

FSD 164: Youthful Offender Status

Policy Information

Chapter/Category:

Working with Adolescents and Justice
Involved Youth

Supersedes:

FSD 164, Youthful Offender Status, Dated
07/25/2024 (effective)
Effective Date: 10/6/2025

Related Documents:

[Family Services Policy 80: Working with Families in Court – Definitions](#)

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Purpose

The purpose of this policy is to outline the responsibilities of the Department for Children and Families (DCF) Family Services Division and the Department of Corrections (DOC) in implementing the requirements of the Youthful Offenders Statutes, 33 V.S.A §§ 5280-5288 and 28 V.S.A. §§ 1161-1162. This policy correlates with the Department of Corrections Directive 429.01.

Authority

V.S.A. 33 Chapter 52A: Youthful Offenders

Policy

The Department for Children and Families - Family Services Division (hereafter referred to as “DCF”) and the Department of Corrections (DOC) are committed to collaborating on all cases in which a youth is adjudicated as a youthful offender. This collaboration includes the sharing of information, participation in mutual case conferences, and, when appropriate, in housing of youthful offenders over the age of 18 in a DOC correctional facility.

In 2016, the Vermont State Legislature made changes to the juvenile jurisdiction system to more closely align our system with brain development research and best practices for serving youth. Charging youth in Criminal Division has the potential to cause life-long collateral consequences for youth. Studies have shown that youth are much more amenable to treatment and rehabilitation, and as such should be treated differently than adults. These legislative changes expanded the population of youth that are eligible for consideration of youthful offender status.

When a youth is on youthful offender status, both a Family Services Worker and DOC Assigned Officer supervise probation and help make sure the youth meet the conditions of probation. By connecting eligible youth to the Family Division and the Department for Children and Families (DCF), Youthful Offender status allows youth to receive age-appropriate treatment and supervision. For youth with this status who complete the terms of their probation successfully, their Family Division record will be sealed thus avoiding the conviction on their permanent record.

1. Restorative Justice Approach

The State will employ a restorative approach to youth justice. The following restorative justice

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principles guide the work with Youthful Offenders:

- Harmful actions are violations of people and relationships;
- Violations create obligations; and
- Restorative justice seeks to engage and support those who have been harmed or victimized.

DCF and DOC shall each designate a Family Services Worker/Assigned Officer who will be responsible for the supervision of and for providing services to the youthful offender until the end of their probation term. The youth shall be eligible for appropriate community-based programming and services provided by both Departments (33 V.S.A. § 5284(d)).

2. Engagement and Service Delivery

Principles for Engagement with Youthful Offenders include:

- a. Partner with youth in taking responsibility and developing competency using restorative justice practices.
 - Youth will take responsibility for illegal acts.
 - Youth and the community will benefit from youth making amends for their actions.
 - Youth will successfully complete the conditions of probation ordered by the court.
 - Youth will participate in services – therapeutic, educational and vocational – that enhance pro-social connections with their community and increase self-esteem.
- b. Collaborate with youth to identify services, provide supervision, and assist in successful completion of probation.
- c. Promote partnership with service providers, state agencies, and community organizations.
- d. Treat each youth as an individual.
 - Illegal behaviors are evaluated in the context of the youth's unique circumstances.
 - A youth's needs are assessed in context of their strengths, family, and environmental setting.
 - Service and interventions are targeted to specific risk and need.
 - Clear, measurable behavior changes are identified.
 - Services are provided across settings as needed.
- e. Protect the community with risk and need-based interventions.

General Procedures

B. Notification and Participation for Impacted Parties in Youthful Offender Proceedings

Party responsible for sharing information with victims	Youthful Offender Status 33 V.S.A. § 5288
Law Enforcement Agency	After initial contact between a victim and a law enforcement agency responsible for investigating the offense, the agency shall promptly give in writing to the victim: (1) an explanation of the victim's rights under this chapter and chapters 52 and 52A of this title; and (2) information concerning the availability of: (A) assistance to victims, including medical, housing, counseling, and emergency services; (B) compensation for victims under 13 V.S.A. chapter 167 and the name, street address, and telephone number of the Center for Crime Victim Services; (C) protection for the victim, including protective court orders; and (D) access by the victim and the offender to records related to the case that are public under the provisions of 1 V.S.A. chapter 5, subchapter 3 (access to public records). (3) Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following: • information as to the offender's identity unless inconsistent with law enforcement purposes; • information as to whether the offender has been taken into custody; • the file number of the case and the name, office street address, and telephone number of the law enforcement officer currently assigned to investigate the case;

