



House of Representatives

General Assembly

File No. 183

February Session, 2004

Substitute House Bill No. 5444

House of Representatives, March 23, 2004

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE TRANSFER TO JUVENILE COURT OF THE CASES OF CHILDREN CHARGED WITH CERTAIN SEXUAL OFFENSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 46b-127 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

4 (a) The court shall automatically transfer from the docket for
5 juvenile matters to the regular criminal docket of the Superior Court
6 the case of any child charged with the commission of a capital felony, a
7 class A or B felony or a violation of section 53a-54d, provided such
8 offense was committed after such child attained the age of fourteen
9 years and counsel has been appointed for such child if such child is
10 indigent. Such counsel may appear with the child but shall not be
11 permitted to make any argument or file any motion in opposition to
12 the transfer. The child shall be arraigned in the regular criminal docket

13 of the Superior Court at the next court date following such transfer.
14 The file of any case so transferred shall remain sealed until the end of
15 the tenth working day following such arraignment unless the state's
16 attorney has filed a motion pursuant to this subsection in which case
17 such file shall remain sealed until the court makes a decision on the
18 motion. A state's attorney may, not later than ten working days after
19 such arraignment, file a motion to transfer the case of any child
20 charged with the commission of a class B felony or a violation of
21 subdivision (2) of subsection (a) of section 53a-70 to the docket for
22 juvenile matters for proceedings in accordance with the provisions of
23 this chapter. The court sitting for the regular criminal docket shall,
24 after hearing and not later than ten working days after the filing of
25 such motion, decide such motion.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Judicial Dept.	GF - Potential Cost	Less than 50,000	Less than 50,000
Children & Families, Dept.	GF - Cost; Revenue Gain	Potential	Potential
Correction, Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	Cost	Potential	Potential

Explanation

The bill permits criminal courts to transfer sexual assault cases involving 14 or 15 year olds accused of having consensual sexual intercourse with a victim under age 13 to juvenile court at the request of a state prosecutor. It is anticipated that less than ten such cases would be transferred annually. It is unknown how many of these individuals would be either: (1) adjudicated as delinquent and committed to the Department of Children and Families (DCF); or (2) placed on probation under the supervision of the Judicial Department's Court Support Services Division (CSSD).

It would cost, on average, \$7,000 for the CSSD to provide community-based treatment for juvenile sex offenders under the bill.¹

¹ Currently, federal (Byrne) funds support a juvenile sex offender treatment program in the Hartford and Waterford court catchment areas. Eighteen juveniles were served in 2003 at a total cost of \$125,000. The program provides age-appropriate, comprehensive, multi-faceted treatment for juvenile sex offenders and their families and victims. Funds support a contractual victim advocate to work with victims of juvenile sex offenders. Specialized juvenile probation staff are assigned to manage treatment and utilization of services.

However, to the extent that this leads to additional commitments to DCF, an average annual state cost per child of up to \$110,000 may result. This is based upon an average board and care rate of \$77,000 for privately operated residential treatment facilities (in and out-of-state) and \$33,000 for corresponding education costs. In cases in which the child is deemed a non-nexus child for purposes of special education, DCF would pay the educational cost. In other cases, this would be paid by the child's town of nexus. Any resulting costs would be mitigated if these youth are served at the Connecticut Juvenile Training School, as it is anticipated that the potentially small number of additional commitments could be accommodated within the facility's normally budgeted resources.

A corresponding revenue increase to the state may result in cases in which these youth are eligible for either Medicaid or Title IV-E. About 70% of children in DCF out-of-home placements are eligible for Medicaid. About 48% of these same children are eligible for federal Title IV-E reimbursement. For a child who is both Medicaid and Title IV-E eligible, federal financial participation (ffp) of 50% would be collected on approximately 95% of DCF-paid non-educational costs when placed in an in-state residential treatment facility. For a child who is only Medicaid eligible, ffp of 50% would be collected on approximately 55% of similar costs.

Any reduction to the prison population as a result of this bill would be negligible. Consequently, there is no anticipated savings to the Department of Correction.

OLR Bill Analysis

sHB 5444

AN ACT CONCERNING THE TRANSFER TO JUVENILE COURT OF THE CASES OF CHILDREN CHARGED WITH CERTAIN SEXUAL OFFENSES**SUMMARY**

This bill permits criminal courts to transfer cases involving certain 14- and 15-year-olds accused of having sexual intercourse with a victim under age 13, a class A felony, back to juvenile court. Current law automatically transfers them to the regular criminal court docket if they were 14 or 15 at the time of the offense and requires that they be tried as adults. If convicted, they must serve at least 10 years at an adult correction facility if the victim was under age 10 or at least five years if the victim was age 10, 11, or 12.

Children adjudicated delinquent by juvenile court judges for committing designated serious sexual offenses must be committed to the Department of Children and Families for up to four years, with the possibility of one 18-month extension if the court finds this to be in the best interest of the child or community. They must be sent for at least the first year of their commitment to a residential treatment facility under contract with the department. Juvenile court records are generally confidential.

Only those cases in which the prosecutor files a transfer motion are eligible for transfer under the bill. The prosecutor's motion must be filed within 10 working days of the child's arraignment, and the court must hold a hearing and issue its decision within 10 days of the filing date. Current law limits this option to 14- and 15-year-olds charged with class B felonies.

EFFECTIVE DATE: October 1, 2004

BACKGROUND***Class A and B Felonies***

Most class A felonies are punishable by 10 to 25 years imprisonment, fines of up to \$20,000, or both. Class B felonies are punishable by one to 20 years imprisonment, fines of up to \$15,000, or both.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 24 Nay 16