



General Assembly

January Session, 2021

***Raised Bill No. 6671***

LCO No. 5832



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING THE PROVISION OF LEGAL COUNSEL IN A  
CRIMINAL MATTER TO A PERSON UNDER EIGHTEEN YEARS OF  
AGE.***

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

1 Section 1. Section 46b-136 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) In any proceeding in a juvenile matter, except as provided in  
4 subsection (c) of this section, the judge before whom such proceeding is  
5 pending shall, even in the absence of a request to do so, provide an  
6 attorney to represent the child or youth, the child's or youth's parent or  
7 parents or guardian, or other person having control of the child or  
8 youth, if such judge determines that the interests of justice so require,  
9 and in any proceeding in which the custody of a child is at issue, such  
10 judge shall provide an attorney to represent the child and may authorize  
11 such attorney or appoint another attorney to represent such child or  
12 youth, parent, guardian or other person on an appeal from a decision in  
13 such proceeding.

14 (b) [(1)] When, under the provisions of this section, the court appoints

15 counsel in a proceeding in a juvenile matter in the civil session and  
16 orders the Division of Public Defender Services to provide such counsel,  
17 the cost of such counsel shall be shared as agreed to by the Division of  
18 Public Defender Services and the Judicial Department. When, under the  
19 provisions of this [subdivision] subsection, the court so appoints  
20 counsel for any party who is found able to pay, in whole or in part, the  
21 cost thereof, the court shall assess as costs against such party, including  
22 any agency vested with the legal custody of the child or youth, the  
23 expense incurred and paid by the Division of Public Defender Services  
24 and the Judicial Department in providing such counsel, and order  
25 reimbursement to the Division of Public Defender Services and the  
26 Judicial Department to the extent of the party's financial ability to do so.

27 [(2) When, under the provisions of this section, the court appoints  
28 counsel in a proceeding in a juvenile matter in the criminal session and  
29 orders the Division of Public Defender Services to provide such counsel,  
30 the cost of such counsel shall be incurred by the Division of Public  
31 Defender Services. When, under the provisions of this subdivision, the  
32 court so appoints counsel for any party who is found able to pay, in  
33 whole or in part, the cost thereof, the court shall assess as costs against  
34 such party, including any agency vested with the legal custody of the  
35 child or youth, the expense incurred and paid by the Division of Public  
36 Defender Services in providing such counsel, and order reimbursement  
37 to the Division of Public Defender Services to the extent of the party's  
38 financial ability to do so.]

39 (c) (1) In any proceeding in a juvenile matter in the criminal session,  
40 the judge before whom such proceeding is pending shall, even in the  
41 absence of a request to do so, provide an attorney to represent a child or  
42 youth who is under eighteen years of age. If the judge orders the  
43 Division of Public Defender Services to provide such counsel, the cost  
44 of such counsel shall be incurred by the Division of Public Defender  
45 Services. When, under the provisions of this subdivision, the court so  
46 appoints counsel for any party who is found able to pay, in whole or in  
47 part, the cost thereof, the court shall assess as costs against such party,  
48 including any agency vested with the legal custody of the child or youth,

49 the expense incurred and paid by the Division of Public Defender  
50 Services in providing such counsel, and order reimbursement to the  
51 Division of Public Defender Services to the extent of the party's financial  
52 ability to do so.

53 (2) An attorney provided for a child or youth pursuant to subdivision  
54 (1) of this subsection shall continue to represent such child or youth until  
55 such time as the parent or guardian of the child or, if emancipated, the  
56 child or youth, chooses another attorney to represent such child or  
57 youth and such attorney files an appearance on behalf of such child or  
58 youth. If at any time such child or youth is not represented by an  
59 attorney, the judge shall provide such child or youth with an attorney  
60 pursuant to subdivision (1) of this subsection.

61 ~~[(c)]~~ (d) The Division of Public Defender Services shall establish the  
62 rate at which counsel provided pursuant to this section shall be  
63 compensated.

64 Sec. 2. Subdivision (1) of subsection (a) of section 46b-127 of the  
65 general statutes is repealed and the following is substituted in lieu  
66 thereof (*Effective October 1, 2021*):

67 (a) (1) The court shall automatically transfer from the docket for  
68 juvenile matters to the regular criminal docket of the Superior Court the  
69 case of any child charged with the commission of a capital felony under  
70 the provisions of section 53a-54b in effect prior to April 25, 2012, a class  
71 A felony, or a class B felony, except as provided in subdivision (3) of this  
72 subsection, or a violation of section 53a-54d, provided such offense was  
73 committed after such child attained the age of fifteen years and counsel  
74 has been appointed for such child [if such child is indigent] pursuant to  
75 section 46b-136, as amended by this act. Such counsel may appear with  
76 the child but shall not be permitted to make any argument or file any  
77 motion in opposition to the transfer. The child shall be arraigned in the  
78 regular criminal docket of the Superior Court at the next court date  
79 following such transfer, provided any proceedings held prior to the  
80 finalization of such transfer shall be private and shall be conducted in

81 such parts of the courthouse or the building in which the court is located  
82 that are separate and apart from the other parts of the court which are  
83 then being used for proceedings pertaining to adults charged with  
84 crimes.

