
**Report to
The Vermont Legislature**

**Report on the Repurposing of the Woodside Juvenile
Rehabilitation Center**

In Accordance with Act 146 Sec. C 10: Woodside Juvenile Rehabilitation Center

**Submitted to: Senate Health and Welfare
House Human Services**

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Commissioner**

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**In consultation with the Department of Vermont
Health Access and the Department of Mental
Health**

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Introduction

Woodside Juvenile Rehabilitation Center (Woodside) is a unit in the Family Services Division of the Department for Children and Families (DCF). Although some individuals are under the supervision of the Department of Corrections, the vast majority of Woodside residents are under the care and custody of DCF. The majority of the youth who come to Woodside are delinquent youth placed at Woodside administratively by DCF. In addition, delinquent youth can also be court ordered to Woodside. All the youth who come to Woodside receive screening and assessment, medical care and supervision in a safe and secure setting. Woodside offers its residents services in the least-restrictive setting possible given their needs.

Woodside offers an array of services that address the medical and mental health needs of youth for whom less intensive, community-based services have not produced the outcomes necessary. A full-time registered nurse specializing in adolescent psychiatric services oversees medical services, and two licensed physicians are available weekly for office visits and examinations. Residents receive routine screening examinations onsite. Residents have offsite access to acute care and dental services.

During the last three years, Woodside has been engaged in a transformation aimed at enhancing capacity for treatment. The primary role of Woodside has shifted from secured detention to medical treatment of youth. In part because of these program improvements at Woodside, the Vermont legislature directed the Agency to develop a plan for securing Medicaid funding to support Woodside's operations. The Challenges for Change legislation provided the following directive:¹

- (a) The agency of human services shall develop a plan to provide secure stabilization services, assessment, and treatment at the Woodside juvenile rehabilitation center established in 33 V.S.A. §5801, in order to secure reimbursement under the Global Commitment for Health Medicaid Section 1115 waiver, beginning April 1, 2011. The plan shall ensure that children in need of secure residential treatment, which is not reimbursable by Medicaid, may continue to be served at Woodside. The agency shall collaborate with the judicial branch on the redesign of Woodside.*

- (b) By January 14, 2011, the agency shall report its recommendations, including any statutory changes necessary to accomplish the recommendations, to the house committee on human services and the senate committee on health and welfare.*

This study presents the Agency's plan and recommendations for recognizing Woodside as a Medicaid-eligible provider. As required by the legislation, the Agency's plan enables Woodside

¹ *An Act Relating to the Implementation of Challenges for Change* (Act No. 146, H. 792), 2010.

to continue to serve individuals in need of secure residential treatment, even if such services are not eligible for Medicaid reimbursement.

The Agency's evaluation and planning activities have focused on the following key components:

- Evaluation of Federal Medicaid Laws and Policies
- Assessment of Woodside and Development of Implementation Timeline
- Implementation Plan
 - Policies and Operations
 - Estimated Budget Impact
 - Medicaid Program Activities
 - Collaboration with Judiciary
 - Regulatory Modifications
 - Summary Timeline

Evaluation of Federal Medicaid Laws and Policies

Federal laws, regulations, and interpretations related to residential care for youth in custody are complex and seemingly contradictory. The discussion below presents the Agency's findings and recommendation for accessing Medicaid funding for services at Woodside.

Inmate of a Public Institution Exception

Federal Medicaid funds are not available for care or services provided to any individual who is an "inmate of a public institution (except as a patient in a medical institution)." ² A "public institution" is defined as an institution that is the responsibility of or is administratively controlled by a government unit. ³ However, the term "public institution" excludes medical institutions, intermediate care facilities, publicly operated community residences that serve no more than 16 residents, and child-care institutions."

On the other hand, federal regulations define a "medical institution" as an institution that:

- (a) Is organized to provide medical care, including nursing and convalescent care;
- (b) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;
- (c) Is authorized under State law to provide medical care; and

² 42 USC § 1396d(a)(28)(A) and 42 CFR § 435.1009.

