



Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant.*

ENTRY ORDER

SEPTEMBER TERM, 2026

In re R.G., Juvenile*

} APPEALED FROM:
} Superior Court, Franklin Unit,
} Criminal Division
} CASE NO. 25-JV-01609
} Trial Judge: Mary Morrissey

In the above-entitled cause, the Clerk will enter:

Youth, R.G., born in October 2007, appealed a family division decision to hold him in a correctional facility pending a hearing on an alleged violation of his youthful-offender probation. On appeal, youth argues that the family division erred in holding him under 28 V.S.A. § 301, which he contends does not apply to a youth under the supervision of the family division. Because youth has failed to identify any legal basis for immediate appeal of this decision to a single Justice under 13 V.S.A. § 7556(b), the appeal is dismissed for lack of jurisdiction.

The record reveals the following facts. In November 2025, a youthful-offender petition was filed in the family division, alleging that youth committed sexual assault and sexual assault on a minor by engaging in nonconsensual sexual conduct with an individual who was thirteen when youth was seventeen. The victim was the younger sister of youth's then-girlfriend and the affidavit indicated that youth had provided her with marijuana and alcohol. Youth was released into the custody of his parents, and the court imposed several conditions of release, including that youth was not permitted to purchase, possess, or consume alcohol or engage in threatening or assaultive behavior.

Following a risk assessment and needs screening, the Department for Children and Families (DCF) had concerns about public safety and treatment for youth and did not initially support treating youth as a youthful offender. A psychosexual evaluation was completed and DCF subsequently indicated that it supported youthful-offender status. Based on the parties' agreement, the court approved youthful-offender status in July 2026. The parties stipulated that youth committed one count of lewd and lascivious conduct under 13 V.S.A. § 2601, and the court issued a merits decision based on that stipulation. The court issued a disposition order in August 2026, which placed juvenile on probation with several requirements, including residing

at the home of his mother and step-father, engaging in sex-offender treatment, and refraining from contacting the victim.

In early September 2026, when youth was nineteen, the State filed a violation of probation, alleging that youth violated the probation condition requiring him to reside in his mother's home. The accompanying affidavit indicated that youth had contacted his former girlfriend, threatened his step-father and other individuals at the home, including minors, broken the family security system, stolen money and alcohol from his parents, and attempted to break into a business. His step-father sought and obtained a temporary relief-from-abuse (RFA) order, which prohibited youth from remaining in the home. On September 4, 2026, youth was arrested and lodged by the Department of Corrections (DOC) under 33 V.S.A. § 5285(a), which allows a supervising juvenile or adult probation officer to detain a youthful offender over eighteen in a correctional facility for violating conditions of probation. The court imposed conditions of release, but the DOC continued to hold youth on the alleged violation of probation pending a hearing on the merits.

On September 10, 2026, the family division held a hearing to ascertain the basis for youth's ongoing detention. The State asserted that it could continue to detain youth under 33 V.S.A. § 5285(a). September 11, 2026, the family division ordered that R.G. be released on agreed-upon conditions, including that he not contact the victim or the victim's sister, that he remain drug and alcohol free, and that he reside at his paternal grandmother's home under a twenty-four-hour curfew.

Less than twenty-four hours later, youth was charged with violating his probation and again held in DOC custody. The State alleged that youth violated his probation by consuming alcohol, and the accompanying affidavit indicated that the paternal grandmother no longer wanted youth at her residence. The family division held a hearing on September 14, 2026. The State argued that the DOC had the authority to detain youth without a court order at the correctional facility pending a youthful-offender revocation hearing pursuant to 33 V.S.A. § 5285(a). Youth argued that while the DOC had the authority initially to detain R.G. under § 5285(a), the family division did not have the authority to continue that detention following the initial hearing.

The family division concluded that because youth was on probation for a listed offense, 28 V.S.A. § 301 concerning adult probationers authorized the court to hold youth pending a hearing on the probation violation. The court found that the facts alleged supported holding youth. These facts included that youth threatened to slit the throats of his stepfather and others, was asked to leave the homes of his mother and paternal grandmother because of his behavior, lacked a plan of where he would live, was experiencing severe struggles with alcohol consumption, and made a recent attempt to burglarize a store.

Youth filed a notice of appeal to this Court, citing 13 V.S.A. § 7556(b).¹ On appeal, youth argues that the family division improperly invoked 28 V.S.A. § 301 to hold youth pending

¹ When a motion is filed to modify or revoke youthful-offender status based on a violation of juvenile probation, the statute requires a hearing to be held "as soon as practicable." 33 V.S.A. § 5285(a)(1). Indeed, here the family division scheduled a hearing for a few days after the initial decision to hold youth without bail. The Court takes judicial notice of the record in the family division that youth's counsel raised the issue of youth's competency at that hearing and so the court did not reach the merits. At oral argument, this Court questioned the parties as to whether this appeal could proceed while youth's competency was in question. Because neither

the violation hearing. He contends that the youthful-offender process is controlled by statute and a hold-without-bail pending a violation hearing is not covered under 28 V.S.A. § 301, which pertains to probationers convicted through a criminal process. Youth argues that the only basis to hold a youth is 33 V.S.A. § 5285(a), but that is a limited right that does not extend past the initial court appearance. The State does not take a position on whether § 301 applies to this situation; it argues that the family division had authority under either statute to hold youth based on the factual allegations regarding youth's probation violations.

