



General Assembly

January Session, 2011

Raised Bill No. 6634

LCO No. 5014

05014_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING CHILD WELFARE AND DETENTION IN THE
JUVENILE JUSTICE SYSTEM AND ERASURE OF JUVENILE
RECORDS.**

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 Section 46b-133 of the general statutes is repealed and the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) the child has violated one or more of the conditions of a
44 suspended detention order. No child shall be held in any detention
45 center unless an order to detain is issued by a judge of the Superior
46 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) the child has violated one or more
84 of the conditions of a suspended detention order. Such probable cause
85 may be shown by sworn affidavit in lieu of testimony. No child shall
86 be released from detention who is alleged to have committed a serious
87 juvenile offense except by order of a judge of the Superior Court. Any
88 child confined in a community correctional center or lockup shall be
89 held in an area separate and apart from any adult detainee, except in
90 the case of a nursing infant, and no child shall at any time be held in
91 solitary confinement. When a female child is held in custody, she shall,
92 as far as possible, be in the charge of a woman attendant.

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

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

110 ~~[(g)]~~ (h) [Whenever the population of a juvenile detention center
111 equals or exceeds the maximum capacity for such center, as
112 determined by the Judicial Branch, the] The detention supervisor of a
113 juvenile detention center in charge of intake shall admit only a child

114 who: (1) Is [charged with the commission of a serious juvenile offense,
115 (2) is] the subject of an order to detain or an outstanding court order to
116 take such child into custody, [(3)] (2) is ordered by a court to be held in
117 detention, or [(4)] (3) is being transferred to such center to await a
118 court appearance.

119 Sec. 2. Section 46b-146 of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective October 1, 2011*):

121 (a) Whenever any child has been convicted as delinquent [, has been
122 adjudicated a member of a family with service needs] for the
123 commission of a serious juvenile offense or has signed a statement of
124 responsibility admitting to having committed a delinquent act that
125 constitutes a serious juvenile offense, and has subsequently been
126 discharged from the supervision of the Superior Court or from the
127 custody of the Department of Children and Families or from the care
128 of any other institution or agency to whom the child has been
129 committed by the court, such child, or the child's parent or guardian,
130 may file a petition with the Superior Court. If such court finds (1) that
131 at least [two years or, in the case of a child convicted as delinquent for
132 the commission of a serious juvenile offense,] four years have elapsed
133 from the date of such discharge, (2) that no subsequent juvenile
134 proceeding or adult criminal proceeding is pending against such child,
135 (3) that such child has not been convicted of a delinquent act that
136 would constitute a felony or misdemeanor if committed by an adult
137 during such [two-year or] four-year period, (4) that such child has not
138 been convicted as an adult of a felony or misdemeanor during such
139 [two-year or] four-year period, and (5) that such child has reached
140 seventeen years of age, the court shall order all police and court
141 records pertaining to such child to be erased. Upon the entry of such
142 an erasure order, all references including arrest, complaint, referrals,
143 petitions, reports and orders, shall be removed from all agency, official
144 and institutional files, and a finding of delinquency [or that the child
145 was a member of a family with service needs] shall be deemed never to
146 have occurred. The persons in charge of such records shall not disclose

147 to any person information pertaining to the record so erased, except
148 that the fact of such erasure may be substantiated where, in the
149 opinion of the court, it is in the best interests of such child to do so. No
150 child who has been the subject of such an erasure order shall be
151 deemed to have been arrested ab initio, within the meaning of the
152 general statutes, with respect to proceedings so erased. Copies of the
153 erasure order shall be sent to all persons, agencies, officials or
154 institutions known to have information pertaining to the delinquency
155 [or family with service needs] proceedings affecting such child.

