

Connecticut Public Defenders 2016 Legislative Summary



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Division of Public Defender Services
Office of Chief Public Defender

Summaries of 2016 Public Acts

All acts are effective October 1, 2016 unless otherwise noted.

The following is a summary of the public acts adopted during the 2016 *Legislative Regular and Special Sessions* pertaining to criminal proceedings, juvenile delinquency and child protection. *Special thanks to Michael Wagner (P.A. 16-34 & P.A. 16-126) and Chris Rapillo (P.A. 16-147) for their contributions to this summary and assistance during the 2016 session.*¹

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.*

ANIMAL CRUELTY

- **Public Act 16-30** *An Act Concerning Support for Cats and Dogs that are Neglected or Treated Cruelly*

Section 1 **Court Appointed Advocates For Cats and Dogs**

This is new legislation which provides discretion to the court to order the appointment of an advocate to represent “the interests of justice” if the welfare of a cat or dog is at issue, in a prosecution pursuant to C.G.S. §53-247, *Cruelty to animals. Animals engaged in exhibition of fighting. Intentional injury or killing of police animals or dogs in volunteer canine search and rescue teams*, or proceedings pursuant to C.G.S. §22-329a, *Seizure and custody of neglected or cruelly treated animals. Vesting of ownership of animal. Animal abuse cost recovery account*, in any court proceeding or in criminal proceeding. The court may order the appointment on its own or upon motion from either party. The advocate is to be appointed from a list that the Commissioner of Agriculture has provided. If a party requests the appointment and is denied, the denial is not appealable.

The court appointed advocate is either an attorney or a law student who has knowledge of “animal issues and the legal system” who serves on a volunteer basis. Subdivision (b) provides the scope of what the advocate may do is as follows:

- “(1) Monitor the case;
(2) consult any individual with information that could aid the judge or fact finder and review records relating to the condition of the cat or dog and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and police officers;
(3) attend hearings; and

¹ Cover - reprint of original painting courtesy of Susan O. Storey, Chief Public Defender.

(4) present information or recommendations to the court pertinent to determinations that relate to the interests of justice, provided such information and recommendations shall be based solely upon the duties undertaken pursuant to this subsection."

- **Public Act 16-96** *An Act Increasing the Maximum Penalty for Persons Convicted of Subsequent Offenses of Malicious and Intentional Animal Cruelty*

Section 1 **Subsequent Offense – C felony**

This legislation amends *subsection (b) of C.G.S. §53-247, Cruelty to animals. Animals engaged in exhibition of fighting. Intentional injury or killing of police animals or dogs in volunteer canine search and rescue teams.* Current law provides that a violation of this statute, including a subsequent offense, is a class D felony, punishable up to 5 years incarceration and a fine of up to \$5,000. This act amends the statute so that a person who commits a subsequent violation is guilty of a class C felony, punishable by a sentence of 1 to 10 years incarceration and a fine up to \$10,000.

CELL PHONES, INTERNET RECORDS & FRAUD

- **Public Act 16-148** *An Act Concerning Compelled Disclosure of Cellular Telephone and Internet Records and Fraud Committed Through Telephone Solicitation*

Section 1 **Definitions – Procedures for Ex Parte Orders**

This section amends *subsection (a) of C.G.S. §54-47aa, Ex parte court order to compel disclosure of certain telephone and Internet records,* to clarify and add certain definitions. The definition of "call-identifying information" is clarified to exclude "geo-location data". In addition, the new legislation provides the following definition:

- | | |
|-----------------------|--|
| Exigent circumstances | <i>"an emergency involving danger of serious physical injury to or death of a person".</i> |
| Geo-location data | <i>"information concerning the location of an electronic device, including the real-time and historical location of the device, that, in whole or in part, is generated by, derived from or obtained by the operation of an electronic device, including, but not limited to, a cellular telephone surveillance device".</i> |

Subsection (b) of C.G.S. §54-47aa, Ex parte court order to compel disclosure of certain telephone and Internet records, has technical changes that adds an option for a law enforcement official to apply to the Superior court for an ex parte order for *content* of a subscriber's or customer's communications or *geo-location data* so long as law enforcement swears under oath that there is probable cause to believe that a crime has or is being committed and that the

content of the information is relevant and material to an ongoing criminal investigation. Any order authorizing disclosure of this information is effective for a period of not more than 14 days.

New subsection (c) language also permits a law enforcement official to apply directly to a telecommunications carrier or provider of electronic communication service or remote computing service for geo location data pertaining to an identified subscriber or customer for a period of time not in excess of 48 hours, including real time or historical geo-location data. The new legislation provides discretion to the telecommunications carrier or provider of electronic telecommunication service or remote computing service to provide the requested information if the law enforcement official swears under oath that:

- “(1) That facts exist upon which to base a belief that the data sought is relevant and material to an ongoing criminal investigation;*
- (2) a belief that exigent circumstances exist; and*
- (3) the facts supporting the belief that exigent circumstances exist.”*

Further the legislation provides that subsequent applications for such information initially applied for under this subsection for production of geo-location data in connection with the same investigation are required to be made pursuant to subsection (b) of this section.

The applicant is required to file a copy of the notice of the issuance of an order pursuant to subsection (b) with the court clerk and if information is provided the applicant is required to file an inventory with the clerk. If the court finds a “significant likelihood” that this notice would “seriously jeopardize” the investigation, the carriers and/or service providers are required to withhold notice to anyone, including the subscriber or customer, about the existence of the order. **However, the new legislation requires disclosure to defense counsel of all information provided to the court in response to the court order.**

Any information obtained pursuant to subsections (b) or (c) is prohibited from being retained for more than 14 days, unless the information relates to an ongoing criminal investigation. **The new legislation again provides specifically that any information provided to law enforcement pursuant to subsections (b) or (c) must be disclosed to defense counsel.**

This section requires law enforcement to report to the Chief State’s Attorney to provide, in addition to information already required under the statute, information with respect to applications made pursuant to the new subsection (c) and requires that the number of orders issued and the number of applications submitted be included in the report to the General Assembly.

Sections 2 - 6 New - Telephone Fraud

These sections create a new offense of telephone fraud with 6 degrees which range from a class B felony to a class C misdemeanor depending upon the amount of money or value of the property defrauded.

Section 2 Telephone Fraud in the 1st degree - Class B Felony

The elements of Telephone Fraud in the 1st degree are:

- (1) knowingly or intentionally devises or participates in a scheme to defraud another person of money or property,
- (2) (A) employs false pretenses or false promises, as described in *section 53a-119, Larceny defined*, of the general statutes, to obtain such money or property and the amount of such money or the value of such property exceeds twenty thousand dollars, or (B) regardless of its value, obtains such money or property by extortion, and
- (3) uses a telephonic call, including, but not limited to, a call made by an individual, an automated telephone call and a recorded message, to obtain such money or property from such other person.

Sections 3 - 7 Classification Dependent Upon Value Defrauded

The elements of Second degree through and including Sixth degree telephone fraud, except for the monetary or property value and the deletion of subsection (2) (B) pertaining to extortion in Telephone Fraud in the First Degree are the same. The monetary and property values are as follows:

Section	Offense	\$ Defrauded	Class
3	Telephone Fraud 2 nd Degree	exceeds 10,000	C felony
4	Telephone Fraud 3 rd Degree	exceeds 2,000	D felony
5	Telephone Fraud 4 th Degree	exceeds 1,000	A misdemeanor
6	Telephone Fraud 5 th Degree	exceeds 500	B misdemeanor
7	Telephone Fraud 6 th Degree	500 or less	C misdemeanor

CHILDREN

➤ *Public Act 16-7 An Act Concerning Probate Court Operations*

Section 5 Removal of Guardian, Appointment of Guardian

This amends C.G.S. §45a-612, *Visitation rights of any person removed as guardian*, to provide authority to the Probate Court to grant visitation in connection with motions or petitions to remove or appoint a guardian or terminate parental rights.

➤ **Public Act 16-48** *An Act Expanding the Commission for Child Support Guidelines*

Section 1 **Commission for Child Support**

This legislation amends C.G.S. §46b-215a, *Commission for Child Support Guidelines. Duties. Members. Validity of actions taken during vacancy*, to expand the Commission to also include the Child Advocate and a person, appointed by the Governor, who represents the rights and best interests of children.

