
OLR Bill Analysis

sHB 6638

AN ACT CONCERNING JUVENILE JUSTICE.

SUMMARY:

This bill makes a number of modifications to statutes governing the Department of Children and Families (DCF) any of which are designed to end DCF's responsibility for children when they reach age 20.

The bill also contains provisions:

1. giving uniform definitions to "child," "youth," and "delinquent child" in DCF statutes, thus expanding the laws regarding a child to cover 16- and 17-year-olds;
2. removing crimes related to failure to appear and violations of the conditions of release from the definition of "delinquent child," "delinquent act," and related provisions;
3. excluding delinquent acts from the definition of "family violence crimes" and related provisions;
4. adding as serious juvenile offenses (SJOs) 1st and 2nd degree strangulation and home invasion, and, after July 1, 2012, criminally negligent cruelty to a person, intentional child cruelty, and manslaughter with a motor vehicle, thereby increasing penalties for these offenses;
5. removing 2nd degree manslaughter with a firearm, 2nd degree hindering prosecution, 2nd degree manslaughter with a motor vehicle, and misconduct with a motor vehicle from the enumerated SJOs, thus either requiring them to be prosecuted on an adult docket or, in the case of hindering prosecution, as a less serious delinquent act;

6. beginning July 1, 2012, permitting 17-year-olds alleged to have committed an offense which is pending on the youthful offender, regular criminal, or any motor vehicle docket on or after that date to have their cases transferred to juvenile court, when that is in their and the public's best interest;
7. modifying the standards governing the admissibility of confessions made by 16- and 17-year-olds;
8. eliminating the current requirement that DCF plan to keep juveniles sent to the Connecticut Juvenile Training School (CJTS) for at least one year;
9. requiring police to notify the superintendent of the school district an arrested student is attending, as an alternative to the district where he or she lives;
10. requiring schools to maintain confidentiality about matters when they involve students age 16 and 17 years old, as well as younger students;
11. mandating that records of cases in which a child has been convicted as delinquent for evading responsibility with a motor vehicle involving death or serious injury be reported to the Department of Motor Vehicles for use in determining whether administrative sanctions against the child's driver's license are warranted;
12. allowing courts to specifically authorize by subsequent court order that confidential records the court has released to a (a) person with a legitimate interest in the information or (b) crime victim may be released further;
13. streamlining the process for CJTS and community detention facilities to get educational records; and
14. requiring police departments to handle reports of missing 15- to 17- year-olds in the same manner as they handle reports involving missing children and vulnerable adults.

EFFECTIVE DATE: October 1, 2011, except the provisions involving 17-year-olds in delinquency proceedings are effective July 1, 2012.

§§ 4-8, 13, 16, AND 17 — ENDING DCF SERVICES AT AGE 20

By law, courts can commit children to DCF's custody in cases of delinquency, Families with Service Needs (status offenders), and those with intensive behavioral health needs that could not otherwise be met. Under the bill, a DCF commitment ends at the earliest of (1) a court-ordered expiration or termination date or (2) age 20. If an existing court order goes beyond age 20, it is cut off when the individual reaches age 20. Courts are also prohibited from ordering or continuing orders for DCF services beyond that age.

The bill also specifies that DCF transfers to the Department of Correction's (DOC) Manson or Niantic facilities end when the offender's commitment ends, as described above, and the DOC jurisdiction over him or her ends simultaneously.

Current examples of instances where the age of a DCF-committed individual might go beyond age 19 include (1) serious juvenile offender convictions, which carry a maximum four-year commitment period that a court can extend or (2) situations in which a person suspected of committing a delinquent act is not caught for several years.

§ 3 — UNIFORM DEFINITIONS

The bill incorporates by reference definitions of "child" and "youth," from the delinquency statutes into the general definitions of those terms. The current general definition of a child is a person under 16 years of age. Beginning July 1, 2012, the definition will change to a person under 18 years of age who has not been emancipated (legally designated an adult). The definition of youth changes from any person at least 16- years of age and under 19 to a 16- or 17-year-old who has not been emancipated. Emancipated minors will thus be arrested and prosecuted as adults.

