

Sec. 46b-127. (Formerly Sec. 51-308). *(See end of section for amended version of subsection (c) and effective date.) Transfer of child charged with a felony to the regular criminal docket. (a) 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, a class A or B felony or a violation of section 53a-54d, provided such offense was committed after such child attained the age of fourteen 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 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 state's

attorney has filed a motion pursuant to this subsection, in which case such file shall remain sealed until the court makes a decision on the motion. A state's attorney may, not later than ten working days 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. The court sitting for the regular criminal docket shall, after hearing and not later than ten working days after the filing of such motion, decide such motion.

(b) Upon motion of a **juvenile** prosecutor and order of the court, the case of any child charged with the commission of a class C or D felony or an unclassified felony shall be transferred from the docket for **juvenile** matters to the regular criminal docket of the Superior Court, provided such offense was committed after such child attained the age of fourteen years and the court finds ex parte that there is probable cause to believe the child has committed the act for which he is charged. The file of any case so transferred shall remain sealed until such time as the court sitting for the regular criminal docket accepts

such transfer. The court sitting for the regular criminal docket may return any such case to the docket for juvenile matters not later than ten working days after the date of the transfer for proceedings in accordance with the provisions of this chapter. The child shall be arraigned in the regular criminal docket of the Superior Court by 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 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.

*(c) Upon the effectuation of the transfer, such child shall stand trial and be sentenced, if convicted, as if he were sixteen years of age. 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 his status as a juvenile regarding

said offense. If the action is dismissed or nolleed or if such child is found not guilty of the charge for which he was transferred or of any lesser included offenses, the child shall resume his status as a juvenile until he attains the age of sixteen years.

(d) Any child transferred to the regular criminal docket of the Superior Court who is detained shall be in the custody of the Commissioner of Correction upon the finalization of such transfer. A transfer shall be final (1) upon the expiration of ten working days after the arraignment if no motion has been filed by the state's attorney pursuant to subsection (a) of this section or, if such motion has been filed, upon the decision of the court to deny such motion, or (2) upon the court accepting the transfer pursuant to subsection (b) of this section. Any child returned to the docket for juvenile matters who is detained shall be in the custody of the Judicial Department.

(e) (NEW) (Effective January 1, 2010) Upon motion of any party or upon the court's own motion, any youth who has been charged with an infraction, violation, motor vehicle offense or violation, or violation of a municipal or local ordinance except an ordinance regulating behavior of a child in a family with service needs may be transferred

from the youthful offender docket or regular criminal docket to the juvenile court docket if, based on the facts and circumstances of the case, the court finds that programs and services available in juvenile court more appropriately address the needs of the youth and that the community and the youth will be better served by treatment in the juvenile court.

[(e)](f) The transfer of a child to a Department of Correction facility shall be limited to the provisions of subsection (d) 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.

(P.A. 75-620, S. 1-4; P.A. 76-194, S. 3; 76-436, S. 18, 19, 20, 681; P.A. 79-581, S. 3; P.A. 83-402, S. 2; P.A. 86-185, S. 2; P.A. 90-136, S. 2; 90-187, S. 2, 3; July Sp. Sess. P.A. 94-2, S. 6; P.A. 95-225, S. 13; P.A. 97-4, S. 1, 2; 97-319, S. 21, 22; P.A. 98-256, S. 3; P.A. 04-127, S. 2; 04-148, S. 1.)

*Note: On and after January 1, 2010, subsection (c) of this section, as amended by section 75 of public act 07-4 of the June special session, is to read as follows:

"(c) 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. 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 nolleed 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."