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	- the prosecutor's name, office street address, and telephone number; - an explanation that no individual is under an obligation to respond to questions that may be asked outside a courtroom or deposition; and information concerning any conditions of release imposed on the offender prior to an initial court appearance, unless otherwise limited by court order.
Prosecutor's Office/Victim's Advocates	Their legal rights. When a court proceeding is scheduled and when a court proceeding will not take place as scheduled. Any conditions of release or conditions of probation and of any restitution unless otherwise limited by the court. To be notified by the prosecutor as to the final disposition of the case.
Court	To be present during all court proceedings subject to the provisions of Rule 615 of the Vermont Rules of Evidence and to attend the disposition hearing to present a victim impact statement and to express reasonably the victim's claim for restitution; and to submit oral or written statements to the court at such other times as the court may allow. The court shall consider the victim's statement when ordering disposition. No youthful offender proceeding shall be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear. At a hearing on a motion for youthful offender treatment, the court shall ask if the victim is present and whether the victim would like to be heard regarding disposition. In ordering disposition, the court shall consider any views offered at the hearing by the victim. If the victim is not present, the court shall ask whether the victim has expressed views regarding disposition and shall take those views into consideration in ordering disposition.
Agency with custody of the youth	To be notified before the youth is released into the community, for longer than three days, from a secure or staff secure residential facility.

C. Youthful Offender Filing Options/Eligibility: Jurisdiction Chart

Age at time of alleged offense	Cases with Criminal Court Jurisdiction	Eligibility for Youthful Offender Consideration
12-13	Big 11	Big 11 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)

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Age at time of alleged offense	Cases with Criminal Court Jurisdiction	Eligibility for Youthful Offender Consideration
14-15	Big 11	Big 11 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 11 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 Additional Exceptions Big 11	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 per 33 VSA 5281(a) Additional exceptions outlined in 33 VSA 5201(c)(2) or (3) must be filed in Criminal but may be transferred to Family as YO per 33 VSA 5281(a) and 5280(a). Big 11 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 11 cases for 16 and 17-year-olds in the Family Division as a YO per 33 VSA 5280(b) & 5280(a)(1)

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Age at time of alleged offense	Cases with Criminal Court Jurisdiction	Eligibility for Youthful Offender Consideration
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))

D. Opening a Youthful Offender Case

For pre-adjudicated non-custody youthful offender cases, a DY case is opened for the purpose of writing court reports and attending court hearings. The supervision requirements for the youth and the division are not established at this stage; therefore, the monthly contact standards do not apply. When the case is post-disposition and ongoing services are ordered by the court, monthly contact standards for youth on probation apply.

If the youth who is being considered for youthful offender status is in custody of the division contacts standards for DC cases apply.

E. Consideration of Youthful Offender Status

Please see the chart above to understand which cases may be eligible for youthful offender status. For a case to be considered for youthful offender status, there must be criminal court jurisdiction. Most cases for youth under 19 years old will not be eligible for YO treatment.

Pursuant to the new youthful offender law effective July 1, 2018, there is no requirement for a criminal court plea of guilty for a case to be considered for youthful offender treatment. Cases are either transferred from the Criminal Division, or a youthful offender petition is filed directly in the Family Division (only for youth 14-18 who allegedly committed a Big 11 offense, youth ages 16-19 who commit an offense found in 33 V.S.A. § 5201(c)(2) or (3), or youth 19 – 21). In either case, the Family Division will hold a youthful offender consideration hearing. If the youth does have conditions of release, they will remain in effect until new conditions of juvenile

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probation are issued.

The Youth Assessment and Screening Instrument (YASI) Prescreen is a requirement at the Youthful Offender consideration stage and the risk level is used to inform the recommendation about whether the youth should be referred to Diversion. Within 15 days from the filing of a Youthful Offender petition, or 15 days after transfer to Family Division, the Court shall notify the youth that the youth is required to complete a risk and needs screening. The youth then has 15 days to complete the risk and needs screening.

