
OLR Bill Analysis

sHB 6667 (as amended by House "A")*

AN ACT CONCERNING THE RECOMMENDATIONS OF THE JUVENILE JUSTICE POLICY AND OVERSIGHT COMMITTEE.

SUMMARY

This bill makes several changes affecting juvenile justice matters, including the education and treatment of children in the juvenile justice system.

Concerning educating children, the bill requires:

1. the Department of Children and Families (DCF) to create and implement a plan for an educational unit to improve educational and vocational outcomes for children who are incarcerated or in a juvenile justice facility (§§ 2 & 3);
2. the State Department of Education (SDE), by August 1, 2021, to assemble a list of people who may serve as reentry coordinators to help obtain child records (§ 4);
3. local or regional boards of education to award diplomas to students educated at the DCF education unit and who meet certain requirements (§ 5);
4. the SDE and DCF commissioners to develop a system to standardize the conversion of transferred credits, which must allow for a determination whether the credits apply to graduation requirements within 30 days after a credit transfer occurs (§ 6) and
5. the transfer of student education records to occur within five days after receiving notice that a child transferred from education by DCF's education unit to a new school or state charter school, or vice versa (§ 7).

Regarding the treatment of children in the juvenile justice system, the bill:

1. raises the age of children subject to juvenile court delinquency jurisdiction from age seven to age 10 (§ 1);
2. requires CSSD to provide written notice to the child upon discharge or the child's parents or guardians on the erasure of a child's police and court records, if certain conditions are met (§ 9);
3. requires the Department of Corrections (DOC) commissioner to review the department's use of chemical agents on anyone under age 18 in a juvenile detention center or correctional facility (§ 11);
4. requires the judicial branch to develop an implementation plan to securely house in its custody anyone under age 18 who is arrested and detained prior to sentencing or disposition (§ 13); and
5. generally allows information obtained about a child during a detention screening or assessment to be disclosed to CSSD (§ 14).

The bill establishes committees to study the (1) effects of, and possible alternatives to, student suspensions and expulsions (§ 8) and (2) telephone call rates and commissary needs of 18 to 21-year-olds incarcerated in DOC facilities (§ 10). It also requires a team to develop plans for mandatory prearrest diversion of low-risk children (§ 12).

*House Amendment "A" makes the following changes to the underlying bill:

1. delays the effective date of the provisions on (a) the educational unit plan implementation and student record transfers from October 1, 2021, to October 1, 2022 (§§ 3 & 7) and (b) diplomas for educational unit students from July 1, 2021, to October 1, 2022 (§ 5);

2. removes the provision requiring automatic record erasure for a child if certain conditions are met and instead generally requires CSSD to provide written notice on records erasure to the child or the child's parent or guardian that they may petition the court for such record erasure (§ 9);
3. removes a provision that generally prohibits the use of chemical agents on youths (under age 18) in the DOC and DCF commissioner's custody and instead requires the DOC commissioner to review and report on the department's use of chemical agents on youth's in DOC custody or housed in a facility the department operates (§ 11); and
4. adds a provision that allows information about a child obtained during a detention screening to be disclosed to CSSD (§ 14).

EFFECTIVE DATE: Upon passage, except the (1) provision on the definition of a "child" is effective July 1, 2021 (§ 1); (2) provision on juvenile record erasure is effective October 1, 2021 (§ 9); and the (3) provisions on (a) educational unit plan implementation (§ 3), (b) awarding diplomas to education unit students (§ 5), and (c) student record transfers (§ 7) are effective October 1, 2022.

§ 1 — DEFINITION OF CHILD FOR DELINQUENCY PROCEEDINGS

Current law generally defines a child, for the purposes of delinquency matters and proceedings, as a person between ages seven and 19. Therefore, a child seven years of age who has allegedly committed a delinquent act can be arrested and, if convicted, enter the juvenile justice system.

The bill increases the lower age of a child who may be subject to juvenile court jurisdiction for delinquency matters and proceedings from seven to 10 years of age.

§§ 2 & 3 — EDUCATION UNIT OPERATIONAL PLAN

The bill requires DCF, with help from an implementation team, to develop an operational plan for an education unit within DCF to educate children who are incarcerated or residing in a juvenile justice

facility.

Implementation Team

Under the bill, the implementation team must include (1) representatives of state and local agencies, including from SDE, CSSD, DOC, local and regional boards of education, and (2) one child and one family representative appointed by DCF. Each serve as a voting member.

