



General Assembly

Substitute Bill No. 6664

January Session, 2009

* HB06664JUD 040309 *

**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14 repealed and the following is substituted in lieu thereof (*Effective July*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 (g) of section 46b-133e of the general statutes is
163 repealed and the following is substituted in lieu thereof (*Effective July*
164 *1, 2009*):

165 (g) If the court, on motion of the child or on its own motion, finds
166 that the child has satisfactorily completed the school violence
167 prevention program and has complied with all other conditions of
168 suspension, and one year has elapsed since the child was placed in
169 such program, it may dismiss the charge for which the delinquency
170 proceedings had been suspended. If the court denies the motion and
171 terminates the suspension of the delinquency proceedings, the
172 [juvenile prosecutor] prosecutorial official may proceed with such
173 proceedings.

174 Sec. 9. Subsection (a) of section 51-285 of the general statutes is
175 repealed and the following is substituted in lieu thereof (*Effective July*
176 *1, 2009*):

177 (a) The Chief State's Attorney may appoint special assistant state's
178 attorneys, special deputy assistant state's attorneys [, special juvenile

179 prosecutors] and special inspectors on a contractual basis for a
180 temporary period of time.

181 Sec. 10. Section 51-286f of the general statutes is repealed and the
182 following is substituted in lieu thereof (*Effective July 1, 2009*):

183 The prosecuting official in a criminal proceeding shall request on
184 the record that a transcript be prepared of any sentencing hearing at
185 which a defendant is sentenced to a definite, nonsuspended sentence
186 of more than two years imprisonment. [and shall cause a copy of such
187 transcript to be delivered] The Chief Court Administrator shall
188 provide, in a format prescribed by the Chief Court Administrator, any
189 such transcript to the Board of Pardons and Paroles.

190 Sec. 11. Subsection (d) of section 54-142s of the general statutes is
191 repealed and the following is substituted in lieu thereof (*Effective from*
192 *passage*):

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

196 (1) Access to all state and local police reports, presentence
197 investigations and reports, psychological and medical reports, criminal
198 records, incarceration and parole records, and court records and
199 transcripts, whether such records and documents normally exist in
200 electronic or hard copy form, except that access to state and local police
201 reports and witness statements by the Division of Public Defender
202 Services shall be barred unless authorized by a prosecutorial official;
203 and

204 (2) Access to scanning and processing facilities to ensure that such
205 records and documents are integrated into the system and updated
206 immediately.

207 Sec. 12. Section 53a-172 of the general statutes is repealed and the
208 following is substituted in lieu thereof (*Effective October 1, 2009*):

209 (a) A person is guilty of failure to appear in the first degree when (1)
210 while charged with the commission of a felony and while out on bail
211 or released under other procedure of law, [he] such person wilfully
212 fails to appear when legally called according to the terms of [his] such
213 person's bail bond or promise to appear, or (2) while on probation for
214 conviction of a felony, [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 first degree is a class D felony.

218 Sec. 13. Section 53a-173 of the general statutes is repealed and the
219 following is substituted in lieu thereof (*Effective October 1, 2009*):

220 (a) A person is guilty of failure to appear in the second degree when
221 (1) while charged with the commission of a misdemeanor or a motor
222 vehicle violation for which a sentence to a term of imprisonment may
223 be imposed and while out on bail or released under other procedure of
224 law, [he] such person wilfully fails to appear when legally called
225 according to the terms of [his] such person's bail bond or promise to
226 appear, or (2) while on probation for conviction of a misdemeanor or
227 motor vehicle violation, [he] such person wilfully fails to appear when
228 legally called for [a violation of probation hearing] any court hearing
229 relating to a violation of such probation.

