

Division of Public Defender Services
2018 Legislative Summary

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Division of Public Defender Services
Office of Chief Public Defender

Summaries of 2018 Public Acts and Special Acts
Effective Dates Are Noted

The following is a summary of Public Acts and Special Acts during the 2018 Legislative Regular Session pertaining to criminal proceedings, juvenile delinquency and child protection. Thank you to *Susan Hamilton, Director of Child Protection and Delinquency* for her contributions to the Children/Youth section. Special thanks to *Susan Hamilton* and *Ben Daigle* for their assistance during the 2018 session.

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

ALCOHOL

- P.A. 18-30 An Act Concerning the Restoration of a Motor Vehicle Operator's License
(Effective October 1, 2018)

This act permits the providers of ignition interlock device to waive all or part of the installation, maintenance and removal fees associated for any person who is required to install such pursuant to C.G.S. §14-36, Motor vehicle operator's license, C.G.S. §14-111, Suspension or revocation of registration, license or right to operate, C.G.S. §14-111n, Reports of comparable convictions. Suspension of operator's license, 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. §14-227b, Implied consent to test operator's blood, breath or urine. Testing procedures. License suspension. Hearing, C.G.S. §14-227j, Court ordered prohibiting operation of motor vehicle not equipped with ignition interlock device, C.G.S. §14-227m, Operation of motor vehicle with a child passenger while under the influence of liquor or drug or while having an elevated blood content. Procedures. Penalties, C.G.S. §14-227n, Operation of a school bus, student transportation vehicle or vehicle specifically designated to carry children by person under the influence of liquor or drug or while having an elevated blood alcohol content. Procedures. Penalties, C.G.S. §53a-56b, Manslaughter in the second degree with a motor vehicle: Class C felony, or C.G.S. §53a-60d, Assault in the second degree with a motor vehicle: Class D felony, upon providing proof of indigency. Indigency is demonstrated by a person providing a valid participation card

or letter indicating participation in SNAP or state administered federal low income home energy assistance program.

BAIL

- **P.A. 18-75 An Act Concerning Court Operations
(Various effective dates)**

- Section 14 Termination of Bonds
(Effective from passage)**

This section amends **C.G.S. §54-66a, Automatic termination of bail bonds**. It provides for the automatic termination and release of a bail bond which has been posted in a criminal case if the defendant has been granted admission to a diversionary program as a result of a motor vehicle violation or pursuant to **C.G.S. §54-56p, Program for young persons charged with a motor vehicle violation or alcohol-related offense**, for an alcohol-related offense.

CELL PHONES AND STUDENTS

- **S.A. 18-28 An Act Concerning Students' Right To Privacy In
Their Mobile Electronic Devices
(Effective from passage)**

This is new legislation which creates a Working Group on which the Office of Chief Public Defender (OCPD) and the Connecticut Criminal Defense Lawyers Association (CCDLA) are members to study whether school personnel can seize an electronic mobile device (cell phones, laptops etc.) of a student and search it. The Working Group is charged with submitting a report with recommendations to the legislature by January 1, 2019.

CHILD SUPPORT

- **P.A. 18-98 An Act Concerning Child Support Collection Fees
(Effective April 1, 2019)**

This act amends subdivision (3) of subsection (h) of **C.G.S. §17b-179, Office of Child Support Services. Duties. Determination of parents' financial liability. Use of unemployment compensation for child support obligations. Recovery of costs. Fees. Electronic funds transfer and debit card access for support payments. Regulations. Annual report to General Assembly re child support enforcement program**, in regard to the child support collection fee that is charged when services have been rendered. The current annual collection fee of \$25 is increased to \$35. The collection fee remains either

retained by the state on behalf of the person for whom support was collected, paid for by the person applying for the collection services, recovered from the noncustodial parent or paid by the state, after a threshold amount has been collected. The current threshold is \$500. The act raises this threshold to \$525.

CHILDREN/YOUTH

- **S.A. 18-13 An Act Extending the Reporting Deadline of the Task Force to Study Voluntary Admission to the Department of Children and Families**
(Effective from passage)

Section 1 amends subsection (f) of section 1 of **S.A. 17-6, An Act Establishing a Task Force to Study Voluntary Admissions to the Department of Children and Families** to extend from February 1, 2018 to January 1, 2019 the due date for this task force to submit its findings and any legislative recommendations to various legislative committees. The act also terminates the Task Force on July 1, 2019.

- **P.A. 18-15 An Act Concerning School Counselors**
(Effective July 1, 2018)

Sections 1, 2 & 5 School Counselors

The act adds “school counselors” to the lists of committee established pursuant to subsection (a) of **C.G.S. §10-21j, Committee to coordinate education re careers in manufacturing**, and subsection (d) of **C.G.S. §10-21j** or attendance review teams established pursuant to subdivision (2) of subsection (b) of **C.G.S. §10-198c, Attendance review teams**.

Section 3 Mental Health Professionals

This section amends **C.G.S. §10-76t, Definitions re primary mental health program**, to include school counselors to the definition of mental health professionals.

Section 4 Withdrawal from School Forms

This section amends **C.G.S. §10-184, Duties of parents. School attendance age requirements**, to add school counselors to the list of persons who may attest that a parent has received certain information from the school district when a parent is submitting a Withdrawal from School form.

**Sections 6,
7, 8 & 12 School Employee Definition Expanded**

These sections amend subsection (b) of C.G.S. §10-221o, **Lunch period. Boards to adopt policies addressing limitation of physical exercise.** C.G.S. §10-221u, **Boards to adopt policies addressing the use of physical activity as discipline,** subdivision (8) of subsection (a) of C.G.S. §10-222d, **Safe school climate plans. Definitions. School climate assessments,** and subdivision (1) of C.G.S. §19a-600, **Definitions,** and add “school counselors” to the definition of “school employee”.