As outlined in 33 V.S.A. § 5280 (e) there will be a presumption of Diversion for youth who have alleged to commit a non-Big 11 offense and who score low-to-moderate risk on the YASI unless the State's Attorney states on the record the reason Court Diversion does not meet the ends of justice. If the case is sent to Court Diversion, there will not be a Youthful Offender Consideration Report filed or hearing held. If the case is not sent to Court Diversion, or accepted by Court Diversion, and they are low to moderate-risk, the supervision protocol for low-to-moderate risk youth will be followed.

For youth that have allegedly committed a sexual offense prior to age 18, the YASI is not validated to provide the risk to re-offend in a sexual manner. Further evaluation with a clinician trained in sexual offending/harmful behaviors is required to assess the youth's risk to sexually re-offend. The level of evaluation will be determined by the clinician. (DCF staff are not trained in completing evaluations of this nature.) Absent further evaluation, DCF cannot make a recommendation about referring the case to Diversion or about whether YO status is appropriate.

For male youth whose alleged sexual offense occurred at age 18 and over, DOC will complete a risk assessment specific to the risk to sexually re-offend. DOC will report the results to DCF within 15 days of the initial request. The results will be submitted to the State's Attorney to address the presumption of Diversion. For non-contact offenses or female youth aged 18 and up at the time of the offense further evaluation with a clinician trained in sexual offending/harmful behaviors is required to assess the youth's risk to sexually re-offend.

If the youth does not complete the risk and needs assessment, DCF and DOC will not support youthful offender status. The law states that the Family Division judge shall reject the case for youthful offender status unless the court extends the 15-day period for good cause shown. DCF and DOC will consult about the appropriateness of the youth for youthful offender status and the FSW will complete the youthful offender consideration report. DCF has 30 days after the risk assessment is complete to file the youthful offender consideration report with the Family Division. For those cases where a Youthful Offender consideration report is required, information provided should respond to the criteria outlined in 33 V.S.A. § 5284 which are:

1. When determining whether public safety will be protected by treating the youth as a youthful offender, the court shall consider, on the basis of the evidence admitted:
 - a. the nature and circumstances of the charge and whether violence was involved;
 - b. the youth's mental health treatment history and needs;

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- c. the youth's substance abuse history and needs;
 - d. the youth's residential housing status;
 - e. the youth's employment and educational situation;
 - f. whether the youth has complied with conditions of release;
 - g. the youth's criminal record and whether the youth has engaged in subsequent criminal or delinquent behavior since the original charge;
 - h. whether supervising the youth on youthful offender probation is appropriate considering the nature of the charged offense and the age and specialized needs of the youth;
 - i. whether the youth has connections to the community; and
 - j. the youth's history of violence and history of illegal or violent conduct involving firearms or other deadly weapons.
- 2. Is the youth amenable to treatment or rehabilitation?
 - 3. Are there sufficient services in the juvenile system to meet the youth's treatment or rehabilitation needs?

Following the submission of the consideration report, the court shall determine whether public safety will be protected should the youth be afforded youthful offender status. For youth who were 18-21 years old at the time of the alleged offense, the portion of the hearing specific to public safety will be open to the public. If the court finds that public safety will not be protected, the youth will not be given Youthful Offender status. If the court finds that public safety will be protected, the court shall then determine if the youth is amenable to treatment as a youthful offender, and whether there are sufficient services in the juvenile court system, in addition to DCF and DOC, to meet the youth's treatment and rehabilitation needs. If youthful offender status is appropriate, the report needs to outline the services that will be available.

F. Denial of Youthful Offender Status

If the Family Division denies the motion for youthful offender status, the case will be returned to Criminal Division. Any information related to the youthful offender proceeding is inadmissible in any subsequent criminal proceeding in Criminal Division involving the youth.