➤ **Public Act 16-70** *An Act Concerning the Termination of Parental Rights*

Section 1 **Sexual Act That Results in the Conception of the Child**
(Effective July 1, 2016)

This section amends *subsection (j) of 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*, to articulate those sexual offenses for which a person's parental rights may be terminated based upon clear and convincing evidence that, as a result of his/her conduct a child was conceived. The legislation deletes the requirement that there be a conviction by a court and instead states that the person "committed an act that constitutes sexual assault" in the statutes, the conception of a child resulted, as follows:

- C.G.S. §53a-70 *Sexual assault in the first degree: Class B or A felony.*
- C.G.S. §53a-70a *Aggravated sexual assault in the first degree: Class B or A felony.*
- C.G.S. §53a-70c *Aggravated sexual assault of a minor: Class A felony.*
- C.G.S. §53a-71 *Sexual assault in the second degree: Class C or B felony.*
- C.G.S. §53a-72a *Sexual assault in the third degree: Class D or C felony*
- C.G.S. §53a-72b *Sexual assault in the third degree with a firearm: Class C or B felony*
- C.G.S. §53a-73a *Sexual assault in the fourth degree: Class A misdemeanor or class D felony*
- C.G.S. §53a-70b *Sexual assault in spousal or cohabiting relationship: Class B felony, (compelling a spouse/cohabitor to engage in sexual intercourse by the use of force or by the threat of force)*

➤ **Public Act 16-121** *An Act Concerning Child Care Facilities and Children Who Are Homeless or at Risk of Homelessness*

Section 1 **Child Care Facility & Homeless Under 21 years of Age**
(Effective from passage)

This section amends *subdivision (8) of C.G.S. §17a-93, Definitions*. A "child care facility" is currently defined as a "congregate residential setting for out of home placement" for persons under

18 years of age or persons under the age of 21 who are full time students in a secondary or technical school, college or state accredited job training program. The definition is now amended to include persons who are homeless or at risk of being homeless as defined in *C.G.S. §17a-484a, Grants-in-aid for support services to eligible households.*

➤ **Public Act 16-124** *An Act Concerning Transfers Of Guardianship And Substantiated Allegations Of Abuse Or Neglect By A Guardian*

Section 2 **Caregiver Defined**

This section clarifies the definition of a caregiver to be a fictive kin caregiver as defined by statute but also licenses or approved to provide foster care, a relative caregiver, who is 21 or older and also licensed or approved to provide foster care or an unrelated person currently caring for the child who is either licensed or an approved foster care provider.

➤ **Public Act 16-126** *An Act Concerning Child Endangerment While Driving While Under the Influence*

Section 1 **Under the Influence With Child Under 18 in Car**

Subsection (a) is new legislation which prohibits anyone from operating a motor vehicle, which includes snow mobiles and all terrain vehicles, with a passenger under the age of 18 years of age:

- ✓ if the operator is under the influence of liquor, drugs or both or,
- ✓ if the operator has an elevated blood alcohol content defined as:

- motor vehicle operator eight-hundredths of one per cent or more of alcohol
- commercial operator four-hundredths of one per cent or more of alcohol
- operator under 21 years two-hundredths of one per cent or more of alcohol

Section (b) of the act provides that *subsections (b), (c), (d), (e), (f), (h), (i) and (l) of C.G.S. §14-227a, Operation while under the influence of liquor or drug or while having an elevated blood alcohol content*, are applicable to a violation pursuant to Section (a) of this act. Subsection (g) of C.G.S. §14-227a is not applicable to any violation under Section (a) of the act because the legislation articulates the new penalties in Section (c) of the act.

Section (c) of the act articulates the penalties as follows:

(1) CONVICTION OF A FIRST VIOLATION:

- (A) Fined between \$500 and \$2000;

- (B) Incarceration not more than 1 year, 30 consecutive days of which may not be suspended or reduced in any manner, **and**
- probation with the following conditions:
- (i) 100 community service, as defined in *C.G.S. §14-227e, Community service for persons convicted of operation while under the influence of liquor or drug*;
 - (ii) be assessed through CSSD (Court Support Services Division) for alcohol or drug abuse;
 - (iii) undergo treatment including chemical screening;
 - (iv) submit to interview and evaluation by DCF (Department of Children and Families) to assess ongoing risk to child passenger; **and**,
 - (v) cooperate with any programming, treatment, directives or plan if so ordered by DCF, **and**
- (C) 45 day suspension of motor vehicle operator's license or nonresident operating privilege **and**, as a condition for the restoration of such license,
- be required to install an ignition interlock device on each motor vehicle owned or operated by such person **and**,
- upon such restoration, be prohibited for 1 year following the restoration from operating a motor vehicle unless the motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section *C.G.S. §14-227j, Court order prohibiting operation of motor vehicle not equipped with ignition interlock device*,

(2) SECOND VIOLATION CONVICTION

- **not later than 10 years after a prior conviction for the same offense:**

- (A) fined not less than \$1000 or more than \$4000
- (B) incarceration not more than 3 years, 180 consecutive days of which may not be suspended or reduced in any manner **and**

sentenced to probation with the following condition:

(i) Perform one hundred hours of community service, as defined in section *C.G.S. §14-227e, Community service for persons convicted of operation while under the influence of liquor or drug*;

(ii) be assessed through CSSD for alcohol or drug abuse;

(iii) undergo treatment, including chemical screening;

(iv) submit to an interview and evaluation by DCF to assess ongoing risk to child passenger; **and**,

(v) cooperate with any programming, treatment, directives or plan if so ordered by DCF; **and**,

(C) 45 day suspension of motor vehicle operator's license or nonresident operating privilege **and**, as a condition for the restoration of such license,

be required to install an ignition interlock device on each motor vehicle owned or operated by such person **and**,

upon such restoration, be prohibited for 3 years following the restoration from operating a motor vehicle unless the motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section *C.G.S. §14-227j, Court order prohibiting operation of motor vehicle not equipped with ignition interlock device*:

except that during the first year of the three-year period - operation of the motor vehicle by such person's operation is limited to transportation to or from:

- work or school,
 - an alcohol or drug abuse treatment program,;
 - an ignition interlock device service center;
 - a treatment program ordered by DCF; **or**,
 - an appointment with probation officer or DCF caseworker;
- and**,

(3) THIRD OR SUBSEQUENT CONVICTION OF A VIOLATION

- not later than 10 years after a prior conviction for the same offense:

(A) fined not less than \$2000 or more than \$8000,

(B) incarcerated not more than 5 years, 2 years of which may not be suspended or reduced in any manner, **and**

sentenced to probation requiring the following conditions:

- (i) 100 hours of community service, as defined in *C.G.S. §14-227e, Community service for persons convicted of operation while under the influence of liquor or drug*,
- (ii) be assessed through CSSD for alcohol or drug abuse,
- (iii) undergo treatment, including chemical screening,
- (iv) submit to an interview and evaluation by DCF to assess any ongoing risk to child passenger, **and**
- (v) cooperate with any programming, treatment, directives or plan if so ordered by DCF, **and**

(C) Permanent revocation of motor vehicle operator's license or nonresident operating upon 3rd offense, **except**

“that if such person's revocation is reversed or reduced pursuant to subsection (i) of C.G.S. §14-111, Suspension or revocation of registration, license or right to operate, such person shall be prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in C.G.S. §14-227j, Court order prohibiting operation of motor vehicle not equipped with ignition interlock device, for the time period prescribed in subdivision (2) of subsection (i) of section C.G.S. §14-111, Suspension or revocation of registration, license or right to operate .”

****NOTE REGARDING PRIOR CONVICTIONS FOR THE SAME OFFENSE:**

The act provides:

“For purposes of the imposition of penalties for a second or third and subsequent offense pursuant to this subsection, a conviction under the provisions of subsection (a) of this section, subsection (a) of section 14-227a, Operation while under the influence of liquor or drug or while having an elevated blood alcohol content, of the general statutes, subsection (a) of section 14-227g Operation by person under twenty-one years of age while blood alcohol content exceeds two-hundredths of one per cent. Procedures. Penalties, of the general statutes, subdivision (1) or (2) of subsection (a) of section 2 of this act, subsection (a) of section 53a-56b, Manslaughter in the second degree with

a motor vehicle: Class C felony, of the general statutes or subsection (a) of section 53a-60d, Assault in the second degree with a motor vehicle: Class D felony, of the general statutes or a conviction in any other state of any offense, the essential elements of which are determined by the court to be substantially the same as the elements of the aforementioned provisions, shall constitute a prior conviction for the same offense."

Section 2 School Buses, Student Transportation, While Under the Influence

This section specifically prohibits persons from (1) operating any vehicles specifically designed for transporting children or (2) when operating such in which a child under the age of 18 years of age is a passenger, both while under the influence of alcohol or drugs or both or with an elevated blood alcohol content as follows:

Operator	eight hundredths of one per cent or more of alcohol
Commercial motor vehicle	four hundredths of one per cent or more of alcohol
Operator under 21 years of age	two hundredths of one per cent or more of alcohol

Again the legislature created its own penalties for a violation of this offense while making applicable subsections (b), (c), (d), (e), (f), (h), (i), (j), (k) and (l) to a violation of this Section 2 of the act.

Subsection (c)(1) provides the following penalties:

(1) Violation of subdivision (1) of subsection (a) of this section:

(A) fined not more than \$10,000,

(B) incarceration not less than 1 year or more than 10 years, 30 consecutive days of which shall not be suspended or reduced in any manner, **and**

probation with the following conditions:

(i) 100 hours of community service, as defined in *C.G.S. §14-227e, Community service for persons convicted of operation while under the influence of liquor or drug,*

(ii) be assessed through CSSD for alcohol or drug abuse, **and**

(iii) undergo treatment, including chemical screening, **and**

(C) 45 day suspension of motor vehicle operator's license or nonresident operating privilege **and**, as a condition for the restoration of such license,

be required to install an ignition interlock device on each motor vehicle owned or operated by such person **and**,

upon such restoration, be prohibited for a three-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in *C.G.S. §14-227j, Court order prohibiting operation of motor vehicle not equipped with ignition interlock device*,

except that during year 1 of 3-year period, such person's operation of a motor vehicle shall be limited to such person's transportation:

- to or from work or school,
- an alcohol or drug abuse treatment program,
- an ignition interlock device service center **or**
- an appointment with a probation officer.