Section 10 Counselor Definition Expanded

This section amends subdivision (1) of C.G.S. §19a-600, **Definitions,** and adds school counselor to the definition of “counselor”.

Section 11 Mandated Reporter

This section amends subsection (a) of C.G.S. §46a-11b, **Reports of suspected abuse or neglect required of certain persons. Report by others. Immunity. Fine. Treatment by Christian Science practitioner,** to include a school counselor to the list of persons who are mandated reporter if they have reasonable cause to suspect or believe anyone with an intellectual disability or who is receiving services from the Division of Autism Spectrum Disorder Services of the Department of Social Services (DSS).

Section 13 Victim Compensation

This section amends subsection (d) of C.G.S. §54-209, **When compensation may be ordered. Order inadmissible in civil or criminal proceedings,** to include school counselors to the list of persons that a victim may disclose a personal injury to so that compensation is payable to the victim.

- **P.A. 18-31 An Act Concerning The Recommendations of the Juvenile Justice Policy and Oversight Committee and Concerning the Transfer of Juvenile Services from the Department of Children and Families to the Court Support Services division of the Judicial Branch (Effective Dates - various)**

Sections 1-7 Recommendations of the Juvenile Justice Policy and Oversight Committee

(Sections 1, 2, 4, 5, 6 & 7 Effective from passage and Section 3 Effective from August 1, 2018)

P.A. 18-31 (continued)

Sections 1-7 Recommendations of the Juvenile Justice Policy and Oversight Committee

(Sections 1, 2, 4, 5, 6 & 7 Effective from passage and Section 3 Effective from August 1, 2018)

These sections make several changes based upon recommendations from the *Juvenile Justice Policy and Oversight Committee (JJPOC)* focused on school-based/community-based diversion and educational stability and success for youth involved in (or at risk of involvement with) the juvenile justice system.

Effective August 1, 2018, school districts where youth reside must continuously maintain the enrollment of youth who are in detention to assist with their transition when they return to school. Detention centers must notify the district as soon as the release date is determined. Youth have the right to return to the district immediately upon discharge.

On or before August 1, 2018, eligible school districts (6000+ students) must designate a liaison to facilitate transitions between the district and the juvenile and criminal justice systems.

The liaison shall assist in ensuring that students returning from “justice system custody” are promptly enrolled and evaluated for special education services, receive proper credits and that school records are promptly transferred to the appropriate district.

Plan for a single state agency to assume statewide responsibility for education and transitional supports for children in custody. The plan is due January 1, 2020.

Sections 8 - 43 Transfer of Juvenile Justice Jurisdiction from DCF to CSSD (Effective July 1, 2018)

Background: **Special Session P.A. 17-2, An Act Concerning The State Budget For The Biennium Ending June 30, 2019, Making Appropriations Therefor, Authorizing And Adjusting Bonds Of The State And Implementing Provisions Of The Budget**, provided that no child could be committed to DCF as a result of a delinquency conviction after 7/1/18 and transferred the juvenile justice mandate from DCF to CSSD effective 7/1/18 but provided no further details regarding how this transfer was to be effected.

Sections 8 through 43 enact a process for this transfer of jurisdiction from DCF to CSSD and make other technical changes.

**Section 8 Judicial Branch Assumes Legal Authority
(Effective July 1, 2018)**

This section provides that the Judicial Branch shall assume legal authority over any child who remains committed to DCF as of June 30, 2018 and the child will be deemed to be on probation for a period not to exceed the period remaining under the commitment. The court shall conduct a hearing by October 1, 2018 to determine whether the interim conditions of probation shall continue or be modified for the remainder of the probation period. The court can modify the conditions for good cause shown but cannot extend the probation period.

**Section 9 Chief Court Administrator to Act as ICJ Administrator
(Effective July 1, 2018)**

This is new language designating the Chief Court Administrator as the administrator of the Interstate Compact for Juveniles (ICJ) under C.G.S. §46b-151h, **Interstate Compact for Juveniles** in lieu of the Commissioner of DCF.

**Section 25 New definitions
(Effective July 1, 2018)**

This section amends C.G.S. §46b-120, **Definitions**, to add definitions for "probation supervision," "probation supervision with residential placement," "secure residential facility" and "staff-secure residential facility."

**Section 29 Community Based Programs for Juveniles
(Effective July 1, 2018)**

This section requires Judicial to develop a continuum of community-based programs for juveniles and authorizes them to establish or contract for secure and staff-secure residential facilities.

**Section 36 Additional Factors for Disposition
(Effective July 1, 2018)**

This amends C.G.S. §46b-140, **Disposition upon Conviction of Child as Delinquent**, to add additional factors the court must consider in determining an appropriate disposition. Limits the dispositional options following a delinquency adjudication to: (A) Discharge with or without a warning; (B) Probation Supervision; or (C) Probation Supervision with Residential Placement. Probation Supervision with or

without residential placement is for a period not exceed 18-months, which can be extended in accordance with **C.G.S. §46b-140a Modification of Conditions of Probation or Suspended Commitment. Violation of Conditions**, by not more than 12 months (for a total period not to exceed 30 months).

Section 36 also permits the court to authorize probation to convene a case review team meeting with the child and child's attorney on any case being considered for residential placement or that is complex and could benefit from a multisystemic approach. An adjudicated child cannot be placed on Probation Supervision with Residential Placement unless a PDS has been completed and the placement is indicated by the child's clinical and behavioral needs or the level of risk the child poses to public safety cannot be managed in a less restrictive setting.

