



2015 Legislative Summary



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Division of Public Defender Services
Office of Chief Public Defender

October 1, 2015
Summaries of 2015 Public Acts

The following is a summary of the public acts adopted during the 2015 Legislative Regular and Special Sessions pertaining to criminal proceedings, juvenile delinquency and child protection. All acts are effective October 1, 2015 unless otherwise noted.

If you have any questions, please contact Deborah Del Prete Sullivan, Legal Counsel, Director, at (860) 509-6405 or email at deborah.d.sullivan@jud.ct.gov.

BOOTING MOTOR VEHICLES

Public Act No. 15-42 **AN ACT REGULATING THE TOWING OF MOTOR VEHICLES, THE USE OF WHEEL-LOCKING DEVICES AND THE REPOSSESSION BY LENDING INSTITUTIONS OF MOTOR VEHICLES.**

Sections 1-4 **Boot Removal Fees and the Process**

These sections amend C.G.S. §14-145, *Towing or removal of motor vehicle from private property. Regulations, §14-145a, Express instruction of property owner or lessee required for towing or removal of motor vehicle. Rebate prohibited, §14-145b, Storage and release of towed motor vehicles, §14-145c, Liability of property owner or lessee for improper towing or removal of motor vehicle*, and limit boot removal fees, provide that the police receive a portion of these fees, articulate the process by which notice is provided by property owners to the police.

Section 5 **Prison for Booting Notice Violations**

This section is new and requires a person, firm or corporation to notify the chief of police before placing a boot type device on a motor vehicle. The new legislation provides for an infraction for a first time violation. However, for a subsequent offense, a person can be fined \$50 to \$100 or incarcerated no more than 30 days or both.

Section 6-9

These sections amend C.G.S. §14-66b, *Operators of wrecker services to maintain records*, subsection (a) of 36a-785, *Foreclosure*; (a) of section 4b-13, *Parking areas on state property. Programs to encourage state employees to use mass transportation*; and subparagraph (B) of subdivision of subsection (c) of section 7-148, *Scope of municipal powers*. The amendments clarify existing statutes regarding towing and providing notice in areas where motor vehicles may be subject to towing.

CHILD PROTECTION (Child Protection Summary contributed by Attorney Christine Rapillo,
Director of Delinquency Defense and Child Protection)

**Public Act No. 15-71 AN ACT ADOPTING THE UNIFORM INTERSTATE FAMILY
SUPPORT ACT OF 2008**

This Act repeals Connecticut's Uniform Interstate Family Support Act (UIFSA) and replaces it with provisions that reflect the federal standards required for Connecticut to remain eligible for federal funding to support collection of child support. The revision includes technical language changes and gives the courts more authority to modify support orders originating in other states.

**Public Act No. 15-141 AN ACT CONCERNING SECLUSION AND RESTRAINT IN
SCHOOLS**

The act prohibits teachers, administrators, and other public school employees from using life-threatening physical restraints on any student, limits how long students can be kept in allowable physical restraints or seclusion, and specifies the types of locations in which a student may be secluded. Specifically, the act prohibits the use of restraint and seclusion unless school personnel have been trained and gives schools three years to implement the training. This act also requires schools to track and report on incidents of restraint and seclusion and to notify the parents of the involved student within 24 hours. The act applies to all students enrolled in public schools. It does not apply to Unified School District #2, Department of Children and Family (DCF) or Department of Mental Health and Addition Services (DMHAS) facilities.

**Public Act No. 15-159 AN ACT CONCERNING GROUNDS FOR TERMINATION OF
PARENTAL RIGHTS**

This act clarifies changes made to the required findings for a termination for parental rights legislated in Public Act No. 11-240. Public Act No. 11-240 changed the definition of neglect and removed abusive conduct from that definition. This act, Public Act No. 15-159, adds findings of abuse to the list behaviors that can result in termination of parental rights under C.G.S. §17a-112, *Termination of parental rights of child committed to commissioner. Cooperative postadoption agreements. Placement of child from another state. Interstate Compact on the Placement of Children.* Current law allows the court to terminate parental rights if:

- (1) the child has been found by either court in a prior proceeding to have been abused or (b) in probate court, if a child of the parent was found by either court in a prior proceeding to have been abused;
- (2) the child is found to be abused and has been in the custody of the children and families (DCF) commissioner for at least 15 months and the child's parent has not rehabilitated enough to encourage the belief, based on the child's age and needs, that the parent could assume a responsible position in the child's life; or

(3) a child of the parent is abused and under age seven, and the parent has not rehabilitated, as described above, and has had his or her parental rights for another child terminated by a DCF petition.

Public Act No. 15-159 also changes the appointment of counsel provisions of C.G.S. §45a-717, *Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination*, replacing the term “party” with “respondent parent” to make clear that the statutory right to appointment of counsel is limited to parents. Public Act No. 15-159 does not limit the court’s ability to appoint counsel for any party in the interest of justice.

Public Act No. 15-199 AN ACT EXPANDING GUARDIANSHIP OPPORTUNITIES FOR CHILDREN AND IMPLEMENTING PROVISIONS OF THE FEDERAL PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT

This act expands the ability to children in the care of the Department of Children and Families to participate in their court cases and engage in normal childhood activities. This act requires that children over 12 be consulted when permanency plans are developed and allows children subject to adoption to ask for ongoing sibling contact.

Permanency plans for children under the age of 16 can no longer include Alternative Planned Living Arrangement (APLA). The Act gives the caregivers of children in DCF care the ability to give permission for normal activities such as sleepovers and field trips without specific permission of DCF. It also expands placement options by defining significant non relative relationships as “fictive kin” and allowing them to be permanent family resources.

Public Act No. 15-199 establishes procedural protections for individuals receiving voluntary services from DCF and clarifies that Office of Chief Public Defender (OCPD) Assigned Counsel already approved for child protection matters should be appointed when a case is transferred from probate unless the juvenile matters court makes a finding that continuation of probate counsel is in the best interest of the client.

COMMERCIAL FISHING

Public Act No. 15-52 AN ACT CONCERNING CERTAIN COMMERCIAL FISHERY LICENSURE REFORMS

Sections 1 & 3 Various Changes

These sections, effective January 1, 2016, amend the definitions contained in C.G.S. §26-1, *Definitions* and makes clarifying changes to C.G.S. §26-142b, *Resident and nonresident commercial finfish, fishing and lobster pot licenses. Restrictions on issuance, transfer and renewal*.

**Section 2 Enhanced Criminal Penalties
(Effective January 1, 2016)**

This section pertains to certain licenses and the penalties for conduct without proper licensing. In addition, this section amends *C.G.S. 26-142a, Environmental tourism cruise vessel permit. Commercial fishing vessel permits. Registration of nets and areas of use. Registration of charter boats. Fishing licenses and registrations. Possession limits. Fees.* It deletes and renumbers certain subsections, specifically the current subsection (g) will be the new subsection (j) and prescribes certain criminal penalties for the violation of this section except for a person who violates sport fishing for blue crab regulations:

- | | |
|--------------------|--|
| First offense | Class C misdemeanor and “each animal taken or possessed in violation of any provision of this section shall constitute a separate offense” |
| Subsequent offense | Class B misdemeanor and “each animal taken or possessed in violation of this section shall constitute a separate offense” |

COURTS

Public Act No. 15-85 An Act Concerning Court Operations and the Claim Against the State of Lori Calvert

Section 6 Service of Copy of Capias Mittimus Permitted

This section amends *C.G.S. §46b-225, Judicial marshal authorized to serve capias mittimus issued in child support matter,* to permit service by judicial marshals of copies of a capias mittimus so long as the judicial marshal has the original in his/her possession.

Section 17 Criminal Violation of Restraining Order – Exception

This creates a new section (c) in *C.G.S. §53a-223b, Criminal violation of a restraining order: Class D or class C felony,* and provides an exception to being charged with a criminal violation of a restraining order. The new legislation provides that a person cannot be held criminally liable for violating a restraining order issued pursuant to *C.G.S. §46b-15, Relief from physical abuse, stalking or pattern of threatening by family or household member,* or a foreign order of protection issued pursuant to *C.G.S. §46b-15a, Foreign order of protection. Full faith and credit. Enforcement. Affirmative defense. Child custody provision. Registration,* if he/she “causes a document filed in a family relations matter, as defined in *section 46b-1, Family relations matters defined,* to be served” by mail or by a third person authorized to serve process, on a protected party.

Section 18

Criminal Violation of a Civil Protection Order - Exception

C.G.S. §53a-223c, Criminal violation of a protective order: Class D or class C felony, is amended to provide for an exception to a respondent being charged with criminal violation of a civil protection order if a legal document is served on the protected person by mail or a third party "in accordance with the law." Included in the definition of a "legal document" is "a notice of appearance or any other application, petition, or motion filed in good faith filed by such person in connection with any pending court matter, or in any court matter that may be brought subsequently."

