



OLR RESEARCH REPORT

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OLR BACKGROUNDER: JUVENILE DELINQUENCY PROCEDURE

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SUMMARY

A child age 17 or under may be convicted as “delinquent” for violating most state or federal laws. The adjudication results from either the child’s admission to allegations or the court’s finding of guilt following a trial in juvenile court.

When a child is arrested for committing an alleged delinquent act, he or she may either be released or sent to detention. If sent to detention, the child has the right to a hearing on the next business day. A child may only be kept in detention after the hearing in limited circumstances. A child remanded to detention must have another hearing to re-evaluate the detention within 15 days.

A delinquency case may either be handled nonjudicially (outside of the courtroom) or judicially. In order to qualify for nonjudicial handling, among other things, the alleged act must not be a felony, the child must not have any previous delinquency convictions, and the child must admit to the allegations. At most, nonjudicial handling may result in probation for up to six months.

When a delinquency case is handled judicially, there is typically an initial plea hearing (arraignment), followed by a pretrial conference, and then either a trial or a plea canvass and dispositional hearing. If a child

pleads guilty to a delinquent act or is found guilty as the result of a trial, he or she may be committed to the Department of Children and Families (DCF) for up to 18 months (or up to four years for a serious juvenile offense).

When a child allegedly commits a felony, the case is either transferred to adult court automatically or may be transferred at the prosecutor's discretion, depending on the seriousness of the alleged act.

Typically, when a case is transferred to adult court, the child may be tried as a youthful offender (YO). Adjudication as a YO is not a criminal conviction, and thus the child can later truthfully deny having a criminal record based on the transferred charges. If the case does not qualify for YO handling, the case is transferred to the adult criminal docket. The child then stands trial and is sentenced, if convicted, as if he or she is an adult.

The law designates approximately 50 felonies, including murder, first-degree assault, and first degree burglary as serious juvenile offenses (SJOs). The penalties for SJO offenses are harsher than those for juvenile delinquency convictions and can result in up to four years in DCF commitment.

When a child reaches age 18, he or she may petition to have his or her police and juvenile court records erased. Provided the child meets certain criteria, the records are erased and, as a result, the child has no documented criminal history.

JUVENILE JUSTICE SYSTEM GOALS

The law declares that the Connecticut juvenile justice system's goals include to:

1. hold juveniles accountable for their unlawful behavior;
2. provide secure and therapeutic confinement to juveniles who present a danger to the community;
3. adequately protect the community and juveniles;
4. provide community-based programs and services in close proximity to the juvenile's community;

5. retain and support juveniles within their homes whenever possible and appropriate;
6. base probation treatment planning upon individual case management plans;
7. include the juvenile's family in the case management plan;
8. provide supervision and service coordination where appropriate and implement and monitor the case management plan in order to discourage reoffending;
9. provide follow-up and nonresidential postrelease services to juveniles who are returned to their families or communities;
10. promote community-based program development and implementation, including mental health services, designed to prevent unlawful behavior and effectively minimize the juvenile's involvement in the juvenile justice system; and
11. create and maintain gender-specific programs for juveniles that comprehensively address the unique needs of a targeted gender group ([CGS § 46b-121h](#)).

DELINQUENCY PROCESS

In most circumstances, a child under age 17 accused of committing a crime is adjudicated in juvenile court rather than in adult court. In juvenile court, the child is accused of a "delinquent act" rather than a "crime." Different procedures apply to juvenile adjudications than apply in adult court and different penalties apply when a child is found to have committed a "delinquent act" than apply in adult court to a person convicted of a crime.

Arrest and Detention

By law, a police officer may arrest a child (1) in the process of committing a delinquent act, (2) on speedy information (reasonably accurate information that the child arrested was guilty of, or implicated in, a crime) or (3) in other cases when the arrest appears imperative. Following the arrest, the police officer may release the child on his or her own, release the child to the child's parents or guardian, or immediately turn the child over to a juvenile detention center. If the officer releases the child, he or she must provide the child and parents or guardian with

a written complaint and a court summons. If the child is turned over to a detention center, a detention hearing must be held on the first business day after the arrest.

