



Senate

General Assembly

File No. 856

January Session, 2019

Substitute Senate Bill No. 504

Senate, April 30, 2019

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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.

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

1 Section 1. (NEW) (*Effective July 1, 2019*) (a) For purposes of this
2 section: (1) "Delinquency offense involving the unlawful use or
3 operation of a motor vehicle" means an offense under (A) subdivision
4 (1) of subsection (a) of section 53a-119b of the general statutes, (B)
5 section 53a-126a of the general statutes, or (C) section 53a-126b of the
6 general statutes, when the property consists of a motor vehicle; and (2)
7 "delinquency offense involving motor vehicle theft" means an offense
8 under (A) subdivision (3) of subsection (a) of section 53a-122 of the
9 general statutes, (B) subdivision (1) of subsection (a) of section 53a-123
10 of the general statutes, or (C) subdivision (1) of subsection (a) of
11 section 53a-124 of the general statutes.

12 (b) The court, on motion of a child, as defined in section 46b-120 of

13 the general statutes, charged with a delinquency offense involving the
14 unlawful use or operation of a motor vehicle or a delinquency offense
15 involving motor vehicle theft for which such child is not yet
16 adjudicated as delinquent, may order that such child be evaluated to
17 determine whether the child would benefit from treatment or other
18 services to address any condition or behavior directly related to such
19 offense. Such motion shall be filed with the court not later than ten
20 days after a plea is entered, except if waived by the court or pursuant
21 to an agreement by the parties. The results of any evaluation ordered
22 pursuant to this subsection shall be utilized only for the purposes of
23 determining whether the delinquency proceeding should be
24 suspended under this section. Any out-of-pocket costs of such
25 evaluation shall be paid by the child's parent or guardian unless such
26 costs are waived by the court upon a finding that such parent or
27 guardian is indigent.

28 (c) The court, upon motion of the child charged with a delinquency
29 offense involving the unlawful use or operation of a motor vehicle or a
30 delinquency offense involving motor vehicle theft for which such child
31 is not yet adjudicated as delinquent, may order the suspension of the
32 delinquency proceedings for a period of up to one year and order that
33 such child participate in treatment or other services to address any
34 condition or behavior directly related to such offense if the court, after
35 consideration of information before it concerning such condition and
36 behavior, and the evaluation ordered pursuant to subsection (b) of this
37 section, finds that: (1) Such child requires and is likely to benefit from
38 such treatment or other services, and (2) suspension of delinquency
39 proceedings will advance the interest of justice. During the period of
40 suspension of the delinquency proceedings, a child shall be placed
41 under the supervision of a juvenile probation officer and such officer
42 shall monitor the compliance of such child with the orders of the court.
43 Any out-of-pocket costs of such treatment or other services shall be
44 paid by the child's parent or guardian unless such costs are waived by
45 the court upon a finding that such parent or guardian is indigent.

46 (d) If the court denies the motion for suspension of the delinquency

47 proceedings, the prosecutorial official may proceed with the
48 delinquency proceedings. Any order of the court granting or denying a
49 motion for suspension of the delinquency proceedings shall not be
50 deemed a final order for purposes of appeal.

51 (e) At any time before the end of the period of the suspension of the
52 delinquency proceedings, but not later than one month before the end
53 of the period of suspension, a juvenile probation officer shall notify the
54 court of the impending conclusion of the suspension and submit a
55 report on whether the child has completed the treatment or other
56 services and has complied with all other conditions of the suspension
57 order imposed by the court.

58 (f) If the court, on motion of the child or on its own motion, finds
59 that the child has completed the treatment or other services and has
60 complied with all other conditions of suspension of the delinquency
61 proceedings, the court may dismiss the charge for which the
62 delinquency proceedings had been suspended. If the court denies the
63 motion and terminates the suspension of the delinquency proceedings,
64 the prosecutorial official may proceed with such proceedings.

