



General Assembly

Amendment

January Session, 2005

LCO No. 7426

HB0521507426HDO

Offered by:

REP. LAWLOR, 99th Dist.
REP. WALKER, 93rd Dist.
REP. KIRKLEY-BEY, 5th Dist.
REP. CANDELARIA, 95th Dist.

REP. MANTILLA, 4th Dist.
REP. MCCRORY, 7th Dist.
REP. HEWETT, 39th Dist.
REP. FARR, 19th Dist.

To: Subst. House Bill No. 5215

File No. 528

Cal. No. 387

"AN ACT CONCERNING COURT JURISDICTION IN JUVENILE MATTERS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 54-76b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective January 1, 2006*):

5 (a) For the [purpose] purposes of sections 54-76b to 54-76n,
6 inclusive; [, "youth"]

7 (1) "Youth" means (A) a minor who has reached the age of sixteen
8 years but has not reached the age of eighteen years at the time of the
9 alleged offense, or (B) a child who has been transferred to the regular
10 criminal docket of the Superior Court pursuant to section 46b-127; and
11 ["youthful offender"]

12 (2) "Youthful offender" means a youth who [(1)] (A) is charged with
13 the commission of a crime which is not a class A felony or a violation
14 of subdivision (2) of subsection (a) of section 53-21 [,] or section 53a-70,
15 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation
16 involving consensual sexual intercourse or sexual contact between the
17 youth and another person who is thirteen years of age or older but
18 under sixteen years of age, [(2)] and (B) has not previously been
19 convicted of a felony in the regular criminal docket of the Superior
20 Court or been previously adjudged a serious juvenile offender or
21 serious juvenile repeat offender, as defined in section 46b-120, [,] or a
22 youthful offender, or been afforded a pretrial program for accelerated
23 rehabilitation under section 54-56e, and (3) is adjudged a youthful
24 offender pursuant to the provisions of said sections.]

25 (b) The Interstate Compact for Adult Offender Supervision under
26 section 54-133 shall apply to youthful offenders.

27 Sec. 2. Section 54-76c of the general statutes is repealed and the
28 following is substituted in lieu thereof (*Effective January 1, 2006*):

29 (a) In any case where an information or complaint has been laid
30 charging a defendant with the commission of a crime, and where it
31 appears that the defendant is a youth, [upon motion of the defendant,
32 his counsel, the state's attorney or the prosecuting attorney, as the case
33 may be, to the court having jurisdiction that an investigation be made
34 of such defendant for the purpose of determining whether he is
35 eligible to be adjudged a youthful offender, the court shall, but only as
36 to the public, order the court file sealed. The court on its own motion
37 may, but only as to the public, order the court file sealed in the case of
38 a youth charged with crime] such defendant shall be presumed to be
39 eligible to be adjudged a youthful offender and the court having
40 jurisdiction shall, but only as to the public, order the court file sealed,
41 unless such defendant (1) is charged with the commission of a crime
42 which is a class A felony or a violation of subdivision (2) of subsection
43 (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a
44 or 53a-72b, except a violation involving consensual sexual intercourse

45 or sexual contact between the youth and another person who is
46 thirteen years of age or older but under sixteen years of age, or (2) has
47 been previously convicted of a felony in the regular criminal docket of
48 the Superior Court or been previously adjudged a serious juvenile
49 offender or serious juvenile repeat offender, as defined in section 46b-
50 120. Except as provided in subsection (b) of this section, upon motion
51 of the prosecuting official, the court may order that an investigation be
52 made of such defendant under section 54-76d, as amended by this act,
53 for the purpose of determining whether such defendant is ineligible to
54 be adjudged a youthful offender, provided the court file shall remain
55 sealed, but only as to the public, during such investigation.

56 (b) (1) Upon motion of the prosecuting official and order of the
57 court, the case of any defendant who is a youth and is charged with
58 the commission of a felony, other than a felony set forth in subsection
59 (a) of this section, shall be transferred from the youthful offender
60 docket to the regular criminal docket of the Superior Court, provided
61 the court finds that there is probable cause to believe the defendant has
62 committed the act for which he or she is charged. The defendant shall
63 be arraigned in the regular criminal docket of the Superior Court by
64 the next court business day following such transfer, provided any
65 proceedings held prior to the finalization of such transfer shall be
66 private and shall be conducted in such parts of the courthouse or the
67 building wherein court is located as shall be separate and apart from
68 the other parts of the court which are then being held for proceedings
69 pertaining to adults charged with crimes. The file of any case so
70 transferred shall remain sealed until the end of the tenth working day
71 following such arraignment, unless the prosecuting official has filed a
72 motion pursuant to subdivision (2) of this subsection, in which case
73 such file shall remain sealed until the court makes a decision on the
74 motion.

