

Vermont Legislative Research Service

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Juvenile Justice

Juvenile justice is a facet of criminal law that encapsulates “persons not old enough to be held fully responsible for criminal acts,” meaning that they do not qualify for adult criminal culpability. In most states, this age is set at eighteen years, but depending on the severity of the crime, this age can be lower, and thus juveniles can receive adult charges. Persons involved in the juvenile justice system are often referred to as “juvenile delinquents” or “juvenile offenders.”² A “Delinquent Act” means an act designated a crime under the laws of the State, or of another state if that act occurred in another state under federal law.³

Juvenile law is primarily governed by states and carried out following juvenile codes. State statutes establish juvenile courts which provide a variety of methods to deal with juvenile delinquency.⁵ Although Juvenile Justice is primarily regulated at the state level, there is the Juvenile Justice and Delinquency Prevention Act (JJDP), which is the primary federal statute that relates to juvenile justice. The primary features include assistance for “states and local communities in providing community-based services to juveniles in danger of becoming a delinquent, helps train individuals in occupations providing such services, and provides technical assistance in the field.”⁷

Even though juvenile justice deals with criminal matters, it differs from the adult criminal justice system. Rather than a greater focus on punishment, it is for adult criminal charges, juvenile justice emphasizes rehabilitation and prevention. Some examples of rehabilitation and prevention include “pay restitution for the damage they have caused, maintain school attendance, abide by a curfew, or complete certain educational or treatment programs.” Another common

¹ Legal Information Institute, “Juvenile Justice,” Legal Information Institute, Cornell University, 2023, accessed December 18, 2023, https://www.law.cornell.edu/wex/juvenile_justice

² Justia, “Juvenile Crimes & the Legal System,” accessed December 18, 2023, <https://www.justia.com/criminal/offenses/other-crimes/juvenile-crimes/>

³ Vermont Statutes

- The youth could be placed in Social and Rehabilitation Services
- The youth could be placed on probation.

If the state took custody of a youth for juvenile detention, they were only permitted to do so until their 18th birthday, the detained person had to be released as they are no longer considered a juvenile delinquent.¹⁴ The state also protected information on juvenile court proceedings, charges and the status of the youth.¹⁵

In the summer of 1981, two youths, James Savage and Louis Hamlin, raped and brutally stabbed two twelve-year-old girls in Essex Junction, Vermont, killing one of the girls.¹⁶ Hamlin, who was sixteen at the time of the crime, could be charged as an adult. He was found guilty of first-degree murder and was sentenced to fifty years to life.¹⁷ Savage, on the other hand, was fifteen at the time of the crime, barring him from being charged in adult court for the murder. With the laws of the time, he could only be found as a delinquent, meaning that he could go free with no public criminal record once he turned eighteen.¹⁸

The outcry in the state of Vermont was swift and robust. Citizens pushed for a special legislative session to draft legislation to reform the juvenile justice system that they viewed as inadequate because of this case.¹⁹ It was thought by many in Vermont to be a flawed system to address youth crime as there were minimal repercussions or punishment for youths who committed serious offenses.²⁰ A campaign started by two Essex Junction women and professors Vermonters around the state eventually persuaded the Governor to call for a special legislative session two months after the crime.²¹ This session, expected to tighten down on juvenile justice, did precisely that in "H.1 An Act Relating to Juvenile Crime." The new law allowed juveniles to be charged in criminal courts. Under this new law, any juvenile from the ages of ten to sixteen charged with one of the previously mentioned "Big Twelve Offenses" would be tried as adults with the possibility of jail time, life imprisonment, or the death penalty. Notably, there would be no age criterion for prosecuting murder, with which any juvenile could be charged.²³ Juveniles charged with a Big Twelve Offense would be charged publicly, with the victims and their families being informed about the status and location of the offender. The bill also prohibits juveniles from being housed in detention centers with adults, which eventually led to the creation of the Woodside Juvenile Rehabilitation Center.²⁴ For crimes other than "Big Twelve Offences", juveniles were still charged as "Delinquents" and their juvenile records remained confidential and deleted after they were released.²⁵

¹⁴ Neil Davis, "State Authorities Still Debating Savage Charges", ThDer2]/Subtype 1 I-7 (r)-5.4coere (a)-10.TJ t11 / J ron F0.02

Juvenile Justice: Family vs. Criminal Courts

In Vermont, Juvenile Court and its respective proceedings are housed within the Family Division.²⁶ That said, depending on the age and extent of the crime, the jurisdiction can be moved from Family to the Criminal Division. The following section will address the Vermont state statutes determining whether a juvenile will be under the Family or Criminal Division jurisdiction.

First, Vermont state statute 33 V.S.A § 5102, "Definitions and Provisions of General Application," provides a range of definitions for what a "child" means in terms of the law indicating whether proceedings will have initial jurisdiction.

- Motions can be filed in the Criminal Division of the Superior Court to request defendants who, at the time of the alleged offense, were at least Twelve years of age but not older than 22 be treated as youthful offenders. This motion can be filed by the State's attorney, the defendant, or the court on its motion. 33 V.S.A. § 5201(a)
- The court can also initiate a transfer from the Criminal Division of the Superior Court to the Family Division Superior Court if the defendant was at least fourteen years old but not older than eighteen at the time of the alleged offense. 33 V.S.A. § 5203(b)
- Once a petition has been filed alleging delinquency, a motion of the State's Attorney, and a hearing has occurred the Family Division of the Superior Court may transfer to the Criminal Division of the Superior Court if the defendant is sixteen to nineteen years of age at the time of the alleged delinquent act. 33 V.S.A. § 5204 (a)³⁵ or,
- A State's Attorney may also transfer jurisdiction from the Family Division of the Superior Court to the Criminal Division of the Superior Court if the defendant is twelve to fourteen and is accused of one of the "Big Two" offenses. 33 V.S.A. § 5204 (a).³⁶

The table below, replicated from a 2022 legislative working group presentation by Boudreau, Juvenile Justice Director and Tyler Allen, Adolescent Services Director, reflects the

A juvenile fifteen years or older can be transferred to the superior court for any felony, while a juvenile thirteen years or older can only be tried and found criminally responsible for a select number of felonies, which are

- First and Second degree murder
- Manslaughter
- First and Second degree assault
- Kidnapping
- Aggravated kidnapping

This report was completed on December 2023, by Morgan Ambrose, Nate Biscotti, and Luke McDermott under the supervision of VLRS Director, Professor Anthony “Jack” Gierzynski response to a request from Representative LaLonde.

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