
OLR Bill Analysis

sHB 5417 (as amended by House "A")*

AN ACT CONCERNING JUVENILE JUSTICE AND SERVICES, FIREARMS BACKGROUND CHECKS, AND LARCENY OF A MOTOR VEHICLE.

TABLE OF CONTENTS:

SUMMARY

§ 1 — JUVENILE ARRESTS AND DELINQUENCY PROCEDURES

Makes various changes to procedures when a juvenile is arrested following an alleged delinquent act, such as (1) generally requiring an arrested child to be brought before a judge within five business days after the arrest; (2) allowing the court to order electronic monitoring if a child was charged with a second or subsequent motor vehicle or property theft offense; and (3) in certain circumstances, increasing the maximum period, from six to eight hours, that a child may be held in a community correctional center or lockup without a judge's detention order

§ 2 — SERIOUS HOMICIDE, FIREARM, OR SEXUAL OFFENDER JUVENILE PROSECUTION

Expands existing law on juvenile serious sexual offender prosecutions to also cover certain homicide and firearm crimes, and makes various changes affecting these cases, such as allowing the juvenile portion of the sentence to be extended for up to 60 months

§§ 3 & 4 — NOTICE TO TOWN OF FAILED FIREARM BACKGROUND CHECK

Requires DESPP to notify the police chief (or if none, the town first selectman or borough warden) if a resident failed a background check when trying to purchase a firearm

§§ 5, 19 & 20 — ACCESS TO JUVENILE DELINQUENCY RECORDS

Gives municipal employees and agents access to juvenile delinquency records if they are involved in the proceeding or delivery of related services; specifically requires that law enforcement officials have electronic access to certain juvenile delinquency records for criminal investigations; requires CSSD to report by March 1, 2023, on progress made toward implementing these provisions

§ 6 — TRAINING PROGRAM ON DETENTION ORDER PROCESS

Requires the chief state's attorney to develop and implement a training program on the juvenile detention application process for prosecutors and most peace officers

§§ 7 & 21 — DETENTION REQUEST FORMS AND DATA

Requires prosecutors, not just the police, to attach the official court detention form to the summons when requesting a detention order for a child; requires the form to instruct judges who decline to order detention to articulate their reasons why; requires prosecutors

and the police, not just the judicial branch, to compile and categorize data on detention order requests

§§ 8-10 & 13-18 — LARCENY OF A MOTOR VEHICLE

Establishes a new penalty structure for larceny of a motor vehicle, with graduated penalties based on whether it is a first or subsequent offense, rather than based on the vehicle's value as under current law

§ 11 — DCF AND CSSD REPORT ON TRANSFER OF JUVENILE SERVICES

Requires DCF and CSSD to report on the transfer of juvenile delinquency services from DCF to the judicial branch under PA 18-31

§ 12 — CSSD REPORT ON JUVENILE JUSTICE ISSUES

Requires CSSD to review certain juvenile justice issues, such as the effectiveness of pretrial diversionary programs, and report on its review to the Judiciary Committee by December 31, 2022

SUMMARY

This bill makes various changes in juvenile justice-related laws, such as (1) changing several procedures when a child is arrested for an alleged delinquent act and (2) expanding an existing law on juvenile serious sexual offender prosecutions to also cover certain homicide and firearm crimes.

The bill also (1) establishes a new penalty structure for larceny of a motor vehicle and (2) requires the Department of Emergency Services and Public Protection (DESPP) to notify the municipality if a resident failed a background check when trying to purchase a firearm.

*House Amendment "A" removes provisions in the underlying bill that would have appropriated \$3 million for specified juvenile justice-related purposes. It raises the penalty for a first or second offense under the underlying bill's new crime of larceny of a motor vehicle. It adds provisions (1) allowing judges who order GPS monitoring under the bill to order it to stop before the case concludes, (2) specifying which juvenile delinquency records must be made available electronically to law enforcement officers, (3) requiring CSSD to report on progress towards implementing the bill's provisions on delinquency record access, and (4) requiring judges who decline to order detention to indicate their reasons why on the official court form. It also makes minor and conforming changes.

EFFECTIVE DATE: October 1, 2022, except as otherwise noted below.

§ 1 — JUVENILE ARRESTS AND DELINQUENCY PROCEDURES

Makes various changes to procedures when a juvenile is arrested following an alleged delinquent act, such as (1) generally requiring an arrested child to be brought before a judge within five business days after the arrest; (2) allowing the court to order electronic monitoring if a child was charged with a second or subsequent motor vehicle or property theft offense; and (3) in certain circumstances, increasing the maximum period, from six to eight hours, that a child may be held in a community correctional center or lockup without a judge's detention order

Initial Court Appearance Following Arrest (§ 1(a))

The bill requires a child arrested for a delinquent act to be brought before a Superior Court judge within five business days after the arrest, unless required sooner under existing law.

