

Backgrounder: Juvenile Delinquency Procedure

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Issue

Describe the processes by which children are convicted of criminal charges in juvenile and adult criminal court. This report updates OLR Report [2016-R-0284](#).

Summary

In Connecticut, juvenile courts have jurisdiction over children alleged to have committed crimes while under age 18. Children 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. Unlike an adult criminal conviction, a child convicted as delinquent in juvenile court is not sentenced to prison. Instead, the court may, among other things, order the child to perform community service, place the child on probation or, if the court determines that probation and other services are not adequate for the child, commit him or her to the Department of Children and Families (DCF) for up to 18 months or up to four years for certain crimes designated as serious juvenile offenses (SJOs). (Under [PA 17-2 June Special Session \(JSS\) \(§ 321\)](#), starting July 1, 2018, the court may not commit a child to DCF as a result of a delinquency conviction.)

This report provides an overview of the juvenile delinquency process from when a child is arrested to the disposition of the case. As in adult criminal court, a conviction in juvenile court may be appealed in Appellate Court.

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. Adjudication as a youthful offender is not a criminal conviction, and the child can later truthfully deny having a criminal record as it pertains to such charges. If the case does not qualify for youthful offender handling, it is transferred to the adult criminal docket. The child then stands trial and is sentenced, if convicted, as if he or she were an adult.

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

Delinquency Process

Adult criminal and juvenile courts each follow different procedures. Also, a person convicted of a crime in adult court faces different penalties than a child adjudicated delinquent in juvenile court.

Arrest

By law, a police officer may arrest a child in the process of committing a delinquent act, on speedy information (reasonably accurate information that the child arrested was guilty of, or implicated in, a crime) or when the arrest appears imperative ([CGS § 46b-133\(a\)](#)).

Following the arrest, the police officer may (1) release the child to the child's parents, guardian, or another suitable person; (2) at the officer's discretion, release the child on his or her own; or (3) seek a court order to detain the child in a juvenile detention center ([CGS § 46b-133\(c\)](#)). If the child is arrested for prostitution, the officer must report suspected abuse or neglect to DCF in accordance with the state's mandated reporter laws ([CGS § 46b-133\(d\)\(2\)](#)).

If the arrested child is not placed in detention or referred to a diversionary program, an officer must serve a written complaint and summons on the child and his or her parent or guardian or another suitable person (i.e., caretaker). If the child is released on his or her own, the officer must make reasonable efforts to notify and provide a copy of the complaint and summons to the caretaker before the summons date. If the summoned child or caretaker willfully fails to appear in court at the specified date and time, the court may issue a warrant for the child's arrest or a *capias* to assure the caretaker's appearance in court. If the child willfully fails to appear in response to the

summons, the court may order the child taken into custody and charged with willful failure to appear. It may also punish for contempt any caretaker summoned who willfully fails to appear in court at the specified date and time ([CGS § 46b-133\(d\)\(1\)](#)).

Detention

A child may not be placed in detention unless the court determines, based on the available facts, that there is:

1. probable cause to believe that the child committed the alleged acts;
2. no less restrictive alternative available; and
3. (a) probable cause to believe the child will pose a risk to public safety if released to the community before the court hearing or disposition; (b) a need to hold the child in order to ensure his or her appearance in court, based on previous failure to respond to court process; or (c) a need to hold the child for another jurisdiction.

A child may not be held in detention without a court order and the detention must be in the least restrictive environment possible in a manner consistent with public safety. The officer who brings the child to detention must (1) notify or attempt to notify the child's parents or guardian before placing the child in detention and (2) file at the detention center a signed statement setting forth the alleged delinquent acts and the order to detain the child. The child must also have a detention hearing the next business day after his or her arrest ([CGS § 46b-133\(b\),\(c\),\(e\), & \(f\)](#)).

Detention Risk Assessment. Once admitted to detention, a detention risk assessment is used to determine, based on risk level, whether there is:

1. probable cause to believe that a child will pose a risk to public safety if released to the community before a court hearing or disposition or
2. a need to hold the child in order to ensure his or her appearance in court, as demonstrated by the child's previous failure to respond to the court process (CGS §§ [46b-133\(f\)](#), [46b-133g](#)).

Detention Hearing. At the hearing, the court must determine if, based on available facts:

1. there is probable cause to believe that the child committed the alleged acts;
2. there is no less restrictive alternative available; and

3. based on the risk assessment, there is (a) probable cause to believe that the child poses a risk to public safety if released, or (b) a need to hold the child for another jurisdiction or to ensure his or her appearance in court.