156 (b) Whenever any child has been convicted as delinquent, has been
157 adjudicated a member of a family with service needs or has signed a
158 statement of responsibility admitting to having committed a
159 delinquent act, and has subsequently been discharged from the
160 supervision of the Superior Court or from the custody of the
161 Department of Children and Families or from the care of any other
162 institution or agency to whom the child has been committed by the
163 court, and (1) at least two years have elapsed from the date of such
164 discharge, (2) no subsequent juvenile proceeding or adult criminal
165 proceeding is pending against such child, (3) such child has not been
166 convicted of a delinquent act that would constitute a felony or
167 misdemeanor if committed by an adult during such two-year period,
168 (4) such child has not been convicted as an adult of a felony or
169 misdemeanor during such two-year period, (5) such child has not been
170 convicted of a delinquent act for the commission of a serious juvenile
171 offense, and (6) such child has reached seventeen years of age, the
172 clerk of the superior court for juvenile matters shall, on the second day
173 of January each year or on a date designated by the court, erase the
174 files, papers and other records, including electronic records, pertaining
175 to any proceeding concerning such child. Upon such erasure, all
176 references, including arrest, complaint, referrals, petitions, reports and
177 orders, shall be removed from all agency, official and institutional files,
178 and a finding of delinquency or that the child was a member of a
179 family with service needs shall be deemed never to have occurred. The
180 persons in charge of such records shall not disclose to any person

181 information pertaining to the record so erased, except that the fact of
182 such erasure may be substantiated where, in the opinion of the court, it
183 is in the best interests of such child to do so. No child who has been the
184 subject of such an erasure shall be deemed to have been arrested ab
185 initio, within the meaning of the general statutes, with respect to
186 proceedings so erased. Copies of the erasure shall be sent to all
187 persons, agencies, officials or institutions known to have information
188 pertaining to the delinquency or family with service needs proceedings
189 affecting such child.

190 (c) Whenever a child is dismissed as not delinquent or as not being a
191 member of a family with service needs, all police and court records
192 pertaining to such charge shall be ordered erased immediately,
193 without the filing of a petition.

194 (d) Nothing in this section shall prohibit the court from granting a
195 petition to erase a child's records on a showing of good cause, after a
196 hearing, before the time when such records could be erased or would
197 be erased pursuant to this section.

198 Sec. 3. Section 46b-146 of the general statutes, as amended by section
199 88 of public act 09-7 of the September special session, is repealed and
200 the following is substituted in lieu thereof (*Effective July 1, 2012*):

201 (a) Whenever any child has been convicted as delinquent [, has been
202 adjudicated a member of a family with service needs] for the
203 commission of a serious juvenile offense or has signed a statement of
204 responsibility admitting to having committed a delinquent act that
205 constitutes a serious juvenile offense, and has subsequently been
206 discharged from the supervision of the Superior Court or from the
207 custody of the Department of Children and Families or from the care
208 of any other institution or agency to whom the child has been
209 committed by the court, such child, or the child's parent or guardian,
210 may file a petition with the Superior Court. If such court finds (1) that
211 at least [two years or, in the case of a child convicted as delinquent for
212 the commission of a serious juvenile offense,] four years have elapsed

213 from the date of such discharge, (2) that no subsequent juvenile
214 proceeding or adult criminal proceeding is pending against such child,
215 (3) that such child has not been convicted of a delinquent act that
216 would constitute a felony or misdemeanor if committed by an adult
217 during such [two-year or] four-year period, (4) that such child has not
218 been convicted as an adult of a felony or misdemeanor during such
219 [two-year or] four-year period, and (5) that such child has reached
220 eighteen years of age, the court shall order all police and court records
221 pertaining to such child to be erased. Upon the entry of such an
222 erasure order, all references including arrest, complaint, referrals,
223 petitions, reports and orders, shall be removed from all agency, official
224 and institutional files, and a finding of delinquency [or that the child
225 was a member of a family with service needs] shall be deemed never to
226 have occurred. The persons in charge of such records shall not disclose
227 to any person information pertaining to the record so erased, except
228 that the fact of such erasure may be substantiated where, in the
229 opinion of the court, it is in the best interests of such child to do so. No
230 child who has been the subject of such an erasure order shall be
231 deemed to have been arrested ab initio, within the meaning of the
232 general statutes, with respect to proceedings so erased. Copies of the
233 erasure order shall be sent to all persons, agencies, officials or
234 institutions known to have information pertaining to the delinquency
235 [or family with service needs] proceedings affecting such child.

