



General Assembly

January Session, 2019

Raised Bill No. 7387

LCO No. 6352



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONSIDERING THE DISCRETIONARY TRANSFER OF
JUVENILES TO THE REGULAR CRIMINAL DOCKET.***

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

1 Section 1. Section 46b-127 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) (1) The court shall automatically transfer from the docket for
4 juvenile matters to the regular criminal docket of the Superior Court
5 the case of any child charged with the commission of a capital felony
6 under the provisions of section 53a-54b in effect prior to April 25, 2012,
7 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
9 offense was committed after such child attained the age of fifteen years
10 and counsel has been appointed for such child if such child is indigent.
11 Such counsel may appear with the child but shall not be permitted to
12 make any argument or file any motion in opposition to the transfer.
13 The child shall be arraigned in the regular criminal docket of the
14 Superior Court at the next court date following such transfer, provided
15 any proceedings held prior to the finalization of such transfer shall be

16 private and shall be conducted in such parts of the courthouse or the
17 building in which the court is located that are separate and apart from
18 the other parts of the court which are then being used for proceedings
19 pertaining to adults charged with crimes.

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

25 (3) No case of any child charged with the commission of a violation
26 of section 53a-55, 53a-59b, 53a-71 or 53a-94, subdivision (2) of
27 subsection (a) of section 53a-101, section 53a-112, 53a-122 or 53a-129b,
28 subdivision (1), (3) or (4) of subsection (a) of section 53a-134, section
29 53a-196c, 53a-196d or 53a-252 or subsection (a) of section 53a-301 shall
30 be transferred from the docket for juvenile matters to the regular
31 criminal docket of the Superior Court, except as provided in this
32 subdivision. Upon motion of a prosecutorial official, the superior court
33 for juvenile matters shall conduct a hearing to determine whether the
34 case of any child charged with the commission of any such offense
35 shall be transferred from the docket for juvenile matters to the regular
36 criminal docket of the Superior Court. The court shall not order that
37 the case be transferred under this subdivision unless the court finds
38 that (A) such offense was committed after such child attained the age
39 of fifteen years, (B) there is probable cause to believe the child has
40 committed the act for which the child is charged, and (C) the best
41 interests of the child and the public will not be served by maintaining
42 the case in the superior court for juvenile matters. In making such
43 findings, the court shall consider (i) any prior criminal or juvenile
44 offenses committed by the child, (ii) the seriousness of such offenses,
45 (iii) any evidence that the child has intellectual disability or mental
46 illness, [and] (iv) the availability of services in the docket for juvenile
47 matters that can serve the child's needs, and (v) as provided in
48 subsection (g) of this section. Any motion under this subdivision shall
49 be made, and any hearing under this subdivision shall be held, not

50 later than thirty days after the child is arraigned in the superior court
51 for juvenile matters.

52 (b) (1) Upon motion of a prosecutorial official, the superior court for
53 juvenile matters shall conduct a hearing to determine whether the case
54 of any child charged with the commission of a class C, D or E felony or
55 an unclassified felony shall be transferred from the docket for juvenile
56 matters to the regular criminal docket of the Superior Court. The court
57 shall not order that the case be transferred under this subdivision
58 unless the court finds that (A) such offense was committed after such
59 child attained the age of fifteen years, (B) there is probable cause to
60 believe the child has committed the act for which the child is charged,
61 and (C) the best interests of the child and the public will not be served
62 by maintaining the case in the superior court for juvenile matters. In
63 making such findings, the court shall consider (i) any prior criminal or
64 juvenile offenses committed by the child, (ii) the seriousness of such
65 offenses, (iii) any evidence that the child has intellectual disability or
66 mental illness, [and] (iv) the availability of services in the docket for
67 juvenile matters that can serve the child's needs, and (v) as provided in
68 subsection (g) of this section. Any motion under this subdivision shall
69 be made, and any hearing under this subdivision shall be held, not
70 later than thirty days after the child is arraigned in the superior court
71 for juvenile matters.

72 (2) If a case is transferred to the regular criminal docket pursuant to
73 subdivision (1) of this subsection or subdivision (3) of subsection (a) of
74 this section, the court sitting for the regular criminal docket may return
75 the case to the docket for juvenile matters at any time prior to a jury
76 rendering a verdict or the entry of a guilty plea for good cause shown
77 for proceedings in accordance with the provisions of this chapter.

78 (c) Upon the effectuation of the transfer, such child shall stand trial
79 and be sentenced, if convicted, as if such child were eighteen years of
80 age, subject to the provisions of section 54-91g. Such child shall receive
81 credit against any sentence imposed for time served in a juvenile
82 facility prior to the effectuation of the transfer. A child who has been

83 transferred may enter a guilty plea to a lesser offense if the court finds
84 that such plea is made knowingly and voluntarily. Any child
85 transferred to the regular criminal docket who pleads guilty to a lesser
86 offense shall not resume such child's status as a juvenile regarding
87 such offense. If the action is dismissed or nolle or if such child is
88 found not guilty of the charge for which such child was transferred or
89 of any lesser included offenses, the child shall resume such child's
90 status as a juvenile until such child attains the age of eighteen years.

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

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

110 (f) Upon the motion of any party or upon the court's own motion,
111 the case of any youth age sixteen or seventeen, except a case that has
112 been transferred to the regular criminal docket of the Superior Court
113 pursuant to subsection (a) or (b) of this section, which is pending on
114 the youthful offender docket, regular criminal docket of the Superior
115 Court or any docket for the presentment of defendants in motor

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

139 (g) If a child's case is subject to transfer to the regular criminal
 140 docket pursuant to subdivision (3) of subsection (a) of this section or
 141 subdivision (1) of subsection (b) of this section, the court shall offer the
 142 child and the parent or guardian of such child an opportunity to
 143 participate in a class or program that the court selects from a list of
 144 classes and programs provided by the prosecutorial official. Such list
 145 shall include classes and programs designed to assist the child and
 146 parent or guardian to resolve or improve behavioral issues applicable
 147 to the child's case. As part of any consideration of the transfer of the
 148 child's case to the regular criminal docket, the court may consider the
 149 child's and parent or guardian's successful completion of any such

150 class or program when evaluating the considerations described in
 151 subparagraph (C) of subdivision (3) of subsection (a) of this section or
 152 subparagraph (C) of subdivision (1) of subsection (b) of this section, as
 153 applicable. The court may not consider a child's or parent or guardian's
 154 failure to successfully complete any such class or program when
 155 evaluating the considerations described in subparagraph (C) of
 156 subdivision (3) of subsection (a) of this section or subparagraph (C) of
 157 subdivision (1) of subsection (b) of this section, as applicable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	46b-127

Statement of Purpose:

To provide that completion of a class or program specified by the court in the case of a juvenile delinquency case subject to discretionary transfer to the regular criminal docket may be a positive factor for the court to consider when balancing the best interest of the child and the public when determining whether the case should remain on the docket for juvenile matters.

[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.]