³ *Id.*

(d) Is staffed by professional personnel who are responsible to the institution for professional medical and nursing services.⁴

The services must include adequate and continual medical care and supervision by a physician; registered nurse or licensed practical nurse supervision and services and nurses' aid services, sufficient to meet nursing care needs; and a physician's guidance on the professional aspects of operating the institution.

Institutions for Mental Disease (IMD) Exclusion

Federal law defines an Institution for Mental Disease (IMD) as a hospital, nursing facility or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care to persons with mental diseases, including medical attention, nursing care, and related services.

Medicaid funding is not available for IMD services, except for inpatient psychiatric services provided to individuals under the age of 21. This exception for individuals under age 21 has been interpreted inconsistently. One interpretation is that inpatient psychiatric services must meet the narrow, institutional definition of inpatient psychiatric services (described in the next section). Another interpretation is that the IMD rules do not apply to individuals under age 21.

Medicaid Reimbursement for Psychiatric Residential Treatment Facilities (PRTF)

Federal Medicaid law recognizes a limited number of institutional settings for which room and board costs may be reimbursed. These settings include hospitals, nursing facilities, intermediate care facilities for the mentally retarded (ICF/MR), and inpatient psychiatric services for children under age 21.⁵ Psychiatric services for children may be provided by a psychiatric hospital, psychiatric unit of a general hospital or psychiatric residential treatment facility (PRTF).

Under CMS regulations,⁶ a PRTF is a non-hospital facility that delivers inpatient psychiatric services to Medicaid-enrolled individuals under age 21. The facility is required to be accredited by the Joint Commission (JCAHO) or other accrediting entity, such as the Commission on Accreditation of Rehabilitation Facilities (CARF). The facility also must comply with federal regulations concerning the use of seclusion and restraints.

⁴ *Id.*

⁵ *Id.*

⁶ 42 CFR § 441.151.

Vermont Global Commitment to Health

Vermont's Section 1115 Demonstration waiver provides the State with additional opportunities with regard to the service delivery and financing. The Global Commitment to Health model enables the State to adopt managed care and public health approaches to improve quality, enhance access to care and control program costs.

Absent the Global Commitment Demonstration, Medicaid coverage would be limited to those services defined by federal laws and regulations. The Global Commitment model provides the State with additional flexibility to develop a delivery system that offers a full array of health care services, including services that are not covered under traditional Medicaid laws and regulations. The Demonstration's unique managed care model enables the Vermont Medicaid program to support a continuum of care and cover services that are cost-effective alternatives to traditional services and facilitate access to care in the least restrictive setting.

Agency Findings and Recommendations

The Agency believes that Woodside meets the federal definition of a "medical institution," subject to modification of Vermont law to recognize Woodside as a medical provider.⁷ The Agency believes that the flexibility afforded under the Global Commitment Demonstration enables the Vermont Medicaid program to cover services provided by Woodside in order to promote access to a full continuum of care and fund services in a least restrictive and cost-effective setting.

The Agency also believes that enrollment of Woodside as a psychiatric residential treatment facility would strengthen the Medicaid program's authority to cover Woodside for three reasons:

1. Recognition of Woodside as a PRTF would enable the Vermont Medicaid program to cover services offered by Woodside under traditional Medicaid laws. Therefore, coverage would not be dependent on the continuation of the Global Commitment to Health Demonstration.
2. The federal definition of a "medical institution" has not been consistently interpreted and applied, but enrollment of Woodside as a PRTF would meet the narrowly constructed definition of a medical institution.
3. Federal law exempts "inpatient psychiatric services for children under age 21" from the prohibition on Medicaid funding for IMD services. The definition of "inpatient psychiatric services" could be narrowly interpreted to include only traditional Medicaid providers (e.g., hospitals and PRTFs). Enrollment of Woodside as a PRTF would meet the narrow definition of "inpatient psychiatric services for children under age 21."

⁷ Proposed statutory modifications are discussed later in this study.

