Purpose

To describe the principles and policy that guide youth justice practice and juvenile probation in Vermont.

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Related Policies

Family Services Policy 80: Working with Youth and Families in Court: Definitions
Family Services Policy 161: Youth Assessment and Screening Instrument (YASI)
Family Services Policy 163: Engaging and Supporting Victims and Impacted Parties

Introduction

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.

The division employs a restorative approach to youth justice. The following restorative justice principles guide the division's work:

- 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.

Principles for Youth Justice Practice

(1) Partner with youth in taking responsibility and developing competency using restorative justice practices.
- Youth will take responsibility for delinquent acts by engaging in restorative processes that identify the harm caused and identify ways to address the harm. Examples may include writing letters of apology, community service, restitution, or other appropriate action.
- 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, increase self-esteem and reduce their risk to recidivate.

(2) Collaborate with family to identify services, provide supervision, and assist in successful completion of probation.

(3) Promote partnership with service providers, state agencies, and community organizations.

(4) Treat each youth as an individual.
- Delinquent 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.

(5) Protect the community with risk and need-based interventions.

(6) Support and encourage the youth to repair harm to victims in a variety of ways. Working with victims and those impacted by harm is a crucial component of accountability and restorative justice. Victim engagement and notification is outlined in Family Services Policy 163: Engaging and Supporting Victims and Impacted Parties.

(7) Place youth out of the home only when public safety or the youth's safety dictates. Such placement is a temporary option employed until treatment or rehabilitation allows for successful reintegration to home or community. These standards are the same for youth who are age 18.

Policy

Jurisdiction

Delinquency Filing Options 33 V.S.A. Chapter 52		
Age at the time of the alleged offense	**All Offenses (Other than Big 12)**	**Big 12 (33 V.S.A. § 5204(a))**
10 and 11	Proceedings originate in Family Division. No transfer to Criminal Division allowed.	Proceedings originate in Family Division. No transfer to Criminal Division allowed.
12 and 13	Proceedings originate in Family Division. No transfer to Criminal Division allowed.	Proceedings originate in Family Division. Court may transfer to Criminal Division.
14 and 15	Proceedings originate in Family Division. No transfer to Criminal Division allowed.	Proceedings originate in Criminal Division Court may transfer to Family Division.
16 to 18	Proceedings originate in Family Division. Misdemeanors cannot be transferred to Criminal Division. Felonies may be transferred to Criminal Division upon motion and judicial approval. Juvenile probation may be extended to age 19.5 if 16 or 17 years old when offense was committed. Juvenile probation may be extended to age 20.5 if 18 years old when offense was committed.	Proceedings originate in Criminal Division. Court may transfer to Family Division.

Presumption of Diversion

As outlined in 33 V.S.A. § 5225(3)(c), there will be a presumption of Diversion for youth who have not committed a Big 12 (33 V.S.A. § 5204(a)) and who score low-to-moderate risk on the Youth Assessment and Screening Instrument (YASI) unless the State's Attorney states on the record why Court Diversion does not meet the ends of justice. If the case is not sent to Court

Diversion, or is not accepted by Court Diversion, and they are low to moderate risk consider a direct referral to a restorative justice program in lieu of probation. If probation is the recommendation the probation term for low-to-moderate risk youth will be followed.

Alternatives to Probation

The chart outlines the various options available for youth who engage in delinquent behavior. The "What Works" research indicates that interventions that are built on the Principles of Effective Interventions are more likely to have the greatest impact. Such programs have a direct impact on recidivism. Intensity of treatment services should be matched to the risk level of the client. High risk clients require more extensive services while low risk clients require minimal or no intervention. To increase success and reduce recidivism, the risk and needs of the youth should be the main factor in determining the systemic response to the behavior.

Point in Time	Options	DCF/Court Involvement	Notes
Pre-Charge	Referral to Balanced and Restorative Justice (BARJ) or Community Justice Center (CJC)	No court or DCF involvement	Referral is completed by law enforcement or the State's Attorney.
Prior to Adjudication	Referral to Court Diversion Program	No court or DCF involvement	Referral is completed by the State's Attorney. There is a presumption of diversion for low-to-moderate risk youth, (delinquency and youthful offender) unless the State's Attorney states on the record why Diversion does not meet the ends of justice.
Post Adjudication	Referral to Balanced and Restorative Justice (BARJ) or Community Justice Center (CJC) (in lieu of probation)	• No open DCF case (unless there is already an open case) • Provider reports directly to court on youth progress (if the youth is unsuccessful, the case will return to court for disposition) • With or without disposition report	Referral is completed by the Court (Form 124).

