



General Assembly

February Session, 2018

Raised Bill No. 187

LCO No. 893



Referred to Committee on COMMITTEE ON CHILDREN

Introduced by:
(KID)

AN ACT CONCERNING THE TRANSFER OF A CHILD CHARGED WITH CERTAIN OFFENSES TO THE CRIMINAL DOCKET AND THE GROUNDS FOR DETENTION OF AN ARRESTED CHILD.

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

1 Section 1. Subsections (a) and (b) of section 46b-127 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2018*):

4 (a) (1) The court shall automatically transfer from the docket for
5 juvenile matters to the regular criminal docket of the Superior Court
6 the case of any child charged with the commission of a capital felony
7 under the provisions of section 53a-54b in effect prior to April 25, 2012,
8 a class A felony, [or] a class B felony, [except as provided in
9 subdivision (3) of this subsection,] or a violation of section 53a-54d,
10 provided such offense was committed after such child attained the age
11 of [fifteen] fourteen years and counsel has been appointed for such
12 child if such child is indigent. Such counsel may appear with the child
13 but shall not be permitted to make any argument or file any motion in
14 opposition to the transfer. The child shall be arraigned in the regular

15 criminal docket of the Superior Court at the next court date following
16 such transfer, provided any proceedings held prior to the finalization
17 of such transfer shall be private and shall be conducted in such parts of
18 the courthouse or the building in which the court is located that are
19 separate and apart from the other parts of the court which are then
20 being used for proceedings pertaining to adults charged with crimes.

21 (2) A state's attorney may, at any time after such arraignment, file a
22 motion to transfer the case of any child charged with the commission
23 of a class B felony or a violation of subdivision (2) of subsection (a) of
24 section 53a-70 to the docket for juvenile matters for proceedings in
25 accordance with the provisions of this chapter.

26 [(3) No case of any child charged with the commission of a violation
27 of section 53a-55, 53a-59b, 53a-71 or 53a-94, subdivision (2) of
28 subsection (a) of section 53a-101, section 53a-112, 53a-122 or 53a-129b,
29 subdivision (1), (3) or (4) of subsection (a) of section 53a-134, section
30 53a-196c, 53a-196d or 53a-252 or subsection (a) of section 53a-301 shall
31 be transferred from the docket for juvenile matters to the regular
32 criminal docket of the Superior Court, except as provided in this
33 subdivision. Upon motion of a prosecutorial official, the superior court
34 for juvenile matters shall conduct a hearing to determine whether the
35 case of any child charged with the commission of any such offense
36 shall be transferred from the docket for juvenile matters to the regular
37 criminal docket of the Superior Court. The court shall not order that
38 the case be transferred under this subdivision unless the court finds
39 that (A) such offense was committed after such child attained the age
40 of fifteen years, (B) there is probable cause to believe the child has
41 committed the act for which the child is charged, and (C) the best
42 interests of the child and the public will not be served by maintaining
43 the case in the superior court for juvenile matters. In making such
44 findings, the court shall consider (i) any prior criminal or juvenile
45 offenses committed by the child, (ii) the seriousness of such offenses,
46 (iii) any evidence that the child has intellectual disability or mental
47 illness, and (iv) the availability of services in the docket for juvenile

48 matters that can serve the child's needs. Any motion under this
49 subdivision shall be made, and any hearing under this subdivision
50 shall be held, not later than thirty days after the child is arraigned in
51 the superior court for juvenile matters.]

52 (b) (1) Upon motion of a prosecutorial official, the superior court for
53 juvenile matters shall conduct a hearing to determine whether the case
54 of any child charged with the commission of a class C, D or E felony or
55 an unclassified felony shall be transferred from the docket for juvenile
56 matters to the regular criminal docket of the Superior Court. The court
57 shall not order that the case be transferred under this subdivision
58 unless the court finds that (A) such offense was committed after such
59 child attained the age of [fifteen] fourteen years, (B) there is probable
60 cause to believe the child has committed the act for which the child is
61 charged, and (C) the best interests of the child [and] or the public will
62 not be served by maintaining the case in the superior court for juvenile
63 matters. Such probable cause may be shown by sworn affidavit in lieu
64 of testimony. In making such findings, the court shall consider (i) any
65 prior criminal or juvenile offenses committed by the child, (ii) the
66 seriousness of such offenses, (iii) any evidence that the child has
67 intellectual disability or mental illness, and (iv) the availability of
68 services in the docket for juvenile matters that can serve the child's
69 needs. Any motion under this subdivision shall be made, and any
70 hearing under this subdivision shall be held, not later than thirty days
71 after the child is arraigned in the superior court for juvenile matters.