Agency Recommendations:

- 1. Modification of state statutes to authorize Woodside to provide medical (psychiatric) care.**
- 2. Using the flexibility available under the Global Commitment Demonstration to bring Global Commitment funding into Woodside programming**
- 3. Modify the Vermont Medicaid State Plan to include coverage of PRTF services and take steps necessary to enroll Woodside as a PRTF.**

Assessment of Woodside and Development of Implementation Timeline

The Agency assembled a workgroup to evaluate Woodside's current programming and admissions to assess the feasibility of recognizing Woodside as a medical institution and a PRTF. During the last three years, Woodside has engaged in practice transformation aimed at enhancing the capacity for treatment of youth in the program. Specific initiatives include the following:

- *Short-term Care Crisis Stabilization* – Woodside changed the name of the “detention wing” to “short-term care.” Short-term care at Woodside is not part of the juvenile justice placement continuum for youth. Rather, short-term care is a short-term crisis stabilization program for youth who are a danger to themselves or others. Once stabilized, these youth are placed in an available and appropriate treatment setting within the community.
- *Program Improvement Initiative* – Woodside's leadership team identified the need to consider a Program Improvement Initiative. Subsequent meetings with the Woodside Steering Committee and sub-committees determined three primary targets for program change (a detailed summary of these targets is provided as Attachment A):
 1. Eliminate the physical designation of short-term and long-term wings in the building.
 2. Individualized programming for youth based on need for secure care.
 3. Expanded family engagement, psycho-educational, restorative justice, and other treatment services for all youth at Woodside.
- *Training* – Woodside staff are being trained in policies and procedures in compliance with treatment and regulatory requirements and best treatment practices, including Cognitive Behavioral Therapies (CBT).

These program initiatives created a strong foundation for recognition of Woodside as a Medicaid provider. The Agency workgroup evaluated Woodside's current policies and operations in order to identify specific activities that would need to occur prior to initiating Medicaid reimbursement for Woodside.

The Agency concluded that Woodside's current programming meets the definition of a medical institution and the Global Commitment Demonstration provides authority for Medicaid reimbursement at Woodside. The Department for Children and Families and the Department of Vermont Health Access have initiated discussions related to enrollment of Woodside as a Medicaid provider, establishment of payment rates and program billing. Upon modification of state law to recognize Woodside as a medical provider, Woodside will initiate enrollment as a Medicaid provider.

The Agency identified regulatory and operational changes that will need to occur in order to recognize Woodside as a PRTF. The Agency concluded that necessary changes can be implemented by August, 2011.

Agency Recommendation

Secure Medicaid reimbursement for services provided by Woodside under a two-phase plan, as follows:

Phase I – Finalize policy changes and seek statutory modifications necessary for Woodside to be recognized as a medical institution.

Phase II – Implement policy and operational changes necessary for Woodside to be recognized as a PRTF.

Implementation Plan

Policies and Operations

Agency staff have been engaged in detailed discussions related to changes in program policies and operations necessary to secure Medicaid funding. Major implementation activities include:

- Development of clinical review criteria for admissions and continued stays
- Securing accreditation, as required by federal Medicaid law, to qualify as a PRTF
- Enhancing clinical staffing as required to meet accreditation requirements and federal law

Development of Clinical Review Criteria

In support of both Phases I and II, Woodside will need to implement clinical review criteria for all Woodside placements. Any placement that does not meet clinical admission or continued stay criteria will not be eligible for Medicaid reimbursement. Preliminary admissions policies, clinical criteria and review procedures are presented below.

In Vermont there is a commitment to serve youth in the community whenever possible. However, for youth who present the highest risk to self or others, Woodside offers services in the least-restrictive setting possible given their needs. Woodside offers an array of services that address the medical and mental health needs of individuals (ages 10 through 17, inclusive) for whom less intensive, community-based services have not produced the level of care needed to accommodate these individuals. Youth may be admitted to Woodside through court order by a judge or ordered administratively by the Department for Children and Families (DCF).

