General Assembly

**February Session, 2006**

# Raised Bill No. 5213

LCO No. **1153**

*01153_____JUD*

Referred to Committee on Judiciary

Introduced by:
(JUD)

## *AN ACT CONCERNING JUVENILE OFFENDERS.*

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

Section 1. Subsection (d) of section 46b-124 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(d) Records of cases of juvenile matters involving delinquency proceedings shall be available to (1) judicial branch employees who, in the performance of their duties, require access to such records, and (2) employees and authorized agents of state or federal agencies involved in (A) the delinquency proceedings, (B) the provision of services directly to the child, or (C) the design and delivery of treatment programs pursuant to section 46b-121j. Such employees and authorized agents include, but are not limited to, law enforcement officials, state and federal prosecutorial officials, school officials in accordance with section 10-233h, court officials including officials of both the regular criminal docket and the docket for juvenile matters, officials of the Division of Criminal Justice, the Division of Public Defender Services, the Department of Children and Families, the Court Support Services Division, <u>the Department of Correction,</u> the Board of

18 Pardons and Paroles and agencies under contract with the judicial
19 branch, and an advocate appointed pursuant to section 54-221 for a
20 victim of a crime committed by the child. Such records shall also be
21 available to (i) the attorney representing the child, including the
22 Division of Public Defender Services, in any proceeding in which such
23 records are relevant, (ii) the parents or guardian of the child, until such
24 time as the subject of the record reaches the age of majority, (iii) the
25 subject of the record, upon submission of satisfactory proof of the
26 subject's identity, pursuant to guidelines prescribed by the Office of
27 the Chief Court Administrator, provided the subject has reached the
28 age of majority, (iv) law enforcement officials and prosecutorial
29 officials conducting legitimate criminal investigations, and (v) a state
30 or federal agency providing services related to the collection of
31 moneys due or funding to support the service needs of eligible
32 juveniles, provided such disclosure shall be limited to that information
33 necessary for the collection of and application for such moneys.
34 Records disclosed pursuant to this subsection shall not be further
35 disclosed, except that information contained in such records may be
36 disclosed in connection with bail or sentencing reports in open court
37 during criminal proceedings involving the subject of such information.

38 Sec. 2. Subsection (b) of section 46b-125 of the general statutes is
39 repealed and the following is substituted in lieu thereof (*Effective*
40 *October 1, 2006*):

41 (b) Probation officers shall make such investigations and reports as
42 the court directs or the law requires. They shall execute the orders of
43 the court; and, for that purpose, such probation officers, and any other
44 employees specifically designated by the court to assist the probation
45 officers in the enforcement of such orders, shall have the authority of a
46 state marshal. They shall preserve a record of all cases investigated or
47 coming under their care, and shall keep informed concerning the
48 conduct and condition of each person under supervision and report
49 thereon to the court as **[**it**]** <u>the court</u> may direct. Any juvenile probation
50 officer authorized by the Office of the Chief Court Administrator, and

51 any juvenile matters investigator authorized by the Office of the Chief
52 State's Attorney, may [arrest] take any juvenile on probation into
53 custody without a [warrant] court order or may deputize any other
54 officer with power to arrest to do so by giving such officer a written
55 statement setting forth that the juvenile has, in the judgment of the
56 juvenile probation officer or juvenile matters investigator, violated the
57 conditions of the juvenile's probation. When executing such orders of
58 the court, except when using deadly physical force, juvenile probation
59 officers and juvenile matters investigators shall be deemed to be acting
60 in the capacity of a peace officer, as defined in subdivision (9) of
61 section 53a-3.