Section 19 Notice to Victims in Diversionary Programs

These sections make a technical change to *C.G.S. §54-56a, Accelerated rehabilitation, §54-56g, Pretrial alcohol education program and §54-56l, Pretrial supervised diversionary program for persons with psychiatric disabilities and veterans*, to provide that the victim notice form is prescribed by the Office of the Chief Court Administrator instead of court rule.

CRIMINAL JUSTICE

Public Act No. 15-211

AN ACT CONCERNING REVISIONS TO THE CRIMINAL JUSTICE STATUTES AND CONCERNING THE PSYCHIATRIC SECURITY REVIEW BOARD, DOMESTIC VIOLENCE, CONDOMINIUM ASSOCIATIONS AND DEPOSITIONS OF PERSONS LIVING OUT-OF-STATE

Section 1

Probation/Conditional Discharge Commencement

This section amends subsection (a) of *C.G.S. §53a-31, Calculation of periods of probation and conditional discharge. Compliance with conditions during interrupted period*, to clarify that probation or conditional discharge periods do not commence on the day it is imposed if the defendant is incarcerated but on the date the defendant is released from incarceration.

Section 2

**Task Force – Extradition and Bond
(Effective from passage)**

This is new legislation which creates a task force to study extradition costs and bail bonds in those instances where in the bond has been forfeited. The task force is required to submit a report to the General Assembly no later than January 15 2016.

Section 3

Home Invasion – Murder

This amends *C.G.S. §53a-54c, Felony murder*, to include home invasion to the list of offenses under which a person can be found guilty of murder.

**Section 4 Assault in the Second Degree: Class C Felony if
Serious Physical Injury Results**

C.G.S. §53a-60, Assault in the second degree: Class D felony, is now a class C felony if the actor intended to cause “serious physical injury” under this statute’s subsections. The offense remains a class D felony if the actor had the intent to cause “physical injury” under the relevant subsections.

In addition, the legislation adds, as a class D felony, those circumstances in which the actor, with the intent to cause physical injury, kicks or strikes a person in the head while that person is in a lying position.

Sections 5 - 7 Sex Offender Registry

This section amends the sex offender registration statutes, specifically subsection (a) of *C.G.S. §54-251, Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense*, subsection (b) of *C.G.S. §54-252, Registration of person who has committed a sexually violent offense* and subsection (a) of *C.G.S. §54-254, Registration of person who has committed a felony for a sexual purpose*, to clarify that such registration is to be maintained for 10 years, “from the date of such person’s release into the community.”

Section 8 Simple Trespass

C.G.S. §53a-110a, Simple trespass: Infraction, provides that a person is guilty of this infraction if he/she enters the premises without the intent to harm the property, knowing that he/she has no right to do so. The amendment expands the statute to include when a person “remains in or on” the premises, without the right to do so or intent to harm the property.

Section 9 Tampering With Evidence – Investigations Included

Current law provides that a person is guilty of tampering or fabricating physical evidence, a class D felony, if:

“believing that an official proceeding is pending, or about to be instituted, he: (1) Alters, destroys, conceals or removes any record, document or thing with purpose to impair its verity or availability in such proceeding; or (2) makes, presents or uses any record, document or thing knowing it to be false and with purpose to mislead a public servant who is or may be engaged in such official proceeding.”

Without any definitions, the amendment **expands** this offense to include those circumstances wherein a person believes that “a criminal investigation conducted by a law enforcement agency” is pending or about to begin.

Section 10

Vendor Fraud Prohibited From AR

This section amends subsection (c) of *C.G.S. §54-56e, Accelerated pretrial rehabilitation*, and prohibits the application of the Accelerated Rehabilitation diversionary program to any person accused of violating *C.G.S. §53a-122, Larceny in the first degree: Class B felony* or subdivision (4) of subsection (a) of *C.G.S. §53a-123, Larceny in the second degree: Class C felony*.

Section 11

Pretrial Alcohol Education and Eligibility

This section amends subsections (a) and (b) of *C.G.S. §54-56g, Pretrial Alcohol Education Program*, and deletes from eligibility the following:

C.G.S. §15-132a Manslaughter in the second degree with a vessel

C.G.S. §15-140l Reckless operation of a vessel in the first degree while under the influence of intoxicating liquor or drugs

The legislation now provides that a person may apply for the program if charged with one of the following offenses and the person has not had the program invoked on their behalf within the last 10 years for violating any of these offenses:

C.G.S. §14-227a Operation while under the influence of liquor or drug or while having an elevated blood alcohol content

C.G.S. §14-227g Operation by person under twenty-one years of age while blood alcohol content exceeds two-hundredths of one per cent. Procedures. Penalties

C.G.S. §15-133, subsection (d) Rules for safe operation. Operation of vessel while under the influence of liquor or drugs. Penalties. Records of conviction

C.G.S. §15-140n Reckless operation of a vessel in the second degree while under the influence of intoxicating liquor or drugs

Persons convicted in Connecticut of violating the following, or in another state in which the elements are substantially the same, are not eligible for the program:

C.G.S. §14-227g Operation by person under twenty-one years of age while blood alcohol content exceeds two-hundredths of one per cent. Procedures. Penalties

C.G.S. §15-132a	Manslaughter in the second degree with a vessel
C.G.S. §15-133, subsection (d)	Rules for safe operation. Operation of vessel while under the influence of liquor or drugs. Penalties. Records of conviction
C.G.S. §15-140l	Reckless operation of a vessel in the first degree while under the influence of intoxicating liquor or drugs
C.G.S. §15-140n	Reckless operation of a vessel in the second degree while under the influence of intoxicating liquor or drugs

Section 12 Pretrial Drug Education and Community Service Program

This section makes technical changes to *C.G.S. §54-56i, Pretrial drug education and community service program*, to include a 15 session program in lieu of a 15 week program.

Section 13 Exception for Participation

This amends subsection (b) of *C.G.S. 54-56l, Pretrial supervised diversionary program for persons with psychiatric disabilities and veterans*. Pretrial supervised diversionary program for persons with psychiatric disabilities and veterans. The act provides an exception wherein a person may be eligible even if eligible for the pretrial family violence education program if the court finds it is more appropriate under the case.

Section 14 Psychiatric Security Review Board (PSRB)

The definition of “conditional release” as contained within *C.G.S. §17a-580, Definitions*, is amended to mean the:

“release of the acquittee from a hospital for psychiatric disabilities to the jurisdiction of the board for supervision and treatment and includes, but is not limited to, the monitoring of mental and physical health treatment”.

In addition, psychiatric disability is amended to not include “an abnormality manifested only by repeated criminal or otherwise antisocial conduct”.

Section 15

Animal Control Officers and Security Officers

This section amends *C.G.S. §53a-167c, Assault of public safety, emergency medical, public transit or health care personnel: Class C felony*, to add enhanced protection to a state or municipal animal control officer or a security officer and defines public transit employees to include train operators, conductors, inspectors, signal persons or station agents and security officer as defined as in *C.G.S. §29-152u, Definitions*.

Section 16

Incarceration & Probation OR Incarceration & Special Parole

This amends *C.G.S. §53a-70, Sexual assault in the first degree: Class B or A felony*, and provides discretion to the court to impose a term of incarceration of at least 10 years, which may have a portion suspended with probation or a term of incarceration and a period of special parole. The amendment does not repeal the prohibitions imposed in subdivisions (1) and (2) of this statute which require the imposition of mandatory minimum incarceration depending upon the age of the victim.

The legislation provides that notwithstanding subsection (a) of *C.G.S. §53a-29, Probation and conditional discharge: Criteria; periods; continuation or termination*, a court has the discretion to suspend a sentence and impose supervised probation pursuant to subsection (f) of *C.G.S. §53a-29*, of not more than 10 years or more than 35 years if a conviction for any of the following:

Subdivision (2) of subsection (a)
of C.G.S. §53-21

Injury or risk of injury to, or impairing morals of, children. Sale of children

C.G.S. §53a-70
C.G.S. §53a-70a
C.G.S. §53a-70b

Sexual Assault 1st degree: Class B or A felony
Aggravated sexual assault 1st: Class B or A felony
Sexual assault spousal or cohabiting relationship:
Class B felony

C.G.S. §53a-71
C.G.S. §53a-72a
C.G.S. §53a-72b

Sexual assault in the 2nd degree: Class C or B felony
Sexual assault in the 3rd degree: Class D or C felony
Sexual assault in the third degree with a firearm: Class
C or B felony

C.G.S. §53a-90a
C.G.S. §53a-196b

Enticing a minor. Penalties
Promoting a minor in an obscene performance: Class B
felony

C.G.S. §53a-196c
C.G.S. §53a-196d

Importing child pornography: Class B felony
Possessing child pornography in the first degree: Class
B felony

C.G.S. §53a-196e

Possessing child pornography in the second degree:
Class C felony

Section 17 Aggravated Sexual Assault 1st Degree - Mandatory Minimum

This section amends subsection (b) of *C.G.S. §53a-70a, Aggravated sexual assault in the first degree: Class B or A felony*, a class B felony, and enhances the penalty for a person convicted of this offense by legislating that the court impose a mandatory minimum sentence of at least 10 years incarceration, 5 years of which cannot be suspended or reduced by the court.