75 (2) A prosecuting official may, not later than ten working days after
76 such arraignment, file a motion to transfer the case of any defendant
77 who is a youth and is charged with the commission of a felony, other
78 than a felony set forth in subsection (a) of this section, from the regular

79 criminal docket of the Superior Court to the youthful offender docket
80 for proceedings in accordance with the provisions of sections 54-76b to
81 54-76n, inclusive. The court sitting for the regular criminal docket of
82 the Superior Court shall, after hearing and not later than ten working
83 days after the filing of such motion, decide such motion.

84 Sec. 3. Section 54-76d of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective January 1, 2006*):

86 (a) If the court grants [such] a motion under subsection (a) of section
87 54-76c, as amended by this act, or if the court on its own motion
88 determines that the defendant should be investigated [hereunder]
89 under this section, and the defendant consents to physical and mental
90 examinations, if deemed necessary, and to investigation and
91 questioning, and to a trial without a jury, should a trial be had, the
92 information or complaint shall be held in abeyance and no further
93 action shall be taken in connection with such information or complaint
94 until such examinations, investigation and questioning are had of the
95 defendant. Investigations under [sections 54-76b to 54-76n, inclusive,]
96 this section shall be made by an adult probation officer. When the
97 information or complaint charges commission of a felony, the adult
98 probation officer shall include in the investigation a summary of any
99 uneraser juvenile record of adjudications of the defendant.

100 (b) Upon the termination of such examinations, investigation and
101 questioning, the court, in its discretion based on the severity of the
102 crime, which shall also take into consideration whether or not the
103 defendant took advantage of the victim because of the victim's
104 advanced age or physical incapacity, and the results of the
105 examinations, investigation and questioning, shall determine whether
106 such defendant is eligible or ineligible to be adjudged a youthful
107 offender. If the court determines that the defendant is eligible to be so
108 adjudged, no further action shall be taken on the information or
109 complaint and the defendant shall be required to enter a plea of
110 "guilty" or "not guilty" to the charge of being a youthful offender. If the
111 court determines that the defendant is ineligible to be so adjudged, it

112 shall order the information or complaint to be unsealed and the
113 defendant shall be prosecuted as though the [proceeding hereunder]
114 proceedings under sections 54-76b to 54-76n, inclusive, had not been
115 had.

116 (c) If no motion is made by the prosecuting official under subsection
117 (a) or (b) of section 54-76c, as amended by this act, or by the court
118 under subsection (a) of this section, and the defendant consents to a
119 trial without a jury, should a trial be had, no further action shall be
120 taken on the information or complaint and the defendant shall be
121 required to enter a plea of "guilty" or "not guilty" to the charge of being
122 a youthful offender.

123 (d) At any time prior to trial as provided in section 54-76e or at any
124 time prior to entering a plea of "guilty" to the charge of being a
125 youthful offender, the defendant, on motion and with the concurrence
126 of the defendant's parent or guardian and the defendant's attorney, if
127 any, may waive further proceedings under the provisions of sections
128 54-76b to 54-76n, inclusive, and request a trial by jury in the regular
129 criminal docket of the Superior Court. If the court, after making a
130 thorough inquiry, is satisfied that such waiver is knowingly and
131 voluntarily made, the court may grant such motion and order the
132 information or complaint to be unsealed and the defendant shall be
133 prosecuted as though the proceedings under sections 54-76b to 54-76n,
134 inclusive, had not been had.

135 (e) At any point, if the court determines that a defendant is
136 ineligible to be a youthful offender, the court shall order the
137 information or complaint to be unsealed and the defendant shall be
138 prosecuted as though the proceedings under sections 54-76b to 54-76n,
139 inclusive, had not been had.

140 Sec. 4. Section 54-76h of the general statutes is repealed and the
141 following is substituted in lieu thereof (*Effective January 1, 2006*):

142 All of the proceedings [except proceedings on the motion under
143 section 54-76c] had under the provisions of sections 54-76b to 54-76n,

144 inclusive, shall be private and shall be conducted in such parts of the
145 courthouse or the building wherein court is located as shall be separate
146 and apart from the other parts of the court which are then being held
147 for proceedings pertaining to adults charged with crimes. If [such] the
148 defendant is committed while [such] any examination and
149 investigation under section 54-76d, as amended by this act, is pending,
150 before trial, during trial or after judgment and before sentence, those
151 persons in charge of the place of detention shall segregate such
152 defendant, to the extent of their facilities, from defendants over the age
153 of eighteen years charged with crime.

