



*Division of Criminal Justice
Chief State's Attorney's Office*

Kevin T. Kane, Chief State's Attorney

&



*State of Connecticut
Division of Public Defender Services*

Susan O. Storey, Chief Public Defender



*Present:
Raise the Age*

*The impact of
PA 09-7
Sept. Spec. Sess.*



IMPACT OF PA 09-7
SEPTEMBER SPECIAL SESSION
“Raise the Age”

**Who comes to the juvenile court?
§69(1) through (10)**

A person under 16 who has violated:

- (A) any federal or state law or municipal or local ordinance, other than an ordinance regulating FWSN behavior,
- (B) any Superior Court order, other than a FWSN order, or
- (C) any condition of probation as ordered by the court;

- (A) a person under 16 who violates any federal or state law or municipal or local ordinance, except an ordinance regulating FWSN behavior,
- (B) an unemancipated person age 16 who violates any federal or state law other than
 - (i) an infraction,
 - (ii) a violation,
 - (iii) a motor vehicle offense or violation in chapter 248, or
 - (iv) a violation of a municipal or local ordinance,
- (C) a person who willfully fails to appear in response to a §46b-133 summons or at any other court hearing of which they had notice,
- (D) a person who violates any Superior Court order other than a FWSN order, or
- (E) a person who violates any condition of probation;

Proposed Technical Corrections Bill (HB 5522)

- Makes Failure to Pay or Plead an adult offense;
- Makes failure appear in an adult case an adult offense;
- Makes violation of adult probation an adult offense;
- Makes all motor vehicle offenses committed by 16 year olds adult offenses;
- Creates a provision for the transfer of such cases, except DUI cases, to the juvenile court if the court determines that the programs and services available in the juvenile court would more appropriately address the needs of the youth and that the youth and the community would be better served by such a transfer;
- Exempts statements made by a 16 year old to police in such cases from the more strict juvenile admissibility requirements;

Potential Issues Due to Exceptions to Juvenile Jurisdiction

What if a 16 year old is a “child” and an “adult” in the same case?

Rules & procedures for interviewing.

Rules & procedures for releasing from police custody.

Rules & procedures for secure holding in police custody.

What reference to juvenile charges (confidential) should be in the adult case report (may not be confidential)?

How will orders of erasure of juvenile record be handled by police and adult court?

What is a “serious juvenile offense?”
§69(11)

(A) the violation, attempt or conspiracy to violate, 21a-277, 21a-278, 29-33, 29-34, 29-35, 53-21, 53-80a, 53-202b, 53-202c, 53-390 to 53-392, 53a-54a to 53a-57, 53a-59 to 53a-60c, 53a-70 to 53a-71, 53a-72b, 53a-86, 53a-92 to 53a-94a, 53a-95, 53a-101, 53a-102a, 53a-103a or 53a-111 to 53a-113, 53a-122(a)(1), 53a-123(a)(3), 53a-134, 53a-135, 53a-136a, 53a-166 or 53a-167c, 53a-174(a), or 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, by a child, or (B) runaway from a secure placement while referred as a delinquent to CSSD or committed to DCF for an SJO;

Removed §53a-56b & §53a-57 from the list for 16 & 17 year olds.

Failed to add §53a-56b & §53a-57 back to the list for 16 year olds.

Proposed Technical Corrections Bill (HB 5522)

Makes changes to the list of SJO's:

- Deletes specific subsection of risk of injury charge;
- Deletes hindering prosecution 2nd degree;
- Adds manslaughter 2nd and misconduct with a motor vehicle back to the list for 16 year olds;

**What release options are
there for juveniles?"**

§72(c)

1. release the child to the custody of the child's parent or parents, guardian or some other suitable person or agency, or
2. immediately turn the child over to a juvenile detention center.

When not placed in detention the officer shall serve a written complaint and summons on the child and the child's parent, guardian or other person having control of the child.