§§ 9-12 — DELINQUENT ACTS

The bill excludes 1st and 2nd degree violations of conditions of release, criminal violation of a protective order, and criminal violation of a standing criminal protective order from the definitions of “delinquent” and “delinquent act.” It also specifies that beginning July 1, 2012, (1) failing to attend a court hearing or (2) violating a Superior Court order or conditions of probation only constitute delinquency when related to delinquency proceedings. In the case of 16- and 17-year-olds, the offense must have occurred while the child was 16 or older.

For 16- and 17-year-olds, the bill also excludes failure to appear or pay for an infraction or violation subject to the Centralized Infraction Bureau.

By excluding these offenses, the bill presumably authorizes them to be handled on regular or specialized adult dockets.

Serious Juvenile Offenses

The bill adds 1st and 2nd degree strangulation and home invasion to the list of serious juvenile offenses (SJOs). It removes from the list 2nd degree manslaughter with a firearm, 2nd degree hindering prosecution, 2nd degree manslaughter with a motor vehicle, and misconduct with a motor vehicle.

By law, SJOs are punishable by up to a four-year commitment to DCF, with the possibility of an extension (the delinquency commitment period would otherwise be up to 18 months with the possibility of an extension). In addition, they impose penalties on offenders such as (1) prohibiting them from obtaining a pistol permit, (2) preventing them from being released from jail on a promise to appear, (3) barring them from certain court diversion programs, and (4) delaying the date on which their juvenile records can be erased.

§ 21 — EXCLUSION OF DELINQUENT ACTS FROM FAMILY VIOLENCE CRIMES

The bill excludes delinquent acts from the definition of “family violence crimes.” By law, these are crimes that contain as an element an act of family violence to a family member. However, since the bill

excludes criminal violations of protective orders and violations of conditions of release from the definition of delinquent act, it appears that juveniles may be convicted as adults when such actions relate to family members.

§ 19 — ADMISSIBILITY OF JUVENILE CONFESSIONS

Currently, admissions, confessions, or statements made by a child age 16 are inadmissible in any related delinquency proceeding unless (1) the police or juvenile court official made reasonable efforts to contact the child's parent or guardian, (2) the child was advised that he or she has a right to contact a parent or guardian and have him or her present during the interview, and (3) the child was told about his or her *Miranda* rights. Under the bill, beginning July 1, 2012, these rules will not apply to admissions, confessions, or statements a 16- or 17-year-old makes to a police officer in connection with a case transferred to the juvenile docket from the youthful offender, regular criminal, or any motor vehicle docket, thus making them admissible in a court proceeding.

The bill also makes the same exception for such confessions from the "totality of circumstances" test that ordinarily governs the admissibility of confessions in juvenile court proceedings.

§ 20 — DISCLOSURE OF EDUCATIONAL RECORDS TO JUVENILE DETENTION FACILITIES

When a student is being held at CJTS or in a community detention facility, the bill requires the local or regional board of education of the town where a student is enrolled and in compliance with federal regulations, to provide the student's educational records to the facility on request and without the parent's written permission. If the records are supplied without parental permission, the school must mail notification at the same time it releases the records. These records may not be further disclosed without a court order or the written consent of the student's parent or guardian.

The facility can use the records only to provide the detainee with educational services.

BACKGROUND

Totality of Circumstances Test

Under the totality of circumstances test for the admissibility of juvenile confessions, the court considers the child's:

1. age, experience, education, background and intelligence;
2. capacity to understand the advice concerning rights and required warnings;
3. opportunity to speak with a parent, guardian, or some other suitable person before or while making the admission, confession, or statement; and
4. circumstances while making the confession, including (a) when or where the confession was made, (b) the reasonableness of proceeding, or the need to proceed, without a parent or guardian present, and (c) the reasonableness of efforts by the police or court to attempt to contact a parent or guardian.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (04/05/2011)