

Public Act 10-1

Sec. 28. Section 46b-120 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The terms used in this chapter shall, in its interpretation and in the interpretation of other statutes, be defined as follows:

(1) "Child" means any person under [~~sixteen~~] eighteen years of age who has not been legally emancipated, except that (A) for purposes of delinquency matters and proceedings, "child" means any person (i) under seventeen years of age who has not been legally emancipated, or (ii) seventeen years of age or older who, prior to attaining seventeen years of age, has committed a delinquent act [~~and~~] or, subsequent to attaining seventeen years of age, (I) violates any order of the Superior Court or any condition of probation ordered by the Superior Court with respect to [~~such~~] a delinquency proceeding, or (II) wilfully fails to appear in response to a summons under section 46b-133 [~~with respect to such delinquency proceeding~~] or at any other court hearing in a delinquency proceeding of which the child had notice, and (B) for purposes of family with service needs matters and proceedings, child means a person under seventeen years of age;

(2) (A) "Youth" means any person sixteen or seventeen years of age who has not been legally emancipated, and (B) "youth in crisis" means any person seventeen years of age who has not been legally emancipated and who, within the last two years, (i) has without just cause run away from the parental home or other properly authorized and lawful place of abode, (ii) is beyond the control of the youth's parents, guardian or other custodian, or (iii) has four unexcused absences from school in any one month or ten unexcused absences in any school year;

(3) "Abused" means that a child or youth (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment;

(4) A child may be found "mentally deficient" who, by reason of a deficiency of intelligence that has existed from birth or from early age, requires, or will require, for such child's protection or for the protection of others, special care, supervision and control;

(5) (A) A child may be convicted as "delinquent" who has, [(i)] while under sixteen years of age, (i) violated any federal or state law, except section 53a-172 or 53a-173, or violated a municipal or local ordinance, except an ordinance regulating behavior of a

child in a family with service needs, (ii) wilfully failed to appear in response to a summons under section 46b-133 or at any other court hearing in a delinquency proceeding of which the child had notice, (iii) violated any order of the Superior Court in a delinquency proceeding, except as provided in section 46b-148, or (iv) violated conditions of probation in a delinquency proceeding as ordered by the court;

(B) A child may be convicted as "delinquent" who has (i) while sixteen years of age, violated any federal or state law, other than (I) an infraction, (II) a violation, (III) a motor vehicle offense or violation [as defined in chapter 248, or] under title 14, (IV) a violation of a municipal or local ordinance, or (V) a violation of section 51-164r, 53a-172 or 53a-173, (ii) while sixteen years of age or older wilfully failed to appear in response to a summons under section 46b-133 or at any other court hearing in a delinquency proceeding of which the child had notice, (iii) while sixteen years of age or older, violated any order of the Superior Court in a delinquency proceeding, except as provided in section 46b-148, or (iv) while sixteen years of age or older, violated conditions of probation in a delinquency proceeding as ordered by the court;

(6) A child or youth may be found "dependent" whose home is a suitable one for the child or youth, except for the financial inability of the child's or youth's parents, parent or guardian, or other person maintaining such home, to provide the specialized care the condition of the child or youth requires;

(7) "Family with service needs" means a family that includes a child [or a youth sixteen] under seventeen years of age who (A) has without just cause run away from the parental home or other properly authorized and lawful place of abode, (B) is beyond the control of the child's or youth's parent, parents, guardian or other custodian, (C) has engaged in indecent or immoral conduct, (D) is a truant or habitual truant or who, while in school, has been continuously and overtly defiant of school rules and regulations, or (E) is thirteen years of age or older and has engaged in sexual intercourse with another person and such other person is thirteen years of age or older and not more than two years older or younger than such child or youth;

(8) A child or youth may be found "neglected" who (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth, or (D) has been abused;

(9) A child or youth may be found "uncared for" who is homeless or whose home cannot provide the specialized care that the physical, emotional or mental condition of the child or youth requires. For the purposes of this section, the treatment of any child or youth by an accredited Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute neglect or maltreatment;

(10) "Delinquent act" means (A) the violation by a child under the age of sixteen of any federal or state law, except the violation of section 53a-172 or 53a-173, or the violation of a municipal or local ordinance, except an ordinance regulating behavior of a child in a family with service needs, (B) the violation by a child sixteen years of age of any federal or state law, other than (i) an infraction, (ii) a violation, (iii) a motor vehicle offense or violation under [chapter 248, or] title 14, (iv) [a] the violation of a municipal or local ordinance, or (v) the violation of section 51-164r, 53a-172 or 53a-173, (C) the wilful failure of a child, including a child who has attained the age of seventeen or older, to appear in response to a summons under section 46b-133 or at any other court hearing in a delinquency proceeding of which the child has notice, (D) the violation of any order of the Superior Court in a delinquency proceeding by a child, including a child who has attained the age of seventeen or older, except as provided in section 46b-148, or (E) the violation of conditions of probation in a delinquency proceeding by a child, including a child who has attained the age of seventeen or older, as ordered by the court;

