



General Assembly

January Session, 2009

**Raised Bill No. 6664**

LCO No. 4609

\*04609\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES  
CONCERNING THE CRIMINAL JUSTICE SYSTEM.**

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

1 Section 1. (NEW) (*Effective July 1, 2009*) (a) Juvenile prosecutors  
2 employed by the Division of Criminal Justice on the effective date of  
3 this section shall be deemed to have been appointed by the Criminal  
4 Justice Commission in accordance with section 51-278 of the general  
5 statutes and shall have and exercise all the powers and perform all the  
6 duties of an assistant state's attorney and have the same jurisdiction as  
7 an assistant state's attorney as provided in section 51-281 of the general  
8 statutes.

9 (b) On and after the effective date of this section, any prosecutorial  
10 official assigned to handle juvenile matters in the criminal session of  
11 the Superior Court shall have been appointed by the Criminal Justice  
12 Commission in accordance with section 51-278 of the general statutes.

13 Sec. 2. Subsection (b) of section 46b-127 of the general statutes is  
14 repealed and the following is substituted in lieu thereof (*Effective July*  
15 *1, 2009*):

16 (b) Upon motion of a [juvenile prosecutor] prosecutorial official and  
17 order of the court, the case of any child charged with the commission  
18 of a class C or D felony or an unclassified felony shall be transferred  
19 from the docket for juvenile matters to the regular criminal docket of  
20 the Superior Court, provided such offense was committed after such  
21 child attained the age of fourteen years and the court finds ex parte  
22 that there is probable cause to believe the child has committed the act  
23 for which he is charged. The file of any case so transferred shall remain  
24 sealed until such time as the court sitting for the regular criminal  
25 docket accepts such transfer. The court sitting for the regular criminal  
26 docket may return any such case to the docket for juvenile matters not  
27 later than ten working days after the date of the transfer for  
28 proceedings in accordance with the provisions of this chapter. The  
29 child shall be arraigned in the regular criminal docket of the Superior  
30 Court by the next court date following such transfer, provided any  
31 proceedings held prior to the finalization of such transfer shall be  
32 private and shall be conducted in such parts of the courthouse or the  
33 building wherein court is located as shall be separate and apart from  
34 the other parts of the court which are then being held for proceedings  
35 pertaining to adults charged with crimes.

36 Sec. 3. Section 46b-133a of the general statutes is repealed and the  
37 following is substituted in lieu thereof (*Effective July 1, 2009*):

38 (a) A nolle prosequi may not be entered as to any count of  
39 delinquency if the juvenile objects to the nolle prosequi and demands  
40 either a trial or dismissal, except with respect to prosecutions in which  
41 a nolle prosequi is entered upon a representation to the court by the  
42 [juvenile prosecutor] prosecutorial official that a material witness has  
43 died, disappeared or become disabled or that material evidence has  
44 disappeared or has been destroyed and that a further investigation is  
45 therefore necessary.

46 (b) Whenever a nolle prosequi has been entered as to any count of  
47 delinquency, or whenever any count of delinquency has been

48 dismissed without prejudice, if at least thirteen months have elapsed  
49 since such nolle or dismissal without prejudice, all police and court  
50 records pertaining to such count shall be erased. Whenever any such  
51 count has been continued at the request of the [juvenile prosecutor]  
52 prosecutorial official and a period of thirteen months has elapsed since  
53 the granting of such continuance during which period there has been  
54 no prosecution or other disposition of the matter, the count shall be  
55 construed to have been nolle as of the date of termination of such  
56 thirteen-month period and such erasure may thereafter be effected as  
57 provided in this subsection for nolle cases.

58 Sec. 4. Section 46b-133b of the general statutes is repealed and the  
59 following is substituted in lieu thereof (*Effective July 1, 2009*):

60 (a) The court, on motion of a child charged with a delinquency  
61 offense, but not yet convicted, may order that such child be examined  
62 to determine whether the child is alcohol-dependent or drug-  
63 dependent as defined in section 46b-120. Such motion shall be filed  
64 with the court within ten days after a plea is entered, except if waived  
65 by the court or pursuant to an agreement by the parties. The results of  
66 any examination ordered pursuant to this subsection shall be utilized  
67 only for the purposes of determining whether the delinquency  
68 proceeding should be suspended under this section.