1. release the child to the custody of the child's parent or parents, guardian or some other suitable person or agency,
2. immediately turn the child over to a juvenile detention center;
3. at the discretion of the officer, release the child to the child's own custody

When not placed in detention the officer shall serve a written complaint and summons on the child and the child's parent, guardian or some other suitable person or agency.

If such child is released to the child's own custody, the officer shall make reasonable efforts to notify, and to provide a copy of a written complaint and summons to, the parent or guardian or some other suitable person or agency prior to the court date on the summons.

**What if a juvenile fails to appear in
court in response to a summons?**

§72(c)

The court may order such child taken into custody.

1. The court may order such child taken into custody and
2. such child may be charged with the delinquent act of wilful failure to appear.

**What grounds must a court find
to hold a juvenile in detention?”**

§72(d)

1. probable cause and
2.
 - A. a strong probability that the child will run away, or
 - B. a strong probability that the child will commit or attempt to commit other offenses, or
 - C. probable cause to believe the child's continued residence at home pending disposition will not safeguard the best interests of the child or the community because of the serious & dangerous nature of the acts alleged, or
 - D. a need to hold the child for another jurisdiction, or
 - E. need to hold the child to assure his appearance before the court, in view of a previous failure to respond to the court process

1. probable cause and
2. there is no less restrictive alternative available
3. A. a strong probability that the child will run away, or
B. a strong probability that the child will commit or attempt to commit other offenses, or
C. probable cause to believe the child's continued residence at home pending disposition poses a risk to the child or the community because of the serious & dangerous nature of the acts alleged, or
D. a need to hold the child for another jurisdiction, or
E. need to hold the child to assure his appearance before the court, in view of a previous failure to respond to the court process
F. the child has violated one or more of the conditions of a suspended detention order

**Can a juvenile be held
in an adult cell?"**

§72(d)

In no case shall a child be confined in a community correctional center or lockup, or in any place where adults are or may be confined, except in the case of a nursing infant; nor shall any child at any time be held in solitary confinement.

Any child confined in a community correctional center or lockup shall be held in an area separate and apart from any adult detainee, except in the case of a nursing infant, and no child shall at any time be held in solitary confinement.

Proposed Technical Corrections Bill (HB 5522)

Would require “sight and sound” separation for children in custody to bring the state law back into compliance with federal regulations.

Can a juvenile be released from
detention prior to a court hearing?"

§72(e)

Unless the arrest was for a serious juvenile offense, the child may be released by a detention supervisor to the custody of the child's parent or parents, guardian or other suitable person.

Unless the arrest was for a serious juvenile offense or unless an order not to release is noted on the take into custody order, arrest warrant or order to detain, the child may be released by a detention supervisor to the custody of the child's parent or parents, guardian or other suitable person or agency.

**What is a needed to take an
admissible statement from
a juvenile under age 16?**

§75(a)

1. parent or guardian must be present and
2. both advised of:
 - A. the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed
 - B. of the child's right to refuse to make any statements, and
 - C. that any statements the child makes may be introduced into evidence against the child.

NOTE: this applies to any admission, confession or statement, written or oral, made by a person under 16 to a police officer or Juvenile Court official regardless of whether they are in custody or subject to interrogation or not.

No change for juveniles under age 16.

**What is a needed to take an
admissible statement from
a 16 year old juvenile?**

§75(b)

Miranda warnings if in custody and subject to interrogation.

- (1) the police or Juvenile Court official must have made reasonable efforts to contact a parent or guardian of the child, and
- (2) such child has been advised that:
 - (A) the child has the right to contact a parent or guardian and to have a parent or guardian present during any interview,
 - (B) the child has the right to retain counsel or, if unable to afford counsel, to have counsel appointed on behalf of the child,
 - (C) the child has the right to refuse to make any statement, and
 - (D) any statement the child makes may be introduced into evidence against the child.

NOTE: this applies to any admission, confession or statement, written or oral, made by a 16 year old to a police officer or Juvenile Court official regardless of whether they are in custody or subject to interrogation or not.

The admissibility of any admission, confession or statement, written or oral, made by a child sixteen years of age to a police officer or Juvenile Court official shall be determined by considering the totality of the circumstances at the time of the making of such admission, confession or statement.

