

# Connecticut Public Defenders 2017 Legislative Summary



Deborah Del Prete Sullivan  
Legal Counsel, Director  
[deborah.d.sullivan@jud.ct.gov](mailto:deborah.d.sullivan@jud.ct.gov)

Office of Chief Public Defender  
30 Trinity Street, Fourth Floor  
Hartford, CT 06106  
Telephone No. (860) 509-6405  
Fax No. (860) 509-6495

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Division of Public Defender Services  
Office of Chief Public Defender

*Summaries of 2017 Public Acts*

All acts are effective October 1, 2017 unless otherwise noted.

The following is a summary of the Public Acts adopted during the 2017 *Legislative Regular and Special Sessions* pertaining to criminal proceedings, juvenile delinquency and child protection. *Special thanks to Chris Rappillo for her contributions to the Children/Youth section of this summary and assistance during the 2017 session.*<sup>1</sup>

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](mailto:deborah.d.sullivan@jud.ct.gov).

**ANIMALS**

- **P.A. 17-102** *An Act Concerning Harassment of a Guide or Assistant Dog or the Handler of Such Dog*  
(Effective October 1, 2017)

**Section 1**      **Intentional Interference with Guide Dogs**

This act amends *C.G.S. §46a-44, Access of guide and assistance dogs to modes of public transportation and in places of public accommodation*. Current law provides that a person is guilty of a class C misdemeanor if a person denies the rights of an owner or trainer of a guide dog. This act creates a new C misdemeanor for intentional interference with guide dogs and included conduct which is intended to harass or annoy the dog's owner or trainer.

- **P.A. 17-185** *An Act Concerning The Provision Of Information About The Use Of Therapy Dogs to Comfort and Support Testifying Witnesses in Certain Criminal Prosecutions*  
(Effective October 1, 2017)

**Section 1**                      **Therapy Dogs in Court**

This act is new legislation which requires the Judicial Department to maintain on its website a notice that the Court has the discretion to permit a therapy dog to provide comfort and support of a witness in court. In addition, the Judicial website must contain links to organizations which provide information on animal assisted therapy resources and a link to information regarding resources that are listed on the Division of Criminal Justice website.

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<sup>1</sup> *Legislative Summary Cover – Reprint of original painting by Susan O. Storey, Chief Public Defender.*

## ASSET FORFEITURE

- *P.A. 17-193 An Act Requiring A Criminal Conviction For Certain Offenses Before Assets Seized In A Lawful Arrest or Lawful Search May Be Forfeited In A Civil Proceeding (Effective October 1, 2017)*

### **Section 1 Conviction Required Before Assets Can Be Forfeited**

This section amends *C.G.S. §54-33g, Forfeiture of moneys and property related to commission of criminal offense. In rem proceeding. Disposition. Secondary evidence of forfeited property, C.G.S. §54-36h, Forfeiture of moneys and property related to illegal sale or exchange of controlled substances or money laundering. In rem proceeding. Disposition,* and *C.G.S. §54-36o, Property derived from identity theft subject to forfeiture to state. Exceptions. Proceeds,* to require that a hearing be held on the state's petition to order forfeiture of property seized as a result of a lawful arrest where the charges have been disposed of. The court is required to deny the prosecutor's petition for forfeiture in any case where the disposition was not a guilty or nolo plea, a verdict of guilty after trial or an unsuccessful completion of a pretrial diversionary program.

## BAIL

- *P.A. 17-145 An Act Concerning Pretrial Justice (Effective July 1, 2017)*

### **Section 1 No Cash Bonds**

This act amends *C.G.S. §54-64a, Release by judicial authority,* regarding the courts setting bond. It provides that the court cannot prohibit a bond being posted by a surety and order a cash only bond.

If a person is charged only with misdemeanors, the act prohibits the court from ordering financial conditions of release unless the offense is a family violence crime, the defendant requests such or the court finds on the record that there is a likely risk that the defendant will: (1) fail to appear, (2) obstruct or attempt to obstruct justice, threaten injury, intimidate or attempt to intimidate a witness or a juror, or (3) engage in conduct that threatens the safety of him/herself or another. In making its decision, the court can consider the defendant's past criminal history including convictions for failure to appear in the 1<sup>st</sup> degree or convictions in the last 10 years for failure to appear in the 2<sup>nd</sup> degree, and any pending cases of the defendant.

### **Section 2 Presentment - Misdemeanors and Domestic Violence**

This section amends *C.G.S. §54-53a, Detention of persons who have not made bail, Bond Review by Court.* There is no change to subsection (a) of *C.G.S. §54-53a.* Pursuant to current law, if the defendant does not make bail and is detained, the defendant must be presented at the expiration of 45 days at which time the court may reduce, modify or discharge bail or, upon cause shown, remand the defendant to the Department of Corrections. The defendant must be presented every 45 days for

purpose of presentment.

This section of the act amends *subsection (b) of C.G.S. §54-53a, Detention of persons who have not made bail*, as it removes “misdemeanors” from the current statute. As a result, this subsection (b) is applicable to D or E felonies only. Notwithstanding the provisions of subsection (a), if a defendant does not make bail and is detained for D or E felony, unless detained due to out of state charges or a parole revocation, the defendant must be presented before the court no later than 30 days after being detained, unless the defendant waives presentment. At that time, the court may reduce, modify or discharge bail, or, for cause shown, remand the defendant to the Department of Corrections. The statute remains unchanged in that it requires that the defendant be presented every 30 days for the purpose of presentment.

