



The Connecticut Success Story: Making

16- and 17-Year-Olds Eligible for Youthful Offender Status

Prior to passing legislation that would raise the age of juvenile court jurisdiction from 16 to 18 in 2007, Connecticut passed H.B. 5215 making more children and 16- and 17-year-old youth eligible for youthful offender (YO) status. The law presumes that all 16- and 17-year-old youth and children whose cases have been transferred to the adult criminal docket are eligible for YO status unless they are charged with a serious felony or had previously been convicted of a felony or adjudicated a serious juvenile offender. While the raise the age legislation that passed in Connecticut substantially limits the application of this law, the presumption of YO status remains beneficial for youth transferred to the adult system.¹

March 2011

References

¹ 2005 Conn. Pub. Act no. 05-232 (Conn. 2005).



Substitute House Bill No. 5215

Public Act No. 05-232

AN ACT CONCERNING YOUTHFUL OFFENDER PROCEEDINGS.

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

Section 1. Section 54-76b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

(a) For the [purpose] purposes of sections 54-76b to 54-76n, inclusive: [, "youth"]

(1) "Youth" means (A) a minor who has reached the age of sixteen years but has not reached the age of eighteen years at the time of the alleged offense, or (B) a child who has been transferred to the regular criminal docket of the Superior Court pursuant to section 46b-127; and ["youthful offender"]

(2) "Youthful offender" means a youth who [(1)] (A) is charged with the commission of a crime which is not a class A felony or a violation of subdivision (2) of subsection (a) of section 53-21 [,] or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving consensual sexual intercourse or sexual contact between the youth and another person who is thirteen years of age or older but under sixteen years of age, [(2)] and (B) has not previously been convicted of a felony in the regular criminal docket of the Superior Court or been previously adjudged a serious juvenile offender or serious juvenile repeat offender, as defined in section 46b-120. [, or a youthful offender, or been afforded a pretrial program for accelerated rehabilitation under section 54-56e, and (3) is adjudged a youthful offender pursuant to the provisions of said sections.]

(b) The Interstate Compact for Adult Offender Supervision under section 54-133 shall apply to youthful offenders.

Sec. 2. Section 54-76c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

(a) In any case where an information or complaint has been laid charging a defendant with the commission of a crime, and where it appears that the defendant is a youth, [upon motion of the defendant, his counsel, the state's attorney or the prosecuting attorney, as the case may be, to the court having jurisdiction that an investigation be made of such defendant for

the purpose of determining whether he is eligible to be adjudged a youthful offender, the court shall, but only as to the public, order the court file sealed. The court on its own motion may, but only as to the public, order the court file sealed in the case of a youth charged with crime] such defendant shall be presumed to be eligible to be adjudged a youthful offender and the court having jurisdiction shall, but only as to the public, order the court file sealed, unless such defendant (1) is charged with the commission of a crime which is a class A felony or a violation of subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving consensual sexual intercourse or sexual contact between the youth and another person who is thirteen years of age or older but under sixteen years of age, or (2) has been previously convicted of a felony in the regular criminal docket of the Superior Court or been previously adjudged a serious juvenile offender or serious juvenile repeat offender, as defined in section 46b-120. Except as provided in subsection (b) of this section, upon motion of the prosecuting official, the court may order that an investigation be made of such defendant under section 54-76d, as amended by this act, for the purpose of determining whether such defendant is ineligible to be adjudged a youthful offender, provided the court file shall remain sealed, but only as to the public, during such investigation.

(b) (1) Upon motion of the prosecuting official and order of the court, the case of any defendant who is a youth and is charged with the commission of a felony, other than a felony set forth in subsection (a) of this section, shall be transferred from the youthful offender docket to the regular criminal docket of the Superior Court, provided the court finds that there is probable cause to believe the defendant has committed the act for which he or she is charged. The defendant shall be arraigned in the regular criminal docket of the Superior Court by the next court business day 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 wherein court is located as shall be separate and apart from the other parts of the court which are then being held for proceedings pertaining to adults charged with crimes. The file of any case so transferred shall remain sealed until the end of the tenth working day following such arraignment, unless the prosecuting official has filed a motion pursuant to subdivision (2) of this subsection, in which case such file shall remain sealed until the court makes a decision on the motion.

(2) A prosecuting official may, not later than ten working days after such arraignment, file a motion to transfer the case of any defendant who is a youth and is charged with the commission of a felony, other than a felony set forth in subsection (a) of this section, from the regular criminal docket of the Superior Court to the youthful offender docket for proceedings in accordance with the provisions of sections 54-76b to 54-76n, inclusive. The court sitting for the regular criminal docket of the Superior Court shall, after hearing and not later than ten working days after the filing of such motion, decide such motion.

