

- 1 A. The laws on juvenile transfer be amended to limit both the number of cases eligible for mandatory
2 and discretionary transfer in order to decrease the population of youth in the adult criminal justice
3 system.
- 4 1. Cases with A felonies remain as automatic transfers
 - 5 2. Cases with B felonies be removed from automatic transfers and, instead, receive a
6 discretionary hearing
 - 7 3. Cases with C, D, E, or unclassified felonies be removed from transfers entirely.
 - 8 4. The criteria for transfers to the criminal justice system be amended to specify the need of
9 presenting an imminent risk of death or serious physical injury to the public.
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11 **Note: This version is drafted to the most recent version of section 46b-127 as**
12 **approved by JJPOC on February 20, 2020.**

13 Section 46b-127 of the general statutes, as amended by section 1 of P.A. 19-187, is
14 repealed and the following is substituted in lieu thereof:

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

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

33 **[(3) No case of any child charged with the commission of a violation of section 53a-55,**
34 **53a-59b, 53a-71 or 53a-94, subdivision (2) of subsection (a) of section 53a-101, section 53a-**
35 **112, 53a-122 or 53a-129b, subdivision (1), (3) or (4) of subsection (a) of section 53a-134,**

36 section 53a-196c, 53a-196d or 53a-252 or subsection (a) of section 53a-301 shall be
37 transferred from the docket for juvenile matters to the regular criminal docket of the
38 Superior Court, except as provided in this subdivision. Upon motion of a prosecutorial
39 official, the superior court for juvenile matters shall conduct a hearing to determine
40 whether the case of any child charged with the commission of any such offense shall be
41 transferred from the docket for juvenile matters to the regular criminal docket of the
42 Superior Court. The court shall not order that the case be transferred under this
43 subdivision unless the court finds that (A) such offense was committed after such child
44 attained the age of fifteen years, (B) there is probable cause to believe the child has
45 committed the act for which the child is charged, and (C) the best interests of the child
46 and the public will not be served by maintaining the case in the superior court for juvenile
47 matters. In making such findings, the court shall consider (i) any prior criminal or juvenile
48 offenses committed by the child, (ii) the seriousness of such offenses, (iii) any evidence
49 that the child has intellectual disability or mental illness, and (iv) the availability of
50 services in the docket for juvenile matters that can serve the child's needs. Any motion
51 under this subdivision shall be made, and any hearing under this subdivision shall be
52 held, not later than thirty days after the child is arraigned in the superior court for juvenile
53 matters.]

54 (b) Upon motion of a prosecutorial official, the superior court for juvenile matters shall
55 conduct a hearing to determine whether the case of any child charged with the
56 commission of a class B [C, D or E felony or an unclassified] felony shall be transferred
57 from the docket for juvenile matters to the regular criminal docket of the Superior Court.
58 The court shall not order that the case be transferred under this subdivision unless the
59 court finds that (1) such offense was committed after such child attained the age of fifteen
60 years, (2) there is probable cause to believe the child has committed the act for which the
61 child is charged, and (3) the [best interests of the] child CANNOT BE REHABILITATED
62 [and the public will not be served by maintaining the case] in the superior court for
63 juvenile matters WITHOUT PRESENTING A RISK OF SERIOUS PHYSICAL INJURY TO
64 THE PUBLIC In making such findings, the court shall consider (A) any prior criminal or
65 juvenile offenses committed by the child, (B) the seriousness of such offenses, (C) any
66 evidence that the child has intellectual disability or mental illness, and (D) the availability
67 of services in the docket for juvenile matters that can serve the child's needs. Any motion
68 under this subdivision shall be made, and any hearing under this subdivision shall be
69 held, not later than thirty days after the child is arraigned in the superior court for juvenile
70 matters.

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

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

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

96 (d) Upon the effectuation of the transfer, such child shall stand trial and be sentenced,
97 if convicted, as if such child were eighteen years of age, subject to the provisions of
98 subsection (c) of this section and section 54-91g. Such child shall receive credit against
99 any sentence imposed for time served in a juvenile facility prior to the effectuation of the
100 transfer. A child who has been transferred may enter a guilty plea to a lesser offense if
101 the court finds that such plea is made knowingly and voluntarily. Any child transferred
102 to the regular criminal docket who pleads guilty to a lesser offense shall not resume such
103 child's status as a juvenile regarding such offense. If the action is dismissed or nolle or
104 if such child is found not guilty of the charge for which such child was transferred or of

105 any lesser included offenses, the child shall resume such child's status as a juvenile until
106 such child attains the age of eighteen years.

107 (e) Any child whose case is transferred to the regular criminal docket of the Superior
108 Court who is detained pursuant to such case shall be in the custody of the Commissioner
109 of Correction upon the finalization of such transfer. A transfer shall be final (1) upon the
110 arraignment on the regular criminal docket until a motion filed by the state's attorney
111 pursuant to subsection (a) of this section is granted by the court, or (2) upon the
112 arraignment on the regular criminal docket of a transfer ordered pursuant to subsection
113 (b) of this section until the court sitting for the regular criminal docket orders the case
114 returned to the docket for juvenile matters for good cause shown. Any child whose case
115 is returned to the docket for juvenile matters who is detained pursuant to such case shall
116 be in the custody of the Judicial Department.

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

122 (g) Upon the motion of any party or upon the court's own motion, the case of any youth
123 age sixteen or seventeen, except a case that has been transferred to the regular criminal
124 docket of the Superior Court pursuant to subsection (a) or (b) of this section, which is
125 pending on the youthful offender docket, regular criminal docket of the Superior Court
126 or any docket for the presentment of defendants in motor vehicle matters, where the
127 youth is charged with committing any offense or violation for which a term of
128 imprisonment may be imposed, other than a violation of section 14-227a, 14-227g or 14-
129 227m or subdivision (1) or (2) of subsection (a) of section 14-227n, may, before trial or
130 before the entry of a guilty plea, be transferred to the docket for juvenile matters if (1) the
131 youth is alleged to have committed such offense or violation on or after January 1, 2010,
132 while sixteen years of age, or is alleged to have committed such offense or violation on
133 or after July 1, 2012, while seventeen years of age, and (2) after a hearing considering the
134 facts and circumstances of the case and the prior history of the youth, the court
135 determines that the programs and services available pursuant to a proceeding in the
136 superior court for juvenile matters would more appropriately address the needs of the
137 youth and that the youth and the community would be better served by treating the
138 youth as a delinquent. Upon ordering such transfer, the court shall vacate any pleas

139 entered in the matter and advise the youth of the youth's rights, and the youth shall (A)
140 enter pleas on the docket for juvenile matters in the jurisdiction where the youth resides,
141 and (B) be subject to prosecution as a delinquent child. The decision of the court
142 concerning the transfer of a youth's case from the youthful offender docket, regular
143 criminal docket of the Superior Court or any docket for the presentment of defendants in
144 motor vehicle matters shall not be a final judgment for purposes of appeal.