The bill requires the implementation team to (1) identify the implementation timeline, funding, and other measures needed to fully implement the operational plan and (2) provide a report to the Juvenile Justice Policy and Oversight Committee by September 1, 2021.

Educational Unit Implementation

The bill requires the DCF commissioner to implement the operational plan and administer, coordinate, and control educational unit operations. The bill also makes her responsible for the overall supervision and direction of unit courses and activities. (The bill does not specify a date by which she must complete the implementation plan.)

Under the bill, the DCF commissioner, or her designee, must:

1. have the ability to (a) employ and dismiss staff and, in accordance with existing law, teachers, as necessary to carry out the purpose of the education unit (including paying salaries), or (b) contract with local or regional boards of education or educational service providers to provide services to children served by the unit;
2. develop and review quarterly reports, which must be made available to JJPOC, on academic performance, school discipline, attendance, and other similar issues on students educated within the unit;
3. have the ability to, at least semiannually, contract with educational service providers to compile performance data to

- ensure that reporting measures are tailored to the experiences of students in juvenile justice facility short and long-term placements;
4. require educational service providers to develop partnerships and programs with local educational agencies, private educational providers, and local industries and businesses;
 5. report to JJPOC on student performance data, attendance, and participation rates for all education programs, and document transition activities and outcomes and collaborations with community service providers and parents;
 6. ensure that students have access to (a) earn credits toward high school graduation; (b) arts, career, and technical education courses; and (c) statewide and college preparatory testing;
 7. provide alternative high school equivalency certificate options for students age 20 or older with insufficient credits to meet graduation requirements; and
 8. enable students to have access to web-based content, including credit recovery programs for the opportunity to earn credit for a course a student did not satisfactorily complete.

Unit Transition Specialists

The bill allows the DCF commissioner to employ transition specialists within the unit to facilitate a child's successful transition from their communities to secure facilities and then, upon the child's release, back to his or her local educational program. It requires transition specialists to do the following:

1. collaborate with (a) local and regional boards of education, (b) state or local charter school governing councils, (c) interdistrict magnet school operators, and (d) agencies that serve children, employers, and other community supports to plan for and manage successful transitions;

2. manage and track educational credits of students in out-of-home placements and document the success of a placement after a student's community reentry; and
3. be responsible for communicating with reentry coordinators on DCF's list (see "Reentry Coordinators," below).

Under the bill, the education unit must ensure that the school in which the child is enrolling upon leaving the unit has services and supports to maximize the student's success.

Educational Record Transfers

The bill requires the education unit to use a uniform system of statewide electronic record transfers to maintain and share educational records for children in an education program who are incarcerated or in a juvenile justice facility. The system must be overseen by a DCF commissioner-designated directory manager and aligned with recommendations by the Individualized Education Program Advisory Council.

§ 4 — REENTRY COORDINATORS

Existing law requires JJPOC to ensure that the statewide education system for children in justice system custody includes using professional reentry coordinators to support educational success in children returning to the community (CGS § 46b-121n(q)(8)(A)(vi)(III)).

The bill requires SDE, by August 1, 2021, to assemble a list of people who may perform the function of reentry coordinator. SDE must (1) distribute the list to DOC, DCF, CSSD, or any parent or person interested in receiving it; (2) post the list on its website; and (3) annually review and update the list.

Under the bill, local and regional boards of education must use a reentry coordinator from SDE's list to obtain records of children in juvenile justice facilities and help transfer records to the facilities. Any board for a district enrolling less than 6,000 students may designate an employee to perform the reentry coordinator functions.

§ 5 — DIPLOMAS FOR EDUCATION UNIT STUDENTS

The bill requires a local or regional board of education to award a diploma to a student educated under DCF's education unit who (1) would have otherwise attended a school under the board's jurisdiction if he or she was not educated by the educational unit, (2) is age 17 or older, and (3) satisfactorily completed the minimum credits required for students graduating in the year of awarding the diploma.

If a local or regional board of education cannot be identified, DCF must determine if the student completed the minimum required credits for graduation and award a diploma to them if so.

§ 7 — STUDENT RECORD TRANSFERS

The bill requires the DCF commissioner to immediately notify a student's previous school when a student, who will be educated under the DCF education unit (see above), is placed in a juvenile justice facility or incarcerated. It requires the school district for the previous school or the previous state charter school to transfer the student's records to the DCF education unit within five days after receiving the notice.