*The act creates a new subsection (c) in C.G.S. §54-53a for misdemeanors, both domestic violence and non-domestic violence misdemeanors.* It provides that notwithstanding subsections (a) or (b) of C.G.S. §54-53a, as amended, that when a defendant is detained only for a misdemeanor and does not make bail, unless detained for out of state charges or parole revocation, the defendant is required to be presented to the court not later than 14 days after arraignment, unless the defendant waives it.

Section (c) (2) requires that if the defendant is detained for a misdemeanor which is not family violence, at this presentment the court is required to remove the financial conditions on the release of the defendant, unless the court makes a finding on the record that there is a likely risk that the defendant will:

- (1) fail to appear,
- (2) obstruct or attempt to obstruct justice, threaten injury, intimidate or attempt to intimidate a witness or a juror, or
- (3) engage in conduct that threatens the safety of him/herself or another.

Pursuant to (c) (3), if the defendant is detained for family violence misdemeanor, at this presentment the court is required to remove the financial conditions on the release of the defendant unless the court makes a finding on the record that, without such conditions, that there is a likely risk that the defendant will:

- (1) fail to appear,
- (2) obstruct or attempt to obstruct justice, threaten, injure, intimidate or attempt to threaten, injure or intimidate a witness or a juror, or
- (3) engage in conduct that threatens the safety of *another*.

The act does not eliminate the ability of the defendant to file motion to modify bail at anytime.

## BODY CAMERAS

- **P.A. 17-225** *An Act Concerning Camera and Recording Devices and Equipment Used By Police*  
(Effective from passage)

### **Section 1** Task Force Created

The act creates a Task Force charged with examining the use of body cameras and recording devices used by state and municipal police departments, whether the *C.G.S. §29-6d, Use of body-worn recording equipment. When recording prohibited. Retention of data*, should be expanded, the use of electronic defense weapon recording equipment, training and data storage. The Chief Public Defender or her designee is a member of this Task Force.

### **Section 2** Electronic Defense Weapon Recording

This section amends *C.G.S. §7-277b, Reimbursement for body-worn recording equipment and data storage devices or services*, and defines this as:

*“an electronic defense weapon that is equipped with electronic audio and visual recording equipment, “electronic defense weapon” has the same meaning as provided in section 53a-3, “dashboard camera with a remote recorder” means a camera that affixes to a dashboard or windshield of a police vehicle that electronically records video of the view through the vehicle's windshield and has an electronic audio recorder that may be operated remotely.”*

## CELL PHONES, COMPUTERS, INTERNET RECORDS

- **P.A. 17-216** *An Act Concerning Revisions to Certain Criminal Justice Statutes and the Reporting Of the Death of Any Person in State Custody*  
(Effective October 1, 2017)

### **Section 1** Death Notice Required

This is new language which requires that the Commissioner of the Department of Education and the Chief Justice notify the Division of Criminal Justice if anyone in their care, custody or control dies.

### **Section 3** Affirmative Defense

This amends *subsection (c) of C.G.S. §53a-167c, Assault of public safety, emergency medical, public transit or health care personnel: Class C felony*, to insert “affirmative” into the statute before the word “defense” when prosecuting a charge of assault of a health care employee. The act creates an exception to the use of the affirmative defense under the statute to exclude abnormality manifested only by repeated criminal or antisocial conduct.



## Section 4 Subscriber Records – Ex Parte Orders and Probable Cause

This amends *subsections (b) and (e) of C.G.S. §54-47aa, Ex parte order to compel disclosure of or direct application to carrier or provider for certain telephone and Internet records*, regarding ex parte orders for subscriber records and the content of such and the process for notice. It clarifies the standard upon which a court may grant an order to compel a telecommunications carrier or provider of electronic communication service or remote computing service to disclose subscriber information. It also makes technical changes to the language regarding when probable cause is required in order to compel disclosure of content and geo-location data.

## Section 5 Record Disclosure in Erased Cases

This amends *subsection (f) of C.G.S. §54-142a, Erasure of criminal records*, and removes the discretion of the court which exists currently to disclosure of certain erased records. The act requires the court to disclose such records to the defendant in false arrest cases and the prosecution and the defense in connection with perjury charges which have arisen from testimony at trial. The new language requires the court to order disclosure to the prosecution and defense when false statement charges are brought or to the parties in habeas corpus proceedings or other civil matters in which the nulled or erased evidence is relevant.

- *P.A. 17-221 An Act Concerning the Use of Cell Site Simulator Devices by Law Enforcement Officials to Conduct Cellular Telephone Surveillance (Effective October 1, 2017)*

This act amends *C.G.S. §54-41a, Definitions*, to define a “cell site simulator device” and the circumstances under which information can be gathered from this device.

### Section 1 Cell Site Simulator Devices

This section amends *C.G.S. §54-41a, Definitions*, to define a cell site simulator device as one which can track, locate and identify various communications devices and intercept and obtain communications, stored data and metadata from such.

### Section 2 Probable Cause

This section amends *C.G.S. §54-47aa, Ex parte order to compel disclosure of or direct application to carrier or provider for certain telephone and Internet records*, to include the newly defined cell site simulator device within the definition section. It also includes information obtained from these devices within the geo-location data definition.