**Section 37 Probation Status Review Hearing
(Effective July 1, 2018)**

Amends **C.G.S. §46b-140a, Modification of Conditions of Probation or Suspended Commitment. Violation of Conditions**, to allow the court to convene a probation status review hearing during any period of probation supervision with or without residential placement and to permit probation to file an ex parte request for this review. Court may grant the request if it is in the child's or the public's best interest. Hearing must be held within 7 days. By agreement or following an evidentiary hearing, the court may modify or enlarge the conditions of probation and may order placement in a secure or staff-secure residential placement but only if indicated by the child's clinical/behavioral needs or the public safety risk cannot be managed in a less restrictive setting.

Upon a probable cause finding, the court may detain a child who has run away from a court-ordered residential placement pending a detention hearing to be held on next business day. Any further detention order must comply with **C.G.S. §46b-133(e) 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. Duration of Order to Detain.**

**Section 38 Credit if Sentenced to Probation
(Effective July 1, 2018)**

Provides credit for time spent in detention when an adjudicated child is sentenced to a period of probation supervision with or without residential placement.

Remaining Sections Are Technical Changes

Other sections make technical changes, including deleting all references to CJTS, substituting Judicial for DCF in various sections and change all references from “convicted” to “adjudicated” delinquent.

- **P.A. 18-58 An Act Requiring Notice Prior to the Transfer of a Child to a New Out-of-Home Placement (Effective July 1, 2018)**

This act amends C.G.S. §46b-129(j) (4), **Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianships and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children**, and requires DCF to provide 10-days prior written notice to a child and the child’s attorney regarding any intended placement change for a child.

Such advance written notice is not required if an emergency or risk to the child’s well-being necessitates an immediate change in placement and renders such notice impossible.

- **P.A. 18-71 An Act Concerning Risk Assessment Practices and the Needs of Children with Intellectual and Developmental Disabilities (Effective July 1, 2018)**

Section 1 Annual Report of DCF

Section 1 of this act amends subdivision (11) of subsection (g) of C.G.S. §17a-101g, **Classification and evaluation of reports. Determination of abuse or neglect. Investigation. Notice, entry of recommended filing. Referral to local law enforcement authority. Home visit. Removal of child in imminent risk or harm. Family assessment response program. Disclosure of information to providers**, to require DCF to include, among other information already required to be submitted in its annual report to the legislature, “an analysis of the efficacy of the departments risk and safety assessment practices, including information concerning the methodology used to determine the reliability of such practices, the utilization of evidence-based practices and tools, and the effectiveness of such assessment practices for identifying children at risk for abuse or neglect.”

Section 2 Children with Intellectual and Developmental Disabilities

This section requires DCF and the Commissioners of Early Childhood, Developmental services and Social Services to “develop investigation, assessment and case-planning procedures that are responsive to the needs of children with intellectual and developmental disabilities.”

➤ **P.A. 18-92 An Act Concerning Guardianship Appointments for Individuals Seeking Special Immigrant Juvenile Status (Effective July 1, 2018)**

This act expands the definition of “minor” in Removal of Guardianship proceedings in Probate Court to include certain youth under the age of 21 for the *limited* purpose of allowing the court to make the specific findings needed to apply for Special Immigrant Juvenile Status (SIJS) with US Citizenship and Immigration Services.

Current law only allows the Probate Court to make the requisite findings for children under the age of 18. The findings include: (1) the minor’s age and marital status; (2) whether the minor is dependent on the court (based on the removal of the parents as guardians/TPR/Adoption); (3) whether reunification with one or both parents is not viable (e.g., due to abuse/neglect/abandonment); and (4) whether it is not in the minor’s best interest to be returned to the minor’s or parent’s country of nationality or last habitual residence.

Federal law allows an immigrant child under the age of 21 to apply for SIJS if he/she has been abused, neglected or abandoned and meets certain other criteria. If granted, SIJS allows the child to legally remain in the U.S.

➤ **P.A. 18-96 An Act Concerning Reports of Abuse of Neglect of Persons With Intellectual Disability or Autism Spectrum Disorder (Effective July 1, 2018)**

This act amends subsection (a) of **C.G.S. §46a-11b, Duties and powers of director**, to add a “licenses behavior analyst” to the list of persons designated to report abuse or neglect, within 48 hours instead of the current 72 hours, if they have “reasonable cause to suspect or believe that any persons with intellectual disability or any person who receives services from the Department of Social Services (DSS) Division of autism Spectrum Disorder Services has been abused or neglected”.

Such a report is required to be followed up with a written report no later than 5 days after. The current penalty of a fine of up to \$500 for failure to make a report as required remains unchanged.

- **P.A. 18-111 An Act Concerning the Recommendations of the Department of Children and Families**
(Sections 1, 2, 3, 4, 5 & 7 Effective July 1, 2018)
(Section 6 Effective from passage)

This act amends **C.G.S. §17a-3(b) Powers and Duties of Department. Comprehensive strategic plan**, by requiring that DCF's strategic plan include strategies to identify and eliminate racial and ethnic disparities in child welfare practice.

The act also requires DCF to establish a standardized data reporting system regarding the race and ethnicity of children and families referred to DCF at key decision points, including referral, substantiation, removal and placement.

Further the act mandates that DCF work to eliminate disparities at these decision points among racial and ethnic groups known to experience higher rates of adverse child welfare, health and service outcomes because of religion, age, sex, sexual orientation, national origin, socioeconomic status, immigration status, language, ancestry, intellectual or physical disability, mental health status, prior criminal convictions, homelessness, gender identity or expression or geographic area of residence.

