

Information for Parents

Effective August 2011

The mission of Vermont Court Diversion programs is to engage community members in responding to the needs of crime victims, the community, and those who violated the law, holding the latter accountable in a manner that promotes responsible behavior.

Court Diversion is a restorative alternative to the court process for individuals charged with crime or delinquency. **If completed successfully, there is no criminal conviction.**



The purpose of this pamphlet is to give parents information and resources so they understand the Court Diversion process.

Parents who are actively involved in the process are better able to support youth to successfully complete the program.

If your child is 16 years or older, s/he may be charged in either the Family Division or Criminal Division. While the Court process and outcomes differ between the Family and Criminal Divisions, the Diversion process is similar.

Your local Court Diversion program can also answer any questions you may have.

In this pamphlet you will find the following helpful information. You are encouraged to review this document with Court Diversion staff.

FREQUENTLY ASKED QUESTIONS

1. My child received a citation for breaking a law. What will happen now?
2. What are the benefits of Court Diversion for my child?
3. How do I find out if my child is eligible for Court Diversion?
4. What is needed in order for my child to take part in Court Diversion?
5. Does my child need a lawyer?
6. What costs are associated with Court Diversion?
7. What does Court Diversion involve?
8. Who will be at the Review Board/Panel meeting?
9. What happens at the Review Board/Panel meeting?
10. Is my child's information kept private?
11. What is my role at the Review Board/Panel meeting?
12. What are typical contract requirements?
13. Why would my child have to repay a victim?
14. What happens once the contract requirements have been completed?
15. Will my child's record be sealed and what does that mean?
16. What happens if my child doesn't complete the contract requirements?
17. What can I do as a parent?

STATE-WIDE RESOURCES FOR PARENTS

LOCAL RESOURCES FOR PARENTS

GLOSSARY

FREQUENTLY ASKED QUESTIONS

1. My child received a citation for breaking a law. What will happen now?

The citation is a Notice to Appear. It has a specific date and time you must show up at court. You and your child must come to court at the date and time on the citation unless the State's Attorney has told you, in writing, that you do not need to go to court.

The image shows two overlapping court forms from the State of Vermont. The top form is Form 332, titled 'CITATION', issued by the Superior Court Criminal Division. It includes a 'TO:' field for the defendant's name and a 'Unit' field. The bottom form is Form 87, titled 'CITATION TO JUVENILE', issued by the Superior Court Family Division. It includes a 'TO: (Juvenile's Name)' field and a table for the hearing date, time, and location. Both forms contain the text: 'BY THE AUTHORITY OF THE STATE OF VERMONT, you are hereby ordered to appear before a Judicial Officer at the [Unit] Unit Family Division of Vermont, at the following time and place:'.

A Judge must believe that a crime was committed to proceed. The State's Attorney (known in other places as the County Prosecutor) may decide to refer your child to Court Diversion before or after the first court hearing.

See the flowchart at the center of this pamphlet for more information about the different court processes and possible alternatives.

2. What are the benefits of Court Diversion for my child?

Participants in Court Diversion can make amends for their behavior and avoid a criminal record.

A key benefit of Court Diversion is that after your child successfully completes the program, s/he will not have a criminal record or be adjudicated delinquent. If your child is found guilty of the charge in the Criminal Division, his/her criminal record may limit the ability to get certain jobs, student loans, and public housing, or to travel outside the US. After successfully completing Diversion, your child can honestly state that s/he has never been convicted of a crime.

Another benefit is that your child will discuss the incident that led to the charge with community members and help decide how to make things right. In Court, the judge and other professionals would typically make decisions for your child.

By participating in Court Diversion your child can take responsibility for his/her actions and work to repair any harm caused. Diversion can help you as a parent hold your child accountable for his/her behavior and connect you and your child to resources in the community.

See also FAQ #14: What happens once the contract requirements have been completed? and FAQ #15: Will my child's record be sealed?

3. How do I find out if my child is eligible for Court Diversion?

The State's Attorney's Office or the Court Diversion Program will notify you if your child is eligible. You can also ask the State's Attorney or the Court to have your child considered for Court Diversion. If your child has a lawyer, you can ask the attorney about requesting Court Diversion.

For information on how to contact a public defender see Local Resources for Parents on page 13.