If not, the child must be released from detention. A child charged with an SJO may only be released from detention by court order ([CGS § 46b-133\(e\)](#)).

Detention Conditions. A child confined in a community correctional center or lockup must be held separate from any adult detainees and no child may be held in solitary confinement at any time. If the child is female, she must, as far as possible, be in the charge of a woman attendant ([CGS § 46b-133\(e\)](#)).

A juvenile detention center supervisor may only admit a child who is (1) the subject of an order to detain or an outstanding court order to take the child into custody, (2) ordered by the court to be held in detention, or (3) being transferred to the center to await a court appearance ([CGS § 46b-133\(h\)](#)).

A detention period may not exceed the shorter of seven days or until the dispositional hearing date, unless the order is renewed for up to seven days or until the dispositional hearing is held, whichever is shorter ([CGS § 46b-133\(j\)](#)).

As an alternative to detention, the court may release a child under a suspended detention order with graduated sanctions based on the child's risk assessment. If the court believes that a child is alcohol- or drug-dependent, it may order as a condition of release that the child participate in a drug or alcohol program and periodic testing ([CGS § 46b-133\(e\) & \(g\)](#)).

Nonjudicial Handling

According to the [2017 Connecticut Practice Book](#), when a police summons and report (collectively, a complaint) for an alleged delinquent act is filed with the court clerk, it is then referred to the probation department for possible nonjudicial handling.

A complaint is generally ineligible for nonjudicial handling if the:

1. alleged misconduct (a) is a serious juvenile offense or any other felony or arson murder, (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 found 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 running away from home);
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. nature of the alleged misconduct warrants judicial intervention ([CPB § 27-4A](#)).

According to the practice book, the court may provide a waiver to allow these cases to be handled nonjudicially. The prosecutor may object to nonjudicial handling, in which case the court must determine if the designation is appropriate. The court may also, on its own, refer a matter for nonjudicial handling prior to adjudication ([CGS § 46b-128](#)).

Initial Interview. During an initial interview, the probation officer meets with the child and the parent or guardian to discuss the delinquency allegations and inform them of the child's rights (e.g., rights to an attorney and to remain silent) ([CPB § 27-5](#)).

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 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 if the child successfully completes the nonjudicial supervision period. The probation officer may initiate a hearing during the supervision period if the child violates the supervision terms. The signed statement of responsibility cannot be used against the child at such a hearing ([CPB § 27-8A](#)).

The Judicial Branch's Court Support Services Division (CSSD) provides probation services to court-involved children and their families. CSSD also administers a network of contracted community providers that provide treatment and other services to these children and their families. The law tasks the division with coordinating such programs with DCF and the Department of Mental Health and Addiction Services and tailoring the programs to each juvenile based on factors such as age, mental health, and juvenile offense history (CGS §§ [46b-121j](#), [46b-121k](#)).

Judicial Handling

Juvenile court proceedings are generally held separate and apart from all other Superior Court business. The court can exclude anyone from the courtroom it believes is not necessary for the delinquency proceeding. Victims are allowed to observe the proceedings, unless, following a hearing and a good cause finding, the court orders otherwise. There is also a presumption in juvenile court that mechanical restraints (i.e., shackles) will be removed from a preadjudicated detained child before he or she appears in court and throughout his or her appearance. In-court use of mechanical restraints on preadjudicated detainees must be by court order and pursuant to the judicial branch's written policy (CGS §§ [46b-122](#), [46b-122a](#)).

Plea Hearing. At the plea hearing, 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 admits to the charges, a date is set for a dispositional hearing.

If the court determines that the child or his or her parents or guardian are unable to afford legal counsel, it must appoint a public defender to represent the child. The court may also appoint counsel for the child or the parent or guardian, even in the absence of a request for such an appointment, if it determines that the interests of justice require the child or parent or guardian to have legal representation. In such instances, the court notifies the chief public defender, who must provide an attorney for the representation. If the child's parent or guardian can afford to pay for the legal representation, they are required to do so to the extent they can, in accordance with the counsel compensation rates established by the Public Defender Services Commission ([CGS § 46b-136](#), [CPB § 30a-1\(e\)](#)).

If legal representation is requested or the child denies responsibility, the case may be continued for a pretrial conference which both the child and the parent or guardian must attend (see below) ([CPB § 30a-2\(a\)](#)).

