



General Assembly

Amendment

January Session, 2005

LCO No. 7023

HB0521507023HDO

Offered by:

REP. WALKER, 93rd Dist.
REP. KIRKLEY-BEY, 5th Dist.
REP. CANDELARIA, 95th Dist.
REP. MANTILLA, 4th Dist.
REP. MCCRORY, 7th 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 Section 54-76b of the general statutes is repealed and the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 October 1, 2005*):

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, or (B) a child who
9 has been transferred to the regular criminal docket pursuant to section
10 46b-127; and ["youthful offender"]

11 (2) "Youthful offender" means a youth who [(1)] (A) is charged with
12 the commission of a crime which is not a class A felony or a violation
13 of subdivision (2) of subsection (a) of section 53-21 [,] or section 53a-70,
14 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation
15 involving consensual sexual intercourse or sexual contact between the
16 youth and another person who is thirteen years of age or older but
17 under sixteen years of age, [(2)] (B) has not previously been convicted
18 of a felony or been previously adjudged a serious juvenile offender or
19 serious juvenile repeat offender, as defined in section 46b-120, or a
20 youthful offender, or been afforded a pretrial program for accelerated
21 rehabilitation under section 54-56e, and [(3)] (C) is adjudged a youthful
22 offender pursuant to the provisions of [said sections] sections 54-76b to
23 54-76n, inclusive.

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

26 Sec. 2. Section 54-76c of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective October 1, 2005*):

28 In any case where an information or complaint has been laid
29 charging a defendant with the commission of a crime, and where it
30 appears that the defendant is a youth, [upon motion of the defendant,
31 his counsel, the state's attorney or the prosecuting attorney, as the case
32 may be, to the court having jurisdiction that an investigation be made
33 of such defendant for the purpose of determining whether he is
34 eligible to be adjudged a youthful offender, the court shall, but only as
35 to the public, order the court file sealed. The court on its own motion
36 may, but only as to the public, order the court file sealed in the case of
37 a youth charged with crime] such defendant shall be presumed to be
38 eligible to be adjudged a youthful offender and the court having
39 jurisdiction shall, but only as to the public, order the court file sealed.
40 Upon motion of the state's attorney or the prosecuting attorney, as the
41 case may be, the court may order that an investigation be made of such
42 defendant under section 54-76d, as amended by this act, for the
43 purpose of determining whether such defendant is ineligible to be

44 adjudged a youthful offender, provided the court file shall remain
45 sealed, but only as to the public, during such investigation.

46 Sec. 3. Section 54-76d of the general statutes is repealed and the
47 following is substituted in lieu thereof (*Effective October 1, 2005*):

48 (a) If the court grants [such] a motion under section 54-76c, as
49 amended by this act, or if the court on its own motion determines that
50 the defendant should be investigated [hereunder] under this section,
51 and the defendant consents to physical and mental examinations, if
52 deemed necessary, and to investigation and questioning, and to a trial
53 without a jury, should a trial be had, the information or complaint
54 shall be held in abeyance and no further action shall be taken in
55 connection with such information or complaint until such
56 examinations, investigation and questioning are had of the defendant.
57 Investigations under [sections 54-76b to 54-76n, inclusive,] this section
58 shall be made by an adult probation officer. When the information or
59 complaint charges commission of a felony, the adult probation officer
60 shall include in the investigation a summary of any unerasd juvenile
61 record of adjudications of the defendant.

62 (b) Upon the termination of such examinations, investigation and
63 questioning, the court, in its discretion based on the severity of the
64 crime, which shall also take into consideration whether or not the
65 defendant took advantage of the victim because of the victim's
66 advanced age or physical incapacity, and the results of the
67 examinations, investigation and questioning, shall determine whether
68 such defendant is eligible or ineligible to be adjudged a youthful
69 offender. If the court determines that the defendant is eligible to be so
70 adjudged, no further action shall be taken on the information or
71 complaint and the defendant shall be required to enter a plea of
72 "guilty" or "not guilty" to the charge of being a youthful offender. If the
73 court determines that the defendant is ineligible to be so adjudged, it
74 shall order the information or complaint to be unsealed and the
75 defendant shall be prosecuted as though the proceeding [hereunder]
76 under this section had not been had.

77 (c) If no motion is made by the state's attorney or the prosecuting
78 attorney, as the case may be, under section 54-76c, as amended by this
79 act, or by the court under subsection (a) of this section, and the
80 defendant consents to a trial without a jury, should a trial be had, no
81 further action shall be taken on the information or complaint and the
82 defendant shall be required to enter a plea of "guilty" or "not guilty" to
83 the charge of being a youthful offender.

84 Sec. 4. Section 54-76h of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective October 1, 2005*):

86 All of the proceedings [except proceedings on the motion under
87 section 54-76c] had under the provisions of sections 54-76b to 54-76n,
88 inclusive, shall be private and shall be conducted in such parts of the
89 courthouse or the building wherein court is located as shall be separate
90 and apart from the other parts of the court which are then being held
91 for proceedings pertaining to adults charged with crimes. If [such] the
92 defendant is committed while [such] any examination and
93 investigation under section 54-76c, as amended by this act, is pending,
94 before trial, during trial or after judgment and before sentence, those
95 persons in charge of the place of detention shall segregate such
96 defendant, to the extent of their facilities, from defendants over the age
97 of eighteen years charged with crime.