236 (b) Whenever any child has been convicted as delinquent, has been
237 adjudicated a member of a family with service needs or has signed a
238 statement of responsibility admitting to having committed a
239 delinquent act, and has subsequently been discharged from the
240 supervision of the Superior Court or from the custody of the
241 Department of Children and Families or from the care of any other
242 institution or agency to whom the child has been committed by the
243 court, and (1) at least two years have elapsed from the date of such
244 discharge, (2) no subsequent juvenile proceeding or adult criminal
245 proceeding is pending against such child, (3) such child has not been
246 convicted of a delinquent act that would constitute a felony or

247 misdemeanor if committed by an adult during such two-year period,
248 (4) such child has not been convicted as an adult of a felony or
249 misdemeanor during such two-year period, (5) such child has not been
250 convicted of a delinquent act for the commission of a serious juvenile
251 offense, and (6) such child has reached eighteen years of age, the clerk
252 of the superior court for juvenile matters shall, on the second day of
253 January each year or on a date designated by the court, erase the files,
254 papers and other records, including electronic records, pertaining to
255 any proceeding concerning such child. Upon such erasure, all
256 references, including arrest, complaint, referrals, petitions, reports and
257 orders, shall be removed from all agency, official and institutional files,
258 and a finding of delinquency or that the child was a member of a
259 family with service needs shall be deemed never to have occurred. The
260 persons in charge of such records shall not disclose to any person
261 information pertaining to the record so erased, except that the fact of
262 such erasure may be substantiated where, in the opinion of the court, it
263 is in the best interests of such child to do so. No child who has been the
264 subject of such an erasure shall be deemed to have been arrested ab
265 initio, within the meaning of the general statutes, with respect to
266 proceedings so erased. Copies of the erasure shall be sent to all
267 persons, agencies, officials or institutions known to have information
268 pertaining to the delinquency or family with service needs proceedings
269 affecting such child.

270 (c) Whenever a child is dismissed as not delinquent or as not being a
271 member of a family with service needs, all police and court records
272 pertaining to such charge shall be ordered erased immediately,
273 without the filing of a petition.

274 (d) Nothing in this section shall prohibit the court from granting a
275 petition to erase a child's records on a showing of good cause, after a
276 hearing, before the time when such records could be erased or would
277 be erased pursuant to this section.

278 Sec. 4. (NEW) (Effective October 1, 2011) (a) On and after July 1, 2013,

279 no child convicted as delinquent and committed to the custody of the
280 Commissioner of Children and Families may be placed in a location
281 outside of this state unless the superior court for juvenile matters
282 specifically finds that the Department of Children and Families has
283 established that such placement is necessary, appropriate and not
284 unfairly discriminatory and will provide the child with necessary care
285 and treatment in the least restrictive environment available. After any
286 such child is placed in a location outside of this state, the department
287 shall develop a plan to return the child to an appropriate facility or
288 family residence within this state. Not later than ninety days after a
289 child is placed in a location outside of this state in accordance with this
290 section, the department shall submit a report to the court regarding the
291 child's status and the status of the department's plan to return the child
292 to an appropriate facility or family residence within this state. The
293 department shall submit such report every ninety days thereafter
294 while the child is placed in a location outside of this state.

295 (b) Not later than January 1, 2014, and annually thereafter, the
296 Commissioner of Children and Families shall submit a report to the
297 joint standing committee of the General Assembly having cognizance
298 of matters relating to the judiciary, in accordance with section 11-4a of
299 the general statutes, regarding children who have been placed outside
300 of this state during the prior year, the status of such placements, the
301 reasons for such placements and the department's plan to return such
302 children to an appropriate facility or family residence within this state.
303 Such report shall not include individually-identifiable information.