4. What is needed in order for my child to take part in Court Diversion?

First, the State's Attorney decides whether to refer your child to Court Diversion. Then, because Court Diversion is a voluntary program, you and your child choose whether or not to participate.

You and your child choose whether or not to participate.

Your child must accept responsibility for breaking the law. A panel of trained volunteer community members will then decide, after meeting with you and your child, whether to accept your child into the program.

5. Does my child need a lawyer?

Your child has a right to the advice and assistance of a lawyer at every stage of the process, from the initial decision to participate in Court Diversion to accepting the Court Diversion contract and completing the contract. If you cannot afford to hire a lawyer for your child, the Court may appoint a lawyer, called a Public Defender, to represent your child. Most people who participate in Court Diversion do not choose to have an attorney.

6. What costs are associated with Court Diversion?

In order to participate in the program your child must pay a fee. The amount of the fee is based on the charge(s). If you have concerns about paying the fee, discuss them with the case manager as a payment plan may be possible. If the fee is not paid, your child's case may be returned to Court.

Your child may also need to pay the victim(s) for losses they suffered because of the offense. Your child may be required to attend counseling, which health insurance policies may or may not cover.

Court Diversion programs expect that your child – since s/he is responsible for the harm – will pay all costs.

If your child does not earn any income, a parent may pay the fee and any other costs. However, it is expected that your child will repay you for the costs either directly over time or by doing work for the family.

7. What does Court Diversion involve?

First, your child will meet with a Court Diversion case manager. During that meeting the case manager will get to know your child, his/her strengths and interests, as well as understand what led to the offense. The case manager will explain what to expect and how to prepare for a Review Board/Panel meeting. This meeting may take an hour or more.

The Review Board/Panel meeting is a meeting with trained volunteers from the community who will talk with your child about what happened and develop a contract that is focused on repairing the harm and preventing future offenses.

The contract is a list of things your child needs to do to successfully complete the program. The case manager will support your child in completing the contract, but your child is responsible for following through with the contract. You or your child must update your child's case manager of any address and telephone number changes.

Encouragement, support, and help from parents lead to your child's success. After successful completion of the contract, the case will be dismissed.

See also FAQ #14: What happens once the contract requirements have been completed?

8. Who will be at the Review Board/Panel meeting?

The Review Board/Panel is made up of trained volunteers from the community. The case manager will be at the meeting. Victims of the offense are invited to participate to tell the Review Board/Panel how the event impacted them. A Review Board/Panel only meets with both the Diversion participant and the victim at the same time when staff feel that the meeting will be safe and productive for everyone.

9. What happens at the Review Board/Panel meeting?

The Case Manager and Review Board/Panel members will have information about your child's case. The Review Board/Panel wants to hear what happened directly from your child. They will ask your child, and possibly you, questions to make sure they fully understand what happened and make sure your child is accepting responsibility. Then the Review Board/Panel will decide to either accept your child into the program or refer the case back to Court. In order to be accepted into the program, your child must accept responsibility for violating the law.

The meeting will be easier if your child is prepared. One way to prepare is for your child to discuss with you how s/he would answer these questions that Review Board/Panel members often ask:

- In your words, tell us what happened.
- Who was affected? How have they been affected?
- What can be done to make things as right as possible for the people who have been affected?

The Review Board/Panel can best serve your child if your child takes these questions seriously. These questions help the Review Board/Panel create a contract with your child that repairs the harm caused to victim(s) and the community when the law was broken. If you and your child agree to the contract, both you and your child are asked to sign it. In some cases, the Review Board/Panel may want to meet with your child again to learn about the progress your child has made.

10. Is my child's information kept private?

Court Diversion is a confidential program.

By state law, both the staff and volunteers must keep all client and case information strictly confidential. Your child's case manager is allowed to talk about the case with the investigating police officer(s) and victims or witnesses without you and your child's permission. The case manager may ask you to sign a release so that s/he can talk with others who can help form an accurate picture of what happened and how to best address the issue.

Program staff are not allowed to talk to others about you or your child's case unless you have signed a release allowing them to do so. Volunteers are not allowed to talk with anyone about your child or any information they learn as part of the Diversion process. If your child does not complete all contract conditions, and the case is returned to Court, the case manager will only tell the State's Attorney information about the contract item(s) that were not completed. Details shared in the intake or Review Board/Panel meeting are not shared with the State's Attorney or the Court.