The court will consider the:

- (1) age, experience, education, background and intelligence of the child,
- (2) capacity of the child to understand the advice concerning rights and warnings given, the nature of the privilege against self-incrimination, and the consequences of waiving them,
- (3) opportunity the child had to speak with a parent, guardian or some other suitable individual prior to or while making such admission, confession or statement, and
- (4) circumstances surrounding the making of the admission, confession or statement, including, but not limited to,
 - (A) when and where the admission, confession or statement was made,
 - (B) the reasonableness of proceeding, or the need to proceed, without a parent or guardian present, and
 - (C) the reasonableness of efforts by the police or Juvenile Court official to attempt to contact a parent or guardian.

Under the old law, and still for children under the age of 16, having a parent/guardian present is a requirement for the admissibility of any statement made by the child against them in court and it cannot be waived.

Under the new law, for a 16 year old, having a parent/guardian present is a right that might be waived in appropriate circumstances.

Unlike Miranda, these requirements and rights apply to any statement, admission or confession, made by a child to a police officer or juvenile court official, regardless of whether they are in custody or subject to interrogation.

**When can a juvenile's
record be erased?**

§77

A petition for erasure is filed and it is found that:

1. two years have elapsed since the completion of the juvenile sentence (four years for an SJO conviction), and
2. no juvenile proceeding has been instituted, and
3. the juvenile has not been found guilty of a crime.

A petition for erasure is filed and it is found that:

1. two years have elapsed since the completion of the juvenile sentence (four years for an SJO conviction), and
2. no juvenile proceeding or adult criminal proceeding is pending, and
3. the juvenile has not been convicted of a delinquent act that would be a felony or misdemeanor if committed by an adult during such two or four year period, and
4. the juvenile has not been convicted as an adult for a felony or misdemeanor during such two or four year period, and
5. the juvenile has reached 17 years of age.

For good cause shown, after a hearing, the court may grant a petition of erasure before the time when such records could be erased.

**Who can be referred as a FWSN?
§69(1)(B) & (7)**

A child under the age of 16 who has:

1. runaway from home without just cause;
2. been beyond the control of their parent or guardian;
3. engaged in indecent or immoral conduct;
4. been truant from school;
5. been continuously and overtly defiant of school rules;
6. after reaching the age of 13, engaged in sexual intercourse with another person 13 years or older and not more than 2 years older or younger.

A child under the age of 17 who has:

1. runaway from home without just cause;
2. been beyond the control of their parent or guardian;
3. engaged in indecent or immoral conduct;
4. been truant from school;
5. been continuously and overtly defiant of school rules;
6. after reaching the age of 13, engaged in sexual intercourse with another person 13 years or older and not more than 2 years older or younger.

**Who can be referred as a YIC?
§69(2)(A) & (B)**

A youth age 16 or 17 who has:

1. runaway from home without just cause;
2. been beyond the control of their parent or guardian;
3. been truant from school;

A youth age 17 who has:

1. runaway from home without just cause;
2. been beyond the control of their parent or guardian;
3. been truant from school;

**Can educational records be obtained?
§70(b)(1)**

- The Superior Court may order a local or regional board of education to provide to the court educational records of a child or youth for the purpose of determining the need for services or placement of the child or youth.
- In proceedings concerning a child charged with a delinquent act or with being from a family with service needs, records produced subject to such an order shall be maintained under seal by the court and shall be released only after a hearing or with the consent of the child.
- Educational records obtained pursuant to this section shall be used only for dispositional purposes.

Can work in lieu of school be ordered?

§76

If the court finds that a child is:

- fourteen years of age or older and
- convicted as delinquent or adjudged to be a FSWN and
- they would not benefit from continued school attendance and
- may properly be employed for part or full-time at some useful occupation and
- that such employment would be favorable to such child's welfare,

the court may place such child on vocational probation and the probation officer shall supervise such employment.