As described below, if a child is detained in a juvenile residential center after an arrest, existing law requires a court hearing on the next business day to determine whether to continue the detention.

Assessment for Service Needs (§ 1(b))

Under the bill, if there is probable cause to believe that an arrested child committed the acts alleged, the court may consider if the child should be assessed for services. If so, the (1) assessment must occur within two weeks after the child's arraignment and (2) child has the right to counsel during the assessment.

GPS Monitoring (§ 1(c))

The bill allows judges to order electronic monitoring of an arrested child who is (1) charged with a second or subsequent motor vehicle or property theft delinquency offense and (2) released into the custody of his or her parent or guardian (or another suitable person or agency). This monitoring, through a global positioning system (GPS) device, continues until the case concludes, or ends earlier upon the court's order. If the child fails to comply with the monitoring order, he or she may be immediately detained.

For this purpose, a motor vehicle delinquency offense includes:

1. operating or using a vehicle, or causing the vehicle to be used or

operated, without the owner's consent;

2. 1st or 2nd degree criminal trover (i.e., wrongful taking that results in damages) when it involves a motor vehicle; and
3. larceny of a motor vehicle.

Juvenile Detention Decision Before Hearing (§ 1(c))

Existing law sets conditions under which a judge, upon the arresting officer's application, may order an arrested child to be placed in a juvenile residential center. The bill specifies that the arresting officer, if seeking such a detention order, must use the form prescribed by the Office of the Chief Court Administrator (see §§ 7 & 21).

The bill eliminates the current condition that the judge, to order this detention, determine that there is no appropriate less restrictive alternative available. Instead, the judge must determine that detention is more reasonable than an appropriate less restrictive alternative.

The bill also requires a judge who declines to order detention to articulate the reasons why on the detention request form referenced above.

By law, if the judge issues a detention order, there must be a hearing on the next business day following the child's arrest to determine whether the detention should continue. One condition for this continued detention is that there is no less restrictive alternative available. If the detention order is upheld, the child must receive another hearing at least every seven days to determine whether to continue the detention (CGS § 46b-133(j)).

Maximum Hold Period Pending a Detention Order (§ 1(e))

Under some circumstances, the bill increases, from six to eight hours, the maximum period that a child may be held in a community correctional center or lockup without a judge's detention order. This longer period applies if the officer has (1) applied for a detention order but the judge has not yet ruled on it or (2) been unable to contact the child's parent or guardian.

§ 2 — SERIOUS HOMICIDE, FIREARM, OR SEXUAL OFFENDER JUVENILE PROSECUTION

Expands existing law on juvenile serious sexual offender prosecutions to also cover certain homicide and firearm crimes, and makes various changes affecting these cases, such as allowing the juvenile portion of the sentence to be extended for up to 60 months

Existing law allows a prosecutor to ask the court to designate a proceeding as a “serious sexual offender prosecution” when a juvenile is referred for a sexually related crime and the case is not transferred to adult court. The sentencing for juveniles convicted under this designation must include certain components beyond standard sentencing, including at least five years of “special juvenile probation” consisting of supervision by a juvenile probation officer until age 18 and an adult probation officer after that. If the juvenile does not waive the right to a jury trial, the case must be transferred to adult court where he or she must stand trial as an adult.

The bill expands this law to include certain homicide or firearm related crimes and renames the designation as a “serious homicide, firearm, or sexual offender prosecution.” The bill makes various other changes affecting these cases, such as (1) allowing the juvenile portion of the sentence to be extended for up to 60 months and (2) raising the evidence threshold for the prosecutor to show that this designation serves the public safety.

Scope (§ 2(b))

Under existing law, a prosecutor can request this case designation for any crimes of a sexual nature that are adjudicated in juvenile court. The bill allows prosecutors to also request this designation for the following crimes adjudicated in juvenile court:

1. murder;
2. 1st degree manslaughter;
3. 2nd degree manslaughter with a firearm;
4. 1st degree assault, if the violation involved a firearm;
5. 2nd degree assault with a firearm;

6. 2nd degree assault with a firearm of an elderly, blind, disabled, or pregnant person or person with intellectual disability;
7. 1st or 2nd degree kidnapping with a firearm;
8. 1st degree burglary, if the violation involved a firearm;
9. 2nd or 3rd degree burglary with a firearm;
10. robbery of an occupied motor vehicle, if the violation involved a firearm; or
11. stealing a firearm.