Although Woodside will have the regulatory authority to serve all youth who meet clinical admissions criteria, program administrators retain authority to adopt policies that define the types of permissible admissions. Administrative policies may define the types of cases to be served by Woodside based on clinical capacity, patient mix, and program goals. Initially, the Agency intends to limit Woodside's role to serving delinquent youth who have assessment and/or treatment needs that require this level of care. Youth may be court ordered to Woodside by a judge, or placed there administratively by the Department for Children and Families, or through the MOU process with the Department of Corrections. However, their assessment and treatment needs would determine whether or not they required continued stay or should be placed in a lower level of care.

All placements will be reviewed, within 72 hours of admission, by a clinical admissions team to assess the medical treatment needs of the youth, and to determine if the youth requires the level of secure care treatment provided by Woodside.

All admissions will be reviewed by a clinical team that includes at least two of the following clinicians: psychiatrist, psychologist, nurse, and clinical social worker. The review by the clinical team will include:

1. A description of the presenting problem.
2. A description of the need for services.
3. A brief interview with the youth (this can be done over the phone).
4. Identification and documentation of the youth's immediate and urgent needs.
5. Application of screening assessment tools.

At the 72 hour review, the clinical team will review the documents in the referral as well as the assessments completed at Woodside to determine if the youth is presenting with an immediate treatment need. The clinical team will also determine if that treatment need requires secure care. If the youth does not present with an immediate treatment need, the clinical team will work with the DCF client placement specialist to identify an available and appropriate placement for the youth, and assist in the transfer of that youth to an appropriate level of care.

Crisis-stabilization and appropriate psycho-educational and treatment services are provided to youth during their stay at Woodside. Assessment and discharge planning begin immediately. A registered adolescent psychiatric nurse oversees medical services, and two licensed physicians are available weekly for office visits and examinations. Residents receive routine screening

examinations and have access to acute care. Dental services are also provided for youth who stay more than 30 days at Woodside.

All youth receive an intake screen as part of the admission process to determine whether further mental health counseling and group counseling/milieu therapy is needed. Drug and alcohol counseling is available for individuals who require such services.

Accreditation

During the second phase of transformation, Woodside intends to secure accreditation to gain recognition as a PRTF under traditional Medicaid rules and improve quality of care. Woodside leadership is exploring facility accreditation through the Commission on Accreditation of Rehabilitation Facilities (CARF). CARF is a nonprofit accreditor of health and human services, including child and youth services and behavioral health programs. In collaboration with a CARF surveyor, Woodside is reviewing all existing policies and operational procedures in keeping with treatment and regulatory requirements. Woodside anticipates becoming an accredited facility by July 2011.

Enhancing Clinical Staffing

To comply with federal PRTF requirements and CARF accreditation requirements, Woodside anticipates hiring additional professional personnel. The Agency anticipates an investment cost of approximately \$299,750 to provide for additional medical staff.

While this investment is needed to meet regulatory requirements, the Agency believes that the enhanced clinical staffing and accreditation process will improve service delivery at Woodside. A summary of the program investments are provided in the table on the following page.

Summary of Program Investments

	Full-Time Equivalents (FTEs)	Cost per FTE (Salary and Fringe)	Total Costs
Clinical Staff			
Psychiatry	0.8	\$ 220,000	\$ 176,000
Registered Nurse	1.0	\$ 80,000	\$ 80,000
Physician	0.25	\$ 175,000	\$ 43,750
<i>Subtotal: Clinical Staff</i>	2.05		\$ 299,750
Total			\$ 299,750

Budget Impact

The Agency recognizes that not all individuals who are placed at Woodside will receive services that may be reimbursed by Medicaid. Although the exact percentage of non-reimbursable cost is unknown, the Agency reviewed historical admissions and estimated non-reimbursable costs to equal 10 percent. Woodside will ensure that youth in need of secure residential treatment that is not reimbursable by Medicaid may continue to be served at Woodside.