1 (Palmer, 1995; Clear, 1981; Taxman & Byrne, 2001; Currie, 1998; Petersilia, 1997, 2002, Andrews & Bonta, 1998)

Juvenile Probation

Juvenile probation supports the least restrictive placement of youth. Court-ordered conditions and supervision are overseen by family services workers to ensure the needs of the youth, the victim, and communities are addressed. The purpose of juvenile probation is to:

- Repair the harm;
- hold the youth responsible for their behavior;
- assess and address the risk factors and increase the protective factors; and
- ensure the safety of the community.

The division includes families and community partners as team members to support the youth in complying with their probation conditions. As Vermont's child welfare and juvenile justice agency, our focus is on public safety as well as addressing the well-being of youth served by the division.

Extended Supervision

As outlined in 33 V.S.A. § 5103 (2)(A), juvenile probation can be extended to age 19.5 for any adjudicated youth that was 16 or 17 years old when they committed the offense, and age 20.5 for any adjudicated youth that was 18 years old when they committed the offense.

Considerations for FSD Response and Graduated Sanctions

The concept of "graduated sanctions" is consistent with the division's approach to supporting and working with youth on probation. Low risk minor violations of probations do not automatically prompt the family services worker to file a violation of probation. However, the division reserves 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 family services worker 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 division may file a violation of probation.

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

Examples of graduated sanctions the family services worker may explore include:

Possible Violations	Possible Graduated Sanctions	Possible Social Work Interventions
Cutting classes, being late for curfew, missing appointments, failing to report as instructed, lack of progress towards case plan goals, or 1st 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 (2nd or 3rd 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.
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 failure to engage 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.		

All graduated sanctions shall be documented using 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 family services worker 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.

Violation of Probation

When a youth on juvenile probation fails to comply with the conditions of their probation certificate, (compliance with graduated sanctions cannot be the foundation of the violation), the family services worker may initiate a violation of probation proceeding. The family services worker will file the violation with the court and distribute the notice to all parties. Violation of probation is used to provide support and accountability to the youth. Prompt violation of probation should be used to:

- promote community and personal safety;
- promote adherence with conditions of probation when other interventions have failed; and
- encourage participation in community-based programming.

When a youth violates conditions of their probation certificate it may be an indication that additional interventions are necessary, which may include a change of placement. The following should be taken into consideration when deciding to file a probation violation complaint:

- the youth's case plan;
- overall compliance with probation conditions;
- risk level as determined by the YASI;
- community safety; and
- personal safety and well-being.

All of the above considerations should be utilized to inform the most appropriate level of intervention.

Minor violations (e.g. cutting classes, being late for curfew, missing appointments) should be evaluated with respect to patterns of behaviors and risks. The family services worker should consider whether other social work interventions could be more effective than a probation violation hearing. Other interventions include utilizing engagement strategies, meeting with the youth, meeting with the family, engaging the youth's network of supports, and holding a team meeting or restorative group conference.

Probation violations should be filed to modify probation conditions following unsafe or illegal behavior and/or to modify custody status and/or placement to ensure community and/or youth safety. Violations of conditions associated with high risk behaviors such as possession of a weapon, non-compliance with a relapse prevention plan, or physical aggression may indicate the need to file a petition with the court alleging the violation of a condition of probation.

A violation of probation may be initiated in one of two ways:

(1) By filing a juvenile probation violation complaint (FS-103: Juvenile Probation Violation Complaint); or
(2) Through placement of a probationer (FS-316: Detention of Juvenile Probationer)

Per 33 V.S.A. § 5265, the family services worker may initiate a proceeding to establish that the juvenile is in violation of probation conditions, by filing the FS-103, Juvenile Probation Violation Complaint form with the Court and distributing copies to the parties. The family services worker shall specify the conditions violated, supporting information, and safety concerns in the probation violation complaint. The court will determine if there is probable cause to hold a hearing.

Placement of a probationer as a method of initiating violation of probation may be employed when the youth is **not in DCF custody**, has violated a condition of their probation certificate, and the youth's behaviors constitute:

- immediate risk to community safety and/or personal safety;
- immediate risk to abscond; or
- a pattern of minor violations.