- **P.A. 18-186 An Act Concerning the Provision of Timely Notice of Child Placement Information from the Department of Children and Families to the Attorney or Guardian Ad Litem Representing the Child in a Child Protection Matter**
(Effective October 1, 2018)

Section 1 Advance Written Notice to Attorney and GAL regarding Placement or Change in Placement

This section amends subdivision (4) of subsection (j) of **C.G.S. 46b-129, Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianship and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children**, to require the DCF Commissioner to provide written notice to the attorney or guardian ad litem for a child or youth if the child or youth is placed or if there is any placement change, for any reason, or if the child or youth runs away. The notice must be provided no later than 10 business days after the change of placement if a nonemergency. Notice must be provided not later than 2 days if the change in placement is in an emergency situation.

**Section 2 Advance Notice to Attorney and GAL regarding Permanency Team Meeting
(Effective October 1, 2018)**

This section amends subparagraph (B) of subdivision (1) of subsection (k) of C.G.S. §46b-129, **Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianship and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children,** to require the DCF Commissioner to provide not less than 5 days advance written notice to a child’s attorney or guardian ad litem of a permanency team meeting.

**Section 3 Advance Notice to Attorney and GAL Regarding Review of Case Plan at Administrative Meeting
(Effective October 1, 2018)**

This section amends subsection (b) of C.G.S. §17a-15, **Development of treatment and permanent placement plan. Review of plan. Modifications. Application for review. Hearing,** procedure, to require the DCF Commissioner to give advance written notice to the attorney and GAL for a child regarding the meeting at which the case plan will be reviewed. The notice must be given not less than 21 days prior to the scheduled date of the administrative meeting.

**Section 4 Advance Notice to Attorney and GAL Regarding Considered Removal of Child from Home
(Effective October 1, 2018)**

This section amends subsection (b) of C.G.S. §17a-101g, **Classification and evaluation of reports. Determination of abuse or neglect of child. Investigation. Notice, entry of recommended filing. Referral to local law enforcement authority. Home visit. Removal of child in imminent risk of harm. Family assessment response program. Development of service plans and plans of care. Monitoring. Disclosure of information to community providers. Annual report.** to require advance notice in writing not less than 5 days prior to a meeting at which the removal of a child from his/her home will be considered unless the Commissioner or his/her designee has authorized the immediate removal of the child from the home pursuant to subsection (e) of this statute.

- **S.A. 18-20 An Act Concerning the youth Violence Initiative
(Effective from passage)**

This act requires Judicial to include Waterbury CT to those towns that received Youth Violence Initiative Grants.

COMPETENCY

- **P.A. 18-134 An Act Concerning the Competency of a Defendant to Stand Trial
(Effective October 1, 2018)**

This act amends subdivision (3) of subsection (m) of **C.G.S. §54-56d, Competency to stand trial**, regarding the timing of periodic examinations the court may require after a court has either released a defendant or placed him/her in DMHAS custody. Currently the court has the discretion, on its own motion or that of the prosecutor, to order as a condition of the defendant's release that periodic examinations of the defendant's competency be conducted "at intervals of not less than 6 months".

The legislation extends the period of time for subsequent examinations to be conducted to at least 18 months after the initial competency examination. This longer period of time can be imposed only if the court finds that there is a substantial probability that the defendant will never regain competency even if he/she is provided with a course of treatment.

COURTS

- **S.A. 18-11 An Act Concerning Courthouse Security
(Effective from passage)**

The act requires the Chief Court Administrator to conduct an internal review or courthouse security procedures and submit a written report to the legislature containing recommendations to enhance security by January 1, 2019.

- **P.A. 18-75 An Act Concerning Court Operations
(There are 20 sections which have various effective dates)**

Section 4 Applications for Child Custody, Support, and Visitation (Effective October 1, 2018)

This section amends **C.G.S. §46b-61, Orders re children where parents live separately. Commencement of proceedings**, to require that certain "accompanying

documents" be filed with the court no later than the first court appearance. The legislation defines "accompanying documents" as:

"documents that establish an existing legal relationship between the parents and the child for whom an application for custody, care, education, visitation and support is made under this section. 'Accompanying documents' include, but are not limited to, a copy of a birth certificate naming the applicant and the respondent as the parents of the child, a copy of a properly executed acknowledgment of paternity, a court order or decree naming the legally responsible parents, including adoptive parents, a gestational agreement as defined in section 7-36, documents showing that the minor child was born during the parents' wedlock or other sufficient evidence within the discretion of the court."

**Section 5 Former Name Restoration Without a Hearing
(Effective July 1, 2018)**

This section amends **C.G.S. §46b-63, Restoration of birth name or former name of spouse**, to permit the restoration of a person's birth or former name upon the papers after a divorce.

**Section 14 Bail
(Effective from passage)**

This section amends **C.G.S. §54-66a, Automatic termination of bail bonds**. It provides for the automatic termination and release of a bail bond which has been posted in a criminal case if the defendant has been granted admission to a diversionary program as a result of a motor vehicle violation or pursuant to **C.G.S. §54-56p, Program for young persons charged with a motor vehicle violation or alcohol-related offense**, for an alcohol-related offense.

**Section 15 Sexual Assault - Non-disclosure of Victim's Contact Information
(Effective October 1, 2018)**

This section amends **C.G.S. §54-86d, Nondisclosure of addresses and telephone number by victims of certain crimes**, to add **C.G.S. 53a-70c, Aggravated sexual assault of a minor: Class A felony**, to the list of offenses for which a victim cannot be required to disclose his/her address or telephone number at a pretrial hearing or a trial so long as certain criteria exists.

