



# House of Representatives

**File No. 889**

General Assembly

January Session, 2011

**(Reprint of File No. 681)**

Substitute House Bill No. 6634  
As Amended by House  
Amendment Schedules "A" and "B"

Approved by the Legislative Commissioner  
June 2, 2011

**AN ACT CONCERNING DETENTION OF CHILDREN AND  
DISPROPORTIONATE MINORITY CONTACT IN THE JUVENILE  
JUSTICE SYSTEM.**

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

1 Section 1. Section 46b-133 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Nothing in this part shall be construed as preventing the arrest of  
4 a child, with or without a warrant, as may be provided by law, or as  
5 preventing the issuance of warrants by judges in the manner provided  
6 by section 54-2a, except that no child shall be taken into custody on  
7 such process except on apprehension in the act, or on speedy  
8 information, or in other cases when the use of such process appears  
9 imperative. Whenever a child is arrested and charged with a crime,  
10 such child may be required to submit to the taking of his photograph,  
11 physical description and fingerprints. Notwithstanding the provisions  
12 of section 46b-124, the name, photograph and custody status of any  
13 child arrested for the commission of a capital felony or class A felony  
14 may be disclosed to the public.

15 (b) Whenever a child is brought before a judge of the Superior

16 Court, such judge shall immediately have the case proceeded upon as  
17 a juvenile matter. Such judge may admit the child to bail or release the  
18 child in the custody of the child's parent or parents, the child's  
19 guardian or some other suitable person to appear before the Superior  
20 Court when ordered. If detention becomes necessary, such detention  
21 shall be in the manner prescribed by this chapter, provided the child  
22 shall be placed in the least restrictive environment possible in a  
23 manner consistent with public safety.

24 (c) Upon the arrest of any child by an officer, such officer may (1)  
25 release the child to the custody of the child's parent or parents,  
26 guardian or some other suitable person or agency, (2) at the discretion  
27 of the officer, release the child to the child's own custody, or (3)  
28 [immediately turn] seek a court order to detain the child [over to] in a  
29 juvenile detention center. No child shall be placed in detention unless  
30 it appears from the available facts that there is probable cause to  
31 believe that the child has committed the acts alleged, there is no less  
32 restrictive alternative available and there is (A) a strong probability  
33 that the child will run away prior to the court hearing or disposition,  
34 (B) a strong probability that the child will commit or attempt to  
35 commit other offenses injurious to the child or to the community prior  
36 to the court disposition, (C) probable cause to believe that the child's  
37 continued residence in the child's home pending disposition poses a  
38 risk to the child or the community because of the serious and  
39 dangerous nature of the act or acts the child is alleged to have  
40 committed, (D) a need to hold the child for another jurisdiction, (E) a  
41 need to hold the child to assure the child's appearance before the court,  
42 in view of the child's previous failure to respond to the court process,  
43 or (F) a finding by the court that the child has violated one or more of  
44 the conditions of a suspended detention order. No child shall be held  
45 in any detention center unless an order to detain is issued by a judge of  
46 the Superior Court.

47 (d) When a child is arrested for the commission of a delinquent act  
48 and the child is not placed in detention or referred to a diversionary  
49 program, an officer shall serve a written complaint and summons on

50 the child and the child's parent, guardian or some other suitable  
51 person or agency. If such child is released to the child's own custody,  
52 the officer shall make reasonable efforts to notify, and to provide a  
53 copy of a written complaint and summons to, the parent or guardian  
54 or some other suitable person or agency prior to the court date on the  
55 summons. If any person so summoned wilfully fails to appear in court  
56 at the time and place so specified, the court may issue a warrant for the  
57 child's arrest or a capias to assure the appearance in court of such  
58 parent, guardian or other person. If a child wilfully fails to appear in  
59 response to such a summons, the court may order such child taken into  
60 custody and such child may be charged with the delinquent act of  
61 wilful failure to appear under section 46b-120. The court may punish  
62 for contempt, as provided in section 46b-121, any parent, guardian or  
63 other person so summoned who wilfully fails to appear in court at the  
64 time and place so specified.

