



General Assembly

Substitute Bill No. 5215

January Session, 2005

* HB05215JUD 041305 *

AN ACT CONCERNING COURT JURISDICTION IN JUVENILE MATTERS.

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

1 Section 1. Section 46b-120 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 The terms used in this chapter shall, in its interpretation and in the
4 interpretation of other statutes, be defined as follows: (1) (A) "Child"
5 means (i) before October 1, 2006, any person under sixteen years of
6 age, (ii) on and after October 1, 2006, and before October 1, 2007, any
7 person under seventeen years of age, and (iii) on and after October 1,
8 2007, any person under eighteen years of age, and [] (B) for purposes
9 of delinquency matters, "child" means any person [(A)] (i) who is
10 under [sixteen years of] the applicable age specified in subparagraph
11 (A) of this subdivision, or [(B) sixteen years of] (ii) who has attained
12 such applicable age or is older and who, prior to attaining [sixteen
13 years of] such applicable age, has violated any federal or state law or
14 municipal or local ordinance, other than an ordinance regulating
15 behavior of a child in a family with service needs, and, subsequent to
16 attaining [sixteen years of] such applicable age, violates any order of
17 the Superior Court or any condition of probation ordered by the
18 Superior Court with respect to such delinquency proceeding; (2)
19 "youth" means any person sixteen or seventeen years of age; (3) "youth

20 in crisis" means any youth who, within the last two years, (A) has
21 without just cause run away from the parental home or other properly
22 authorized and lawful place of abode, (B) is beyond the control of the
23 youth's parents, guardian or other custodian, or (C) has four
24 unexcused absences from school in any one month or ten unexcused
25 absences in any school year; (4) "abused" means that a child or youth
26 (A) has been inflicted with physical injury or injuries other than by
27 accidental means, or (B) has injuries that are at variance with the
28 history given of them, or (C) is in a condition that is the result of
29 maltreatment such as, but not limited to, malnutrition, sexual
30 molestation or exploitation, deprivation of necessities, emotional
31 maltreatment or cruel punishment; (5) a child may be found "mentally
32 deficient" who, by reason of a deficiency of intelligence that has existed
33 from birth or from early age, requires, or will require, for his protection
34 or for the protection of others, special care, supervision and control; (6)
35 a child may be convicted as "delinquent" who has violated (A) any
36 federal or state law or municipal or local ordinance, other than an
37 ordinance regulating behavior of a child in a family with service needs,
38 (B) any order of the Superior Court, or (C) conditions of probation as
39 ordered by the court; (7) a child or youth may be found "dependent"
40 whose home is a suitable one for the child or youth, save for the
41 financial inability of the child's or youth's parents, parent [,] or
42 guardian, or other person maintaining such home, to provide the
43 specialized care the condition of the child or youth requires; (8) "family
44 with service needs" means a family that includes a child who (A) has
45 without just cause run away from the parental home or other properly
46 authorized and lawful place of abode, (B) is beyond the control of the
47 child's parent, parents, guardian or other custodian, (C) has engaged in
48 indecent or immoral conduct, (D) is a truant or habitual truant or who,
49 while in school, has been continuously and overtly defiant of school
50 rules and regulations, or (E) is thirteen years of age or older and has
51 engaged in sexual intercourse with another person and such other
52 person is thirteen years of age or older and not more than two years
53 older or younger than such child; (9) a child or youth may be found
54 "neglected" who (A) has been abandoned, or (B) is being denied proper

55 care and attention, physically, educationally, emotionally or morally,
56 or (C) is being permitted to live under conditions, circumstances or
57 associations injurious to the well-being of the child or youth, or (D) has
58 been abused; (10) a child or youth may be found "uncared for" who is
59 homeless or whose home cannot provide the specialized care that the
60 physical, emotional or mental condition of the child requires. For the
61 purposes of this section, the treatment of any child by an accredited
62 Christian Science practitioner, in lieu of treatment by a licensed
63 practitioner of the healing arts, shall not of itself constitute neglect or
64 maltreatment; (11) "delinquent act" means the violation of any federal
65 or state law or municipal or local ordinance, other than an ordinance
66 regulating the behavior of a child in a family with service needs, or the
67 violation of any order of the Superior Court; (12) "serious juvenile
68 offense" means (A) the violation [by a child] of, including attempt or
69 conspiracy to violate, [sections] section 21a-277, 21a-278, 29-33, 29-34,
70 29-35, 53-21, 53-80a, 53-202b, 53-202c, 53-390 to 53-392, inclusive,
71 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, 53a-70 to
72 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a, inclusive, 53a-95,
73 53a-101, 53a-102a, 53a-103a [,] or 53a-111 to 53a-113, inclusive,
74 subdivision (1) of subsection (a) of section 53a-122, subdivision (3) of
75 subsection (a) of section 53a-123, section 53a-134, 53a-135, 53a-136a,
76 53a-166 [,] or 53a-167c, subsection (a) of section 53a-174, or section
77 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, by a child, or (B)
78 running away, without just cause, from any secure placement other
79 than home while referred as a delinquent child to the Court Support
80 Services Division or committed as a delinquent child to the
81 Commissioner of Children and Families for a serious juvenile offense;
82 (13) "serious juvenile offender" means any child convicted as
83 delinquent for commission of a serious juvenile offense; (14) "serious
84 juvenile repeat offender" means any child charged with the
85 commission of any felony if such child has previously been convicted
86 delinquent at any age for two violations of any provision of title 21a,
87 29, 53 or 53a that is designated as a felony; (15) "alcohol-dependent
88 child" means any child who has a psychoactive substance dependence
89 on alcohol as that condition is defined in the most recent edition of the

