



General Assembly

January Session, 2013

**Raised Bill No. 6399**

LCO No. 3209



Referred to Committee on CHILDREN

Introduced by:  
(KID)

**AN ACT CONCERNING CHILDREN IN THE JUVENILE JUSTICE SYSTEM.**

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

1 Section 1. (NEW) (*Effective October 1, 2013*) At any proceeding  
2 concerning the alleged delinquency of a child, no child shall be  
3 physically restrained by the use of shackles, handcuffs or other  
4 mechanical restraints prior to being adjudicated as delinquent, unless  
5 the judge determines that the use of such restraints is necessary to  
6 ensure the safety of the public. Nothing in this section shall be  
7 construed as preventing a child from being physically restrained while  
8 being transported from one place to another.

9 Sec. 2. (NEW) (*Effective October 1, 2013*) Whenever a child  
10 adjudicated as delinquent is committed to the Department of Children  
11 and Families, the period of such child's commitment shall be reduced  
12 by the number of days the child was held in a juvenile detention  
13 center, an alternative detention center, the Connecticut Juvenile  
14 Training School, a police station or courthouse lockup, a correctional  
15 facility, or any other facility or hospital prior to the disposition of the

16 juvenile matter.

17 Sec. 3. Subsection (a) of section 46b-137 of the general statutes is  
18 repealed and the following is substituted in lieu thereof (*Effective*  
19 *October 1, 2013*):

20 (a) Any admission, confession or statement, written or oral, made by  
21 a child under the age of sixteen to a police officer or Juvenile Court  
22 official shall be inadmissible in any proceeding concerning the alleged  
23 delinquency of the child, or any criminal prosecution of the child,  
24 making such admission, confession or statement unless made by such  
25 child in the presence of the child's parent or parents or guardian and  
26 after the parent or parents or guardian and child have been advised (1)  
27 of the child's right to retain counsel, or if unable to afford counsel, to  
28 have counsel appointed on the child's behalf, (2) of the child's right to  
29 refuse to make any statements, and (3) that any statements the child  
30 makes may be introduced into evidence against the child.

31 Sec. 4. Section 46b-146 of the general statutes is repealed and the  
32 following is substituted in lieu thereof (*Effective October 1, 2013*):

33 (a) Whenever any child has been convicted as delinquent [, has been  
34 adjudicated a member of a family with service needs] for the  
35 commission of a serious juvenile offense or has signed a statement of  
36 responsibility admitting to having committed a [delinquent act]  
37 serious juvenile offense, and has subsequently been discharged from  
38 the supervision of the Superior Court or from the custody of the  
39 Department of Children and Families or from the care of any other  
40 institution or agency to whom the child has been committed by the  
41 court, such child, or the child's parent or guardian, may file a petition  
42 with the Superior Court. If such court finds (1) that at least [two years  
43 or, in the case of a child convicted as delinquent for the commission of  
44 a serious juvenile offense,] four years have elapsed from the date of  
45 such discharge, (2) that no subsequent juvenile proceeding or adult  
46 criminal proceeding is pending against such child, (3) that such child

47 has not been convicted of a delinquent act that would constitute a  
48 felony or misdemeanor if committed by an adult during such [two-  
49 year or] four-year period, (4) that such child has not been convicted as  
50 an adult of a felony or misdemeanor during such [two-year or] four-  
51 year period, and (5) that such child has reached eighteen years of age,  
52 the court shall order all police and court records pertaining to such  
53 child to be erased. Upon the entry of such an erasure order, all  
54 references including arrest, complaint, referrals, petitions, reports and  
55 orders, shall be removed from all agency, official and institutional files,  
56 and a finding of delinquency [or that the child was a member of a  
57 family with service needs] shall be deemed never to have occurred.  
58 The persons in charge of such records shall not disclose to any person  
59 information pertaining to the record so erased, except that the fact of  
60 such erasure may be substantiated where, in the opinion of the court, it  
61 is in the best interests of such child to do so. No child who has been the  
62 subject of such an erasure order shall be deemed to have been arrested  
63 ab initio, within the meaning of the general statutes, with respect to  
64 proceedings so erased. Copies of the erasure order shall be sent to all  
65 persons, agencies, officials or institutions known to have information  
66 pertaining to the delinquency [or family with service needs]  
67 proceedings affecting such child. [Whenever a child is dismissed as not  
68 delinquent or as not being a member of a family with service needs, all  
69 police and court records pertaining to such charge shall be ordered  
70 erased immediately, without the filing of a petition. Nothing in this  
71 section shall prohibit the court from granting a petition to erase a  
72 child's records on a showing of good cause, after a hearing, before the  
73 time when such records could be erased.]