154 Sec. 5. Section 54-76i of the general statutes is repealed and the
155 following is substituted in lieu thereof (*Effective January 1, 2006*):

156 Pending and during the investigation, trial, adjudication or acquittal
157 of the defendant, or any other proceedings under sections 54-76b to 54-
158 76n, inclusive, the court [to which the recommendation for the
159 investigation has been made] having jurisdiction shall have the same
160 powers over the person of the defendant as it would have in the case of
161 an adult charged with crime.

162 Sec. 6. Section 54-76j of the general statutes is repealed and the
163 following is substituted in lieu thereof (*Effective January 1, 2006*):

164 (a) The court, upon the adjudication of any person as a youthful
165 offender, may: (1) [commit] Commit the defendant; [] (2) impose a fine
166 not exceeding one thousand dollars; [] (3) impose a sentence of
167 conditional discharge or a sentence of unconditional discharge; [] (4)
168 impose a sentence of community service; [] (5) impose a sentence to a
169 term of imprisonment not greater than that authorized for the crime
170 committed by the defendant, but in no event shall any such term
171 exceed four years; (6) impose sentence and suspend the execution of
172 the sentence, entirely or after a period set by the court; [] (7) order
173 treatment pursuant to section 17a-699; [] or (8) if a criminal docket for
174 drug-dependent persons has been established pursuant to section
175 51-181b in the judicial district in which the defendant was adjudicated

176 a youthful offender, transfer the supervision of the defendant to the
177 court handling such docket.

178 (b) If execution of the sentence is suspended under subdivision (6)
179 of subsection (a) of this section, the defendant may be placed on
180 probation or conditional discharge for a period not to exceed three
181 years, provided, [the court in its discretion may from time to time,
182 while such probation is in force, extend such probation for a period not
183 to exceed five years, including the original probationary period] at any
184 time during the period of probation, after hearing and for good cause
185 shown, the court may extend the period as deemed appropriate by the
186 court. If the court places the person adjudicated to be a youthful
187 offender on probation, the court may order that, as a condition of such
188 probation, the person be referred for services to a youth service bureau
189 established pursuant to section [17a-39] 10-19m, provided the court
190 finds, through an assessment by a youth service bureau or its designee,
191 that the person is in need of and likely to benefit from such services. If
192 the court places a person adjudicated as a youthful offender on
193 probation, the court may order that, as a condition of such probation,
194 the person participate in the zero-tolerance drug supervision program
195 established pursuant to section 53a-39d. If the court places a youthful
196 offender on probation, school and class attendance on a regular basis
197 and satisfactory compliance with school policies on student conduct
198 and discipline may be a condition of such probation and, in such a
199 case, failure to so attend or comply shall be a violation of probation. If
200 the court has reason to believe that the person adjudicated to be a
201 youthful offender is or has been an unlawful user of narcotic drugs, as
202 defined in section 21a-240, and the court places such youthful offender
203 on probation, the conditions of probation, among other things, shall
204 include a requirement that such person shall submit to periodic tests to
205 determine, by the use of "synthetic opiate antinarcotic in action",
206 nalline test or other detection tests, at a hospital or other facility,
207 equipped to make such tests, whether such person is using narcotic
208 drugs. A failure to report for such tests or a determination that such
209 person is unlawfully using narcotic drugs shall constitute a violation of

210 probation. If the court places a person adjudicated as a youthful
211 offender for a violation of section 53-247 on probation, the court may
212 order that, as a condition of such probation, the person undergo
213 psychiatric or psychological counseling or participate in an animal
214 cruelty prevention and education program, provided such a program
215 exists and is available to the person.

216 (c) Commitment [hereunder] under this section shall be for a period
217 not to exceed the term of imprisonment authorized for the crime
218 committed by the defendant, but in no event shall any such period
219 exceed four years, and shall be to any religious, charitable or other
220 correctional institution authorized by law to receive persons over the
221 age of sixteen years. Whenever a youthful offender is committed by
222 the court to any duly authorized religious, charitable or other
223 institution, other than an institution supported or controlled by the
224 state or a subdivision thereof, such commitment shall be made, when
225 practicable, to a religious, charitable or other institution under the
226 control of persons of the same religious faith or persuasion as that of
227 the youthful offender. If a youthful offender is committed by the court
228 to any institution other than an institution supported or controlled by
229 the state or a subdivision thereof, which is under the control of persons
230 of a religion or persuasion different from that of the youthful offender,
231 the court shall state or recite the facts which impel it to make such
232 disposition, and such statement shall be made a part of the record of
233 the proceedings.