72 (2) If a case is transferred to the regular criminal docket pursuant to
73 subdivision (1) of this subsection, [or subdivision (3) of subsection (a)
74 of this section,] the court sitting for the regular criminal docket may
75 return the case to the docket for juvenile matters at any time prior to a
76 jury rendering a verdict or the entry of a guilty plea for good cause
77 shown for proceedings in accordance with the provisions of this
78 chapter.

79 Sec. 2. Subsection (c) of section 46b-133 of the 2018 supplement to

80 the general statutes is repealed and the following is substituted in lieu
81 thereof (*Effective July 1, 2018*):

82 (c) Upon the arrest of any child by an officer, such officer may (1)
83 release the child to the custody of the child's parent or parents,
84 guardian or some other suitable person or agency, (2) at the discretion
85 of the officer, release the child to the child's own custody, or (3) seek a
86 court order to detain the child in a juvenile detention center. No child
87 may be placed in detention unless a judge of the Superior Court
88 determines, based on the available facts, that (A) there is probable
89 cause to believe that the child has committed the acts alleged, (B) there
90 is no less restrictive alternative available, and (C) there is (i) [probable
91 cause to believe that the child will pose a risk to public safety if
92 released to the community prior to the court hearing or disposition, (ii)
93 a need to hold the child in order to ensure the child's appearance
94 before the court, as demonstrated by the child's previous failure to
95 respond to the court process, or (iii) a need to hold the child for
96 another jurisdiction] a strong probability that the child will run away
97 prior to the court hearing, (ii) a strong probability that the child will
98 commit or attempt to commit other offenses injurious to the child or to
99 the community prior to the court disposition, (iii) probable cause to
100 believe that the child's continued residence in the child's home
101 pending disposition poses a risk to the child or the community because
102 of the serious and dangerous nature of the act or acts the child is
103 alleged to have committed, (iv) a need to hold the child for another
104 jurisdiction, (v) a need to hold the child to assure the child's
105 appearance before the court, in view of the child's previous failure to
106 respond to the court process, or (vi) a finding by the court that the
107 child has violated one or more of the conditions of a suspended
108 detention order. No child shall be held in any detention center unless
109 an order to detain is issued by a judge of the Superior Court.

110 Sec. 3. Subsection (a) of section 46b-133g of the 2018 supplement to
111 the general statutes is repealed and the following is substituted in lieu
112 thereof (*Effective July 1, 2018*):

113 (a) Not later than January 1, [2017] 2019, the Court Support Services
114 Division of the Judicial Department shall develop and implement a
115 detention risk assessment instrument to be used to determine, based
116 on the risk level, whether there is: (1) [Probable cause to believe that a
117 child will pose a risk to public safety if released to the community
118 prior to the court hearing or disposition, or (2)] A strong probability
119 that the child will run away prior to the court hearing or disposition,
120 (2) a strong probability that the child will commit or attempt to commit
121 other offenses injurious to the child or to the community prior to the
122 court disposition, (3) probable cause to believe that the child's
123 continued residence in the child's home pending disposition poses a
124 risk to the child or the community because of the serious and
125 dangerous nature of the act or acts the child is alleged to have
126 committed, or (4) a need to hold the child in order to ensure the child's
127 appearance before the court, as demonstrated by the child's previous
128 failure to respond to the court process. Such instrument shall be used
129 when assessing whether a child should be detained pursuant to section
130 46b-133, as amended by this act. Any detention risk screening shall be
131 subject to the protections of subsection (k) of section 46b-124.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	46b-127(a) and (b)
Sec. 2	<i>July 1, 2018</i>	46b-133(c)
Sec. 3	<i>July 1, 2018</i>	46b-133g(a)

Statement of Purpose:

To change the minimum age of automatic transfer from the docket for juvenile matters to the criminal docket of the Superior Court to fourteen in instances where a child is charged with certain offenses, permit the court to transfer a child charged with certain offenses from the docket for juvenile matters to the criminal docket if the court finds that such transfer is in the best interests of the child or the public and to require the Court Support Services Division of the Judicial Branch to develop and implement a detention risk assessment instrument.

[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.]