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

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

234 (a) A person is guilty of sexual assault in the first degree when such
235 person (1) compels another person to engage in sexual intercourse by
236 the use of force against such other person or a third person, or by the
237 threat of use of force against such other person or against a third
238 person which reasonably causes such person to fear physical injury to
239 such person or a third person, or (2) engages in sexual intercourse with

240 another person and such other person is ten years of age or older but
241 under thirteen years of age and the actor is more than two years older
242 than such person, or (3) commits sexual assault in the second degree as
243 provided in section 53a-71 and in the commission of such offense is
244 aided by two or more other persons actually present, or (4) engages in
245 sexual intercourse with another person and such other person is
246 mentally incapacitated to the extent that such other person is unable to
247 consent to such sexual intercourse; or (5) engages in sexual intercourse
248 with another person and such other person is under ten years of age
249 and the actor is more than two years older than such person.

250 Sec. 15. Subsection (b) of section 53a-70 of the general statutes is
251 repealed and the following is substituted in lieu thereof (*Effective*
252 *October 1, 2009*):

253 (b) (1) Except as provided in subdivision (2) of this subsection,
254 sexual assault in the first degree is a class B felony for which two years
255 of the sentence imposed may not be suspended or reduced by the
256 court or, if the victim of the offense is under ten years of age, for which
257 ten years of the sentence imposed may not be suspended or reduced
258 by the court.

259 (2) Sexual assault in the first degree is a class A felony if the offense
260 is a violation of subdivision (1) of subsection (a) of this section and the
261 victim of the offense is under sixteen years of age or the offense is a
262 violation of subdivision (2) of subsection (a) of this section. Any person
263 found guilty under said subdivision (1) or (2) shall be sentenced to a
264 term of imprisonment of which ten years of the sentence imposed may
265 not be suspended or reduced by the court if the victim is under ten
266 years of age or of which five years of the sentence imposed may not be
267 suspended or reduced by the court if the victim is under sixteen years
268 of age.

269 (3) Any person found guilty under this section shall be sentenced to
270 a term of imprisonment and a period of special parole pursuant to
271 subsection (b) of section 53a-28 which together constitute a sentence of

272 at least ten years.

273 (4) Notwithstanding the provisions of this subsection concerning the
274 imposition of a mandatory minimum sentence, the court may suspend
275 the execution of such mandatory minimum sentence if at the time of
276 the commission of the offense (1) such person was under eighteen
277 years of age, or (2) such person's mental capacity was significantly
278 impaired but not so impaired as to constitute a defense to prosecution.

279 Sec. 16. Section 54-85a of the general statutes is repealed and the
280 following is substituted in lieu thereof (*Effective October 1, 2009*):

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

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

292 Sec. 17. Section 51-237 of the general statutes is repealed and the
293 following is substituted in lieu thereof (*Effective October 1, 2009*):

294 Each juror, duly chosen, drawn and summoned, who fails to appear
295 shall [have committed an infraction] be subject to a civil penalty, the
296 amount of which shall be established by the judges of the superior
297 court, but the court may excuse [him] such juror from the payment
298 thereof. If a sufficient number of the jurors summoned do not appear,
299 or if for any cause there is not a sufficient number of jurors to make up
300 the panel, the court may order such number of persons who qualify for
301 jury service under section 51-217 to be summoned as may be
302 necessary, as talesmen, and any talesman so summoned who makes

303 default of appearance without sufficient cause shall [have committed
304 an infraction] be subject to a civil penalty, the amount of which shall be
305 established by the judges of the superior court.

306 Sec. 18. Section 53a-137 of the general statutes is repealed and the
307 following is substituted in lieu thereof (*Effective October 1, 2009*):

308 The following definitions are applicable to this part:

309 (1) "Written instrument" means any instrument or article containing
310 written or printed matter or the equivalent thereof, used for the
311 purpose of reciting, embodying, conveying or recording information
312 or constituting a symbol or evidence of value, right, privilege or
313 identification, which is capable of being used to the advantage or
314 disadvantage of some person.

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

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

325 (4) A person "falsely makes" a written instrument when [he] (A)
326 such person makes or draws a complete written instrument in its
327 entirety, or an incomplete written instrument, which purports to be an
328 authentic creation of its ostensible maker or drawer, but which is not
329 such either because the ostensible maker or drawer is fictitious or
330 because, if real, [he] the ostensible maker or drawer did not authorize
331 the making or drawing thereof, or (B) such person signs his or her own
332 name to a written instrument, thereby falsely and fraudulently
333 representing that he or she has authority to sign in such capacity.

