



House of Representatives

General Assembly

File No. 484

February Session, 2010

Substitute House Bill No. 5522

House of Representatives, April 13, 2010

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING JUVENILE MATTERS.

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

1 Section 1. Subsection (c) of section 46b-129 of the 2010 supplement
2 to the general statutes, as amended by section 4 of public act 09-194, is
3 repealed and the following is substituted in lieu thereof (*Effective*
4 *October 1, 2010*):

5 (c) The preliminary hearing on the order of temporary custody or
6 order to appear or the first hearing on a petition filed pursuant to
7 subsection (a) of this section shall be held in order for the court to: (1)
8 Advise the parent or guardian of the allegations contained in all
9 petitions and applications that are the subject of the hearing and the
10 parent's or guardian's right to counsel pursuant to subsection (b) of
11 section 46b-135; (2) assure that an attorney, and where appropriate, a
12 separate guardian ad litem has been appointed to represent the child
13 or youth in accordance with subsection (b) of section 46b-123e and
14 sections 46b-129a, as amended by this act, and 46b-136; (3) upon
15 request, appoint an attorney to represent the respondent when the

16 respondent is unable to afford representation, in accordance with
17 subsection (b) of section 46b-123e; (4) advise the parent or guardian of
18 the right to a hearing on the petitions and applications, to be held not
19 later than ten days after the date of the preliminary hearing if the
20 hearing is pursuant to an order of temporary custody or an order to
21 show cause; (5) accept a plea regarding the truth of such allegations;
22 (6) make any interim orders, including visitation, that the court
23 determines are in the best interests of the child or youth. The court,
24 after a hearing pursuant to this subsection, shall order specific steps
25 the commissioner and the parent or guardian shall take for the parent
26 or guardian to regain or to retain custody of the child or youth; (7) take
27 steps to determine the identity of the father of the child or youth,
28 including ordering genetic testing, if necessary, and order service of
29 the petition and notice of the hearing date, if any, to be made upon
30 him; (8) if the person named as the father appears, and admits that he
31 is the father, provide him and the mother with the notices that comply
32 with section 17b-27 and provide them with the opportunity to sign a
33 paternity acknowledgment and affirmation on forms that comply with
34 section 17b-27. Such documents shall be executed and filed in
35 accordance with chapter 815y and a copy delivered to the clerk of the
36 superior court for juvenile matters; (9) in the event that the person
37 named as a father appears and denies that he is the father of the child
38 or youth, advise him that he may have no further standing in any
39 proceeding concerning the child, and either order genetic testing to
40 determine paternity or direct him to execute a written denial of
41 paternity on a form promulgated by the Office of the Chief Court
42 Administrator. Upon execution of such a form by the putative father,
43 the court may remove him from the case and afford him no further
44 standing in the case or in any subsequent proceeding regarding the
45 child or youth until such time as paternity is established by formal
46 acknowledgment or adjudication in a court of competent jurisdiction;
47 (10) identify any person or persons related to the child or youth by
48 blood or marriage residing in this state who might serve as licensed
49 foster parents or temporary custodians and order the Commissioner of
50 Children and Families to investigate and [determine] report to the

51 court, not later than thirty days after the preliminary hearing, the
52 appropriateness of placement of the child or youth with such relative
53 or relatives; and (11) in accordance with the provisions of the Interstate
54 Compact on the Placement of Children pursuant to section 17a-175,
55 identify any person or persons related to the child or youth by blood or
56 marriage residing out of state who might serve as licensed foster
57 parents or temporary custodians, and order the Commissioner of
58 Children and Families to investigate and determine, within a
59 reasonable time, the appropriateness of placement of the child or
60 youth with such relative or relatives.

61 Sec. 2. Section 46b-129 of the 2010 supplement to the general
62 statutes, as amended by section 4 of public act 09-194, is amended by
63 adding subsection (s) as follows (*Effective October 1, 2010*):

64 (NEW) (s) Counsel for the child or youth shall have access to the
65 child's or youth's medical, dental, mental health and other health care
66 records, school and educational records, and shall have the right to
67 interview school personnel, caretakers, health care providers, mental
68 health professionals and other persons who have assessed the child or
69 youth or provided care to the child or youth. The release of such
70 records to counsel and such interviews shall not constitute a waiver of
71 confidentiality of the records and any disclosed communications.
72 Counsel for the child or youth shall have the right to assert or waive
73 any privilege on behalf of the child or youth.

74 Sec. 3. Subsection (b) of section 46b-124 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2010*):

77 (b) All records of cases of juvenile matters, as provided in section
78 46b-121, except delinquency proceedings, or any part thereof, and all
79 records of appeals from probate brought to the superior court for
80 juvenile matters pursuant to subsection (b) of section 45a-186, shall be
81 confidential and for the use of the court in juvenile matters, and open
82 to inspection or disclosure to any third party, including bona fide
83 researchers commissioned by a state agency, only upon order of the

84 Superior Court, except that: (1) The records concerning any matter
85 transferred from a court of probate pursuant to section 45a-623 or
86 subsection (g) of section 45a-715 or any appeal from probate to the
87 superior court for juvenile matters pursuant to subsection (b) of section
88 45a-186 shall be available to the court of probate from which such
89 matter was transferred or from which such appeal was taken; (2) such
90 records shall be available to (A) the attorney representing the child or
91 youth, including the Division of Public Defender Services, in any
92 proceeding in which such records are relevant, (B) the parents or
93 guardian of the child or youth until such time as the child or youth
94 reaches the age of majority or becomes emancipated, (C) an adult
95 adopted person in accordance with the provisions of sections 45a-736,
96 45a-737 and 45a-743 to 45a-757, inclusive, (D) employees of the
97 Division of Criminal Justice who in the performance of their duties
98 require access to such records, (E) employees of the Judicial Branch
99 who in the performance of their duties require access to such records,
100 (F) another court under the provisions of subsection (d) of section 46b-
101 115j, (G) the subject of the record, upon submission of satisfactory
102 proof of the subject's identity, pursuant to guidelines prescribed by the
103 Office of the Chief Court Administrator, provided the subject has
104 reached the age of majority or has been emancipated, (H) the
105 Department of Children and Families, and (I) the employees of the
106 Commission on Child Protection who in the performance of their
107 duties require access to such records; and (3) all or part of the records
108 concerning a youth in crisis with respect to whom a court order was
109 issued prior to January 1, 2010, may be made available to the
110 Department of Motor Vehicles, provided such records are relevant to
111 such order. Any records of cases of juvenile matters, or any part
112 thereof, provided to any persons, governmental and private agencies,
113 and institutions pursuant to this section shall not be disclosed, directly
114 or indirectly, to any third party not specified in subsection (d) of this
115 section, except as provided by court order or in the report required
116 under section 54-76d or 54-91a. Psychiatric or psychological reports
117 resulting from an examination ordered by the court in such juvenile
118 matter shall be retained in the possession of a court officer.