234 Sec. 7. Section 54-76l of the general statutes is repealed and the
235 following is substituted in lieu thereof (*Effective January 1, 2006*):

236 (a) The records or other information of [any] a youth, [adjudged a
237 youthful offender] other than a youth arrested for or charged with the
238 commission of a crime which is a class A felony or a violation of
239 subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-
240 70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving
241 consensual sexual intercourse or sexual contact between the youth and
242 another person who is thirteen years of age or older but under sixteen

243 years of age, including fingerprints, photographs and physical
244 descriptions, shall be confidential and shall not be open to public
245 inspection or be disclosed except as provided in this section, but such
246 fingerprints, photographs and physical descriptions submitted to the
247 State Police Bureau of Identification of the Division of State Police
248 within the Department of Public Safety at the time of the arrest of a
249 person subsequently adjudged, or subsequently presumed or
250 determined to be eligible to be adjudged, a youthful offender shall be
251 retained as confidential matter in the files of the bureau and be opened
252 to inspection only as provided in this section. Other data ordinarily
253 received by the bureau, with regard to persons arrested for a crime,
254 shall be forwarded to the bureau to be filed, in addition to such
255 fingerprints, photographs and physical descriptions, and be retained in
256 the division as confidential information, open to inspection only as
257 provided in this section.

258 (b) The records of any such youth, [adjudged a youthful offender on
259 or after October 1, 1995,] or any part thereof, may be disclosed to and
260 between individuals and agencies, and employees of such agencies,
261 providing services directly to the youth, including law enforcement
262 officials, state and federal prosecutorial officials, school officials in
263 accordance with section 10-233h, court officials, the Division of
264 Criminal Justice, the Court Support Services Division, the Board of
265 Pardons and Paroles and an advocate appointed pursuant to section
266 54-221 for a victim of a crime committed by the youth. Such records
267 shall also be available to the attorney representing the youth, in any
268 proceedings in which such records are relevant, to the parents or
269 guardian of such youth, until such time as the youth reaches the age of
270 majority or is emancipated, and to the youth upon his or her
271 emancipation or attainment of the age of majority, provided proof of
272 the identity of such youth is submitted in accordance with guidelines
273 prescribed by the Chief Court Administrator. Such records disclosed
274 pursuant to this subsection shall not be further disclosed.

275 (c) The records of any such youth, [adjudged a youthful offender,]
276 or any part thereof, may be disclosed upon order of the court to any

277 person who has a legitimate interest in the information and is
278 identified in such order. Records or information disclosed pursuant to
279 this subsection shall not be further disclosed.

280 (d) The records of any such youth [adjudged a youthful offender,]
281 or any part thereof, shall be available to the victim of the crime
282 committed by such youth to the same extent as the record of the case of
283 a defendant in a criminal proceeding in the regular criminal docket of
284 the Superior Court is available to a victim of the crime committed by
285 such defendant. The court shall designate an official from whom such
286 victim may request such information. Information disclosed pursuant
287 to this subsection shall not be further disclosed.

288 (e) Any reports and files held by the Court Support Services
289 Division regarding any such youth [adjudged a youthful offender]
290 who served a period of probation may be accessed and disclosed by
291 employees of the division for the purpose of performing the duties
292 contained in section 54-63b.

293 (f) Information concerning any such youth [adjudged a youthful
294 offender] who has escaped from an institution to which such youth has
295 been committed or for whom an arrest warrant has been issued may be
296 disclosed by law enforcement officials.

297 (g) The information contained in and concerning the issuance of any
298 protective order issued in a case in which a person is [found]
299 presumed or determined to be eligible to be adjudged a youthful
300 offender shall be entered in the registry of protective orders pursuant
301 to section 51-5c and may be further disclosed as specified in said
302 section.

303 (h) The provisions of this section, as amended by this act, apply to
304 offenses committed after the effective date of this section and do not
305 affect any cases pending on said date or any investigations involving
306 offenses committed prior to said date."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2006</i>	54-76b
Sec. 2	<i>January 1, 2006</i>	54-76c
Sec. 3	<i>January 1, 2006</i>	54-76d
Sec. 4	<i>January 1, 2006</i>	54-76h
Sec. 5	<i>January 1, 2006</i>	54-76i
Sec. 6	<i>January 1, 2006</i>	54-76j
Sec. 7	<i>January 1, 2006</i>	54-76l