For students transferring to a new school district or new state charter school from Unified School District (USD) #1 (DOC) or USD #2 (DCF), the bill requires the new school district or state charter school to immediately notify USD #1 or USD #2 in writing of the student's enrollment, instead of within 10 days as under current law. The bill also halves the time, from 10 days to five after receiving the notice, that USD #1 and USD #2 have for transferring the student's records to the new school.

The bill applies these notification and record transfer requirements to student transfers involving the new DCF education unit. Similarly, as under existing law for credits received at USD #1 or USD #2, a new school district or new state charter school, as applicable, must credit a student or all instruction he or she received at the education unit within 30 days after receiving his or her student records from the unit.

§ 8 — STUDY ON SUSPENSION AND EXPULSION ALTERNATIVES

The bill establishes a 14-member committee to study and report on the effects of, and possible alternatives to, student suspension and expulsion.

Committee Membership

Under the bill, the committee includes the following four non-appointed members:

1. executive director of the Commission on Women, Children, Seniors, Equity, and Opportunity (CWCSEO);
2. chairpersons of the JJPOC education working group; and
3. SDE commissioner or her designee.

The bill requires the SDE commissioner to appoint to the committee a representative of the State Board of Education Accountability and Support Committee. The JJPOC education working group chairpersons must also appoint the following nine members:

1. chairperson of a collaborative group for social and emotional wellbeing;
2. executive director of a statewide association of public school superintendents;
3. president of a statewide association of public school superintendents;
4. chairperson of a statewide advisory council for special education; and
5. one representative each of a statewide school discipline collaborative, disability rights organization, statewide organization that advocates for special education equity, youth services bureau association, and an organization that is a catalyst for improving children's health and development.

The bill requires initial committee appointments to be made within 30 days of the bill's passage and vacancies to be filled by the appointing authority.

The CWCSEO executive director, the chairperson of a collaborative group for social and emotional wellbeing, and the executive director of a statewide association of public school superintendents are the committee's three chairpersons. They must schedule the first meeting and hold it within 60 days after the bill's passage.

Reports

The bill requires the committee to complete two reports on the effects of, and alternatives to, suspension and expulsion. The first, due by January 1, 2022, must concern students in the following grades: preschool through second grade. The second report, due January 1, 2023, must concern the following two student groups: grades three to eight and grades nine to 12.

By those same dates, the committee must submit to JJPOC a report with its findings and recommendations, if any, related to each completed study and report. The committee ends on the date it submits the second report to JJPOC, or January 1, 2023, whichever is later.

Under the bill, the reports must include the following information:

1. funding recommendations for any proposed alternatives to suspension and expulsion;
2. timelines for potentially implementing the alternatives;
3. data-based individual school district needs;
4. training recommendations for school personnel;
5. implementation procedures for alternative in-school disciplinary practice, strategies, and intervention to support students and school personnel;

6. family engagement;
7. recommendations for health and mental health screening; and
8. recommendations for strengthening connections to community-based services and supports, including trauma-informed mental health interventions.

§ 9 — JUVENILE RECORD ERASURE

By law, a child or the child's parent or guardian may file a petition in Superior Court for erasure of certain juvenile records if the court finds the child meets certain existing requirements. The bill requires CSSD to provide the child and the child's parent or guardian written notice of this when (1) the child is discharged and (2) when the child turns 18 if the child was discharged prior to age 18.

Under current law, a child convicted as delinquent, adjudicated a member of a FWSN, or who signed a statement of responsibility for a delinquent act and was discharged from DCF custody, court supervision, or court-committed care, or his or her parent or guardian, may file a court petition for the erasure of his or her police and court records. The court must order erasure if it finds:

1. it is at least two years, or four years in the case of a serious juvenile offense, since the child's discharge date;
2. there is no subsequent juvenile or criminal proceeding pending against the child;
3. the child was not convicted during the two- or four-year period of a (1) felony or misdemeanor as an adult or (2) delinquent act that would be a felony or misdemeanor if committed by an adult; and
4. the child is 18 years of age.

Under the bill, the Superior Court must erase a child's police and court records if the (1) child or child's parent or guardian petitions the court to do so and (2) child meets the above requirements.