If, however, the victim is under 16 years of age, the offense is a class A felony and the court is required to impose a mandatory minimum sentence of 10 years incarceration which cannot be suspended or reduced by the court.

The legislation provides that notwithstanding subsection (a) of *C.G.S. §53a-29, Probation and conditional discharge: Criteria; periods; continuation or termination*, or as provided in this act, the court has the discretion to suspend a portion of a sentence and impose probation pursuant to subsection (f) of §53a-29 or a term of imprisonment and a period of special parole. The legislation deletes the requirement that the special parole be at least 5 years.

**Section 18 U.S. Marshals or Deputy Marshals
(Effective from passage)**

This amends subdivision (9) of *C.G.S. §53a-3, Definition*, to include U.S. Marshals and U.S. Deputy Marshalls in the statutory definition of a peace officer.

**Section 19 Domestic Violence Offender Program Standards Advisory Council
(Effective from passage)**

This is new legislation that mandates this Council to review and update the standards presented to the Criminal Justice Policy Advisory Committee (CJPAC) in September of 2014. The Chief Public Defender or her designee is on this Council.

**Section 20 Judicial Website
(Effective from passage)**

The Chief Court Administrator is required to ensure that the standards referred to in Section 19 are posted on the Judicial Branch's website.

**Section 21 Family Violence
(Effective January 1, 2016)**

This section amends subsection (g) of *C.G.S. §46b-38c, Family violence response and intervention units. Local units. Duties and functions. Protective orders. Electronic monitoring*

pilot program. Pretrial family violence education program; fees. Training program. Current law provides that the family violence intervention unit can “identify appropriate offender services” and provide treatment when possible with contractors. This language is deleted and the new language authorizes the family violence intervention unit to “assess offenders for the purpose of identifying appropriate services” and to monitor the offender’s compliance with programs they are attending. The Judicial Department is also authorized to contract for victim services and domestic violence offender treatment programs for offenders that comply with the domestic violence offender program standards as promulgated under section 19 of this act.

Section 22 Nolle Prosequi in Family Violence Cases

This is new legislation which prohibits the prosecutor from entering a nolle prosequi to a charge filed on or after July 1, 2016, which had not been referred to the family violence intervention unit unless the prosecutor states on the record (1) the reasons for the nolle and whether they include that the defendant participated in a counseling or treatment program and (2) whether the counseling or treatment program complies with the program standards promulgated under section 19 of this act.

Section 23 Non-Disclosure Of Address Or Telephone Number By Family Violence Victim In Court

This amends *C.G.S. §54-86d, Disclosure of address and telephone number by victim of sexual assault not required*, to include the victims of family violence with victims of sexual assault from being required to disclose their address or telephone number during court proceedings so long as the court has made a finding pursuant to the existing statutory criteria, i.e. the information is not material to the proceeding, the identity of the victim was “satisfactorily established” and the address of the victim was “available” to the defense as in any other criminal case.

Section 24 Non Disclosure Identifiable Information-Family Violence Victim

This amends *C.G.S. §54-86e, Confidentiality of identifying information pertaining to victim of sexual assault. Availability of information to accused. Protective order information to be entered in registry*, to expand the same non disclosure protections currently provided to sexual assault victims to family violence victims.

Section 28 Evasion of Responsibility – Increased Penalties

This section amends subsection (f) of *C.G.S. §14-224, Evasion of responsibility in operation of motor vehicles. Racing. Required removal of motor vehicle from traveled portion of highway. Impoundment or fine*, and increases the fine that can be imposed if death or serious physical injury is caused to \$20,000 and imprisonment of not less than 2 years but not more than 20 years or both.

Section 29

Out of State Depositions of Connecticut Residents as Witnesses in Civil Matters

This section provides the procedure for issuance of a subpoena for a witness who is a resident of this state in certain civil or probate matters and the reimbursement of costs attributed to complying with the subpoena.

**June Special Session
Public Act No. 15-2**

AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017, CONCERNING GENERAL GOVERNMENT PROVISIONS RELATING TO CRIMINAL JUSTICE

Section 1

Possession Controlled Substance - Misdemeanor

This section amends subsection (a) of C.G.S. §21a-279, *Penalty for illegal possession. Alternative sentences. Immunity*, and is been referred to as the Second Chance Act. The legislation reduces the penalty for a first time offense of possession of a controlled substance except for less than ½ ounce of marijuana, from an unclassified felony to a class A misdemeanor now punishable by up to 1 year in prison. In addition, now any juvenile who violates this statute cannot be transferred to the adult criminal docket since this offense is now a misdemeanor.

If a second time offender, the act requires the court to evaluate the offender and determine whether drug dependent and provides the court the discretion to suspend prosecution of the offender and order him/her into a substance abuse treatment program.

If a person subsequently violates subsection (a), the court will have the discretion to find the offender to be a persistent offender for possession of a controlled substance in accordance with the persistent offender statutes, specifically C.G.S. §53a-40. *Persistent offenders: Definitions; defense; authorized sentences; procedure.*

The legislation deletes the current subsections (b), (c) and (e) and amends the current subsection (d) regarding possession of a controlled substance within 1500 feet of a school or daycare. The legislation eliminates the mandatory minimum sentence of 2 years that could have been imposed upon an offender. Instead a person who violates this section is required to be sentenced to a term of imprisonment and probation which shall include community service.

The subsections are renumbered accordingly and the new language of subsection (e) specifically prohibits persons from interpreting this new legislation with changing the provisions of C.G.S. §21a-278, *Penalty for illegal manufacture, distribution, sale, prescription or administration by non-drug-dependent person.*

Sections 2 through 7

Firearms

These sections contain technical changes to the following statutes regarding firearms, permits and eligibility certificates:

- | | |
|----------------------------------|--|
| C.G.S. §7-294d, subsection (c) | <i>Powers of council. Certification of police officers, police training schools and law enforcement instructors. Refusal to renew, cancellation or revocation of certification. Automatic certification. Exemptions.</i> |
| C.G.S. §29-28, subsection (b) | <i>Permit for sale at retail of pistol or revolver. Permit to carry pistol or revolver. Confidentiality of name and address of permit holder. Permits for out of state residents</i> |
| C.G.S. §29-36f, subsection (b) | <i>Eligibility certificate for pistol or revolver</i> |
| C.G.S. §29-37p, subsection (b) | <i>Long gun eligibility certificate. Disqualifiers</i> |
| C.G.S. §53a-217, subsection (a) | <i>Criminal possession of a firearm, ammunition or an electronic defense weapon: Class C felony</i> |
| C.G.S. §53a-217c, subsection (a) | <i>Criminal possession of a pistol or revolver: Class C felony</i> |
| C.G.S. §18-100h, subsection (b) | <i>Release of persons convicted of certain motor vehicle and drug offenses to their residences.</i> |

Section 9

Board of Pardons and Parole Membership/Terms (Effective June 30, 2015)

C.G.S. §54-124a, *Board of Pardons and Paroles*, is amended to articulate the number of full and part time members and the terms of such.

Sections 10 - 18 Board of Pardons and Parole

These sections are new legislation or amend the pardon and parole statutes and create a process for an expedited review and the granting of a pardon for a non violent crime. In addition, the legislation requires the Board to attend annual training and that all of the decisions of the Board or Panel by a majority of the members present at the meeting.

C.G.S. §54-125a, *Parole of inmate serving sentence of more than two years. Eligibility. Hearing to determine suitability for parole release of certain inmates*, as in current law and as subsection (a) of C.G.S. §54-125a was amended by section 1 of Public Act 15-84 is amended and depending upon the subsection amended took effect July 1, 2015 or October 1, 2015. Nothing in this section changed the parole provisions contained in Public Act 15-84 pertaining to juveniles with lengthy sentences.

Specifically sections 12 and 13, effective July 1, 2015 amend C.G.S. §54-125a, *Parole of inmate serving sentence of more than two years. Eligibility. Hearing to determine suitability for parole release of certain inmates*, and requires that hearings not go forward unless the parole release panel has a complete file regarding the applicant including DOC documents, the trial transcript, sentencing record and previous parole hearing file.

Section 18 amends C.G.S. §54-203, *Office of Victim Services established. Powers and duties*, effective July 1, 2015 to require that notice is provided to victims and the public on how to receive information on hearings before the Board of Pardons and Parole.

Section 19 Persistent Offender for Possession of a Controlled Substance

This section amends C.G.S. §53a-40, *Persistent offenders: Definitions; defense; authorized sentences; procedure*, and creates the offense of persistent offender for possession of a controlled substance defined as someone who has been convicted of violating C.G.S. §21a-279, *Penalty for illegal possession. Alternative sentences. Immunity*, as amended by this act who has been convicted twice before the instant conviction of the possession of a controlled substance. A person so convicted as a persistent offender can be sentenced for a class E felony.

Section 20 Technical Change

This section amends subsection (c) of C.G.S. §54-125e, *Special parole. Conditions. Duration. Violation. Hearing. Disposition*, to make conforming changes.