By transforming Woodside to treatment provider eligible for Medicaid reimbursement, the State would save approximately \$500 thousand in State Fiscal Year 2011 and \$1.7 million in State Fiscal Year 2012. The table below illustrates the potential savings attributed to transforming Woodside to qualify for federal Medicaid reimbursement.

Summary of Budget Impact

	Quarter 4, State Fiscal Year 2011	State Fiscal Year 2012
Total Operating Costs	\$ 971,553	\$ 3,981,421
Less Educational Costs	\$ (157,883)	\$ (657,276)
Treatment-Related Costs	\$ 813,670	\$ 3,324,145
Clinical/Quality Enhancements	\$ -	\$ 299,750
Total Treatment Costs	\$ 813,670	\$ 3,623,895
Percent Covered by Medicaid	90%	90%
Federal Medicaid Match Rate	67.48%	57.86%
Federal Medicaid Receipts	\$ 494,158	\$ 1,887,108
General Fund (Non-Education Costs)	\$ 319,512	\$ 1,736,788
Net (General Fund Savings)	\$ 494,158	\$ 1,736,788

Medicaid Program Activities

As referenced previously, staff from the Department of Vermont Health Access and the Department for Children and Families have initiated planning activities related to enrollment of Woodside as a Medicaid provider, Medicaid payment rate development and Medicaid claiming.

As part of the second phase to recognize Woodside as a PRTF, the Department of Vermont Health Access will submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services to add PRTF as a Medicaid-covered service.

Collaboration with Judiciary

Agency staff met with members of the judiciary to discuss the revised role of Woodside as a treatment provider.

Woodside staff also reviewed the types of admissions that occurred over a one-year period. Based on this evaluation, the majority of children served by Woodside had treatment needs that supported placement at Woodside.

The Agency recognizes that isolated instances may arise where Woodside represents the only feasible placement option for the State, even though an individual's treatment needs do not meet the clinical standards for treatment at Woodside. In these cases, Woodside would continue to provide services but would not seek Medicaid reimbursement.

Evaluation of Regulatory Modifications

In order to accomplish this transition, the Vermont statutes must be modified to change the definition of Woodside from a detention facility to a treatment facility for youth.

The statutory language needs to reflect Woodside's primary function as providing health treatment for youth who require care in a secure residential setting. Currently, Vermont statute defines Woodside as a "secure detention and treatment facility":

The Woodside juvenile rehabilitation center in the town of Essex shall be **operated** by the department for children and families **solely as a secure detention and treatment facility for juvenile offenders** as established by Acts No. 233 of the acts of 1982 and No. 94 of the acts of 1983.⁸

The statute requires modification to reflect the current role of Woodside and the comprehensive medical services being provided to youth residing at the facility. Recognition of Woodside as a medical treatment facility also would meet federal requirements for designation as a medical institution and a psychiatric residential treatment facility.

The Agency has developed the statutory language necessary to reflect the role of Woodside. Under the proposed version of 33 V.S.A. § 5801, Woodside would be operated by DCF as an "**psychiatric residential treatment facility that serves adolescents with behavioral health needs.**" The statutory language would reinforce the purpose and treatment capacity of Woodside.

Additionally, the Agency recommends modification of statutes pertaining to the pre-hearing placement, pre-violation hearing, and detention and treatment of juvenile delinquents and probationers. These changes would enable the Agency to develop more options in the future for youth who require placement in a secure environment.