G. Approval of Youthful Offender Status, Merits and Disposition Hearing

If Youthful Offender status is granted, the case proceeds to merits. Attendance at the Merits hearing is required. Once the court makes a Merits finding and order, the division must submit a disposition report no later than seven (7) business days before the scheduled disposition hearing. The disposition case plan is a report filed by DCF that contains proposed services and proposed conditions of juvenile probation (probation certificate), a description of the services that may be available for the youth when they reach 18 years of age if appropriate, and the lead agency. The

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lead agency will have final decision-making authority over the case plan and provision of services and will follow their own departmental standards for contact and documentation. If DCF and DOC determine that it is in the best interest of the youth to change the lead agency, this can be done without court intervention. If the lead agency changes, this must be documented in case notes. Although DCF will typically be the lead for youth under 18, DOC can also supervise youth that are under 18 if needed.

If the Family Division approves the motion for youthful offender status, the court approves the disposition case plan, then the youth is placed on juvenile probation. For youth under 18, the division may address the custody status of the youth. The court may transfer custody of the youth to a parent, relative, person with a significant relationship with the youth, or DCF, provided that any transfer of custody shall expire on the youth's 18th birthday. Housing and residential placement will not be available through the DCF for youth who are granted youthful offender status at or beyond the age of 18. Referrals to community resources will be made as appropriate and available. Transfer of custody of an 18-year-old does not apply to youth who are being considered for or granted youthful offender status.

H. Youthful Offender Supervision Recommendations

Age at Disposition	Risk Assessment	Risk Level	Lead Agency	Response	Other Considerations
Youth under 18	YASI	LOW to MODERATE *	DCF	DCF provides intervention based on risk level. Interventions are targeted toward areas of higher risk and where the youth is motivated to change. The length of our involvement will be guided	Per federal requirements, DCF is required to have face-to-face contact with the youth monthly.
	YASI	HIGH	DCF		Per federal requirements, DCF is required to have face-to-face contact with the youth monthly. If the youth is demonstrating a

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Age at Disposition	Risk Assessment	Risk Level	Lead Agency	Response	Other Considerations
				by the termed probation grid .	higher need or unsafe behavior, DCF may increase contact with the youth and/or may consider transferring the lead agency role to DOC.
Youth with Interstate Compact for Juveniles involvement (under or over 18)	YASI	Low, Moderate or High	DCF	DCF provides interventions based on risk level for youth under age 18. DCF coordinates with DOC on appropriate supervision level for youth over age 18.	For any youth either residing out of state, or placed in Vermont through the ICJ compact, that are on youthful offender status.
Youth over 18	YASI	LOW to MODERATE *	DOC	“Response Supervision.” If there are violations, these cases will be reviewed for Risk Management Supervision. DCF initiates Family Division process if a VOP needs to be filed.	For any offense where the affidavit indicates that the behavior was sexually offending, or domestic in nature against an intimate partner, DOC shall supervise the case as Risk Management. Exceptions to supervision level must be approved by the DCF Juvenile Justice Director

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Age at Disposition	Risk Assessment	Risk Level	Lead Agency	Response	Other Considerations
					and the DOC Field Services Director, or their designees. When DCF is not the lead agency the requirement for monthly contacts remains, however, they do not need to be face to face. DCF may join youth meetings with the DOC Assigned Officer.
	YASI	HIGH	DOC	“Risk Management.” DOC may employ electronic monitoring and graduated sanctions (if part of probation certificate). Youth have access to DOC treatment groups (risk reduction programming). DCF initiates a Family Division process if a VOP needs to be filed.	In cases where there may be domestic violence or sexual offense, DOC may opt to administer any additional assessments to inform programming and case planning. Youth is eligible for DOC treatment groups. When DCF is not the lead agency the requirement for monthly contacts remains, however, they do not need to be face to face.

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Age at Disposition	Risk Assessment	Risk Level	Lead Agency	Response	Other Considerations
					DCF may join youth meetings with the DOC Assigned Officer.

*Youth that were either not referred to, or not accepted by, Court Diversion.

I. DCF & DOC Tasks

STAGE OF CASE	DCF FAMILY SERVICES WORKER TASKS	DOC ASSIGNED OFFICER TASKS
Youthful Offender Consideration Hearing	DCF will contact local DOC field office to be in collaboration with development of consideration report.	If applicable complete the Static 99 and VASOR for youth who are alleged to have committed a sexual offense at age 18 or over and provide risk level to DCF. Participate in developing joint consideration report.
	DCF shall attend the consideration hearing, and DOC shall attend the consideration hearing if requested.	
Merits Hearing	DCF will attend the merits hearing and participate in all discussions related to the resolution of merits. There may be times when there are discussions about stipulations, including disposition, that may require DOC participation. DCF should keep DOC informed of the progress toward resolution of the hearing and include them in discussions as necessary.	