The family services worker shall consult with a supervisor regarding the need for probation detention, discuss the type of placement necessary to meet the need, and specific restrictions that may be necessary to support the placement. This includes the 18-year-old youth who have been adjudicated delinquent.

The family services worker may authorize any law enforcement officer to detain a juvenile probationer by giving the officer the completed FS-316: Detention of Juvenile Probationer as well as the FS-103: Juvenile Probation Violation Complaint. The family services worker shall promptly inform the court that the youth needs a hearing by the close of the next business day. A probable cause hearing on the detention and subsequent placement must be held before a judge on the next working day. If probable cause is found to exist, the youth will be held for a hearing to determine if they violated the conditions of probation. If probable cause is not found, the proceedings will be dismissed (33 V.S.A. § 5267 (c)).

Placement of Youth on Probation

The full range of placements available to a youth in custody for a delinquency may be considered for a youth on probation. Depending on the needs of the youth and the risks posed, placement may be made in the youth's home, a foster home, substitute care, or a residential program, including a secure facility. The family services worker will secure a placement resource through consultation with the client placement specialist. The family services worker may place reasonable restrictions or limitations on the youth to assure their presence in court on the next business day.

Following placement of the youth, the family services worker will inform the parents or caretakers that the youth has been placed and where, and of the scheduled hearing. A copy of the form should be retained for the file.

Recommended Length of Probation

Per 33 V.S.A. § 5230 (b)(5), a dispositional case plan shall include, as appropriate, the "proposed conditions of probation which address the identified risks and provide for, to the extent possible, repair of the harm to victims and the community. Proposed conditions may include a recommendation as to the term of probation."

Probation should be used as a means of providing structure, support, and restorative practices for youth. Youth should only be on probation as long as is needed to achieve the conditions of their probation.

If a youth commits a new delinquency, the family services worker will complete a YASI re-assessment. See Family Services Policy 161: Youth Assessment and Screening Instrument (YASI) for information specific to utilizing the YASI risk score to inform the appropriate intervention and reassessment of risk related to the violation of juvenile probation.

In addition to determining the risks and needs of youth, the YASI informs treatment needs and is used to assist in the determination of length of supervision to provide sufficient programming. Termed probation is an individualized response to the youth's risks and needs which allows the division to provide the most appropriate intervention.

The matrix listed below is an application of the Risk, Need and Responsivity principle and is intended to provide guidance to the family services worker when determining the length of time for probation. There is a range within the matrix to support family services worker decision making, based on factors such as risk, offense, services needed, etc.

Overall Protective Factors	Overall Risk Level on YASI	Recommended Length of Probation
High	Low*	0-3 months
	Moderate*	3- 6 months
	High	6–12 months
Moderate	Low*	3-6 months
	Moderate*	6-9 months
	High	9–12 months
Low	Low*	3-6 months
	Moderate*	6-12 months
	High	12–24 months

Supervisory approval and consultation with the juvenile justice director is required if the family services worker is recommending probation over 24 months. Rationale for the recommendation must be documented in case notes. Considerations for when a youth may be appropriate for a supervision period longer than 24 months include:

- Severity of offense
- Treatment/service needs that will exceed 24 months
- A pattern of high-risk and/or delinquent behaviors
- A pattern of interventions that have been ineffective in moving a youth towards pro-social behaviors.

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

Discharge from Probation

The court placing the youth on probation may discharge the youth from probation at any time. If the youth has satisfied all conditions of probation, the family services worker shall consult with their supervisor about recommending that probation be closed. The family services worker will ensure that any needed referrals or supports are in place prior to closing the case. If DCF custody is linked to the youth's delinquency, the family services worker and supervisor will discuss the appropriateness of requesting dismissal of DCF custody. If probation is discharged and custody remains, the case will remain as a DC. The family services worker will enter a case note alert that outlines that the youth is no longer on probation so secure placement cannot occur without a new charge. If the youth was originally placed in custody as a CHINS, the database must be updated to reflect the previous custody status at the time of probation discharge.

If probation conditions are incomplete, the family services worker shall re-assess, adjust the case plan as needed, partner with the youth to identify motivation and barriers, and work with the youth's team on how to successfully complete probation.

When the youth has successfully or unsuccessfully completed the requirements of their probation, termed or otherwise, the family services worker will complete the FS-102: Discharge from Juvenile Probation. The family services worker will include documentation that outlines the youth's progress toward completing the requirements of probation and recommendations with the FS-102. The parties to the case have 15 days from the date the form was sent to file an objection to the discharge recommendation.