69 (b) The court, upon motion of the child charged with a delinquency  
70 offense but not yet convicted, may order the suspension of the  
71 delinquency proceedings for a period of up to one year, order periodic  
72 alcohol and drug testing of such child during the period of suspension  
73 and order treatment for alcohol or drug dependency if the court, after  
74 consideration of information before it concerning the alcohol or drug  
75 dependency of the child, finds that (1) the child is alcohol-dependent  
76 or drug-dependent as defined in section 46b-120, (2) the child  
77 presently needs and is likely to benefit from treatment for the  
78 dependency and (3) the suspension of the delinquency proceedings  
79 will advance the interests of justice. During the period of suspension, a

80 child shall be placed under the supervision of a juvenile probation  
81 officer for treatment for alcohol or drug dependency and such officer  
82 shall monitor the compliance of the child with the orders of the court.

83 (c) If the court denies the motion for suspension of the delinquency  
84 proceedings, the [juvenile prosecutor] prosecutorial official may  
85 proceed with the delinquency proceedings. Any order of the court  
86 granting or denying a motion for suspension of the delinquency  
87 proceedings shall not be deemed a final order for purposes of appeal.

88 (d) At any time before the end of the period of the suspension of the  
89 delinquency proceedings, but not later than one month before the end  
90 of the period of suspension, a juvenile probation officer shall notify the  
91 court of the impending conclusion of the suspension and submit a  
92 report on whether the child has completed the treatment program and  
93 has complied with all other conditions of the suspension order  
94 imposed by the court.

95 (e) If the court, on motion of the child or on its own motion, finds  
96 that the child has completed the treatment program and has complied  
97 with all other conditions of suspension, it may dismiss the charge for  
98 which the delinquency proceedings had been suspended. If the court  
99 denies the motion and terminates the suspension of the delinquency  
100 proceedings, the [juvenile prosecutor] prosecutorial official may  
101 proceed with such proceedings.

102 (f) The provisions of this section shall not apply to any child  
103 charged with a serious juvenile offense as defined in section 46b-120 or  
104 any child who was previously ordered treated under this section.

105 Sec. 5. Subsections (a) and (b) of section 46b-133c of the general  
106 statutes are repealed and the following is substituted in lieu thereof  
107 (*Effective July 1, 2009*):

108 (a) Whenever a child is referred for the commission of a felony  
109 committed after such child attained the age of fourteen years and such

110 child is a serious juvenile repeat offender, as defined in section 46b-  
111 120, the [juvenile prosecutor] prosecutorial official may request the  
112 court to designate the proceeding as a serious juvenile repeat offender  
113 prosecution.

114 (b) If a [juvenile prosecutor] prosecutorial official requests that a  
115 proceeding be designated a serious juvenile repeat offender  
116 prosecution, the court shall hold a hearing not later than thirty days  
117 after the filing of such request unless good cause is shown by the  
118 [juvenile prosecutor] prosecutorial official or by the child as to why the  
119 hearing should not be held within such period. If good cause is shown,  
120 the hearing shall be held not later than ninety days after the filing of  
121 such request. The court shall decide whether to designate the  
122 proceeding as a serious juvenile repeat offender prosecution not later  
123 than thirty days after the completion of such hearing. The court shall  
124 grant the request to designate the proceeding as a serious juvenile  
125 repeat offender prosecution if the [juvenile prosecutor] prosecutorial  
126 official shows by clear and convincing evidence that such designation  
127 will serve the public safety. The decision to designate the proceeding  
128 as a serious juvenile repeat offender prosecution shall not be a final  
129 judgment for purposes of appeal.