Section 21 Firearm, Permit or Certificate Eligibility Unchanged

This is new legislation which clarifies that a person's eligibility for possession of a firearm, certificate or permit is not changed by this act.

ELDERLY ABUSE

Public Act No. 15-233 An Act Concerning Protective Services for Suspected Elderly Abuse Victims

Section 1 Abuse, Neglect, Exploitation or Abandonment

This section amends C.G.S. §17b-450, *Definitions*, to clarify the terms defined within this statute and define a legal representative as a guardian of a person who has an intellectual disability, conservator or power or attorney who has been appointed to on behalf of the elderly person.

Section 2 **Reports of elderly person being abused, neglected,
exploited or abandoned
(Effective July 1, 2015)**

This section amends *C.G.S. §17b-452, Investigation of report. Findings and recommendation. Registry. Confidentiality*, in regard to the process to be filed upon a report being filed with the Department of Social Services.

Sections 3 - 8 **Technical amendments
(Effective July 1, 2015)**

These sections make technical amendments to *C.G.S. §§17b-453, Referral to Department of Social Services. Injunction against interference by caretaker; 17b-454, Access to records. Authority of Department of Social Services; 17b-455, Lack of consent or withdrawal of consent, 17b-456, Appointment of conservator for elderly person lacking capacity to consent to protective services; 17b-459, Payment for protective services. Procedures when elderly person unable to pay; 17b-460, Referral for criminal investigation or proceedings.*

Section 9 **Protective Services for the Elderly
(Effective July 1, 2015)**

This section is new and permits the Commissioner of Social Services to petition the Probate Court for an ex parte order to enter the home of an elderly person “for purposes of an assessment” if the Commissioner “has reasonable cause to believe” that the person needs protective services but access has been denied by the elderly person or a third party. The legislation articulates what information should be contained within the petition and the standard upon which the Probate Court may enter an order for entry to conduct the assessment. Any ex parte order expires 10 days after the Probate Court has issued it. Further the legislation is clear that this section authorizes an assessment only and does not authorize the Commissioner of Social Services to remove an elderly person from the premises or to provide “involuntary protective services”.

FAMILY VIOLENCE

Special Act No. 15-10 **AN ACT ESTABLISHING A TASK FORCE TO STUDY THE
STATE-WIDE RESPONSE TO FAMILY VIOLENCE**

Section 1 **Task Force Created
(Effective from passage)**

This is new legislation which creates a task force charged with studying the state’s Response to children exposed to family violence. Included on the task force is the Chief Public Defender, or her designee. The task force is required to submit a report on its findings including any legislative recommendations to the General Assembly no later than January 15, 2016.

FREEDOM OF INFORMATION

Public Act No. 15-164 AN ACT CONCERNING THE DISCLOSURE OF ARREST RECORDS DURING A PENDING PROSECUTION UNDER THE FREEDOM OF INFORMATION ACT

Section 1 Record of Arrest and Public Disclosure

This section amends *C.G.S. §1-215, Record of an arrest as public record. Exception*, to redefine a "record of arrest" as the following:

1) "the name, race and address of the person arrested, the date, time and place of the arrest and the offense for which the person was arrested, and

(2) in addition, in a case in which

(A) the arrest has been by warrant, the arrest warrant application, including any affidavit in support of such warrant, or

(B) the arrest has been made without a warrant, the official arrest, incident or similar report, provided if a judicial authority has ordered any such affidavit or report sealed from public inspection or disclosure, in whole or in part, the portion of the affidavit or report that has not been sealed, if applicable, as well as a report setting forth a summary of the circumstances that led to the arrest of the person in a manner that does not violate such order."

This section exempts from the definition of a "record of the arrest" the following:

- juvenile arrest records,
- erased records pursuant to chapter 961a of the Connecticut General statutes or
- law enforcement's investigative files created "in connection with the investigation of a crime" which results in an arrest

Subsection (b) of section 1 prohibits law enforcement from redacting a record of arrest except:

- "the identity of witnesses,
- specific information about the commission of a crime, the disclosure of which the law enforcement agency reasonably believes may prejudice a pending prosecution or a prospective law enforcement action, or
- any information that a judicial authority has ordered to be sealed from public inspection or disclosure."

The new subsection (c) of this section clarifies that any other public record that law enforcement has which shows an arrest or person in custody in an open prosecution is to be disclosed in accordance with the existing statutes, specifically subsection (a) of *C.G.S. §1-210, Access to public records. Exempt records*, unless exempted from disclosure by the general statutes.

Subsection (d) is new and requires that law enforcement promptly notify the prosecutor for the judicial district in which the arrest was made when it has received a freedom of information request and provides that the prosecutor can intervene in the freedom of information proceedings.

The new subsection (e) articulates that section 1 of this act is only applicable to records in pending prosecutions. If not a pending prosecution, the current statutes apply.

INTELLECTUAL DISABILITY

Public Act No. 15-54 An Act Concerning the Definition and Use of the Term "Intellectual Disability"

**Sections 1 & 2 Intellectual Disability
(Effective from passage)**

These sections amend *C.G.S. §1-1g, "Mental retardation", "intellectual disability", defined*, and *C.G.S. §17a-228, Payments for room and board and other services for persons with intellectual disability in residential facilities. Authorization for admission to residential facilities; annual review*, to insert "intellectual disability" in lieu of "mental retardation" and clarify the definition.

JUVENILE JUSTICE

Public Act No. 15-58 AN ACT CONCERNING JUVENILE JUSTICE RISK AND NEEDS ASSESSMENTS

Section 1 Various Changes

Current law provides the court discretion to order a child committed to DCF and order placement of the child in a residential facility or one under contract. The law also provides the court with the discretion to order the child committed to DCF in which the Commissioner has the discretion to place the child in with or outside of this state, including the Connecticut Juvenile Training School if the juvenile offender is male and high risk or DCF can place a child on parole.

In an effort to assure that children who are in the highest risk level are placed in an appropriate secure treatment setting in lieu of the CJTS, this section amends subsection (j) of *C.G.S. §46b-140, Disposition upon conviction of child as delinquent*, to require the

Commissioner of the Department of Children and Families to use a risk and needs assessment classification system for children in the highest risk level.

Public Act No. 15-183 AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

Section 1 14 Year Olds Cannot Be Transferred To Adult Criminal Docket

As of October 1, 2015, 14 year old children can no longer be transferred to the adult court for *any* offense. In addition, although cases in which a class A felony is charged will continue to be automatically transferred to the adult criminal docket, a number of class B felony cases will not.

The prosecutor must move for the transfer and the hearing must be held no later than 30 days after the juvenile court has arraigned the child. The new subdivision (3) of subsection (a) provides a list of class B felony offenses that are no longer automatically transferred but are now discretionary transfer upon motion of the prosecutor and after a hearing:

- | | |
|---|---|
| <i>C.G.S. §53a-55</i> | <i>Manslaughter in the first degree: Class B felony</i> |
| <i>C.G.S. §53a-59b</i> | <i>Assault of an employee of the Department of Correction in the first degree: Class B felony</i> |
| <i>C.G.S. §53a-71</i> | <i>Sexual assault in the second degree: Class C or B felony.</i> |
| <i>C.G.S. §53a-94</i> | <i>Kidnapping in the second degree: Class B felony: Three years not suspendable</i> |
| <i>Subdivision (2) of subsection (a) of section C.G.S. §53a-101</i> | <i>Burglary in the first degree: Class B felony.</i> |
| <i>C.G.S. §53a-112</i> | <i>Arson in the second degree: Class B felony</i> |
| <i>C.G.S. §53a-122</i> | <i>Larceny in the first degree: Class B felony</i> |
| <i>C.G.S. §53a-129b</i> | <i>Identity theft in the first degree: Class B felony</i> |
| <i>Subdivision (1), (3) or (4) of subsection (a) of section C.G.S. §53a-134</i> | <i>Robbery in the first degree: Class B felony</i> |
| <i>C.G.S. §53a-196c</i> | <i>Importing child pornography: Class B felony</i> |
| <i>C.G.S. §53a-196d</i> | <i>Possessing child pornography in the first degree: Class B felony.</i> |
| <i>C.G.S. §53a-252</i> | <i>Computer crime in the first degree: Class B felony</i> |
| <i>Subsection (a) of section C.G.S. §53a-301</i> | <i>Computer crime in furtherance of terrorist purposes: Class B felony</i> |

In order to transfer the juvenile case to the adult court, the juvenile court must find after a hearing, that:

“(A) such offense was committed after such child attained the age of fifteen years,

(B) there is probable cause to believe the child has committed the act for which the child is charged, and

(C) the best interests of the child and the public will not be served by maintaining the case in the superior court for juvenile matters. In making such findings, the court shall consider

(i) any prior criminal or juvenile offenses committed by the child,

(ii) the seriousness of such offenses,

(iii) any evidence that the child has intellectual disability or mental illness, and

(iv) the availability of services in the docket for juvenile matters that can serve the child's needs.”