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STAGE OF CASE	DCF FAMILY SERVICES WORKER TASKS	DOC ASSIGNED OFFICER TASKS
Disposition Hearing	DCF will contact the local DOC field office to collaborate on the development of disposition report. DCF files the disposition report.	Participate in developing joint disposition case plan. A DOC Assigned Officer will attend all Youthful Offender Disposition Hearings.
For Youth Adjudicated as Youthful Offenders Prior to 18	Three months prior to the Youth's 18th birthday, work collaboratively with DOC to write the joint plan and report for mandatory court review prior to the youth's 18th birthday. In the report, jointly agree on who will assume lead agency duties once the youth turns 18. The report will specify recommendations, with justifications, either for probation completion or continued jurisdiction over the youthful offender past age 18. If continued jurisdiction is recommended, the report will address which department will assume lead agency duties. If an agreement cannot be reached, seek guidance from administration team (defined below).	Work collaboratively with DCF to develop joint plan and report for mandatory court review prior to the youth's 18th birthday. In the report, jointly agree on who will assume lead agency duties once the youth turns 18. The report will specify recommendations, with justifications, either for probation completion or continued jurisdiction over the youthful offender past age 18. If continued jurisdiction is recommended, the report will address which department will assume lead agency duties. If an agreement cannot be reached, seek guidance from administration team.
Violations and/or Revocations	When there are concerns about compliance with the conditions of the juvenile probation certificate, the lead agency will consult with the other Department about potential actions. DCF and DOC will work collaboratively with each other to utilize graduated sanctions, file a VOP, or a motion to revoke disposition at a hearing in the Family Division.	

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STAGE OF CASE	DCF FAMILY SERVICES WORKER TASKS	DOC ASSIGNED OFFICER TASKS
Closure	If closing the case as lead agency at youth's completion, follow regular DCF case closure procedures and treat as regular juvenile case; details cannot be disclosed without release or court order.	If closing case at youth's completion, treat as confidential juvenile record and destroy; accordingly, details cannot be disclosed without release or court order. If case closure resulting in return to Criminal Division, DOC assumes sole supervision and responsibilities.
Mutual Decision-Making	In cases when the Family Services Worker and the DOC Assigned Officer cannot reach agreement regarding service delivery and/or placement for the youthful offender, then they shall call together a local treatment team meeting, which will include supervisors and may include district managers or designees. If the local team cannot come to agreement, the local supervisor or designee should contact either the DCF Juvenile Justice Director or the DOC Director of Classification and Facility who will organize a meeting with the administration team to include the DCF Juvenile Justice Director, the DCF Residential Services Manager, DCF Operations Managers, DOC Director of Field Services or designees. These members may invite others as indicated.	

J. Mandatory Court Review Prior to 18

For youth that are adjudicated as Youthful Offenders, the Family Services Worker and partnering DOC Assigned Officer will review the youthful offender's case at least three months before the youthful offender reaches the age of 18 in anticipation of the mandatory review by the Family Division to determine whether the court's jurisdiction should be continued past the age of 18.

After receiving a notice of review, the State may file a motion to modify or revoke the finding of youthful offender status pursuant to the provisions of 33 V.S.A. § 5285. If such a motion is filed, it shall be consolidated with the Family Division's review of the case.

DCF shall file a report with the court prior to the hearing. The report will specify recommendations, with justifications, either for probation completion or continued jurisdiction over the youthful offender past age 18. If continued jurisdiction is recommended, the recommendation will address which Department should provide supervision to the youthful offender beyond age 18 as well as services available for completion of juvenile probation.

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If the Family Division finds that it is in the best interest of the youthful offender and consistent with community safety to extend the court's jurisdiction beyond the youthful offender's 18th birthday, it shall make an order continuing the court's jurisdiction up to the age of 22 (33 V.S.A. §5286(d)).