Court Hearing on Designation Request (§ 2(c))

Under existing law, after a prosecutor requests this case designation, the court must hold a hearing to decide whether to grant the request.

Current law requires the court to grant the request if the prosecutor shows by a preponderance of the evidence that this designation will serve public safety. The bill (1) raises this evidence threshold to “clear and convincing” and (2) also requires a court finding of probable cause that the child committed the crime.

Under existing law, the court’s decision is not immediately appealable.

Sentencing (§ 2(d))

Under current law, if the juvenile is convicted or pleads guilty, the court must sentence him or her (1) under the standard juvenile sentencing provisions, (2) to at least five years of special juvenile probation beginning on his or her release from placement, and (3) under the standard adult sentencing provisions with the sentence stayed as long as the juvenile does not violate the sentencing conditions imposed or commit another crime. The bill also allows the sentence under the standard juvenile sentencing provisions to be extended for up to 60 months.

Sentencing Condition Violations or Subsequent Crimes (§ 2(e))

In these cases, current law authorizes the court, without notice, to order a juvenile to be taken into custody whenever it appears that he or she violated the conditions of the sentence or committed a new crime. The bill instead requires probable cause of this violation or crime before the juvenile may be taken into custody. It also requires the court, if deciding to order the child into custody, to do so by issuing an arrest warrant.

Under existing law, if this violation or crime occurred while the person is still under age 18, it is handled by the juvenile court; otherwise it is handled by the adult criminal court. If handled by the juvenile court, that court must notify the child, parent or guardian, and attorney, if any, of the alleged reasons for lifting the stay on the adult sentence. The juvenile has the right to a hearing to challenge those reasons.

After the hearing, if the court finds that the juvenile violated the conditions or committed a new crime, existing law requires the court to order the juvenile to serve a sentence not exceeding the adult sentence, unless it finds mitigating circumstances to continue the stay. The bill also requires the court to order this, unless there are mitigating circumstances, if it finds by clear and convincing evidence that the community's best interest cannot be served by the juvenile's continued court supervision or supervision in the community.

Under existing law, the juvenile must receive credit for any time served in a juvenile facility.

§§ 3 & 4 — NOTICE TO TOWN OF FAILED FIREARM BACKGROUND CHECK

Requires DESPP to notify the police chief (or if none, the town first selectman or borough warden) if a resident failed a background check when trying to purchase a firearm

By law, before a handgun sale or transfer, the buyer or transferee generally must complete a DESPP-prescribed application. As part of this process, DESPP must conduct a national instant criminal background check and make a reasonable effort to determine whether there is any reason to disqualify the person from possessing a handgun. Similar requirements apply for long gun sales or transfers (for long guns, the law requires DESPP to make every effort, including conducting the

background check, to assess the person's eligibility to receive the gun).

Under the bill, if DESPP denies the transaction, the commissioner must notify the municipality that (1) there is a reason that prohibits the person from possessing a handgun or (2) the person is not eligible to receive a long gun, as applicable. Specifically, DESPP must notify the police chief where the person lives, or if none, the town first selectman or borough warden.

§§ 5, 19 & 20 — ACCESS TO JUVENILE DELINQUENCY RECORDS

Gives municipal employees and agents access to juvenile delinquency records if they are involved in the proceeding or delivery of related services; specifically requires that law enforcement officials have electronic access to certain juvenile delinquency records for criminal investigations; requires CSSD to report by March 1, 2023, on progress made toward implementing these provisions

The bill gives municipal agency employees, and their authorized agents, the same access to juvenile delinquency case records as already applies to state or federal employees or agents. This access extends to employees or agents involved in the (1) delinquency proceedings, (2) direct provision of services to the child, or (3) delivery of court diversionary programs.

By law, law enforcement and prosecutorial officials have access to juvenile delinquency records for legitimate criminal investigations. The bill specifies that law enforcement officials conducting such an investigation may have direct electronic access to the following information about a child who is being investigated: (1) pending juvenile delinquency charges and (2) any suspended detention orders or prior juvenile adjudications during the 90 days before the investigation started.

The bill also specifies that law enforcement and prosecutorial officials have access to juvenile delinquency records for investigations as set forth in these provisions or detention orders.

CSSD Report (§ 20)

The bill requires the CSSD executive director, by March 1, 2023, to report to the Judiciary Committee on progress made toward implementing these provisions on access to delinquency records.

EFFECTIVE DATE: June 1, 2023, except the CSSD reporting provision takes effect upon passage.