The judge sitting in the adult criminal court retains the discretion to return the case to the juvenile docket at any time prior to a verdict or guilty plea for good cause shown.

Section 2 Juvenile Justice Policy and Oversight Committee (JJPOC)

This amends *C.G.S. §46b-121n, Juvenile Justice Policy and Oversight Committee Reports*, and adds as members the Labor Commissioner, the Commissioner of Social Services, the Commissioner of Public Health, or their designees and a Police Chief, appointed by the President of the Connecticut Police Chiefs Association, of city for which the population exceeds 100,000.

In addition to its mission, the committee is charged with assessing the juvenile justice system and making recommendations to the General Assembly in regard to and including mental health and substance abuse treatment programs for children, the use of restraints or seclusion for children, recidivism, educational outcomes and diversion of at risk children and youths from the juvenile justice system and disproportionate minority contact.

Section 3 Presumption - Restraints Removed in Juvenile Court

This is new and requires a court order before a pre-adjudicated detained juvenile can be restrained in court.

**AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES
COMMITTED BY A CHILD OR YOUTH AND THE
SENTENCING OF A CHILD OR YOUTH CONVICTED OF
CERTAIN FELONY OFFENSES**

Section 1 U.S. Supreme Court Decisions-Miller/Graham & a Second Look

This legislation is the Sentencing Commission's proposal to comport with the U.S. Supreme Court decisions in Miller and Graham and provide a second look at juveniles that were convicted as an adult for serious felony offenses. It provides eligibility criteria and a process for juveniles convicted as adults to apply to the Board of Pardons and Paroles for release on parole.

Section 1 amends *C.G.S. §54-125a, Parole of inmate serving sentence of more than two years. Eligibility. Hearing to determine suitability for parole release of certain inmates*, which pertain to the parole process, to use the phrase "total effective sentence" in lieu of "aggregate sentence" throughout.

The new subsection (f) is specifically focused on persons who were convicted as adults for an offense committed while they were under the age of 18 years and creates a new process and eligibility criteria as follows:

- (f)(1) Person must have been convicted as an adult of offense(s) committed while under 18 years of age who is incarcerated on or after October 1, 2015 and was sentenced to a definite or total effective sentence of more than 10 years on or after October 1, 2015;

If this criteria is met, the person may apply to the Board of Pardons and Paroles only if the person:

- (A) was sentenced to 50 years or less and the person has served 60% of the sentence or twelve years, whichever is greater, or,
- (B) was sentenced to more than fifty years, and has served 30 years.

- (f)(2) This new legislation is applicable only to offenses committed while the person was under 18 and not to any offenses committed while 18 or older.
- (f)(3) At least one year prior to the person becoming eligible for parole release, the Board of Pardons and Paroles is required to notify the Chief Public Defender, the State's Attorney, and the Office of the Victim Advocate and the Victim Units in the Department of Correction and the Judicial Department that the person has become eligible for parole release.

Persons determined indigent shall be assigned counsel by the Office of Chief Public Defender.

At the parole hearing, testimony can be provided by witnesses, including mental health professionals if requested by the Board. The Board can also request reports from DOC or other witnesses.

At the hearing, the person can speak on his/her behalf and can be represented by counsel.

Counsel for the person and the state's attorney can provide reports and other documents to the Board.

The victim is permitted to make a statement pursuant to *C.G.S. §54-126a, Testimony of crime victim at parole hearing*.

In determining risk and criteria for release, the Board is required to use validated risk assessment and needs assessment tools per *C.G.S. §54-124a(d), Board of Pardons and Paroles*.

- (f)(4) This section articulates the criteria for consideration in exercising the Board's discretion to release a person on parole for a crime committed when the person was under the age of 18:

"if consistent with the factors set forth in subdivisions (1) to (4), inclusive, of subsection (c) of *section 54-300, Sentencing Commission*, and if it appears, from all available information, including, but not limited to, any reports from the Commissioner of Correction, that

(A) there is a reasonable probability that such person will live and remain at liberty without violating the law,

(B) the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration, and

(C) such person has demonstrated substantial rehabilitation since the date such crime or crimes were committed considering such person's

- character,
- background and history, as demonstrated by factors, including, but not limited to, such person's
 - correctional record,

- the age and circumstances of such person as of the date of the commission of the crime or crimes,
- whether such person has demonstrated remorse and increased maturity since the date of the commission of the crime or crimes,
- such person's contributions to the welfare of other persons through service,
- such person's efforts to overcome substance abuse, addiction, trauma, lack of education or obstacles that such person may have faced as a child or youth in the adult correctional system,
- the opportunities for rehabilitation in the adult correctional system and
- the overall degree of such person's rehabilitation considering the nature and circumstances of the crime or crimes.

(f)(5) Any decision by the Board must be articulated with the reasons for such on the record. If the Board decides that the person should continue to be confined, the Board has the discretion to reassess the person for a new hearing to be scheduled at a later date but no sooner than 2 years after its decision.

(f)(6) The Board's decision is not subject to appellate review of any kind.

Section 2 Sentencing Factors

This section is new legislation which requires the court to consider the following factors at a sentencing of a child who has been transferred to the adult docket for a class A or B felony conviction:

(1) Consider, in addition to any other information relevant to sentencing, the defendant's age at the time of the offense, the hallmark features of adolescence, and any scientific and psychological evidence showing the differences between a child's brain development and an adult's brain development; and

(2) Consider, if the court proposes to sentence the child to a lengthy sentence under which it is likely that the child will die while incarcerated, how the scientific and psychological evidence described in subdivision (1) of this subsection counsels against such a sentence.

The presentence investigation report cannot be waived and any prepared must consider the factors in subdivision (1) above. At sentencing, the court is required to state on the record the maximum incarceration period and whether the child will be eligible to apply for the new parole legislated pursuant to section 1 of this act.

Section 3 - 5 Technical Changes

Sections 3 through 6 make technical changes to subsection (c) of *C.G.S. §46b-127, Transfer of child charged with a felony to the regular criminal docket. Transfer of youth aged*

sixteen or seventeen to docket for juvenile matters, subsection (f) of C.G.S. §46b-133c, Serious juvenile repeat offender prosecution. Sentencing, subsection (f) of C.G.S. §46b-133d, Serious sexual offender prosecution. Sentencing.

Section 6 Technical Change

This section makes technical changes to *C.G.S. §53a-46a, Imposition of sentence for capital felony committed prior to April 25, 2012. Hearing. Special verdict. Mitigating and aggravating factors. Factors barring death sentence*, and is effective October 1, 2015 and applicable to persons convicted prior to on or after said date to clarify that only a person who was 18 years or older at the time of the offense is eligible for the death penalty.

Section 7 Technical Change

This section makes technical changes to *C.G.S. §53a-54b, Murder with special circumstances*, and is effective October 1, 2015 and applicable to persons convicted prior to on or after said date to clarify that only a person who was 18 years or older at the time of the offense can be convicted of murder with special circumstances.

Section 8 Technical Change

This section makes technical changes to *C.G.S. §53a-54d, Arson murder*, and is effective October 1, 2015 and applicable to persons convicted prior to on or after said date.

Section 9 Technical Change

This section makes technical changes to subsection (c) of *C.G.S. §53a-54a, Murder*, and is effective October 1, 2015 and applicable to persons convicted prior to on or after said date.

Section 10 Victim Notification Study

This section is new legislation that requires the Connecticut Sentencing Commission to study notification procedures for victims in regard to an offender's parole eligibility or other types of release in those cases where the offender was convicted and sentenced to more than 2 years. The Commission is required to make a report of its findings to the legislature no later than February 1, 2016.

NOTE: *See State vs. Santiago - Connecticut death penalty repealed and ruled unconstitutional. (August 13, 2015)*

**Public Act No. 15-218 An Act Concerning Prevention, Detection and Monitoring of
Prison Rape in Juvenile Facilities**

This amends subsection (a) of *C.G.S. §18-81cc, Prevention, detection and monitoring of, and response to, sexual abuse in correctional facilities*, to require all state agencies and political subdivisions which incarcerate or detain juveniles in any prison, jail, community correction facilities, juvenile facilities or lockups, to adopt and comply with standards as promulgated by the National Prison Rape Elimination Commission. These standards already apply to the incarceration or detention of adult offenders, even if detained for immigration violations and now the same standards will apply to juveniles.

MANDATED REPORTER

Public Act 15-205 AN ACT PROTECTING SCHOOL CHILDREN

Section 1 Refresher Training

This amends subsection (c) of *C.G.S. §17a-101, Protection of children from abuse. Mandated reporters. Educational and training programs. Model mandated reporting policy*, to require all school employees, not just new employees, attend the mandated reporter training and refresher training administered by DCF.