65 [(d)] (e) The court or detention supervisor may turn such child over  
66 to a youth service program created for such purpose, if such course is  
67 practicable, or such child may be detained pending a hearing which  
68 shall be held on the business day next following the child's arrest. No  
69 child shall be detained after such hearing or held in detention pursuant  
70 to a court order unless it appears from the available facts [that] there is  
71 probable cause to believe that the child has committed the acts alleged,  
72 there is no less restrictive alternative available and that there is (1) a  
73 strong probability that the child will run away prior to the court  
74 hearing or disposition, (2) a strong probability that the child will  
75 commit or attempt to commit other offenses injurious to the child or to  
76 the community prior to the court disposition, (3) probable cause to  
77 believe that the child's continued residence in the child's home  
78 pending disposition poses a risk to the child or the community because  
79 of the serious and dangerous nature of the act or acts the child is  
80 alleged to have committed, (4) a need to hold the child for another  
81 jurisdiction, (5) a need to hold the child to assure the child's  
82 appearance before the court, in view of the child's previous failure to  
83 respond to the court process, or (6) a finding by the court that the child

84 has violated one or more of the conditions of a suspended detention  
85 order. Such probable cause may be shown by sworn affidavit in lieu of  
86 testimony. No child shall be released from detention who is alleged to  
87 have committed a serious juvenile offense except by order of a judge of  
88 the Superior Court. Any child confined in a community correctional  
89 center or lockup shall be held in an area separate and apart from any  
90 adult detainee, except in the case of a nursing infant, and no child shall  
91 at any time be held in solitary confinement. When a female child is  
92 held in custody, she shall, as far as possible, be in the charge of a  
93 woman attendant.

94 [(e)] (f) The police officer who brings a child into detention shall  
95 have first notified, or made a reasonable effort to notify, the parents or  
96 guardian of the child in question of the intended action and shall file at  
97 the detention center a signed statement setting forth the alleged  
98 delinquent conduct of the child. Unless the arrest was for a serious  
99 juvenile offense or unless an order not to release is noted on the take  
100 into custody order, arrest warrant or order to detain, the child may be  
101 released by a detention supervisor to the custody of the child's parent  
102 or parents, guardian or some other suitable person or agency.

103 [(f)] (g) In conjunction with any order of release from detention, the  
104 court may, when it has reason to believe a child is alcohol-dependent  
105 or drug-dependent as defined in section 46b-120, and where necessary,  
106 reasonable and appropriate, order the child to participate in a program  
107 of periodic alcohol or drug testing and treatment as a condition of such  
108 release. The results of any such alcohol or drug test shall be admissible  
109 only for the purposes of enforcing the conditions of release from  
110 detention.

111 [(g)] (h) [Whenever the population of a juvenile detention center  
112 equals or exceeds the maximum capacity for such center, as  
113 determined by the Judicial Branch, the] The detention supervisor of a  
114 juvenile detention center in charge of intake shall admit only a child  
115 who: (1) Is [charged with the commission of a serious juvenile offense,  
116 (2) is] the subject of an order to detain or an outstanding court order to

117 take such child into custody, [(3)] (2) is ordered by a court to be held in  
118 detention, or [(4)] (3) is being transferred to such center to await a  
119 court appearance.

120 Sec. 2. (NEW) (*Effective from passage*) Not later than September 30,  
121 2011, and biennially thereafter, the Commissioner of Children and  
122 Families, the Commissioner of Public Safety, the Chief State's Attorney,  
123 the Chief Public Defender, the Chief Court Administrator and the  
124 Police Officer Standards and Training Council shall submit a report, on  
125 behalf of the respective department, division, office or council, to the  
126 Secretary of the Office of Policy and Management on the plans  
127 established by the department, division, office or council to address  
128 disproportionate minority contact in the juvenile justice system and  
129 the steps taken to implement those plans during the previous two  
130 fiscal years. Any reports submitted by the Commissioner of Children  
131 and Families and the Chief Court Administrator, or on behalf of any  
132 other such department, division, office or council that has  
133 responsibility for providing child welfare services, including services  
134 in abuse and neglect cases, shall (1) indicate efforts undertaken in the  
135 previous two fiscal years to address disproportionate minority contact  
136 in the child welfare system, and (2) include an evaluation of the  
137 relationship between the child welfare system and disproportionate  
138 minority contact in the juvenile justice system. The Secretary of the  
139 Office of Policy and Management shall compile the submissions and  
140 shall submit a report on such submissions, in accordance with section  
141 11-4a of the general statutes, to the Governor and the General  
142 Assembly not later than December thirty-first biennially. For the  
143 purposes of this section, "disproportionate minority contact" means  
144 that a disproportionate number of juvenile members of minority  
145 groups come into contact with the juvenile justice system.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	46b-133
Sec. 2	<i>from passage</i>	New section

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 12 \$	FY 13 \$
Judicial Dept.	GF - Potential Savings	105,000	140,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill would require an arresting officer to obtain a court order prior to placing a child in a juvenile detention center, would not result in a cost to law enforcement agencies. The number of children requiring a court order for detention placement is estimated to be one to two a day on average statewide. It is anticipated that court orders will be received in a timely manner. Given that relatively few juveniles would be affected by the bill and in anticipation that court orders will be timely, there is no fiscal impact to law enforcement agencies.