304 Sec. 5. (NEW) (*Effective October 1, 2011*) (a) For the purposes of this
305 section, "disproportionate minority contact" means that a
306 disproportionate number of children from minority groups come into
307 contact with the juvenile justice system.

308 (b) Not later than July 1, 2013, the Department of Children and
309 Families shall relocate each child who is committed to the custody of
310 the commissioner and placed in a location outside of this state to a

311 location within this state, except as provided in section 4 of this act.

312 (c) In order to prepare for the relocation of such children pursuant
313 to subsection (b) of this section, the department shall develop a plan,
314 after consultation with the Court Support Services Division within the
315 Judicial Department, persons who provide services to such children
316 within and outside of this state, child welfare, juvenile justice and
317 mental health advocates, and members of families who receive mental
318 health and child welfare services related to delinquency matters, in
319 order to:

320 (1) Identify funds allocated for services and placements outside of
321 this state and reallocate such funds for community-based services in
322 this state;

323 (2) Ensure that no disproportionate minority contact exists when
324 children are committed to the custody of the Department of Children
325 and Families, including, but not limited to, commitments that qualify
326 for placement in a congregate care facility or other community-based
327 facility; and

328 (3) Maximize the receipt of federal funds by the department to
329 promote the development of community-based services that support
330 children transitioning from placements outside of this state to
331 placements within this state.

332 (d) Not later than December 31, 2011, the department shall submit a
333 report to the joint standing committee of the General Assembly having
334 cognizance of matters relating to the judiciary, in accordance with
335 section 11-4a of the general statutes, that indicates the progress the
336 department has made in meeting the requirements of this section.

337 Sec. 6. (NEW) (*Effective from passage*) Not later than September 30,
338 2011, and annually thereafter, the Commissioner of Children and
339 Families, the Commissioner of Public Safety, the Chief State's Attorney,
340 the Chief Public Defender, the Chief Court Administrator and the

341 Police Officer Standards and Training Council shall submit a report, on
 342 behalf of the respective department, division, office or council, to the
 343 Secretary of the Office of Policy and Management on the plans
 344 established by the department, division, office or council to address
 345 disproportionate minority contact in the juvenile justice system and
 346 the steps taken to implement those plans during the previous fiscal
 347 year. Any reports submitted by the Commissioner of Children and
 348 Families and the Chief Court Administrator, or on behalf of any other
 349 such department, division, office or council that has responsibility for
 350 providing child welfare services, including services in abuse and
 351 neglect cases, shall (1) indicate efforts undertaken in the prior fiscal
 352 year to address disproportionate minority contact in the child welfare
 353 system, and (2) include an evaluation of the relationship between the
 354 child welfare system and disproportionate minority contact in the
 355 juvenile justice system. The Secretary of the Office of Policy and
 356 Management shall compile the submissions and shall submit a report
 357 on such submissions, in accordance with section 11-4a of the general
 358 statutes, to the Governor and the General Assembly not later than
 359 December thirty-first annually. For the purposes of this section,
 360 "disproportionate minority contact" means that a disproportionate
 361 number of juvenile members of minority groups come into contact
 362 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>October 1, 2011</i>	46b-146
Sec. 3	<i>July 1, 2012</i>	46b-146
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>October 1, 2011</i>	New section
Sec. 6	<i>from passage</i>	New section

Statement of Purpose:

To: (1) Revise detention provisions with respect to children in the juvenile justice system, and provide for such children to be placed in or returned to locations in this state when appropriate, (2) revise record

retention and erasure requirements with respect to delinquency and family with service needs proceedings in the Superior Court, and (3) require annual reports from designated agencies regarding disproportionate minority contact in the juvenile justice system.

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