Section 2 Where Perpetrator Is School Employee

This amends section (a) of *C.G.S. §17a-101a, Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney*, to add a new subdivision (2) to require any school employee to make a report when "in the ordinary course of such person's employment or profession" the school employee has "reasonable cause to suspect or believe" that a student is a victim under the following statutes and the perpetrator is a school employee:

<i>C.G.S §53a-70</i>	<i>Sexual Assault in the First Degree</i>
<i>C.G.S §53a-70a</i>	<i>Aggravated sexual assault in the first degree: Class B or A felony</i>
<i>C.G.S §53a-71</i>	<i>Sexual assault in the second degree: Class C or B felony</i>
<i>C.G.S §53a-72a</i>	<i>Sexual assault in the third degree: Class D or C felony.</i>
<i>C.G.S §53a-72b</i>	<i>Sexual assault in the third degree with a firearm: Class C or B felony</i>
<i>C.G.S §53a-73a</i>	<i>Sexual assault in the fourth degree: Class A misdemeanor or class D felony</i>

The act amends section (b) of *C.G.S. §17a-101a, Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney*, to create an enhanced penalty, a class E felony, if a person required to make a report fails to do so or if the failure was intentional, willful or as a result of "gross negligence". This enhanced penalty is also applicable in cases where a person has "actual" knowledge of abuse or neglect or that the perpetrator is a school employee.

The act creates an enhanced penalty of a class D felony for anyone who “intentionally and unreasonably interferes with or prevents the making” of a mandated reporter report or “attempts or conspires to do so”. The section is not applicable to children under the age of 18 or persons educated by a technical high school or a school administered by a local or regional board of education.

The new legislation articulates that a “mandated reporter’s suspicion or belief may be based on factors including but not limited to, observations, allegations, facts or statements by a child” or a victim under the circumstances detailed in the new subdivision (2) of subsection (a) of 17a-101a or is a third party. In any event, a person’s suspicion or belief does not require that the person be certain or have probable cause.

Section 3 -5 Technical Changes

The act makes technical changes to *C.G.S. §17a-101b, Oral report by mandated reporter. Notification of law enforcement agency when allegation of sexual abuse or serious physical abuse. Notification of person in charge of institution, facility or school when staff member suspected of abuse or neglect; §17a-101d, Contents of oral and written reports, and §17a-101h, Coordination of investigatory activities. Interview with child. Reporter to provide information. Consent of parent, guardian or responsible person*, to reflect that a child includes a victim as defined in the new language contained in subdivision (2) of subsection (a).

Section 6 Employment Prohibited

This section prohibits any person from being employed by a board of education if the person was terminated or resigned due to being convicted for child abuse or neglect or a sex offense against a student. The state’s attorney in the judicial district where the conviction occurred is required to notify the superintendent of such in those cases where a school employee has been convicted of such offenses.

Boards of education are required to adopt written policies pertaining to suspected abuse or neglect or violations pursuant to the new subdivision (2) of section (a) pertaining to sex assault by a school employee.

Sections 7 & 8 Technical Changes

This amends *C.G.S. §17a-101j, Notification of law enforcement and prosecutorial authorities when reasonable belief of sexual abuse or serious physical abuse. Notification of agency responsible for licensure of institution or facility where abuse or neglect has occurred. Referral of parent or guardian for substance abuse treatment*, and *C.G.S. §17a-101o, School employee failure or delay in reporting child abuse or neglect. Policy re delayed report by mandated reporters*, to include the previous language that a child includes a victim as articulated in the new subdivision (2) of section (a).

Section 9 Rapid Response Teams

This is new legislation which creates confidential rapid response teams to work with DCF to coordinate mandated reports and provide access to information relevant to the investigation to ensure prompt investigation to address reports.

Section 10 No Employment if Conviction Even if Not Substantiated

This is new legislation which prohibits a board of education from hiring anyone if their employment contract was terminated or if they resigned because of a conviction under *C.G.S. §17a-101a, Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney*, even if the allegation was not substantiated

Section 11 Interference Removed From Risk Of Injury Statute

This removes from subsection (a) of *C.G.S. §53-21, Injury or risk of injury to, or impairing morals of, children. Sale of children*, language previously added that a person is guilty of a class D felony for intentionally and unreasonably interfering or preventing a report of abuse or neglect from being filed. The language has been inserted in as the new subsection (b)(2) in *C.G.S. §17a-101, Protection of children from abuse. Mandated reporters. Educational and training programs. Model mandated reporting policy*.

Sections 12 & 13 Revocation And Non-Issuance Of Teacher Certificates

This section amends subsection (i) of *C.G.S. §10-145b, Teaching certificates*, and *C.G.S. §10-145i, Limitation on issuance and reissuance of certificates, authorizations or permits to certain individuals*, to include those statutes amended under this act as a basis for the revocation of teaching certificates or permits or non-issuance of such by the State Board of Education.

Public Act 15-236 AN ACT PROTECTING ELDERLY CONSUMERS FROM EXPLOITATION

Section 1 Definitions

This section amends *C.G.S. §17b-450, Definitions*, by clarifying the definitions of abuse and neglect.

Section 2 Mandatory Reporter Defined - Elderly Person

This section amends *C.G.S. §17b-451, Report of suspected abuse, neglect, exploitation, or abandonment or need for protective services. Penalty for failure to report. Immunity and protection from retaliation*, to add emergency medical services providers, including those who are members of a municipal fire department, as a mandatory reporter. The list of mandatory

reporters includes many of the same professionals as in the mandated reporter law pertaining to child abuse or neglect, including "any social worker".

In addition, language has been added which requires a mandatory reporter to make a report to the Commissioner of Social Services within 72 hours whenever he/she:

"has reasonable cause to suspect or believe that any elderly person has been abused, neglected, exploited or abandoned, or is in a condition that is the result of such abuse, neglect, exploitation or abandonment, or is in need of protective services . . ."

Section 3 Cause of Action

This is new language which provides a cause of action by the elderly person, his/her guardian, conservator or personal representative if deceased, against the perpetrator of the abuse, neglect, exploitation or abandonment in which he/she may recover actual and punitive damages. However, suit for neglect or abandonment can only be brought in cases where there is a contractual obligation to care for the elderly person or the neglect was willful or criminal.

Section 4 No Inheritance

Currently a person is ineligible to collect an inheritance from the victim if the person was found guilty, including as an accessory, of the following offenses:

<i>C.G.S. §53a-54a</i>	<i>Murder</i>
<i>C.G.S. §53a-54b</i>	<i>Murder with Special Circumstances</i>
<i>C.G.S. §53a-54c</i>	<i>Felony Murder</i>
<i>C.G.S. §53a-54d</i>	<i>Arson Murder</i>
<i>C.G.S. §53a-55</i>	<i>Manslaughter in the first degree: Class B felony</i>
<i>C.G.S. §53a-55a</i>	<i>Manslaughter in the first degree with a firearm: Class B felony; Five years not suspendable</i>

This section amends C.G.S. §45a-447, *Person adjudged or determined to be guilty of killing another ineligible to inherit from or receive property or insurance or annuity proceeds as beneficiary of victim. Action in Superior Court re guilt*, to add to this list the following:

<i>C.G.S. §53a-122</i>	<i>Larceny in the first degree: Class B felony</i>
<i>C.G.S. §53a-123</i>	<i>Larceny in the second degree: Class C felony</i>
<i>C.G.S. §53a-321</i>	<i>Abuse in the first degree: Class C felony</i>

The section defines those situations wherein there is a real or personal property or a life insurance policy and a person convicted of one of these offenses is not entitled to receive any benefit. The provisions of this statute articulate how real or personal property is converted from being held in joint tenancy and a process for the convicted person to petition the court to override the prohibitions.

Section 5 Commission on Aging - Report

This section requires the Commission on Aging to study best practices for reporting the abuse, neglect, exploitation or abandonment of elderly persons and to submit a report to the General Assembly by January 1, 2016. In addition, it requires the Commission to create a clearing house for the best practices of detecting fraud and financial abuse for financial institutions.

Section 6 Mandatory Training for Financial Agents

This is new legislation which defines a financial agent and mandates that he/she attend training on detecting fraud and financial abuse of elderly persons.

MOTOR VEHICLES

Public Act No. 15-79 An Act Concerning Proof Of Identity For A "Drive Only" Motor Vehicle Operator's License

Section 1 Foreign Forms of Identifications (Effective July 1, 2015)

This section amends *C.G.S. §14-36m, Issuance of operators' licenses to applicants unable to establish legal presence in the United States and applicants without Social Security numbers*, to provide for the acceptance of a "valid foreign national identification card" or an "original birth certificate with a raised seal issued by a foreign country" as secondary proof of a person's identification in order to obtain a motor vehicle operator's license. A "valid foreign voter registration card . . . a certified school transcript . . . or a baptismal certificate" have been deleted as acceptable forms of identification to obtain a license. Copies, notarized copies or noncertified documents are not acceptable at all as proof of one's identification.

Section 2 Drive Only - No Voting (Effective July 1, 2015)

This amends subsection (e) of *C.G.S. §14-36m, Issuance of operator's licenses to applicants unable to establish legal presence in the United States and applicants without Social Security numbers*, which provides that any license issued pursuant to this statute cannot be used for voting must have language on the back of the license stating this prohibition.

