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## OLR Bill Analysis

sSB 504 (File 856, as amended by Senate "A")\*

### ***AN ACT CONCERNING THE SUSPENSION OF DELINQUENCY PROCEEDINGS FOR TREATMENT OR OTHER SERVICES IN MOTOR VEHICLE THEFT OR MISUSE CASES AND CONCERNING DETENTION OF JUVENILES.***

#### **SUMMARY**

This bill allows a child charged with a delinquency offense involving a motor vehicle to request a suspension of the delinquency proceedings for up to six months, during which time the child must participate in services to address any condition or behavior directly related to the offense.

The court may grant the request if, after considering the information before it, it finds (1) the child is likely to benefit from supervision and participation in the recommended services and (2) the suspension advances the interests of justice.

Under the bill, a child is ineligible for this opportunity if (1) he or she was previously granted a suspended prosecution under the bill or (2) he or she is charged with a serious juvenile offense (see BACKGROUND).

Under existing law, the court may only order a child to be detained after he or she is arrested for an alleged crime on certain grounds, including probable cause to believe that the level of risk that the child poses to public safety if released to the community cannot be managed in a less restrictive setting. The bill specifies that a court may determine that a child poses a risk to public safety for these purposes if he or she:

1. has previously been adjudicated delinquent for or convicted of or pled guilty or nolo contendere to two or more felony offenses;

2. has had two or more prior probation dispositions; and
3. is charged with committing 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree larceny involving a motor vehicle.

As under existing law, in order to detain a child on this basis, the court must additionally find that there is probable cause to believe that the child committed the alleged acts.

The bill additionally requires the judicial branch to:

1. collect and annually examine data relating to the suspended delinquency proceedings under the bill;
2. disaggregate the data by the demographics of the children, offense characteristics, and treatment and service outcomes; and
3. report the data (presumably, to anyone who requests it) upon request.

\*Senate Amendment "A" (1) broadens the circumstances in which a child may be deemed a safety risk by the court to include if he or she is charged with 3<sup>rd</sup> degree larceny of a motor vehicle and meets certain other criteria, (2) makes minor changes regarding the assessment requirements for delinquency suspensions under the bill, and (3) adds the judicial branch data requirements.

EFFECTIVE DATE: October 1, 2019, except the section on determining when a child poses a risk to public safety is effective July 1, 2019.

## **DEFINITIONS**

For the bill's purposes, a "child" is a person who:

1. is at least age seven at the time of the alleged delinquent act and is either (a) under age 18 and has not been legally emancipated or (b) age 18 or older and committed the delinquent act before turning 18 or

2. is age 18 or older and (a) violates a court order or condition of probation the court ordered related to a delinquency proceeding or (b) willfully fails to appear in juvenile court in response to a summons or for another delinquency hearing for which the child received notice.

A “delinquency offense involving a motor vehicle” includes:

1. operating or using a vehicle, or causing the vehicle to be used or operated, without the owner’s consent;
2. 1<sup>st</sup> or 2<sup>nd</sup> degree criminal trover (i.e., wrongful taking that results in damages) when it involves a motor vehicle; and
3. 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree larceny of a motor vehicle (the degree of larceny is based on the value of the car).

### **SUSPENSION ORDER**

A child who wishes to request a suspension of delinquency proceedings under the bill must file a motion with the court within 10 days after entering a plea, unless this deadline is waived by the court or pursuant to an agreement by the parties.

The court, upon the child’s motion, may suspend the delinquency proceedings for up to six months and order the child to participate in services to address any condition or behavior directly related to the alleged motor vehicle offense.

If the court denies the motion to suspend the delinquency proceedings, the prosecutor may proceed with the case. If the court approves the motion to suspend, the child must be supervised during the suspension by a juvenile probation officer who must monitor the child’s compliance with court orders. A court order granting or denying the suspension is generally not subject to appeal.

As a condition of eligibility for the suspension, the child must agree to (1) cooperate with an assessment to determine if he or she would benefit from supervision and services, (2) participate in and

satisfactorily complete the recommended services, and (3) comply with any court orders.

The court may use the assessment results only to determine the appropriate services and whether the delinquency proceedings should be suspended. The child's parent or guardian must pay any out-of-pocket costs for the treatment or other services unless the court waives them upon finding that he or she is indigent.

Under the bill, at any time during the suspension, but no later than one month before it ends, a juvenile probation officer must:

1. notify the court of the impending conclusion and
2. submit a report on whether the child completed the treatment or other services and complied with the other court-ordered suspension conditions and, if not, whether the suspension should be extended to allow additional time for the child to complete the recommended services.

### **DISMISSAL**

If the court, on the child's or its own motion, finds that the child successfully completed the treatment or other services and complied with the other suspension order conditions, it may dismiss the suspended delinquency charges.

The court may extend the suspension for up to six additional months if it finds that the child has not completed the treatment or other services, has not complied with all other suspension conditions, and additional time is needed to complete the treatment or other services.

If it denies the motion and terminates the suspension, the prosecutor may proceed with the case.

### **BACKGROUND**

#### ***Serious Juvenile Offense***

By law, serious juvenile offenses include, among other things,

murder with special circumstances, arson murder, most class A felonies, many class B felonies, and running away without just cause from a secure residential facility in which the court has placed the child after adjudicating him or her delinquent (CGS § 46b-120(8)).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 37 Nay 1 (04/10/2019)