

1 **Note: This version is drafted to the most recent version of section 46b-127.**

2 Section 46b-127 of the general statutes, as amended by section 1 of P.A. 19-187, is
3 repealed and the following is substituted in lieu thereof:

4 (a) (1) The court shall automatically transfer from the docket for juvenile matters to the
5 regular criminal docket of the Superior Court the case of any child charged with the
6 commission of a capital felony under the provisions of section 53a-54b in effect prior to
7 April 25, 2012[,] **or a class A felony, [or a class B felony, except as provided in subdivision**
8 **(3) of this subsection, or a violation of section 53a-54d,]** provided such offense was
9 committed after such child attained the age of fifteen years and counsel has been
10 appointed for such child if such child is indigent. Such counsel may appear with the child
11 but shall not be permitted to make any argument or file any motion in opposition to the
12 transfer. The child shall be arraigned in the regular criminal docket of the Superior Court
13 at the next court date following such transfer, provided any proceedings held prior to the
14 finalization of such transfer shall be private and shall be conducted in such parts of the
15 courthouse or the building in which the court is located that are separate and apart from
16 the other parts of the court which are then being used for proceedings pertaining to adults
17 charged with crimes.

18 (2) A state's attorney may, at any time after such arraignment, file a motion to transfer
19 the case of any child charged with the commission of a **[class B felony or]** a violation of
20 subdivision (2) of subsection (a) of section 53a-70 to the docket for juvenile matters for
21 proceedings in accordance with the provisions of this chapter.

22 **[(3) No case of any child charged with the commission of a violation of section 53a-55,**
23 **53a-59b, 53a-71 or 53a-94, subdivision (2) of subsection (a) of section 53a-101, section 53a-**
24 **112, 53a-122 or 53a-129b, subdivision (1), (3) or (4) of subsection (a) of section 53a-134,**
25 **section 53a-196c, 53a-196d or 53a-252 or subsection (a) of section 53a-301 shall be**
26 **transferred from the docket for juvenile matters to the regular criminal docket of the**
27 **Superior Court, except as provided in this subdivision. Upon motion of a prosecutorial**
28 **official, the superior court for juvenile matters shall conduct a hearing to determine**
29 **whether the case of any child charged with the commission of any such offense shall be**
30 **transferred from the docket for juvenile matters to the regular criminal docket of the**
31 **Superior Court. The court shall not order that the case be transferred under this**
32 **subdivision unless the court finds that (A) such offense was committed after such child**
33 **attained the age of fifteen years, (B) there is probable cause to believe the child has**

34 committed the act for which the child is charged, and (C) the best interests of the child
35 and the public will not be served by maintaining the case in the superior court for juvenile
36 matters. In making such findings, the court shall consider (i) any prior criminal or juvenile
37 offenses committed by the child, (ii) the seriousness of such offenses, (iii) any evidence
38 that the child has intellectual disability or mental illness, and (iv) the availability of
39 services in the docket for juvenile matters that can serve the child's needs. Any motion
40 under this subdivision shall be made, and any hearing under this subdivision shall be
41 held, not later than thirty days after the child is arraigned in the superior court for juvenile
42 matters.]

43 (b) Upon motion of a prosecutorial official, the superior court for juvenile matters shall
44 conduct a hearing to determine whether the case of any child charged with the
45 commission of a class B [C, D or E felony or an unclassified] felony shall be transferred
46 from the docket for juvenile matters to the regular criminal docket of the Superior Court.
47 The court shall not order that the case be transferred under this subdivision unless the
48 court finds that (1) such offense was committed after such child attained the age of fifteen
49 years, (2) there is probable cause to believe the child has committed the act for which the
50 child is charged, and (3) the [best interests of the] child CANNOT BE REHABILITATED
51 [and the public will not be served by maintaining the case] in the superior court for
52 juvenile matters WITHOUT PRESENTING A RISK OF SERIOUS PHYSICAL INJURY TO
53 THE PUBLIC In making such findings, the court shall consider (A) any prior criminal or
54 juvenile offenses committed by the child, (B) the seriousness of such offenses, (C) any
55 evidence that the child has intellectual disability or mental illness, and (D) the availability
56 of services in the docket for juvenile matters that can serve the child's needs. Any motion
57 under this subdivision shall be made, and any hearing under this subdivision shall be
58 held, not later than thirty days after the child is arraigned in the superior court for juvenile
59 matters.

60 (c) (1) (A) Any proceeding of any case transferred to the regular criminal docket
61 pursuant to this section shall be private and shall be conducted in such parts of the
62 courthouse or the building in which the court is located that are separate and apart from
63 the other parts of the court which are then being used for proceedings pertaining to adults
64 charged with crimes. Any records of such proceedings shall be confidential in the same
65 manner as records of cases of juvenile matters are confidential in accordance with the
66 provisions of section 46b-124, except as provided in subparagraph (B) of this subdivision,
67 unless and until the court or jury renders a verdict or a guilty plea is entered in such case
68 on the regular criminal docket.

