

Minutes of the Meeting
Juvenile Task Force Committee
November 2, 2007

On Friday, November 2, 2007 the Juvenile Rules Task Force Committee met in the Superior Court for Juvenile Matters at Hartford, 920 Broad Street, 4th floor, Courtroom C, Hartford from 2:00 p.m. to 4:25 p.m.

Members in attendance were:

Hon. Christine E. Keller, Chair
Hon. Marcia J. Gleeson
Francis Carino, Esq.
Cynthia L. Cunningham, Esq.
Maria M. Holzberg, Esq.
Julia O'Leary

Nancy A. Porter, Esq.
Susan Pearlman, Esq.
Christine P. Rapillo, Esq.
Robert Shaver, Esq.
Carolyn Signorelli, Esq.
Bruce Tonkonow, Esq.
Ben Zivyon, Esq.

Hon. John C. Driscoll and Attorney Lori Hellum were not in attendance at this meeting.

In her opening remarks, Judge Keller explained that the Committee's mission is to revise current Juvenile Practice Book sections to conform to numerous statutory revisions. She stated that her goal is to forward proposed revisions to the Rules Committee as soon as possible, preferably by January 31, 2008. Judge Keller asked the Committee to begin by reviewing the chapters that address delinquency.

1. First, the Committee reviewed the proposed revisions to Practice Book Section 3-9 (e). The Committee discussed the issue of continuity of representation and payment for such representation. Attorney Signorelli stated that the two issues are separate and distinct. The members considered adding language that requires a parent to appear and apply for representation. Judge Keller asked Attorney Signorelli to draft proposed language to amend this section. The Committee tabled this section for future discussion.

2. The Committee discussed Chapter 26 and made revisions to various sections as set forth in Appendix A attached hereto.

3. The Committee discussed Chapter 27 and made revisions to various sections as set forth in Appendix B attached hereto.

4. The Committee discussed Chapter 30 and made revisions to various sections as set forth in Appendix C attached hereto. Attorney Tonkonow raised issues concerning the phrase

“including the date of admission” in Practice Book Section 30-10. The Committee considered his proposal and tabled the section for further discussion.

5. The Committee discussed the Practice Book Section 30a-1A and made revisions to that section as set forth in Appendix D attached hereto.

6. The Committee approved the following meeting schedule:

Friday, November 9, 2007 – 9:00 a.m.

Friday, November 15, 2007 – 9:00 a.m.

Attachments

APPENDIX A

NOVEMBER 2nd DRAFT

SUPERIOR COURT—PROCEDURE IN JUVENILE MATTERS CHAPTER 26 DEFINITIONS

Sec.

26-1. Definitions Applicable to Proceedings on Juvenile Matters

Sec. 26-1. Definitions Applicable to Proceedings on Juvenile Matters

In these definitions and in the rules of practice and procedure on juvenile matters, the singular shall include the plural and the plural, the singular where appropriate. (a)(1) “Child” means any person under sixteen years of age and, for purposes of delinquency matters and family with service needs matters, “child” means any person (A) under sixteen years of age whose delinquent act or family with service needs conduct occurred prior to the person’s sixteenth birthday or, (B) sixteen years of age or older who, prior to attaining sixteen years of age, has violated any federal or state law or municipal or local ordinance, other than an ordinance regulating behavior of a child in a family with service needs, and, subsequent to attaining sixteen years of age, violates any order of a judicial authority or any condition of probation ordered by a judicial authority with respect to such delinquency proceeding; (2) “Youth” means any person sixteen or seventeen years of age; (3) “Youth in crisis” means any youth who, within the last two years, (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 youth’s parents, guardian or other custodian; or (C) has four unexcused absences from school in any one month or ten unexcused absences in any school year; (4)

The definitions of the terms "abused," "mentally deficient," "delinquent," "delinquent act," "dependent," "neglected," "uncared for," "alcohol-dependent child," "family with service needs," "drug-dependent child," "serious juvenile offense," "serious juvenile offender," and "serious juvenile repeat offender" shall be as set forth in General Statutes § 46b-120. (5) "Indian child" means an unmarried person under age eighteen who is either a member of a federally recognized Indian tribe or is eligible for membership in a federally recognized Indian tribe and is the biological child or youth of a member of a federally recognized Indian tribe, and is involved in custody proceedings, excluding delinquency proceedings.

COMMENTARY: Added language to reflect new definition of "youth in crisis" pursuant to C.G.S. § 46b-120(3)(B) as amended by P.A. 05-250, Sec. 1.

(b) "Commitment" means an order of the judicial authority whereby custody and/or guardianship of a child or youth are transferred to the commissioner of the department of children and families.