130 Sec. 6. Subsections (b) and (c) of section 46b-133d of the general  
131 statutes are repealed and the following is substituted in lieu thereof  
132 (*Effective July 1, 2009*):

133 (b) Whenever a child is referred for the commission of any crime of  
134 a sexual nature, and such case is not transferred to the regular criminal  
135 docket pursuant to section 46b-127, as amended by this act, the  
136 [juvenile prosecutor] prosecutorial official may request the court to  
137 designate the proceeding as a serious sexual offender prosecution.

138 (c) If a [juvenile prosecutor] prosecutorial official requests that a  
139 proceeding be designated a serious sexual offender prosecution, the  
140 court shall hold a hearing not later than thirty days after the filing of

141 such request unless good cause is shown by the [juvenile prosecutor]  
142 prosecutorial official or by the child as to why the hearing should not  
143 be held within such period. If good cause is shown, the hearing shall  
144 be held not later than ninety days after the filing of such request. The  
145 court shall decide whether to designate the proceeding as a serious  
146 sexual offender prosecution not later than thirty days after the  
147 completion of such hearing. The court shall grant the request to  
148 designate the proceeding as a serious sexual offender prosecution if  
149 the [juvenile prosecutor] prosecutorial official shows by a  
150 preponderance of the evidence that such designation will serve the  
151 public safety. The decision to designate the proceeding as a serious  
152 sexual offender prosecution shall not be a final judgment for purposes  
153 of appeal.

154 Sec. 7. Subsection (e) of section 46b-133e of the general statutes is  
155 repealed and the following is substituted in lieu thereof (*Effective July*  
156 *1, 2009*):

157 (e) If the court denies the motion for suspension of the delinquency  
158 proceedings, the [juvenile prosecutor] prosecutorial official may  
159 proceed with the delinquency proceedings. Any order of the court  
160 granting or denying a motion for suspension of the delinquency  
161 proceedings shall not be deemed a final order for purposes of appeal.

162 Sec. 8. Subsection (a) of section 51-285 of the general statutes is  
163 repealed and the following is substituted in lieu thereof (*Effective July*  
164 *1, 2009*):

165 (a) The Chief State's Attorney may appoint special assistant state's  
166 attorneys, special deputy assistant state's attorneys [, special juvenile  
167 prosecutors] and special inspectors on a contractual basis for a  
168 temporary period of time.

169 Sec. 9. Section 51-286f of the general statutes is repealed and the  
170 following is substituted in lieu thereof (*Effective July 1, 2009*):

171 The [prosecuting official in a criminal proceeding shall request that  
172 a transcript be prepared of any sentencing hearing] court in any  
173 sentencing hearing at which a defendant is sentenced to a definite,  
174 nonsuspended sentence of more than two years imprisonment [and]  
175 shall cause a copy of [such] the transcript of such hearing to be  
176 delivered to the Board of Pardons and Paroles.

177 Sec. 10. Subsection (d) of section 54-142s of the general statutes is  
178 repealed and the following is substituted in lieu thereof (*Effective from*  
179 *passage*):

180 (d) Such information technology system shall include a central,  
181 integrated electronic repository of criminal justice records and  
182 documents that provides:

183 (1) Access to all state and local police reports, presentence  
184 investigations and reports, psychological and medical reports, criminal  
185 records, incarceration and parole records, and court records and  
186 transcripts, whether such records and documents normally exist in  
187 electronic or hard copy form, except that access to state and local police  
188 reports and witness statements by the Division of Public Defender  
189 Services shall be barred unless authorized by a prosecutorial official;  
190 and

191 (2) Access to scanning and processing facilities to ensure that such  
192 records and documents are integrated into the system and updated  
193 immediately.

194 Sec. 11. Section 53a-172 of the general statutes is repealed and the  
195 following is substituted in lieu thereof (*Effective October 1, 2009*):

196 (a) A person is guilty of failure to appear in the first degree when (1)  
197 while charged with the commission of a felony and while out on bail  
198 or released under other procedure of law, [he] such person wilfully  
199 fails to appear when legally called according to the terms of [his] such  
200 person's bail bond or promise to appear, or (2) while on probation for

201 conviction of a felony, [he] such person wilfully fails to appear when  
202 legally called for [a violation of probation hearing] any court hearing  
203 relating to a violation of such probation.