119 Sec. 4. Section 46b-129a of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective October 1, 2010*):

121 In proceedings in the Superior Court under section 46b-129, as
122 amended by this act: (1) The court may order the child, the parents, the
123 guardian, or other persons accused by a competent witness with
124 abusing the child, to be examined by one or more competent
125 physicians, psychiatrists or psychologists appointed by the court,
126 provided psychiatric or psychological reports resulting from such
127 examination shall be retained in the possession of a court officer and
128 shall be confidential and open to inspection or disclosure to any third
129 party only upon order of the Superior Court; (2) a child shall be
130 represented by counsel knowledgeable about representing such
131 children who shall be appointed by the court to represent the child and
132 to act as guardian ad litem for the child. The primary role of any
133 counsel for the child, including the counsel who also serves as
134 guardian ad litem, shall be to advocate for the child in accordance with
135 the Rules of Professional Conduct. When a conflict arises between the
136 child's wishes or position and that which counsel for the child believes
137 is in the best [interest] interests of the child, the court shall appoint
138 another person as guardian ad litem for the child. The guardian ad
139 litem shall speak on behalf of the best [interest] interests of the child
140 and is not required to be an attorney-at-law but shall be
141 knowledgeable about the needs and protection of children. In the
142 event that a separate guardian ad litem is appointed, the person
143 previously serving as both counsel and guardian ad litem for the child
144 shall continue to serve as counsel for the child and a different person
145 shall be appointed as guardian ad litem, unless the court for good
146 cause also appoints a different person as counsel for the child. No
147 person who has served as both counsel and guardian ad litem for a
148 child shall thereafter serve solely as the child's guardian ad litem. The
149 counsel and guardian ad litem's fees, if any, shall be paid by the
150 parents or guardian, or the estate of the child, or, if such persons are
151 unable to pay, by the court; (3) the privilege against the disclosure of
152 communications between husband and wife shall be inapplicable and
153 either may testify as to any relevant matter; and (4) evidence that the

154 child has been abused or has sustained a nonaccidental injury shall
155 constitute prima facie evidence that shall be sufficient to support an
156 adjudication that such child is uncared for or neglected.

157 Sec. 5. Section 46b-134 of the general statutes is repealed and the
158 following is substituted in lieu thereof (*Effective October 1, 2010*):

159 Prior to the disposition of the case of any child convicted of a
160 delinquent act, investigation shall be made of the facts as specified in
161 this section by the probation officer, and until such investigation has
162 been completed and the results thereof placed before the judge, no
163 disposition of the child's case shall be made. Such investigation shall
164 consist of an examination of the parentage and surroundings of the
165 child and the child's age, habits and history, and shall include also an
166 inquiry into the home conditions, habits and character of the child's
167 parents or guardians. Such investigation shall include an inquiry into
168 the circumstances of the offense, the attitude of the complainant or
169 victim, the criminal record, the present condition of the child and any
170 damages suffered by the victim including medical expenses, loss of
171 earnings and property loss. If the child is or legally should be in
172 attendance at school, such investigation shall further contain a report
173 of the child's school attendance, adjustment and behavior, the child's
174 individualized education program if the child has been identified
175 pursuant to sections 10-76a to 10-76gg, inclusive, as requiring special
176 education and related services and any recommendations from school
177 officials on conditions of probation if the child is placed on probation
178 pursuant to section 46b-140, which shall be furnished by the school
179 officials to the court upon its request. The court shall, when it is found
180 necessary to the disposition, cause a complete physical or mental
181 examination, or both, to be made of the child by persons professionally
182 qualified to do so. Such examination may include testing to determine
183 whether the child is alcohol-dependent or drug-dependent as defined
184 in section 46b-120, as amended by this act. If the court causes a
185 complete physical or mental examination, or both, to be made of a
186 child whose parents, guardian or custodian is found able to pay in
187 whole or in part the cost thereof, it shall assess as costs against such

188 parents, guardian or custodian, including any agency vested with the
189 legal custody of the child, the expense so incurred and paid for by the
190 court in having such examination performed, to the extent of their
191 financial ability to do so. Prior to the disposition of the case of any
192 child convicted of a delinquent act, the court may cause a complete
193 diagnostic examination to be made, unless such information is
194 otherwise available. Such information shall include physical and
195 psychological diagnoses and may include medical, psychiatric,
196 neurological, learning disability diagnoses and such other diagnoses as
197 the court deems necessary. If such child is committed to the
198 Department of Children and Families, such information shall be
199 shared with the Department of Children and Families. Psychiatric or
200 psychological reports resulting from such examination shall be
201 retained in the possession of a court officer and shall be confidential
202 and open to inspection or disclosure to any third party only upon
203 order of the Superior Court.

204 Sec. 6. Section 53a-171 of the general statutes is repealed and the
205 following is substituted in lieu thereof (*Effective October 1, 2010*):

206 (a) A person is guilty of escape from custody if such person (1)
207 escapes from custody, or (2) has been convicted as delinquent, has
208 been committed to the Department of Children and Families, and (A)
209 fails to return from a leave authorized under section 17a-8a, or (B)
210 escapes from [a state or private facility or institution in which such
211 person has been assigned or placed by the Commissioner of Children
212 and Families] the Connecticut Juvenile Training School.

213 (b) If a person has been arrested for, charged with or convicted of a
214 felony, escape from such custody is a class C felony, otherwise, escape
215 from custody is a class A misdemeanor.

216 Sec. 7. Section 46b-120 of the 2010 supplement to the general statutes
217 is repealed and the following is substituted in lieu thereof (*Effective*
218 *from passage*):

219 The terms used in this chapter shall, in its interpretation and in the

220 interpretation of other statutes, be defined as follows:

221 (1) "Child" means any person under [sixteen] eighteen years of age
222 who has not been legally emancipated, except that (A) for purposes of
223 delinquency matters and proceedings, "child" means any person (i)
224 under seventeen years of age who has not been legally emancipated, or
225 (ii) seventeen years of age or older who, prior to attaining seventeen
226 years of age, has committed a delinquent act [and] or, subsequent to
227 attaining seventeen years of age, (I) violates any order of the Superior
228 Court or any condition of probation ordered by the Superior Court
229 with respect to [such] a delinquency proceeding, or (II) wilfully fails to
230 appear in response to a summons under section 46b-133, as amended
231 by this act, [with respect to such delinquency proceeding] or at any
232 other court hearing in a delinquency proceeding of which the child
233 had notice, and (B) for purposes of family with service needs matters
234 and proceedings, child means a person under seventeen years of age;

235 (2) (A) "Youth" means any person sixteen or seventeen years of age
236 who has not been legally emancipated, and (B) "youth in crisis" means
237 any person seventeen years of age who has not been legally
238 emancipated and who, within the last two years, (i) has without just
239 cause run away from the parental home or other properly authorized
240 and lawful place of abode, (ii) is beyond the control of the youth's
241 parents, guardian or other custodian, or (iii) has four unexcused
242 absences from school in any one month or ten unexcused absences in
243 any school year;