If the Family Division finds that it is not in the youthful offender's best interest to extend the court's jurisdiction beyond the youthful offender's 18th birthday, it will discharge the youthful offender and dismiss the case (33 V.S.A. § 5286(e)).

K. Continued Review of Youthful Offender Cases

For all youthful offender cases, every six months that a youth is on Youthful Offender status, there will be a review of the goals, case plan, progress toward completion of probation, and the possibility for discharge. If a youth has completed all terms of the probation certificate, the DCF Family Services Worker and the DOC Assigned Officer will review the case and recommend a discharge, if appropriate. The risk assessment will be completed, and results will be considered in the discussion about possible discharge. The DOC will facilitate a criminal record check to ensure that no new charges have been filed before a discharge recommendation is made.

L. Graduated Sanctions

The concept of "graduated sanctions" is consistent with the State's approach to supporting and working with youth on probation. Low risk minor violations of probation do not automatically prompt the DCF Family Services Worker/DOC Assigned Officer to file a violation of probation. DCF graduated sanctions are graduated responses that do not involve the filing of a violation of probation. However, when appropriate, the Departments reserve the right to file a violation of probation for any violation.

The purpose of graduated sanctions is to engage youth in the circumstances of the violation that has occurred. Youth should be involved in determining the appropriate graduated sanction based on the violation. The DCF Family Services Worker/DOC Assigned Officer should encourage creativity in determining how youth can repair the harm.

In instances where youth repeatedly refuse to engage, or they do not participate in the graduated sanction, the DCF Family Services Worker/DOC Assigned Officer may consider filing a violation of probation.

The State's response and consequences for the youth should be proportionate to the harm caused, risk, and patterns of behavior.

For cases where DOC is the lead agency, DOC may impose graduated sanctions for technical violations in lieu of filing a probation violation complaint for youthful offenders as authorized by

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the probation certificate. DOC shall follow their Youthful Offender Policy when assigning graduated sanctions. DOC Assigned Officer will complete the Graduated Sanctions Report. This form specifies the incident details, graduated sanction, and documents the signatures of the DOC Assigned Officer, the DCF Family Services Worker, and the youth. After the Graduated Sanctions Report has been signed, copies will be provided to the youth attached to the youth's probation certificate and filed in the case record.

Regardless of the lead agency, all graduated sanctions shall be documented. When DCF is the lead and is issuing a graduated sanction, they will use [the FS-162, Issuance of Graduated Sanction](#). This form specifies the incident details, Family Services Worker intervention/graduated sanction, and documents the signatures of the DCF Family Services Worker/DOC Assigned Officer and youth. After the FS-162 has been signed, copies will be provided to the youth attached to the youth's probation certificate and filed in the case record.

The lead agency will follow their own guidance and policy regarding issuance of graduated sanctions. Examples of graduated sanctions DCF Family Services may explore include:

Possible Violations	Possible Graduated Sanctions	Possible Interventions
Skipping classes, being late for curfew, missing appointments, not reporting as instructed, lack of progress towards case plan goals, or 1 st positive drug or alcohol test.	Graduated sanction thinking report, apology (verbal or written), verbal warning, written warning, written essay, or other educational activity.	Exploration of additional treatment options, development of a safety plan or relapse prevention plan, increase in face-to-face contact for 30 days, holding a team meeting address the concern, use of a restorative family group conference, restorative panel, or circle.
Continued challenges with substance abuse (2 nd or 3 rd positive drug or alcohol test), contact with restricted persons or non-threatening contact with a victim, other behaviors increasing risks to self and the community, or a pattern of the violations described in the category above.	A combination of the sanctions described above, volunteer service work, or specific activities developed in response to the youth's behaviors and risk.	A combination of the responses described above, additional referrals for treatment or therapy, modification of the case plan, or other responses based on treatment provider recommendations.

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Possible Violations	Possible Graduated Sanctions	Possible Interventions
Threatening behaviors, threatening contact with a victim, violent behaviors, possession of a weapon, new charges, increased risk to self and the community, ongoing challenges with substance abuse (continued positive drug or alcohol tests), ongoing lack of engagement in treatment, or ongoing patterns of violations described in the two categories above.	A combination of the sanctions described above, or a violation of probation.	A combination of the responses described above, increased face-to-face contact, additional efforts to engage the youth, or a violation of probation.