(c) "Complaint" means a written allegation or statement presented to the judicial authority that a child's or youth's conduct as a delinquent or situation as a child from a family with service needs or youth in crisis brings the child or youth within the jurisdiction of the judicial authority as prescribed by General Statutes § 46b-121.

(d) "Detention" means a secure building or staff secure facility for the temporary care of a child who is the subject of a delinquent complaint.

(e) "Guardian" means a person who has a judicially created relationship with a child or youth which is intended to be permanent and self sustaining as evidenced

by the transfer to the caretaker of the following parental rights with respect to the child or youth: protection, education, care and control of the person, custody of the person and decision making.

(f) "Hearing" means an activity of the court on the record in the presence of a judicial authority and shall include (1) "Adjudicatory hearing": A court hearing to determine the validity of the facts alleged in a petition or information to establish thereby the judicial authority's jurisdiction to decide the matter which is the subject of the petition or information; (2) "Contested hearing on an order of temporary custody" means a hearing on an ex parte order of temporary custody or an order to ~~[show cause]~~ appear which is held ~~[within]~~ not later than ten days from the day of a preliminary hearing on such orders. Contested hearings shall be held on consecutive days except for compelling circumstances or at the request of the ~~[parent or guardian]~~ respondent; (3) "Dispositive hearing": The judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition or information having been established, a court hearing in which the judicial authority, after considering the social study or predispositional study and the total circumstances of the child or youth, orders whatever action is in the best interests of the child, youth or family and, where applicable, the community. In the discretion of the judicial authority, evidence concerning adjudication and disposition may be presented in a single hearing. (4) "Preliminary hearing" means a hearing on an ex parte order of temporary custody or an order to appear or the first hearing on a petition alleging that a child or youth is uncared for, neglected, or dependent. A preliminary hearing on any ex parte custody order or order to appear shall be held ~~[within]~~ not later than ten days from the issuance of the order. (5) "Plea hearing" is a hearing at which (i)

A parent or guardian who is a named respondent in a neglect, uncared for or dependency petition, upon being advised of his or her rights admits, denies, or pleads nolo contendere to allegations contained in the petition; or (ii) a child or youth who is a named respondent in a delinquency petition or information enters a plea of not guilty, guilty, or nolo contendere upon being advised of the charges against him or her contained in the information or petition, or a hearing at which a child or youth who is a named respondent in a family with service needs or youth in crisis petition admits or denies the allegations contained in the petition upon being advised of the allegations.

(g) "Parent" means a biological mother or father or adoptive mother or father except a biological or adoptive mother or father whose parental rights have been terminated; or the father of any child or youth born out of wedlock, provided at the time of the filing of the petition (A) he has been adjudicated the father of such child or youth by a court which possessed the authority to make such adjudication, or (B) he has acknowledged in writing to be the father of such child or youth, or (C) he has contributed regularly to the support of such child, or (D) his name appears on the birth certificate, or (E) he has filed a claim for paternity as provided under General Statutes § 46b-172a, or (F) he has been named in the petition as the father of the minor child or youth by the mother.

(h) "Parties" includes: (1) The child or youth who is the subject of a proceeding and those additional persons as defined herein; (2) "Legal party": Any person, including a parent, whose legal relationship to the matter pending before the judicial authority is of such a nature and kind as to mandate the receipt of proper legal notice as a condition precedent to the establishment of the judicial authority's

jurisdiction to adjudicate the matter pending before it; and (3) “Intervening party”: Any person whose interest in the matter before the judicial authority is not of such a nature and kind as to entitle legal service or notice as a prerequisite to the judicial authority’s jurisdiction to adjudicate the matter pending before it but whose participation therein, at the discretion of the judicial authority, may promote the interests of justice. An “intervening party” may in any proceeding before the judicial authority be given notice thereof in any manner reasonably appropriate to that end, but no such “intervening party” shall be entitled, as a matter of right, to provision of counsel by the court.

(i) “Permanency plan” means a plan developed by the commissioner of the department of children and families for the permanent placement of a child or youth in the commissioner’s care. Permanency plans shall be reviewed by the judicial authority as prescribed in General Statutes §§ 17a-110 (b), 17a-111b [(b)] (c), 46b-129 (k) and 46b-141.

(j) “Petition” means a formal pleading, executed under oath, alleging that the respondent is within the judicial authority’s jurisdiction to adjudicate the matter which is the subject of the petition by reason of cited statutory provisions and seeking a disposition. Except for a petition for erasure of record, such petitions invoke a judicial hearing and shall be [executed] filed by any one of the parties authorized to do so by statute[, provided a delinquency petition may be executed by either a probation officer or juvenile prosecutor].