244 (3) "Abused" means that a child or youth (A) has been inflicted with
245 physical injury or injuries other than by accidental means, (B) has
246 injuries that are at variance with the history given of them, or (C) is in
247 a condition that is the result of maltreatment, including, but not
248 limited to, malnutrition, sexual molestation or exploitation,
249 deprivation of necessities, emotional maltreatment or cruel
250 punishment;

251 (4) A child may be found "mentally deficient" who, by reason of a
252 deficiency of intelligence that has existed from birth or from early age,

253 requires, or will require, for such child's protection or for the
254 protection of others, special care, supervision and control;

255 (5) (A) A child may be convicted as "delinquent" who has, [(i)] while
256 under sixteen years of age, (i) violated any federal or state law, except
257 section 53a-172 or 53a-173, or violated a municipal or local ordinance,
258 except an ordinance regulating behavior of a child in a family with
259 service needs, (ii) wilfully failed to appear in response to a summons
260 under section 46b-133, as amended by this act, or at any other court
261 hearing in a delinquency proceeding of which the child had notice, (iii)
262 violated any order of the Superior Court in a delinquency proceeding,
263 except as provided in section 46b-148, or (iv) violated conditions of
264 probation in a delinquency proceeding as ordered by the court;

265 (B) A child may be convicted as "delinquent" who has (i) while
266 sixteen years of age, violated any federal or state law, other than (I) an
267 infraction, (II) a violation, (III) a motor vehicle offense or violation [as
268 defined in chapter 248, or] under title 14, (IV) a violation of a
269 municipal or local ordinance, or (V) a violation of section 51-164r, 53a-
270 172 or 53a-173, (ii) while sixteen years of age or older wilfully failed to
271 appear in response to a summons under section 46b-133, as amended
272 by this act, or at any other court hearing in a delinquency proceeding
273 of which the child had notice, (iii) while sixteen years of age or older,
274 violated any order of the Superior Court in a delinquency proceeding,
275 except as provided in section 46b-148, or (iv) while sixteen years of age
276 or older, violated conditions of probation in a delinquency proceeding
277 as ordered by the court;

278 (6) A child or youth may be found "dependent" whose home is a
279 suitable one for the child or youth, except for the financial inability of
280 the child's or youth's parents, parent or guardian, or other person
281 maintaining such home, to provide the specialized care the condition
282 of the child or youth requires;

283 (7) "Family with service needs" means a family that includes a child
284 [or a youth sixteen] under seventeen years of age who (A) has without
285 just cause run away from the parental home or other properly

286 authorized and lawful place of abode, (B) is beyond the control of the
287 child's or youth's parent, parents, guardian or other custodian, (C) has
288 engaged in indecent or immoral conduct, (D) is a truant or habitual
289 truant or who, while in school, has been continuously and overtly
290 defiant of school rules and regulations, or (E) is thirteen years of age or
291 older and has engaged in sexual intercourse with another person and
292 such other person is thirteen years of age or older and not more than
293 two years older or younger than such child or youth;

294 (8) A child or youth may be found "neglected" who (A) has been
295 abandoned, (B) is being denied proper care and attention, physically,
296 educationally, emotionally or morally, (C) is being permitted to live
297 under conditions, circumstances or associations injurious to the
298 well-being of the child or youth, or (D) has been abused;

299 (9) A child or youth may be found "uncared for" who is homeless or
300 whose home cannot provide the specialized care that the physical,
301 emotional or mental condition of the child or youth requires. For the
302 purposes of this section, the treatment of any child or youth by an
303 accredited Christian Science practitioner, in lieu of treatment by a
304 licensed practitioner of the healing arts, shall not of itself constitute
305 neglect or maltreatment;

306 (10) "Delinquent act" means (A) the violation by a child under the
307 age of sixteen of any federal or state law, except the violation of section
308 53a-172 or 53a-173, or the violation of a municipal or local ordinance,
309 except an ordinance regulating behavior of a child in a family with
310 service needs, (B) the violation by a child sixteen years of age of any
311 federal or state law, other than (i) an infraction, (ii) a violation, (iii) a
312 motor vehicle offense or violation under [chapter 248, or] title 14, (iv)
313 [a] the violation of a municipal or local ordinance, or (v) the violation
314 of section 51-164r, 53a-172 or 53a-173, (C) the wilful failure of a child,
315 including a child who has attained the age of seventeen or older, to
316 appear in response to a summons under section 46b-133, as amended
317 by this act, or at any other court hearing in a delinquency proceeding
318 of which the child has notice, (D) the violation of any order of the

319 Superior Court in a delinquency proceeding by a child, including a
320 child who has attained the age of seventeen or older, except as
321 provided in section 46b-148, or (E) the violation of conditions of
322 probation in a delinquency proceeding by a child, including a child
323 who has attained the age of seventeen or older, as ordered by the
324 court;

325 (11) "Serious juvenile offense" means (A) the violation of, including
326 attempt or conspiracy to violate, [(i)] section 21a-277, 21a-278, 29-33,
327 29-34, 29-35, subdivision (2) or (3) of subsection (a) of section 53-21,
328 53-80a, 53-202b, 53-202c, 53-390 to 53-392, inclusive, 53a-54a to [53a-
329 56a] 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, 53a-70 to 53a-71,
330 inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a, inclusive, 53a-95, 53a-101,
331 53a-102a, 53a-103a or 53a-111 to 53a-113, inclusive, subdivision (1) of
332 subsection (a) of section 53a-122, subdivision (3) of subsection (a) of
333 section 53a-123, section 53a-134, 53a-135, 53a-136a [, 53a-166] or
334 53a-167c, subsection (a) of section 53a-174, or section 53a-196a, 53a-211,
335 53a-212, 53a-216 or 53a-217b, [by a child, or (ii) section 53a-56b or 53a-
336 57 by a child under sixteen years of age,] or (B) running away, without
337 just cause, from any secure placement other than home while referred
338 as a delinquent child to the Court Support Services Division or
339 committed as a delinquent child to the Commissioner of Children and
340 Families for a serious juvenile offense;

341 (12) "Serious juvenile offender" means any child convicted as
342 delinquent for the commission of a serious juvenile offense;

343 (13) "Serious juvenile repeat offender" means any child charged
344 with the commission of any felony if such child has previously been
345 convicted as delinquent or otherwise convicted at any age for two
346 violations of any provision of title 21a, 29, 53 or 53a that is designated
347 as a felony;

348 (14) "Alcohol-dependent" means a psychoactive substance
349 dependence on alcohol as that condition is defined in the most recent
350 edition of the American Psychiatric Association's "Diagnostic and
351 Statistical Manual of Mental Disorders"; and

352 (15) "Drug-dependent" means a psychoactive substance dependence
353 on drugs as that condition is defined in the most recent edition of the
354 American Psychiatric Association's "Diagnostic and Statistical Manual
355 of Mental Disorders". No child shall be classified as drug-dependent
356 who is dependent (A) upon a morphine-type substance as an incident
357 to current medical treatment of a demonstrable physical disorder other
358 than drug dependence, or (B) upon amphetamine-type, ataractic,
359 barbiturate-type, hallucinogenic or other stimulant and depressant
360 substances as an incident to current medical treatment of a
361 demonstrable physical or psychological disorder, or both, other than
362 drug dependence.