Suspension for Alcohol or Drug Dependency Treatment. By law, after the child has entered a plea but before conviction, he or she may file a motion to suspend the proceedings to attend an alcohol- or drug-dependency treatment program. In order to determine whether to grant such a motion, the court may order that the child be examined to determine whether he or she has a substance abuse problem. The court may suspend the delinquency proceedings for up to one year if the child is alcohol- or drug-dependent, he or she presently needs and is likely to benefit from treatment, and suspension will advance the interests of justice.

During the suspension, the child is placed under a juvenile probation officer's 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 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. A child is ineligible for the suspended proceedings and treatment if he or she is charged with a serious juvenile offense or if he or she had previously received alcohol or drug dependency treatment through this process ([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 is arrested 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 agree 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 ([CGS § 46b-134](#), [CPB § 30a-2](#)).

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

Trial. Connecticut juvenile trials take place before a judge. 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 court may also summon witnesses and compel their attendance. Any conversation between a judge and the child whose case is before the court is privileged.

The child may, but is not required to, testify during the trial. The child's parent or guardian may also elect or refuse to testify for or against the child. But if the allegations against the child include violence against the parent or guardian, the parent or guardian may be compelled to testify. The law prohibits the court from drawing unfavorable inferences from an accused child's silence ([CGS § 46b-138a](#)).

Any victim of a child's alleged delinquent conduct, parent or guardian of such a victim, or victim's advocate or counsel has the right to appear before the court during the proceedings to make a statement concerning the case disposition ([CGS § 46b-138b](#)).

If the court finds the child is not guilty of the 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](#)).

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 sentence for a delinquency conviction, the court must consider factors such as the seriousness of the offense, the child's culpability, and his or her record of delinquency ([CGS § 46b-140\(a\)](#)).

The court may:

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

If the court places the child on probation, it may impose various conditions, such as requiring the child to attend school on a regular basis, reside with a parent or guardian or in a court-approved residence, or participate in drug or alcohol treatment. Under [PA 17-2 JSS \(§ 321\)](#), the court may also require the child's probation to include a period of placement in a secure, limited secure, or nonsecure residential facility.

If the child was convicted of animal cruelty, the court may order the child to undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program as a condition of probation. If the child's conduct resulted in property damage or personal injury, the court may also order him or her, or the child's parents and guardians if they condoned the action, or both, to make restitution to the victim ([CGS § 46b-140\(c\),\(d\)](#)).

If the court determines that probation and other services are not adequate for the child, he or she must commit the child to DCF for up to 18 months (or up to four years for a serious juvenile offense (SJO), see below). If the child is committed to DCF for an SJO, the court may also sentence the child to a minimum of 12 months in a DCF-contracted or -operated residential facility as determined by the DCF commissioner. Additionally, the court may commit to DCF any child coming within its jurisdiction who is found to have mental illness or who is convicted and found to be "mentally deficient" ([CGS §§ 46b-140\(f\),\(g\), 46b-141](#)). (By law, a court may find a child to be "'mentally deficient' who, by reason of a deficiency of intelligence that has existed from birth or from early age, requires, or will require, for such child's protection or for the protection of others, special care, supervision, and control"([CGS § 46b-120\(3\)](#)). By law, commitment to DCF on the basis of delinquency must terminate when the child turns 20.

The court may also currently commit the child to DCF for placement by the commissioner, in her discretion. Those offenders determined to pose the greatest risk may be placed in the Connecticut Juvenile Training School (if male) or another state facility, typically for a minimum of 12 months. Those offenders committed to DCF who are lower risk may be placed by the commissioner on parole or in a private residential or day treatment facility in or outside of the state. DCF must use a risk and needs classification to ensure that children who are in the highest risk level are placed in an appropriate secure treatment setting. DCF may ask the court to extend the commitment period beyond the maximum 18 months (or four years for an SJO) 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-140, 46b-141](#)).

Under [PA 17-2 JSS \(§§ 321, 323\)](#), starting July 1, 2018, the court may not commit a child to DCF as a result of a delinquency conviction. Under the act, there will be a transitional period starting July 1, 2018 and ending by January 1, 2019 during which the Judicial Branch may place a child

convicted as delinquent in a congregate care setting operated by DCF or order such a child to receive community-based services from the agency, if DCF operated the setting or provided the services to the child before July 1, 2018.

Serious Juvenile Offenders

The law designates approximately 50 felonies, including murder, first degree assault, and first degree burglary, as SJOs.

