



## YOUTHFUL OFFENDERS

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### YOUTHFUL OFFENDER LAWS

- Designate a special status in adult court for cases involving minors charged with committing certain felonies when age 15 through 17
- Provide these cases with greater confidentiality than regular adult cases and give judges different sentencing options
- [CGS §§ 54-76b, et seq.](#)

### ISSUE

Summarize the youthful offender laws.

### SUMMARY

The youthful offender laws provide special procedures for handling cases of minors charged with certain crimes in adult criminal court.

A minor, someone charged with committing a crime when under age 18, begins his or her case in juvenile court. If the minor is charged with committing a felony when age 15 through 17, his or her case may or must be transferred to adult court (the regular criminal docket in Superior Court) depending on the charge.

Once in adult court, the court must determine whether the minor qualifies as a "youthful offender." To qualify, the minor cannot be charged with certain crimes (such as a class A felony) and cannot have any prior felony convictions or certain juvenile adjudications. Even if the minor qualifies, a prosecutor can request, and the court order, that the minor's case be moved to adult court.

If granted youthful offender status, the law provides greater confidentiality for the case than in regular adult court. Proceedings are private and conducted separately from adult criminal matters. Records related to the minor have greater confidentiality and the records are erased once the minor reaches age 21 if he or she has completed any required supervision or commitment from the case and has no later felony convictions. The court also has a different list of sentencing options than available in either adult or juvenile court.

Youthful offender laws previously applied to more cases involving 16- and 17-year olds. Prior to legislation raising the age of juvenile court jurisdiction, all cases involving someone charged with committing a crime at age 16 or 17 were heard in



adult court and these individuals were eligible for youthful offender status. Juvenile court jurisdiction increased to include those who committed crimes at age 16 on January 1, 2010 and age 17 on July 1, 2012 ([PA 07-4](#), June Special Session, and [PA 09-7](#), September Special Session).

## **TRANSFERS FROM JUVENILE TO ADULT COURT**

When a case is transferred from juvenile court to adult court, the court must determine whether the minor qualifies as a “youthful offender.” The law requires transferring some felony cases to adult court under certain circumstances and allows the transfer of specified class B and other felony cases.

### ***Automatic Transfer***

The juvenile court must automatically transfer a minor charged with committing a crime when age 15 through 17 to adult criminal court if he or she is charged with a capital felony committed prior to April 25, 2012, a class A felony, a class B felony (with some exceptions which are subject to discretionary transfers, see below), or arson murder. Any court proceedings before the transfer becomes final are private and must be conducted separately from parts of the courthouse used for adult criminal matters.

After arraignment, a prosecutor can request that a case be transferred back to juvenile court if the child is charged with a class B felony or 1<sup>st</sup> degree sexual assault involving intercourse between a victim under age 13 and a perpetrator at least two years older ([CGS § 46b-127, 2016 Supp.](#) (as amended by PA 15-183)).

### ***Discretionary Transfer***

A prosecutor can request that the juvenile court transfer to adult court a minor charged with committing a crime when age 15 through 17 if the minor is charged with a class C, D, or E felony; an unclassified felony; or one of the following class B felonies

1. 1<sup>st</sup> degree manslaughter;
2. 1<sup>st</sup> degree assault of a Department of Correction (DOC) employee;
3. 2<sup>nd</sup> degree sexual assault of a victim under age 16;
4. 2<sup>nd</sup> degree kidnapping;

5. 1<sup>st</sup> degree burglary, when it involves entering or remaining unlawfully in a building with intent to commit a crime and in the course of committing the offense, intentionally, knowingly, or recklessly inflicting or attempting to inflict bodily injury on another person;
6. 2<sup>nd</sup> degree arson;
7. 1<sup>st</sup> degree larceny;
8. 1<sup>st</sup> degree identify theft;
9. 1<sup>st</sup> degree robbery, other than when the person is armed with a deadly weapon;
10. importing child pornography;
11. 1<sup>st</sup> degree possessing child pornography;
12. 1<sup>st</sup> degree computer crime; and
13. computer crime in furtherance of terrorist purposes.

If the prosecutor requests a transfer, the court can order the transfer only if it determines after a hearing that (1) there is probable cause to believe that the minor committed the alleged offense and (2) the best interests of both the minor and public are not served by keeping the case in juvenile court. The court must consider (1) the minor's prior criminal or juvenile offenses and their seriousness, (2) any evidence that the minor has an intellectual disability or a mental illness, and (3) the availability of juvenile court services that can serve the minor's needs. The motion to transfer must be made, and the hearing held, within 30 days after the minor's arraignment in juvenile court.