In addition, the new subsection (c)(1) requires that a judge must find that there is “probable cause to believe that a crime has been or is being committed and the geo-location data associated . . . is relevant and material to an ongoing criminal investigation” before the judge can issue an ex parte order that such a device can be installed or used by law enforcement.

An exception to this probable cause requirement is outlined in the new subsection (c)(2) to provide for those instances when exigent circumstances exist and the facts demonstrate that there is a belief that the geo-location data "is relevant and material to an ongoing criminal investigation." As a result, law enforcement may install and use the device without obtaining an ex parte order from a judge, but only for up to 48 hours. If the time period exceeds 48 hours, law enforcement must proceed pursuant to the new subsection (c)(1).

Subsection (i), renumbered due to the additional language of the act, prohibits the retention of any information obtained for more than 14 days unless it relates to an ongoing criminal investigation. All information obtained pursuant to this statute as amended is required to be provided to defense counsel.

Subsection (j) requires every law enforcement official to report the number of orders issued pursuant to this new process, to the Chief State's Attorney by January 15<sup>th</sup> annually.

➤ ***P.A. 17-223 An Act Concerning Computer Extortion By Use Of Ransomware  
(Effective October 1, 2017)***

**Section 1 Ransomware -New Class E Felony**

This is new legislation which creates the offense of computer extortion by use of ransomware, a Class E felony. It is defined when a person:

*"(1) introduces ransomware into any computer, computer system or computer network, and*

*(2) demands payment of money or other consideration to remove the ransomware, restore access to the computer, computer system, computer network or data contained on such computer, computer system or computer network, or otherwise remediate the impact of the ransomware."*

The statute defines ransomware as:

*"any computer contaminant or lock placed or introduced without authorization into a computer, computer system or computer network that restricts access by an authorized person to the computer, computer system, computer network, or any data held by the computer, computer system or computer network, but does not include authentication required to upgrade or access purchased content or the blocking of access to subscription content in the case of nonpayment for such access, and "computer contaminant" means any set of computer instructions that are designed to modify, damage, destroy, record or transmit data held by a computer, computer system or computer network without the intent or permission of the owner of the data."*

## CHILDREN/YOUTH

- ***P.A. 17-57 An Act Expediting Child Support Modification Orders for Incarcerated or Institutionalized Obligors (Effective October 1, 2017)***

The Act allows for an automatic modification of a child support order to zero upon proof that the obligor is incarcerated for 90 days. The order is also automatically reinstated 90 days post release. This streamlines the process for both the obligor and the recipient and will help eliminate arrearages from accruing while the obligor is incarcerated.

- ***P.A. 17-81 An Act Concerning Revisions to Certain Statutes Regarding the Department of Children and Families (Effective July 1, 2017)***

This legislation amends the DCF Confidentiality Statute, *C.G.S. Sec. 17a-28, Definitions. Confidentiality and access to records; exceptions. Procedure for aggrieved persons*, and allows attorneys in child protection cases to access records without a release or court order. This statute was passed to speed information sharing between DCF and the child's attorney in response to a large backlog in responding to requests. The statute also allows DCF to charge a fee for records in certain circumstances and makes changes to rules regarding adoption/ guardianship subsidies.

- ***P.A. 17-92 An Act Concerning the Department of Children and Families' Standards and Reporting Requirements (Effective July 1, 2017)***

This Act increases court oversight of DCF by requiring more reporting to the Juvenile Court of specific standards relating to children under the age of 3 years. DCF must establish protocols for when a child in their care is age 3 or under and must make reports to the court on the safety of placement and the child's medical, dental educational and treatment needs. This legislation requires that the report be made to the court 90 days after entry into care and every time placement changes.

- ***P.A. 17-98 An Act Implementing the Recommendations of the Task Force to Study Methods for Improving the Collection of Past Due Child (Section 1 - Effective from passage)***

This legislation is part of ongoing efforts to improve child support collection in Connecticut. The General Assembly considers similar proposals annually. The 2017 version allows the Judicial Department to designate the number of state marshals to do collections. This Act also provides support enforcement officials with access to Comptroller electronic system to track payments and ensure that wages and tax returns are properly garnished to eliminate arrearages.

- **P.A. 17-119** *An Act Concerning the Right of Counsel to Access Records in Certain Abuse and Neglect Proceedings*  
(Effective October 1, 2017)

This legislation is similar to P.A. 17-81, as it gives the child's counsel immediate access to records without a release from the parents. This includes access to records that would usually require a release or a court order under federal law, for medical, mental health and educational records.

- **S.A. 17-6** *An Act Concerning Voluntary Admission to the Department of Children and Families*  
(Special Act - Effective from passage)

This legislation was raised in response to concerns that families of children with complex needs are pushed to relinquish custody in order to obtain critical services for their children. This legislation establishes a task force to study the use of the DCF voluntary services and the practice of committing children to DCF for treatment.

## CRIMINAL JUSTICE REVISIONS

- **P.A. 17-87** *An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice Systems*  
(Effective October 1, 2017)

### **Section 1 Public Nuisance-Sale or Delivery of Alcohol to Minors**

This section amends *C.G.S. §19a-343, State action to abate public nuisance. Offenses*, of the public nuisance statutes which provides the right to the state to abate public nuisances on real property, either commercial or residential, so long as there has been 3 or more arrests, 3 or more warrants issued or 3 or more citations issued for municipal ordinance violations. The act adds conduct constituting the sale or delivery of alcohol to minors.