Section 16 Non-Disclosure of Victim's Name and Address

This section amends **C.G.S. §54-86e, Confidentiality of identifying information pertaining to victims of certain crimes. Availability of information to accused. Protective order information to be entered in registry**, to add **C.G.S. 53a-70c,**

Aggravated sexual assault of a minor: Class A felony, to the list of offenses for which a victim cannot be required to disclose his/her address or telephone number at a pretrial hearing or a trial so long as certain criteria exists.

**Section 18 Civil Gideon
(Effective from passage)**

This section extends the deadline for the report due the legislature pertaining to the Civil Gideon Pilot Program (access to legal counsel for indigent parties at hearings on applications for relief from abuse) from January 1, 2019 to July 1, 2019.

**Section 20 Victim Advocate Access to Police Reports
(Effective July 1, 2018)**

This section amends subsection (b) of C.G.S. §54-220, **Victim advocates. Responsibilities and duties**, to require all state's attorneys to provide a copy of a police report in their possession to the Victim Advocate upon request. Current language had required the Chief State's Attorney to provide this. Now all prosecutors are required to do so.

Currently, law enforcement and state and local police are already required to turn over police reports to the Victim Advocate upon request.

➤ **P.A. 18-127 An Act Concerning State v. McCahill
(Effective from passage)**

This act amends C.G.S. 54-63f, **Release after conviction and pending sentence or appeal**, to delete the language of "or any offense involving the use, attempted use or threatened use of physical force against another person". The legislation is consistent with State v. McCahill in which the court ruled that portion of the statute too broad and unconstitutional.

➤ **P.A. 18-166 An Act Concerning the Prevention and Treatment of Opioid Dependency and Opioid Overdoses in the State**

**Section 1 Feasibility of Opioid Dependent Courts
(Effective from passage)**

This is new legislation which requires the Chief Court Administrator, the Chief Public Defender, the Chief State's Attorney and the Dean of UCONN Law School to study and report to the legislature by January 1, 2018, whether one or more criminal and juvenile courts could be created which would specialize in hearing cases pertaining to persons who are opioid dependent.

**Section 2 Cannot Prescribe to Immediate Family
(Effective July 1, 2018)**

This section amends C.G.S. §21a-252, **Prescription and dispensing of controlled substances by certain practitioners. Surrender or unused substances by patients**, to prohibit prescribing practitioners from proscribing certain controlled substances to his or her immediate family except in an emergency and if there is no other qualified practitioner available. If an emergency does exist, the act prohibits the prescribing practitioner from prescribing more than a 72 hour supply and requires him/her to evaluate the patient's need and perform an assessment for the patient's treatment and care.

In addition, the legislation prohibits a prescribing practitioner from prescribing for him/herself, except in an emergency.

**Section 3 Civil and Criminal Immunity
(Effective July 1, 2018)**

This section is new and provides civil and criminal immunity to prescribing practitioners or pharmacists certified to provide an opioid antagonist to reverse an opioid overdoses who enter into agreements for such with law enforcement, EMS providers, government agencies or other health providers.

**Section 4 Alcohol and Drug Policy Council
(Effective from passage)**

This section creates a working group within the Council which was established pursuant to C.G.S. § 17a-667, **Connecticut Alcohol and Drug Policy Council**, to study and evaluate how to combat the opioid epidemic in Connecticut.

**Section 6 Expansion of Pilot Program
(Effective from passage)**

This section requires DOC, DMHAS, DPH, DSS and OPM to review the current pilot program (See C.G.S. §18-100j, **Pilot treatment program for methadone maintenance and other drug therapies**) which provides treatment to inmates with opioid use disorders and make recommendations to the legislature pertaining to possible expansion for all inmates.

**Section 7 Pilot Treatment Program
(Effective from passage)**

This section amends **C.G.S. §18-100j, Pilot treatment program for methadone maintenance and other drug therapies**, which permitted DOC, in collaboration with DPH and DMHAS, to begin a pilot program for methadone maintenance and other drug therapies, first at New Haven Community Correction Center. The legislation eliminates the time table of 18 months and continues to permit serving 60-80 inmates and requires DOC to report to the legislature on the results of the pilot.

ETHICS, STATE CODE OF

➤ **P.A. 18-64 An Act Requiring The Reporting Of Certain Gifts To The State Under The Code of Ethics for Public Officials
(Effective October 1, 2018)**

This act amends **C.G.S. § 1-84c, Donation of goods or services to state or quasi-public agencies**, which currently does not prohibit the donation of certain goods or services to a state or quasi-public agency. Such a donation is currently viewed as being exempt from the statutory definition of a “gift”.

(5) “Gift” means anything of value, which is directly and personally received, unless consideration of equal or greater value is given in return. “Gift” does not include:

(E) “Goods or services (i) that are provided to a state agency or quasi-public agency (I) for use on state or quasi-public agency property, or (II) that support an event or the participation by a public official or state employee at an event, and (ii) that facilitate state or quasi-public agency action or functions. As used in this subparagraph, “state property” means property owned by the state or a quasi-public agency or property leased to a state agency or quasi-public agency; . . .”.

See subdivision (E) of subsection (5) of **C.G.S. §1-79, Definitions**, of the Code of Ethics for Public Official.

However, the act now requires any public official or state employee who receives goods or services to support their participation at an event per C.G.S. §1-79 (5)(E) to electronically report such receipt to the Office of State Ethics on its form. The report must be filed within 30 days after receipt of such goods or services and certify under penalty of perjury “that the goods or services received in support of such official’s or employee’s participation at an event facilitated state action or functions.”

If the official or employee fails to file such a report within the 30 days he/she must return to the donor the value of the goods or services received, regardless of whether the failure to file the report was intentional or due to gross negligence. No penalty will be imposed on an official or employee unless the failure to file the report was intentional or due to gross negligence.