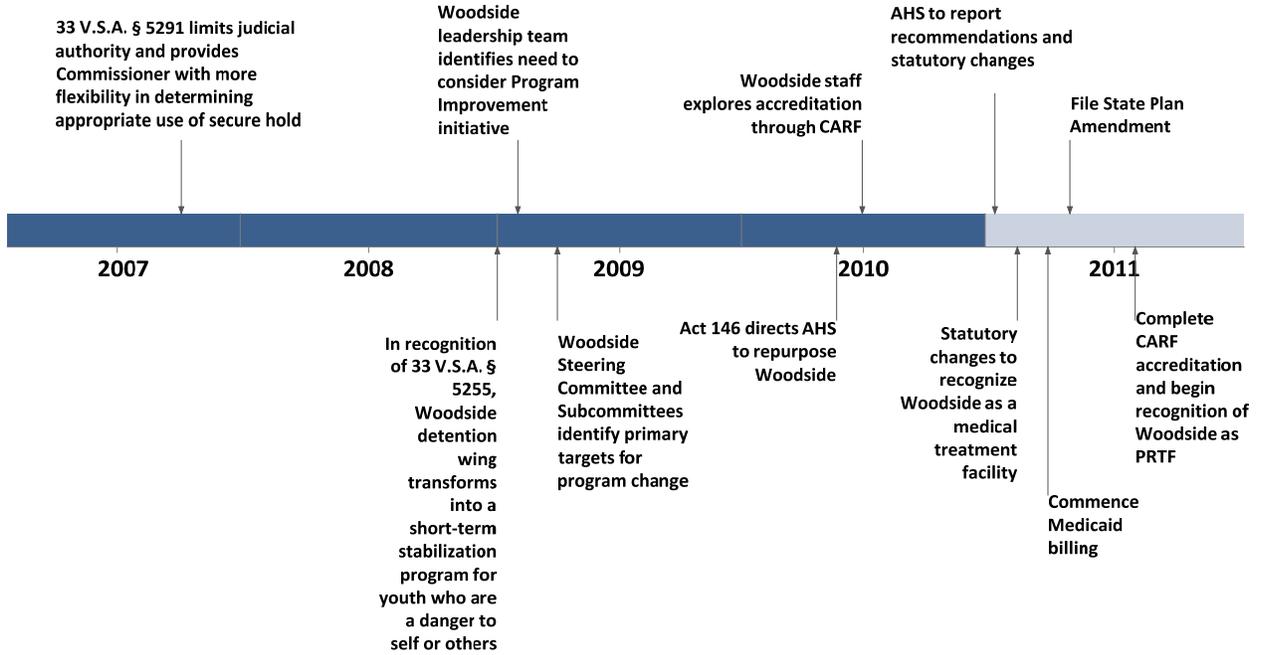
Agency Recommendations

- 1. The Agency recommends that the Legislature amend state statutes to recognize Woodside as a medical care provider. (Proposed changes are provided as Attachment B.)***
- 2. The Agency recommends continued evaluation of state rules and policies to identify needed modifications and/or additions to support Woodside's role as a medical provider and Medicaid's coverage of PRTF services.***

⁸ 33 V.S.A. § 5801, Woodside Juvenile Rehabilitation Center.

Summary Timeline

The following timeline highlights the major milestones related to transformation of Woodside.



Summary of Primary Targets for Program Change at Woodside

1. Eliminate the physical designation of short-term and long-term wings in the building.

Currently Woodside houses youth in the short-term program in one wing of the facility, and youth in the long-term residential program in the other wing of the facility. This poses several restrictions.

1. It limits the number of youth that can be in each program: 12 in the residential program and 16 in the short-term program.
2. It limits and in many cases eliminates any possibility of separating youth within a program. We cannot separate victims from their perpetrators when both are placed in the same program. We cannot sleep specialized populations in the same programs separately based on programmatic needs such as those with sexually offending behaviors, females from males, etc.
3. It limits and in many cases eliminates staff's ability to place youth in sleeping quarters based on optimal safety considerations.

By allowing use of both wings for sleeping youth, regardless of their individual program, clinical and safety considerations may be utilized to determine the most appropriate room for a youth to sleep in, and the most appropriate locations for groups of particular populations to sleep.

2. Individualized Programming for Youth Based on Need for Secure Care.

As mentioned above, youth often stall in both the short-term and long-term programs for various reasons. Youth awaiting entry into the long-term residential program from the short-term program must jump through a variety of hoops, both legal and bureaucratic, in order to make the transition. During their wait in the short-term program, youth are not able to access treatment from the long term residential program. By individualizing programming, youth who are designated to enter longer-term treatment at Woodside could begin their treatment immediately, once they are identified by their team for longer-term treatment. The only limiting parameter will be that they must have gone through the Merits hearing process.