(2) **Violation of subdivision (2) of subsection (a):**

(A) be fined not more than \$10,000,

(B) incarceration not less than 1 year or more than 10 years, 120 consecutive days of which may not be suspended or reduced in any manner, **and**

probation with the following conditions:

- i. 100 hours of community service, as defined in *C.G.S. §14-227e, Community service for persons convicted of operation while under the influence of liquor or drug*,
- ii. be assessed through CSSD for alcohol or drug abuse, and
- iii. undergo treatment, including chemical screening, and

(C) 45 day suspension of motor vehicle operator's license or nonresident operating privilege and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for a three-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, *Court order prohibiting operation of motor vehicle not equipped with ignition interlock device*, of the general statutes, as amended by this act, except that for the first year of such three-year period, such person's operation of a motor vehicle shall be limited to

such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer.

Section 3 Prior Convictions

Section 3 of the act amends *C.G.S. §14-227a (g), Operation while under the influence of liquor or drug or while having an elevated blood alcohol content*, Penalties for operation while under the influence, by including in the definition of a "prior conviction for the same offense" for enhanced penalties for subsequent offenses, convictions pursuant to provisions of the act. "[A] conviction under the provisions of section 1 of this act, a conviction under the provisions of subdivision (1) or (2) of subsection (a) of section 2 of this act, a conviction under the provisions of *section 53a-56b, Manslaughter in the second degree with a motor vehicle: Class C felony*, or *53a-60d Assault in the second degree with a motor vehicle: Class D felony*, or a conviction in any other state of any offense the essential elements of which are determined by the court to be substantially the same as subdivision (1) or (2) of subsection (a) of this section, section 1 of this act, subdivision (1) or (2) of subsection (a) of section 2 of this act or section 53a-56b or 53a-60d, shall constitute a prior conviction for the same offense."

Sections 4 & 5 Pretrial Alcohol Education Program

Sections 4 & 5 of the act make applicable the provisions of the Pre Trial Alcohol Education Program under *C.G.S. §54-56g, Pretrial alcohol education program*, (2016 Supplement) to those arrested pursuant to the act.

Section 6 Definitions

Section 6 of the act amends the definition under *C.G.S. §14-1(79), Definitions*, (2016 supplement), of "second or subsequent violation by making its enhanced penalty definition exceptions applicable to the act." A second violation or subsequent violation means an offense committed not more than three years after the date of an arrest which resulted in a previous conviction for a violation of the same statutory provision, **except in the case of a violation of section §14-215, Operation while registration or license is refused, suspended or revoked. Operation in violation of restriction or limitation on operator's license or right to operate motor vehicle that requires use of ignition interlock device. Penalty, as amended by this act, [or] §14-224, Evasion of responsibility in operation of motor vehicles. Racing. Required removal of motor vehicle from traveled portion of highway. Impoundment or fine, or [subsection (a) of section] §14-227a, Operation while under the influence of liquor or drug or while having an elevated blood alcohol content, as amended by this act, or section 1 of this act**, "second" violation or "subsequent" violation means an offense committed not more than ten years after the date of an arrest which resulted in a previous conviction for a violation of the same statutory provision.

Section 7 16 & 17 Year Olds & Passengers

Section 7 of the act amends *C.G.S. §14-36(g), Restrictions on transportation of passengers and hours of operation of vehicle by holders of motor vehicle operator's licenses who are sixteen or seventeen years of age. Exceptions. Regulations. Penalties*, Ignition interlock device, by adding a new sub section (8), making the ignition interlock device provisions and 45 day suspension requirement under the Section applicable to those convicted pursuant to the act.

Section 8 16 & 17 Year Olds & 48 Hour Suspensions

Section 8 of the act amends *C.G.S. §14-36i, Seizure and forty-eight-hour suspension of operator's license of person who is sixteen or seventeen years of age for certain violations*, by making the act subject to its provisions.

Sections 9-37 Technical

Sections 9- 37, Final registry list. Availability of registrars of voters, of the act is technical and amends the listed specific statutory sections by making minor technical deletions as noted, and inserting the following language as appropriate for consistency in making applicable the provisions of the act: "[A]s amended by this act, section 1 of this act or subdivision (1) or (2) of subsection (a) of section 2 of this act."

Section 9 C.G.S. §14-37a (b), Special operator's permit for purposes of employment, education or medically necessary treatment, (2016 Supplement), Special operator's permits;

Section 10 C.G.S. §14-44(b), License endorsement for operators of commercial motor vehicles used for passenger transportation, school buses, student transportation vehicles, taxicabs, motor vehicles in livery service and motor or service buses. Requirements. Hearing. Appeal. Report re persons whose license or endorsement has been withdrawn, suspended or revoked. Penalty, (2016 Supplement), License endorsements;

Section 11 C.G.S. §14-44k (b), Disqualification from operation of commercial motor vehicles. Disqualification offenses. Lifetime disqualification. Mitigation of lifetime disqualification, Disqualification of commercial motor vehicles;

Section 12 C.G.S. §14-111(g), Suspension or revocation of registration, license or right to operate, Suspension or revocation of registration;

Section 13 C.G.S. §14-111 (i), Suspension or revocation of registration, license or right to operate, Reversal of suspension;

- Section 14** C.G.S. §14-111g (a), *Operator's retraining program*, Operator's retraining program;
- Section 15** C.G.S. §14-212a (a), *Highway and municipal road construction zones, utility work zones, traffic incident management zones and fire station work zones. Fines*, Municipal construction zones;
- Section 16** C.G.S. §14-215(c), *Operation while registration or license is refused, suspended or revoked. Operation in violation of restriction or limitation on operator's license or right to operate motor vehicle that requires use of ignition interlock device. Penalty*, Operating under suspension, DUI related;
- Section 17** C.G.S. §14-227b (b), *Implied consent to test operator's blood, breath or urine. Testing procedures. License suspension. Hearing*, Implied consent to test. The act **deletes** the language in subsection (b), operating a motor vehicle while under the influence of intoxicating liquor or any drug or both, replacing it with "a violation of section 14-227a, as amended by this act, section 1 of this act or subdivision (1) or (2) of subsection (a) of section 2 of this act;" .
- Section 18** C.G.S. §14-227e, *Community service for persons convicted of operation while under the influence of liquor or drug*, Community service for those convicted of DUI;
- Section 19** C.G.S. §12-227h, *Impoundment of motor vehicle operated by certain persons arrested for operating while under the influence of liquor or drug*, Records of police investigations;
- Section 20** C.G.S. §14-227i, *Records of police investigation of defendant re operation of motor vehicle while under influence of, or impaired by, intoxicating liquor or drugs. Copies*, Records of investigations;
- Section 21** C.G.S. §14-227j (b), *Court order prohibiting operation of motor vehicle not equipped with ignition interlock device*, Court order prohibiting operation of motor vehicle not equipped with ignition interlock device; section makes act applicable to orders under statute;
- Section 22** C.G.S. §14-295, *Double or treble damages for personal injury or property damage resulting from certain traffic violations*, Double or treble damages for personal injuries;

- Section 23** *C.G.S. §14-295a, Assessment for certain violations and payments of fines by mail, Assessment for certain violations;*
- Section 24** *C.G.S. §17a-696(a), Order for suspension of prosecution and treatment for alcohol or drug dependency, Suspension of prosecution for alcohol or drug dependency;*
- Section 25** *C.G.S. §18-100h (a), Release of persons convicted of certain motor vehicle and drug offenses to their residences, (2016 Supplement), Release of persons convicted of certain motor vehicle or drug offenses to residences;*
- Section 26** *C.G.S. §38a-806(c), Underwriting standards. Conditions on sale. Guaranteed issue required for limited time, Underwriting standards;*
- Section 27** *C.G.S. §46b-127(f), Transfer of child charged with a felony to the regular criminal docket. Transfer of youth aged sixteen or seventeen to docket for juvenile matters, (2016 Supplement), Transfer of child charged with a felony to regular docket;*
- Section 28** *C.G.S. §51-56a(c) (d), Accounting for receipts by court clerks. Remission of certain amounts to municipalities. Additional fees to fund police training. Surcharge for violations, Accounting. Additional fees;*
- Section 29** *C.G.S. §51-193u (a), Hearing of violations and infractions by magistrate. Authority of magistrate decision. Demand for trial de novo, Hearing by magistrate;*
- Section 30** *C.G.S. §53a-40f (a), Persistent operating while under the influence felony offender. Authorized sentences, Persistent operating while under the influence felony offender;*
- Section 31** *C.G.S. §54-56d (h) (2) (B), Competency to stand trial. (a) Competency requirement. Definition, "Track two" competency exclusion;*
- Section 32** *C.G.S. §54-56e (b), Accelerated pretrial rehabilitation, Accelerated rehabilitation eligibility exclusions made applicable to provisions of the act;*
- Sections 33, 34, 35** *C.G.S. §54-76b (a), Youthful offenders: Definitions; applicability of interstate compact, C.G.S. 54-76c (a), Eligibility to be adjudged a youthful offender. Transfer of cases, and C.G.S. 54-76l (a), Records or other information of youth to be confidential. Exceptions, Youthful offenders, Youthful offender eligibility, and Youthful offender records confidential.*