74 (b) Whenever any child has been convicted as delinquent for the  
75 commission of a delinquent act, has been adjudicated a member of a  
76 family with service needs or has signed a statement of responsibility  
77 admitting to having committed a delinquent act, and has subsequently  
78 been discharged from the supervision of the Superior Court or from  
79 the custody of the Department of Children and Families or from the

80 care of any other institution or agency to whom the child has been  
81 committed by the court, and (1) at least two years have elapsed from  
82 the date of such discharge, (2) no subsequent juvenile proceeding or  
83 adult criminal proceeding is pending against such child, (3) such child  
84 has not been convicted of a delinquent act that would constitute a  
85 felony or misdemeanor if committed by an adult during such two-year  
86 period, (4) such child has not been convicted as an adult of a felony or  
87 misdemeanor during such two-year period, and (5) such child has  
88 reached eighteen years of age, the court shall order all police and court  
89 records pertaining to such child to be erased on the second day of  
90 January of each year or on a date designated by the court without the  
91 filing of a petition. Upon the entry of such an erasure order, all  
92 references, including arrest, complaint, referrals, petitions, reports and  
93 orders, shall be removed from all agency, official and institutional files,  
94 and a finding of delinquency or that the child was a member of a  
95 family with service needs shall be deemed never to have occurred. The  
96 persons in charge of such records shall not disclose to any person  
97 information pertaining to the record so erased, except that the fact of  
98 such erasure may be substantiated where, in the opinion of the court, it  
99 is in the best interests of such child to do so. No child who has been the  
100 subject of such an erasure order shall be deemed to have been arrested  
101 ab initio, within the meaning of the general statutes, with respect to  
102 proceedings so erased. Copies of the erasure order shall be sent to all  
103 persons, agencies, officials or institutions known to have information  
104 pertaining to the delinquency or family with service needs proceedings  
105 affecting such child.

106 (c) Whenever a child is dismissed as not delinquent or as not being a  
107 member of a family with service needs, all police and court records  
108 pertaining to such charge shall be ordered erased immediately,  
109 without the filing of a petition. Nothing in this section shall prohibit  
110 the court from granting a petition to erase a child's records on a  
111 showing of good cause, after a hearing, before the time when such  
112 records could be erased.

113       Sec. 5. (NEW) (*Effective October 1, 2013*) Any child convicted as  
114 delinquent by the superior court for juvenile matters and committed to  
115 the Department of Children and Families as a result of such conviction  
116 and any person who is under the supervision of a juvenile probation  
117 officer while on probation or under a suspended commitment to the  
118 Department of Children and Families, who challenges the legality or  
119 conditions of such commitment or placement by applying for a writ of  
120 habeas corpus shall file such application with the superior court for  
121 juvenile matters in the venue district established under section 46b-142  
122 of the general statutes in which the commitment or placement was  
123 ordered. Such application may be made by such child or person, or on  
124 behalf of such child or person by his or her parent, guardian or counsel  
125 and shall name the Commissioner of Children and Families as  
126 respondent. The determination of legality or conditions of such  
127 commitment shall be made by the superior court for juvenile matters  
128 in the civil session.

129       Sec. 6. Subsection (a) of section 46b-121 of the general statutes is  
130 repealed and the following is substituted in lieu thereof (*Effective*  
131 *October 1, 2013*):

132       (a) (1) Juvenile matters in the civil session include all proceedings  
133 concerning uncared-for, neglected or abused children and youths  
134 within this state, termination of parental rights of children committed  
135 to a state agency, adoption proceedings pursuant to section 46b-129b,  
136 matters concerning families with service needs, contested matters  
137 involving termination of parental rights or removal of guardian  
138 transferred from the Probate Court, [and] the emancipation of minors  
139 and applications for a writ of habeas corpus arising from a juvenile  
140 matter in the criminal session, but does not include matters of  
141 guardianship and adoption or matters affecting property rights of any  
142 child or youth over which the Probate Court has jurisdiction, except  
143 that appeals from probate concerning adoption, termination of  
144 parental rights and removal of a parent as guardian shall be included.