Additionally, youth who are in the short-term program are getting very limited psycho-educational and treatment services. As part of this individualized programming change, Woodside would begin offering psycho-educational groups on a variety of life skills topic areas. All youth at Woodside, regardless of type of placement, would be able to participate in these groups. In addition, any youth at Woodside who is post Merits, regardless of their type of placement at Woodside, would also be able to participate in treatment groups. This would allow mental health and substance abuse treatment services to begin immediately for all populations on an individualized basis.

Attachment A

Finally, by individualizing treatment at Woodside, length of stay would be determined by a youth's need for secure care. The goal is that this approach would allow for appropriate lengths of stay, eliminating some of the stalling that currently takes place.

3. Expanded Family Engagement and Other Programming Services.

In keeping with the Family Services' Transformation Plan, it is critical that Woodside come into alignment with the work being done in the field. Woodside has already been working with the Child Welfare Training Partnership (CWTP) to bring Family Safety Planning into the work being performed at Woodside. The residential program already engages in Case Staffing and Treatment Team meetings. For a variety of reasons, it has become clear that a similar structure is needed in the Short-Term program. Therefore, this structure is already being duplicated in the Short-Term program. In addition though, Family Safety Planning is currently being introduced as a modality for delivering this service to youth at Woodside in collaboration with their social workers.

Surprisingly, while Woodside is the state's juvenile facility, and Vermont's youth justice programs are very much infused with Balanced and Restorative Justice (BARJ) principles, very little formal restorative justice work takes place at Woodside. The programming at Woodside must include restorative practices such as restorative Family Group Conferencing, restorative panels, and restorative conferencing to Woodside. Again, we are working closely with the CWTP to introduce these practices at Woodside.

Next, as mentioned in the previous section, treatment and psycho-educational individual and group services at Woodside could begin immediately for all youth who are post Merits. Woodside has a number of contracts with community providers who bring mental health and substance abuse assessment treatment services into Woodside. If we make the transition to individualized programming throughout the building, these contracts can be restructured to expand these services. This fills a critical need that has been identified in all the feedback that Woodside has received – the need to provide mental health services to youth in need who are placed at Woodside short term.

Lastly, Woodside also contracts for Transition Services for youth transitioning out of the long-term program at Woodside. However, many of the youth who exit the Short-Term program are also in need of transition supports. By planning for each youth's discharge from day one, regardless of their proposed length-of-stay, transition supports can be put in place to support the success of community placements.

Attachment B

Proposed Legislative Modifications

33 V.S.A. § 5266. Summons, apprehension, and ~~detention~~ pre-hearing placement of juvenile probationer

At any time before the discharge of a juvenile probationer or the termination of the period of probation:

- (1) The court may summon the juvenile to appear before it or may issue an order for the juvenile's ~~detention~~ apprehension and placement in a detention or treatment facility.
- (2) Any juvenile probation officer may ~~detain~~ apprehend a juvenile probationer or may authorize any officer to do so by giving the officer a written statement setting forth that the juvenile has, in the judgment of the juvenile probation officer, violated a condition of probation. The written statement delivered with the juvenile by the ~~detaining~~ apprehending officer to the supervisor of the juvenile ~~detention~~ detention or treatment facility or residential program to which the juvenile is brought for ~~detention~~ pre-hearing placement shall be sufficient authority for ~~detaining~~ maintaining the juvenile in the facility or residential program.
- (3) Any juvenile probationer apprehended or ~~detained~~ placed in accordance with the provisions of this chapter shall have no right of action against the juvenile probation officer or any other person because of such apprehension or ~~detention~~ placement.