(k) “Information” means a formal pleading [executed] filed by a prosecutor alleging that a child or youth in a delinquency matter is within the judicial authority’s jurisdiction.

(l) "Probation" means a legal status created in delinquency cases following conviction whereby a respondent child is permitted to remain in the home or in the physical custody of a relative or other fit person subject to supervision by the court through the court's probation officers and upon such terms as the judicial authority determines, subject to the continuing jurisdiction of the judicial authority.

(m) "Respondent" means a ~~[child]~~ person who is alleged to be a delinquent or a child from a family with service needs, or a youth in crisis, or a parent or a guardian of a child or youth who is the subject of a petition alleging that the child is uncared for, neglected, or dependent or requesting termination of parental rights.

COMMENTARY: It is recommended that the more general term "person" be used to encompass all terms that are later listed: child, youth, parent.

(n) "Specific steps" means those judicially determined steps the respondent parent or parents, guardian or other person having control of the child or youth and the commissioner of the department of children and families should take in order for the ~~[parent or guardian]~~ respondent to retain or regain custody of a child or youth.

COMMENTARY: Amended to reflect C.G.S. § 46b-149 language and standardize references from parent or guardian to respondent parent or parents, guardian or other persons who have control of the child or youth.

(o) "Supervision" includes: (1) "Nonjudicial supervision": A legal status without the filing of a petition or a court conviction or adjudication but following the ~~[child or youth's]~~ child's admission to a complaint wherein a probation officer exercises supervision over the child [or youth] with the consent of the child [or youth] and the parent; (2) "Protective supervision": A disposition following

adjudication in neglected, uncared for or dependent cases created by an order of the judicial authority requesting a supervising agency other than the court to assume the responsibility of furthering the welfare of the family and best interests of the child or youth when the child's or youth's place of abode remains with the parent or any suitable or worthy person, subject to the continuing jurisdiction of the court; and (3) "Judicial supervision": A legal status [equivalent] similar to probation for a child adjudicated to be from a family with service needs or subject to supervision pursuant to an order of suspended proceedings under General Statutes § 46b-133b or §46b-133e.

COMMENTARY: The statute does not provide for nonjudicial handling of Youth in Crisis.

(p) "Take into Custody Order" means an order by a judicial authority that a child alleged to have committed a delinquent act who meets the criteria set forth in practice book section 31a-13 be taken into custody and immediately turned over to a detention supervisor.

(q) "Victim" means the person who is the victim of a delinquent act, a parent or guardian of such person, the legal representative of such person or an advocate appointed for such person pursuant to General Statutes § 54-221.

COMMENTARY: Added to reflect new definition of "victim" from § 46b-122.

(r) "Family support center" means a community-based service center for children and families involved with a complaint that has been filed with the Superior Court under General Statutes § 46b-149, that provides multiple services, or access

to such services, for the purpose of preventing such children and families from having further involvement with the court as families with service needs.

COMMENTARY: Added to reflect new definition of “family support center” pursuant to Special PA 07-4, Section 31(a).

(s) “Staff secure facility” means a residential facility (1) that does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein, (2) that may establish reasonable rules restricting entrance to and egress from the facility, and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

COMMENTARY: Added to reflect new definition of “staff secure facility” pursuant to Special PA 07-4, section 32(c).

APPENDIX B

NOVEMBER 2ND DRAFT

CHAPTER 27

RECEPTION AND PROCESSING OF [NONJUDICIAL] DELINQUENCY, AND FAMILY WITH SERVICE NEEDS[, OR YOUTH IN CRISIS] COMPLAINTS[,] OR PETITIONS

Sec.

27-1. Complaints; In General [Repealed]

27-1A. Referrals for Nonjudicial Handling of Delinquency Complaints

27-2. – Insufficient Allegations in Complaints [Repealed]

27-3. – Sufficient Allegations in Complaints [Repealed]

27-4. Additional Offenses and Misconduct

27-4A. Ineligibility for Nonjudicial Handling of Delinquency Complaint

27-5. Initial Interview for Delinquency Nonjudicial Handling Eligibility

27-6. Denial of Responsibility

27-7. – Written Statement of Responsibility

27-8. – Scheduling of Judicial Plea/Dispositional Hearing [Repealed]

27-8A. Nonjudicial Supervision-Delinquency

(NEW) Sec. 27-9. Family with Service Needs Referrals

Sec. 27-1. Complaints; In General

[Repealed as of Jan. 1, 2003.]