85 Sec. 3. Section 46b-135 of the general statutes is repealed and the  
86 following is substituted in lieu thereof (*Effective October 1, 2021*):

87 (a) At the commencement of any proceeding concerning the alleged  
88 delinquency of a child, the [child shall have the right to counsel and be  
89 so informed by the judge, and that if the child and the parent or parents  
90 or guardian of the child are unable to afford counsel, counsel will be  
91 provided for the child] judge shall appoint counsel for the child as  
92 provided in section 46b-136, as amended by this act. Such counsel and  
93 the child shall have the rights of confrontation and cross-examination.  
94 If a parent fails to comply with a court order entered in the best interests  
95 of the alleged or adjudicated delinquent child and is facing potential  
96 imprisonment for contempt of court, such parent, if unable to afford  
97 counsel, shall be entitled to have counsel provided for such parent  
98 pursuant to this subsection.

99 (b) At the commencement of any proceeding on behalf of a neglected,  
100 uncared-for or abused child or youth, the parent or parents or guardian  
101 of the child or youth shall have the right to counsel, and shall be so  
102 informed by the judge, and that if they are unable to afford counsel,  
103 counsel will be provided for them. Such parent or guardian of the child  
104 or youth shall have the rights of confrontation and cross-examination.

105 Sec. 4. Subsection (g) of section 51-289 of the general statutes is  
106 repealed and the following is substituted in lieu thereof (*Effective October*  
107 *1, 2021*):

108 (g) The commission shall be responsible for carrying out the purposes  
109 of this chapter and, to carry out those purposes, the commission shall  
110 adopt rules relating to the operations of a Division of Public Defender  
111 Services and shall provide any facilities, other than those provided in  
112 the courts by the Judicial Department, necessary for the carrying out of

113 those services. Such rules shall include, but need not be limited to,  
114 Income and Eligibility Guidelines for the representation of indigent  
115 individuals and minors.

116 Sec. 5. Section 51-296 of the general statutes is repealed and the  
117 following is substituted in lieu thereof (*Effective October 1, 2021*):

118 (a) (1) In any criminal action, in any habeas corpus proceeding arising  
119 from a criminal matter, in any extradition proceeding, or in any  
120 delinquency matter, except as provided in subdivision (2) of this  
121 subsection, the court before which the matter is pending shall, if it  
122 determines after investigation by the public defender or his office that a  
123 defendant is indigent as defined under this chapter, designate a public  
124 defender, assistant public defender or deputy assistant public defender  
125 to represent such indigent defendant, unless, in a misdemeanor case, at  
126 the time of the application for appointment of counsel, the court decides  
127 to dispose of the pending charge without subjecting the defendant to a  
128 sentence involving immediate incarceration or a suspended sentence of  
129 incarceration with a period of probation or the court believes that the  
130 disposition of the pending case at a later date will not result in a sentence  
131 involving immediate incarceration or a suspended sentence of  
132 incarceration with a period of probation and makes a statement to that  
133 effect on the record. If it appears to the court at a later date that, if  
134 convicted, the sentence of an indigent defendant for whom counsel has  
135 not been appointed will involve immediate incarceration or a  
136 suspended sentence of incarceration with a period of probation, counsel  
137 shall be appointed prior to trial or the entry of a plea of guilty or nolo  
138 contendere.

139 (2) In any criminal action or delinquency matter involving a person  
140 under eighteen years of age, the court before which the matter is  
141 pending shall designate a public defender, assistant public defender or  
142 deputy assistant public defender to represent such person, regardless of  
143 the financial ability of the parents, guardians or those legally responsible  
144 for the support of such person to pay for such representation.

145 (b) In the case of codefendants, the court may appoint one or more  
146 public defenders, assistant public defenders or deputy assistant public  
147 defenders to represent such defendants or may appoint counsel from  
148 the trial list established under section 51-291.