For these discretionary transfers, if good cause is shown, the adult criminal court may return the case to juvenile court any time before a jury verdict or guilty plea ([CGS § 46b-127, 2016 Supp.](#) (as amended by PA 15-183)).

## **QUALIFYING AS A YOUTHFUL OFFENDER**

When a case is transferred to adult court under the procedures described above, the court must determine whether the minor qualifies as a “youthful offender.”

To qualify as a youthful offender, the minor must not be charged with:

1. a class A felony;
2. negligent homicide with a motor vehicle ([CGS § 14-222a](#));
3. evading responsibility for an accident causing death or serious physical injury ([CGS § 14-224\(a\) or \(b\)\(1\)](#));
4. driving under the influence ([CGS §§ 14-227a or -227g](#));
5. the portion of risk of injury to a minor involving sexual contact ([CGS § 53-21\(a\)\(2\)](#));
6. 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree sexual assault ([CGS §§ 53a-70, -71, and -72a](#));
7. 1<sup>st</sup> degree aggravated sexual assault ([CGS § 53a-70a](#));
8. sexual assault in a spousal or cohabiting relationship ([CGS § 53a-70b](#)); or
9. 3<sup>rd</sup> degree sexual assault with a firearm ([CGS § 53a-72b](#)).

A minor charged with one of the sexual assault crimes listed above may be eligible if the conduct involved consensual sexual intercourse or contact with someone age 13 through 15.

Additionally, the minor must have:

1. no prior felony convictions;
2. no adjudications as a serious juvenile offender (a determination in juvenile court that the minor committed one of certain serious crimes, such as murder, 1<sup>st</sup> degree assault, or 1<sup>st</sup> degree burglary); and
3. no adjudications as a serious juvenile repeat offender in juvenile court (a determination that the minor committed a felony and has two prior convictions or delinquency determinations for committing a felony)([CGS § 54-76b](#)).

## **GRANTING YOUTHFUL OFFENDER STATUS**

A juvenile transferred to adult court who meets the criteria described above is presumed eligible for youthful offender status and the court seals the file as to the public ([CGS § 54-76c](#)).

### ***Investigation***

The prosecutor can make a motion for, and the court can order, an investigation of the juvenile's eligibility ([CGS § 54-76c](#)).

If the court on its own motion or on granting a prosecutor's motion, orders an investigation of a minor's eligibility, a probation officer must conduct an investigation if the minor consents to (1) any required physical or mental examination, (2) investigation and questioning, and (3) a trial without a jury if there is a trial. If the charges involve a felony, the officer must include the minor's unerasured juvenile records and adjudications as part of the investigation's summary ([CGS § 54-76d](#)).

### ***Transfer to Adult Court***

A prosecutor can also make a motion, and the court order, that the case of a minor charged with a felony be transferred to the adult court docket even if he or she would otherwise be eligible for youthful offender status if the court finds probable cause that he or she committed the crime. A prosecutor can also make a motion to return such a case to youthful offender status. Files remain sealed until a transfer to adult court is finalized ([CGS § 54-76c](#)).

### ***Granting Status***

If no investigation is required and the defendant agrees to a trial without a jury if a trial is required, he or she enters a plea under youthful offender status.

If an investigation is conducted, the court has discretion whether to grant youthful offender status based on the investigation's findings and factors such as the crime's severity and whether the minor took advantage of the victim because of the victim's advanced age or physical incapacity. If granted youthful offender status, the defendant enters a plea. If denied the status, the case is unsealed and it proceeds in adult court ([CGS §§ 54-76d](#) and [-76e](#)).

## ***Terminating Status***

At any time before a trial or entering a plea, the defendant (if his or her parent or guardian and attorney agree) can move to waive youthful offender proceedings and request a jury trial in adult criminal court. If the court believes the defendant's waiver is knowing and voluntary, the court can grant the motion and the case proceeds in adult court.

If the court determines a defendant is not eligible as a youthful offender at anytime, it may order the case unsealed and to proceed in adult court ([CGS § 54-76d](#)).

## **PROCEEDINGS**

Youthful offender proceedings are private and conducted in a separate part of the courthouse from adult criminal matters. But the court cannot exclude a victim from youthful offender proceedings unless the court holds a hearing with the parties and victim and specifically states on the record good cause for the exclusion. If the defendant is committed and detained at any point prior to sentencing, the defendant, to the extent the facility allows, must be kept separately from defendants over age 18 ([CGS § 54-76h](#)).

