



Agency of Human Services
Department for Children and Families

Family Services Division

CHILDREN AND FAMILY COUNCIL FOR PREVENTION PROGRAMS

Children's Trust Fund

Juvenile Justice

Delinquency Prevention

Hon. Maxine Grad, Chair
House Judiciary Committee
Vermont State House
Montpelier VT 05602

Re: S. 224 Juvenile Proceedings

Dear Representative Grad:

On behalf of the Children and Family Council for Prevention Programs (the Council), I write to inform you and the House Judiciary Committee that the Council wholeheartedly endorses the Senate Committee bill on juvenile proceedings, S. 224. As you know, for over a decade, the Council has strongly supported the expansion of juvenile court jurisdiction and we are currently funding several initiatives to aid in its implementation.

This Fall we followed closely the hearings on youthful offender and juvenile court proceedings that were conducted by the Senate Judiciary Committee. We commend the Senate Committee for its thoughtful deliberations which required sifting through testimony from all the key players. While we are, of course, disappointed that the inclusion of 19-year-olds has to be delayed, we understand the reasons and fully support the Senate Committee's decision to delay implementation only by one year.

In addition to the delay, S.224 accomplishes some other very important changes in our statutes related to juvenile proceedings. Through a series of amendments, it brings the victim-related provisions in juvenile law parallel to the rights of victims in criminal proceedings. (See Sections 3 – 12.) With the exception of a couple of relatively minor amendments discussed below, we fully support the provisions in S. 224 related to the rights of victims.

Section 13 improves current law by providing criteria for the family court to consider in determining whether public safety will be protected if youthful offender status is conferred on a juvenile/young adult. In Section 14 the same criteria for public safety determinations are made applicable to juvenile proceedings when a prosecutor seeks to transfer a case filed in juvenile court to adult criminal court. We support the new language in both sections.

Finally, Sections 15-16 include important clarifications that strengthen the law. Section 15 clarifies that the Court is responsible for providing a youth with notice of the risk and needs screening requirement, a prerequisite for youthful offender treatment. Section 16 permits the Court to order a psychosexual evaluation at disposition in appropriate juvenile cases.

As indicated above, we do recommend two amendments to the proposed amendment to 33 V.S.A. §5234(a)(3). (See Section 10 of S. 224). The current wording in S. 224 permits victims to be present at all hearings subject to V.R.E. 615 and *“to express reasonably the victim’s views concerning the offense and the youth.”* We fully support the right of victims to reasonably express their views at a disposition hearing. The disposition hearing is comparable to a sentencing hearing and the language tracks the language in the adult context. See 13 V.S.A. §5231(a)(2). We believe that the intent of this language is to encourage the victim to feel that the court will hear their concerns about the offense and the juvenile. We are concerned, however, that the current wording broadens this right to any hearing, including a hearing on the merits (comparable to a trial in the adult setting) beyond the context of the victim’s sworn testimony. Victims should be able to express their views to a Victim Advocate at any point while a delinquency is pending; however, there is a specific time and place for a victim to express these views to the Court and we believe that is at disposition. Amending this language to specify that victims have the right to express these views at disposition would align this right with the parallel right in the adult context.

Secondly, we believe it is important for victims to have the right to be present at all court hearings. This is comparable to 13 V.S.A. §5309 in the adult context. We recognize that there are occasional instances when it may be necessary for the youth or the State to present highly sensitive evidence unrelated to the offense or the victim. The statute should clarify that at those times, upon request of a party, the judge is permitted to excuse the victim from that portion of the hearing after explaining to them that there is sensitive content unrelated to the offense that needs to be discussed. We would be happy to propose specific language if that would be helpful to the committee.

We urge your Committee to take this bill up and send it to the floor with a positive recommendation. Please let us know if we can be of assistance.

Sincerely yours,



Kreig Pinkham
Chair
Children & Family Council for Prevention Programs



The Honorable Amy Davenport
Chair
Systems Improvement Committee of the CFCPP