### **Section 2 Electronic Signatures**

This section amends *subsection (b) of C.G.S. §21a-283, Analytical tests for presence of controlled drugs or alcohol. Standards and procedures. Convictions constituting prior offense. Imposition of cost when analysis performed*, to permit analyst to sign and date toxicology lab reports either in writing or electronically.

### **Section 4 20 years To Enforce against Defendant**

This section amends *C.G.S. §53a-28a, Enforcement of orders of financial restitution*, to expand the time period within which a defendant's financial obligations (restitution), that have been ordered pursuant to *subsection (c) of C.G.S. §53a-28, Authorized sentences*, may be enforced as a civil judgment from 10 years to 20 years after the defendant has been released from confinement, the sentence imposed or the entry of the order, whichever is later.

## **Section 5     Larceny 2 and Conserved Persons**

This section amends *C.G.S. §53a-123, Larceny in the second degree: Class C felony*, and expands the definition to include larceny in the 2<sup>nd</sup> degree, a class C felony, if the victim was a conserved persons.

Current law provides for the non-disclosure of a victim's address or telephone number during a trial or pretrial proceedings for most sex offenses, voyeurism, risk or injury and domestic violence offenses upon certain findings by the court. This act expands the list of offenses to include those proceedings where a person is a victim of *C.G.S. §53a-70b, Sexual assault in spousal or cohabiting relationship: Class B felony*, Sex assault spousal/cohabiting.

## **Section 8     Eyewitness Identification Task Force (Effective upon passage)**

This section amends the **Eyewitness Identification Task Force** statute created in *section 2 of P.A. 11-252* as amended by *section 3 of P.A.12-111* and *section 11 of P.S. 14-233*. The act renames the task k force as the Eyewitness Identification and Emerging Technologies Task Force and requires it to assist P.O.S.T. to develop guidelines and policies for law enforcement regarding "(1) eyewitness identification procedures, (2) the use of other emerging technologies to promote effective law enforcement and preventive measures to preclude the use of such technologies for criminal purposes, and (3) such other topics related to eyewitness identification and emerging technologies as the task force deems appropriate." The act also adds to the Task Force membership the Director of the Division of Scientific Services within the Department of Emergency Services and Pubic Protection.

- *P.A. 17-216 An Act Concerning Revisions to Certain Criminal Justice Statutes and the Reporting Of the Death of Any Person in State Custody (Effective October 1, 2017)*

## **Section 1     Death Notice Required**

This is new language which requires that the Commissioner of the Department of Education and the Chief Justice notify the Division of Criminal Justice if anyone in their care, custody or control dies.

## **Section 3     Affirmative Defense**

This amends *subsection (c) of C.G.S. §53a-167c, Assault of public safety, emergency medical, public transit or health care personnel: Class C felony*, to insert "affirmative" into the statute before the word "defense" when prosecuting a charge of assault of a health care employee. The act creates an exception to the use of the affirmative defense under the statute to exclude abnormality manifested only by repeated criminal or antisocial conduct.

#### **Section 4     Subscriber Records – Ex Parte Orders and Probable Cause**

This amends *subsections (b) and (e) of C.G.S. §54-47aa, Ex parte order to compel disclosure of or direct application to carrier or provider for certain telephone and Internet records*, regarding ex parte orders for subscriber records and the content of such and the process for notice. It clarifies the standard upon which a court may grant an order to compel a telecommunications carrier or provider of electronic communication service or remote computing service to disclose subscriber information. It also makes technical changes to the language regarding when probable cause is required in order to compel disclosure of content and geo-location data.

#### **Section 5     Record Disclosure in Erased Cases**

This amends *subsection (f) of C.G.S. §54-142a, Erasure of criminal records*, and removes the discretion of the court which exists currently to disclosure of certain erased records. The act requires the court to disclose such records to the defendant in false arrest cases and the prosecution and the defense in connection with perjury charges which have arisen from testimony at trial. The new language requires the court to order disclosure to the prosecution and defense when false statement charges are brought or to the parties in habeas corpus proceedings or other civil matters in which the nulled or erased evidence is relevant.

#### **COURTS**

- *P.A. 17-99     An Act Concerning Court Operations and Victim Services  
(Effective October 1, 2017)*

#### **Section 1     Stalking Re-defined**

This section amends *subsections (a) and (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*, and allows anyone who was the victim of sexual abuse, sexual assault or stalking as redefined under this act, to apply to the court for an order of protection. The act defines “stalking” as “two or more willful acts, performed in a threatening, predatory or disturbing manner of: Harassing, following, lying in wait for, surveilling, monitoring or sending unwanted gifts or messages to another person directly, indirectly or through a third person, by any method, device or other means, that causes such person to reasonably fear for his or her physical safety.”

#### **Sections 2-3   Victim Access to Delinquency Records**

Section 2 amends *C.G.S. §46b-124, Confidentiality of records of juvenile matters. Exceptions*, and

Section 3 is new legislation which allows the victim access to certain juvenile delinquency records without a court order. The records that can be accessed are the name of the child, the addresses of the child, parents and guardians; the charges pending; information pertaining to a disposition related to the juvenile act charged and any court orders entered pertaining to the child having no contact

with the victim. Any of this information can be used in civil court. However, further disclosure of the information without a court order is prohibited.

### **Section 9 Public Access to Supreme Court and Appellate Court Briefs**

This section amends *C.G.S. §51-215, Records and briefs for State Library and law libraries*, to require public access to Supreme and Appellate Court briefs electronically.