363 Sec. 8. Section 46b-124 of the general statutes is amended by adding
364 subsection (k) as follows (*Effective July 1, 2010*):

365 (NEW) (k) Records of cases of juvenile matters involving
366 delinquency proceedings, or any part thereof, containing information
367 that a child has been convicted as delinquent for a violation of
368 subdivision (e) of section 1-1h, subsection (c) of section 14-147,
369 subsection (a) of section 14-215, section 14-222, subsection (b) of section
370 14-223, subsection (b) or (c) of section 14-224, section 30-88a or
371 subsection (b) of section 30-89, shall be disclosed to the Department of
372 Motor Vehicles for administrative use in determining whether
373 administrative sanctions regarding such child's motor vehicle
374 operator's license are warranted. Records disclosed pursuant to this
375 subsection shall not be further disclosed.

376 Sec. 9. Section 46b-127 of the 2010 supplement to the general statutes
377 is amended by adding subsection (f) as follows (*Effective July 1, 2010*):

378 (NEW) (f) Upon the motion of any party or upon the court's own
379 motion, the case of any youth age sixteen, except a case that has been
380 transferred to the regular criminal docket of the Superior Court
381 pursuant to subsection (a) or (b) of this section, which is pending on
382 the youthful offender docket, regular criminal docket of the Superior
383 Court or any docket for the presentment of defendants in motor
384 vehicle matters, where the youth is charged with committing any

385 offense or violation for which a term of imprisonment may be
386 imposed, other than a violation of section 14-227a or 14-227g, may,
387 before trial or before the entry of a guilty plea, be transferred to the
388 docket for juvenile matters if (1) the youth is alleged to have
389 committed such offense or violation on or after January 1, 2010, and (2)
390 after a hearing considering the facts and circumstances of the case and
391 the prior history of the youth, the court determines that the programs
392 and services available pursuant to a proceeding in the superior court
393 for juvenile matters would more appropriately address the needs of
394 the youth and that the youth and the community would be better
395 served by treating the youth as a delinquent. Upon ordering such
396 transfer, the court shall vacate any pleas entered in the matter and
397 advise the youth of the youth's rights, and the youth shall (A) enter
398 pleas on the docket for juvenile matters in the jurisdiction where the
399 youth resides, and (B) be subject to prosecution as a delinquent child.
400 The decision of the court concerning the transfer of a youth's case from
401 the youthful offender docket, regular criminal docket of the Superior
402 Court or any docket for the presentment of defendants in motor
403 vehicle matters shall not be a final judgment for purposes of appeal.

404 Sec. 10. Subsection (d) of section 46b-133 of the 2010 supplement to
405 the general statutes is repealed and the following is substituted in lieu
406 thereof (*Effective July 1, 2010*):

407 (d) The court or detention supervisor may turn such child over to a
408 youth service program created for such purpose, if such course is
409 practicable, or such child may be detained pending a hearing which
410 shall be held on the business day next following the child's arrest. No
411 child shall be detained after such hearing or held in detention pursuant
412 to a court order unless it appears from the available facts that there is
413 probable cause to believe that the child has committed the acts alleged,
414 there is no less restrictive alternative available and that there is (1) a
415 strong probability that the child will run away prior to the court
416 hearing or disposition, (2) a strong probability that the child will
417 commit or attempt to commit other offenses injurious to the child or to
418 the community prior to the court disposition, (3) probable cause to

419 believe that the child's continued residence in the child's home
420 pending disposition poses a risk to the child or the community because
421 of the serious and dangerous nature of the act or acts the child is
422 alleged to have committed, (4) a need to hold the child for another
423 jurisdiction, (5) a need to hold the child to assure the child's
424 appearance before the court, in view of the child's previous failure to
425 respond to the court process, or (6) the child has violated one or more
426 of the conditions of a suspended detention order. Such probable cause
427 may be shown by sworn affidavit in lieu of testimony. No child shall
428 be released from detention who is alleged to have committed a serious
429 juvenile offense except by order of a judge of the Superior Court. Any
430 child confined in a community correctional center or lockup shall be
431 held in an area separate and apart, with sight and sound separation,
432 from any adult detainee, except in the case of a nursing infant, and no
433 child shall at any time be held in solitary confinement. When a female
434 child is held in custody, she shall, as far as possible, be in the charge of
435 a woman attendant.

436 Sec. 11. Section 46b-137 of the 2010 supplement to the general
437 statutes is repealed and the following is substituted in lieu thereof
438 (*Effective July 1, 2010*):

439 (a) Any admission, confession or statement, written or oral, made by
440 a child under the age of sixteen to a police officer or Juvenile Court
441 official shall be inadmissible in any proceeding concerning the alleged
442 delinquency of the child making such admission, confession or
443 statement unless made by such child in the presence of the child's
444 parent or parents or guardian and after the parent or parents or
445 guardian and child have been advised (1) of the child's right to retain
446 counsel, or if unable to afford counsel, to have counsel appointed on
447 the child's behalf, (2) of the child's right to refuse to make any
448 statements, and (3) that any statements the child makes may be
449 introduced into evidence against the child.

450 (b) Any admission, confession or statement, written or oral, made
451 by a child sixteen years of age to a police officer or Juvenile Court

452 official, except an admission, confession or statement, written or oral,
453 made by a child sixteen years of age to a police officer in connection
454 with a case transferred to the Juvenile Court from the youthful
455 offender docket, regular criminal docket of the Superior Court or any
456 docket for the presentment of defendants in motor vehicle matters,
457 shall be inadmissible in any proceeding concerning the alleged
458 delinquency of the child making such admission, confession or
459 statement, unless (1) the police or Juvenile Court official has made
460 reasonable efforts to contact a parent or guardian of the child, and (2)
461 such child has been advised that (A) the child has the right to contact a
462 parent or guardian and to have a parent or guardian present during
463 any interview, (B) the child has the right to retain counsel or, if unable
464 to afford counsel, to have counsel appointed on behalf of the child, (C)
465 the child has the right to refuse to make any statement, and (D) any
466 statement the child makes may be introduced into evidence against the
467 child.