11. What is my role at the Review Board/Panel meeting?

Getting yourself and your child to the meeting is your main responsibility. You can support your child and encourage him/her to be honest before the meeting. The Review Board/Panel may ask you questions, which you should answer truthfully. Out of a desire to protect their children, parents may minimize a situation but doing so can be harmful in the long run.

The Review Board wants to hear the answers directly from your child. Let your child speak for him/herself.

12. What are typical contract requirements?

The goals of the contract are for your child to repair the harm done and develop skills to prevent future offenses.

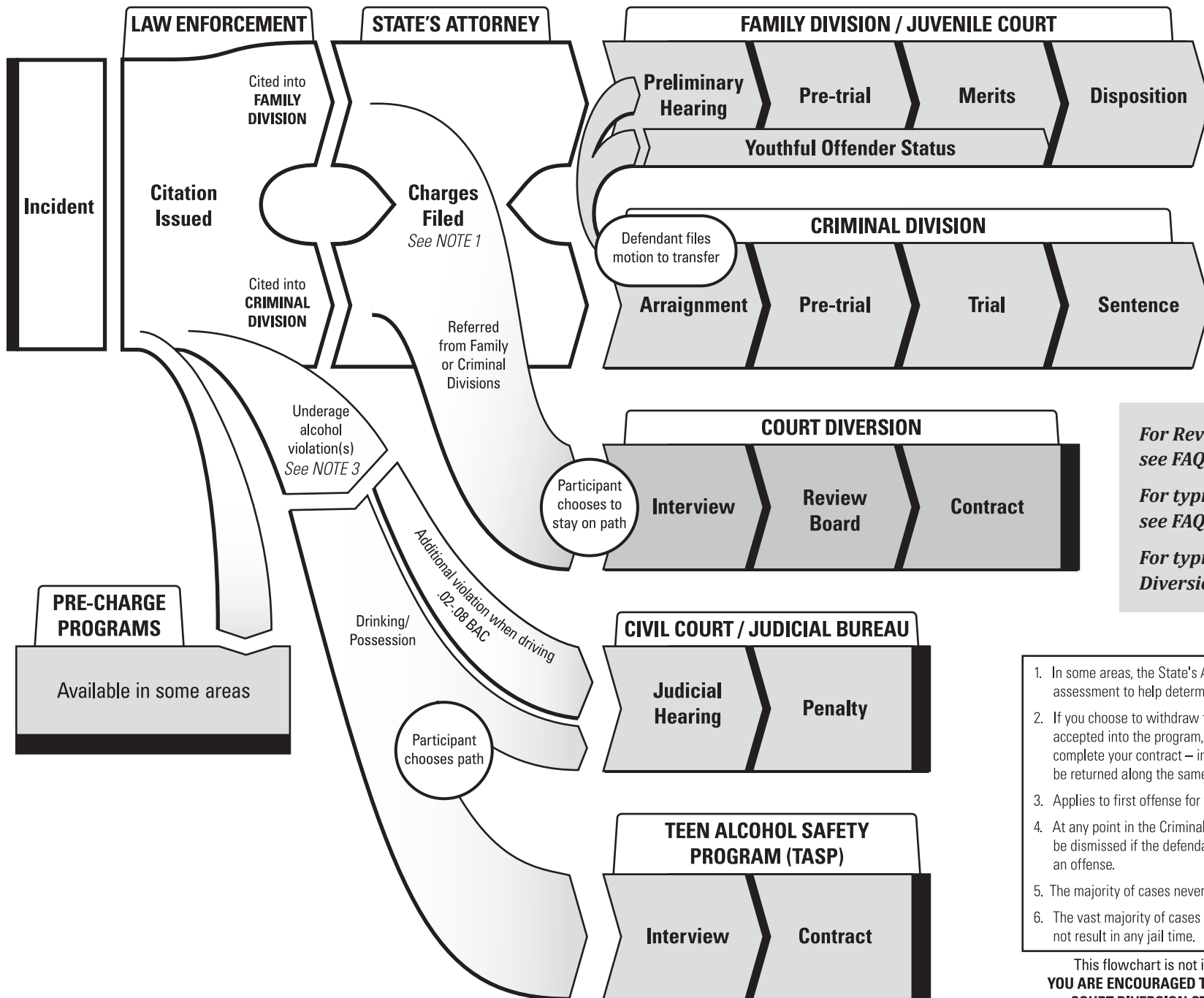
While every contract is different, some contract requirements may involve paying for property that was lost or damaged, apologizing to the victim(s), and/or completing service in the community. Both the Review Board/Panel meeting and the contract should help your child understand how people were affected by the offense and prevent him/her from breaking the law in the future. If the charge involved alcohol or other drugs, a substance abuse screening or assessment with a licensed drug and alcohol counselor may be required. Your child is expected to check-in with the case manager to talk about his/her progress or whether more support is needed. If your child gets charged with another criminal or delinquent act, the program may return the case to court.