Sec. 27-1A. Referrals for Nonjudicial Handling of Delinquency Complaints

(a) Any police summons accompanied by a police report alleging an act of delinquency shall be in writing and signed by the police officer and filed with the clerk of the superior court for juvenile matters. After juvenile identification and docket numbers are [entered] assigned, the summons and report shall be referred to the probation department for possible nonjudicial handling. [Any family with service needs or youth in crisis complaint or petition may be designated by the probation department for nonjudicial handling.]

(b) If the probation officer [initiates] determines that a delinquency[, family with service needs or youth in crisis petition] complaint is [that may be] eligible for

nonjudicial handling, the probation officer [shall] may cause a [summons] notice to be [issued or] mailed to the child and parent or guardian [containing a notice to appear] setting forth with reasonable particularity the [allegations of the petition] contents of the complaint and fixing a time and location of the court and date not less than seven days, excluding Saturdays, Sundays, and holidays, subsequent to [service or] mailing.

(c) Delinquency [M]atters eligible for nonjudicial handling shall be designated as such on the docket. If the prosecuting authority objects to the designation, the judicial authority shall determine if such designation is appropriate. The judicial authority may refer to the office of juvenile probation a matter so designated and may, sua sponte, refer a matter for nonjudicial handling prior to adjudication.

COMMENTARY: Paragraph (a) - clarification and standardization of terms. Paragraph - (b) – The change from ‘shall’ to ‘may’ provides for the situation when a child is previously issued a summons to appear by a police officer, and additional notice by a probation officer may not be necessary. Other technical changes are made to reflect the fact that nonjudicial cases are processed without petitions (See 46b-128(a) (delinquency). General Statutes Sec. 46b-149, as amended by PA 05-250 and PA 07-4 (FWSN) created entirely new processing procedures for FWSN matters which are addressed in new Section 27-9 of this chapter. Throughout this chapter specific references are now made only to delinquency and FWSN cases. References to youth in crisis are not appropriate, as General Statutes Sec. 46b-150f(c) provides for youth in crisis complaints to be addressed in accordance with policies established by the Chief Court Administrator.

Sec. 27-2. – Insufficient Allegations in Complaints

[Repealed as of Jan. 1, 2003.]

Sec. 27-3. – Sufficient Allegations in Complaints

[Repealed as of Jan. 1, 2003.]

Sec. 27-4. Additional Offenses and Misconduct

Any additional police summons, delinquency complaint, [or] delinquency petition, or information regarding a child which is received by the court prior to action by the judicial authority on any pending request for nonjudicial handling shall be consolidated with the initial offenses or misconduct for purposes of eligibility for nonjudicial handling.

COMMENTARY: An ‘information’ may also be used in these cases.

Sec. 27-4A. Ineligibility for Nonjudicial Handling of Delinquency Complaint

In the case of a delinquency complaint, [A] a child shall not be eligible for nonjudicial handling if one or more of the following apply, unless waived by the judicial authority:

(1) The alleged misconduct:

(A) is a serious juvenile offense under General Statutes § 46b-120, or any other felony or violation of General Statutes § 53a-54d;

(B) concerns the theft or unlawful use or operation of a motor vehicle; or

(C) concerns the sale of, or possession of with intent to sell, any illegal drugs or the use or possession of a firearm.

(2) The child was previously [adjudged] convicted delinquent or adjudged a child from a family with service needs.

(3) The child admitted nonjudicially at least twice previously to [have] having been delinquent [or a child from a family with service needs].

(4) The alleged misconduct was committed by a child while on probation or under judicial supervision.

(5) The nature of the alleged misconduct warrants judicial intervention.

COMMENTARY: Paragraph (2) Conn. Gen. Stat. Sec. 46b-140(a) states that a child is "convicted" as delinquent. Other changes made in this section reflect General Statutes Section 46b-149, as amended by P.A. 05-250 and P.A. 07-4. The Public Acts created entirely new processing procedures for FWSN matters which are now addressed in new Section 27-9 of this chapter.

Sec. 27-5. Initial Interview For Delinquency Nonjudicial Handling Eligibility

(a) At the initial interview to determine eligibility for nonjudicial handling of a delinquency complaint, held at the time of arraignment or notice date, the probation officer shall inquire of the child and parent or guardian whether they have read the court documents and understand the nature of the complaint set forth therein. Any allegations of misconduct being considered for nonjudicial handling, including any additional allegations not contained in the summons or notice to appear because they were filed with the court after the issuance of that notice shall likewise be explained in simple and nontechnical language.