### **Section 20 Victim Defined**

This section amends *C.G.S. §54-201, Definitions*, and expands the definition of victim used in 54-201 through 54-235 to include "aunt, uncle, niece and nephew in the definition of "relative".

### **Section 22 Victim Impact Statement**

This section amends *C.G.S. §54-203, Office of Victim Services established. Powers and duties*, to require a prosecutor who receives a victim impact statement to file it with the sentencing court and requires that it become part of the record and considered by the court at sentencing of the defendant.

### **Section 35 Victim Access to Police Reports**

This section amends *C.G.S. §54-220, Victim advocates. Responsibilities and duties*, to require state police, prosecutors, municipal police departments and other law enforcement agencies to provide a victim advocate with a copy of a police report in their possession.

## **DIVERSIONARY PROGRAM/PILOTS**

- ***P.A. 17-205 An Act Establishing a Pilot Program to Provide Enhanced Community Services to Those in the Criminal Justice System (Effective October 1, 2017)***

This act was proposed by the Division of Criminal Justice. The Chief Public Defender raised concern in regard to this bill in her testimony dated March 20, 2017 on Raised Bill No. 1022 which is available on the OCPD website. The right to counsel, before the prosecution speaks with an arrestee, was highlighted in her testimony. While always supportive of diversion for arrested persons who are homeless, addicted or mentally ill, she stressed that the defendant has certain constitutional rights, especially the right to counsel, which must be complied with. As a result, when moving forward with these prosecutorial created diversionary pilots, attorneys must be involved to provide the right to counsel.

### **Section 1 Prosecutorial Division Programs - Pilot Programs**

This is new language which requires the Chief State's Attorney to create pilot programs in the Hartford, New Haven, New London, Norwalk and Norwich GA courts in the Judicial Districts of

Hartford, New Haven New London and Stamford-Norwalk in order to identify and track homeless addicted and mentally ill persons who are entering the criminal justice system.

The act authorizes the state's attorney offices in those Judicial Districts to screen all cases in an effort to identify and track homeless, addicted and mentally ill defendants and then to refer them to "diversion programs, counseling, treatment, housing assistance and reentry programs in an effort to stabilize such person and prevent future arrests of such person." The state's attorney retains discretion to dispose of any case as they wish, "with a focus on alternatives to incarceration" and the court maintains its jurisdiction over the cases. This may imply that further prosecution may result if the defendant does not comply with the diversion driven by the prosecution.

## **DOMESTIC VIOLENCE**

### **➤ P. A. 17-31 *An Act Concerning Strengthening Laws Concerning Domestic Violence* (Effective October 1, 2017)**

#### **Sections 1 Electronic and Social Media**

This amends *C.G.S. §53a-181d, Stalking in the second degree: Class A misdemeanor*, to include as stalking course of conduct 2 or more acts committed via electronic and social media.

#### **Sections 1-2 Emotional Distress Defined**

These 2 sections amend *C.G.S. §53a-181d, Stalking in the second degree: Class A misdemeanor*, and *§53a-181e, Stalking in the third degree: Class B misdemeanor*, and defines emotional distress as a "significant mental or psychological suffering or distress that may or may not require medical or other professional treatment of counseling". Causing a "reasonable person to suffer emotional distress" as now defined pursuant to this act either knowingly or recklessly will subject a person to prosecution for stalking in the 2<sup>nd</sup> or 3<sup>rd</sup> degrees.

#### **Sections 3-5 Suffocation**

These 3 sections amend the current strangulation statutes, *C.G.S. §53a-64aa, Strangulation in the first degree: Class C felony*, *§53a-64bb, Strangulation in the second degree: Class D felony*, and *53a-64cc, Strangulation in the third degree: Class A misdemeanor*, to permit prosecution for not only strangulation, but suffocation, if a person obstructs another person's *nose or mouth* with intent to impede breathing and impedes ability to breathe. The current penalties for strangulation remain unchanged and are extended to suffocation.

#### **Sections 6-7 Violations of Conditions of Release - Exception**

These amend *C.G.S. §53a-222, Violation of conditions of release in the first degree: Class D felony*, and *§53a-222a Violation of conditions of release in the second degree: Class A misdemeanor*, to provide an exception to violating conditions of release in the 1<sup>st</sup> degree, a class D felony or in the 2<sup>nd</sup> degree, a class A misdemeanor. As a result, conduct which violates a condition of release in either



the 1<sup>st</sup> or 2<sup>nd</sup> degrees which involves" (1) imposing any restraint upon the person or liberty of a person in violation of the conditions of release, or (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking a person" is subject to an enhanced penalty, i.e. a violation of the 1<sup>st</sup> degree becomes a class C felony and of the 2<sup>nd</sup> degree becomes a class B felony.

## **Section 8 Presentence Investigation Reports for Felony Domestic Violence**

This section amends *C.G.S. §54-91a, Presentence investigation of defendant*, and requires preparation of a presentence report for the court whenever a person is convicted of a felony domestic violence offense. In addition, the act prohibits the waiver of a presentence investigation report if a person is convicted of a family violence felony pursuant to *C.G.S. §46b-38a, Family violence prevention and response: Definitions*.

## **DRUGS - OVERDOSES**

- **P.A. 17-17** *An Act Implementing the Recommendations of the Connecticut Sentencing Commission Concerning a Technical Reorganization of Statutes Involving the Illegal Sale of Controlled Substance. (Effective October 1, 2017)*

This act amended the general statutes and makes technical changes which reorganize the statutes pertaining to Illegal Sale of Controlled Substances. The act does not change any of the penalties for the narcotic statutes.