At the detention hearing, the court may:

1. release the child to a parent or guardian with no conditions other than to attend future hearings;
2. release the child to his or her home on a suspended order of detention under a probation officer's supervision of court imposed conditions which include house arrest, electronic monitoring, random drug testing, school attendance, and curfew; under the supervision of the probation officer monitoring specific conditions which could include house arrest, electronic monitoring, random drug testing, school attendance, and curfew;
3. send the child back to the detention center but find him or her eligible for consideration by the detention staff for placement in an alternative detention program (ADP); or
4. order that the child remain in detention (Connecticut Practice Book (CPB) § 30-10).

The child may only be held in detention after the hearing if the court has probable cause to believe the child committed the delinquent act, there is no less restrictive alternative available, and there is:

1. a strong probability that the child will run away prior to the court disposition,
2. a strong probability that the child will commit other offenses dangerous to the child or community prior to the court disposition,
3. probable cause to believe that allowing the child to return home would pose a danger to the child or the community because of the serious and dangerous nature of the alleged committed acts,
4. a need to hold the child for another jurisdiction, or
5. a need to hold the child to assure his or her appearance in court, based on previous failures to appear ([CGS 46b-133\(d\)](#)).

The child may not be held in detention for more than 15 days without another detention hearing.

Nonjudicial Handling

Following the child's arrest, the police officer files the summons and police report (collectively, the complaint) for the alleged delinquent act with the juvenile court clerk. The clerk assigns the complaint juvenile identification and docket numbers. The complaint is then referred to the probation department.

A probation officer determines if the complaint is eligible for non-judicial handling. (According to the Judicial Branch, 38.4% of Connecticut delinquency complaints were handled non-judicially in 2011). A complaint is ineligible if the:

1. alleged misconduct (a) was a felony, (b) involved the theft or unlawful use of a motor vehicle, (c) involved the sale of illegal drugs or possession of illegal drugs with intent to sell, or (d) involved the use or possession of a firearm;
2. child was previously convicted delinquent or adjudged to be from a family with service needs (FWSN)(the designation for a family in which a child has committed a status offense such as truancy),
3. child admitted to being delinquent at least twice previously in nonjudicial proceedings,
4. child committed the alleged misconduct while on probation or under judicial supervision, or
5. the nature of the alleged misconduct warrants judicial intervention (CPB § 27-4A).

The prosecutor may object to nonjudicial handling, in which case the court determines if the designation is appropriate.

When a case is eligible for nonjudicial handling, a juvenile probation officer sends written notice to the child and parent or guardian. The notice includes an initial interview time and the court house location.

Initial Interview. During the initial interview, the probation officer meets with the child and the parent or guardian and discusses the delinquency allegations. The officer explains the charges in simple,

nontechnical language and informs them of the child's rights, including that the child:

1. has the right to remain silent and anything the child says may be used against him or her;
2. is entitled to an attorney, and if the child and his or her parent or guardian cannot afford one, they may apply for a public defender;
3. will not be questioned unless he or she consents, can consult with an attorney before being questioned, and can stop answering questions at any time; and
4. has the right to a trial and to confront and cross-examine witnesses (CPB § 30a-1).

The interview results in one of the following outcomes:

1. The interview ends if the child or the parent or guardian wants legal representation or the officer determines that a judicial hearing is necessary. Any further interview to consider nonjudicial handling may only take place with legal counsel present, unless waived.
2. The case is set down for an initial plea hearing if the evidence warrants and the child (a) denies responsibility for the alleged misconduct or (b) orally acknowledges responsibility but refuses to write and sign a statement of responsibility.
3. The child can be placed on nonjudicial supervision for up to 180 days if (a) the child acknowledges responsibility for the misconduct, (b) both the child and parent or guardian sign a statement of responsibility, and (c) the officer determines, based on the child's total circumstances, that a court appearance is unnecessary. If the child acknowledges responsibility for the misconduct, both the child and parent or guardian sign a statement of responsibility, and the officer determines, based on the child's total circumstances, that a court appearance is unnecessary (CPB §§ 27-6 – 27-8A).