(11) "Serious juvenile offense" means (A) the violation of, including attempt or conspiracy to violate, [(i)] section 21a-277, 21a-278, 29-33, 29-34, 29-35, subdivision (2) or (3) of subsection (a) of section 53-21, 53-80a, 53-202b, 53-202c, 53-390 to 53-392, inclusive, 53a-54a to [53a-56a] 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, 53a-70 to 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a, inclusive, 53a-95, 53a-101, 53a-102a, 53a-103a or 53a-111 to 53a-113, inclusive, subdivision (1) of subsection (a) of section 53a-122, subdivision (3) of subsection (a) of section 53a-123, section 53a-134, 53a-135, 53a-136a [, 53a-166] or 53a-167c, subsection (a) of section 53a-174, or section 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, [by a child, or (ii) section 53a-56b or 53a-57 by a child under sixteen years of age,] or (B) running away, without just cause, from any secure placement other than home while referred as a delinquent child to the Court Support Services Division or committed as a delinquent child to the Commissioner of Children and Families for a serious juvenile offense;

(12) "Serious juvenile offender" means any child convicted as delinquent for the commission of a serious juvenile offense;

(13) "Serious juvenile repeat offender" means any child charged with the commission of any felony if such child has previously been convicted as delinquent or otherwise convicted at any age for two violations of any provision of title 21a, 29, 53 or 53a that is designated as a felony;

(14) "Alcohol-dependent" means a psychoactive substance dependence on alcohol as that condition is defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders"; and

(15) "Drug-dependent" means a psychoactive substance dependence on drugs as that condition is defined in the most recent edition of the American Psychiatric Association's

"Diagnostic and Statistical Manual of Mental Disorders". No child shall be classified as drug-dependent who is dependent (A) upon a morphine-type substance as an incident to current medical treatment of a demonstrable physical disorder other than drug dependence, or (B) upon amphetamine-type, ataractic, barbiturate-type, hallucinogenic or other stimulant and depressant substances as an incident to current medical treatment of a demonstrable physical or psychological disorder, or both, other than drug dependence.

Sec. 29. Section 46b-124 of the general statutes is amended by adding subsection (k) as follows (*Effective July 1, 2010*):

(NEW) (k) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, containing information that a child has been convicted as delinquent for a violation of subdivision (e) of section 1-1h, subsection (c) of section 14-147, subsection (a) of section 14-215, section 14-222, subsection (b) of section 14-223, subsection (b) or (c) of section 14-224, section 30-88a or subsection (b) of section 30-89, shall be disclosed to the Department of Motor Vehicles for administrative use in determining whether administrative sanctions regarding such child's motor vehicle operator's license are warranted. Records disclosed pursuant to this subsection shall not be further disclosed.

Sec. 30. Section 46b-127 of the 2010 supplement to the general statutes is amended by adding subsection (f) as follows (*Effective July 1, 2010*):

(NEW) (f) Upon the motion of any party or upon the court's own motion, the case of any youth age sixteen, 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 or 14-227g, 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, 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.

Sec. 31. Section 46b-137 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) Any admission, confession or statement, written or oral, made by a child under the age of sixteen to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of the child's parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements, and (3) that any statements the child makes may be introduced into evidence against the child.

(b) Any admission, confession or statement, written or oral, made by a child sixteen years of age to a police officer or Juvenile Court official, except an admission, confession or statement, written or oral, made by a child sixteen years of age to a police officer in connection with a case transferred to the Juvenile Court 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 be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement, unless (1) the police or Juvenile Court official has 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.

(c) 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, except an admission, confession or statement, written or oral, made by a child sixteen years of age to a police officer in connection with a case transferred to the Juvenile Court 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 be determined by considering the totality of the circumstances at the time of the making of such admission, confession or statement. When determining the admissibility of such admission, confession or statement, the court shall consider (1) the age, experience, education, background and intelligence of the child, (2) the capacity of the child to understand the advice concerning rights and warnings required under subdivision (2) of subsection (b) of this section, the nature of the privilege against self-incrimination

under the United States and Connecticut Constitutions, and the consequences of waiving such rights and privilege, (3) the 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) the 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.

(d) Any confession, admission or statement, written or oral, made by the parent or parents or guardian of the child or youth after the filing of a petition alleging such child or youth to be neglected, uncared-for or dependent, shall be inadmissible in any proceeding held upon such petition against the person making such admission or statement unless such person shall have been advised of the person's right to retain counsel, and that if the person is unable to afford counsel, counsel will be appointed to represent the person, that the person has a right to refuse to make any statement and that any statements the person makes may be introduced in evidence against the person.