### **Section 1 Technical Changes**

This amends *C.G.S. §21a-277, Penalty for illegal manufacture, distribution, sale, prescription, dispensing*, and deletes the current statutory language in subsections (a) and (b), while creating new subsections pertaining to: (a)(1) and (a)(2) the prohibited conduct and the penalties for manufacture, distribution, sale, prescribing, dispensing, compounding, transporting with intent to sell or dispense or possess with the intent to sell any controlled substances that are a narcotic substance or a hallucinogenic substance; and, the prohibited conduct and the penalties if under (b)(1) and (b)(2) for controlled substances other than a narcotic substance or a hallucinogenic substance.

Subsection (c) of the statute is amended to insert "may" in lieu of "shall" regarding whether a person knowingly possesses drug paraphernalia in a drug factory situation.

### **Section 2 Technical Changes**

This amends *C.G.S. §21a-278, Penalty for illegal manufacture, distribution, sale, prescription or administration by non-drug-dependent person*, by repealing the current statutory language of (a) and (b). The act creates new subsections pertaining to (a)(1) heroin, methadone, crack, and powder cocaine and (a)(2) the penalties for such and (b)(1) narcotic substances, hallucinogenic substances, amphetamine or one kilo or more of cannabis and the penalties for violation of such.

### Section 3 Technical Changes

This section amends *C.G.S. §21a-255, Penalty for failure to make, furnish or keep records, statements or information. General penalty*, and separates into subsections the prohibited conduct and the penalties for violation of this statute. In addition, the act adds a new subsection which articulates the penalties a violation of *C.G.S. §21a-243, Regulations. Schedules of controlled substances*, through *§21a-282, No prosecution where federal action has been taken*, if no penalty is provided by statute as follows: for a first offense, a fine of not more than \$3500 or not more than 2 years prison or both and for any subsequent offense a person shall be guilty of a class C felony.

#### FRAUD/DEBIT AND PAYMENT CARDS

- *P.A. 17-26 An Act Concerning Debit Card Fraud and Penalties for Collection Of Rental Payments on Foreclosed Property (Effective October 1, 2017)*

#### Sections 1-6 Credit and Payment Cards – Digital Wallets

This act extends the current prohibitions pertaining to fraud or theft of credit cards to payment cards which are defined by the act as either a credit card or a debit card. It prohibits falsely making or embossing payment cards.

The act also prohibits falsely loading a payment card into a digital wallet. A digital wallet is defined as “a software application that is used on a computer or other device, including, but not limited to, a mobile device, to store digital forms of one or more payment cards that may be used to obtain money, goods, services or anything else of value”.

The penalties under the credit crime statutes remain unchanged and are provided in *C.G.S. §53a-128i, Penalties for credit card crimes*. Under the current statutory penalties a person could be guilty of either a class A misdemeanor or a class D felony depending upon the elements of the offense so convicted.

#### HATE CRIMES

- *P.A. 17-111 An Act Concerning Hate Crimes (Effective October 1, 2017)*

#### Section 1 Expansion of Hate Crimes

This section amends *C.G.S. §46a-58, Deprivation of rights. Desecration of property. Placing of burning cross or noose on property. Penalty*, to expand upon the definition of hate crimes to include instances when a person violates the statute with the intention to intimidate or harass a person or a group.

It also adds to the list of protected classes under subsection (d) gender identity or expression and mental disability.

The offense remains a class A misdemeanor and a fine of \$1000 has been added to the penalty for violation of this statute. It also adds a fine of \$1000 to offenses resulting in property damage in excess of \$1000, a class D felony.

New language is added which makes the intentional desecration of a house of religious worship which results in property damage up to and including \$10,000, a class D felony with a fine of not less than \$1,000. If the property damage is greater than \$10,000, the offense is a class C felony carrying a fine of not less than \$3,000. Either of these fines cannot be remitted or reduced by the court unless the court puts on the records why it is remitting or reducing the fine. The language also permits the court to order restitution for victims pursuant to *subsection (c) of C.G.S. §53a-28, Authorized sentences.*

## **Section 2 Diversity Awareness Program**

This amends *subsection (a) of C.G.S. §53a-30, Conditions of probation and conditional discharge*, to authorize the court to order as a condition of any sentence imposed that the defendant participate in a "diversity awareness program".

## **Sections 3, 4 Threatening and Religious Entities**

These sections amend *C.G.S. §53a-61aa, Threatening in the first degree: Class D or class C felony*, and *§53a-62, Threatening in the second degree: Class A misdemeanor or class D felony*, to include in the threatening statutes when a person makes a threat under the statute to a person who is in or on the grounds of house of religious worship, religious school, religious community center or a daycare center as defined in *C.G.S. §19a-87g, Notification of emergency by police to day care centers.*

## **Sections 5-7 Intimidation Based On Bigotry or Bias - Fines**

These sections amend the statutes pertaining to intimidation based on bigotry or bias, *C.G.S. §53a-181j, Intimidation based on bigotry or bias in the first degree: Class C felony*, *53a-181k, Intimidation based on bigotry or bias in the second degree: Class D felony*, and *53a-181l, Intimidation based on bigotry or bias in the third degree: Class A misdemeanor*, to include gender discrimination. These sections also require the imposition of the following fines which cannot be remitted or reduced unless the court puts places on the record its reasons for such:

*C.G.S. §53a-181j, Intimidation based on bigotry or bias in the first degree: Class C felony*, is amended to remove the word "serious" from the phrase "serious physical injury" and proscribes a fine of \$3,000.

