



SPONSOR: Rep. Heffernan

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1
TO
HOUSE BILL NO. 26

AMEND House Bill No. 26 by deleting lines 4 and 5 in their entirety, and inserting in lieu thereof, the following:
by deleting “(a) Pending adjudication no child alleged to be delinquent may be placed in secure detention operated, or
contracted, by the Department of Services for Children, Youth and Their Families unless the Court determines that no”.

FURTHER AMEND House Bill No. 26 by deleting lines 45 through 61 in their entirety and inserting lieu thereof
the following and redesignating accordingly:

“(d)(1) If a child aged 16 or older has been ordered by a court to be held in secure detention pending trial in Superior Court and is found to be nonamenable to Family Court pursuant to §§ 1010 and 1011 of this title, the Department of Services for Children, Youth and Their Families may file a motion in Superior Court to place the child in a secure detention facility other than a facility operated by the Department of Services for Children, Youth and Their Families because the Department's secure detention facilities are at or beyond capacity or the child poses a security risk to self or other youth served by the Department of Services for Children, Youth and Their Families in the facilities it operates. If a motion is filed, Superior Court shall conduct an evidentiary hearing unless the parties reach an agreement to a secure detention for the child.

a. After an evidentiary hearing, the Superior Court may order the child to be placed in a secure detention facility not operated by the Department of Services for Children, Youth and Their Families if the Court finds by clear and convincing evidence that the Department of Services for Children, Youth and Their Families 's secure detention facilities are at or beyond capacity and the child's safety or health is at risk by remaining at a facility operated by the Department of Services for Children, Youth and Their Families. If the Court makes such a finding, the Department of Services for Children, Youth and Their Families shall provide the Court with a status on the capacity of the Department of Services for Children, Youth and Their Families 's secured detention facilities at least weekly and no child may be held in a secured detention facility for adults for more than 60 days.

b. After an evidentiary hearing, the Superior Court may order the child to be placed in a secure detention facility not operated by the Department of Services for Children, Youth and Their Families if the Court finds by

24 clear and convincing evidence that the child is a danger to self or other youth served by the Department of
25 Services for Children, Youth and Their Families in the facilities it operates and the child's needs would be better
26 served at a facility not operated by the Department of Services for Children, Youth and Their Families.

27 FURTHER AMEND House Bill No. 26 on line 124 by inserting after “Families” and before “may” as they appear
28 therein the following: “(“The Department”)”.

SYNOPSIS

This amendment provides The Department for Children, Youth and Their Families (“DSCYF”) the ability to make a motion to the court for permission to place a pretrial youth in a facility other than one operated by DSCYF. While the circumstances prompting this request are rare, it is important to ensure the health and safety of youth and staff and the DSCYF facilities. This amendment also permits DSCYF’s ability to use contracted facilities for youth who are detained pending adjudication so that an alternative placement can be sought for youth when necessary. Finally, this amendment clarifies that “The Department” referred to in Section 2 of HB 26 specifically refers to the Department for Children, Youth and Their Families and not the Department of Correction.