Sanctions which restrict youth liberty require due process approval from the court. Examples of these types of sanctions include curfews, restrictions on contact/physical locations, restitution, and additional community service.

M. Electronic Monitoring

If DOC is the lead agency electronic monitoring may be employed. Should the Departments want to utilize electronic monitoring, the Family Services Worker and DOC Assigned Officer will seek a Violation of Probation and ask the court to order electronic monitoring to provide a higher level of supervision. Electronic monitoring can also be requested in the initial disposition report and included in the probation certificate. If the Departments are seeking electronic monitoring for a youthful offender under the age of 18 the request will be reviewed and approved by the administration team, which consists of DCF Juvenile Justice Director, the DCF Residential Services Manager, DCF Operations Managers, and DOC Director of Field Services or designees.

N. Modifying or Revoking Disposition

If the youthful offender has not complied with conditions of the juvenile probation certificate, the assigned DCF Family Services Worker/DOC Assigned Officer will discuss whether or not Violation of Probation (VOP) or a motion to modify or revoke the disposition should be filed. If the youthful offender's behavior is unsafe the Family Services Worker or DOC Assigned Officer may detain a youthful offender who has attained the age of 18 in a correctional facility operated by the DOC for violating conditions of probation, using the [Detaining a Youthful Offender form](#) and

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following the procedures for lodging. The DCF Family Services Worker will file a [Violation of Probation \(VOP\)](#) and request a hearing to modify or revoke the disposition in the Family Division.

At the hearing, if the court finds that the youthful offender has violated the terms of their probation, the court may:

- Maintain the youth's youthful offender status, and modify the conditions of juvenile probation; or
- Revoke the youth's youthful offender status and return the case to the Criminal Division for sentencing as an adult;

If the youth's status as a youthful offender is revoked, the case is returned to the Criminal Division which will have access to all relevant Family Division records. If revocation is ordered by the Court, please review your file to determine if either your consideration report or your disposition case plan contains confidential information that should not be shared in the public record through the criminal case. Examples include but are not limited to references to a youth's DCF history when they were younger, for instance if they were in custody as a CHINS A or B child; or references to out of state residential placement while in DCF custody; etc. If after this review you believe some information should be shielded from the public record, please consult with the Youth Justice AAG and Juvenile Justice Director, for guidance on obtaining a protective order.

When youthful offender status is revoked, and an adult sentence is imposed, DOC assumes sole responsibility for the case, and Family Division jurisdiction ceases. DCF will then close the case and provide DOC with all relevant information that may assist DOC in the performance of its responsibilities.

O. Procedure for Secure Placement/Lodging of a Youthful Offender

1. Youth Under 18

If youth are under 18, and DCF and DOC staff feel the youth needs secure placement, they will follow the DCF protocol related to accessing secure placement.

2. Youth 18 and Over

- Youth must be 18 or older and adjudicated as a youthful offender, and the youthful offender must be in violation of probation.
- The Family Services Worker and DOC Assigned Officer agree to lodge the youthful offender.
- The Family Services Worker and DOC Assigned Officer outline the reasons for lodging the youthful offender with their supervisors and notify District Directors or managers of impending action as appropriate.
- DCF/DOC supervisors agree with the lodging.
- The youthful offender clearly poses a significant danger to self, others, or the community; AND the youthful offender demonstrates behavior that cannot be controlled in an available setting less secure than an adult facility.
- The Family Services Worker or DOC Assigned Officer completes a *Detaining a Youthful Offender* form (*Appendix 1*).

