the DCF Domestic Violence (DV) Specialists that cover each of the district offices. Ongoing communication and support will continue to be provided by both the DV Specialists and local DCF staff with the VAs.

5. DCF Operational Plan

Explore and use collaboration, communication, and creative approaches among stakeholders, including incentivizing cooperative efforts between stakeholders to reduce youth in court or custody.

Karen Vastine, the former Senior Advisor to the Commissioner of the Department for Children and Families, convened the Juvenile Justice Stakeholders Group in 2016. This group has been continuously meeting since then and includes representatives from all key stakeholders in Vermont's justice system. The stakeholder group has worked to troubleshoot various statutory barriers in the juvenile justice system as Vermont prepared and then became the first state in the country to raise its upper age of juvenile jurisdiction past a youth's 18th birthday.

These juvenile justice system stakeholders, including those from traditionally opposing perspectives, agree that using collaboration, communication, and creative approaches to reduce youth in court or custody is key. They will continue to pilot and implement techniques to support a successful juvenile justice system that is a developmentally appropriate response for emerging adults. This is exemplified when looking at the group's collaborative work to support new methods, such as the pilot for a shortened court process from the preliminary hearing to disposition.

Create the role of Victim Services Specialists at DCF to offer victims support, information, and connection to services post-disposition.

Additional positions are needed and could be funded to increase our ability to respond to the needs of victims in ways that our current infrastructure does not give us the capacity to do so.

Impose, develop, and implement standards on Court Diversion programs to direct them to be shorter/more time-limited interventions.

The current Attorney General's (AG's) handbook identifies the "least severe/most time-limited intervention" as the current standard of practice. The AG's office will track statewide data on time to intervention over the upcoming year. The pilot program being administered within two jurisdictions may provide some opportunity to better understand this data. The JJSG has identified some barriers to program non-compliance, including parental engagement and outdated contact tracking. The JJSG will work to develop specific recommendations around improved standards for diversion programs and include findings in future reports.

Develop and implement general program standards related to emerging adults for BARJ, CJs and Court Diversion.

This ongoing discussion continues to occur with DCF, Department of Corrections, and the AG's office.

When cases are unsuccessful in Court Diversion, allow the court to play a role before proceeding to prosecution.

The State's Attorneys will work with the JJSG and courts to develop potential strategies towards this objective.

Update data systems and collect data to ensure outcomes of the statutory change are measured and evaluated.

This continues to be one of the most significant barriers to monitoring, implementation and evaluation. The courts are currently updating their data system. Approximately half of the court districts are utilizing the new system, and half are still utilizing the former system. A comprehensive child welfare information system (CCWIS) could enhance evaluative possibilities, introduce efficiency into data collection, improve monitoring functions, and interface more smoothly with other systems. DCF does not currently have funding to do this.

6. Act 201 Implementation: Ongoing data collection and analysis

Identify an entity to aggregate existing data and generate a summary report of relevant data no less than annually.

At present, no stakeholder entities have the capacity to collect the necessary data for this objective exclusively. The Attorney General's Office has drafted two versions of data collection templates that could be completed by multiple stakeholders, but stakeholders still need to reach consensus on data elements.

Compile a list of all data currently collected by various entities focused on youth in the juvenile justice system and assess which pieces of data are most critical to aggregate and review on a regular basis. Collectively identify any missing data that stakeholders believe are critical to allow Vermont to evaluate the impact and success of Raise The Age, assess the barriers to collecting or generating that data, and produce a brief to the legislature outlining what policy or funding changes are required to generate that data.

While some efforts have been made by stakeholders to compile a list of available data, more work is needed to explore and prioritize additional datasets. Overall, the need to improve data collections systems across systems is great. As reported by the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, resources are needed even to assess the barriers to data, in addition to how best to generate it.

Identify composition of outcome study and evaluation that takes into account the important markers for emerging adult desistance and reduced risk including meaningful employment; education completion; stable housing; and positive social connections. These, combined with recidivism rates for this population, will provide Vermont an assessment of the first phase of implementation in preparation for the second phase (19-year-olds).