§ 10 — STUDY ON TELEPHONE CALL RATES AND COMMISSARY NEEDS

The bill establishes a committee, with members appointed by the JJPOC chairpersons, to study telephone call rates and commissary needs for 18- to 21-year-olds incarcerated in DOC facilities. It allows the committee to recommend legislation based on the study and report it to the Department of Administrative Services and the Judiciary Committee by January 1, 2022.

§ 11 — CHEMICAL AGENTS IN JUVENILE DETENTION FACILITIES

The bill requires the DOC commissioner to (1) review the department's use of chemical agents on youths under age 18 housed in a facility the department operates and those in the commissioner's custody and (2) review and evaluate specified data. Under the bill, the commissioner must review data on the (1) youths' participation in rehabilitation programming and (2) department's efforts to implement positive behavioral supports for them. The review must evaluate data on:

1. the types and frequency of training provided to department staff that present alternatives to using chemical agents;
2. the reason and date of chemical agent use on youths along with the age, race, and gender of such youths;
3. how the chemical agent use may disproportionately affect youths with special education needs;
4. any interventions attempted prior to subjecting a youth to chemical agent use and the types and frequency of medical and behavioral interventions employed after such use; and
5. the number of, and details associated with, incidents of chemical agent use on youths with a respiratory or psychiatric condition.

The bill requires the DOC commissioner to report on the review to the Judiciary Committee by February 1, 2022.

§ 12 — PREARREST DIVERSION IMPLEMENTATION TEAM

The bill establishes an implementation team to develop two plans concerning mandatory prearrest diversion of low-risk children. It requires the team to include state and local agency representatives, including from DCF, SDE, CSSD, DOC, and local and regional boards of education. The implementation team ends on the date it submits its second report or January 1, 2023, whichever is later.

Plan Contents

Under the bill, the first plan must cover automatic prearrest diversion of children to youth service bureaus or other services instead of arrest for Tier 1 offenses, including infractions for such things as simple trespass, creating a public disturbance, possessing less than one-half of an ounce of a cannabis-type substance, and using, possessing, or delivering drug paraphernalia related to less than one-half of an ounce of a cannabis-type substance. The team must develop the plan by January 1, 2022, and provide, by that same date, a report on its findings and recommendations to JJPOC.

The second plan, which the team must develop by January 1, 2023, must address the diversion for Tier 2 offenses that include infractions such as 2nd degree breach of peace; disorderly conduct; 5th or 6th degree larceny; possessing at least one-half an ounce of a cannabis-type substance; and using, possessing, or delivering drug paraphernalia related to at least one-half an ounce of a cannabis-type substance. As with the first plan, the team must provide JJPOC with a report on its findings and recommendations by the same date that it must develop the plan.

Plan Development

In developing the plans, the bill requires the implementation team to consider stakeholder input, including from children, families, and law enforcement officials. The team must also consider the:

1. capacity of youth service bureaus and other local agencies who will provide services to children diverted under the plans,

2. accountability mechanisms to measure success of provided services,
3. processes for victim input and involvement,
4. data collection to track referrals of diverted children to youth service bureaus,
5. communication and outreach strategies to stakeholders for accessing local services,
6. dates for fully implementing the plans, and
7. any other considerations the committee finds necessary for successful plan implementation.

§ 13 — PLAN TO SECURELY HOUSE PERSONS UNDER AGE 18

The bill requires the judicial branch to (1) develop an implementation plan for, beginning January 1, 2023, securely housing in its custody anyone under age 18 who is arrested and detained before sentencing or disposition and (2) submit the plan to the Judiciary Committee and JJPOC by January 1, 2022. The plan must include cost estimates and recommendations for any necessary or appropriate legislation to implement the plan.

§ 14 — JUVENILE RECORD CONFIDENTIALITY EXCEPTIONS

Under current law, information obtained about a child during a detention screening or assessment must be used only for planning and treatment purposes. Otherwise, it must generally remain confidential and be kept in the files of the entity performing the screening or assessment. It may be further disclosed for limited purposes, including a court-ordered evaluation or treatment or mandated reporter laws.

The bill allows this information to also be disclosed to CSSD and its contracted quality assurance providers, for program evaluation purposes.

By law, the information obtained during a detention screening must be used only to make a recommendation to the court about the child's

detention and is not subject to subpoena or other court process for use in any other proceeding, or for any other purpose.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 26 Nay 12 (04/08/2021)

Appropriations Committee

Joint Favorable

Yea 46 Nay 3 (05/10/2021)