For such offenses, children whose cases remain in juvenile court, or are sent back to juvenile court after initially being transferred to the adult court, are subject to DCF commitment for up to four years. The court may also set a minimum 12 month period during which the child must be placed in a residential facility operated by DCF (CGS §§ [46b-140\(i\)](#), [46b-141\(a\)](#)).

For a child committed as a serious juvenile offender, the court must hold a permanency hearing within 12 months after the commitment order was issued, and every 12 months after that. At the hearing, the DCF commissioner may submit a motion to either modify the commitment or extend it beyond four years if it is in the best interest of the child or the community.

Under certain circumstances, a prosecutor may request that a court designate a proceeding against a child in juvenile court as either a serious juvenile repeat offender or serious juvenile sex offender prosecution. Children convicted under such proceedings generally face stricter sentences than would be imposed in an SJO proceeding (e.g., for serious juvenile sex offenders, a minimum five year probation period on top of any other sentence) (CGS §§ [46b-133c](#), [46b-133d](#)).

Transfer to Adult Court

The juvenile court must automatically transfer to the adult court a child age 15 or older charged with a capital felony (committed prior to April 25, 2012), class A felony, arson murder, or certain class B felonies.

The prosecutor has the discretion to request such a transfer for a child charged with any other felony. The court may order the transfer if (1) the child was at least age 15 at the time of the offense, (2) the court finds probable cause to believe that the child committed the alleged offense, and (3) the best interests of the child and public will not be served by maintaining the case in juvenile court. The adult court may transfer these cases back to the juvenile court for good cause at any time before the jury renders a verdict or the child pleads guilty. If the case remains in adult

criminal court, the child may be tried as a youthful offender (in some cases) or an adult ([CGS § 46b-127](#)). (For more information about automatic transfers, including a complete list of felonies for which such transfer is mandatory, see OLR Report [2016-R-0214](#).)

Youthful Offender

When a child is transferred to adult court, he or she may be eligible to be adjudicated a youthful offender, instead of prosecuted as an adult. The child is eligible if he or she was not previously convicted of a felony or adjudged a serious juvenile offender or serious juvenile repeat offender and is not charged with a class A felony or certain other felonies.

The child is presumed eligible for youthful offender 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 youthful offender status. Based on the results of the investigation and the seriousness of the charges, the court may transfer the child to the adult criminal docket.

Youthful offender proceedings and records are generally confidential, as is the case for juvenile court proceedings. The child may either plead guilty as a youthful offender or go to trial. After a child pleads guilty or is adjudicated a youthful offender following a trial, the court may impose a number of penalties, including a fine of up to \$1,000 or a prison sentence of up to four years ([CGS § 54-76j](#)). (For more information about youthful offender status and associated penalties, see OLR Report [2016-R-0067](#)).

Adult Criminal Docket

If a child transferred to the adult criminal docket stands trial and is convicted, he or she is sentenced as an adult. If the child is convicted of a class A or B felony, the law requires the court to consider the following at the time of sentencing:

1. the defendant's age at the time of the offense, the hallmark features of adolescence, and any scientific and psychological evidence showing the differences between a child's brain development and an adult's brain development and
2. if the court proposes to sentence the child to a lengthy sentence under which it is likely that he or she will die while incarcerated, how that scientific and psychological evidence counsels against such a sentence ([CGS § 54-91g](#)).

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 age 18 ([CGS § 46b-127\(c\)](#)).

According to the Department of Correction, male offenders under age 18 serve their sentences at Manson Youth Institution in Cheshire. Once they turn 18, they may be transferred to any other adult male facility and they must be transferred to such a facility before they turn 22. Female offenders serve their sentences at York Correctional Institution in Niantic, the state's only women's prison. Those under age 18 are housed in a separate unit from the general population.

Record Erasure

A child who has been convicted as delinquent, signed a statement of responsibility admitting to a delinquent act, or been adjudicated as a member of a FWSN may be eligible to have the related police and court records erased after being discharged from court-ordered supervision or custody. The child or his or her parent must petition the court for the erasure and the court must grant the petition 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.

The court must also grant a petition (1) prior to the required two- or four-year period on a finding of good cause or (2) if the child has a criminal record as a result of being a victim of human trafficking or related federal crimes. In the latter circumstance, none of the other conditions for erasure apply. If a child's delinquency or FWSN was dismissed, the police and court records are automatically erased without the need for a petition ([CGS § 46b-146](#)).

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