CFCPP has funded Crime Research Group Inc. (CRG) to complete a baseline recidivism evaluation of 18- and 19-year-olds before Act 201 moved them to Family Court. The statement of work for the project describes the background as follows:

“On July 1, 2020, Vermont was the first state in the nation to raise the age of juvenile jurisdiction to include 18-year-olds for most crimes. On July 1, 2022, 19-year-olds will be included. As the first state to embark on this approach for young adults, Vermont needs to track data that can

measure the outcomes for this population and how the outcomes for young adults processed in the juvenile system differ from the outcomes when that same population was processed in adult court. Recidivism is one of many ways in which outcomes can be measured. Others include quality of life factors including stable housing, education, employment, and other factors that reduce the likelihood of further criminal activity. If Vermont can demonstrate positive outcomes associated with raising the age, it will increase the likelihood that other states will follow Vermont's example."

When both 18- and 19-year-old youth are in family court another evaluation will need to occur to compare recidivism rates against the baseline being established in the current study. A more comprehensive and qualitative evaluation (as described above) would require additional resources to support it.

7. Statutory changes

Clarify/set upper age of DCF supervision for emerging adults in the juvenile justice system (age 20 years and 6 months for 18-year-olds; age 21 and 6 months for 19-year-olds). Clarify/adjust statute to reflect that 18- and 19-year-olds are in the juvenile justice system and that DCF has "physical" (not "legal") custody. Ensure the Tamarack program is available to all 18- and 19-year-olds, regardless of whether their case is handled in the Family or Criminal Division. Partake in technical corrections so that Vermont law consistently reflects Act 201's expansion of juvenile jurisdiction. Amend state statute 33 V.S.A. § 5206 to clarify which court a youth should be cited by law enforcement.

All aforementioned statutory changes were completed with Act 124, implemented on 7/1/20.

Part III: Recommendations

DCF, in consultation with the other identified agencies of the reporting body, do not presently have specific requests of the legislature as we continue the implementation of Act 201. The most significant needs identified to overcome barriers to full implementation fall into three general categories: supports for secure placement facilities at the highest end of the system of care, workforce supports, and ongoing data collection and evaluation capacity.

Supports for the systems of care is the most immediate area of need and bears the highest concern for stakeholders regarding public safety. While there is broad agreement that DCF is best able to address the needs of this population, the courts must consider community safety. Without support for community-based services and residential placement facilities, the state runs the risk of not being able to adequately address youth with high acuity security needs.

Workforce support is the second most pressing area of need, in large part due to the challenges presented by COVID-19. The courts have had challenges with backlogs, and both court and DCF staff have had limited bandwidth to dedicate to developing and overseeing new practices, policies, and procedures.

Lastly, enhancement of DCF's data systems would enable more robust study of programmatic impacts. Ongoing analysis of the 18- and 19-year-old population will better inform what services will most effectively mitigate community safety concerns. Further, dedicated funding to invest in a comprehensive evaluation of Act 201, including a qualitative outcomes study, would enhance our ability to develop increasingly effective programming. It also would increase the likelihood of other states following Vermont's example.

Summary

This report is a synopsis of the thoughtful, creative, and collaborative work done to further implement Vermont's Raise The Age Act in an otherwise challenging year. The ambitious road map clearly laid out in last year's report has been immensely helpful to DCF and stakeholders in maintaining focus towards the ultimate objectives of Act 201, but the timelines defined may have been overly optimistic even absent a global pandemic.

DCF and its partners, including the JJSG, CFCPP, courts, provider network, and others have remained dedicated and industrious in their commitment to address each of the key strategies and components of the work. Shifting the practice, culture, and associated supportive infrastructure will continue to take a great deal of time and effort, but DCF remains confident that our systems will be able to fulfill the second phase of the implementation plan as scheduled.