POLICE POWERS

Public Act 15-83

AN ACT CONCERNING THE ENFORCEMENT OF ORDINANCES

Section 1

No Pursuit If For Ordinance Violation

This section amends subsection (c) of *C.G.S. §54-1f, Arrest without warrant. Pursuit outside precincts*, which currently authorizes law enforcement as defined to engage in pursuit of a person for an arrest outside their precincts to anywhere else in Connecticut and then return the person to the jurisdiction in which the offense was committed. The act makes clear that the police cannot engage in pursuit of a person who is alleged to have violated a municipal ordinance only.

June Special Session

Public Act No. 15-4

An Act Concerning Excessive Use of Force

Section 1

Training

This is new legislation which mandates training for police regarding:

“the use of physical force, training in the use of body-worn recording equipment and the retention of data created by such equipment, and cultural competency and sensitivity and bias-free policing training.”

Section 2

Guidelines to Achieve Diversity

This is new legislation which requires law enforcement create guidelines to promote “racial, gender and ethnic diversity” and for the “recruitment, retention and promotion of minority police officer” within law enforcement.

Section 3

Minority Police Officers

This section is new and requires law enforcement to make efforts to have the racial and ethnic diversity of its workforce reflect the community it serves when located within a community “with a relatively high concentration of minority residents”. In order to recruit, retain and promote minority officers, law enforcement may reach out to youth schools and sports including the police athletic league and explorer programs. Minority is defined as when the race of the person is “other than white, or whose ethnicity is defined as Hispanic or Latino .

Section 4

Physical force

This section amends *C.G.S. §51-277a, Investigation of the use of deadly physical force by peace officers*, and deletes the term “deadly” from the statute altogether to require an

investigation into whether the physical force used was appropriate when “physical force” was used on a person and the person later dies.

Section 5 Records of Physical Force to be Maintained

This is new legislation which requires law enforcement to maintain records which include the date and time of the incident, name of the victim and witnesses and a description of the circumstances when physical force was used which was likely to cause a serious physical injury or the death of another. Physical force includes striking another person with their hand or an object including such as a baton, kicking, using pepper spray or a taser or firing a weapon.

Section 6 Police Officers and Previous Misconduct

This is new legislation which prohibits law enforcement from hiring any former police officer who was dismissed or resigned or retired as a result of malfeasance or serious misconduct or while under investigation for such and requires the former officer to inform the law enforcement unit seeking to hire him/her of such. The legislation is not applicable to officers who have been exonerated of all allegations. The legislation defines malfeasance and serious misconduct as follows:

- (1) *"malfeasance" means the commonly approved usage of "malfeasance"; and*
- (2) *"serious misconduct" means improper or illegal actions taken by a police officer in connection with such officer's official duties that could result in a miscarriage of justice or discrimination, including, but not limited to,*
 - (A) *a conviction of a felony,*
 - (B) *fabrication of evidence,*
 - (C) *repeated use of excessive force,*
 - (D) *acceptance of a bribe, or*
 - (E) *the commission of fraud.*

Section 7 Definitions (Effective from passage)

This is new legislation which contains the definitions of law enforcement agency, police officer, body-worn recording equipment, digital data storage device or service. The language also requires the Commissioner of Emergency Services and Public Protection and the Police Officer Standards and Training Council (POST) to come up with the “minimum technical specifications” for the body-worn recording equipment worn by the officers and storage devices and services so that recording data can be retained. The section details when and how the body-worn recording equipment is to be worn and prohibits any law enforcement employee from altering, erasing or sharing the recordings made.

Section 8 **Grants in Aid to Municipalities**
(Effective January 1, 2016)

This section is new and provides for a percentage of the purchase costs of the body-worn recording equipment and storage of the recordings to be reimbursed, within available resources, by the Office of Policy and Management (OPM) to municipalities.

Section 9 **Peace Officer Exclusions**

This is new legislation which excludes special agents of the federal government or law enforcement members of the Mashantucket Pequot Tribe or Mohegan Tribe of Indians of Connecticut.

In addition, employers of peace officers are civilly liable if they interfere with any person who photographs, either by video or digital equipment a peace officer in the performance of their duties. This section provides the exceptions to this civil liability also.

RACIAL PROFILING

Public Act No. 15-109 **AN ACT CONCERNING THE COMMISSION ON RACIAL AND ETHNIC DISPARITY IN THE CRIMINAL JUSTICE SYSTEM AND THE REMOVAL OF THE TERMS "CRIPPLED" AND "DEFECTIVE EYESIGHT" FROM THE GENERAL STATUTES**

Section 1 **Additional Member**

This section amends *C.G.S. §51-10c Commission on Racial and Ethnic Disparity in the Criminal Justice System. Duties*, by adding the Chair of the Asian Pacific American Affairs Commission to the Commission on Racial and Ethnic Disparity in the Criminal Justice System. In addition, the Commission is now required to meet quarterly at a minimum.

The focus of the mission is to:

"address the over representation of racial and ethnic minorities, with particular attention to African-Americans and Latinos, in the state's criminal justice system, and shall include consideration of the impact of such racial and ethnic disparity on minority communities."

The Commission is charged with sponsoring educational programs which highlight the causes, effects and implications of racial and ethnic disparity in Connecticut's justice system. The Commission must study national strategies, policies and practices and make legislative recommendations to the General Assembly on how to make changes in accordance with such and file a report no later than January 15, 2017.

RISK REDUCTION CREDITS

Public Act No. 15-216 An Act Concerning Risk Reduction Credits, Carry Permits and Parole Officer Access to State Firearms Database

Section 1 Risk Reduction Credit Report

This section requires the Department of Correction (DOC) to provide a statistical report to the General Assembly regarding the award of risk reduction credits including the number of inmates released, the crimes for which they were convicted and recidivism information.

Sections 2 - 5 Technical changes

Section 2 amends *C.G.S. §7-126, Transportation of crippled children and children with defective eyesight*, to make technical changes to terminology used by inserting "physical disabilities" in lieu of "crippled" and "visual impairments" in lieu of "defective eyesight". Sections 3 through 5 make conforming language changes in accordance with section 2 and amend *C.G.S. §19a-49, Services for persons with cystic fibrosis*; subsection (a) of *19a-50, Children crippled or with cardiac defects. Payment of "clean claims"*; and subdivision (2) of *19a-175, Definitions*, respectively.

SEXUAL ASSAULT

Public Act No. 15-2 AN ACT CONCERNING A STUDY OF THE SEXUAL OFFENDER REGISTRATION SYSTEM

Section 1 Study by Connecticut Sentencing Commission

This is new language that charges the Connecticut Sentencing Commission to study the sex offender registry including:

- (1) The sentencing of sexual offenders;
- (2) the risk assessment and management of sexual offenders;
- (3) the registration requirements and registry established under chapter 969 of the general statutes;
- (4) the information available to the public and law enforcement regarding sexual offenders;
- (5) the effectiveness of a tiered classification system based on the risk of reoffending;
- (6) methods to reduce and eliminate recidivism by individuals convicted of a sexual offense;
- (7) housing opportunities and obstacles for sexual offender registrants;
- (8) options for post-sentence appeals concerning the registry status of a sexual offender registrant;
- (9) sexual offender management; and
- (10) victim and survivor needs and services and community education.

The Sentencing Commission must submit an interim report to the General Assembly no later than February 1, 2016 and a final report no later than December 15, 2017 and include any legislative recommendations:

Public Act No. 15-207 AN ACT CONCERNING EVIDENCE IN SEXUAL ASSAULT CASES

Section 1 Collection, Transfer and Analysis of Evidence

This section amends subsection (d) of *C.G.S. §19a-112a Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations. Protocol. Sexual assault evidence collection kit. Preservation of evidence. Costs. Training and sexual assault examiner programs*, to clarify the process for the collection, transfer by law enforcement to the lab and analysis of evidence in sexual assault cases. Now the police department is required to transfer the evidence to the lab no later than 10 days after collecting it. The state lab is required to analyze the evidence within 60 days after the evidence is collected or hold it at least 5 years if the victim decides to remain anonymous and not report the sexual assault. The new time lines do not affect the admissibility of the evidence in any proceeding if law enforcement fails to comply with them.

Section 2 Disclosure to Defense Team, Employees, Agents

This section amends *C.G.S. §54-86f, Admissibility of evidence of sexual conduct*, clarifies that the hearing to determine whether evidence of sexual conduct will be admissible shall be “in camera” and that any motion and supporting information filed shall be filed under seal and remain sealed until the court rules the evidence in the motion, or a portion of it and the motion, are admissible and the case proceeds to trial.

The legislation creates new subsections (b) and (c) which require that all motions and supporting documents, not unsealed by the court, be maintained for the Appellate Court if an appeal is filed.

Lastly, the new subsection (d) prohibits the defendant, defense counsel or agent of either to disclose such evidence disclosed by the state to anyone except persons employed by the defense or part of the defense team or successor counsel, unless the prosecutor has approved of such.