65 (g) The provisions of this section shall not apply to any child
66 charged with a serious juvenile offense, as defined in section 46b-120
67 of the general statutes, or any child who was previously evaluated and
68 ordered to receive treatment or other services under this section.

69 Sec. 2. Section 46b-133 of the general statutes is amended by adding
70 subsection (k) as follows (*Effective July 1, 2019*):

71 (NEW) (k) For purposes of subsections (c) and (e) of this section, a
72 child may be determined to pose a risk to public safety if such child
73 has previously been adjudicated as delinquent for or convicted of or
74 pled guilty or nolo contendere to two or more felony offenses, has had
75 two or more prior dispositions of probation and is charged with
76 commission of a larceny under subdivision (3) of subsection (a) of
77 section 53a-122 or subdivision (1) of subsection (a) of section 53a-123.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2019</i>	New section
Sec. 2	<i>July 1, 2019</i>	46b-133

Statement of Legislative Commissioners:

In Section 1(a)(1) and (2), subparagraph designators were added for clarity. In Section 1(b), "child" was defined as the existing definition of "child" for purposes of delinquency proceedings. In Section 1(c) and (f), "of the delinquency proceedings" was added after "suspension" for consistency.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Judicial Dept.	GF - Savings	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows a child charged with a specific motor vehicle delinquency to be placed in a diversionary program instead of juvenile detention and results in savings. Currently, cases that require juvenile detention result in a cost of approximately \$800/night.

The bill specifies that evaluation and treatment under the new diversionary program must be paid by a parent or guardian unless the child is indigent, in which case the fees would be paid by the state. The cost for evaluation and treatment for a juvenile diversionary program ranges from approximately \$650-\$1000 per case.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 504*****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 either the unlawful use or operation of a motor vehicle or motor vehicle theft to file a motion with the court requesting an evaluation to determine if he or she would benefit from treatment or other services to address any condition or behavior directly related to the offense.

Following an evaluation, the court may suspend the delinquency proceeding so the child may receive such services. If the child successfully completes treatment and complies with the suspension order, the court may dismiss the delinquency charges.

Under the bill, a child is ineligible for this opportunity if (1) the court previously ordered an evaluation and treatment 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 1st or 2nd 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.

EFFECTIVE DATE: 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;
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 the unlawful use or operation of a motor vehicle" includes (1) operating or using a vehicle, or causing the vehicle to be used or operated, without the owner's consent or (2) 1st or 2nd degree criminal trover (i.e., wrongful taking that results in damages) when it involves a motor vehicle.

A "delinquency offense involving motor vehicle theft" means 1st, 2nd, or 3rd degree larceny of a motor vehicle (the degree of larceny is based on the value of the car).

EVALUATION ORDER

Under the bill, a child's motion for an evaluation must be filed with the court within 10 days after the child enters a plea unless the court

waives the requirement or the parties agree to waive it.

Based on the evaluation results, the bill permits the court to suspend the delinquency proceeding so the child may attend a treatment program. The court may use the evaluation results only to determine whether the delinquency proceedings should be suspended.

The child's parent or guardian must pay the evaluation costs unless the court waives the costs upon finding that the parent or guardian is indigent.

SUSPENSION ORDER

The court, upon the child's motion, may suspend the delinquency proceedings for up to one year and order the child to participate in treatment or other services to address any condition directly related to the alleged motor vehicle offense.

But the court may only do so after it:

1. considers information concerning the child's condition or behavior directly related to the offense and the evaluation results and
2. finds that (a) the child requires and is likely to benefit from the treatment or other services and (b) the suspension will advance the interests of justice.

If the court denies the motion to suspend the delinquency proceedings, the prosecutor may proceed with the case. A court order granting or denying the suspension is generally not subject to appeal.

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. The child's parent or guardian must pay the treatment costs unless the court waives the costs upon finding that the parent or guardian 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.

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. 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)