334 (5) A person "falsely completes" a written instrument when (A) such
335 person, by adding, inserting or changing matter, [he] transforms an
336 incomplete written instrument into a complete [one] written
337 instrument, without the authority of [anyone] any person entitled to
338 grant it, so that such complete written instrument appears or purports
339 to be in all respects an authentic creation of or fully authorized by its
340 ostensible maker or drawer, or (B) such person signs his or her own
341 name to a written instrument, thereby falsely and fraudulently
342 representing that he or she has authority to sign in such capacity.

343 (6) A person "falsely alters" a written instrument when (A) such
344 person, without the authority of [anyone] any person entitled to grant
345 it, [he] changes a written instrument, whether it be in complete or
346 incomplete form, by means of erasure, obliteration, deletion, insertion
347 of new matter [,] or transposition of matter [,] or in any other manner,
348 so that such instrument in its thus altered form appears or purports to
349 be in all respects an authentic creation of or fully authorized by its
350 ostensible maker or drawer, or (B) such person signs his or her own
351 name to a written instrument, thereby falsely and fraudulently
352 representing that he or she has authority to sign in such capacity.

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

355 Sec. 19. Subsection (b) of section 54-76l of the general statutes is
356 repealed and the following is substituted in lieu thereof (*Effective*
357 *October 1, 2009*):

358 (b) The records of any such youth, or any part thereof, may be
359 disclosed to and between individuals and agencies, and employees of
360 such agencies, providing services directly to the youth, including law
361 enforcement officials, state and federal prosecutorial officials, school
362 officials in accordance with section 10-233h, court officials, the Division
363 of Criminal Justice, the Court Support Services Division and an
364 advocate appointed pursuant to section 54-221 for a victim of a crime
365 committed by the youth. Such records shall also be available to the

366 attorney representing the youth, in any proceedings in which such
 367 records are relevant, to the parents or guardian of such youth, until
 368 such time as the youth reaches the age of majority or is emancipated,
 369 and to the youth upon his or her emancipation or attainment of the age
 370 of majority, provided proof of the identity of such youth is submitted
 371 in accordance with guidelines prescribed by the Chief Court
 372 Administrator. Such records shall also be available to members and
 373 employees of the Board of Pardons and Paroles and employees of the
 374 Department of Correction who, in the performance of their duties,
 375 require access to such records, provided the subject of the record has
 376 been adjudged a youthful offender and sentenced to a term of
 377 imprisonment or been convicted of a crime in the regular criminal
 378 docket of the Superior Court, and such records are relevant to the
 379 performance of a risk and needs assessment of such person while such
 380 person is incarcerated, the determination of such person's suitability
 381 for release from incarceration or for a pardon, or the determination of
 382 the supervision and treatment needs of such person while on parole or
 383 other supervised release. Such records shall also be available to law
 384 enforcement officials and prosecutorial officials conducting legitimate
 385 criminal investigations. Such records disclosed pursuant to this
 386 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>	46b-133e(g)
Sec. 9	<i>July 1, 2009</i>	51-285(a)
Sec. 10	<i>July 1, 2009</i>	51-286f
Sec. 11	<i>from passage</i>	54-142s(d)
Sec. 12	<i>October 1, 2009</i>	53a-172

Sec. 13	<i>October 1, 2009</i>	53a-173
Sec. 14	<i>October 1, 2009</i>	53a-70(a)
Sec. 15	<i>October 1, 2009</i>	53a-70(b)
Sec. 16	<i>October 1, 2009</i>	54-85a
Sec. 17	<i>October 1, 2009</i>	51-237
Sec. 18	<i>October 1, 2009</i>	53a-137
Sec. 19	<i>October 1, 2009</i>	54-761(b)

Statement of Legislative Commissioners:

Section 8 was added to make a conforming change.

JUD *Joint Favorable Subst.*