204 (b) Failure to appear in the first degree is a class D felony.

205 Sec. 12. Section 53a-173 of the general statutes is repealed and the  
206 following is substituted in lieu thereof (*Effective October 1, 2009*):

207 (a) A person is guilty of failure to appear in the second degree when  
208 (1) while charged with the commission of a misdemeanor or a motor  
209 vehicle violation for which a sentence to a term of imprisonment may  
210 be imposed and while out on bail or released under other procedure of  
211 law, [he] such person wilfully fails to appear when legally called  
212 according to the terms of [his] such person's bail bond or promise to  
213 appear, or (2) while on probation for conviction of a misdemeanor or  
214 motor vehicle violation, [he] such person wilfully fails to appear when  
215 legally called for [a violation of probation hearing] any court hearing  
216 relating to a violation of such probation.

217 (b) Failure to appear in the second degree is a class A misdemeanor.

218 Sec. 13. Subsection (a) of section 53a-70 of the general statutes is  
219 repealed and the following is substituted in lieu thereof (*Effective*  
220 *October 1, 2009*):

221 (a) A person is guilty of sexual assault in the first degree when such  
222 person (1) compels another person to engage in sexual intercourse by  
223 the use of force against such other person or a third person, or by the  
224 threat of use of force against such other person or against a third  
225 person which reasonably causes such person to fear physical injury to  
226 such person or a third person, or (2) engages in sexual intercourse with  
227 another person and such other person is ten years of age or older but  
228 under thirteen years of age and the actor is more than two years older  
229 than such person, or (3) commits sexual assault in the second degree as  
230 provided in section 53a-71 and in the commission of such offense is

231 aided by two or more other persons actually present, or (4) engages in  
232 sexual intercourse with another person and such other person is  
233 mentally incapacitated to the extent that such other person is unable to  
234 consent to such sexual intercourse; or (5) engages in sexual intercourse  
235 with another person and such other person is under ten years of age.

236 Sec. 14. Subsection (b) of section 53a-70 of the general statutes is  
237 repealed and the following is substituted in lieu thereof (*Effective*  
238 *October 1, 2009*):

239 (b) (1) Except as provided in subdivision (2) of this subsection,  
240 sexual assault in the first degree is a class B felony for which two years  
241 of the sentence imposed may not be suspended or reduced by the  
242 court or, if the victim of the offense is under ten years of age, for which  
243 ten years of the sentence imposed may not be suspended or reduced  
244 by the court.

245 (2) Sexual assault in the first degree is a class A felony if the offense  
246 is a violation of subdivision (1) of subsection (a) of this section and the  
247 victim of the offense is under sixteen years of age or the offense is a  
248 violation of subdivision (2) of subsection (a) of this section. Any person  
249 found guilty under said subdivision (1) or (2) shall be sentenced to a  
250 term of imprisonment of which ten years of the sentence imposed may  
251 not be suspended or reduced by the court if the victim is under ten  
252 years of age or of which five years of the sentence imposed may not be  
253 suspended or reduced by the court if the victim is under sixteen years  
254 of age.

255 (3) Any person found guilty under this section shall be sentenced to  
256 a term of imprisonment and a period of special parole pursuant to  
257 subsection (b) of section 53a-28 which together constitute a sentence of  
258 at least ten years.

259 (4) Notwithstanding the provisions of this subsection concerning the  
260 imposition of a mandatory minimum sentence, the court may suspend  
261 the execution of such mandatory minimum sentence if at the time of

262 the commission of the offense (1) such person was under eighteen  
263 years of age, or (2) such person's mental capacity was significantly  
264 impaired but not so impaired as to constitute a defense to prosecution.

265 Sec. 15. Section 54-85a of the general statutes is repealed and the  
266 following is substituted in lieu thereof (*Effective October 1, 2009*):

267 (a) In any criminal prosecution, the court, upon motion of the state  
268 or the defendant, shall cause any witness to be sequestered during the  
269 hearing on any issue or motion or any part of the trial of such  
270 prosecution in which [he] such witness is not testifying.