Sec. 3. Section 54-76d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

(a) If the court grants [\[such\] a motion under subsection \(a\) of section 54-76c, as amended by this act](#), or if the court on its own motion determines that the defendant should be investigated [\[hereunder\] under this section](#), and the defendant consents to physical and mental examinations, if deemed necessary, and to investigation and questioning, and to a trial without a jury, should a trial be had, the information or complaint shall be held in abeyance and no further action shall be taken in connection with such information or complaint until such examinations, investigation and questioning are had of the defendant. Investigations under [\[sections 54-76b to 54-76n, inclusive,\] this section](#) shall be made by an adult probation officer. When the information or complaint charges commission of a felony, the adult probation officer shall include in the investigation a summary of any uneraser juvenile record of adjudications of the defendant.

(b) Upon the termination of such examinations, investigation and questioning, the court, in its discretion based on the severity of the crime, which shall also take into consideration whether or not the defendant took advantage of the victim because of the victim's advanced age or physical incapacity, and the results of the examinations, investigation and questioning, shall determine whether such defendant is eligible [or ineligible](#) to be adjudged a youthful offender. If the court determines that the defendant is eligible to be so adjudged, no further action shall be taken on the information or complaint and the defendant shall be required to enter a plea of "guilty" or "not guilty" to the charge of being a youthful offender. If the court determines [that](#) the defendant [is](#) ineligible to be so adjudged, it shall order the information or complaint to be unsealed and the defendant shall be prosecuted as though the [\[proceeding hereunder\] proceedings under sections 54-76b to 54-76n, inclusive](#), had not been had.

[\(c\) If no motion is made by the prosecuting official under subsection \(a\) or \(b\) of section 54-76c, as amended by this act, or by the court under subsection \(a\) of this section, and the defendant consents to a trial without a jury, should a trial be had, no further action shall be taken on the information or complaint and the defendant shall be required to enter a plea of "guilty" or "not guilty" to the charge of being a youthful offender.](#)

[\(d\) At any time prior to trial as provided in section 54-76e or at any time prior to entering a plea of "guilty" to the charge of being a youthful offender, the defendant, on motion and with the concurrence of the defendant's parent or guardian and the defendant's attorney, if any, may waive further proceedings under the provisions of sections 54-76b to 54-76n, inclusive, and request a trial by jury in the regular criminal docket of the Superior Court. If the court, after making a thorough inquiry, is satisfied that such waiver is knowingly and voluntarily made, the court may grant such motion and order the information or complaint to be unsealed and the defendant shall be prosecuted as though the proceedings under sections 54-76b to 54-76n, inclusive, had not been had.](#)

[\(e\) At any point, if the court determines that a defendant is ineligible to be a youthful offender, the court shall order the information or complaint to be unsealed and the defendant shall be prosecuted as though the proceedings under sections 54-76b to 54-76n, inclusive, had not been had.](#)

Sec. 4. Section 54-76h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

All of the proceedings [except proceedings on the motion under section 54-76c] had under the provisions of sections 54-76b to 54-76n, inclusive, shall be private and shall be conducted in such parts of the courthouse or the building wherein court is located as shall be separate and apart from the other parts of the court which are then being held for proceedings pertaining to adults charged with crimes. If [such] the defendant is committed while [such] any examination and investigation under section 54-76d, as amended by this act, is pending, before trial, during trial or after judgment and before sentence, those persons in charge of the place of detention shall segregate such defendant, to the extent of their facilities, from defendants over the age of eighteen years charged with crime.

Sec. 5. Section 54-76i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

Pending and during the investigation, trial, adjudication or acquittal of the defendant, or any other proceedings under sections 54-76b to 54-76n, inclusive, the court [to which the recommendation for the investigation has been made] having jurisdiction shall have the same powers over the person of the defendant as it would have in the case of an adult charged with crime.

Sec. 6. Section 54-76j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

(a) The court, upon the adjudication of any person as a youthful offender, may: (1) [commit] Commit the defendant; [] (2) impose a fine not exceeding one thousand dollars; [] (3) impose a sentence of conditional discharge or a sentence of unconditional discharge; [] (4) impose a sentence of community service; [] (5) impose a sentence to a term of imprisonment not greater than that authorized for the crime committed by the defendant, but in no event shall any such term exceed four years; (6) impose sentence and suspend the execution of the sentence, entirely or after a period set by the court; [] (7) order treatment pursuant to section 17a-699; [] or (8) if a criminal docket for drug-dependent persons has been established pursuant to section 51-181b in the judicial district in which the defendant was adjudicated a youthful offender, transfer the supervision of the defendant to the court handling such docket.

(b) If execution of the sentence is suspended under subdivision (6) of subsection (a) of this section, the defendant may be placed on probation or conditional discharge for a period not to exceed three years, provided, [the court in its discretion may from time to time, while such probation is in force, extend such probation for a period not to exceed five years, including the original probationary period] at any time during the period of probation, after hearing and for good cause shown, the court may extend the period as deemed appropriate by the court. If the court places the person adjudicated to be a youthful offender on probation, the court may order that, as a condition of such probation, the person be referred for services to a youth service bureau established pursuant to section [17a-39] 10-19m, provided the court finds, through an assessment by a youth service bureau or its designee,