*C.G.S. §53a-181k, Intimidation based on bigotry or bias in the second degree: Class D felony*, expands, the statute to include not only a person but a group of persons and proscribes a fine of \$1,000.

*C.G.S. §53a-181l, Intimidation based on bigotry or bias in the third degree: Class A misdemeanor*, is enhanced from a class A misdemeanor to a class E felony with a fine of \$1,000.

## **Section 8 State Wide Hate Crimes Advisory Council**

This is new and creates a State-Wide Hate Crimes Advisory Council at the Chief State's Attorney Office to replace existing Hate Crimes Advisory Committee and includes the Chief Public Defender or her designee as a member.

## **INMATES**

- *P.A. 17-106 An Act Concerning State Identification for Inmates Upon Reentry (Effective October 1, 2017)*

### **Section 1 Identification Cards**

This section is new and requires the Department of Corrections and the Department of Motor Vehicles to provide an identification card or a motor vehicle license to any inmate upon release from incarceration. The inmate is required to request either and must pay any fees required.

## **MOTOR VEHICLES**

- *P.A. 17-79 An Act Concerning Recommendations By The Department Of Motor Vehicles Regarding Insurance Policies For Certain Vehicles, Youth Instruction Permits, Operator Licenses, Commercial Motor Vehicle Operation, Administrative Fees, Diversion Program, Student Transportation Vehicles, Abandoned Motor Vehicles, Hartford Whaler License Plates And Other Changes To The Motor Vehicle Statutes (Section 13 - Effective July 1, 2017) (Section 15 - Effective October 1, 2017)*

### **Section 13 Ignition Interlock Devices**

This amends *C.G.S. §14-227k, Avoidance of or tampering with ignition interlock device*, regarding persons whose driving privileges have been restricted by any law which requires ignition interlock devices to be used and not just pursuant to *C.G.S. §14-227a, Operation while under the influence of liquor or drug or while having an elevated blood alcohol content*. It prohibits such persons from driving motor vehicles without such a device, tampering with such a device or requesting or soliciting others to blow into the device so long as the law requires the use of the device. The penalty for violating this statute remains as a class C misdemeanor.

## Section 15 Commercial Motor Vehicle Drivers and Operators

This section amends subsection (b) of *C.G.S. §54-56p, Program for young persons charged with a motor vehicle violation or alcohol-related offense*. Current law prohibits the use of this program for persons charged with a motor vehicle violation which resulted in death or serious injury or a motor vehicle violation classified as a felony unless good cause is shown, or violations of either C.G.S. §14-227a or §14-227g, *Operation by person under twenty-one years of age while blood alcohol content exceeds two-hundredths of one per cent. Procedures. Penalties*. This section further prohibits the use of this program for anyone who commits the motor vehicle violation who has a commercial driver's license, a commercial driver's instruction permit, who is operating a commercial motor vehicle, or has violated C.G.S. §14-296aa, *Use of hand-held mobile telephones and mobile electronic devices by motor vehicle operators and school bus drivers prohibited or restricted. Exceptions. Penalties. Amounts remitted to municipality. Record of violation*.

### PSYCHIATRIC SECURITY REVIEW BOARD

- *P.A. 17-179 An Act Concerning The Department Of Mental Health And Addiction Services' Recommendations Regarding Transfer of A Patient Under The Jurisdiction Of The Psychiatric Security Review Board For Treatment Or Recovery (Effective October 1, 2017)*

#### Section 1 Transfers of Acquittes

This section amends *C.G.S. §17a-599, Confinement under conditions of maximum security*, which currently permits the PSRB or the court to determine whether the acquittee should be placed in maximum security. The new subsection (b) permits the Commissioner of Mental Health and Addiction Services to transfer any acquittee:

*“who requires (1) confinement under conditions of maximum security pursuant to subsection (a) of this section, and (2) medical treatment that is unavailable in the maximum security environment or would constitute a safety hazard to the acquittee or others due to the use of certain medical equipment or material, to a facility that can provide such medical treatment, provided (A) the commissioner ensures that the conditions of custody of the acquittee at such facility are and remain equivalent to conditions of maximum security, (B) the commissioner provides immediate written justification to the board upon such transfer, and (C) transfer of the acquittee back to the maximum security setting occurs upon completion of the medical treatment.*

## SEXTING

- *P. A. 17-25 An Act Concerning "Sexting" By a Child (Effective October 1, 2017)*

### **Section 1 No Prosecution of Juveniles for Child Pornography**

This act amends the sexting statutes to eliminate the prosecution of anyone under the age of 18 for child pornography. Section 1 amends *C.G.S. §53a-196h, Possessing or transmitting child pornography by minor. Class A misdemeanor*, by removing the current statutory age restriction between the ages of 13 and 18 years of age. The act makes a prosecution for sexting applicable to anyone under the age of 18 years of age.