These sections make the exceptions for definition, eligibility, and record confidentiality applicable to the provisions of the act;

Section 36 *C.G.S. §54-143, Costs imposed in prosecutions, Court costs;*

Section 37 *C.G.S. §54-209 (b), When compensation may be ordered. Order inadmissible in civil or criminal proceeding, Victim compensation.*

➤ **Public Act 16-147** *An Act Concerning The Recommendations Of The Juvenile Justice Policy And Oversight Committee*

Section 1 **Grounds for Detention**
(Effective January 1, 2017)

This section amends *C.G.S. §46b-133, Arrest of child. Notice of arrest. Release or detention of arrested child. Alcohol or drug testing or treatment as condition of release. Report re suspected abuse or neglect. Admission of child to juvenile detention center. Entry of take into custody order or other process into central computer system*, and changes language within to reflect when a child is arrested for a “delinquent act” rather than a “crime”. Subsection (c) of *C.G.S. 46b-133* is amended to provide that a child may be held in detention, upon arrest of the child and order of the court, if:

(A) Probable cause exists that the child committed the delinquent act;

(B) No less restrictive alternative is available; and,

(C) (i) Probable cause exists to believe that the child poses risk to public safety between court dates if released to the community;

(ii) there is a need to hold the child based upon the child’s failure to respond to the court previously; or,

(iii) the child must be held for another jurisdiction.

If a child is placed in detention after arrest, subsection (e) of *C.G.S. 46b-133* is amended to require that a child not be held unless there is probable cause that the child committed the delinquent act, there is no less restrictive alternative and a risk assessment tool is utilized which demonstrates that there is:

(i) probable cause that the child will be a public safety risk if in the community; (ii) there is a need to ensure that the child will appear in court; or,

(iii) a need to hold the child for another jurisdiction.

The act provides the court with the discretion to consider a suspended detention order with graduated sanctions based upon the risk assessment in lieu of detention. The act is amended to

reduce the time a child can be held from 15 to 7 days or the dispositional hearing, whichever period of time is shorter.

Sections 2 Risk Assessment and Confidentiality
(Effective from passage)

This is new legislation which requires CSSD to develop a detention risk assessment instrument to be utilized prior to a child being released from detention.

Section 3 Judicial Policies Regarding the Release of a Child
(Effective from passage)

This is new legislation which requires CSSD to promulgate policies and procedures regarding the release of a child from detention.

Section 4 Confidentiality
(Effective January 1, 2017)

This section amends *subsection (l) C.G.S. §46b-124, Confidentiality of records of juvenile matters. Exceptions*, to protect from disclosure information revealed through the detention screening including information obtained through the use of the risk assessment tool. The act strictly prohibits disclosure of the information except for the purpose of making a recommendation to the court as to whether the child should be detained.

Section 5 Diversion Programs
(Effective from passage)

This is new legislation which required DCF and CSSD to collaborate on community based diversionary programs for children who are not held in detention.

Section 6 Goals of the Court

This section amends *subdivision (l) of subsection (b) of C.G.S. §46b-121, "Juvenile matters" defined. Authority of court*, to eliminate as a goal of the court punishment of a child in delinquency matters. The section requires that a goal be to *"provide individualized supervision, care, accountability and treatment to such child in a manner consistent with public safety"* and to *"ensure that the child is responsive to the court process"*.

Section 7 Truancy Not a FWSN Offense
(Effective August 15, 2017)

This section amends *subdivision (5) of section 46b-120, Definitions*, to remove truancy from the list of Families With Service Needs (FWSN) offenses.

Sections 8 & 9 Truancy Intervention
(Section 8 - Effective August 15, 2017)
(Section 9 - Effective from passage)

These sections create new law and amend *section 10-198a, Policies and procedures concerning truants*, of the 2016 supplement by requiring the Connecticut Department of Education to identify and implement truancy intervention models for certain schools no later than August 15, 2018.

Section 10 Police Training - Adolescents
(Effective January 1, 2017)

In addition to 4 areas of training pursuant to current law, this section amends *C.G.S. §7-294, Earnings not affected*, to also require police basic and *field* training on:

- ✓ *“the use of graduated sanctions;*
- ✓ *techniques for handling trauma;*
- ✓ *restorative justice practices;*
- ✓ *adolescent development;*
- ✓ *risk-assessment and screening tools; and,*
- ✓ *emergency mobile psychiatric services.”*

Section 11 School Diversion Initiatives
(Effective from passage)

This is new legislation which requires, by August 15, 2017, the State Department of Education, DCF, DMHAS and CSSD to collaborate on school diversion initiatives for children with mental health needs in lieu of being placed into schools with high arrest rates and disproportionate minority contact.

Sections 12 Expulsion Hearings and Right to Counsel - Continuances
(Effective August 15, 2017)

The act amends *C.G.S. §10-233d, Expulsion of pupils*, to require 5 days notice and an advisement of the right to counsel to the child’s parents or guardians before an expulsion hearing can be held. The notice must provide information pertaining to how to obtain legal services which are free or at a reduced rate and mandates that the parents can have up to a one week continuance if the parents or guardians wish to obtain counsel.

The act also requires that the education provided during expulsion be equivalent to alternative education as defined in *C.G.S. §10-74j, Alternative education*, and requires an individualized learning plan.

Section 13 **Out of School Suspension**
(Effective July 1, 2017)

This is new and eliminates the use of an out of school suspension if the child is residing in any facility operated by DCF, DOC or CSSD.

Section 14 **Educational Needs & Deficiencies Plan**
(Effective from passage)

This is new legislation which requires the Department of Education, DCF, DOC and the the Judicial Department to collaborate on an implementation plan to address educational needs and deficiencies of children within their facilities who are reentering the community.

Sections 15-17 **Recidivism Reduction**
(Section 15 - Effective from passage)
(Section 16 - Effective from passage)
(Section 17 - Effective January 1, 2017)

These sections are new legislation which requires DCF and the Judicial Department to implement an evidence based recidivism reduction framework, for DCF to provide training on de-escalation, track arrests within secure and residential facilities, and for OPM to track and analyze the rates of recidivism for children.

Section 18 **Juvenile Justice Policy and Oversight Committee (JJPOC)**
(Effective January 1, 2017)

This section adds the State Victim Advocate or his/her designee to the JJPOC membership. In addition, it requires the JJPOC to develop a plan for a community based diversion system after consideration of numerous items and to make recommendation pertaining to such to the General Assembly.

➤ **Public Act 16-186** *An Act Concerning Detained Youth*

Section 1 **Secure Detention and Negative Impact on Children**

This section amends *subsection (f) of C.G.S. §17a-22bb, Implementation plan for meeting mental, emotional and behavioral needs of children. Departmental strategies. Reports. Training. Reimbursement*, to require DCF, the Judicial Branch and DOC to collaborate on and submit a plan by October 1, 2017, to reduce and prevent the “negative impact of mental, emotional and behavioral health issues on children and youth 20 years and younger who are held in detention and DOC.

The legislation creates a new subsection (g) which requires DOC to report by October 1, 2017, how often seclusion and physical restraint are utilized on children and youth, 20 years of age or younger incarcerated at Manson Youth.

Section 2 Additional Duty of the Child Advocate

This section amends *subsection (a) of C.G.S. §46a-13l, Child Advocate's duties. Child fatality review panel. Reports to the Governor and the General Assembly. Investigations*, to augment the duties of the Child Advocate to include preparation of a report regarding children and youth 20 years and younger held in detention or DOC.

- **Public Act 16-210 *An Act Establishing a Program for Court Appointed Special Advocates in Certain Juvenile Court Matters***

Section 1 Court Appointed Special Advocates Defined

This is new legislation which permits the court to establish a "court appointed special advocate program" for which no fees will be charged. These advocates are required to work as a "resource" to the court as it makes its determination of the best interests of a child under the age of 18 who is the subject of a neglect or families with service needs petition. The advocate, is charged with making his/her own independent investigation and has access to the parties and records "relevant to the child's best interests" after obtaining the appropriate releases. The advocates are prohibited from interfering with counsel of the GAL for the child. The section also provides immunity from civil or criminal liability but not for intentional, willful or wanton misconduct.

