

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Connecticut General Statutes Annotated

Title 46b. Family Law (Refs & Annos)

Chapter 815T. Juvenile Matters (Refs & Annos)

Part I. General Provisions

C.G.S.A. § 46b-127

§ 46b-127. Transfer of child charged with a felony to the regular criminal docket. Transfer of youth aged sixteen or seventeen to docket for juvenile matters

Effective: October 1, 2019

Currentness

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

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

~~(3) No case of any child charged with the commission of a violation of section 53a-55, 53a-59b, 53a-71 or 53a-94, subdivision (2) of subsection (a) of section 53a-101, section 53a-112, 53a-122 or 53a-129b, subdivision (1), (3) or (4) of subsection (a) of section 53a-134, section 53a-196c, 53a-196d or 53a-252 or subsection (a) of section 53a-301 shall be transferred from the docket for juvenile matters to the regular criminal docket of the Superior Court, except as provided in this subdivision. Upon motion of a prosecutorial official, the superior court for juvenile matters shall conduct a hearing to determine whether the case of any child charged with the commission of any such offense shall be transferred from the docket for juvenile matters to the regular criminal docket of the Superior Court. The court shall not order that the case be transferred under this subdivision unless the court finds that (A) such offense was committed after such child attained the age of fifteen years, (B) there is probable cause to believe the child has committed the act for which the child is charged, and (C) the best interests of the child and the public will not be served by maintaining the case in the superior court for juvenile matters. In making such findings, the court shall consider (i) any prior criminal or juvenile offenses committed by the child, (ii) the seriousness of such offenses, (iii) any evidence that the child has intellectual disability or mental illness, and (iv) the~~

~~availability of services in the docket for juvenile matters that can serve the child's needs. Any motion under this subdivision shall be made, and any hearing under this subdivision shall be held, not later than thirty days after the child is arraigned in the superior court for juvenile matters.~~

(b) Upon motion of a prosecutorial official, the superior court for juvenile matters shall conduct a hearing to determine whether the case of any child charged with the commission of a class [B] C, ~~D or E~~ felony ~~or an unclassified felony~~ shall be transferred from the docket for juvenile matters to the regular criminal docket of the Superior Court. The court shall not order that the case be transferred under this subdivision unless the court finds that (1) such offense was committed after such child attained the age of fifteen years, (2) there is probable cause to believe the child has committed the act for which the child is charged, ~~and (3) the child cannot be maintained in the superior court for juvenile matters without presenting an imminent risk of death or serious physical injury to the—a best interests of the child and~~ the public. ~~will not be served by maintaining the case in the superior court for juvenile matters.~~ In making such findings, the court shall consider (A) any prior criminal or juvenile offenses committed by the child, (B) the seriousness of such offenses, (C) any evidence that the child has intellectual disability or mental illness, and (D) the availability of services in the docket for juvenile matters that can serve the child's needs. Any motion under this subdivision shall be made, and any hearing under this subdivision shall be held, not later than thirty days after the child is arraigned in the superior court for juvenile matters.

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

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

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

(d) Upon the effectuation of the transfer, such child shall stand trial and be sentenced, if convicted, as if such child were eighteen years of age, subject to the provisions of subsection (c) of this section and [section 54-91g](#). Such child shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer. A child who has been transferred may enter a guilty plea to a lesser offense if the court finds that such plea is made knowingly and

voluntarily. Any child transferred to the regular criminal docket who pleads guilty to a lesser offense shall not resume such child's status as a juvenile regarding such offense. If the action is dismissed or nolle or if such child is found not guilty of the charge for which such child was transferred or of any lesser included offenses, the child shall resume such child's status as a juvenile until such child attains the age of eighteen years.

(e) ~~Any~~ child whose case is transferred to the regular criminal docket of the Superior Court who is detained pursuant to such case shall be in the custody of the Commissioner of Correction upon the finalization of such transfer. ~~[A judge of the Superior Court on motion from any party or on the court's own motion may order the child held in a juvenile facility until sentencing or final disposition if the court finds that the juvenile court can better serve the needs of the child and the child does not pose an imminent risk of death or serious physical injury to other juvenile detainees.]~~ A transfer shall be final (1) upon the arraignment on the regular criminal docket until a motion filed by the state's attorney pursuant to subsection (a) of this section is granted by the court, or (2) upon the arraignment on the regular criminal docket of a transfer ordered pursuant to subsection (b) of this section until the court sitting for the regular criminal docket orders the case returned to the docket for juvenile matters for good cause shown. ~~[A disposition shall be final upon sentencing, dismissal or other resolution of the case by the trial court.]~~ Any child whose case is returned to the docket for juvenile matters who is detained pursuant to such case shall be in the custody of the Judicial Department.

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

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

Credits

(1958 Rev., §§ 17-60b, 51-308; 1975, P.A. 75-620, §§ 1 to 4, eff. Jan. 1, 1976; 1976, P.A. 76-194, § 3; 1976, P.A. 76-436, §§ 18 to 20, eff. July 1, 1978; 1979, P.A. 79-581, § 3; 1983, P.A. 83-402, § 2; 1986, P.A. 86-185, § 2; [1990, P.A. 90-136, § 2](#); [1990, P.A. 90-187, § 2](#), eff. July 1, 1991; [1994, July Sp.Sess., P.A. 94-2, § 6](#); [1995, P.A. 95-225, § 13](#), eff. Oct. 1, 1995; [1997, P.A. 97-4, § 1](#), eff. March 20, 1997; [1997, P.A. 97-319, § 21](#), eff. July 1, 1997; [1998, P.A. 98-256, § 3](#); [2004, P.A. 04-127, § 2](#); [2004, P.A. 04-148, § 1](#); [2007, June Sp.Sess., P.A. 07-4, § 75](#), eff. Jan. 1, 2010; [2009, Sept.Sp.Sess., P.A. 09-7, § 122](#), eff. Oct. 5, 2009; [2009, Sept.Sp.Sess., P.A. 09-7, § 71](#), eff. Jan. 1, 2010; [2009, Sept.Sp.Sess., P.A. 09-7, § 84](#), eff. July 1, 2012; [2010, June Sp.Sess., P.A. 10-1, § 30](#), eff. July 1, 2010; [2011, P.A. 11-157, § 18](#), eff. July 1, 2012; [2012, P.A. 12-5, §](#)

10, eff. April 25, 2012; 2012, June 12 Sp.Sess., P.A. 12-1, § 280; 2013, P.A. 13-258, § 5; 2015, P.A. 15-84, § 3; 2015, P.A. 15-183, § 1; 2016, P.A. 16-126, § 27; 2019, P.A. 19-187, § 1, eff. Oct. 1, 2019.)

Notes of Decisions (66)

C. G. S. A. § 46b-127, CT ST § 46b-127

The statutes and Constitution are current through the 2019 January Regular Session and the 2019 July Special Session.

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