§ 6 — TRAINING PROGRAM ON DETENTION ORDER PROCESS

Requires the chief state’s attorney to develop and implement a training program on the juvenile detention application process for prosecutors and most peace officers

The bill requires the chief state’s attorney to develop and implement a training program on a uniform process to apply for detention orders for arrested juveniles.

It requires all prosecutorial officials and peace officers, except for judicial marshals and adult probation officers, to complete the training program as directed by the chief state’s attorney. The chief state’s attorney must (1) administer the program to these people, (2) set the manner and frequency for them to complete the program, and (3) update the program as necessary.

§§ 7 & 21 — DETENTION REQUEST FORMS AND DATA

Requires prosecutors, not just the police, to attach the official court detention form to the summons when requesting a detention order for a child; requires the form to instruct judges who decline to order detention to articulate their reasons why; requires prosecutors and the police, not just the judicial branch, to compile and categorize data on detention order requests

Existing law requires law enforcement officers who request a detention order for an arrested child to attach, along with the summons, a copy of the completed form to detain prescribed by the Office of the Chief Court Administrator. The bill extends this requirement to prosecutorial officials who seek these orders.

Additionally, starting October 1, 2022, the bill requires the form to instruct judges who decline to detain a child to articulate their reasons why in writing on the form.

Existing law requires the judicial branch to (1) compile data on law enforcement officers’ requests for these detention orders, (2) sort the data by judicial district, and (3) categorize it based on how many requests were made and denied. The bill extends these requirements to the Division of Criminal Justice, the State Police, and municipal police departments.

By law, the judicial branch must annually report this data to the Judiciary Committee.

EFFECTIVE DATE: October 1, 2022, except the provision on the form's instruction to judges takes effect upon passage.

§§ 8-10 & 13-18 — LARCENY OF A MOTOR VEHICLE

Establishes a new penalty structure for larceny of a motor vehicle, with graduated penalties based on whether it is a first or subsequent offense, rather than based on the vehicle's value as under current law

The bill sets a new penalty structure for larceny of a motor vehicle. It provides for graduated penalties based on whether the person has prior convictions for this crime, rather than based on the vehicle's value as under current law. These changes result in a lower penalty for a first offense than under current law; the penalty for subsequent offenses may differ from current law, depending on the vehicle's value.

The bill does so by creating a separate crime of larceny of a motor vehicle, punishable as follows:

1. a first offense is a class E felony, punishable by up to three years in prison, a fine of up to \$3,500, or both;
2. a second offense is a class D felony, punishable by up to five years in prison, a fine of up to \$5,000, or both; and
3. a subsequent offense is a class B felony, punishable by up to 20 years in prison, a fine of up to \$15,000, or both.

Under current law, larceny of a motor vehicle is classified as follows based on the vehicle's value:

1. \$10,000 or less: 3rd degree larceny, a class D felony;
2. over \$10,000 to \$20,000: 2nd degree larceny, a class C felony; and
3. over \$20,000: 1st degree larceny, a class B felony.

By law, if a person commits robbery of an occupied motor vehicle knowing that it is occupied, there is a three-year mandatory prison

sentence in addition to the sentence for the underlying crime (CGS § 53a-136a).

The bill also makes related technical and conforming changes.

§ 11 — DCF AND CSSD REPORT ON TRANSFER OF JUVENILE SERVICES

Requires DCF and CSSD to report on the transfer of juvenile delinquency services from DCF to the judicial branch under PA 18-31

PA 18-31 transferred, from DCF to the judicial branch, legal authority over any child who was committed to DCF as delinquent pursuant to a juvenile court order entered before July 1, 2018.

The bill requires the DCF commissioner and the CSSD executive director to identify each juvenile delinquency or juvenile justice service that DCF provided to children at the time of PA 18-31's passage. They must determine how DCF transferred these services to CSSD and identify any services that were merged with other services, eliminated, or otherwise not transferred.

Under the bill, the commissioner and executive director must report their findings to the Judiciary Committee by December 31, 2022.

EFFECTIVE DATE: Upon passage

§ 12 — CSSD REPORT ON JUVENILE JUSTICE ISSUES

Requires CSSD to review certain juvenile justice issues, such as the effectiveness of pretrial diversionary programs, and report on its review to the Judiciary Committee by December 31, 2022

The bill requires the CSSD executive director, within 30 days after the bill's passage, to review the following:

1. juvenile probation officer staffing levels;
2. the name, number, location, and content of juvenile pretrial and diversionary programs and how effectively they reduce recidivism; and
3. the availability and efficiency of juvenile job training programs and juvenile drug treatment programs.

By December 31, 2022, the executive director must report to the Judiciary Committee on this review and any resulting legislative recommendations.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 35 Nay 4 (03/29/2022)