POLICE

- **S.A. 18-25 An Act Establishing a Task Force to Study the Processing and Retention of Fingerprint Records and Criminal History Records for Educators
(Effective from passage)**

This is new legislation which creates a Task Force to examine the current system utilized for fingerprinting and criminal record checks of the state and federal databases of employees, substitute teachers, administrators and volunteers among other personnel. The Task Force is charged with preparing and submitting a report to the legislature by January 1, 2019 with recommendations pertaining to education and public safety.

- **P.A. 18-161 An Act Concerning third-Party Fingerprinting Services, Minimum Standards and Practices for the Administration of Law Enforcement Units and Reports of Police Pursuits
(Various effective dates)**

Section 3 Police Officer Defined (Effective October 1, 2018)

The current definition of police officer for purpose of pursuits by "police officers" is:

"a sworn member of an organized local police department or a state police officer, which member or officer is assigned to patrol duties on public streets or highways".

See C.G.S. §14-283a. Section 3 of this act amends **C.G.S §14-283a, Adoption of state-wide policy for pursuits by police officers**, to define "police officer" as:

(9) "Police officer" means a sworn member of an organized local police department, an appointed constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, 29-18a or 29-19 or any member of a law enforcement unit who performs police duties;"

See C.G.S. §7-294a, Police Officer Standards and Training Council: Definitions.

The act also articulates the due dates for the Police Officer Standards and Training Council (POST) to promulgate standardized forms and procedures for the submission of annual reports pertaining to police pursuits, to the legislature.

➤ **P.A. 18-187 An Act Concerning The body-Worn Recording Equipment Task Force**
(Effective from passage)

This act amends **Public Act 17-225, An Act Concerning Camera and Recording Devices and Equipment used by Police**, to add to the mission of the Task Force. Current law requires that the Task Force examine;

“(1) whether such statute should be expanded or otherwise amended, including, but not limited to, a consideration of whether such statute or any other statute should address the use of electronic defense weapon recording equipment, as defined in section 7-277b (C.G.S. § 7-277b, **Reimbursement for body-worn recording equipment and data storage devices or services**) of the general statutes, as amended by this act,

(2) training associated with the use of such equipment, and

(3) data storage and freedom of information issues associated with the data created by the use of such equipment.”

The legislation would require that the Task Force also examine:

“under what circumstances, if any, should (A) a police officer be permitted to review a recording from body-worn recording equipment prior to giving a formal statement about the use of force by such officer or another officer, and (B) members of the public or alleged victims or their family members be permitted to review a recording from body-worn recording equipment during an investigation or following an allegation of excessive use of force by a police officer.”

The Office of Chief Public Defender and the CCDLA are members of this Task Force which is required to submit a report to the legislature by January 1, 2019 as to its findings and recommendations.

HABEAS CORPUS

- **S.A. 18-18 An Act Establishing a Task Force to Promote Efficiencies in the Filing of Habeas Corpus Matters (Effective from passage)**

This is new legislation which creates a task force to “examine methods that allow the state to better evaluate an application for writ of a habeas corpus at the time of filing in order to reduce the number of frivolous applications filed.” Among the members of the task force are the Chief Court Administrator, Chief State’s Attorney, Chief Public Defender and the Commissioner of Corrections. A report, containing findings and recommendations, is due to the Judiciary Committee by January 1, 2019.

JUDICIAL

- **S.A. 18-11 An Act Concerning Courthouse Security (Effective from passage)**

The legislation requires an internal review by Judicial of all security procedures at courthouses throughout the state. Recommendations to enhance security are to be made to the Judiciary Committee by January 1, 2019.

MANDATED REPORTERS

- **P.A. 18-17 An Act Requiring Behavior Analysts to be Mandated Reporters of Suspected Child Abuse and Neglect (Effective July 1, 2018)**

This act amends subsection (b) of C.G.S. §17a-101, **Protection of Children from Abuse. Mandated Reporters. Educational and Training Programs. Model Mandated Reporting Policy**, to include “any person who is a licensed behavior analyst” in the list of persons designated by law to be a mandated reporter. The current list includes, but is not limited to, physicians, nurses, dentists, psychologists, school employees, coaches, police and family therapists.

- **P.A. 18-57 An Act Concerning Immunity from Civil or Criminal Liability for Persons Providing Medical Assistance or Intervention in a Child Abuse or Neglect Case (Effective July 1, 2018 and applicable to any civil action pending on or filed on or after said date)**

This act amends C.G.S. §17a-101e, **Employer prohibited from Discriminating or Retaliating Against Employee Who Makes Good Faith Report or Testifies re Child**

Abuse or Neglect. Immunity from Civil or Criminal Liability. False Report of Child Abuse. Referral to Office of Chief State’s Attorney. Penalty, to provide immunity to any person who makes a mandated reporter report and who “*provides professional medical intervention or assistance in any proceeding involving child abuse and neglect, including, but not limited to, (A) causing a photograph, x-ray or a physical custody examination to be made, (B) causing a child to be taken into emergency protective custody, (C) disclosing a medical record or other information pertinent to the proceeding, or (D) performing a medically relevant test.*” The act does not provide immunity for malpractice conduct by the medical professional if personal injury or death results.

➤ **P.A. 18-67 An Act Concerning Minor Revisions to the Statutes of the Department of Children and Families and Establishing a Pilot Program of Permit Electronic Reporting by Mandated Reporters (Effective Dates - Various)**

Section 4 Electronic Reports by Mandated Reporter (Effective October 1, 2019)

This section amends subsection (a) of 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,** to permit mandated reporters to make electronic reports in lieu of oral reports in the same time frame currently required under the law, “as soon as practicable but not later than twelve hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed imminent risk of serious harm.” Thereafter the mandated reporter is required to respond to all inquiries from DCF made within 24 hours of filing a report.