CIVIL GIDEON

- **Public Act 16-26 *An Act Concerning Funding of Legal Services for the Poor***

**Section 1 Client Security Fund/Occupational Tax
(Effective July 1, 2016)**

This section amends *C.G.S. §51-81d, Client Security Fund*, in that after October 1, 2016, any money deposited in the Client Security fund "may" be used to make grants in aid to organization administering programs for use of interest earned on lawyer's clients' funds accounts for purpose of funding legal services. Subsection (d) of Section 1 increases the threshold for persons required to pay the Attorney Occupational Tax from less than \$450 to less than \$1000.

**Section 9 Certification of Fee Increases
(Effective from passage)**

This section amends *C.G.S. §51-5d, Chief Court Administrator to transfer certain revenue to organization administering program for use of interest earned on lawyers' clients' funds accounts*

and to *Judicial Data Processing Revolving Fund*, to require Chief Court Administrator to certify quarterly amount of revenue received as a result of the fee increases that took effect July 1, 2016 in Sections 2-8 of this act and transfer that amount to the organization administering program for legal services.

➤ **Special Act 16-19** *An Act Creating a Task Force to Improve Access to Legal Counsel in Civil Matters*

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

This section creates a new Task Force to examine the lack of access to legal representation in civil matters. A number of agency representatives, including the Chief Public Defender or her designee, Law Schools, Bar Associations and Legal Aid Associations, have been named as members to the Task Force which is required to submit a report to the General Assembly no later than December 15, 2016, the same date that the Task Force terminates.

COURTS

➤ **Public Act 16-105** *An Act Concerning Court Operations*

Sections 4 & 5 **Restraining Order Applicants - Information**

These sections amend *subsections (a) and (b) of C.G.S. §46b-15, Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies*, and *C.G.S. §46b-15b, Duties of Superior Court re applicants for restraining orders in domestic violence situations*, to require the court to provide contact information for counselors and domestic violence agencies to Restraining Order applicants. **Section 4** provides that when considering the application, the court may also consider reports from Family Services units and information which includes:

- prior orders of protection;
- pending and past criminal history;
- information from pending and past violent crime convictions;
- outstanding warrants;
- risk assessment level of risk; and,
- pending or disposed family matters.

If the applicant is under 18 years of age, the legislation prohibits the parent, guardian or responsible adult who appears as next friend from speaking at the hearing unless good cause exists for the applicant not to be able to speak on their own behalf.

The legislation also provides that, for purposes of this section, "*violent crime*" includes:

"(A) An incident resulting in physical harm, bodily injury or assault;

(B) An act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening;

(C) Verbal abuse or argument if there is a present danger and likelihood that physical violence will occur; and,

(D) Cruelty to animals as set forth in section 53-247, Cruelty to animals. Animals engaged in exhibition of fighting. Intentional injury or killing of police animals or dogs in volunteer canine search and rescue teams."

Section 6 Agreed Upon Continuance for Ex Parte Hearings

This section amends *subsection (b) of C.G.S. §46b-16a, Issuance of civil protection order on behalf of person who has been victim of sexual abuse, sexual assault or stalking. Application. Hearing. Court orders. Duration. Notice. Other remedies*, to require the agreement of the parties or a court order for good cause shown before the court can enter an ex parte order granting a postponement of a hearing on the application for a civil protection order.

Parents, guardians or responsible adults appearing as next friend of an applicant under the age of 18 are prohibited from speaking at the hearing unless good cause exists for the applicant not to be able to speak on his/her own behalf.

DOMESTIC VIOLENCE

➤ Public Act 16-34 An Act Protecting Victims Of Domestic Violence

Section 1 Ex Parte Order and Firearms/ Civil Protection Orders – Service Costs

Under current law, *C.G.S. §46b-15, Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies*, allows a court to issue an ex parte protective order "as it deems appropriate" where an applicant alleges an "immediate present and physical danger." Public Act 16-34 authorizes a judge to issue an ex parte order to transfer all possessed firearms or ammunition, whenever an applicant indicates that the respondent possesses or is eligible to possess firearms or ammunition. The order will require the respondent to transfer all firearms or ammunition within 24 hours of service of the notice of the ex parte order. Failure to transfer firearms or ammunition pursuant to the ex parte order will also subject a person to the charge of criminal possession of a firearm under *C.G.S. Section 53a-217, Criminal possession of a firearm, ammunition or an electronic defense weapon: Class C felony, or 53a-217c, Criminal possession of a pistol or*

revolver: Class C felony. The act requires that the state marshal's office provide procedures to allow for meetings between marshals and applicants to facilitate the service of notice without cost, and to enter into the Judicial Branches Internet Website whether notice was successfully served upon the respondent.

Section 1 of the Act also amends *subsection (b) of C.G.S. Section 6-32, Duties. Cost of serving a civil protection order*, which governs the duties of state marshals including service of process, and makes it applicable to "civil protection" orders issued for victims of sexual assault and stalking " pursuant to *section 46b-16a, Issuance of civil protection order on behalf of person who has been victim of sexual abuse, sexual assault or stalking. Application. Hearing. Court orders. Duration. Notice. Other remedies.*

Section 2 State Marshalls

Section 2 of the Act amends *section (j) of Section 6-38b, State Marshal Commission. Members. Regulations. Duties. Appointment of state marshal to fill vacancy*, by authorizing the state marshal commission to adopt rules for reliable access to state marshals for persons applying for a restraining order *under section 46b-15, Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies*, including the provision of services to persons limited in English, hearing impaired, and service of photo copy.

Section 3 Family Violence Protective Orders

Section 3 of the Act amends *C.G.S. Section 46b-15(b) Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies*, of the family violence protective order statute by allowing an applicant to indicate not only whether a respondent possesses firearm(s) or ammunition, but also whether there exists **an eligibility certificate for a pistol or revolver, a long gun eligibility certificate or an ammunition certificate.** The Act reduces from fourteen days to **seven days** the maximum time within which a hearing must be scheduled in those cases where an ex parte order issues and the applicant indicates that the respondent possesses, or is eligible to possess firearm(s) or ammunition. This section also reduces to **three days** from five days the minimum time before which the notice of hearing on the ex parte order must be served on the respondent. The act creates sub-sections **(h) (2)** and **(3)** in 46b-15, requiring the marshal to provide in-hand service "**whenever possible.**" Within two hours of service, the marshal is required to input into the Judicial Branches internet website the date, time, and method of service. Unsuccessful service must be so entered.

Sections 4 & 5 Court Space

Sections 4 & 5 of the act require the Chief Court Administrator to make court space available for meetings between applicants and marshals to facilitate the service of notice of hearing and any order issued, and to publish information about the process.

Section 6 Record Keeping

Section 6 of the act makes the record keeping provisions contained in section three, applicable to *C.G.S. Section 46b-16a, Issuance of civil protection order on behalf of person who has been victim of sexual abuse, sexual assault or stalking. Application. Hearing. Court orders. Duration. Notice. Other remedies*, "service of civil protection orders" for victims of sexual abuse, sexual assault, and stalking.

Section 7 Transfer of firearms or ammunition

Section 7 of the act amends *C.G.S. Section 29-36k, Transfer, delivery or surrender of firearms or ammunition by persons ineligible to possess firearms or ammunition. Destruction of firearms or ammunition. Penalty*, the firearms transfer statute, by requiring in section(b) that no later than **twenty-four hours** after notice of the ex parte order has been served, the person subject to the order must transfer the firearm(s) or ammunition to a **federally licensed firearms dealer** pursuant to sale; or, deliver or surrender the firearm(s) and ammunition to the **Commissioner of Emergency Services and Public Protection**, or a **local police department may accept transfers on behalf of the Commissioner**. Sub-sections (c) (1) (2) and (3) of the transfer statute are added to provide for the process by which a person who had been the subject of an order may request return of firearm(s) or ammunition.

Section 7 concludes with the act's penalty provision by amending the transfer statute in sub-section (e), providing that failure to transfer, deliver, or surrender the firearm(s), subjects the person to the penalty provided for the charge of criminal possession of a firearm under *C.G.S. Section 53a-217, Criminal possession of a firearm, ammunition or an electronic defense weapon: Class C felony*, or *53a-217c, Criminal possession of a pistol or revolver: Class C felony*.

Sections 8, 9 & 10 Ineligibility for Certain Permits

Sections 8, 9, 10 of the Act amend *C.G.S. Sections 29-28, 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, 29-36f, Eligibility certificate for pistol or revolver*, and *29-37p, Long gun eligibility certificate. Disqualifiers*, which provide for the granting of temporary permits, eligibility certificates, or long-gun eligibility certificates. These sections clarify that one who is subject to an "ex parte order issued pursuant to section 46b-15 or 46b-16a as amended," becomes ineligible for these permits or certificates.

Sections 11 - 14 Reinstatement of Permits and Eligibility Certificates

Sections 11 through 14 provide for the timely process and procedure for reinstatement of temporary permits and eligibility certificates that were previously revoked.

Section 15 & 16 Ex Parte - No Opportunity To Be Heard

Sections 15 and 16 of the act amend C.G.S. Sections *53a-217, Criminal possession of a firearm, ammunition or an electronic defense weapon: Class C felony, and 53a-217c, Criminal possession of a pistol or revolver: Class C felony*, by deleting the language "and the opportunity to be heard" to conform to the ex parte and twenty-four hour transfer provisions under Section 7 of the Act.