468 (c) The admissibility of any admission, confession or statement,
469 written or oral, made by a child sixteen years of age to a police officer
470 or Juvenile Court official, except an admission, confession or
471 statement, written or oral, made by a child sixteen years of age to a
472 police officer in connection with a case transferred to the Juvenile
473 Court from the youthful offender docket, regular criminal docket of
474 the Superior Court or any docket for the presentment of defendants in
475 motor vehicle matters, shall be determined by considering the totality
476 of the circumstances at the time of the making of such admission,
477 confession or statement. When determining the admissibility of such
478 admission, confession or statement, the court shall consider (1) the age,
479 experience, education, background and intelligence of the child, (2) the
480 capacity of the child to understand the advice concerning rights and
481 warnings required under subdivision (2) of subsection (b) of this
482 section, the nature of the privilege against self-incrimination under the
483 United States and Connecticut Constitutions, and the consequences of
484 waiving such rights and privilege, (3) the opportunity the child had to
485 speak with a parent, guardian or some other suitable individual prior
486 to or while making such admission, confession or statement, and (4)

487 the circumstances surrounding the making of the admission,
488 confession or statement, including, but not limited to, (A) when and
489 where the admission, confession or statement was made, (B) the
490 reasonableness of proceeding, or the need to proceed, without a parent
491 or guardian present, and (C) the reasonableness of efforts by the police
492 or Juvenile Court official to attempt to contact a parent or guardian.

493 (d) Any confession, admission or statement, written or oral, made
494 by the parent or parents or guardian of the child or youth after the
495 filing of a petition alleging such child or youth to be neglected,
496 uncared-for or dependent, shall be inadmissible in any proceeding
497 held upon such petition against the person making such admission or
498 statement unless such person shall have been advised of the person's
499 right to retain counsel, and that if the person is unable to afford
500 counsel, counsel will be appointed to represent the person, that the
501 person has a right to refuse to make any statement and that any
502 statements the person makes may be introduced in evidence against
503 the person.

504 Sec. 12. Section 46b-120 of the 2010 supplement to the general
505 statutes, as amended by section 82 of public act 09-7 of the September
506 special session, is repealed and the following is substituted in lieu
507 thereof (*Effective July 1, 2012*):

508 The terms used in this chapter shall, in its interpretation and in the
509 interpretation of other statutes, be defined as follows:

510 (1) "Child" means any person under [~~sixteen~~] eighteen years of age
511 who has not been legally emancipated, except that (A) for purposes of
512 delinquency matters and proceedings, "child" means any person (i)
513 under eighteen years of age who has not been legally emancipated, or
514 (ii) eighteen years of age or older who, prior to attaining eighteen years
515 of age, has committed a delinquent act [~~and~~] or, subsequent to
516 attaining eighteen years of age, (I) violates any order of the Superior
517 Court or any condition of probation ordered by the Superior Court
518 with respect to [~~such~~] a delinquency proceeding, or (II) wilfully fails to
519 appear in response to a summons under section 46b-133, as amended

520 by this act, [with respect to such delinquency proceeding] or at any
521 other court hearing in a delinquency proceeding of which the child
522 had notice, and (B) for purposes of family with service needs matters
523 and proceedings, child means a person under eighteen years of age;

524 (2) "Youth" means any person sixteen or seventeen years of age who
525 has not been legally emancipated;

526 (3) "Abused" means that a child or youth (A) has been inflicted with
527 physical injury or injuries other than by accidental means, (B) has
528 injuries that are at variance with the history given of them, or (C) is in
529 a condition that is the result of maltreatment, including, but not
530 limited to, malnutrition, sexual molestation or exploitation,
531 deprivation of necessities, emotional maltreatment or cruel
532 punishment;

533 (4) A child may be found "mentally deficient" who, by reason of a
534 deficiency of intelligence that has existed from birth or from early age,
535 requires, or will require, for such child's protection or for the
536 protection of others, special care, supervision and control;

537 (5) (A) A child may be convicted as "delinquent" who has, [(i)] while
538 under sixteen years of age, (i) violated any federal or state law, except
539 section 53a-172 or 53a-173, or violated a municipal or local ordinance,
540 except an ordinance regulating behavior of a child in a family with
541 service needs, (ii) wilfully failed to appear in response to a summons
542 under section 46b-133, as amended by this act, or at any other court
543 hearing in a delinquency proceeding of which the child had notice, (iii)
544 violated any order of the Superior Court in a delinquency proceeding,
545 except as provided in section 46b-148, or (iv) violated conditions of
546 probation in a delinquency proceeding as ordered by the court;

547 (B) A child may be convicted as "delinquent" who has (i) while
548 sixteen or seventeen years of age, violated any federal or state law,
549 other than (I) an infraction, (II) a violation, (III) a motor vehicle offense
550 or violation [as defined in chapter 248, or] under title 14, (IV) a
551 violation of a municipal or local ordinance, or (V) a violation of section

552 51-164r, 53a-172 or 53a-173, (ii) while sixteen years of age or older,
553 wilfully failed to appear in response to a summons under section 46b-
554 133, as amended by this act, or at any other court hearing in a
555 delinquency proceeding of which the child had notice, (iii) while
556 sixteen years of age or older, violated any order of the Superior Court
557 in a delinquency proceeding, except as provided in section 46b-148, or
558 (iv) while sixteen years of age or older, violated conditions of
559 probation in a delinquency proceeding as ordered by the court;

560 (6) A child or youth may be found "dependent" whose home is a
561 suitable one for the child or youth, except for the financial inability of
562 the child's or youth's parents, parent or guardian, or other person
563 maintaining such home, to provide the specialized care the condition
564 of the child or youth requires;

565 (7) "Family with service needs" means a family that includes a child
566 [or a youth] under eighteen years of age who (A) has without just
567 cause run away from the parental home or other properly authorized
568 and lawful place of abode, (B) is beyond the control of the child's or
569 youth's parent, parents, guardian or other custodian, (C) has engaged
570 in indecent or immoral conduct, (D) is a truant or habitual truant or
571 who, while in school, has been continuously and overtly defiant of
572 school rules and regulations, or (E) is thirteen years of age or older and
573 has engaged in sexual intercourse with another person and such other
574 person is thirteen years of age or older and not more than two years
575 older or younger than such child or youth;

576 (8) A child or youth may be found "neglected" who (A) has been
577 abandoned, (B) is being denied proper care and attention, physically,
578 educationally, emotionally or morally, (C) is being permitted to live
579 under conditions, circumstances or associations injurious to the
580 well-being of the child or youth, or (D) has been abused;

581 (9) A child or youth may be found "uncared for" who is homeless or
582 whose home cannot provide the specialized care that the physical,
583 emotional or mental condition of the child or youth requires. For the
584 purposes of this section, the treatment of any child or youth by an

585 accredited Christian Science practitioner, in lieu of treatment by a
586 licensed practitioner of the healing arts, shall not of itself constitute
587 neglect or maltreatment;