that the person is in need of and likely to benefit from such services. If the court places a person adjudicated as a youthful offender on probation, the court may order that, as a condition of such probation, the person participate in the zero-tolerance drug supervision program established pursuant to section 53a-39d. If the court places a youthful offender on probation, school and class attendance on a regular basis and satisfactory compliance with school policies on student conduct and discipline may be a condition of such probation and, in such a case, failure to so attend or comply shall be a violation of probation. If the court has reason to believe that the person adjudicated to be a youthful offender is or has been an unlawful user of narcotic drugs, as defined in section 21a-240, and the court places such youthful offender on probation, the conditions of probation, among other things, shall include a requirement that such person shall submit to periodic tests to determine, by the use of "synthetic opiate antinarcotic in action", naline test or other detection tests, at a hospital or other facility, equipped to make such tests, whether such person is using narcotic drugs. A failure to report for such tests or a determination that such person is unlawfully using narcotic drugs shall constitute a violation of probation. If the court places a person adjudicated as a youthful offender for a violation of section 53-247 on probation, the court may order that, as a condition of such probation, the person undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program, provided such a program exists and is available to the person.

(c) Commitment [[hereunder](#)] [under this section](#) shall be for a period not to exceed the term of imprisonment authorized for the crime committed by the defendant, [but in no event shall any such period exceed four years](#), and shall be to any religious, charitable or other correctional institution authorized by law to receive persons over the age of sixteen years. Whenever a youthful offender is committed by the court to any duly authorized religious, charitable or other institution, other than an institution supported or controlled by the state or a subdivision thereof, such commitment shall be made, when practicable, to a religious, charitable or other institution under the control of persons of the same religious faith or persuasion as that of the youthful offender. If a youthful offender is committed by the court to any institution other than an institution supported or controlled by the state or a subdivision thereof, which is under the control of persons of a religion or persuasion different from that of the youthful offender, the court shall state or recite the facts which impel it to make such disposition, and such statement shall be made a part of the record of the proceedings.

Sec. 7. Section 54-76l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2006*):

(a) The records [or other information](#) of [[any](#)] a youth, [[adjudged a youthful offender](#)] [other than a youth arrested for or charged with the commission of a crime which is a class A felony or a violation of subdivision \(2\) of subsection \(a\) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving consensual sexual intercourse or sexual contact between the youth and another person who is thirteen years of age or older but under sixteen years of age](#), including fingerprints, photographs and physical descriptions, shall be confidential and shall not be open to public inspection or be disclosed except as provided in this section, but such fingerprints, photographs and physical

descriptions submitted to the State Police Bureau of Identification of the Division of State Police within the Department of Public Safety at the time of the arrest of a person subsequently adjudged, or subsequently presumed or determined to be eligible to be adjudged, a youthful offender shall be retained as confidential matter in the files of the bureau and be opened to inspection only as provided in this section. Other data ordinarily received by the bureau, with regard to persons arrested for a crime, shall be forwarded to the bureau to be filed, in addition to such fingerprints, photographs and physical descriptions, and be retained in the division as confidential information, open to inspection only as provided in this section.

(b) The records of any such youth, **[adjudged a youthful offender on or after October 1, 1995,]** or any part thereof, may be disclosed to and between individuals and agencies, and employees of such agencies, providing services directly to the youth, including law enforcement officials, state and federal prosecutorial officials, school officials in accordance with section 10-233h, court officials, the Division of Criminal Justice, the Court Support Services Division, the Board of Pardons and Paroles and an advocate appointed pursuant to section 54-221 for a victim of a crime committed by the youth. Such records shall also be available to the attorney representing the youth, in any proceedings in which such records are relevant, to the parents or guardian of such youth, until such time as the youth reaches the age of majority or is emancipated, and to the youth upon his or her emancipation or attainment of the age of majority, provided proof of the identity of such youth is submitted in accordance with guidelines prescribed by the Chief Court Administrator. Such records disclosed pursuant to this subsection shall not be further disclosed.

(c) The records of any such youth, **[adjudged a youthful offender,]** or any part thereof, may be disclosed upon order of the court to any person who has a legitimate interest in the information and is identified in such order. Records or information disclosed pursuant to this subsection shall not be further disclosed.

(d) The records of any such youth **[adjudged a youthful offender,]** or any part thereof, shall be available to the victim of the crime committed by such youth to the same extent as the record 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 such victim may request such information. Information disclosed pursuant to this subsection shall not be further disclosed.

(e) Any reports and files held by the Court Support Services Division regarding any such youth **[adjudged a youthful offender]** who served a period of probation may be accessed and disclosed by employees of the division for the purpose of performing the duties contained in section 54-63b.

(f) Information concerning any such youth **[adjudged a youthful offender]** who has escaped from an institution to which such youth has been committed or for whom an arrest warrant has been issued may be disclosed by law enforcement officials.

(g) The information contained in and concerning the issuance of any protective order issued in a case in which a person is **[found]** presumed or determined to be eligible to be adjudged

a youthful offender shall be entered in the registry of protective orders pursuant to section 51-5c and may be further disclosed as specified in said section.

(h) The provisions of this section, as amended by this act, apply to offenses committed after the effective date of this section and do not affect any cases pending on said date or any investigations involving offenses committed prior to said date.

Approved July 8, 2005