DRUGS - OVERDOSES

➤ Public Act 16-43 *An Act Concerning Opioids and Access to Overdose Reversal Drugs*

Section 1 Opioid Antagonist (Effective from passage)

This section amends C.G.S. §17a-714a, *Immunity and no violation of the standard of care for prescribing, dispensing or administering an opioid antagonist to treat or prevent a drug overdose*, to require all emergency responders to have an opioid antagonist when responding to medical emergencies.

Section 2 & 3 Insurance Policies - No Prior Authorization to Administer (Effective January 1, 2017)

This is new legislation which requires all individual and group insurance providers to eliminate a prior authorization requirement for the administration of certain drugs for the treatment of a drug overdose.

Section 4 Connecticut Alcohol and Drug Policy Council

The Chief Public Defender or her/his designee is currently a member of this Council. This legislation provides that the Council Chairs may create subcommittees and appoint people to such who are licensed alcohol and drug counselors, pharmacists, police chiefs, emergency medical services personnel and others to work on the subcommittees.

EMPLOYMENT AND CRIMINAL HISTORY

➤ Public Act 16-83 *An Act Concerning Fair Chance Employment*

Section 1 Inquiry into Criminal History Prohibited (Effective January 1, 2017)

Section 1 amends C.G.S. §31-51i, *Employer inquiries about erased criminal record prohibited. Discrimination on the basis of erased criminal record, provisional pardon or certificate of rehabilitation prohibited. Availability of information on employment application form. Duties of*

consumer reporting agency issuing consumer report for employment purposes containing criminal matters of public record, to prohibit an employer from asking about a prospective employee's prior arrests, criminal charges, or convictions on initial employment applications with 2 exceptions as follows:

- (1) state or federal law requires the employer to inquire about such, or
- (2) the position applied for requires a security, fidelity or equivalent bond for such.

Section 3 **Fair Chance Employment Task Force**
(Effective upon passage)

This section creates this Task Force to study issues related to "employment opportunities" available to people with criminal histories. Leadership of the General Assembly is required to appoint the members of the Task Force which will create and submit a report to the Judiciary and Labor Committees not later than January 1, 2017, the same date the Task Force terminates.

FIREARMS

- **Public Act 16-152** *An Act Concerning Carrying a Firearm While Intoxicated or Under the Influence of Alcohol*

Section 1 **Reduction in Blood Alcohol & Carrying a Firearm**

This section amends *C.G.S. §53-206d, Carrying a firearm while under the influence of intoxicating liquor or drug prohibited. Hunting while under the influence of intoxicating liquor or drug or while impaired by the consumption of intoxicating liquor prohibited*, to decrease the blood alcohol content from ten-hundredths to eight-hundredths for persons subject to violating this statute for carrying a firearm while intoxicated. The offense remains a class B misdemeanor.

Likewise, pursuant to the changes in subsection (b), a class A misdemeanor, a person hunting is deemed to be under the influence of if he/she has a blood alcohol content of:

- (1) eight-hundredths of one per cent or more of alcohol, (reduced from the current statutory threshold of ten-hundredths) or
- (2) is under 21 years of age and has a blood alcohol of two-hundredths of one per cent or more of alcohol.

HOARDING

➤ *Special Act 16-2 An Act Establishing a Task Force to Study Hoarding*

This legislation creates a Task Force made up of numerous law enforcement and social service agency representatives to study hoarding. The act requires that a report be filed with the legislature by January 1, 2017, which is also the date that the Task Force terminates.

NEW OFFENSES

➤ *Public Act 16-66 An Act Concerning Various Revisions to the Public Health Statutes*

Section 2 Tattoos and License - D Misdemeanor

This section amends *C.G.S. §20-266p, Prohibited Acts*, to include in the list of offenses which constitute a Class D misdemeanor, whenever a person provides tattooing services without a license or temporary permit as required by statute.

Section 35 Music Therapist - D Felony

This is new legislation which creates a class D felony for any person who uses the title, abbreviations or anything implying that they are a "music therapist" or "certified music therapist" unless the person meets the definition criteria as outlined in this new law.

Section 36 Art Therapist - D Felony

This is new legislation which creates a class D felony for any person who uses the title, abbreviations or anything implying that they are an "art therapist" or "certified art therapist" unless the person meets the definition criteria as outlined in this new law.

MARIJUANA

➤ *Public Act 16-23 An Act Concerning the Palliative Use of Marijuana*

The act permits the treatment of patients under the age of 18 years old to utilize marijuana. The law continues to prohibit the use of marijuana in buses, the workplace, schools, public place or in the presence of a person under the age of 18 years old.

Section 4 Nurse - No Prosecution

This section amends *C.G.S. §21a-408c, Physician not subject to arrest, prosecution or certain other penalties. Requirements. Written certifications. Exceptions*, and prohibits a nurse from being

prosecuted or held accountable in a civil proceeding, licensing boards because he/she administered marijuana to a patient who qualifies the law.

Section 14 Research subjects – No Prosecution

In addition this section prohibits a research program subject with a valid registration certificate from the Department of Consumer Protection from being prosecuted or held accountable in a civil proceeding or licensing board for using marijuana.

MISCELLANEOUS

- **Public Act 16-90 *An Act Concerning The Reporting Of Injuries Resulting From The Discharge Of A Firearm And Stab Wounds***

Section 1 Stab Wounds – Report By Hospital to Police

This act amends *C.G.S. §19a-490f, Requirements for reports of treatment of wounds from firearms*. Current law requires hospitals and other medical facilities to report wounds or injuries from firearms. This act now includes stab wounds for reporting purposes, clarifies the information to be reported and the evidence preservation and retention procedures to be followed by the hospital or medical facilities and their employees. In addition, the legislation provides immunity to those facilities and employees from civil or criminal liability or disciplinary proceedings who makes a report in good faith and follows the procedures outlined in the act.

MOTOR VEHICLES

- **Public Act 16-54 *An Act Increasing Penalties for Failure to Yield to Pedestrians in Crosswalks and Failure to Exercise Due Care to Avoid Hitting a Pedestrian or Cyclist***

Section 1 Fine Increase – Crosswalks

This section amends *C.G.S. §14-300, Crosswalks. Pedestrian-control signals. Regulation of pedestrians and motor vehicles at crosswalks. Pedestrians who are blind or have guide dogs*, which is currently an infraction with a fine of \$90. The legislation increases the fine which can be imposed to a fine up to \$500.

Section 2 Pedestrians and Bicyclist - Fine Increase

This section amends *C.G.S. §14-300d, Operator of a vehicle required to exercise due care to avoid pedestrian*, which is currently an infraction. The legislation increases the fine which can be imposed to a fine up to \$500.

- **Public Act 16-55** *An Act Concerning Recommendations by the Department of Motor Vehicles Regarding Hazardous materials, Car Dealers, Electronic Registration, Student Transportation Vehicle Operators, Diversion Programs, Motor Vehicle Inspectors and Minor Revisions to the Motor Vehicle Statutes.*

Section 3 **Motor Vehicle Sales/Repair – Criminal Background Check**

This section amends *subsection (a) of C.G.S. §14-52a, Grounds for refusal to grant or renew license*, and requires applicants for a license to engage in the sale or repair of motor vehicles to submit to a criminal record check, not more than 30 days before making an application and provide the results to the Department of Motor Vehicles (DMV).

Section 9 **Suspension Prosecution/Treatment Alcohol or Drugs**

Section 9 amends *subsection (a) of C.G.S. §17a-696, Order for suspension of prosecution and treatment for alcohol or drug dependency*, to make ineligible persons charged with violating *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*, or *C.G.S. §53a-56b, Manslaughter in the second degree with a motor vehicle: Class C felony*, in addition to the exceptions already in the statute. Current law provides discretion to the court to waive ineligibility provisions for anyone.

However, new language in the act removes the court’s discretion to waive ineligibility provisions if a person is charged with *C.G.S. §14-227a, Operation while under the influence of liquor or drug or while having an elevated blood alcohol content*, *§14-227g, Operation by person under twenty-one years of age while blood alcohol content exceeds two-hundredths of one per cent. Procedures. Penalties*, *§53a-56b, Manslaughter in the second degree with a motor vehicle: Class C felony*, or *§53a-60d, Assault in the second degree with a motor vehicle: Class D felony*, if the person was operating a commercial vehicle OR held a commercial driver’s license or commercial driver’s instruction permit.

Section 10 **Firearms and Motor Vehicle Inspectors**

This section amends *subsection (b) of C.G.S. §53a-217b, Possession of a weapon on school grounds: Class D felony*, to exempt certain motor vehicle inspectors, while engaged in the performance of their official duties, from the provisions of *subsection (a) of C.G.S. §53a-217b, Possession of a weapon on school grounds: Class D felony*.