145 (2) Juvenile matters in the criminal session include all proceedings  
146 concerning delinquent children within this state and persons eighteen  
147 years of age and older who are under the supervision of a juvenile  
148 probation officer while on probation or a suspended commitment to  
149 the Department of Children and Families, for purposes of enforcing  
150 any court orders entered as part of such probation or suspended  
151 commitment.

152 Sec. 7. Section 17a-8 of the general statutes is repealed and the  
153 following is substituted in lieu thereof (*Effective October 1, 2013*):

154 (a) All children and youths who are or have been committed to the  
155 custody of the Commissioner of Children and Families as delinquent  
156 shall remain in such custody until the earliest of the following: (1) The  
157 date such commitment expires as provided by order of the Superior  
158 Court, (2) the date such commitment terminates as provided by order  
159 of the Superior Court, or (3) the date the child or youth attains the age  
160 of twenty. Any child or youth who while placed in an institution  
161 administered by the Department of Children and Families escapes  
162 from such institution or any child or youth who violates the terms or  
163 conditions of parole may be returned to actual custody. The request of  
164 the Commissioner of Children and Families, or the commissioner's  
165 designee, shall be sufficient warrant to authorize any officer of the  
166 Department of Children and Families or any officer authorized by law  
167 to serve criminal process within this state to return any such child or  
168 youth into actual custody; and any such officer, police officer or  
169 constable shall arrest and hold any such child or youth when so  
170 requested, without written warrant.

171 (b) If the commissioner finds that a child or youth committed to his  
172 custody as delinquent who is fourteen years of age or older cannot  
173 benefit from continued school attendance or has graduated from high  
174 school and if the commissioner further finds that such person may  
175 benefit from part or full-time employment at some useful occupation,  
176 the commissioner may place the child or youth on vocational parole,

177 under the supervision of an employee of the department. For the  
178 purposes of this section, the limitations of subsection (a) of section 31-  
179 23, on the employment of minors under the age of sixteen years, shall  
180 not apply for the duration of such vocational parole.

181 Sec. 8. Subsections (a) and (b) of section 46b-141 of the general  
182 statutes are repealed and the following is substituted in lieu thereof  
183 (*Effective October 1, 2013*):

184 (a) (1) Except as otherwise limited by subsection (i) of section 46b-  
185 140 and subdivision (2) of this subsection, commitment of children  
186 convicted as delinquent by the Superior Court to the Department of  
187 Children and Families shall be at the discretion of the court for (A) an  
188 indeterminate time up to a maximum of eighteen months, or (B) when  
189 so convicted for a serious juvenile offense, up to a maximum of four  
190 years at the discretion of the court, unless extended as hereinafter  
191 provided.

192 (2) Commitment of children convicted as delinquent by the Superior  
193 Court to the Department of Children and Families shall terminate  
194 when the child attains the age of twenty.

195 (b) The Commissioner of Children and Families may file a motion  
196 for an extension of the commitment as provided in subparagraph (A)  
197 of subdivision (1) of subsection (a) of this section beyond the eighteen-  
198 month period, [on the grounds that such extension is for the best  
199 interest of the child or the community] provided (1) the child continues  
200 to be in need of services, (2) no less restrictive alternative to  
201 commitment exists, and (3) such extension is in the best interest of the  
202 child. The court shall give notice to the parent or guardian and to the  
203 child at least fourteen days prior to the hearing upon such motion. The  
204 court may, after hearing and upon finding that such extension is in the  
205 best interest of the child or the community, continue the commitment  
206 for an additional period of not more than eighteen months, except that  
207 such additional period shall not continue beyond the date the child

208 attains the age of twenty. Not later than twelve months after a child is  
209 committed to the Department of Children and Families in accordance  
210 with subparagraph (A) of subdivision (1) of subsection (a) of this  
211 section, the court shall hold a permanency hearing in accordance with  
212 subsection (d) of this section. After the initial permanency hearing,  
213 subsequent permanency hearings shall be held not less frequently than  
214 every twelve months while the child remains committed to the  
215 Department of Children and Families.