To the extent requiring a court order limits the number of children in a juvenile detention center, a savings of \$105,000 in FY 12<sup>1</sup> and \$140,000 in FY 13 to the Judicial Department would result. This estimate assumes 15 less juveniles will be admitted to a juvenile detention center annually as a result of the bill.<sup>2</sup>

House "A" strikes sections 2 and 3 of the underlying bill, which has no fiscal impact. House "A" also makes various clarifying changes that do not result in a fiscal impact.

<sup>1</sup> This FY 12 figure reflects an October 1, 2011 effective date.

<sup>2</sup> On average it costs \$306 per day to hold a juvenile in a secure state detention center. The average length of stay in a juvenile detention is 30 days.

House "B" requires the Commissioner of Children and Families, Commissioner of Public Safety, Chief State's Attorney, Chief Public Defender, Chief Court Administrator and the Police Officer Standards and Training Council to submit reports, no later than September 30, 2011 and biennially thereafter, to the Secretary of the Office of Policy and Management on plans to address disproportionate minority contact in the juvenile justice system. The Secretary of the Office of Policy and Management shall then compile and submit the reports, no later than December 31, 2011 and biennially thereafter, to the Governor and General Assembly. Agencies are not expected to incur additional costs in order to comply with these reporting requirements.

### ***The Out Years***

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

*Sources: Judicial Department*

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**OLR Bill Analysis****sHB 6634 (as amended by House "A" and "B")\******AN ACT CONCERNING CHILD WELFARE AND DETENTION IN THE JUVENILE JUSTICE SYSTEM.*****SUMMARY:**

This bill prohibits police officers from placing children they arrest, but who have not yet appeared before a judge, in a juvenile detention center without a court order. It also:

1. allows detention center intake supervisors to admit only a child who is (a) the subject of an order to detain, (b) ordered by a court to be held in detention, or (c) transferred to the center to await a court appearance;
2. eliminates a provision specifying the classes of offender and pretrial detainees that can be admitted to an overcrowded juvenile detention center; and
3. requires judicial and executive entities to report to the legislature and governor every two years on progress made in addressing disproportionate minority contact (DMC).

Under the bill, DMC means that a disproportionate number of juvenile members of minority groups come into contact with the juvenile justice system.

EFFECTIVE DATE: October 1, 2011, except the multi-agency DMC reporting requirement is effective upon passage.

\*House Amendment "A" makes a grammatical change and deletes provisions (1) specifying conditions under which the Department of Children and Families (DCF) can place delinquent children out of state and (2) requiring DCF to develop a relocation plan after consulting

with specified entities.

\*House Amendment "B" deletes a provision requiring multiagency annual reports on disproportionate minority contacts.

### **ARRESTED CHILDREN**

Under current law, a police officer who arrests a child can (1) release the child into a parent or suitable adult's custody, (2) release the child into his or her own custody, or (3) turn the child over to a juvenile detention center. The bill requires the police to get a court order to place the child in detention. The court cannot order detention unless it finds probable cause to believe that the child has committed the alleged acts and there is no less restrictive alternative. It must then find at least one of the following:

1. a strong probability that the child will run away or commit or attempt to commit another crime injurious to the child or community,
2. probable cause to believe that the child's continued residence in the child's home pending disposition poses a risk to the child or the community because of the serious and dangerous nature of the act or acts the child is alleged to have committed,
3. a need to hold the child (a) for another jurisdiction or (b) to ensure that he or she appears before the court in view of the child's previous failure to respond to the court process, or
4. the child has violated one or more of the conditions of a suspended detention order.

These are the same considerations used to determine whether to admit a child to pretrial detention.

### **DISPROPORTIONATE MINORITY CONTACT REPORTS**

Biennially, beginning September 30, 2011, the (1) children and families and public safety commissioners, (2) chief state's attorney, (3)

chief public defender, (4) chief court administrator and (5) Police Officer Training Council must each report to the Office of Policy and Management (OPM) on the plans they have developed and steps taken in the previous two fiscal years to address DMC in the juvenile justice system. Each entity that provides child welfare services (DCF and the chief court administrator of the Judicial Branch) must include in its reports (1) a description of efforts made to address DMC in the child welfare system and (2) an evaluation of the relationship between the child welfare system and DMC in the juvenile justice system.

The bill directs the entities to submit their reports to the OPM secretary to compile the submissions and submit them to the legislature and governor by December 31 of each odd-numbered year.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 2 (04/12/2011)

Human Services Committee

Joint Favorable

Yea 12 Nay 2 (05/24/2011)