13. Why would my child have to repay a victim?

Victims may have expenses or losses that are related to what your child did. Examples of expenses include the value of stolen or damaged property, medical expenses, and lost wages. Payment to the victim(s) to restore these losses is called restitution. Restitution may include return of property, money, and/or providing a service, such as repairing property or removing graffiti.

Court Diversion's Role within the Vermont Youth Justice System

An overview of primary paths experienced by youth 10 - 17 years old (Effective 8/11)



For Review Board information see FAQ #8 - #11

For typical Contract Conditions see FAQ #12, #13

For typical outcomes from Court Diversion see FAQ #14 - #16

NOTES

1. In some areas, the State's Attorney may request a voluntary assessment to help determine eligibility for Court Diversion.
2. If you choose to withdraw from TASP or Court Diversion, are not accepted into the program, receive a new charge, or do not complete your contract – including paying the fee – your case may be returned along the same path.
3. Applies to first offense for youth 16 - 20 years old.
4. At any point in the Criminal, Family, or Civil Divisions, a case may be dismissed if the defendant is found not to have committed an offense.
5. The majority of cases never go to trial because of plea agreements.
6. The vast majority of cases referred to alternative programs would not result in any jail time.

This flowchart is not intended to provide legal advice.
YOU ARE ENCOURAGED TO REVIEW THIS DOCUMENT WITH COURT DIVERSION STAFF AND/OR YOUR ATTORNEY.

14. What happens once the contract requirements have been completed?

When all contract requirements have been completed, your child will have successfully completed the program. The Court Diversion Program then informs the State's Attorney and the case is dismissed by the Court. Cases are typically sealed two years after successful completion.

See FAQ #15: Will my child's record be sealed?

15. Will my child's record be sealed and what does that mean?

Two years after successful completion of Court Diversion, Vermont law requires the Court and law enforcement to automatically seal all associated files and records. Two things may prevent the record from being sealed: (1) your child is convicted of another offense within the two-year period, or (2) the Court is not satisfied with your child's rehabilitation.

According to law, once the records are sealed, the proceedings shall be considered never to have occurred.

It is important to understand that some records and public information, such as arraignment lists and articles in the newspaper, cannot be erased or sealed. Some trace of the incident and your child's charge may exist even after records have been sealed. Court Diversion advises you to check with the Court to ensure that all possible records have been properly sealed.

Ask your case manager about how to answer questions on job applications and for military service.

16. What happens if my child does not complete the contract requirements?

If the contract is not completed, the case will be returned to the State's Attorney to be prosecuted. Diversion staff do not provide detailed information to the State's Attorney about the case; they only inform the State's Attorney about the contract conditions not completed, such as "failure to pay restitution."

Your child will likely need to go to Court for the original charge. If your child is required to appear in Court after the case is returned to the State's Attorney, s/he may enter a plea of guilty or not guilty.

See also FAQ #10: I am concerned about privacy. Is the process confidential?

17. What can I do as a parent?

You have already done a lot by reading this pamphlet and informing yourself about the process. Ask your child's case manager questions and explore the resources on the following pages.

If your child is having a hard time talking with you about why s/he committed the crime, you could consider asking a school guidance counselor, a relative, or a supportive friend to discuss this with your child. Court Diversion is an opportunity to help your child understand why what they did was wrong and to learn how to make constructive, positive choices in the future. The Court Diversion contract will take time and some planning to complete.

You can your child help in three important ways:

- 1) Encourage your child to plan how and when the things in the contract will be done.
- 2) Support your child in meeting all his/her contract obligations — do not complete the requirements for him or her.
- 3) Make sure your child continues to take part in positive things he or she does such as: completing schoolwork, participating in positive afterschool activities, and spending time with family.