Section 5 Mandated Reporters and Electronic Reports (Effective October 1, 2019)

This section amends C.G.S. §17a-101c, **Written report by mandated reporter,** to provide that a mandated reporter who has made an oral report can file an electronic report. Current law already provides that a written report must be filed not later than 48 hours after making an oral report. This legislation provides an option to the mandated reporter to file such in writing or electronically within the time required under the law which remains unchanged.

**Section 7 Electronic Reports Can Be Filed by Anyone
(Effective October 1, 2019)**

This section amends C.G.S. §17a-103, **Reports by others. False reports. Notification to law enforcement agency**, to permit the filing of an electronic report by a mandated reported "acting outside his or her professional capacity" or anyone else who suspects child abuse or neglect.

**Section 12 Pilot Program for Electronic Reports
(Effective July 1, 2018)**

This section is new legislation which permits DCF to create a pilot program for the filing of electronic reports. The pilot program, if created, is to run from July 1, 2018 through September 30, 2019.

MOTOR VEHICLE

- **P.A. 18-164 An Act Concerning Recommendations By The Department Of Motor Vehicles Regarding the Motor Vehicle Statutes
(Effective Dates - various)**

**Section 10 License Revocation Reversal or Reduction
(Effective July 1, 2018)**

This section amends subsection (i) of C.G.S. §14-111, **Suspension or revocation of registration, license or right to operate**, regarding persons who apply for reversal or reduction of a suspension as a result of a conviction pursuant to subparagraph (C) of subdivision (3) of subsection (g) of C.G.S. §14-227a, **Operation while under the influence of liquor or drug or while having an elevated blood alcohol content**, or subparagraph (C) of subdivision (3) of subsection (c) of C.G.S. §14-227m, **Operation of motor vehicle with a child passenger while under the influence of liquor or drug or while having an elevated blood alcohol content. Procedures. Penalties**, persons can request a hearing after 2 years from the date of revocation. The person is required to provide certain information to the Commissioner: (1) proof of successful completion of a drug or alcohol education and treatment program, (2) has not been convicted of any offenses for or had his/her license suspended for, an alcohol or drug offense within the previous 2 years and (3) has not operated a motor vehicle within the prior 3 years.

**Section 11 Persons Under 21 at Time of Violation
(Effective July 1, 2018)**

This section amends C.G.S. §14-111e, **Suspension or delay in issuance of operator's license for person under twenty-one convicted of certain violations**, so that

certain offenses pertaining to a person under the age of 21 years are based upon the age of the person at the date of the violation.

**Section 16 Affirmative Defense for Removal of Animal from Motor Vehicle
(Effective October 1, 2018)**

This section amends *C.G.S. §52-557u, Entering the passenger motor vehicle of another to remove child from vehicle. Affirmative defense against civil damages and criminal penalties, when*, to provide an affirmative defense to a person in a criminal or civil proceeding who enters a motor vehicle, even by force, to remove an animal. Current law already provides an affirmative defense to a person who enters a motor vehicle to remove a child if he/she has a reasonable belief the child is in imminent danger of serious bodily injury.

NEW OFFENSE

➤ **P.A. 18-135 An Act Concerning Robo Calls and Spoofing
(Effective October 1, 2018)**

This act amends *C.G.S. §16-256e, Recorded telephone message devices prohibited*, to create a new class A misdemeanor. Current law prohibits a person from making robo calls for commercial, business or advertising purposes and which continues the message after the call is hung up. Violation of this can result in a fine of not more than \$1,000.

The act creates a new class A misdemeanor in the new subsection (b) which prohibits anyone who violates the current statute if they also use a “blocking device or service intentionally in an effort to “circumvent” the customer’s caller ID capability.

Psychiatric Security Review Board (PSRB)

➤ **P.A. 18-86 An Act Concerning Whiting Forensic Hospital and Connecticut Valley Hospital
(All sections effective from passage)**

Generally the bill changes the name from the Whiting Forensic Division to the Whiting Forensic Hospital throughout the statutes.

Section 1 Task Force

This section creates a task force to review operations, culture and finances of CVH, examine complaints and complaints of discriminatory employment practices, the

role of the PSRB, searches of the possessions of patients and to report findings to the legislature by January 1, 2019.

PETITIONS FOR A NEW TRIAL

P.A. 18-61 An Act Concerning Newly Discovered Evidence (Effective October 1, 2018)

Section 1 Newly Discovered Evidence

Pursuant to current law, a Petition for a New Trial in a criminal or civil proceeding must be brought within 3 years after judgement or decree. The exception to the 3 year time limitation is if the Petition is based upon DNA evidence. Section 1 of this act amends **C.G.S. §52-582, Petition for new trial**, to expand the exception to permit the filing of a Petition For a New Trial in a *criminal* proceeding based on “other newly discovered evidence”. Newly discovered evidence may include “newly discovered forensic scientific evidence that was not discoverable or available at the time of the original trial or original or previous petition for a new trial, as determined by the court . . . , including that which might undermine any forensic scientific evidence presented at the original trial.”

The court may grant such a Petition for a New Trial if it finds that there is a “reasonable likelihood” that a different outcome would have resulted at trial if this evidence had been presented.

The court is required to consider whether relevant forensic scientific evidence not discoverable or available at the initial trial based upon whether relevant scientific evidence changed since original trial, plea or date of most recent petition.