216 Sec. 9. Section 51-296a of the general statutes is repealed and the  
217 following is substituted in lieu thereof (*Effective October 1, 2013*):

218 (a) The judicial authority before whom a family relations matter  
219 described in subparagraph (A) of subdivision (1) of subsection (c) of  
220 section 51-296 is pending shall determine eligibility for counsel for a  
221 child or youth and the parents or guardian of a child or youth if they  
222 are unable to afford counsel and are indigent according to the income  
223 and eligibility guidelines promulgated by the Public Defender Services  
224 Commission. Upon a finding that a party is unable to afford counsel  
225 and is indigent according to such guidelines, the judicial authority  
226 shall appoint an attorney to provide representation from a list of  
227 qualified attorneys provided by the office of Chief Public Defender.

228 (b) The judicial authority before whom a juvenile matter described  
229 in subparagraph (B) of subdivision (1) of subsection (c) of section 51-  
230 296 is pending shall notify the office of Chief Public Defender who  
231 shall assign an attorney to represent the child or youth. The judicial  
232 authority shall determine eligibility for counsel for the parents or  
233 guardian of the child or youth if such parents or guardian is unable to  
234 afford counsel and is indigent according to the income and eligibility  
235 guidelines promulgated by the Public Defender Services Commission.  
236 Upon a finding that such parents or guardian is unable to afford  
237 counsel and is indigent according to such guidelines, the judicial  
238 authority shall notify the office of Chief Public Defender of such  
239 finding, and the office of Chief Public Defender shall assign an

240 attorney to provide representation.

241 (c) For the purposes of determining eligibility for appointment of  
242 counsel pursuant to subsection (a) or (b) of this section, the judicial  
243 authority shall cause the parents or guardian of a child or youth to  
244 complete a written statement under oath or affirmation setting forth  
245 the parents' or guardian's liabilities and assets, income and sources  
246 thereof, and such other information as the Public Defender Services  
247 Commission designates and requires on forms adopted by the  
248 commission. The judicial authority shall determine eligibility for  
249 appointment of counsel in accordance with the income and eligibility  
250 guidelines adopted by the Division of Public Defender Services  
251 Commission.

252 (d) The payment of any attorney who was appointed prior to July 1,  
253 2011, to represent a child or indigent parent in any case described in  
254 subparagraph (A) of subdivision (1) of subsection (c) of section 51-296  
255 who continues to represent such child or parent on or after July 1,  
256 2011, shall be processed through the office of Chief Public Defender  
257 and paid at the rate that was in effect at the time of such appointment.

258 Sec. 10. Section 51-299 of the general statutes is repealed and the  
259 following is substituted in lieu thereof (*Effective October 1, 2013*):

260 Except in cases in which counsel has been appointed pursuant to  
261 subsection (c) of section 51-296, whenever a person requesting services  
262 pursuant to this chapter is under the age of eighteen years, eligibility  
263 for services shall be measured in terms of the financial circumstances  
264 of such person and of his parents, guardians, or those legally  
265 responsible for the support of such person. The commission shall be  
266 entitled to recover the reasonable cost of legal services, as determined  
267 in accordance with the schedule of reasonable charges for public  
268 defender services provided by the commission, from the parents,  
269 guardians, trustees or those legally responsible for the support of such  
270 person and the provisions of section 51-298 shall apply to such

271 persons. In so doing, it shall have the authority to require such parents,  
272 guardians or other such persons as well as those persons holding  
273 property in trust or otherwise for such minor or unemancipated  
274 person to execute and deliver to the commission or its employees any  
275 written requests or authorizations required under applicable law or  
276 otherwise to provide the Chief Public Defender or those serving under  
277 him with access to such records of public or private sources, otherwise  
278 confidential, or any other information which may be relevant to the  
279 question of eligibility or liability to the commission under this chapter.  
280 The commission shall be entitled to recover the reasonable cost of legal  
281 services, as determined in accordance with the schedule of reasonable  
282 charges for public defender services provided by the commission, from  
283 the Judicial Department in any proceeding wherein the court  
284 appointed counsel over the objection of the Office of Chief Public  
285 Defender, provided said office determined that the person was not  
286 indigent in accordance with the income and eligibility guidelines as  
287 promulgated by the Public Defender Services Commission.