(b) The probation officer shall inform the child and parent or guardian of their rights under Section 30a-1. If either the child or the parent or guardian state that

they wish to be represented by counsel, or if the probation officer determines that a judicial hearing is necessary, the interview shall end. Any further interview to consider nonjudicial handling shall take place with counsel present unless waived.

COMMENTARY: Clarifies that this process is only to be used for delinquency complaints.

Sec. 27-6. Denial of Responsibility

Where the child denies responsibility for the alleged misconduct, the interview shall end and the child and the parent or guardian shall be informed that, if the evidence warrants, the case will be set down for a [judicial] plea hearing [to determine the child's responsibility for the alleged misconduct, for which hearing the child must have counsel unless waived and for which hearing the judicial authority will provide counsel if the parties parent or guardian of the child cannot afford counsel].

COMMENTARY: Clarifies that this process is only to be used for delinquency. Procedures concerning the plea hearing and appointment of counsel are now set forth in practice book section 30a-1.

Sec. 27-7. —Written Statement of Responsibility

(a) Where the child and the parent or guardian affirm that they are ready to go forward with the investigation, with or without counsel, and to make a statement concerning the child's responsibility for the alleged misconduct, such affirmation must be embodied in a written statement of responsibility executed by

both child and parent, or guardian, and, in the case of the child, in the presence of the parent or guardian.

(b) If a child orally acknowledges responsibility for the alleged misconduct but refuses to execute a written statement of responsibility, such an oral admission shall not be accepted as the equivalent of an admission, and the case shall be dealt with in the manner prescribed in Section 27-6. If the written statement of responsibility is executed, the probation officer shall [accept it as authorization to] proceed with the nonjudicial handling of the case [those aspects of investigation which are essential to the compiling of the predispositional study].

(c) The age, intelligence and maturity of the child and the mutuality of interests between parent or guardian and child shall be weighed in determining their competency to execute such written statement of responsibility.

COMMENTARY: Clarifies that this process is only to be used for delinquency. Paragraph (b) – A predispositional study is not prepared in a case that is handled nonjudicially.

Sec. 27-8. – Scheduling of Judicial Plea/Dispositional Hearing

[Repealed as of Jan. 1. 2003.]

Sec. 27-8A. Nonjudicial Supervision-Delinquency

(a) If a child has acknowledged responsibility for the alleged misconduct which is not one for which a judicial hearing is mandated pursuant to Section 27-4A, and the probation officer has then found from investigation of the child's total circumstances that some form of court accountability less exacting than that arising

out of a court appearance appears to be in the child's best interests, the officer may, subject to the conditions imposed by subsection (b) hereof, place the child on nonjudicial supervision for a term established by the juvenile probation supervisor for a period not to exceed 180 days.

(b) Whenever the probation officer seeks to effect nonjudicial supervision, the parent and the child shall have a right to a conference with the probation officer's administrative superior, or a court hearing. Whenever a parent or child elects to pursue either or both rights, supervision shall be held in abeyance until the outcome thereof.

(c) Such nonjudicial supervision when completed shall constitute a resolution of the case, and thereafter a child may not again be presented for formal court action on the same summons, complaint or petition or the facts therein set forth, provided however, that a judicial hearing may be initiated on the original summons, complaint, [or] petition, or information during said nonjudicial supervision if there has been a failure to comply with terms of the supervision and any oral or written statement of responsibility shall not be used against the child. When the judicial authority refers the file for nonjudicial handling, the referral order should provide that upon successful completion of any nonjudicial handling, the matter will be dismissed and erased immediately without the filing of a request, application or petition for erasure, for all purposes except for subsequent consideration for nonjudicial handling under Section 27-4A.

COMMENTARY: 'Information' is added because it may be used in these cases. Paragraph (c) clarification of non-judicial erasure provision.

(NEW) Sec. 27-9. Family with Service Needs Referrals

(a) Any complaint alleging that a child is from a family with service needs shall be referred to a probation officer, who shall determine its sufficiency as a family with service needs complaint. If the probation officer determines the complaint is sufficient, the probation officer shall, after initial assessment promptly refer the child and the child's family to a suitable community-based program or other service provider or to a family support center for voluntary services.

(b) If the child and the child's family are referred to a community-based program or other service provider and the person in charge of such program or provider determines that the child and the child's family can no longer benefit from its services, such person shall inform the probation officer, who shall, after an appropriate assessment, either refer the child and the child's family to a family support center for additional services or determine whether or not to file a petition with the court. If the child and the child's family are referred to a family support center and the person in charge of the family support center determines that the child and the child's family can no longer benefit from its services, such person shall inform the probation officer, who may file a petition with the court.