Statements made by the defendant related to the investigation of youthful offender eligibility are not admissible against him or her but the court may consider them when sentencing the defendant as a youthful offender, on conviction of the crime charged or a subsequent crime ([CGS § 54-76f](#)).

## **CONFIDENTIALITY OF RECORDS**

The law makes youthful offender records and information confidential. These records are not open to public inspection and cannot be disclosed except to:

1. individuals and agencies providing services to the minor, including law enforcement officials, state and federal prosecutors, school officials, court officials, Division of Criminal Justice and Court Support Services Division (CSSD) personnel, and the victim advocate for a victim of the minor's crime;
2. an attorney representing the minor in a proceeding in which they are relevant;
3. the minor's parent or guardian, until the minor is emancipated or reaches the age of majority;

4. Department of Correction and Board of Pardons and Paroles employees, if the minor has been sentenced to prison as a youthful offender or convicted in adult court and the records are relevant to the employee's duty to (a) perform a risk and needs assessment during incarceration, (b) determine suitability for release from prison or a pardon, or (c) determine supervision and treatment needs while under supervision;
5. law enforcement officials and prosecutors conducting a legitimate criminal investigation;
6. a victim of the minor's crime, who must have the same access to records as if the case were in adult criminal court;
7. anyone else the court determines has a legitimate interest in the information;
8. law enforcement officials, if it relates to a minor who escaped from an institution or is the subject of an arrest warrant; and
9. the Department of Motor Vehicles, when the records relate to certain motor vehicle violations that can lead to a license suspension.

For most of the disclosures authorized above, the person receiving the records cannot disclose them to others. But:

1. DOC can disclose information about a minor in its custody to the minor's parents or guardians,
2. CSSD employees can disclose reports and files the agency holds on a minor who served probation when performing duties related to bail, and
3. information in and about a protective order issued in a case involving a youthful offender is entered in the protective order registry and can be disclosed as with other registry information (other statutes limit who can access this information) ([CGS § 54-76I](#)).

## **PUNISHMENT**

By law, a victim can submit a written statement or appear in court to make a statement about a plea agreement or sentence ([CGS § 54-76q](#)).

When sentencing someone adjudged a youthful offender, the court may:

1. impose a prison term of up to four years or the maximum term authorized for the crime, whichever is less;
2. commit the defendant for up to four years or the maximum term authorized for the crime, whichever is less, to a religious, charitable, or correctional institution authorized to receive people over age 16;
3. impose a fine of up to \$1,000;
4. impose conditional or unconditional discharge;
5. require community service;
6. impose a sentence and suspend any portion of it;
7. order alcohol or drug dependency treatment; or
8. order supervision by the court's drug intervention program if available in the relevant judicial district (these programs currently operate in Danielson and New Haven, see [OLR Report 2016-R-0048](#) ([CGS § 54-76j](#))).

Youthful offender status does not disqualify someone from later holding public office and does not forfeit the ability to receive a license granted by a public authority.

By law, someone who is a youthful offender is not a criminal and being adjudged a youthful offender is not a conviction ([CGS § 54-76k](#)).

### ***Probation***

If the court suspends a sentence, it can impose up to three years of probation but may, after a hearing, extend the period at any time during the probationary period for good cause.

If the court orders probation, the law specifies several conditions of probation that the court may impose. It:

1. may refer the person to a youth service bureau if the bureau or its designee finds that the minor needs and is likely to benefit from its services (these bureaus coordinate community-based youth services);
2. may require the minor to attend school and classes regularly and comply with school conduct and disciplinary policies;
3. must require periodic testing for narcotic use if the court has reason to believe the minor is or has been an unlawful user of narcotics (failure to report for a test or a positive test showing use is a violation of probation); and
4. may require, if the minor committed animal cruelty under [CGS § 53-247](#), psychiatric or psychological counseling or participation in an animal cruelty prevention and education program if one is available ([CGS § 54-76j](#)).

## **RECORD ERASURE**

The law requires erasing the records of a youthful offender once he or she reaches age 21 if he or she has completed any required supervision or commitment and has not been later convicted of a felony. Police and court records are automatically erased and all related references are removed from agency, official, and institutional files (these references include any to the arrest, complaint, referrals, petitions, reports, and orders). The law prohibits people in charge of records from disclosing information about erased records except to the record's subject. The erasure order is sent to all people, agencies, officials, and institutions known to have information about the proceedings ([CGS § 54-76o](#)).

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