Supervision. A child placed on nonjudicial supervision and his or her parent or guardian have the right to a conference with the probation supervisor or a court hearing if they object to the supervision. Otherwise, the case is resolved following successful completion of the nonjudicial

supervision. The probation officer may initiate a judicial hearing on the charges during the supervision period if the child violates the terms of supervision. The signed statement of responsibility cannot be used against the child at such a hearing (CPB § 27-8A).

The Court Support Services Division (CSSD) offers several programs and probation treatment services for children on probation. The programs provide:

1. intensive general education, with an individualized remediation plan for each participating juvenile;
2. appropriate job training and employment opportunities;
3. counseling sessions in anger management and nonviolent conflict resolution;
4. treatment and prevention programs for alcohol and drug dependency;
5. mental health screening, assessment, and treatment;
6. sexual offender treatment; and
7. services for families ([CGS § 46b-121k](#)).

If a child on probation violates his or her probation order, the probation officer may request the court to order the child taken into custody. When the court issues such an order, the police must arrest the child and place him or her in detention. The child then has the right to a detention hearing.

Judicial Handling

Cases handled judicially typically proceed through an initial plea hearing, a pre-trial conference, a plea canvass, and a dispositional hearing. According to the Judicial Branch, 61.6% of delinquency referrals were handled judicially in 2011.

Juvenile court proceedings are confidential. The court can exclude anyone from the courtroom it believes is not necessary for the delinquency proceeding. Victims are generally allowed to observe the proceedings, unless, following a hearing and a good cause finding, the court orders otherwise ([CGS § 46b-122](#)).

Typically, a parent or guardian seeking public defender representation for the child fills out an application prior to the initial plea hearing. If the family household income meets the public defender eligibility guidelines, the child and parent or guardian will meet with a public defender who will represent the child throughout the court proceedings.

Initial Plea Hearing. At the initial plea hearing, or arraignment, the child is formally charged and read his or her rights. The court then asks the child to deny or admit to the charges. If the child has legal representation, a pro-forma denial is typically entered on the child's behalf. If the child admits to the charges, a date is typically set for a dispositional hearing.

If the child and parent or guardian have not filed an application for legal representation, the court may still appoint counsel for either the child or the parent or guardian in the interests of justice. In such instances, the court notifies the chief public defender, who must provide an attorney for the representation. If the child's parents or guardian can afford to pay for the legal representation, they will be required to do so to the extent that they are able (CPB § 30a-1(e)).

Depending upon the charges, the prosecutor may seek to have the child sent to detention, even if the child was not sent to detention when he or she was arrested. The court listens to arguments from both sides and may then send the child home with a warning and an order to attend all future court hearings or home on a suspended order of detention. The court may only send the child to detention in limited circumstances (see "Arrest and Detention" above).

If the child is sent to detention, he or she must have a detention hearing within 15 days.

At the end of the initial hearing, if the child is not sent to detention, a date is selected for a pretrial conference which both the child and the parent or guardian must attend.

Suspension for Alcohol or Drug Dependency Treatment. After the child has entered a plea but before conviction, he or she may file a motion for suspension of the proceedings to attend an alcohol- or drug-dependency treatment program. The court may order that the child be examined to determine whether he or she has a substance abuse problem. The results of the examination must be used to determine whether or not to suspend the proceedings.

The court may suspend the delinquency proceedings for up to one year if the:

1. child is alcohol- or drug-dependent,
2. child presently needs and is likely to benefit from treatment for the dependency, and
3. suspension of the delinquency proceedings will advance the interests of justice.

During the suspension, the child is placed under probation officer supervision. The court may order periodic drug and alcohol testing.

No more than a month before the suspension period ends, the probation officer must submit a report to the court on whether the child has successfully completed the treatment program and complied with all other court imposed suspension conditions.

