

STATE OF CONNECTICUT
SUPERIOR COURT
FOR JUVENILE MATTERS



CHAMBERS OF
BERNADETTE CONWAY
CHIEF ADMINISTRATIVE JUDGE
JUVENILE MATTERS

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April 27, 2021

Justice Andrew J. McDonald
Chairman, Rules Committee of the Superior Court
Supreme Court
231 Capitol Avenue
Hartford CT 06160

Dear Justice McDonald,

Attached for your consideration by the Rules Committee are proposed modifications of Practice Book Rules 27-1A and 27-4A, regarding the non-judicial handling of certain delinquency cases. I have attached a two page document outlining the purpose and guiding principles behind the requested changes.

I respectfully request that these proposals be placed on the May 10th Rules Committee Agenda. If said proposals are approved, implementation may be possible in 2021, furthering the Branch's collaborative juvenile justice reform efforts. Please feel free to contact me if I can be of any further assistance. Thank you for your time and attention.

Sincerely,

A handwritten signature in cursive script that reads "Bernadette Conway".

Bernadette Conway
Chief Administrative Judge
Juvenile Matters

cc. Honorable Patrick L. Carroll III, Chief Court Administrator
Honorable Elizabeth Bozzuto, Deputy Chief Court Administrator
Director, Legal Services, Joseph DelCiampo

Proposed Amendments to Practice Book Sections 27-1A and 27-4a (Re. Non-Judicial Case Handling)

Purpose:

The purpose of these proposed changes is to implement the recommendation of the IOYouth Task Force to more strategically divert juvenile delinquency cases from the formal court process. Current language in the Practice Book restricts the type of cases that can be handled non-judicially based on charge; these proposed changes would require the handling decision to be based on a risk-needs assessment rather than charge.

Background:

In May 2019, Connecticut began participating in the Council for State Governments (CSG) Improving Outcomes for Youth initiative. A Connecticut task force co-chaired by the Secretary of OPM Melissa McCaw and Representative Toni Walker, comprised of representatives from the Judicial and Executive branches, state and local juvenile justice system leaders and juvenile justice advocates, was formed to oversee the effort.

CSG conducted a comprehensive assessment of Connecticut's juvenile justice system, which resulted in a number of recommendations that were formally adopted by the Task Force in August 2020.

Guiding Principles

The purpose of the IOYouth initiative is to help states align their policies, practices and resource allocation with what research shows works to improve outcomes for youth and improve public safety, as articulated in the following research-based principles:

- Youth's assessed risk of reoffending, rather than the nature of youth's offenses, is the best predictor of future reoffending. When juvenile court decisions are based primarily on subjective professional judgement, this can lead to inconsistency and unintended bias. Use of a validated risk instrument, relying on structured actuarial data, increases predictive accuracy.
- Formal system involvement can increase, rather than decrease, low risk youth's risk of re-offending; low risk clients require little to no formal system intervention.
- Formal supervision and treatment resources should be prioritized for higher risk clients.
- A disproportionate number of delinquent youth have unmet behavioral health needs, including trauma. The juvenile justice system should not serve as the primary provider for treatment services, but can facilitate connections to community providers.

Implementation:

The implementation phase of the project began in September 2020. Many of the diversion recommendations focus on the work of Juvenile Probation Services, as follows:

- Juvenile Probation will screen all juvenile referrals for risk of recidivism and behavioral health needs in order to achieve the following goals:
 - Preserve court time and resources for only the highest risk youth;
 - Divert all low risk youth away from formal system involvement;

- Use objective, data informed risk screening to reduce the disparate treatment of youth of color within the juvenile court system;
 - Match youth pre and post disposition with the most appropriate level, type, and quality of supervision and services to reduce future reoffending;
 - Ensure youth repair any harm caused to victims and communities.
- Based on the results of the risk and need screening, cases coming into court will be handled as follows:
 - **Low-Risk Youth:** All youth screened as low-risk (with exceptions for youth who commit serious/violent offenses) will be *diverted from any form of judicial/non-judicial supervision*. As needed, JPOs will refer diverted youth and their families to a local Juvenile Review Board, mental health treatment provider, or any other community-based agency offering needed services.
 - **Moderate Risk Youth:** Most youth screened as moderate risk will be designated for *Non-Judicial* supervision. The JPO will create an intervention plan with input from both the child and parent/guardian, apply restorative justice principles and risk-reduction strategies, and levels of supervision will be tailored to the individual youth's assessed risk. Youth on Non-Judicial supervision have access to all CSSD contracted services.
 - **High-Risk Youth:** All youth screened as high-risk will be referred for formal court involvement, and if adjudicated and agreed to by the court, disposed to *Judicial Supervision*. These youth will receive the most intensive supervision and services available.
 - **Youth with Behavioral Health Needs:** Youth with behavioral health needs will be referred to local mental health services for further evaluation and treatment.
 - **Victims:** Victims' rights will be preserved throughout. Victims will receive written notification of their rights, even in those cases that were diverted from formal system intervention. Victims wishing to participate in restorative justice interventions will be offered the opportunity to do so.

Proposed Amendment to

Practice Book Sections 27-1A and 27-4a (Re. Non-Judicial Case Handling)

Sec. 27-1A. Referrals for Nonjudicial Handling of Delinquency Complaints (Amended June 30, 2008, to take effect Jan. 1, 2009.)

(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 assigned, the summons and report shall be referred to the probation department for possible nonjudicial handling.

(b) If the assigned probation officer (*or should this be supervisor?*) determines that a delinquency complaint is eligible for nonjudicial handling, the probation officer ~~[may cause a notice to be mailed to the child and parent or guardian setting forth with reasonable particularity the 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 mailing]~~ shall contact the parent or guardian in advance of the arraignment date in order to schedule an interview with the parent or guardian and child for the purpose of conducting risk and behavioral health screenings. A child determined by the risk screen to be at low risk to reoffend will be referred to community based diversionary programs with no further court intervention. Judicial handling will be reserved for those found to be at the highest levels of risk. All other cases will be eligible for nonjudicial handling. Refusal to participate in the screening process will render the child ineligible for diversion..

(c) Delinquency matters 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. (Adopted June 24, 2002, to take effect Jan. 1, 2003; amended June 30, 2008, to take effect Jan. 1, 2009.)

Sec. 27-4A. Ineligibility for Nonjudicial Handling or Diversion of Delinquency Complaint (Amended June 30, 2008, to take effect Jan. 1, 2009.)

In the case of a delinquency complaint, 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 is : (A) is a serious juvenile offense under General Statutes § 46b-120, ~~or any other~~ (B) a violent felony; or

~~(C) a violation of General Statutes § 53a-54d; or [; (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 adjudicated delinquent or adjudged a child from a family with service needs. (3) The child admitted nonjudicially at least twice previously to having been delinquent. (4)] (2) The alleged misconduct was committed by a child while on probation or under judicial supervision. [(5) If the nature of the alleged misconduct warrants judicial intervention.] (~~