149 (c) (1) The division shall provide, pursuant to section 51-296a: (A)  
150 Legal services and guardians ad litem to children, youths and indigent  
151 respondents in family relations matters in which the state has been  
152 ordered to pay the cost of such legal services and guardians ad litem,  
153 provided legal services shall be provided to indigent respondents  
154 pursuant to this subparagraph only in paternity proceedings and  
155 contempt proceedings; and (B) legal services and guardians ad litem to  
156 children, youths and indigent legal parties in proceedings before the  
157 superior court for juvenile matters. To carry out the requirements of this  
158 subsection, the office of Chief Public Defender may contract with (i)  
159 appropriate not-for-profit legal services agencies, (ii) individual lawyers  
160 or law firms for the delivery of legal services to represent children and  
161 indigent legal parties in such proceedings, and (iii) mental health  
162 professionals as guardians ad litem in family relations matters. Any  
163 contract entered into pursuant to this subsection may include terms  
164 encouraging or requiring the use of a multidisciplinary agency model of  
165 legal representation.

166 (2) The division shall establish a system to ensure that attorneys  
167 providing legal services pursuant to this subsection are assigned to  
168 cases in a manner that will avoid conflicts of interest, as defined by the  
169 Rules of Professional Conduct.

170 (3) The division shall establish training, practice and caseload  
171 standards for the representation of children, youths, indigent  
172 respondents and indigent legal parties pursuant to subdivision (1) of  
173 this subsection. Such standards shall apply to each attorney who  
174 represents children, youths, indigent respondents or indigent legal  
175 parties pursuant to this subsection and shall be designed to ensure a  
176 high quality of legal representation. The training standards for attorneys  
177 required by this subdivision shall be designed to ensure proficiency in

178 the procedural and substantive law related to such matters and to  
179 establish a minimum level of proficiency in relevant subject areas,  
180 including, but not limited to, family violence, child development,  
181 behavioral health, educational disabilities and cultural competence.

182 (d) Prior to the appearance in court in any matter specified in this  
183 section by a defendant, child, youth, respondent or legal party, a public  
184 defender, assistant public defender, deputy assistant public defender or  
185 Division of Public Defender Services assigned counsel, upon a  
186 determination that the defendant, child, youth, respondent or legal  
187 party is indigent pursuant to subsection (a) of section 51-297, shall be  
188 authorized to represent the defendant, child, youth, respondent or legal  
189 party until the court appoints counsel for such defendant, child, youth,  
190 respondent or legal party.

191 Sec. 6. Section 51-299 of the general statutes is repealed and the  
192 following is substituted in lieu thereof (*Effective October 1, 2021*):

193 Except in cases in which counsel has been appointed pursuant to  
194 subdivision (2) of subsection (a) of section 51-296, as amended by this  
195 act, or subsection (c) of section 51-296, as amended by this act, whenever  
196 a person requesting services pursuant to this chapter is under the age of  
197 eighteen years, eligibility for services shall be measured in terms of the  
198 financial circumstances of such person and of his parents, guardians, or  
199 those legally responsible for the support of such person. The  
200 commission shall be entitled to recover the reasonable cost of legal  
201 services, as determined in accordance with the schedule of reasonable  
202 charges for public defender services provided by the commission, from  
203 the parents, guardians, trustees or those legally responsible for the  
204 support of such person and the provisions of section 51-298 shall apply  
205 to such persons, including when counsel has been appointed pursuant  
206 to subdivision (2) of subsection (a) of section 52-596, as amended by this  
207 act. In so doing, it shall have the authority to require such parents,  
208 guardians or other such persons as well as those persons holding  
209 property in trust or otherwise for such minor or unemancipated person  
210 to execute and deliver to the commission or its employees any written

211 requests or authorizations required under applicable law or otherwise  
212 to provide the Chief Public Defender or those serving under him with  
213 access to such records of public or private sources, otherwise  
214 confidential, or any other information which may be relevant to the  
215 question of eligibility or liability to the commission under this chapter.

216 Sec. 7. Section 46b-137 of the general statutes is repealed and the  
217 following is substituted in lieu thereof (*Effective October 1, 2021*):

218 (a) Any admission, confession or statement, written or oral, made by  
219 a child under the age of sixteen to a police officer or Juvenile Court  
220 official, and any evidence derived therefrom, shall be inadmissible in  
221 any proceeding concerning the alleged delinquency of the child making  
222 such admission, confession or statement unless [made by] (1) such child  
223 made such admission, confession or statement in the presence of the  
224 child's parent or parents or guardian and after the parent or parents or  
225 guardian and child have been advised [(1)] (A) of the child's right to  
226 retain counsel, [or if unable to afford counsel,] to have counsel  
227 appointed on the child's behalf, and that the right to counsel may not be  
228 waived, [(2)] (B) of the child's right to refuse to make any statements,  
229 and [(3)] (C) that any statements the child makes may be introduced into  
230 evidence against the child, and (2) any interview of the child by a police  
231 officer or Juvenile Court official after the parent or parents or guardian  
232 and child are advised as provided in subdivision (1) of this subsection  
233 occurs in the presence of the child's attorney.