The limitations of subsection (a) of §31-23 on the employment of minors under the age of 16 shall not apply for the duration of such vocational probation.

If the court finds that a child is:

- convicted as delinquent or adjudged to be a FWSN and
- they would benefit from a work-study program or employment with or without continued school attendance,

the court may as a condition of probation or supervision, authorize such child to be employed for part or full-time at some useful occupation that would be favorable to such child's welfare, and the probation officer shall supervise such employment.

The limitations of subsection (a) of section 31-23 on the employment of minors under the age of sixteen years shall not apply for the duration of such probation or supervision.

What are the effects of emancipation?

§90

The minor:

- (1) may consent to medical, dental or psychiatric care, without parental consent, knowledge or liability;
- (2) may enter into a binding contract;
- (3) may sue and be sued in their own name;
- (4) shall be entitled to such minor's own earnings and be free of control by such minor's parents or guardian;
- (5) may establish such minor's own residence;
- (6) may buy and sell real and personal property;
- (7) may not thereafter be the subject of a child protection petition
- (8) may enroll in any school or college, without parental consent;
- (9) shall be deemed to be over eighteen years of age for purposes of securing an operator's license and a marriage license;
- (10) shall be deemed to be over eighteen years of age for purposes of registering a motor vehicle;
- (11) the parents of the minor shall no longer be the guardians of the minor;
- (12) the parents of a minor shall be relieved of any obligations respecting such minor's school attendance;
- (13) the parents shall be relieved of all obligation to support the minor;
- (14) the minor shall be emancipated for the purposes of parental;
- (15) the minor may execute releases; and
- (16) may enlist in the military without parental consent.

The minor:

- (1) may consent to medical, dental or psychiatric care, without parental consent, knowledge or liability;
- (2) may enter into a binding contract;
- (3) may sue and be sued in their own name;
- (4) shall be entitled to such minor's own earnings and be free of control by such minor's parents or guardian;
- (5) may establish such minor's own residence;
- (6) may buy and sell real and personal property;
- (7) may not thereafter be the subject of a child protection, delinquency, FWSN or YIC petition;
- (8) may enroll in any school or college, without parental consent;
- (9) shall be deemed to be over eighteen years of age for purposes of securing an operator's license and a marriage license;
- (10) shall be deemed to be over eighteen years of age for purposes of registering a motor vehicle;
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- (12) the parents of a minor shall be relieved of any obligations respecting such minor's school attendance;
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***Update on the
implementation of
“Raise the Age”***

Delinquency Cases for 16 Year Olds 1/1/10 – 2/28/10

Bridgeport	62
Danbury	20
Hartford	80
Middletown	27
New Britain	48
New Haven	98
Norwalk	13
Rockville	44
Stamford	16
Torrington	13
Waterbury	63
Waterford	32
Willimantic	13
Total	529

<u>Cases Pending</u>	Feb 2009	Feb 2010
Bridgeport	346	373
Danbury	85	93
Hartford	641	758
Middletown	176	250
New Britain	270	335
New Haven	474	641
Norwalk	152	86
Rockville	248	141
Stamford	150	114
Torrington	80	99
Waterbury	414	435
Waterford	253	284
Willimantic	178	178
State	3467	3787

□ Breach of Peace:	45 cases
□ Larceny 6:	39 cases
□ Violation of a Court Order:	23 cases
□ Disorderly Conduct:	19 cases
□ Interfering with Police:	19 cases
□ Drug Related Offenses:	17 cases
□ Robbery 3:	7 cases
□ Larceny 3:	3 cases

Christine Perra Rapillo

Director of Juvenile Delinquency Defense

Office of the Chief Public Defender

30 Trinity Street, 4th Floor, Hartford, Connecticut 06106

Tel.: 860-509-6472, E-mail: christine.rapillo@jud.ct.gov

Francis J. Carino

Supervisory Assistant State's Attorney

Office of the Chief State's Attorney

300 Corporate Place, Rocky Hill, CT 06067

Tel.: 860-258-5826, E-mail: francis.carino@po.state.ct.us