The act provides the following definitions:

“**forensic** means the application of scientific or technical practices to the recognition, collection, analysis and interpretation of evidence for criminal and civil law or regulatory issues,

forensic scientific evidence includes scientific knowledge or technical knowledge, reports or testimony by forensic analysts or experts, and scientific standards or a scientific method or technique upon which the relevant scientific evidence is based, and

scientific knowledge includes knowledge of the general scientific

community and all fields of scientific knowledge upon which those fields or disciplines rely.”

RACIAL AND ETHNIC IMPACT

- P.A. 18-78 **An Act Concerning Racial and Ethnic Impact Statement (Effective October 1, 2018)**

Section 1 As Requested by Legislator

Current law requires the preparation of a racial and ethnic impact statement only if a proposed bill or amendment would increase or decrease the pretrial or sentenced population of DOC. This act amends **C.G.S. §2-24b, Racial and ethnic impact statement required for certain bills and amendments**, to require that a racial and ethnic impact statement be prepared pertaining to any bill or amendment at the request of any General Assembly member.

RE ENTRY

- S.A. 18-14 **An Act Creating a Working Group to Study Housing Options for Persons Reentering the Community after Incarceration (Effective upon passage)**

The act requires the Commission on Equity and Opportunity to create a working group to study housing for persons reentering communities after incarceration and to recommend an “evidence –based housing policy”. On the working group are the Commissioners of Correction

SEXUAL ASSAULT

- P.A. 18-83 **An Act Concerning Procedures Related to Collecting and Processing Sexual Assault Evidence Collection Kits (Effective July 1, 2018)**

Section 1 Commission Membership Expanded

The act amends **C.G.S. §19a-112a, Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations. Protocol. Sexual assault evidence collection kit. Transfer, analysis and preservation of evidence. Costs. Training and sexual assault examiner programs.** (a)to expand the membership of the *Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations* 14 to 15 members and include a member of the Connecticut Alliance to End Sexual Violence (in lieu of Sexual Assault Crisis Services, Inc.) and the Disability

Rights Connecticut, Inc. The act defines “law enforcement” as the Division of State police within DESPP or a municipal police department. It requires the Division of Scientific Services to implement an electronic tracking system for the sexual assault evidence collection kits, develop guidelines for the collection and recording of information and provide for training of persons subject to the guidelines. The act requires health care facilities, when coming into contact with a person who identifies themselves as a victim of sexual assault, to contact a sexual assault counselor. The act further provides that the failure of a person to comply with the statutory protocols will not affect the admissibility of the evidence in a proceeding, action or suit so long as the evidence was otherwise admissible.

The act mandates that the victim has access to information pertaining to the collection of the evidence including whether it was tested and DNA was entered into any DNA data bank and matched a profile.

**Sections 2, 3 Change of Name
(Effective July 1, 2018)**

Subsections (a) of C.G.S. §17a-101q, **State-wide sexual assault awareness and prevention program**, and subsection (a) of C.G.S. §19a-112f, **Sexual Assault Forensic Examiners Advisory Committee. Membership. Duties re-establishment and implementation of sexual forensic examiners program**, are amended so that the statutes refer to the Connecticut Alliance to End Sexual Violence in lieu of Sexual Assault Crisis Services, Inc.

SPECIAL PAROLE

- **P.A. 18-63 An Act Concerning Special Parole for High-Risk Violent and Sexual Offenders
(Effective October 1, 2018)**

Section 1 No Special Parole for Certain Drug Offenses

This section amends subsection (b) of C.G.S. §53a-28, **Authorized sentences**, to prohibit a court from imposing special parole on anyone convicted of narcotics, marijuana or other drug offenses under Ch. 420b (C.G.S. 21a-240 et seq).

Section 2 Criteria Required For Imposing Special Parole

This section amends subsection (b) of C.G.S. §54-125e, **Special parole. Conditions. Duration. Violation. Hearing. Disposition**, to prohibit a court from imposing special parole unless court determines it is necessary, “based on nature and

circumstance of offense, the defendant's prior criminal record and history of performance on probation or parole."

Section 3 Special Parolee Can Be Discharged From Custody

This section amends C.G.S. §54-129, **Discharge of paroled prisoner**, to permit the Board of Pardons and Paroles the discretion to discharge a person from special parole.

VETERANS

- **P.A. 18-47 An Act Concerning Benefits for Certain Veterans Who Have Been Diagnosed With Post-Traumatic Stress Disorder or Traumatic Brain Injury or Who Have Had an Experience of Military Sexual Trauma (Effective October 1, 2018)**

The act amends subsection (a) of 27-103 to define "qualifying conditions" as a "diagnosis of post-traumatic stress disorder or traumatic brain injury made by, or an experience of military sexual trauma, as described in 38 USC 1720D, as amended from time to time, disclosed to, an individual licensed to provide health care services at a United States Department of Veterans Affairs facility." Thereafter, the act amends the statutes pertaining to veterans to include in the definition of "veteran" a person who has been amended to include persons with such a diagnosis and to exclude a person who has been discharged dishonorably or for "bad conduct" for purposes of certain tuition waivers and other educational opportunities.

VICTIMS

- **P.A. 18-128 An Act Concerning Victim's Rights and Restitution (Effective October 1, 2018)**

This act amends subsection (c) of C.G.S. §53a-28, **Authorized sentences**, to require that the court inquire at the sentencing of the defendant on the record, whether any requests for restitution have been received from the victim in the matter. Current law already requires that the court order financial restitution if the victim requests such. This amendment requires that the court actually make an inquiry on the record pertaining to whether such a request exists. In addition, the act requires that the court retain the original written order of restitution as part of the court file.

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