288 Sec. 11. Section 4-141 of the general statutes is repealed and the  
289 following is substituted in lieu thereof (*Effective from passage*):

290 As used in this chapter: "Claim" means a petition for the payment or  
291 refund of money by the state or for permission to sue the state; "just  
292 claim" means a claim which in equity and justice the state should pay,  
293 provided the state has caused damage or injury or has received a  
294 benefit; "person" means any individual, firm, partnership, corporation,  
295 limited liability company, association or other group, including  
296 political subdivisions of the state; "state agency" includes every  
297 department, division, board, office, commission, arm, agency and  
298 institution of the state government, whatever its title or function; and  
299 "state officers and employees" includes every person elected or  
300 appointed to or employed in any office, position or post in the state  
301 government, whatever such person's title, classification or function  
302 and whether such person serves with or without remuneration or  
303 compensation, including judges of probate courts, employees of such

304 courts and special limited conservators appointed by such courts  
305 pursuant to section 17a-543a. In addition to the foregoing, "state  
306 officers and employees" includes attorneys appointed as victim  
307 compensation commissioners, attorneys appointed by the Public  
308 Defender Services Commission as public defenders, assistant public  
309 defenders or deputy assistant public defenders and attorneys  
310 appointed by the court as Division of Public Defender Services  
311 assigned counsel or guardians ad litem, individuals appointed by the  
312 Public Defender Services Commission, or by the court, as a guardian  
313 ad litem or attorney for a party in a neglect, abuse, termination of  
314 parental rights, delinquency or family with service needs proceeding,  
315 the Attorney General, the Deputy Attorney General and any associate  
316 attorney general or assistant attorney general, any other attorneys  
317 employed by any state agency, any commissioner of the Superior  
318 Court hearing small claims matters or acting as a fact-finder, arbitrator  
319 or magistrate or acting in any other quasi-judicial position, any person  
320 appointed to a committee established by law for the purpose of  
321 rendering services to the Judicial Department, including, but not  
322 limited to, the Legal Specialization Screening Committee, the State-  
323 Wide Grievance Committee, the Client Security Fund Committee, the  
324 advisory committee appointed pursuant to section 51-81d and the  
325 State Bar Examining Committee, any member of a multidisciplinary  
326 team established by the Commissioner of Children and Families  
327 pursuant to section 17a-106a, and any physicians or psychologists  
328 employed by any state agency. "State officers and employees" shall not  
329 include any medical or dental intern, resident or fellow of The  
330 University of Connecticut when (1) the intern, resident or fellow is  
331 assigned to a hospital affiliated with the university through an  
332 integrated residency program, and (2) such hospital provides  
333 protection against professional liability claims in an amount and  
334 manner equivalent to that provided by the hospital to its full-time  
335 physician employees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	New section
Sec. 2	October 1, 2013	New section
Sec. 3	October 1, 2013	46b-137(a)
Sec. 4	October 1, 2013	46b-146
Sec. 5	October 1, 2013	New section
Sec. 6	October 1, 2013	46b-121(a)
Sec. 7	October 1, 2013	17a-8
Sec. 8	October 1, 2013	46b-141(a) and (b)
Sec. 9	October 1, 2013	51-296a
Sec. 10	October 1, 2013	51-299
Sec. 11	from passage	4-141

**Statement of Purpose:**

To promote consistency and prohibit juveniles from being shackled prior to conviction unless to ensure public safety, to provide time credit for a child who is arrested and held prior to being convicted as delinquent and committed to the Department of Children and Families, to allow statements made by a child in the presence of the child's parent or guardian to be admissible in a delinquency or criminal proceeding, and to make additional changes to the current 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.]*