234 (b) Any admission, confession or statement, written or oral, made by  
235 a child sixteen or seventeen years of age to a police officer or Juvenile  
236 Court official, [except an admission, confession or statement, written or  
237 oral, made by a child sixteen or seventeen years of age to a police officer  
238 in connection with a case transferred to the Juvenile Court from the  
239 youthful offender docket, regular criminal docket of the Superior Court  
240 or any docket for the presentment of defendants in motor vehicle  
241 matters] and any evidence derived therefrom, shall be inadmissible in  
242 any criminal proceeding or proceeding concerning the alleged  
243 delinquency of the child making such admission, confession or



244 statement, unless (1) the police or Juvenile Court official has made  
245 reasonable efforts to contact a parent or guardian of the child, [and] (2)  
246 such child has been advised that (A) the child has the right to contact a  
247 parent or guardian and to have a parent or guardian present during any  
248 interview, (B) the child has the right to retain counsel, [or, if unable to  
249 afford counsel,] to have counsel appointed on behalf of the child, and  
250 that the right to counsel may not be waived, (C) the child has the right  
251 to refuse to make any statement, and (D) any statement the child makes  
252 may be introduced into evidence against the child, and (3) any interview  
253 of the child by a police officer or Juvenile Court official after the child is  
254 advised as provided in subdivision (2) of this subsection occurs in the  
255 presence of the child's attorney.

256 [(c) The admissibility of any admission, confession or statement,  
257 written or oral, made by a child sixteen or seventeen years of age to a  
258 police officer or Juvenile Court official, except an admission, confession  
259 or statement, written or oral, made by a child sixteen or seventeen years  
260 of age to a police officer in connection with a case transferred to the  
261 Juvenile Court from the youthful offender docket, regular criminal  
262 docket of the Superior Court or any docket for the presentment of  
263 defendants in motor vehicle matters, shall be determined by considering  
264 the totality of the circumstances at the time of the making of such  
265 admission, confession or statement. When determining the  
266 admissibility of such admission, confession or statement, the court shall  
267 consider (1) the age, experience, education, background and intelligence  
268 of the child, (2) the capacity of the child to understand the advice  
269 concerning rights and warnings required under subdivision (2) of  
270 subsection (b) of this section, the nature of the privilege against self-  
271 incrimination under the United States and Connecticut Constitutions,  
272 and the consequences of waiving such rights and privilege, (3) the  
273 opportunity the child had to speak with a parent, guardian or some  
274 other suitable individual prior to or while making such admission,  
275 confession or statement, and (4) the circumstances surrounding the  
276 making of the admission, confession or statement, including, but not  
277 limited to, (A) when and where the admission, confession or statement

278 was made, (B) the reasonableness of proceeding, or the need to proceed,  
279 without a parent or guardian present, and (C) the reasonableness of  
280 efforts by the police or Juvenile Court official to attempt to contact a  
281 parent or guardian.]

282 [(d)] (c) Any confession, admission or statement, written or oral,  
283 made by the parent or parents or guardian of the child or youth after the  
284 filing of a petition alleging such child or youth to be neglected, uncared  
285 for or abused shall be inadmissible in any proceeding held upon such  
286 petition against the person making such admission or statement unless  
287 such person shall have been advised of the person's right to retain  
288 counsel, and that if the person is unable to afford counsel, counsel will  
289 be appointed to represent the person, that the person has a right to  
290 refuse to make any statement and that any statements the person makes  
291 may be introduced in evidence against the person, except that any  
292 statement made by the mother of any child or youth, upon inquiry by  
293 the court and under oath if necessary, as to the identity of any person  
294 who might be the father of the child or youth shall not be inadmissible  
295 if the mother was not so advised.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	46b-136
Sec. 2	<i>October 1, 2021</i>	46b-127(a)(1)
Sec. 3	<i>October 1, 2021</i>	46b-135
Sec. 4	<i>October 1, 2021</i>	51-289(g)
Sec. 5	<i>October 1, 2021</i>	51-296
Sec. 6	<i>October 1, 2021</i>	51-299
Sec. 7	<i>October 1, 2021</i>	46b-137

**Statement of Purpose:**

To (1) provide legal counsel to any person under the age of eighteen in a criminal or delinquency proceeding, and (2) make inadmissible in such proceedings any statements from a person under the age of eighteen, and any evidence derived from such statements, unless the person's attorney was present at the interview.

*[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.]*