90 American Psychiatric Association's "Diagnostic and Statistical Manual
91 of Mental Disorders"; and (16) "drug-dependent child" means any
92 child who has a psychoactive substance dependence on drugs as that
93 condition is defined in the most recent edition of the American
94 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
95 Disorders". No child shall be classified as drug dependent who is
96 dependent (A) upon a morphine-type substance as an incident to
97 current medical treatment of a demonstrable physical disorder other
98 than drug dependence, or (B) upon amphetamine-type, ataractic,
99 barbiturate-type, hallucinogenic or other stimulant and depressant
100 substances as an incident to current medical treatment of a
101 demonstrable physical or psychological disorder, or both, other than
102 drug dependence.

103 Sec. 2. Subsection (a) of section 46b-121 of the general statutes is
104 repealed and the following is substituted in lieu thereof (*Effective*
105 *October 1, 2005*):

106 (a) Juvenile matters in the civil session include all proceedings
107 concerning uncared-for, neglected or dependent children and youth
108 within this state, termination of parental rights of children committed
109 to a state agency, matters concerning families with service needs,
110 contested matters involving termination of parental rights or removal
111 of guardian transferred from the Probate Court, the emancipation of
112 minors and youth in crisis, but does not include matters of
113 guardianship and adoption or matters affecting property rights of any
114 child, youth or youth in crisis over which the Probate Court has
115 jurisdiction, provided appeals from probate concerning adoption,
116 termination of parental rights and removal of a parent as guardian
117 shall be included. Juvenile matters in the criminal session include all
118 proceedings concerning delinquent children in the state and persons
119 [sixteen years of age and] who have attained the applicable age or are
120 older and who are under the supervision of a juvenile probation officer
121 while on probation or a suspended commitment to the Department of
122 Children and Families, for purposes of enforcing any court orders
123 entered as part of such probation or suspended commitment. For the

124 purposes of this subsection, "applicable age" means (1) before October
125 1, 2006, sixteen years of age, (2) on and after October 1, 2006, and
126 before October 1, 2007, seventeen years of age, and (3) on and after
127 October 1, 2007, eighteen years of age.

128 Sec. 3. Subsection (c) of section 46b-127 of the general statutes is
129 repealed and the following is substituted in lieu thereof (*Effective*
130 *October 1, 2005*):

131 (c) Upon the effectuation of the transfer, such child shall stand trial
132 and be sentenced, if convicted, as if [he were sixteen years of age] such
133 child had attained the applicable age. Such child shall receive credit
134 against any sentence imposed for time served in a juvenile facility
135 prior to the effectuation of the transfer. A child who has been
136 transferred may enter a guilty plea to a lesser offense if the court finds
137 that such plea is made knowingly and voluntarily. Any child
138 transferred to the regular criminal docket who pleads guilty to a lesser
139 offense shall not resume his status as a juvenile regarding [said] such
140 offense. If the action is dismissed or nolleed or if such child is found not
141 guilty of the charge for which he was transferred or of any lesser
142 included offenses, the child shall resume his status as a juvenile until
143 he attains the applicable age. [of sixteen years] For the purposes of this
144 subsection, "applicable age" means (1) before October 1, 2006, sixteen
145 years of age, (2) on and after October 1, 2006, and before October 1,
146 2007, seventeen years of age, and (3) on and after October 1, 2007,
147 eighteen years of age.

148 Sec. 4. Subsection (f) of section 46b-133c of the general statutes is
149 repealed and the following is substituted in lieu thereof (*Effective*
150 *October 1, 2005*):

151 (f) Whenever a proceeding has been designated a serious juvenile
152 repeat offender prosecution pursuant to subsection (b) of this section
153 and the child does not waive his right to a trial by jury, the court shall
154 transfer the case from the docket for juvenile matters to the regular
155 criminal docket of the Superior Court. Upon transfer, such child shall