69 (B) Records of any child whose case is transferred to the regular criminal docket under
70 this section, or any part of such records, shall be available to the victim of the crime
71 committed by the child to the same extent as the records of the case of a defendant in a
72 criminal proceeding in the regular criminal docket of the Superior Court is available to a
73 victim of the crime committed by such defendant. The court shall designate an official
74 from whom the victim may request such records. Records disclosed pursuant to this
75 subparagraph shall not be further disclosed.

76 (2) If a case is transferred to the regular criminal docket pursuant to [subdivision (3) of
77 subsection (a) of this section or] subsection (b) of this section, or if a case is transferred to
78 the regular criminal docket pursuant to subdivision (1) of subsection (a) of this section
79 and the charge in such case is subsequently reduced to that of the commission of an
80 offense for which a case may be transferred pursuant to subdivision (2) [or (3)] of
81 subsection (a) of this section or subsection (b) of this section, the court sitting for the
82 regular criminal docket may return the case to the docket for juvenile matters at any time
83 prior to the court or jury rendering a verdict or the entry of a guilty plea for good cause
84 shown for proceedings in accordance with the provisions of this chapter.

85 (d) Upon the effectuation of the transfer, such child shall stand trial and be sentenced,
86 if convicted, as if such child were eighteen years of age, subject to the provisions of
87 subsection (c) of this section and section 54-91g. Such child shall receive credit against
88 any sentence imposed for time served in a juvenile facility prior to the effectuation of the
89 transfer. A child who has been transferred may enter a guilty plea to a lesser offense if
90 the court finds that such plea is made knowingly and voluntarily. Any child transferred
91 to the regular criminal docket who pleads guilty to a lesser offense shall not resume such
92 child's status as a juvenile regarding such offense. If the action is dismissed or nolle or
93 if such child is found not guilty of the charge for which such child was transferred or of
94 any lesser included offenses, the child shall resume such child's status as a juvenile until
95 such child attains the age of eighteen years.

96 (e) Any child whose case is transferred to the regular criminal docket of the Superior
97 Court who is detained pursuant to such case shall be in the custody of the Commissioner
98 of Correction upon the finalization of such transfer. A transfer shall be final (1) upon the
99 arraignment on the regular criminal docket until a motion filed by the state's attorney
100 pursuant to subsection (a) of this section is granted by the court, or (2) upon the
101 arraignment on the regular criminal docket of a transfer ordered pursuant to subsection
102 (b) of this section until the court sitting for the regular criminal docket orders the case

103 returned to the docket for juvenile matters for good cause shown. Any child whose case
104 is returned to the docket for juvenile matters who is detained pursuant to such case shall
105 be in the custody of the Judicial Department.

106 (f) The transfer of a child to a Department of Correction facility shall be limited as
107 provided in subsection (e) of this section and said subsection shall not be construed to
108 permit the transfer of or otherwise reduce or eliminate any other population of juveniles
109 in detention or confinement within the Judicial Department or the Department of
110 Children and Families.

111 (g) Upon the motion of any party or upon the court's own motion, the case of any youth
112 age sixteen or seventeen, except a case that has been transferred to the regular criminal
113 docket of the Superior Court pursuant to subsection (a) or (b) of this section, which is
114 pending on the youthful offender docket, regular criminal docket of the Superior Court
115 or any docket for the presentment of defendants in motor vehicle matters, where the
116 youth is charged with committing any offense or violation for which a term of
117 imprisonment may be imposed, other than a violation of section 14-227a, 14-227g or 14-
118 227m or subdivision (1) or (2) of subsection (a) of section 14-227n, may, before trial or
119 before the entry of a guilty plea, be transferred to the docket for juvenile matters if (1) the
120 youth is alleged to have committed such offense or violation on or after January 1, 2010,
121 while sixteen years of age, or is alleged to have committed such offense or violation on
122 or after July 1, 2012, while seventeen years of age, and (2) after a hearing considering the
123 facts and circumstances of the case and the prior history of the youth, the court
124 determines that the programs and services available pursuant to a proceeding in the
125 superior court for juvenile matters would more appropriately address the needs of the
126 youth and that the youth and the community would be better served by treating the
127 youth as a delinquent. Upon ordering such transfer, the court shall vacate any pleas
128 entered in the matter and advise the youth of the youth's rights, and the youth shall (A)
129 enter pleas on the docket for juvenile matters in the jurisdiction where the youth resides,
130 and (B) be subject to prosecution as a delinquent child. The decision of the court
131 concerning the transfer of a youth's case from the youthful offender docket, regular
132 criminal docket of the Superior Court or any docket for the presentment of defendants in
133 motor vehicle matters shall not be a final judgment for purposes of appeal.