98 Sec. 5. Section 54-76i of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective October 1, 2005*):

100 Pending and during the investigation, trial, adjudication or acquittal
101 of the defendant, or any other proceedings under sections 54-76b to 54-
102 76n, inclusive, the court [to which the recommendation for the
103 investigation has been made] having jurisdiction shall have the same
104 powers over the person of the defendant as it would have in the case of
105 an adult charged with a crime.

106 Sec. 6. Section 54-76j of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2005*):

108 (a) The court, upon the adjudication of any person as a youthful
109 offender, may: (1) ~~[commit]~~ Commit the defendant; ~~[]~~ (2) impose a fine
110 not exceeding one thousand dollars; ~~[]~~ (3) impose a sentence of
111 conditional discharge or a sentence of unconditional discharge; ~~[]~~ (4)
112 impose a sentence of community service; ~~[]~~ (5) impose a sentence to a
113 term of imprisonment not greater than that authorized for the crime
114 committed by the defendant, but in no event shall any such term
115 exceed four years; ~~[]~~ (6) impose sentence and suspend the execution of
116 the sentence, entirely or after a period set by the court; ~~[]~~ (7) order
117 treatment pursuant to section 17a-699; ~~[]~~ or (8) if a criminal docket for
118 drug-dependent persons has been established pursuant to section
119 51-181b in the judicial district in which the defendant was adjudicated
120 a youthful offender, transfer the supervision of the defendant to the
121 court handling such docket.

122 (b) If execution of the sentence is suspended under subdivision (6)
123 of subsection (a) of this section, the defendant may be placed on
124 probation or conditional discharge for a period not to exceed three
125 years, provided, ~~[the court in its discretion may from time to time,~~
126 while such probation is in force, extend such probation for a period not
127 to exceed five years, including the original probationary period] at any
128 time during the period of probation, after hearing and for good cause
129 shown, the court may extend the period as deemed appropriate by the
130 court. If the court places the person adjudicated to be a youthful
131 offender on probation, the court may order that, as a condition of such
132 probation, the person be referred for services to a youth service bureau
133 established pursuant to section ~~[17a-39]~~ 10-19m, provided the court
134 finds, through an assessment by a youth service bureau or its designee,
135 that the person is in need of and likely to benefit from such services. If
136 the court places a person adjudicated as a youthful offender on
137 probation, the court may order that, as a condition of such probation,
138 the person participate in the zero-tolerance drug supervision program
139 established pursuant to section 53a-39d. If the court places a youthful
140 offender on probation, school and class attendance on a regular basis
141 and satisfactory compliance with school policies on student conduct

142 and discipline may be a condition of such probation and, in such a
143 case, failure to so attend or comply shall be a violation of probation. If
144 the court has reason to believe that the person adjudicated to be a
145 youthful offender is or has been an unlawful user of narcotic drugs, as
146 defined in section 21a-240, and the court places such youthful offender
147 on probation, the conditions of probation, among other things, shall
148 include a requirement that such person shall submit to periodic tests to
149 determine, by the use of "synthetic opiate antinarcotic in action",
150 nalline test or other detection tests, at a hospital or other facility,
151 equipped to make such tests, whether such person is using narcotic
152 drugs. A failure to report for such tests or a determination that such
153 person is unlawfully using narcotic drugs shall constitute a violation of
154 probation. If the court places a person adjudicated as a youthful
155 offender for a violation of section 53-247 on probation, the court may
156 order that, as a condition of such probation, the person undergo
157 psychiatric or psychological counseling or participate in an animal
158 cruelty prevention and education program, provided such a program
159 exists and is available to the person.

160 (c) Commitment [hereunder] under this section shall be for a period
161 not to exceed the term of imprisonment authorized for the crime
162 committed by the defendant, but in no event shall any such period
163 exceed four years, and shall be to any religious, charitable or other
164 correctional institution authorized by law to receive persons over the
165 age of sixteen years. Whenever a youthful offender is committed by
166 the court to any duly authorized religious, charitable or other
167 institution, other than an institution supported or controlled by the
168 state or a subdivision thereof, such commitment shall be made, when
169 practicable, to a religious, charitable or other institution under the
170 control of persons of the same religious faith or persuasion as that of
171 the youthful offender. If a youthful offender is committed by the court
172 to any institution other than an institution supported or controlled by
173 the state or a subdivision thereof, which is under the control of persons
174 of a religion or persuasion different from that of the youthful offender,
175 the court shall state or recite the facts which impel it to make such

176 disposition, and such statement shall be made a part of the record of
177 the proceedings."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	54-76b
Sec. 2	<i>October 1, 2005</i>	54-76c
Sec. 3	<i>October 1, 2005</i>	54-76d
Sec. 4	<i>October 1, 2005</i>	54-76h
Sec. 5	<i>October 1, 2005</i>	54-76i
Sec. 6	<i>October 1, 2005</i>	54-76j