As explained more fully below, there is no basis to reach the merits of defendant's argument because defendant has not demonstrated that there is a right to appeal the court's detention decision under 13 V.S.A. § 7556. The question of whether there is a right to immediate appeal of the court's interlocutory order detaining youth is one of statutory and rule construction. In interpreting the statute, "we implement the plain and ordinary meaning of the statutory language and depart only where the objective of the legislation would be defeated." State v. Kane, 2016 VT 121, ¶ 8, 203 Vt. 652 (mem.). Rules are interpreted in a similar manner by considering the "plain language and the purpose [the rule] was designed to serve." State v. Amidon, 2008 VT 122, ¶ 16, 185 Vt. 1.

Youthful-offender proceedings are controlled primarily by statute. See 33 V.S.A. §§ 5280-5288 (providing procedures for youthful-offender proceedings). Vermont Rule for Family Proceedings 1.1 provides additional procedural provisions and indicates that in general Family Rule 1 on delinquency proceedings "governs all youthful offender proceedings in the family division." V.R.F.P. 1.1(a).

The youthful-offender statute allows the DOC to "detain" a youth over eighteen when a violation of probation is alleged. 33 V.S.A. § 5285(a). Because the family division did not rely on this statute to hold youth and youth does not argue that it provides a basis for appeal, it is not necessary to consider whether there is right to immediate appeal of a detention under this section. The Court notes, however, that neither the plain language of the statute nor Family Rule 1.1 provide an avenue to appeal any detention under § 5285(a).

The family division invoked a different statute, however, and held youth under 28 V.S.A. § 301(4), which provides that a probationer who is charged with violating probation may be held or released based on a consideration of the factors in the bail statute, 13 V.S.A. § 7554. Under § 301(4), there is no right to release unless the person is on probation for a nonviolent misdemeanor or nonviolent felony. See State v. Campbell, 2014 VT 123, ¶ 6, 198 Vt. 627 (mem.) (explaining that for probationer with listed crime there is "no constitutional or statutory right to bail or release"); cf. Kane, 2016 VT 121, ¶ 11 (holding that probationers who have nonviolent felonies have right to bail or release pending probation-violation hearing). The plain language of § 301(4) does not provide for immediate review of the decision regarding whether to hold a probationer pending a violation hearing, but Vermont Rule of Criminal Procedure 32.1(a)(3) states that "[a]ny denial of or change in the terms of release shall be reviewable in the manner provided in 13 V.S.A. §§ 7554 and 7556 for pretrial release." Pretrial release is governed by § 7556(b) and (c), which allows a person detained to take an appeal to a single Justice. See Campbell, 2014 VT 123, ¶ 6 (explaining that probationer held pending probation-violation hearing may appeal and review "is limited to determining whether the trial court abused [its] discretion").

party objected to proceeding and the appeal involves a purely legal question, the Court has decided to proceed even though youth's competency remains unresolved.

This review is not available to youth, however, because Criminal Rule 32.1(a)(3) is not applicable in youthful-offender proceedings. The Family Rule on delinquency proceedings, V.R.F.P. 1, which is incorporated into the youthful-offender rule, V.R.F.P. 1.1(a), specifically provides that Criminal Rule 32.1(a)(3) “shall not apply.” V.R.F.P. 1.1(a) (incorporating Rule 1 regarding delinquency), V.R.F.P. 1 (a)(3) (providing that Criminal Rule 32.1(a)(3) “shall not apply”). Therefore, under the plain language of the rule, youth does not have a right to immediate review of the detention order under 13 V.S.A. § 7556(b).

Although youth’s notice of appeal relied on 13 V.S.A. § 7556(b), in a subsequent memo filed after oral argument,² youth argued that his detention was reviewable under 13 V.S.A. § 7556(e). That provision provides: “A person held without bail prior to trial shall be entitled to review of that determination by a panel of three Supreme Court Justices within seven business days after bail is denied.” 13 V.S.A. § 7556(e). Although youth invoked this provision, he did not request review by a panel of three Justices. In any event, under the plain language of this statutory provision, it does not apply to youth. Youth is not being held without bail “prior to trial,” as required by the plain language of § 7556(e). Youth stipulated to the merits of the underlying youthful-offender petition and was placed on probation. Therefore, he does not hold the same status as someone who has not yet been adjudicated guilty and has a constitutional and statutory right to bail or release. See Campbell, 2014 VT 123, ¶ 6 (providing that defendant charged with violating probation “has no constitutional or statutory right to bail or release if the defendant is on probation for a listed crime”).

Because there is no basis for immediate appeal of the decision to hold youth pending the violation hearing under 13 V.S.A. § 7556(b), the appeal must be dismissed.

Dismissed.

FOR THE COURT:

Harold E. Eaton, Jr., Associate Justice

² The State was provided an opportunity to respond to youth’s memorandum but declined to submit anything.