588 (10) "Delinquent act" means (A) the violation by a child under the
589 age of sixteen of any federal or state law, except the violation of section
590 53a-172 or 53a-173, or the violation of a municipal or local ordinance,
591 except an ordinance regulating behavior of a child in a family with
592 service needs, (B) the violation by a child sixteen or seventeen years of
593 age of any federal or state law, other than (i) an infraction, (ii) a
594 violation, (iii) a motor vehicle offense or violation under [chapter 248,
595 or] title 14, (iv) [a] the violation of a municipal or local ordinance, or (v)
596 the violation of section 51-164r, 53a-172 or 53a-173, (C) the wilful
597 failure of a child, including a child who has attained the age of
598 eighteen or older, to appear in response to a summons under section
599 46b-133, as amended by this act, or at any other court hearing in a
600 delinquency proceeding of which the child has notice, (D) the violation
601 of any order of the Superior Court in a delinquency proceeding by a
602 child, including a child who has attained the age of eighteen or older,
603 except as provided in section 46b-148, or (E) the violation of conditions
604 of probation in a delinquency proceeding by a child, including a child
605 who has attained the age of eighteen or older, as ordered by the court;

606 (11) "Serious juvenile offense" means (A) the violation of, including
607 attempt or conspiracy to violate, [(i)] section 21a-277, 21a-278, 29-33,
608 29-34, 29-35, subdivision (2) or (3) of subsection (a) of section 53-21,
609 53-80a, 53-202b, 53-202c, 53-390 to 53-392, inclusive, 53a-54a to [53a-
610 56a] 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, 53a-70 to 53a-71,
611 inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a, inclusive, 53a-95, 53a-101,
612 53a-102a, 53a-103a or 53a-111 to 53a-113, inclusive, subdivision (1) of
613 subsection (a) of section 53a-122, subdivision (3) of subsection (a) of
614 section 53a-123, section 53a-134, 53a-135, 53a-136a [, 53a-166] or
615 53a-167c, subsection (a) of section 53a-174, or section 53a-196a, 53a-211,
616 53a-212, 53a-216 or 53a-217b, [by a child, or (ii) section 53a-56b or 53a-
617 57 by a child under sixteen years of age,] or (B) running away, without
618 just cause, from any secure placement other than home while referred

619 as a delinquent child to the Court Support Services Division or
620 committed as a delinquent child to the Commissioner of Children and
621 Families for a serious juvenile offense;

622 (12) "Serious juvenile offender" means any child convicted as
623 delinquent for the commission of a serious juvenile offense;

624 (13) "Serious juvenile repeat offender" means any child charged
625 with the commission of any felony if such child has previously been
626 convicted as delinquent or otherwise convicted at any age for two
627 violations of any provision of title 21a, 29, 53 or 53a that is designated
628 as a felony;

629 (14) "Alcohol-dependent" means a psychoactive substance
630 dependence on alcohol as that condition is defined in the most recent
631 edition of the American Psychiatric Association's "Diagnostic and
632 Statistical Manual of Mental Disorders"; and

633 (15) "Drug-dependent" means a psychoactive substance dependence
634 on drugs as that condition is defined in the most recent edition of the
635 American Psychiatric Association's "Diagnostic and Statistical Manual
636 of Mental Disorders". No child shall be classified as drug-dependent
637 who is dependent (A) upon a morphine-type substance as an incident
638 to current medical treatment of a demonstrable physical disorder other
639 than drug dependence, or (B) upon amphetamine-type, ataractic,
640 barbiturate-type, hallucinogenic or other stimulant and depressant
641 substances as an incident to current medical treatment of a
642 demonstrable physical or psychological disorder, or both, other than
643 drug dependence.

644 Sec. 13. Section 46b-127 of the 2010 supplement to the general
645 statutes, as amended by section 84 of public act 09-7 of the September
646 special session, is amended by adding subsection (f) as follows
647 (*Effective July 1, 2012*):

648 (NEW) (f) Upon the motion of any party or upon the court's own
649 motion, the case of any youth age sixteen or seventeen, except a case

650 that has been transferred to the regular criminal docket of the Superior
651 Court pursuant to subsection (a) or (b) of this section, which is pending
652 on the youthful offender docket, regular criminal docket of the
653 Superior Court or any docket for the presentment of defendants in
654 motor vehicle matters, where the youth is charged with committing
655 any offense or violation for which a term of imprisonment may be
656 imposed, other than a violation of section 14-227a or 14-227g, may,
657 before trial or before the entry of a guilty plea, be transferred to the
658 docket for juvenile matters if (1) the youth is alleged to have
659 committed such offense or violation on or after January 1, 2010, at the
660 age of sixteen, or is alleged to have committed such offense or
661 violation on or after July 1, 2012, at the age of seventeen, and (2) after a
662 hearing considering the facts and circumstances of the case and the
663 prior history of the youth, the court determines that the programs and
664 services available pursuant to a proceeding in the superior court for
665 juvenile matters would more appropriately address the needs of the
666 youth and that the youth and the community would be better served
667 by treating the youth as a delinquent. Upon ordering such transfer, the
668 court shall vacate any pleas entered in the matter and advise the youth
669 of the youth's rights, and the youth shall (A) enter pleas on the docket
670 for juvenile matters in the jurisdiction where the youth resides, and (B)
671 be subject to prosecution as a delinquent child. The decision of the
672 court concerning the transfer of a youth's case from the youthful
673 offender docket, regular criminal docket of the Superior Court or any
674 docket for the presentment of defendants in motor vehicle matters
675 shall not be a final judgment for purposes of appeal.

676 Sec. 14. Section 46b-137 of the 2010 supplement to the general
677 statutes, as amended by section 87 of public act 09-7 of the September
678 special session, is repealed and the following is substituted in lieu
679 thereof (*Effective July 1, 2012*):

680 (a) Any admission, confession or statement, written or oral, made by
681 a child under the age of sixteen to a police officer or Juvenile Court
682 official shall be inadmissible in any proceeding concerning the alleged
683 delinquency of the child making such admission, confession or

684 statement unless made by such child in the presence of the child's
685 parent or parents or guardian and after the parent or parents or
686 guardian and child have been advised (1) of the child's right to retain
687 counsel, or if unable to afford counsel, to have counsel appointed on
688 the child's behalf, (2) of the child's right to refuse to make any
689 statements, and (3) that any statements the child makes may be
690 introduced into evidence against the child.

691 (b) Any admission, confession or statement, written or oral, made
692 by a child sixteen or seventeen years of age to a police officer or
693 Juvenile Court official, except an admission, confession or statement,
694 written or oral, made by a child sixteen or seventeen years of age to a
695 police officer in connection with a case transferred to the Juvenile
696 Court from the youthful offender docket, regular criminal docket of
697 the Superior Court or any docket for the presentment of defendants in
698 motor vehicle matters, shall be inadmissible in any proceeding
699 concerning the alleged delinquency of the child making such
700 admission, confession or statement, unless (1) the police or Juvenile
701 Court official has made reasonable efforts to contact a parent or
702 guardian of the child, and (2) such child has been advised that (A) the
703 child has the right to contact a parent or guardian and to have a parent
704 or guardian present during any interview, (B) the child has the right to
705 retain counsel or, if unable to afford counsel, to have counsel
706 appointed on behalf of the child, (C) the child has the right to refuse to
707 make any statement, and (D) any statement the child makes may be
708 introduced into evidence against the child.