62 Sec. 3. Subsection (g) of section 46b-140 of the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective*
64 *October 1, 2006*):

65 (g) Any child or youth coming within the jurisdiction of the court,
66 who is found to be mentally ill, may be committed by [said] the court
67 to the Commissioner of Children and Families and, if the court
68 convicts a child as delinquent and finds such child to be mentally
69 deficient, [it] the court may commit such child to an institution for
70 mentally deficient children or youth or delinquents. Whenever it is
71 found that a child convicted by the court as delinquent or adjudged by
72 the court to be a member of a family with service needs who is
73 fourteen years of age or older would [not] benefit from a work-study
74 program or employment with or without continued school attendance,
75 the court may order such child to be placed on vocational probation if
76 [such] the court finds that such child may properly be employed for
77 [part] part-time or full-time at some useful occupation and that such
78 employment would be favorable to such child's welfare, and the
79 probation officer shall supervise such employment. For the purposes
80 of this section, the limitations of subsection (a) of section 31-23 on the
81 employment of minors under the age of sixteen years shall not apply
82 for the duration of such vocational probation.

Sec. 4. Subsection (c) of section 46b-140a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(c) At any time during the period of probation or suspended commitment, the court may issue **[**a warrant for the arrest of**]** an order directing that a child or youth be taken into custody for violation of any of the conditions of probation or suspended commitment, or may issue a notice to appear to answer to a charge of such violation, which notice shall be personally served upon the child or youth. Any such **[**warrant**]** order shall authorize all officers named therein to return the child or youth to the custody of the court or to any suitable juvenile detention facility designated by the court.

Sec. 5. Section 46b-146 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

Whenever any child has been found delinquent or a member of a family with service needs, or has signed a statement admitting responsibility for having committed a delinquent act or to being a member of a family with service needs whose case has been disposed of nonjudicially, and has subsequently been discharged from the supervision of the Superior Court or from the custody of the Department of Children and Families or from the care of any other institution or agency to whom **[**he**]** such child has been committed by the court, such child, **[**his**]** or such child's parent or guardian, may file a petition with the Superior Court and, if **[**such**]** the court finds that at least two years or, in the case of a child convicted as delinquent for the commission of a serious juvenile offense, four years have elapsed from the date of such discharge, that no subsequent juvenile proceeding has been instituted against such child, that such child has not been found guilty of a crime and that such child has reached sixteen years of age, **[**within such period, it**]** the court shall order all police and court records pertaining to such child to be erased. Upon the entry of such an erasure order, all references, including arrest, complaint, referrals,

115 petitions, reports and orders, shall be removed from all agency, official
116 and institutional files, and a finding of delinquency or that the child
117 was a member of a family with service needs shall be deemed never to
118 have occurred. The persons in charge of such records shall not disclose
119 to any person information pertaining to the record so erased, except
120 that the fact of such erasure may be substantiated where, in the
121 opinion of the court, it is in the best interests of such child to do so. No
122 child who has been the subject of such an erasure order shall be
123 deemed to have been arrested ab initio, within the meaning of the
124 general statutes, with respect to proceedings so erased. Copies of the
125 erasure order shall be sent to all persons, agencies, officials or
126 institutions known to have information pertaining to the delinquency
127 or family with service needs proceedings affecting such child.
128 Whenever a child is dismissed as not delinquent or as not being a
129 member of a family with service needs, all police and court records
130 pertaining to such charge shall be ordered erased immediately,
131 without the filing of a petition.

| This act shall take effect as follows and shall amend the following sections: | | |
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| Section 1 | *October 1, 2006* | 46b-124(d) |
| Sec. 2 | *October 1, 2006* | 46b-125(b) |
| Sec. 3 | *October 1, 2006* | 46b-140(g) |
| Sec. 4 | *October 1, 2006* | 46b-140a(c) |
| Sec. 5 | *October 1, 2006* | 46b-146 |

***Statement of Purpose:***

To make vocational probation available to children who are still in school, to establish requirements regarding erasure of records in juvenile cases that are handled nonjudicially, to ensure that the authority for, and oversight of, taking juveniles into custody remains within the purview of juvenile matters judges and juvenile probation officers, and to allow the judicial branch to share information with the Department of Correction, concerning juveniles who are transferred to the custody of said department, for the purpose of providing services to such juveniles.

***[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]***