(c) When a judicial authority, after a petition has been filed, refers a child alleged to be from a family with service needs to community based services or other services or a family support center pursuant to General Statutes Section 46b-149(g), the referral order should provide that upon successful resolution, the matter will be dismissed and erased without the filing of a request, application, or petition for erasure for all purposes except subsequent consideration for non-judicial handling of a delinquency complaint under Section 27-4A.

COMMENTARY: This recommended language parallels Section 30(b) of P.A. 07-4, amending General Statutes § 46b-149. It also provides for dismissal and erasure of petitions as previously provided for FWSNs in Section 27-8A(c).

APPENDIX C

NOVEMBER 2ND DRAFT

CHAPTER 30 DETENTION

Sec.

30-1. Notice and Statement by Person Bringing Child to Detention [Repealed]

30-1A. Admission to Detention

30-2. Release [Repealed]

NEW Sec. 30-2A. Family With Service Needs and Detention

30-3. Advisement of Rights

30-4. Notice to Parents by Detention Personnel

30-5. Detention Time Limitations

30-6. Basis for Detention

30-7. Place of Detention Hearings

30-8. Initial Order for Detention; Waiver of Hearing

30-9. Information Allowed at Detention Hearing

30-10. Orders of a Judicial Authority after Initial Detention Hearing

30-11. Detention after Dispositional Hearing

Sec. 30-1. Notice and Statement by Person Bringing Child to Detention

[Repealed as of Jan. 1, 2003.]

Sec. 30-1A. Admission to Detention

Whenever an officer or other person intends to admit a child into detention, the provisions of General Statutes § 46b-133 shall apply.

NEW Sec. 30-2A. Family With Service Needs and Detention

(a) No child who has been adjudicated as a child from a family with service needs in accordance with C.G.S. § 46b-149 may be processed or held in a juvenile detention center as a delinquent child, or be convicted as a delinquent, solely for the violation of a valid order which regulates future conduct of the child that was issued by the court following such an adjudication, and no such child who is charged or

found to be in violation of any such order may be ordered detained in any juvenile detention center.

(b) No non-delinquent juvenile runaway from another state may be held in a juvenile detention center in accordance with the provisions of General Statutes Sections 46b-151 to 46b-151g inclusive.

COMMENTARY: This proposed new rule includes the amendment to § 46b-148 (a) set forth in P.A. 05-250, Section 2. The wording of the statute is changed slightly because (2) of the statute references commitments to detention centers which is confusing due to the distinctly different commitment of a delinquent to the Department of Children and Families.

Sec. 30-2. Release

[Repealed as of Jan. 1, 2003.]

Sec. 30-3. Advisement of Rights

Upon admission to detention, the child shall be advised of the right to remain silent and the right to counsel and be further advised of the right to a detention hearing in accordance with Sections 30-5 through 30-8, which hearing may be waived only with the written consent of the child and the child's attorney.

Sec. 30-4. Notice to Parents by Detention Personnel

[If, u]Upon admission, [the officer or other person who brings the child to detention has not complied with the duty of notifying the parent or guardian as set forth in Section 30-1A,] the detention [~~supervisor~~] superintendent or a designated

representative shall make efforts to immediately notify the parent or guardian in the manner calculated most speedily to effect such notice and, upon the parent's or guardian's appearance at the detention facility, shall advise the parent or guardian of his or her rights and note the child's rights, including the child's right to a detention hearing.

COMMENTARY: Standardization of terms. The position is now Juvenile Detention Superintendent, as opposed to Supervisor. It seems logical that regardless of whether a police officer has notified a child's parent or guardian, the detention supervisor should also make efforts to notify the child's parent or guardian.

Sec. 30-5. Detention Time Limitations

(a) No child shall be held in detention for more than twenty-four hours, excluding Saturdays, Sundays, and holidays, unless a delinquency petition or information alleging delinquent conduct has been filed and an order for such continued detention has been signed by the judicial authority.

(b) A hearing to determine probable cause and the need for further detention shall be held no later than the next business day following the arrest. However, a judicial finding of probable cause must be made within forty-eight hours of arrest, including Saturdays, Sundays and holidays. If there is no such finding of said probable cause within forty-eight hours of the arrest, the child shall be released from detention subject to an information and subsequent arrest by warrant or take into custody order.