271 (b) The provisions of this section shall not apply to a witness in any  
272 criminal prosecution of an offense involving assault, sexual assault or  
273 abuse of a child twelve years of age or younger if such witness is an  
274 adult who is known to the child and with whom the child feels  
275 comfortable and has been authorized by the court pursuant to  
276 subdivision (2) of subsection (b) of section 54-86g to sit in close  
277 proximity to the child during the child's testimony.

278 Sec. 16. Section 51-237 of the general statutes is repealed and the  
279 following is substituted in lieu thereof (*Effective October 1, 2009*):

280 Each juror, duly chosen, drawn and summoned, who fails to appear  
281 shall [have committed an infraction] be subject to a civil penalty, the  
282 amount of which shall be established by the judges of the superior  
283 court, but the court may excuse [him] such juror from the payment  
284 thereof. If a sufficient number of the jurors summoned do not appear,  
285 or if for any cause there is not a sufficient number of jurors to make up  
286 the panel, the court may order such number of persons who qualify for  
287 jury service under section 51-217 to be summoned as may be  
288 necessary, as talesmen, and any talesman so summoned who makes  
289 default of appearance without sufficient cause shall [have committed  
290 an infraction] be subject to a civil penalty, the amount of which shall be  
291 established by the judges of the superior court.

292 Sec. 17. Section 53a-137 of the general statutes is repealed and the  
293 following is substituted in lieu thereof (*Effective October 1, 2009*):

294 The following definitions are applicable to this part:

295 (1) "Written instrument" means any instrument or article containing  
296 written or printed matter or the equivalent thereof, used for the  
297 purpose of reciting, embodying, conveying or recording information  
298 or constituting a symbol or evidence of value, right, privilege or  
299 identification, which is capable of being used to the advantage or  
300 disadvantage of some person.

301 (2) "Complete written instrument" means [one] a written instrument  
302 which purports to be a genuine written instrument fully drawn with  
303 respect to every essential feature thereof. An endorsement, attestation,  
304 acknowledgment or other similar signature or statement is deemed  
305 both a complete written instrument in itself and a part of the main  
306 instrument in which it is contained or to which it attaches.

307 (3) "Incomplete written instrument" means [one] a written  
308 instrument which contains some matter by way of content or  
309 authentication but which requires additional matter in order to render  
310 it a complete written instrument.

311 (4) A person "falsely makes" a written instrument when [he] (A)  
312 such person makes or draws a complete written instrument in its  
313 entirety, or an incomplete written instrument, which purports to be an  
314 authentic creation of its ostensible maker or drawer, but which is not  
315 such either because the ostensible maker or drawer is fictitious or  
316 because, if real, [he] the ostensible maker or drawer did not authorize  
317 the making or drawing thereof, or (B) such person signs his or her own  
318 name to a written instrument, thereby falsely and fraudulently  
319 representing that he or she has authority to sign in such capacity.

320 (5) A person "falsely completes" a written instrument when (A) such  
321 person, by adding, inserting or changing matter, [he] transforms an

322 incomplete written instrument into a complete [one] written  
323 instrument, without the authority of anyone entitled to grant it, so that  
324 such complete written instrument appears or purports to be in all  
325 respects an authentic creation of or fully authorized by its ostensible  
326 maker or drawer, or (B) such person signs his or her own name to a  
327 written instrument, thereby falsely and fraudulently representing that  
328 he or she has authority to sign in such capacity.

329 (6) A person "falsely alters" a written instrument when (A) such  
330 person, without the authority of anyone entitled to grant it, [he]  
331 changes a written instrument, whether it be in complete or incomplete  
332 form, by means of erasure, obliteration, deletion, insertion of new  
333 matter [,] or transposition of matter [,] or in any other manner, so that  
334 such instrument in its thus altered form appears or purports to be in all  
335 respects an authentic creation of or fully authorized by its ostensible  
336 maker or drawer, or (B) such person signs his or her own name to a  
337 written instrument, thereby falsely and fraudulently representing that  
338 he or she has authority to sign in such capacity.

