



## Legal Update

September 18, 2013

### An Act Expanding Juvenile Jurisdiction

On September 18, 2013, Governor Patrick signed "*An Act Expanding Juvenile Jurisdiction*." This legislation takes effect immediately and amends G.L. c. 119 as well as other various statutes by raising the age of jurisdiction for juvenile offenders from between the ages of 7 and 17 to between the ages of 7 and 18, as well as for youthful offenders from between the ages of 14 and 17 to between the ages of 14 and 18. The pertinent sections are summarized below. The complete Act and a memorandum from the Honorable Paula Carey, Chief Justice of the Trial Court, are attached to this email.

#### **New Definitions, G.L. c. 119, § 52:**

Changes the ages in the definition of a delinquent child to a child between the ages of 7 and 18, and for a youthful offender to between the ages of 14 and 18.

#### **Complaint, G.L. c. 119, § 54:**

Adjusts the age for a complaint for a delinquent child to a child between the ages of 7 and 18, and for a youthful offender to a child between the ages of 14 and 18.

#### **Juvenile Session, G.L. c. 119, §§ 65 and 74:**

Amends the jurisdiction of the juvenile session from children under the age of 17 to those under the age of 18. However, in cases of first or second degree murder, the juvenile court does not have jurisdiction over any child who has reached age 14 but not 18 and who has been so charged.

#### **Probation, G.L. c. 119, § 58:**

Under the new law, probation may be imposed until the child reaches the age of 18, or 19 in the case of a child whose case is disposed of after he has attained his 18<sup>th</sup> birthday, or 20 in the case of a child whose case is disposed of after he has attained his 19<sup>th</sup> birthday.

#### **Commitment to Department of Youth Services, G.L. c. 119, § 58:**

Similarly, a delinquent child can be committed to the Department of Youth Services ("DYS") until he reaches the age of 18, or 19 in the case of a child whose case is disposed of after he has attained his 18<sup>th</sup> birthday, or 20 in the case of a child whose case is disposed of after he has attained his 19<sup>th</sup> birthday.

#### **Commitment to an Adult Correctional Facility, G.L. c. 119, §§ 58 and 72B:**

Youthful offenders under the age of 18 who are sentenced to state prison or a house of correction shall be housed in a youthful offender unit separate from the general population of adult prisoners in the facility. If sentenced to state prison, youthful offenders under the age of 18 at the time of sentencing must be classified at a facility other than MCI-Concord and may not be held at MCI-Cedar Junction until they reach the age of 18. The same is true for those between the ages of 14 and 18 found guilty of first or second degree murder.

**Dissemination of Child's Name, G.L. c. 119, § 60A:**

A child's name may be disseminated to the public without his consent if it is alleged that he committed an offense between his 14<sup>th</sup> and 18<sup>th</sup> birthdays, if he previously was adjudicated delinquent on two or more occasions for acts punishable by prison if he had been 18 years old or over, and if he is charged with delinquency by reason of an act punishable by imprisonment if he had been age 18 or over.

**CORI, G.L. c. 6, § 167:**

Amends the definition of CORI such that CORI is now obtainable only for those persons having reached the age of 18, and shall not include any information regarding any offenses or acts of delinquency committed before the age of 18 except in cases where the person under 18 was adjudicated an adult.

**Restriction of Probation for Certain Drug Offenses, G.L. c. 94C, § 32H**

Raises the age restricting the availability of probation for certain enumerated drug offenses from 17 to 18 and over, or for those persons charged by indictment under c. 119, § 54, to between the ages of 14 and 18.

**Protective Custody of Children Found Where Drugs Kept, G.L. c. 94C, § 36**

Authorizes police to be able to take a child into protective custody if the officer reasonably believes the child to be under the age of 18 and that the child knew of the presence of controlled substances which the officer reasonably believes to be in Class A, B or C.

**Validity of Conviction, G.L. c. 250, § 13**

The fact a child was under the age of 18 at the time of conviction will not affect the validity of the conviction in a proceeding to reverse or to obtain discharge from custody.

**Diversion, G.L. c. 276A, § 2**

The district courts and BMC can divert those charged with an offense punishable by imprisonment but for which the district court may exercise final jurisdiction, if the person has reached the age of 18 but not the age of 22, has not previously been convicted anywhere after reaching the age of 18, and under certain other conditions.

**Retroactivity**

The Act is silent as to retroactivity.