Sec. 30-6. Basis for Detention

No child shall be held in detention unless it appears from the available facts that there is probable cause to believe that the child is responsible for the acts alleged and that there is (1) a strong probability that the child will run away prior to court hearing or disposition, or (2) a strong probability that the child will commit or attempt to commit other offenses injurious to the child or to the community before court disposition, or (3) probable cause to believe that the child's continued residence in the home pending disposition will not safeguard the best interests of the child or the community because of the serious and dangerous nature of the act or acts set forth in the attached delinquency petition or information, or (4) a need to hold the child for another jurisdiction, or (5) a need to hold the child to assure the child's appearance before the court, in view of a previous failure to respond to the court process. The court in exercising its discretion to detain under General Statutes § 46b-133 (d) may consider a suspended detention order with graduated sanctions as an alternative to detention in accordance with graduated sanctions procedures established by the judicial branch.

COMMENTARY: Clarification.

Sec. 30-7. Place of Detention Hearings

The initial detention hearing may be conducted in the superior court for juvenile matters at the detention facility where the child is held and, thereafter, detention hearings shall be held at the superior court for juvenile matters [case] of appropriate venue.

COMMENTARY: Clarification consistent with Gen. Stat. Sec. 17a-76(b).

Sec. 30-8. Initial Order for Detention; Waiver of Hearing

Such initial order of detention may be signed without a hearing only if there is a written waiver of the detention hearing by the child and the child's attorney and there is a finding by the judicial authority that the circumstances outlined in Section 30-6 pertain to the child in question. An order of detention entered without a hearing shall authorize the detention of the child for a period not to exceed ten days, including the date of admission, and may further authorize the detention [~~supervisor~~ superintendent or a designated representative to release the child to the custody of a parent, guardian or some other suitable person, with or without conditions of release, if detention is no longer necessary, except that no child shall be released from detention who is alleged to have committed a serious juvenile offense except by order of a judicial authority of the superior court. Such an ex parte order of detention shall not be renewable without a detention hearing before the judicial authority.

COMMENTARY: Standardization of terms.

Sec. 30-9. Information Allowed at Detention Hearing

At the detention hearing the judicial authority may consider any information which is material and relevant to the issue of detention. Probable cause may be proven by sworn affidavit in lieu of testimony. The probation department may ascertain such factors as might pertain to any need for detention. Any written reports or social records made available to the judicial authority shall be made available to counsel of record and, in the absence of counsel, to the parties unless the judicial authority finds that the availability of such materials would be

psychologically destructive to the relationship between members of the family. Either through direct access or by quotation or summation by the judicial authority, the parties should be made aware of such findings in the reports or social records as directly enter into the judicial authority's decision.

Sec. 30-10. Orders of a Judicial Authority after Initial Detention Hearing

(a) At the conclusion of the initial detention hearing, the judicial authority shall issue an order for detention on finding probable cause to believe that the child has committed a delinquent act and that at least one of the factors outlined in Section 30-6 applies to the child.

(b) If the child is placed in detention, such order for detention shall be for a period not to exceed fifteen days, including the date of admission, or until the dispositional hearing is held, whichever is the shorter period, unless, following a further detention review hearing, the order is renewed. Such detention review hearing may not be waived.

(c) If the child is not placed in detention but released on a suspended order of detention on conditions, such suspended order of detention shall continue to the dispositional hearing or until further order of the judicial authority. Said suspended order of detention may be reviewed by the judicial authority every fifteen days. Upon a finding of probable cause that the child has violated any condition, a judicial authority may issue a take into custody order or order such child to appear in court for a hearing on revocation of the suspended order of detention. Such an order to appear shall be served upon the child in accordance with General Statutes § 46b-128 (b), or, if the child is represented, by serving the order to appear upon the

child's counsel, who shall notify the child of the order and the hearing date. After a hearing and upon a finding that the child has violated reasonable conditions imposed on release, the judicial authority may impose different or additional conditions of release or may remand the child to detention.

(d) In conjunction with any order of release from detention the judicial authority may, in accordance with General Statutes § 46b-133 (f), order the child to participate in a program of periodic drug testing and treatment as a condition of such release. The results of any such drug test shall be admissible only for the purposes of enforcing the conditions of release from detention.

COMMENTARY: C.G.S. § 46b-148, as amended by P.A. 05-250, Section 2, prohibits a child adjudicated as a child from a family with service needs from being remanded to detention for a violation of a valid order after the adjudication.

Sec. 30-11. Detention after Dispositional Hearing

While awaiting implementation of the judicial authority's order in a delinquency case, a child may be held in detention subsequent to the dispositional hearing, provided a hearing to review the circumstances and conditions of such detention order shall be conducted every fifteen days and such hearing may not be waived.

COMMENTARY: C.G.S. § 46b-148, as amended by P.A. 05-250, Section 2, prohibits a child adjudicated as a child from a family with service needs from being remanded to detention for a violation of a valid order after the adjudication.