- **Public Act 16-94** *An Act Concerning Penalties for Evasion of Responsibility by an Operator of a Motor Vehicle in the Case of Injury*

Section 1 **Evading - Physical Injury or Property Damage Results**

Subsection (g) (1) 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, is amended to increase the penalty for evading responsibility where physical injury results in violation of subdivision (2) of subsection (b) of said statute. As of October 1, 2016, a person shall be fined between \$75 to \$600 and/or incarcerated up to 5 years (increased from 1 year). For a subsequent offense, a person shall be fined between \$100 and \$1000 and/or incarcerated up to 5 years (increased from 1 year).

The penalty for a violation evading responsibility where property damage results in violation of subdivision (3) of subsection (b) of C.G.S. §14-224 remains unchanged and is now found in (g)(2), a new subsection.

- **Public Act 16-178** *An Act Concerning Weapons in Vehicles*

Section 1 **Dirk Knives and Police Batons When Moving**

The act amends *subsection (b) of C.G.S. §29-38, Weapons in vehicles. Penalty. Exceptions,* to extend protection from prosecution to persons who may transfer a dirk knife or a police baton in a motor vehicle when moving from one residence to another.

- **Public Act 16-182** *An Act Concerning a Diversionary Program for Persons Under Age Twenty-One for Motor Vehicle Violations and Crimes Related to Underage Drinking*

Section 1 **Diversionary Program for Under 21**

This is new legislation which creates a diversionary program through CSSD for persons:

- under the age of 21;
- charged with a motor vehicle violation or a violation of:
 - *C.G.S. §30-88a, Operator's license as proof of age. Misrepresentation of age to procure liquor,*
 - *C.G.S. §30-89a, Permitting minor to illegally possess liquor in dwelling unit or on private property or failing to halt such illegal possession. Penalty, or,*
 - *subsection (a) or (b) of C.G.S. §30-89, Purchasing liquor or making false statement to procure liquor by person forbidden to purchase prohibited.*

Possessing liquor by minor on public street or highway or other public or private location prohibited; exceptions; and,

- who have not had the program before.

The legislation precludes from the program anyone charged with a:

- motor vehicle violation which caused serious physical injury or death;
- motor vehicle violation classified as a felony, unless good cause is shown; or
- violation of *C.G.S. §14-227a, Operation while under the influence of liquor or drug or while having an elevated blood alcohol content, or 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.*

The program provides a “non-confrontational forum” where the defendant will hear from victims affected by certain motor vehicle violations and underage drinking and provides that a participation fee of not more than \$50. The case is dismissed if the defendant completes the program satisfactorily not more than 9 months later. If the defendant fails to complete the program satisfactorily, the charges are reinstated against the defendant.

- **Public Act 16-208** *An Act Concerning the Penalty for Violations of a Municipal Ordinance Concerning the Operation of a Dirt Bike, All Terrain Vehicle or Mini-Motorcycle*

Section 1 **Seizure/Forfeiture to Municipalities of 20,000 or More**

This section provides that certain vehicles (dirt bikes, all terrain, mini motorcycles, snowmobiles) are subject to seizure and forfeiture to a municipality with a population of 20,000 or more, in addition to the imposition of a fine for violating a municipal ordinance regulating the operation of such. Proceeds from the sale of such are paid to the municipality. The legislation provides an exception to the forfeiture in cases where the owner “did not know” or reasonably know” that such vehicle was being used in violation of the ordinance.

MURDER/MANSLAUGHTER

- **Public Act 16-168** *An Act Concerning the Inheritance Rights of a Beneficiary or Survivor Who is Found Not Guilty of Murder or Manslaughter by Reason of Mental Disease or Defect*

Section 1 **No Inheritance if Not Guilty By Reason of Mental Disease or Defect**

This act amends *C.G.S. §45a-447, Person adjudged or determined to be guilty of certain crimes ineligible to inherit from or receive property or insurance or annuity proceeds as beneficiary of victim. Action in Superior Court re guilt. Petition to override prohibitions,* to prohibit a person

found not guilty by reason of mental disease or defect pursuant to *C.G.S. §53a-13, Lack of capacity due to mental disease or defect as affirmative defense*, from inheriting anything from the deceased victim including personal property or real property, and in some instances, survivorship property.

POLICE

➤ **Public Act 16-33** *An Act Concerning the Privacy of a Minor*

Section 1 **Body Cameras and Freedom of Information**
(Effective upon passage)

This legislation amends *subsection (g) of C.G.S. §29-6d, Use of body-worn recording equipment. When recording prohibited. Retention of data*, and clarifies that no record of a deceased person who is the victim of an accident shall be confidential and not subject to disclosure under the freedom of information act "if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy in the case of any such victim". In addition, the act also makes such records pertaining to a minor confidential and not subject to disclosure except under limited circumstances:

"(i) the minor and the parent or guardian of such minor consent to the disclosure of such record,

(ii) a police officer is the subject of an allegation of misconduct made by such minor or the parent or guardian of such minor, and the person representing such officer in an investigation of such alleged misconduct requests disclosure of such record for the sole purpose of preparing a defense to such allegation, or

(iii) a person is charged with a crime and defense counsel for such person requests disclosure of such record for the sole purpose of assisting in such person's defense and the discovery of such record as evidence is otherwise discoverable."

➤ **Public Act 16-154** *An Act Concerning Special Police Forces on College Campuses*

Section 1 **Creation of Special Police Forces - Community Colleges**
(Effective July 1, 2016)

This section amends *subsection (a) of C.G.S. §10a-156b, Special police forces*, which created special police forces for state universities. The legislation permits the Board of Regents for Higher Education to establish special police forces for the community colleges throughout the state which shall have the same police powers of the municipal police departments.

SEXUAL ASSAULT

➤ **Public Act 16-106** **AN ACT CONCERNING AFFIRMATIVE CONSENT**

Section 1 **Affirmative Consent** *(Effective July 1, 2016)*

This act amends *C.G.S. §10a-55m, Sexual assault, stalking and intimate partner violence policies. Prevention and awareness programming and campaigns. Anonymous reporting and disclosure. Notification of victim's rights and options. Report* to define "affirmative consent" for purposes of determining whether sexual activity was consensual and promulgating policies regarding sexual assault and intimate partner violence at higher education institutions.

THREATENING

➤ **Public Act 16-67** **An Act Concerning the Disclosure of Certain Education Personnel**

Records, Criminal Penalties for Threatening in Educational Settings and the Exclusion of a Minor's Name from Summary Process Complaints

Section 6 **New - Threatening in the 1st Degree - C Felony**

This section amends *C.G.S. §53a-61aa, Threatening in the first degree: Class D felony*, Threatening in the 1st Degree, Class D felony. Subdivisions (1) and (2) of subsection (a) provide penalties whenever a person threatens harm to a person using a hazardous substance with the intent to terrorize a person and cause the evacuation of buildings, places of public assembly or public transportation facilities; threatens to do so in reckless disregard for the risk of causing terror, evacuation or inconvenience or threatens to commit a violent crime intending to cause the evacuation of buildings, places of public assembly or public transportation facilities.

The act adds a new subdivision (4) to subsection (a) to make it a Class C felony whenever a person violates subsection (1) or (2) "**with the intent** to cause an evacuation of a building or the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution-sponsored activities."

Section 7 **New - Threatening in the 2nd Degree - D Felony**

This section amends *C.G.S. §53a-62, Threatening in the second degree: Class A misdemeanor* Threatening in the 2nd Degree, Class A misdemeanor. Subdivisions (1) and (2) of subsection (a) provide penalties whenever a person physically threatens a person and intentionally places or attempts to place a person "in fear of imminent serious physical injury" or threatens to commit a

violent crime intending to terrorize another or does so “in reckless disregard of the risk of causing such terror”.

The act adds a new subdivision (3) to subsection (a) to make it a Class D felony whenever a person violates subsection (1) or (2) “and the person threatened is in a building or on the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution-sponsored activities.”

Section 8 Pardons - Minors Convicted of New Threatening Offenses

This is new legislation which requires the board of Pardons and Paroles to grant an *absolute pardon* to applicants previously convicted of a violation of the new threatening offenses contained in Sections 6 & 7 of the act, (*subdivision (4) of subsection (a) of C.G.S. §53a-61aa, Threatening in the first degree: Class D felony, or subdivision (3) of subsection (a) of C.G.S. §53a-62, Threatening in the second degree: Class A misdemeanor*) if all of the following are met:

- (1) such person committed such offense prior to attaining the age of eighteen years,
- (2) at least three years have elapsed from the date of such conviction or such person's discharge from the supervision of the court or the care of any institution or agency to which such person has been committed by the court, whichever is later,
- (3) such person has no subsequent juvenile proceeding or adult criminal proceeding that is pending,
- (4) such person has attained the age of eighteen years, and
- (5) such person has not been convicted as an adult of a felony or misdemeanor during the three-year period specified in subdivision (2) of this section.

Section 10 Summary Process and Minor's Names

This section amends *subsection (a) of C.G.S. §47a-26h, Persons bound by judgment. Notice. Exemption*, to provide discretion to the court to strike the name of a minor from the case record, upon motion of any party or its own motion.