If the court finds that the child has completed the program and complied with the suspension orders, it may dismiss the delinquency charges. If not, the prosecutor is permitted to resume the delinquency proceedings ([CGS § 46b-133b](#)).

Pretrial Conference. During the pretrial conference, the parties may agree that certain charges, or the entire case, will be nolle or dismissed. If the state nolle a case (decides not to prosecute), the case may be reopened within 13 months if the child gets in trouble again. After 13 months, the case is dismissed and it may not be reopened ([CGS § 46b-133a](#)).

If the child and the parent or guardian agrees to sign a statement of responsibility for the charges, a date is selected for a plea canvass and dispositional hearing. The child and parent or guardian must meet with a probation officer before the plea and disposition for a predispositional study (PDS). The PDS includes information about the child's family history, school performance, community program participation, and criminal history. The court takes the PDS, among other things, into consideration when deciding on the child's sentence.

If the child continues to deny the charges, and the parties do not reach a plea agreement at the pretrial conference, the case is sent to trial.

Trial. Connecticut juvenile trials take place before a judge only. There are no juvenile jury trials. The prosecutor must prove the delinquency allegations beyond a reasonable doubt. Both the defense and the prosecution may call and question witnesses. The child may, but is not required to, testify during the trial. If the court finds the child is not guilty of the alleged charges, the case is over and the child cannot be prosecuted on those charges again. If the court finds the child is guilty, probation must draft a predispositional study and a date is set for the dispositional hearing ([CGS § 46b-134](#)).

Plea Canvass. When a child and his or her parent sign a statement of responsibility during the pretrial conference, the child must also officially plead guilty in court.

The court must ask the child a series of questions prior to the plea to assure that it is made knowingly and voluntarily. The court must be sure that the child understands:

1. the nature of the charges and their factual basis;
2. the possible penalty, including any extensions or modifications of it;
3. that the plea or admission must be voluntary and not the result of force, threats, or promises, aside from the plea agreement; and
4. that the child has the right to (a) deny responsibility or to plead not guilty, (b) be tried by a judicial authority; and (c) at trial, assistance of counsel, confront and cross-examine witnesses, and not be compelled to incriminate himself or herself (CPB § 30a-4).

Dispositional Hearing. The victim and the child both have the opportunity to make a personal statement at the dispositional hearing before the court issues a sentence. When determining the child's sentence, the court must consider the:

1. offense's seriousness,
2. child's record of delinquency,
3. child's willingness to participate in available programs,
4. other mitigating factors, and

5. child's culpability in committing the offense (CGS § 46b-140(a)).

In terms of a sentence, the court may:

1. order the child to participate in an alternative incarceration program,
2. order the child to participate in a wilderness school program operated by the Department of Children and Families (DCF),
3. order the child to participate in a youth service bureau program,
4. place the child on probation,
5. order the child to perform community service, or
6. withhold or suspend execution of any judgment ([CGS § 46b-140\(b\)](#)).

If the court determines that probation and other services are not adequate for the child, he or she may commit the child to DCF for up to 18 months (or up to four years for a serious juvenile offense (SJO), see below). Prior to ordering such a commitment, the court must consult with DCF to determine the placement that would be in the child's best interest. According to the Judicial Branch, 2.7% of delinquency complaints resulted in DCF commitment in 2011. Juvenile offenders determined by DCF to be the highest risk may be sentenced to the Connecticut Juvenile Training School if the offender is male, or another state facility, typically for a minimum 12 months.

The child has the right to appeal a conviction in Appellate Court ([CGS § 46b-142](#)).

DCF Commitment. DCF may ask the court to extend the commitment period beyond the maximum 18 months (or four years) if it can prove that doing so would be in the best interest of the child or the community and the child needs more treatment ([CGS § 46b-141\(b\)](#)).

Serious Juvenile Offenders. The law designates approximately 50 felonies, including murder, first degree assault, and first degree burglary, as serious juvenile offenses (SJOs). A child charged with an SJO may not be released from detention without an order from the court.