APPENDIX D

NOVEMBER 2nd DRAFT

CHAPTER 30a DELINQUENCY, FAMILY WITH SERVICE NEEDS AND YOUTH IN CRISIS HEARINGS

Sec.

30a-1. Initial Plea Hearing

(NEW) Sec. 30a-1A Family With Service Needs Preadjudication Continuance

30a-2. Pretrial Conference

30a-3. — Standards of Proof; Burden of Going Forward

30a-4. Plea Canvass

30a-5. Dispositional Hearing

30a-6. — Statement on Behalf of Victim

(NEW) Sec. 30a-6A. — Persons in Attendance at Hearings

30a-7. Recording of Hearings

30a-8. Records

Sec. 30a-1. Initial Plea Hearing

(a) The judicial authority shall begin the hearing by determining whether all necessary parties are present and that the rules governing service or notice for nonappearing parties have been complied with, and shall note these facts for the record. The judicial authority shall then inform the parties of the substance of the petition or information.

(b) In age appropriate language, the judicial authority prior to any plea shall advise the child or youth and parent or guardian of the following rights:

(1) That the child or youth is not obligated to say anything and that anything that is said may be used against the child or youth.

(2) That the child or youth [and the parent or guardian] is entitled to the services of an attorney and that if the child or youth or parent or guardian is unable to [pay,] afford an attorney for the child or youth, an application for a public defender or [court-appointed] an attorney appointed by the Chief Child Protection Attorney should be completed and filed with the office of the public defender or the clerk of the court to request an attorney without cost.

(3) That the child or youth will not be questioned unless he or she consents, that the child or youth can consult with an attorney before being questioned and may have an attorney present during questioning, and that the child or youth can stop answering questions at any time.

(4) That the child or youth has the right to a trial and the rights of confrontation and cross-examination of witnesses.

(c) Notwithstanding any prior statement acknowledging responsibility for the acts alleged, the judicial authority shall inquire of the child or youth whether the child or youth presently admits or denies the allegations of the petition or information.

(d) If the judicial authority determines that a child or youth, or the parent, parents or guardian of a child or youth are unable to afford counsel for the child or youth, the judicial authority shall, in a delinquency proceeding, appoint the office of the public defender to represent the child, or in a family with service needs or youth in crisis proceeding, notify the

Chief Child Protection Attorney, who shall assign an attorney to represent the child or youth.

(e) If the judicial authority, even in the absence of a request for appointment of counsel, determines that the interests of justice require the provision of an attorney to represent the child, youth or the child's or youth's parent or parents, guardian or other person having control of the child or youth, in any delinquency, family with service needs or youth in crisis proceeding, the judicial authority may appoint an attorney to represent any such party and shall notify the Chief Child Protection Attorney who shall assign an attorney to represent any such party. Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, the judicial authority shall assess as costs on the appropriate form against such parent or parents, guardian or other person having control of the child or youth, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid by the Commission on Child Protection in providing such counsel, to the extent of their financial ability to do so in accordance with the rates established by the Commission on Child Protection for compensation of counsel.

(f) If the parent, parents or guardian of the child or youth fails to comply with a court order entered in the best interest of the child or youth and is facing potential imprisonment for contempt of court, such parent or

guardian, if unable to afford counsel, shall be entitled to have counsel provided for such parent or guardian of the child or youth in accordance with subsection (e) of this section.

(g) For purposes of determining eligibility for appointment of counsel, the judicial authority shall cause the parent or guardian of a child or youth to complete a written statement under oath or affirmation setting forth the child's or youth's, or parent's, parents' or guardian's or other person's liabilities and assets, income and sources thereof, and such other information as the office of the public defender or the Commission on Child Protection shall designate and require on forms adopted by said office of the public defender or Commission on Child Protection.

COMMENTARY: See C.G.S. § 46b-123e, as amended by P.A. 07-159, Secs. 4, 6, & 7. Paragraph (a) expand the language, a party may not need to be served, just notified. Paragraph (b)(2) – CGS 46b-135(a), amended by PA 07-159, sec. 6. Paragraph (c) standardization of terms. Paragraph (d)(1) – PA 07-159, sec. 3 (a)(1)(B) & Sec. 4 (b). Paragraph (d) – see PA 07-159, Sec. 4 (b) & (c). Paragraph (e) – This paragraph addresses the situation where the judicial authority determines that the interests of justice require appointment of counsel pursuant to Gen. Stat. Sec. 46b-136. See also, PA 07-149, Sec. 7 (f) – PA 07-159, sec. 6(a). Paragraph (g) _____.