If completing the contract is significantly taking away from your child's involvement in positive activities, let your child's case manager know.

STATE-WIDE RESOURCES FOR PARENTS

Vermont Family Network- Juvenile Justice Information & Resources

800.800.4005 www.vermontfamilynetwork.org/i-need-help-with/special-education/juvenile-justice/

Vermont Family Network promotes better health, education and well-being for all children and families, with a focus on children and young adults with special needs. One of their goals is to enable families to become better informed about their legal rights and options for the education, treatment and rehabilitation of youthful offenders. While they have a focus on youth with disabilities, many of their Juvenile Justice Project resources will benefit all families.

Vermont Department of Health – Underage Drinking in Vermont

800-464-4343 www.healthvermont.gov/adap/underage_drinking

Underage drinking carries heavy risks for children and parents. Learn the scope of this problem and some of the myths surrounding it. Learn the steps you can take to help reduce underage drinking and how to make them a part of your family's everyday life. Here you'll find useful tools, information and links designed to help parents through the challenges of underage drinking prevention.

Vermont 2-1-1

211 www.vermont211.org

At Vermont 2-1-1, callers will speak with a real person every time. Call Specialists will problem solve and refer callers from throughout Vermont to government programs, community-based organizations, support groups, and other local resources.

Screen Door: the Vermont Agency of Human Services Screening Tool

www.screendoor.vermont.gov

The Vermont Agency of Human Services has a wonderful Screening Tool that is quick, anonymous and confidential. In a moment you can identify public resources that may be available for you and your children.

Green Mountain Care

800.250.8427 www.greenmountaincare.org

Green Mountain Care is a family of health insurance plans offered by the State of Vermont and its partners. Plan eligibility and cost is based on household size and income. There may be a program for you, no matter how much you earn. Call **1-800-250-8427** or complete the **Green Mountain Care Screening Tool** to find out which plan is right for you!

Vermont Judiciary Family Division

www.vermontjudiciary.org/GTC/Family/juvenile.aspx

The Family Division of the Vermont Judiciary has information, answers to frequently asked questions and forms that may be beneficial pertaining to juvenile matters. One form that may be of particular interest is a pamphlet that describes Juvenile Delinquency Proceedings. It can be downloaded at the following address: <http://www.vermontjudiciary.org/eforms/Form%20122.pdf>

Vermont Judiciary Criminal Division

www.vermontjudiciary.org/GTC/Criminal/criminalcases.aspx

If your child was charged in the Criminal Division or District Court, the Vermont Judiciary website has basic information about the process as well as forms that may be useful to you or your child.

LOCAL RESOURCES FOR PARENTS

Court Diversion

Case Manager: _____

Telephone: _____

Email: _____

Meeting Date/Time: _____

Volunteer Service

Name: _____

Telephone: _____

Email: _____

Meeting Date/Time: _____

Public Defender

Name: _____

Telephone: _____

Meeting Date/Time: _____

Other _____

Name: _____

Telephone: _____

Meeting Date/Time: _____

Counselor

Name: _____

Telephone: _____

Meeting Date/Time: _____

Other _____

Name: _____

Telephone: _____

Meeting Date/Time: _____

Counselor

Name: _____

Telephone: _____

Meeting Date/Time: _____

Other _____

Name: _____

Telephone: _____

Meeting Date/Time: _____

GLOSSARY

ADJUDICATE: To make a final decision whether a youth (Family Division) is “delinquent” or an adult (Criminal Division) is “guilty”; to give a judgment or a decree.

AFFIDAVIT: A written statement of fact, signed and sworn to in front of a notary or a person who has the right to administer an oath; typically a law enforcement officer.

ARRAIGNMENT: This is the first hearing in the Criminal Division when the defendant is informed of criminal charges and enters a plea of guilty, not guilty, or no contest. If a denial of guilt is entered, the next stage will be a Pre-trial Hearing or a Trial. If an admission of guilt is entered, the next hearing will be the sentencing hearing. This is a public hearing and anyone can be present. Defendants released from court prior to resolution of the case may be given “conditions of release” by the judge.

CHARGE: The alleged violation of law.

CITATION: Document given by a police agency informing an individual of the date and time to appear before the Family Division for a preliminary hearing in a juvenile case (33 V.S.A. § 5221) or for arraignment in the Criminal Division.