709 (c) The admissibility of any admission, confession or statement,
710 written or oral, made by a child sixteen or seventeen years of age to a
711 police officer or Juvenile Court official, except an admission,
712 confession or statement, written or oral, made by a child sixteen or
713 seventeen years of age to a police officer in connection with a case
714 transferred to the Juvenile Court from the youthful offender docket,
715 regular criminal docket of the Superior Court or any docket for the
716 presentment of defendants in motor vehicle matters, shall be
717 determined by considering the totality of the circumstances at the time

718 of the making of such admission, confession or statement. When
 719 determining the admissibility of such admission, confession or
 720 statement, the court shall consider (1) the age, experience, education,
 721 background and intelligence of the child, (2) the capacity of the child to
 722 understand the advice concerning rights and warnings required under
 723 subdivision (2) of subsection (b) of this section, the nature of the
 724 privilege against self-incrimination under the United States and
 725 Connecticut Constitutions, and the consequences of waiving such
 726 rights and privilege, (3) the opportunity the child had to speak with a
 727 parent, guardian or some other suitable individual prior to or while
 728 making such admission, confession or statement, and (4) the
 729 circumstances surrounding the making of the admission, confession or
 730 statement, including, but not limited to, (A) when and where the
 731 admission, confession or statement was made, (B) the reasonableness
 732 of proceeding, or the need to proceed, without a parent or guardian
 733 present, and (C) the reasonableness of efforts by the police or Juvenile
 734 Court official to attempt to contact a parent or guardian.

735 (d) Any confession, admission or statement, written or oral, made
 736 by the parent or parents or guardian of the child or youth after the
 737 filing of a petition alleging such child or youth to be neglected,
 738 uncared-for or dependent, shall be inadmissible in any proceeding
 739 held upon such petition against the person making such admission or
 740 statement unless such person shall have been advised of the person's
 741 right to retain counsel, and that if the person is unable to afford
 742 counsel, counsel will be appointed to represent the person, that the
 743 person has a right to refuse to make any statement and that any
 744 statements the person makes may be introduced in evidence against
 745 the person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	46b-129(c)
Sec. 2	October 1, 2010	46b-129
Sec. 3	October 1, 2010	46b-124(b)
Sec. 4	October 1, 2010	46b-129a

Sec. 5	<i>October 1, 2010</i>	46b-134
Sec. 6	<i>October 1, 2010</i>	53a-171
Sec. 7	<i>from passage</i>	46b-120
Sec. 8	<i>July 1, 2010</i>	46b-124
Sec. 9	<i>July 1, 2010</i>	46b-127
Sec. 10	<i>July 1, 2010</i>	46b-133(d)
Sec. 11	<i>July 1, 2010</i>	46b-137
Sec. 12	<i>July 1, 2012</i>	46b-120
Sec. 13	<i>July 1, 2012</i>	46b-127
Sec. 14	<i>July 1, 2012</i>	46b-137

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Children & Families, Dept.	GF - Potential Cost	32,700-65,400	32,700-65,400
Correction, Dept.	GF - Cost	Uncertain	Uncertain
Various State Agencies	GF - Cost & Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes, with fiscal impacts as follows:

The Department of Children and Families will incur no fiscal impact to comply with **Section 1**, which would require the agency to report to the court about the appropriateness of placement of a child/youth who is the subject of an order of temporary custody with relatives.

Section 2 expands access to records granted to an attorney representing a child/youth. No associated fiscal impact is anticipated.

Sections 3 - 5 require psychiatric or psychological reports generated in the course of juvenile or child protection proceedings to be retained in the possession of a court officer. Approximately 1,000 such reports are ordered each year. The Judicial Department can retain the records without incurring a fiscal impact.

Should DCF social workers no longer have the ability to retain copies of these documents, additional time will be spent traveling to court to access reports and transcribe information contained therein, in

order to: (a) review and verify each report's content¹, and (b) consult the documents in the course of developing child-specific case plans and as treatment progresses. Further access would be required by supervisory level staff, as managers also review these reports to ensure the quality and completeness of their workers' case documentation. Assuming that restricted access would add 1 - 2 hours of work per case per year, the DCF would potentially incur staffing costs of \$32,700 - \$65,400.

Section 6 makes the offense of "escape from custody" more restrictive by eliminating escapes of DCF-placed individuals from state facilities (other than the Connecticut Juvenile Training School) or private institutions.² This is not anticipated to significantly change the arrest rate of children or youth under DCF care or custody.

Section 7 (and **Section 12**, effective 7/1/12, consistent with the increase in the age of juvenile jurisdiction to 17 on that date) make clarifying and technical changes to statute concerning delinquency and family with service needs issues, in order to conform with other statutes and facilitate continuing implementation of the increase in the age of juvenile jurisdiction, which was effective 1/1/10.

This section also makes changes to statute concerning the exemption of motor vehicle violations and infractions from the definition of a delinquent act, which will optimize collection of fines and surcharges by the Judicial Department's centralized infractions bureau.

Modifications made within this section to the definition of serious juvenile offender are not anticipated to significantly alter the number

¹ These evaluations are paid for by the DCF. The approval process for payment of these bills requires the DCF worker assigned to the case and staff of the Office of the Attorney General to verify that the report includes all items the court has requested to be assessed.

² Though this is a class A misdemeanor (unless the escapee is charged with or convicted of a felony, in which case it is a class C felony), and thus punishable by a fine of up to \$2,000, no fines have been collected under this statute in recent fiscal years.

of committed juveniles.

No fiscal impact is associated with **Section 8**, which requires the clerk of the juvenile court to notify the Department of Motor Vehicles of certain delinquency convictions involving motor vehicles, the unlawful procurement of liquor by a minor, or certain identity card offenses.

Section 9 (and **Section 13**, effective 7/1/12, consistent with the increase in the age of juvenile jurisdiction to 17 on that date) allows, if certain criteria are met, for the transfer of a case involving a 16 year old to the juvenile court if: (1) it is a matter for which the 16 year old may be incarcerated, and (2) the court finds it in the child's best interests. The resulting fiscal impact is not expected to be significant, as the number of cases so transferred is expected to be few.

Section 10, which requires any child confined in a community correctional center or lockup to be held with sight and sound separation from any adult detainee, results in an uncertain state fiscal impact. It cannot be determined at this time whether it would require the Department of Correction to revise policies and/or otherwise make modifications to its facilities.

No municipal fiscal impact is anticipated in response to enactment of Section 10.

Section 11 (and **Section 14**, effective 7/1/12, consistent with the increase in the age of juvenile jurisdiction to 17 on that date) modifies statute concerning the legal admissibility of admissions, confessions or statements made by a child. These modifications do not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5522

AN ACT CONCERNING JUVENILE MATTERS.