Public Act No. 15-213 AN ACT CONCERNING INVASIONS OF PRIVACY

Section 1 Peeping Tom & Up-Skirting Offenses

This amends *C.G.S. §53a-189a, Voyeurism: Class D felony*, and creates new subdivisions (3) and (4) under subsection (a) to address peeping toms and persons who engage in up-

skirting. The new offenses are defined as:

“(3) with the intent to arouse or satisfy the sexual desire of such person, commits simple trespass, as provided in section 53a-110a, Simple trespass: Infraction, and observes, in other than a casual or cursory manner, another person

(A) without the knowledge or consent of such other person,

(B) while such other person is inside a dwelling, as defined in section 53a-100,

Definitions, and not in plain view, and

(C) under circumstances where such other person has a reasonable expectation of privacy, or

(4) with intent to arouse or satisfy the sexual desire of such person or any other person, such person knowingly photographs, films, videotapes or otherwise records the genitals, pubic area or buttocks of another person or the undergarments or stockings that clothe the genitals, pubic area or buttocks of another person (A) without the knowledge and consent of such other person, and (B) while such genitals, pubic area, buttocks, undergarments or stockings are not in plain view.”

Currently voyeurism is a class D felony. See below for the enhanced penalties:

Class D felony First offense

Class C felony First offense and if previously convicted for any offense contained in subsection (f) of C.G.S. §53a-29

Class C felony First offense and if subject of offense is under 16 years of age

Class C felony Subsequent offense

The new subsection (c) provides an exception to the current statute of limitations articulated in *C.G.S. §54-193, Limitation of prosecution for certain violations or offenses*. The new language provides that notwithstanding §54-193, a person cannot be prosecuted for violating the current subdivisions (1) or (2) or the new subdivision (4) of subsection (a) of the voyeurism statute except:

“within five years from the date of the offense, or within five years from the date the subject of the offense discovers the existence of the photograph, film, videotape or other recording, that constitutes a violation . . . whichever is later.”

Section 2 Voyeurism - Probation 10 – 35 years

This section provides discretion to the court to impose a period of probation of no less than 10 years or greater than 35 years whenever a person is convicted of violating subdivision (2), (3) or (4) of subsection (a) of *C.G.S. §53a-189a, Voyeurism: Class D felony*.

Section 3 Peeping Tom and Up-Skirting = Nonviolent sexual offenses

This section amends subdivision (5) of *C.G.S. §54-250, Definitions*, to include as nonviolent sexual offenses the new voyeurism offenses created by this act.

Section 4 NGRI and Registration

This section amends subsection (c) of *C.G.S. §54-251, Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense*, to provide discretion to the court to exempt a person convicted or found not guilty by reason of mental disease or defect of either of the new voyeurism offenses from registering as a sex offender if the court finds it is not required for public safety.

Section 5 Freedom of Information & Voyeurism

This amends the freedom of information statutes, specifically subdivision (3) of subsection (b) of *C.G.S. §1-210, Access to public records. Exempt records to exempt from public disclosure*, the name and address of a victim of voyeurism.

Section 6 Non-Disclosure Of Address Or Telephone Number By Voyeurism Victim In Court

This amends *C.G.S. §54-86d, Disclosure of address and telephone number by victim of sexual assault not required*, to include the victims of voyeurism with victims of sexual assault from being required to disclose their address or telephone number during court proceedings so long as the court has made a finding pursuant to the existing statutory criteria, i.e. the information is not material to the proceeding, the identity of the victim was "satisfactorily established" and the address of the victim was "available" to the defense as in any other criminal case.

Section 7 Non Disclosure Identifiable Information Of Voyeurism Victims

This amends *C.G.S. §54-86e, Confidentiality of identifying information pertaining to victim of sexual assault. Availability of information to accused. Protective order information to be entered in registry*, to expand the same non disclosure protections currently provided to sexual assault victims to a victim of voyeurism.

Section 8 Unlawful Dissemination Of Intimate Images

This section creates a new class A misdemeanor. A person violates this new offense if they intentionally share an intimate image of another without the other's consent and the other suffers harm:

"(1) such person intentionally disseminates by electronic or other means a photograph, film, videotape or other recorded image of

(A) the genitals, pubic area or buttocks of another person with less than a fully opaque covering of such body part, or the breast of such other person who is female with less than a fully opaque covering of any portion of such breast below the top of the nipple, or

(B) another person engaged in sexual intercourse, as defined in section 53a-193 of the general statutes,

(2) such person disseminates such image without the consent of such other person, knowing that such other person understood that the image would not be so disseminated, and

(3) such other person suffers harm as a result of such dissemination. For purposes of this subsection, "disseminate" means to sell, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, present, exhibit, advertise or otherwise offer."

The new legislation is not applicable to situations wherein the other person voluntarily allowed the exposure or engage in sexual intercourse in a public place (see *C.G.S. 53a-181, Breach of peace in the second degree: Class B misdemeanor*, "any area that is used or held out for use by the public whether owned or operated by public or private interests") or "commercial setting", if the person is not "clearly identifiable" or the dissemination "serves the public interest".

STALKING

Public Act No. 15-175 AN ACT CONCERNING THE USE OF A GLOBAL POSITIONING SYSTEM

Section 1 Electronic Stalking

This legislation creates a new offense of electronic stalking, a class B misdemeanor, defined as when a person:

"recklessly causes another person to reasonably fear for his or her physical safety by willfully and repeatedly using a global positioning system or similar electronic monitoring system to remotely determine or track the position or movement of such other person."

TRAFFICKING

Public Act. No. 15-195 AN ACT STRENGTHENING PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING

Section 1 Counseling & Testing for Trafficking Victims

This amends *C.G.S. §19a-112b, Services to victims of sexual acts*, to extend counseling and HIV testing to victims of trafficking regardless of whether there has been a conviction for trafficking in persons or other sex offenses.

Section 2 Trafficking in Persons Council Expanded

This section amends subsection (b) of *C.G.S. §46a-170, Trafficking in Persons Council. Membership. Duties. Reports*, to add additional members to the Council representing victims of child sex trafficking and commercial exploitation of children. The Chief Public Defender remains as a member of this Council.

Section 3 Erasure Of Criminal Record Of Child Victim Of Trafficking

This section amends *C.G.S. §46b-146, Erasure of police and court records*, to permit a child or his/her parent or guardian to file a petition with the court for erasure of the child's criminal record if the criminal record resulted from being a victim of trafficking by another person under state or federal law.

Section 4 Trafficking in Persons - Compel or Induce

This section amends *C.G.S. §53a-192a, Trafficking in persons: Class B felony*. Current law provides that a person is guilty of trafficking in persons, a class B felony, when he/she "compels or induces another person to engage in conduct involving more than one occurrence of sexual contact with one or more third persons, or provide labor or services that such person has a legal right to refrain from providing" if the person uses force or the threat of force against another or a 3rd person or uses fraud or coercion. Current law defines sexual contact as "any contact with the intimate parts of another person".

The amendment provide that a person is guilty of trafficking if he/she "compels or induces another person who *is under 18 years of age* to engage in conduct involving more than one occurrence of *sexual contact* with one or more third persons that constitutes (A) prostitution, or (B) *sexual contact* for which such third person may be charged with a criminal offense", regardless of whether force, the threatened use of force, fraud or coercion were used.

Section 5 Wiretaps in Sex Offense Cases

Currently *C.G.S. §54-41b, Application for order authorizing interception*, authorizes the Chief State's Attorney or a State's Attorney where the wire tap will be conducted to apply for a wiretap to a panel of judges based upon certain criteria when it is believed that certain offenses, including gambling, narcotics, violent felonies or a violent crime intended to intimidate or coerce the government or civilian population are being committed. The amendment specifically adds the following statutes for which a Wiretap Application may be made:

<i>C.G.S. §53a-70c</i>	<i>Aggravated sexual assault of a minor: Class A felony</i>
<i>C.G.S. §53a-90a, subsection (a)</i>	<i>Enticing a minor. Penalties</i>
<i>C.G.S. §53a-192a</i>	<i>Trafficking in persons: Class B felony</i>
<i>C.G.S. §53a-196</i>	<i>Obscenity as to minors: Class D felony</i>

Section 6 Minor Victims – Waiver Of Time Limitations For Compensation

C.G.S. §54-211, Time limitation on filing application for compensation. Restrictions on award of compensation. Amount of compensation, provides the process before the Office of Victim Services for when an application for compensation may be ordered and the time limitations (2 years) for filing of such applications after the date of death or personal injury.

The amendment extends the ability to apply for a waiver of the time limitation to a minor victim who has been trafficked under state or federal law.

VETERANS

Public Act No. 15-44 AN ACT ADDING THE COMMISSIONER OF VETERANS’ AFFAIRS TO THE CRIMINAL JUSTICE POLICY ADVISORY COMMISSION.

Section 1 Veterans in the Criminal Justice System

This section amends *C.G.S. §18-87j, Criminal Justice Policy Advisory Commission,* to add the Commissioner of Veterans’ Affairs as a member of the Criminal Justice Policy Advisory with the authority to vote on issues pertaining to veterans in the criminal justice system and their reentry into the community upon release from incarceration.

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