CONDITIONS OF RELEASE: A list of conditions that a juvenile must abide by while waiting for adjudication and disposition of the case.

CONTINUANCE: A request made by a party for postponement of a scheduled hearing.

CRIMINAL DIVISION: A trial court that has jurisdiction over all criminal proceedings.

DEFENDANT: The person against whom a civil or criminal action is taken.

DELINQUENT ACT: An act by a juvenile designated a crime under the laws of this state, or of another state if the act occurred there, or under federal law.

DELINQUENT CHILD: Any child (minor or juvenile) who has been adjudged to have committed a delinquent act and is still subject to the jurisdiction of the Family Division.

DEPARTMENT FOR CHILDREN AND FAMILIES “DCF”: Division of the Agency of Human Services that provides assistance, care and services to families, and provides care of children when the family is unable to provide the necessary care and protection.

DISPOSITION HEARING: If a youth admits to the allegations or the judge finds a youth delinquent, the Department for Children & Families (DCF) prepares a Disposition Case Plan. This proposed plan of services includes what the youth needs to do to address the issues that brought the youth to court.

DISTRICT COURT: See Criminal Division

FAMILY DIVISION: A trial court that has jurisdiction over all family cases, including divorce, child support, parentage, domestic abuse and juvenile cases.

GUARDIAN (Legal): Person who, at the time of the beginning of the Family Division proceeding, has legally established rights to a child pursuant to an order of a Vermont probate court or a similar court in another jurisdiction.

GUARDIAN AD LITEM: The court appointed volunteer who looks out for the best interests of a child.

JUVENILE: A person under eighteen years of age; see “Minor” below.

LAW ENFORCEMENT: There are many law enforcement agencies in Vermont that can issue citations. Law enforcement includes city or town police officers, County Sheriff’s deputies, Vermont State Police troopers, as well as other state agencies such as the Department of Fish & Wildlife.

MERITS HEARING: A merits hearing is a Court hearing at which evidence and testimony by witnesses are presented to either support or refute the allegations of the petition.

MINOR: Any person under the age of 18 years old. See Juvenile above.

MOTION: Written request to a court for an order granting any kind of relief.

NOTICE OF APPEARANCE: A paper filed in court notifying the court and the other parties that a party (or their lawyer) is participating in the case.

PETITION: A document filed by the state in the Family Division that sets forth the allegations that a juvenile is either delinquent or in need of care or supervision.

PRE-TRIAL HEARING: This is a hearing to keep the judge informed of all issues to be resolved. The judge may proceed directly to the Merits stage. The youth may admit to the allegations at this stage. If an admission is entered, the next hearing will be a disposition hearing.

PRELIMINARY HEARING: This is the first hearing in the Family Division. During the hearing the youth will be asked to admit or deny the allegations stated in the petition and affidavit. If a denial is entered, the next hearing will be a Pre-trial Hearing or a Merits Hearing. If an admission is entered, the next hearing will be a disposition hearing.

PROBABLE CAUSE: The determination by a judge that there is reason to believe that a crime or a delinquent act has occurred.

PROBATION: (1) An Order issued once a juvenile is adjudicated a delinquent child which may include standard and/or special conditions necessary for the juvenile's rehabilitation, supervised by the Department for Children and Families (DCF). (2) A suspended prison sentence imposed in a criminal case, in which the defendant is placed under the supervision of the Vermont Department of Corrections.

PUBLIC DEFENDER: A lawyer paid by the State who represents people who cannot afford to hire a lawyer.

RESTITUTION: A condition of probation requiring the defendant to repay the victim his/her loss.

SEALING OF RECORDS: A procedure for safeguarding release of information about a court proceeding such that the proceeding is considered never to have occurred and no files or records of a proceeding are acknowledged to exist.

SENTENCING: If the defendant pleads guilty or is found guilty after the trial in the Criminal Division, the judge will schedule a sentencing hearing.

STATE'S ATTORNEY: The lawyer who represents the State. (County prosecutor)

STATUTES: Laws enacted by the Legislature. Statutes of the State of Vermont are contained in volumes of the Vermont Statutes Annotated (V.S.A.). Laws governing juvenile procedures are found in Title 33, Chapters 51-53 and are available online (<http://www.leg.state.vt.us/statutesMain.cfm>).

