



# OLR RESEARCH REPORT

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## JUVENILE SEX OFFENDERS

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You asked (1) how often juvenile prosecutors use the serious sexual offender prosecution statute ([CGS § 46b-133d](#)); (2) if juvenile sex offenders have to register on the Department of Public Safety's sex offender registry; and (3) what impact, if any, the increase in the age for juvenile jurisdiction (i.e., "raise the age) has had on the law's application and expected foreseeable issues that might result from raising the age again in July 2012.

### SUMMARY

The serious sexual offender prosecution statute (SSOPS), which went into effect October 1, 1999, requires juveniles convicted (and those pleading) under it to be sentenced to at least five years special probation, in addition to their sentencing, which can last into adulthood.

Prosecutors are not required to keep statistics on, or report the use of, the serious sexual offender prosecution statute, reports Francis J. Carino, Supervisory Assistant State's Attorney at the Office of the Chief State's Attorney (OCSA). Although he was unable to cite any statistics, Mr. Carino said he believes there have been a couple of cases where the statute was used. In these instances, the juvenile agreed to have the

case designated as a serious sexual offense in exchange for not having it transferred to the adult criminal court. Christine Rapillo, Director of Delinquency Defense and Child Protection at the Office of the Chief Public Defender (OCPD), confirmed this. She also reported that to her knowledge, only one or two individuals have been prosecuted as serious juvenile sex offenders.

As juvenile convictions are confidential, they are not included on the Department of Public Safety's sex offender registry. If a case is transferred and the juvenile is convicted as an adult, he or she must register.

Public Act 07-4, June Special Session, began the process of "raising the age" from 16 to 18 at which the state's juveniles may be prosecuted as adults. Subsequent legislation ensured the increase in juvenile jurisdiction in two steps. On January 1, 2010, 16-year-olds could no longer be prosecuted as adults (PA 09-7). On July 1, 2012, 17-year-olds will also get juvenile status (PA 11-157).

According to OCPD's Rapillo, the Juvenile Jurisdiction Planning and Implementation Committee discussed many issues relating to raising the age of juvenile jurisdiction. She does not believe that the "raise the age" law will have an effect on the application of the SSOPS. One reason is that most prosecutors will typically transfer cases involving sexual offenses to adult court rather than using the statute.

OCSA's Carino agreed, adding that he believes any issues with the SSOPS are constitutional in nature and are not related to "raise the age." For example, one such issue is the statute's provision for the waiver of the right to a jury trial by the juvenile. This waiver takes place in the juvenile court where there is no such right and the alternative to it is the automatic transfer to the regular criminal docket. There, all juvenile protections such as confidentiality, maximum sentence of four years (for serious juvenile offenses and 18 months for other offenses) in a juvenile facility, and possible erasure of record are lost. It could be argued that to waive such an important right at that point is not a voluntary waiver, hence unconstitutional.

## **SERIOUS JUVENILE SEXUAL OFFENDER PROSECUTION**

State law allows a juvenile prosecutor to ask the court to designate the proceeding a serious sexual offender prosecution when a juvenile is accused of a sexually related crime and the case is not transferred to adult court. Within 30 days of such a request, the court must hold a

hearing. The hearing can be delayed for good cause on the request of either the juvenile prosecutor or the child, but for no longer than 90 days from the original request.

The court must decide whether to designate the proceeding a serious sexual offender prosecution within 30 days of completing the hearing. The court must grant the request if the prosecutor shows by a preponderance of the evidence that the designation will serve public safety. The court's decision is not immediately appealable.

A proceeding designated as a serious sexual offender prosecution is held before the court without a jury provided the child has waived the right to a trial by jury. If the juvenile is convicted or pleads guilty, the court must sentence the child under the normal juvenile sentencing provisions and also sentence him or her to at least five years of “special juvenile probation” beginning on his or her release from placement. The probation consists of the juvenile being supervised by a juvenile probation officer until age 17 (increases to 18 on July 1, 2012) and supervised by an adult probation officer thereafter. Any probation violation must be handled by the juvenile court if it occurs before the child turns 17 (increase to 18 on July 1, 2012) and by the regular criminal docket thereafter.

When a proceeding has been designated a serious sexual offender prosecution and the child does not waive the right to a trial by jury, the court transfers the case from the docket for juvenile matters to the regular criminal docket of the Superior Court. The juvenile stands trial and is sentenced, if convicted, as an adult. However, a convicted juvenile is not placed in a correctional facility but a facility for children and youth until the earlier of when he or she turns 18 or is sentenced. The juvenile receives credit against any sentence imposed for time served in a juvenile facility prior to the transfer to a correctional facility. (CGS § 46b-133d).

#### **ADDITIONAL INFORMATION**

For a timeline of the “raise the age” law, see <http://www.raisetheagect.org/timeline.html>

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