33 V.S.A. § 5267. ~~Detention~~ Pre-Violation hearing

(a) Whenever a juvenile probationer is ~~detained~~ apprehended and placed on the grounds that the juvenile has violated a condition of probation, the juvenile shall be given a hearing before a judicial officer prior to the close of business on the next court business day in order to determine whether there is probable cause to hold the juvenile for a violation hearing. The juvenile and the adult who signed the probation certificate shall be given:

- (1) notice of the ~~detention~~ pre-violation hearing and its purpose and the allegations of violations of conditions of probation; and
- (2) notice of the juvenile's right to be represented by counsel and right to be assigned counsel if the juvenile is unable to obtain counsel.

(b) At the ~~detention~~ pre-violation hearing the juvenile shall be given:

- (1) an opportunity to appear at the hearing and present evidence on his or her own behalf; and
- (2) upon request, the opportunity to question witnesses against him or her unless, for good cause, the judicial officer decides that justice does not require the appearance of the witness.

(c) If probable cause is found to exist, the juvenile shall be held for a hearing to determine if the juvenile violated the conditions of probation. If probable cause is not found to exist, the proceedings shall be dismissed.

(d) A juvenile held in ~~detention~~ under this subsection pursuant to a request to find the juvenile in violation of probation may be released by a judicial officer pending hearing or appeal.

Attachment B

33 V.S.A. § 5291. Detention or treatment of minors charged as delinquents in ~~a secure facility~~ facilities for the detention or treatment of delinquent children

(a) Unless ordered otherwise at or after a temporary care hearing, the commissioner shall have sole authority to place the child who is in the custody of the department in a secure facility for the detention or treatment of minors.

(b) Upon a finding at the temporary care hearing that no other suitable placement is available and the child presents a risk of injury to him- or herself, to others, or to property, the court may order that the child be placed in a secure facility used for the detention or treatment of delinquent children until the commissioner determines that a suitable placement is available for the child. Alternatively, the court may order that the child be placed in a secure facility used for the detention or treatment of delinquent children for up to seven days. Any order for placement at a secure facility shall expire at the end of the seventh day following its issuance unless, after hearing, the court extends the order for a time period not to exceed seven days.

33 V.S.A. § 5801. Woodside juvenile rehabilitation center

(a) The Woodside juvenile rehabilitation center in the town of Essex shall be operated by the department for children and families ~~solely as a secure detention and treatment facility for juvenile offenders as established by Acts No. 233 of the Acts of 1982 and No. 94 of the Acts of 1983.~~ as a psychiatric residential treatment facility that serves adolescents with behavioral treatment needs including those who have been adjudicated or charged with a delinquency.

(b) The total capacity of the facility shall not exceed 30 beds.

(c) The agency shall have authority to adopt policies regarding permissible types of admissions to Woodside. However, the purpose or capacity of the Woodside juvenile rehabilitation center shall not be altered except by act of the general assembly following a study recommending any change of use by the agency of human services.

~~(d) Notwithstanding any other provision of law, a person under the age of 18 at the time of the offense charged may be detained at the facility if the offense charged is a misdemeanor as defined in section 1 of Title 13, provided the person is adjudicated a youthful offender under section 5505 of this title, and no person over the age of 18 may be detained at the facility. A person under the age of 18 at the time of the offense charged who has not been adjudicated a youthful offender under section 5505 of this title may be detained at the facility at the discretion of the secretary if the offense charged is a misdemeanor as defined in section 1 of Title 13.~~

OR

(d) No person who has reached his/her 18th birthday may be placed at Woodside. Notwithstanding any other provision of law, a person under the age of 18 at the time of the offense charged may be detained at the facility if the offense charged is a misdemeanor as defined in section 1 of Title 13, provided the

Attachment B

~~person is adjudicated a youthful offender under section 5505 of this title, and no person over the age of 18 may be detained at the facility. A person under the age of 18 at the time of the offense charged who has not been adjudicated a youthful offender under section 5505 of this title may be detained at the facility at the discretion of the secretary if the offense charged is a misdemeanor as defined in section 1 of Title 13 may be placed at Woodside provided that he or she meets the admissions criteria for treatment as established by the Department for Children and Families.~~