TRAFFICKING IN PERSONS

➤ Public Act 16-71 An Act Concerning Human Trafficking

Section 1 Trafficking in Persons Council Membership

Section 1 amends *C.G.S. §46a-170, Trafficking in Persons Council. Membership. Duties. Reports*, to augment the membership of the Trafficking in Persons Council. The Chief Public Defender or her designee continue to be a member of this Council. In addition, the legislation amends

the mission of the Council to also include the coordination of the “collection, analysis and dissemination of data regarding human trafficking”.

Section 2 Annual Reports to the Legislature
(Effective upon passage)

This section is new legislation which requires the state’s attorney and each municipal police chief to report annually to the Judiciary and Children’s committees the following:

- (1) *“All participation in federal, state-wide or regional anti-human trafficking efforts,*
- (2) *the number of referrals made relating to allegations of human trafficking,*
- (3) *the criteria used when deciding whether to investigate allegations of human trafficking or initiate criminal proceedings related to human trafficking,*
- (4) *coordination of efforts between the Office of the Chief State's Attorney and municipal police departments concerning human trafficking cases,*
- (5) *the nature of annual training provided by each state's attorney and municipal police department concerning human trafficking,*
- (6) *obstacles to investigating human trafficking,*
- (7) *the number of investigations involving missing children,*
- (8) *the number of referrals from the Department of Children and Families relating to human trafficking, and*
- (9) *the number of human trafficking cases referred for prosecution.”*

Section 3 Lodging Record Keeping

This is new legislation which requires all hotels, motels, inns or “similar” lodging to keep records of its guests and their transactions and receipts for at least 6 months from the date of such.

Sections 4 & 5 Training

Section 4 require the Commissioners of the Department of Children and Families (DCF) and the Department of Emergency Services and Public Protection (DESPP) to work with the state and national hotel associations in regard to training on trafficking and how to recognize its victims.

Section 5 requires that employees of lodging facilities receive training and that the operators of the hotels, motels, inns or similar lodging establishment certify that the employees received the training.

Section 6 Prostitution

This section amends *C.G.S. §53a-82, Prostitution: Class A misdemeanor*, and raises the age of a person who may be found guilty of prostitution from 16 years to 18 years and deletes subsection (c).

Section 7 Patronizing a Prostitute-Mandatory Fine

This section amends C.G.S. §53a-83, *Patronizing a prostitute: Class A misdemeanor or class C felony*. Currently a person found guilty of this offense pursuant to subsection (a) may be sentenced to a term of imprisonment of up to 1 year and fined *up to* \$2000. The legislation makes a fine of \$2000 mandatory.

Section 8 Patronizing a Prostitute, Motor Vehicle-Mandatory Fine

This section amends C.G.S. §53a-83a, *Patronizing a prostitute from a motor vehicle: Class A misdemeanor*. Currently a person found guilty of this offense may be sentenced to a term of imprisonment of up to 1 year and fined *up to* \$2000. The legislation makes a fine of \$2000 mandatory.

Section 9 Enticing a Minor With a Computer

This section amends C.G.S. §53a-90a, *Enticing a minor. Penalties*, and raises the age of a minor under this statute from 16 to 18 and adds language which would criminalize such conduct even if the actor “reasonably” believed that the person was under 18 years of age.

Section 10 Notices Posted Regarding Services for Trafficking Victims

This section requires the posting of notices regarding the rights of trafficking victims in all service plazas on highways, lodging facilities and businesses that sell adult materials or promote adult only performances.

Section 11 Forfeiture of Money

This section amends *subsection (a) of C.G.S. §54-36p, Forfeiture of moneys and property related to sexual exploitation, prostitution and human trafficking. In rem proceeding. Disposition*, and removes prostitution from the list of offenses for which property derived from such conduct can be forfeited.

The amendment expands the forfeiture statute to include those offenses for which property is “used or intended for use” to commit such and now includes C.G.S. §53a-83, *Patronizing a prostitute: Class A misdemeanor or class C felony*, and C.G.S. §53a-83a, *Patronizing a prostitute from a motor vehicle: Class A misdemeanor* .

Section 12 Trafficking Prosecution Made Easier

This section amends C.G.S. §53a-192a, *Trafficking in persons: Class B felony*, and eases the elements of trafficking by deleting the requirement that there be “more than one occurrence” of the conduct.

Section 13 Judicial Department and Domestic Violence Risks

This section amends *subsection (j) 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*, to require the Judicial Department's training program regarding family violence intervention units and restraining and protective orders to also examine factors that might lead to the risk of domestic violence in families.

Section 14 Standing Criminal Protective Orders

This amends *subsection (a) of C.G.S. §53a-40e, Standing criminal protective orders*, to include violations of subdivision (2) of *subsection (a) of C.G.S. §53a-192a, Trafficking in persons: Class B felony*, to the list of offenses for which a court may issue a standing criminal protective order in addition to any sentence it imposes.

Section 15 Vacating Victim's Conviction

This section amends *C.G.S. §54-95c, Application to vacate prostitution conviction on basis of being a victim of trafficking in persons. Prosecutor's response. Court order*, and provides that a defendant may make an application to the court requesting that his/her conviction be vacated "based upon the fact that the defendant's "participation in the offense was a result of having been" a trafficking victim.

Section 16 Promoting Prostitution 1st Degree - Mandatory Fine

This section amends *C.G.S. §53a-86, Promoting prostitution in the first degree: Class B felony*, to require the court to impose a mandatory fine of \$15,000 in addition to the mandatory 9 month sentence required if a person violates subdivision (2) of subsection (a) where the victim is under 18 years of age.

For a violation of subdivision (1) of subsection (a), the offense remains classified as a B felony subject to a term of incarceration of 1 to 20 years and fined of *up to* \$15,000.

Section 17 Promoting Prostitution 2nd Degree - Mandatory Fine

Currently, a violation of this statute is a class C felony for which a person may be sentenced to 1 to 10 years and fined *up to* \$10,000. This section amends *C.G.S. §53a-87, Promoting prostitution in the second degree: Class C felony*, to require the court to impose a mandatory fine of \$10,000 in addition to the term of incarceration imposed.

Section 18 Promoting Prostitution 3rd Degree - Mandatory Fine

Currently, a violation of this statute is a class D felony for which a person may be sentenced to a term of incarceration of up to 5 and/or be fined *up to* \$5,000. This section amends *C.G.S. §53a-88, Promoting prostitution in the third degree: Class D felony*, to require the court to impose a mandatory fine of \$5,000 in addition to any sentence imposed.

Section 19 Permitting Prostitution - Mandatory Fine

Currently, a violation of this statute is a class A misdemeanor for which a person may be sentenced up to 1 year and/or be fined *up to* \$2,000. This section amends *C.G.S. §53a-89, Permitting prostitution: Class A misdemeanor*, to require the court to impose a mandatory fine of \$2,000 in addition to any sentence imposed.

WRONGFUL CONVICTIONS/ACTUAL INNOCENCE

➤ *Public Act 16-127 An Act Concerning the Office of the Claims Commissioner*

This public act makes numerous technical revisions to the statutes governing the Office of the Claims Commissioner and the process over which the Office adjudicates claims against the state. The act also substantially changes the process for seeking compensation by persons who have been wrongfully incarcerated.

Section 29 Wrongful Conviction Compensation Substantially Reduced

This section amends *C.G.S. §54-102uu Compensation for wrongful incarceration*, pertaining to when a person is eligible for compensation for a wrongful incarceration. A person whose conviction was vacated or reversed and whose case was dismissed based upon actual innocence or because of malfeasance or "other serious misconduct" by an employee or official of the state, is eligible to seek compensation from the state. A person who makes such a claim has the burden to prove, by a preponderance of the evidence, that they are eligible to seek compensation. The person is required to present evidence of "damages" which arose from the arrest, conviction and prosecution. This "evidence" has been clarified to now include:

"(1) the person's age, income, vocational training and level of education at the time of conviction,

(2) loss of familial relationships,

(3) damage to reputation,

(4) the severity of the crime for which such person was convicted and whether such person was under a sentence of death pursuant to section 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, for any period of time,

(5) whether such person was required to register pursuant to section 54-251, Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense, or 54-252, Registration of person who has committed a sexually violent offense, and for what length of time such person complied with the registration requirements of chapter 969, and

(6) any other damages such person may have suffered arising from or related to such person's arrest, prosecution, conviction and incarceration."

The Claims Commissioner has the right to award compensation for wrongful conviction pursuant to the new language of the act in subsection (d). The act outlines the process for the awards and the review by the legislature of such. The act provides that the Claims Commissioner may award up to 200% of the median household income for the state in the years the person was incarcerated and may be adjusted upwards or downwards by the Claims Commissioner by 25% based upon an assessment of factors, including (1) through (6) noted above. Payment for employment training, counseling, tuition and fees at a state college may also be ordered paid.

Persons who are compensated by the Office of the Claims Commissioner are required to sign a release that they are "voluntarily" relinquishing any right to pursue any rights or actions which arise out of the wrongful conviction and incarceration.

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