156 stand trial and be sentenced, if convicted, as if [he were sixteen years of
157 age] such child had attained the applicable age, except that no such
158 child shall be placed in a correctional facility but shall be maintained in
159 a facility for children and youth until he attains [sixteen years of age]
160 the applicable age or until he is sentenced, whichever occurs first. Such
161 child shall receive credit against any sentence imposed for time served
162 in a juvenile facility prior to the effectuation of the transfer. A child
163 who has been transferred may enter a guilty plea to a lesser offense if
164 the court finds that such plea is made knowingly and voluntarily. Any
165 child transferred to the regular criminal docket who pleads guilty to a
166 lesser offense shall not resume his status as a juvenile regarding [said]
167 such offense. If the action is dismissed or nolle or if such child is
168 found not guilty of the charge for which he was transferred, the child
169 shall resume his status as a juvenile until he attains [sixteen years of
170 age] the applicable age. For the purposes of this subsection, "applicable
171 age" means (1) before October 1, 2006, sixteen years of age, (2) on and
172 after October 1, 2006, and before October 1, 2007, seventeen years of
173 age, and (3) on and after October 1, 2007, eighteen years of age.

174 Sec. 5. Subsection (f) of section 46b-133d of the general statutes is
175 repealed and the following is substituted in lieu thereof (*Effective*
176 *October 1, 2005*):

177 (f) When a proceeding has been designated a serious sexual
178 offender prosecution pursuant to subsection (c) of this section and the
179 child does not waive the right to a trial by jury, the court shall transfer
180 the case from the docket for juvenile matters to the regular criminal
181 docket of the Superior Court. Upon transfer, such child shall stand trial
182 and be sentenced, if convicted, as if such child [were sixteen years of
183 age] had attained the applicable age, except that no such child shall be
184 placed in a correctional facility but shall be maintained in a facility for
185 children and youth until such child attains [sixteen years of age] the
186 applicable age or until such child is sentenced, whichever occurs first.
187 Such child shall receive credit against any sentence imposed for time
188 served in a juvenile facility prior to the effectuation of the transfer. A
189 child who has been transferred may enter a guilty plea to a lesser

190 offense if the court finds that such plea is made knowingly and
191 voluntarily. Any child transferred to the regular criminal docket who
192 pleads guilty to a lesser offense shall not resume such child's status as
193 a juvenile regarding such offense. If the action is dismissed or nolleed or
194 if such child is found not guilty of the charge for which such child was
195 transferred, the child shall resume such child's status as a juvenile until
196 such child attains [sixteen years of age] the applicable age. For the
197 purposes of this subsection, "applicable age" means (1) before October
198 1, 2006, sixteen years of age, (2) on and after October 1, 2006, and
199 before October 1, 2007, seventeen years of age, and (3) on and after
200 October 1, 2007, eighteen years of age.

201 Sec. 6. Section 46b-146 of the general statutes is repealed and the
202 following is substituted in lieu thereof (*Effective October 1, 2005*):

203 Whenever any child has been found delinquent or a member of a
204 family with service needs, and has subsequently been discharged from
205 the supervision of the Superior Court or from the custody of the
206 Department of Children and Families or from the care of any other
207 institution or agency to whom he has been committed by the court,
208 such child, or his parent or guardian, may file a petition with the
209 Superior Court and, if [such] the court finds that at least two years or,
210 in the case of a child convicted as delinquent for the commission of a
211 serious juvenile offense, four years have elapsed from the date of such
212 discharge, that no subsequent juvenile proceeding has been instituted
213 against such child, that such child has not been found guilty of a crime
214 and that such child has reached [sixteen years of age] the applicable
215 age within such period, it shall order all police and court records
216 pertaining to such child to be erased. Upon the entry of such an
217 erasure order, all references, including arrest, complaint, referrals,
218 petitions, reports and orders, shall be removed from all agency, official
219 and institutional files, and a finding of delinquency or that the child
220 was a member of a family with service needs shall be deemed never to
221 have occurred. The persons in charge of such records shall not disclose
222 to any person information pertaining to the record so erased, except
223 that the fact of such erasure may be substantiated where, in the

224 opinion of the court, it is in the best interests of such child to do so. No
225 child who has been the subject of such an erasure order shall be
226 deemed to have been arrested ab initio, within the meaning of the
227 general statutes, with respect to proceedings so erased. Copies of the
228 erasure order shall be sent to all persons, agencies, officials or
229 institutions known to have information pertaining to the delinquency
230 or family with service needs proceedings affecting such child.
231 Whenever a child is dismissed as not delinquent or as not being a
232 member of a family with service needs, all police and court records
233 pertaining to such charge shall be ordered erased immediately,
234 without the filing of a petition. For the purposes of this section,
235 "applicable age" means (1) before October 1, 2006, sixteen years of age,
236 (2) on and after October 1, 2006, and before October 1, 2007, seventeen
237 years of age, and (3) on and after October 1, 2007, eighteen years of
238 age.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	46b-120
Sec. 2	<i>October 1, 2005</i>	46b-121(a)
Sec. 3	<i>October 1, 2005</i>	46b-127(c)
Sec. 4	<i>October 1, 2005</i>	46b-133c(f)
Sec. 5	<i>October 1, 2005</i>	46b-133d(f)
Sec. 6	<i>October 1, 2005</i>	46b-146

JUD *Joint Favorable Subst.*