Children whose cases remain in juvenile court, or are sent back to juvenile court after initially being transferred to the adult court, and are convicted of a serious juvenile offense are subject to DCF commitment for up to four years, commitment of other juvenile offenders is generally limited to 18 months. And people with SJO convictions are barred from possessing firearms and electronic defense weapons.

For a child committed as an SJO, the court must hold a permanency hearing within 12 months after the commitment order was issued, and every 12 months after that. The DCF commissioner may submit a motion to either modify the commitment or extend it beyond four years if it is the best interest of the child or the community. DCF must also submit a permanency plan to the court at least 60 days before the hearing. The permanency plan must state what permanent outcome DCF feels is in the child's best interest and the facts on which DCF bases that position. The plan may include the goal of:

1. commitment revocation and placing the child with the parent or guardian,
2. transfer of guardianship,
3. permanent placement with a relative,
4. adoption, or
5. any other planned permanent living arrangement ordered by the court ([CGS § 46b-141\(d\)](#)).

At the hearing, the court must review and approve a permanency plan that is in the child's best interest and takes into consideration the child's need for permanency. The court must also determine whether DCF has made reasonable efforts to achieve the permanency plan.

TRANSFER TO ADULT COURT

Currently, a child between the ages of 14 and 17 who is charged with committing a felony may be tried in criminal court and sentenced as an adult. According to the Judicial Branch, 1.5% of delinquency complaints were transferred to adult court in 2011. The juvenile court must automatically transfer a child age 14 or older charged with a capital felony (committed prior to April 25, 2012), class A or B felony, or arson murder ([CGS § 53a-54d](#)) to the adult court. The state's attorney may file

a motion to return the matter back to the juvenile court docket at any time if the child is child charged with:

1. a class B felony or
2. first degree sexual assault if the charge is based on alleged sexual intercourse between the child and another child under age 13, if the actor is more than two years older than the alleged victim.

The juvenile prosecutor has the discretion to transfer a child charged with a class C, D, or unclassified felony to the adult court if (1) the child is at least age 14 and (2) the court finds probable cause to believe that the child committed the alleged offense ([CGS § 46b-127](#)).

Youthful Offender

When a child is transferred to adult court, he or she is eligible to be adjudicated a youthful offender (YO), instead of prosecuted as an adult if he or she (1) was not previously convicted of a felony or adjudged an SJO, a serious juvenile repeat offender, or a YO ([CGS § 54-76b](#)); and (2) is not charged with a class A felony or one of the following crimes:

1. negligent homicide with a motor vehicle ([CGS § 14-222a](#)),
2. evasion of responsibility in operation of a motor vehicle ([CGS § 14-224\(a\)](#)),
3. operation while under the influence of drugs or alcohol ([CGS § 14-227a](#)),
4. operation by a person under age 21 with a blood alcohol content over .02% ([CGS § 14-227g](#)),
5. risk of injury to a minor involving sex ([CGS § 53-21](#)),
6. first degree sexual assault ([CGS § 53a-70](#)),
7. first degree aggravated sexual assault ([CGS § 53a-70a](#)),
8. sexual assault in a spousal or cohabiting relationship ([CGS § 53a-70b](#)),

9. second degree sexual assault ([CGS § 53a-71](#))(unless the violation involved consensual intercourse or sexual contact between the child and another person who is between age 13 and 15),
10. third degree sexual assault ([CGS § 53a-72a](#)), or
11. third degree sexual assault with a firearm ([CGS § 53a-72b](#)); and

The child is presumed eligible for YO status unless the prosecutor files a motion to transfer the child to the adult criminal docket, in which case the court may order a probation investigation to determine if the child is eligible for YO. Based on the results of the investigation and the seriousness of the charges, the court may transfer the child to the adult criminal docket.