SUMMARY:

This bill:

1. adds additional confidentiality protections for delinquent children, but gives the lawyer for an abused or neglected child access to confidential health and educational records and related personnel;
2. requires that children held in community correction centers or lockups be held in an area separated from adult detainees by sight and sound, rather than only separated;
3. creates an exception from the general rule regarding inadmissibility of juvenile confessions;
4. narrows the definition of escape from custody;
5. modifies definitions to (a) reflect the implementation of the law increasing the age of juvenile court jurisdiction, (b) exclude some crimes from the definition of "delinquent," "delinquent act," and "serious juvenile offense (SJO);"
6. permits Superior Court judges to transfer some motor vehicle cases involving 16- and 17-year-olds from the adult or motor vehicle docket to juvenile court;
7. requires the Department of Motor Vehicles (DMV) to be notified of certain motor vehicle- and alcohol-related convictions;
8. expressly makes children under age 16, instead of just 16-year-

olds, eligible for Family With Service Needs (status offender) services; and

9. conforms delinquency statutes to reflect the increase in age for juvenile court jurisdiction from 16 to 17 on July 1, 2012.

EFFECTIVE DATE: Upon passage for definition's, except the provisions concerning DMV reporting, motor vehicle case transfers, sight and sound separation and confessions are effective July 1, 2010; access to medical records and confidentiality of mental health records are effective October 1, 2010 and new definitions and confessions are effective July 1, 2012.

§ 2 — ACCESS TO MENTAL HEALTH RECORDS

In abuse and neglect cases, the bill requires record keepers to give the child's attorney access to records about the child that would otherwise be confidential. It applies to (1) medical, dental, mental health, and other healthcare records and (2) school and educational records. The bill also gives the attorney the right to interview school personnel, caretakers, health care providers, mental health professionals, and others who have assessed or taken care of the child. Releasing the records or sitting for an interview does not waive the confidentiality of the records or disclosed communications.

The child's attorney already has access to Department of Children and Families (DCF) records (CGS § 17a-28(m)). However, access to other confidential medical and educational files without a court order or parental consent appears to conflict with two federal laws, the Health Insurance Portability and Accountability Act (see regulations at 45 CFR § 512(e)) and the Family Education Rights and Privacy Act (20 USC § 1232g).

§§ 3, 4, & 5 — CONFIDENTIALITY OF MENTAL HEALTH RECORDS

The bill requires court-ordered psychiatric or psychological reports to be kept in the possession of a court officer, a job title that does not currently exist. The reports cannot be disclosed to third parties without a court order.

§ 6 — ESCAPE FROM CUSTODY

The bill narrows one form of criminal escape from custody in both child protective and delinquency commitments. Currently, a child committed to DCF escapes from custody when he or she runs away from a residential facility. Under the bill, this act is only illegal if the child runs away from the Connecticut Juvenile Training School, the secure juvenile boys' detention center.

Escape from custody while detained for a felony is a class C felony; in all other situations, it is a class A misdemeanor.

§ 7 — SERIOUS JUVENILE OFFENSES AND JUVENILE OFFENSES

The bill amends various definitions applicable to juvenile matters, in most cases to conform statutes to reflect the increase in age for juvenile court jurisdiction.

However, it exempts emancipated minors from the juvenile court's jurisdiction. It excludes from "serious juvenile offense" that portion of the risk of injury statute concerning placing a child in danger of harm, leaving in place (1) having contact with a child's intimate parts and (2) selling a child as covered offenses. It also excludes 2nd degree hindering prosecution from the SJO list of covered offenses. On the other hand, it expands SJO offenses to include assault in the 2nd degree with a motor vehicle and misconduct with a motor vehicle, crimes that were deleted from the SJO category in PA 09-7.

With respect to modifications of the definition of juvenile offense, the bill excludes from juvenile court jurisdiction all violations and infractions contained in Title 14, rather than only those contained in Chapter 248. This change requires juveniles to either appear on the motor vehicle docket to defend against those charges or pay fines to the centralized Infractions Bureau.

The bill also specifies that the offense of "willful failure to appear" encompasses any juvenile court hearing of which the child has notice, rather than only the first hearing, for which he or she received a

summons. It also expressly excludes failure to appear for an adult court hearing from juvenile court jurisdiction.

For children age 16 and over, the modified definition refers to crimes committed, and supervision arising from those convictions occurring while a child was eligible for juvenile court. This appears to conflict with another statute (CGS § 46b-120(1)), which recognizes juvenile court jurisdiction for crimes committed by a child, but not prosecuted until after the child turns age 17 (or in 2012, 18). It does not require that the youth be under continuing juvenile court jurisdiction to make him or her eligible for prosecution in juvenile court.

§ 8 — MOTOR VEHICLE NOTIFICATIONS

The bill requires the Judicial Branch to disclose certain delinquency convictions to the DMV for administrative sanctions against the juvenile's driver's license. The covered offenses are:

1. using a false identification card, registration, or driver's license;
2. driving with a suspended license;
3. failing to obey a police officer's order to pull over;
4. evading responsibility;
5. misrepresenting one's age in order to buy liquor; and
6. alcohol possession.

The disclosed records cannot be disclosed further.

The same rules apply on the youthful offender docket.

§§ 9 & 13 — TRANSFER OF MOTOR VEHICLE CASES TO JUVENILE DOCKET

The bill allows judges to transfer cases involving 16-year-olds (and beginning July 1, 2012, 17-year-olds) from the youthful offender, adult, or motor vehicle docket to juvenile court. The transfer provision is for matters for which the juvenile could be subject to imprisonment.

Driving under the influence claims are not subject to this process.

The transfer is triggered by the motion of any party or the judge hearing the case; it must be raised before trial or entry of a guilty plea. The judge must find that (1) the youth is charged with an offense or violation occurring on or after October 1, 2010 and (2) after a hearing considering the facts and circumstances of the case and the youth’s prior history, the programs and services available in the juvenile court would more appropriately address the juvenile’s needs.

Under the bill, the court ordering the transfer must vacate any pleas entered in the matter and advise the youth of his or her rights. The youth must (1) enter pleas on the docket for juvenile matters in the jurisdiction where he or she resides and (b) be subject to prosecution as a delinquent child.

The bill specifies that transfer decisions cannot be immediately appealed.

§§ 11 — ADMISSIBILITY OF JUVENILE CONFESSIONS

By law, in juvenile proceedings, confessions of children under age 16 are not admissible against the child unless a parent who has been given Miranda warnings is present. For those age 16 and beginning July 1, 2012, age 17, admissibility is determined based on the totality of circumstances.

The bill provides that admissions; confessions; or statements, whether written or oral, made by the youth to a police officer in connection with a case that gets transferred to the juvenile court from the youthful offender or regular docket or from a motor vehicles docket are admissible in juvenile court.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (03/26/2010)