339 (7) "Forged instrument" means a written instrument which has been  
340 falsely made, completed or altered.

341 Sec. 18. Subsection (b) of section 54-76l of the general statutes is  
342 repealed and the following is substituted in lieu thereof (*Effective*  
343 *October 1, 2009*):

344 (b) The records of any such youth, or any part thereof, may be  
345 disclosed to and between individuals and agencies, and employees of  
346 such agencies, providing services directly to the youth, including law  
347 enforcement officials, state and federal prosecutorial officials, school  
348 officials in accordance with section 10-233h, court officials, the Division  
349 of Criminal Justice, the Court Support Services Division and an  
350 advocate appointed pursuant to section 54-221 for a victim of a crime  
351 committed by the youth. Such records shall also be available to the  
352 attorney representing the youth, in any proceedings in which such

353 records are relevant, to the parents or guardian of such youth, until  
 354 such time as the youth reaches the age of majority or is emancipated,  
 355 and to the youth upon his or her emancipation or attainment of the age  
 356 of majority, provided proof of the identity of such youth is submitted  
 357 in accordance with guidelines prescribed by the Chief Court  
 358 Administrator. Such records shall also be available to members and  
 359 employees of the Board of Pardons and Paroles and employees of the  
 360 Department of Correction who, in the performance of their duties,  
 361 require access to such records, provided the subject of the record has  
 362 been adjudged a youthful offender and sentenced to a term of  
 363 imprisonment or been convicted of a crime in the regular criminal  
 364 docket of the Superior Court, and such records are relevant to the  
 365 performance of a risk and needs assessment of such person while such  
 366 person is incarcerated, the determination of such person's suitability  
 367 for release from incarceration or for a pardon, or the determination of  
 368 the supervision and treatment needs of such person while on parole or  
 369 other supervised release. Such records shall also be available to law  
 370 enforcement officials and prosecutorial officials conducting legitimate  
 371 criminal investigations. Such records disclosed pursuant to this  
 372 subsection shall not be further disclosed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	New section
Sec. 2	<i>July 1, 2009</i>	46b-127(b)
Sec. 3	<i>July 1, 2009</i>	46b-133a
Sec. 4	<i>July 1, 2009</i>	46b-133b
Sec. 5	<i>July 1, 2009</i>	46b-133c(a) and (b)
Sec. 6	<i>July 1, 2009</i>	46b-133d(b) and (c)
Sec. 7	<i>July 1, 2009</i>	46b-133e(e)
Sec. 8	<i>July 1, 2009</i>	51-285(a)
Sec. 9	<i>July 1, 2009</i>	51-286f
Sec. 10	<i>from passage</i>	54-142s(d)
Sec. 11	<i>October 1, 2009</i>	53a-172
Sec. 12	<i>October 1, 2009</i>	53a-173

Sec. 13	<i>October 1, 2009</i>	53a-70(a)
Sec. 14	<i>October 1, 2009</i>	53a-70(b)
Sec. 15	<i>October 1, 2009</i>	54-85a
Sec. 16	<i>October 1, 2009</i>	51-237
Sec. 17	<i>October 1, 2009</i>	53a-137
Sec. 18	<i>October 1, 2009</i>	54-761(b)

***Statement of Purpose:***

To fully integrate juvenile prosecutors into the Division of Criminal Justice, to expedite the provision of sentencing transcripts to the Board of Pardons and Paroles, to limit access by the Division of Public Defender Services to certain information in the state-wide criminal justice information technology system, to revise the elements of the crime of failure to appear, to facilitate the prosecution of sexual assault cases involving child victims, to provide for judicial discretion in the sentencing of teenagers in certain sexual assault cases, to revise the penalty for failing to appear for jury duty and the agency responsible for enforcing such violation, to facilitate the investigation and prosecution of forgery and to make youthful offender records available to law enforcement and prosecutorial officials conducting criminal investigations.

*[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.]*