YO proceedings and records are confidential, just like the proceedings in juvenile court. The child may either plead guilty as a YO or go to trial. After a child pleads guilty or is adjudicated a YO following a trial, the court may:

1. impose a fine of up to \$1,000;
2. impose a conditional discharge or unconditional discharge sentence;
3. impose a prison sentence of up to four years;
4. impose a prison sentence but suspend it;
5. place the child on probation for up to three years;
6. commit the child to a religious, charitable, or correctional institution for up to four years;
7. order alcohol or drug dependency treatment; or
8. if there is a criminal docket for drug-dependent people in the judicial district where the child was adjudicated a YO, transfer his or her supervision to the court handling that docket ([CGS § 54-76j](#)).

Adult Criminal Docket

A child transferred to the adult criminal docket stands trial and is sentenced, if convicted, as if he or she is an adult. He or she may plead guilty to a lesser offense, but doing so will not result in a transfer back to the juvenile court. If the action is dismissed or nolle, or the child is found not guilty of a felony offense charge, he or she resumes the status of juvenile until reaching age 18. According to the Judicial Branch, 1.5% of Connecticut delinquency referrals were transferred to the adult court in 2011.

A child sentenced to incarceration in adult court serves his or her sentence in an adult correctional facility. Most inmates under age 20 serve their sentences at Manson Youth Institution in Cheshire.

Serious Juvenile Sex Offenders

State law allows a juvenile prosecutor to ask the court to designate the proceeding a serious sexual offender prosecution when a child 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 child being supervised by a juvenile probation officer until age 18 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 18 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 child stands trial and is sentenced, if convicted, as an adult. However, a convicted child 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 child receives credit against any sentence imposed for time served in a juvenile facility prior to the transfer to a correctional facility ([CGS § 46b-133d](#)).

For information about serious juvenile sex offenders, please refer to OLR Report [2012-R-0088](#).

Serious Juvenile Repeat Offenders

If a child facing a felony charge has been convicted on felony charges twice previously, the prosecutor may request the court to designate the proceeding a serious juvenile repeat offender prosecution (SJROP). The court must then hold a hearing to decide whether or not to designate the prosecution as SJROP. The court must grant the request if the prosecutor shows by clear and convincing evidence that the designation will serve the public safety.

The SJROP is held in adult criminal court unless the child waives his or her right to a jury trial, in which case the proceeding takes place in juvenile court. If the child is convicted or pleads guilty to a felony at the juvenile proceeding, the court must sentence the child to both a juvenile sentence and a suspended adult sentence. The adult sentence is imposed if the child violates the juvenile sentence or commits a subsequent crime. The child is entitled to a hearing, with legal representation present, prior to the imposition of the suspended adult sentence.

If the proceeding takes place in adult court, it is handled in the same manner as a serious juvenile sex offender prosecution. The child stands trial and is sentenced, if convicted, as an adult. A convicted child is placed in a facility for children and youth until the earlier of when he or she turns 18 or is sentenced. The child receives credit against any sentence imposed for time served in a juvenile facility prior to the transfer to a correctional facility ([CGS § 46b-133c](#)).

POLICE AND COURT RECORD ERASURE

A child who was (1) convicted as delinquent, (2) adjudicated a member of a FWSN, or (3) signed a statement of responsibility admitting to a delinquent act and has subsequently been discharged from DCF custody or court supervision, may file a petition with the Superior Court to get his or her police and court records erased. The records will be erased if:

1. at least two years, or four years in the case of an SJO, have elapsed since the discharge date;
2. no subsequent juvenile or adult criminal proceeding is pending against the child;
3. the child has not been convicted during the two- or four-year period of a (1) felony or misdemeanor as an adult or (2) delinquent act that would constitute a felony or misdemeanor if committed by an adult; and
4. the child has reached age 18.

If a child's delinquency or FWSN was dismissed, the police and court records are automatically erased without the need for a petition. The court may also grant a petition to erase a child's records on a finding of good cause prior to the required two- or four-year period ([CGS § 46b-146](#)).

ADDITIONAL INFORMATION

For facts and figures on the Connecticut juvenile justice system, including those cited in this report, please see:

<http://www.ct.gov/opm/cwp/view.asp?a=2974&Q=471654>

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