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- The DCF Family Services Worker/DOC Assigned Officer or supervisor contacts the DCF Juvenile Justice Director or designee to review reasons for lodging the youthful offender. If the Juvenile Justice Director or designee is not available, the DCF/DOC supervisor will contact the appropriate DCF Policy and Operations Manager or designee to discuss.
- The DCF Juvenile Justice Director or designee consults with the DOC Director of Classification and Facility, or designee, the request and reasons for lodging the youthful offender. If the decision to lodge is supported by DOC, then the lodging can occur.
- If the youthful offender requires detainment **after business hours**: The DOC/DCF supervisor will contact DCF's Centralized Intake and Emergency Services (CIES) to inform them of the youth's situation. CIES will contact the DOC Director of Classification and Facility or designee to consult on the appropriateness of arrest. If CIES and the DOC Director of Classification and Facility, or designee, agree to arrest, CIES will give authorization.
- The Family Services Worker forwards the *Detaining a Youthful Offender* form to the DCF Family Services Central Office. The DCF Juvenile Justice Director or designee approves the lodging, signs the form, and sends it to the Family Services Worker and the Family Services Residential Services Manager or designee. If an arrest is to take place after hours, the form is sent to DCF-CIES. The DCF-CIES designee signs the form and sends it to the Family Services Worker and the Family Services Residential Services Manager or designee.
- The Family Services Worker or DOC Assigned Officer will provide local law enforcement and/or the local DOC Probation & Parole Office with a copy of the *Detaining a Youthful Offender* form.
- The Juvenile Justice Director or designee notify the DOC Director of Classification & Facility who will notify the receiving correctional facility's Booking Officer prior to the youthful offender's arrival.
- When the youthful offender is picked up by law enforcement or the DOC Probation & Parole Office, the DCF Family Services Worker/DOC Assigned Officer will provide the court with the [*Violation of Probation Complaint*](#) and [*Detaining a Youthful Offender*](#) form.
- Within five business days following the VOP hearing, and if the youth is still incarcerated, the DCF Juvenile Justice Director, the DCF Residential Services Manager, the DOC Director of Classification & Facility, the DOC Director of Field Services, and/or designees will discuss the case with the DCF Family Services Worker/DOC Assigned Officer and/or supervisors and review the plan for the youth. The team or the court may determine whether the youth will continue to be lodged or will be released.

P. Successful Completion of Continuance of Disposition

If the youthful offender successfully completes the conditions of juvenile probation, any party may file a motion or stipulation in the Family Division requesting that the court determine whether the youthful offender should be successfully discharged. DCF may also circulate Form 102, Discharge from Juvenile Probation, to the parties and file with the court to request discharge. In determining whether a youthful offender has successfully completed the terms of juvenile probation, DCF and/or DOC will provide information to the court regarding:

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- The degree to which the youthful offender fulfilled the terms of the case plan and the probation order;
- The youthful offender's performance during treatment;
- Reports from treatment providers;
- Any other relevant facts associated with the youthful offender's behavior.

If the court finds that the youthful offender has not successfully completed the terms of the probation order, it may deny the motion, and extend or amend the probation order as it deems necessary.

Q. DOC Documentation Procedure

The DOC shall keep an electronic file of the juvenile case. The file will contain the probation order/certificate, disposition report, offender identification, and other relevant documentation, such as DCF case plans and treatment summaries. If the youthful offender's case is successfully completed as determined by the Family Division, then this information will be expunged from the system. If the youthful offender reaches the age of 18 and the case is transferred to DOC supervision, the information in the file will then be incorporated into an adult offender electronic file.

R. Case Closure

The youthful offender case will be closed whenever:

- The Family Division discharges the youthful offender; or,
- The Family Division issues an order revoking youthful offender status and transfers the case back to the Criminal Division; or,
- The youthful offender reaches their 22nd birthday.

Document Title	Date	Summary of Revisions
FSD 164: Youthful Offender Status	7/25/2024	Original issuance of this policy.
FSD 164: Youthful Offender Status	10/6/2025	Policy updated to align with legislative changes from enactment of Act 4. Jurisdiction updated to remove 10 and 11 year olds from delinquency eligibility. Date of implementation of raise the age to 7/1/27.

Appendix I: Big 11 and Additional Exceptions Chart

The “Big 11” (33 V.S.A. § 5204 a)
Additional Exceptions (33 V.S.A. § 5201(c)(2) or (3))

“Big 11”

- (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; or
- (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.

Additional Exceptions:

Youth ages 16 through 21:

- A. using a firearm while committing a felony in violation of 13 V.S.A. § 4005, or an attempt to commit that offense; or
- B. trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1, or an attempt to commit that offense; or
- C. aggravated stalking as defined in 13 V.S.A. § 1063(a)(3), or an attempt to commit that offense.