## SOLITARY CONFINEMENT

- *P.A. 17-239 An Act Concerning Isolated Confinement and Correctional Staff Training and Wellness (Effective January 1, 2018)*

### **Section 1 Administrative Segregation Prohibited For Inmates Under 18 Years**

This is new legislation which prohibits any person under the age of 18 from being held in administrative segregation. The act also requires DOC to report to the Criminal Justice Policy and Planning Division (CJPAC) annually the number of inmates housed in restrictive housing status on a monthly basis articulating certain information including the age, gender identity, ethnicity and mental health score of the inmate. In addition, DOC is required to report the number of inmates on administrative segregation for cumulative time periods of 1 to more than 3650 days and training for DOC employees. The training is to focus on mental illness recognition, de-escalation techniques and the effects of certain psychiatric medications.

## THREATENING

See Hate Crimes:

- *P.A. 17-111 An Act Concerning Hate Crimes (Effective October 1, 2017)*

## TRAFFICKING IN PERSONS

- *P.A. 17-32 An Act Concerning Human Trafficking (Effective October 1, 2017)*

### **Section 1 Membership and Charge expanded**

This section amends *C.G.S. §46a-170, Withdrawal of petition. Agreement of settlement*, to include the Commissioner of the Department of Education and an adult victim of trafficking who is

appointed by Governor on Trafficking in Persons Council. It also adds to the Council's charge the following duties:

*“(f) (1) The council shall:*

*(A) Develop a list of key indicators that a person is a victim of trafficking;*

*(B) Develop a standardized curriculum and conduct training for doctors, nurses, pharmacists, pharmacy technicians, emergency medical services personnel, teachers, school counselors, school administrators and personnel from the Department of Children and Families and the Department of Public Health to identify victims of human trafficking, using the list of key indicators developed under subparagraph (A) of this subdivision, and assist such victims;*

*(C) Develop and conduct training for personnel from the Departments of Children and Families and Public Health on methods for identifying children in foster care who may be at risk of becoming victims of trafficking;*

*(D) Develop a plan for mental health, support and substance abuse programs for individuals identified as victims of trafficking and those arrested for prostitution in violation of section 53a-82. The plan shall provide for (i) the diversion of victims of trafficking and prostitution offenders into community-based treatment and support services, including, but not limited to, substance abuse recovery, housing, healthcare, job training, treatment and mental health support, and (ii) after the successful completion of the program, the dismissal of any related criminal charges against the accused.*

*(2) The council shall include such plan and any recommendations for legislation to implement the plan as part of any report submitted pursuant of subsection (h) of this section not later than January 1, 2018.*

*(g) The council shall examine the challenges faced by victims of trafficking who are persons without legal immigration status. The council may recommend services that such persons could benefit from and legislation to provide such services as part of any report submitted pursuant to subsection (h) of this section.”*

## **Section 2     Trafficking Defined – Enhanced Penalties**

This amends the definition of trafficking in persons as articulated in C.G.S. §53a-192a , *Trafficking in persons: Class B felony*, to mean the “recruitment, harboring, transportation or provisions of a person for the purpose of engaging in sexual conduct with another person for a fee” and enhances the penalty for violating the statute from a class B to class A felony.

## **Section 3     Patronizing a Prostitute and 18 Years of Age**

This amends C.G.S. §53a-83, *Patronizing a prostitute: Class A misdemeanor or class C felony*, by deleting that portion of the statute which refers to patronizing a prostitute as a class C felony if the

other person is under 18 years of age or a victim of trafficking. It does not change the penalty for patronizing a prostitute, a class A misdemeanor.

#### **Section 4 Commercial Sexual Abuse of a Minor = Class A or Class B Felony**

This is new and articulates a new crime of commercial sexual abuse of a minor, a class B felony and the minor is a person under 18 years of age. However if the minor is under 15 years of age, the offense is a class A felony:

*(a) A person is guilty of commercial sexual abuse of a minor when:*

*(1) Such person pays a fee to a minor or third person as compensation for a minor having engaged in sexual conduct with such person;*

*(2) Such person pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return for such fee the minor will engage in sexual conduct with such person; or*

*(3) Such person solicits or requests to engage in sexual conduct with a minor, or any other person that such person reasonably believes to be a minor, in return for a fee.*

*(b) Except as provided in subsection (c) of this section, commercial sexual abuse of a minor is a class B felony.*

*(c) Commercial sexual abuse of a minor is a class A felony if the minor has not attained fifteen years of age.*

*(d) For purposes of this section, "minor" means a person who has not attained eighteen years of age.*

#### **Section 5 Massage Services**

This amends *C.G.S. §54-234a, Display of notice re services for victims of human trafficking at highway service plazas, hotels, adults-only businesses and liquor permittee premises*, in regard to massage services and proscribes certain civil penalties, including suspension and revocation of licenses.

#### **Section 6 Human Trafficking Training Programs**

This is new language that requires the Departments of Children and Families and Emergency Services and Public Protection to develop training programs to identify and report Human Trafficking.



## Section 10 Prostitution Statutes – Motor Vehicle Impoundment Repealed

This section repeals *C.G.S. §53a-83a, Patronizing a prostitute from a motor vehicle: Class A misdemeanor*, *Patronizing a Prostitute* and *C.G.S. §54-36m, Impoundment of motor vehicle occupied by person arrested for patronizing a prostitute from a motor vehicle*, *Impoundment Of Motor Vehicle Occupied By Person Arrested For Patronizing A Prostitute From A Motor Vehicle*.

### VICTIMS

- *P.A. 17-217 An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Victim Notification (Effective October 1, 2017)*

#### Section 1 Additional Information From Court

This is new language which requires at sentencing that the court shall indicate the maximum imprisonment sentence the defendant can receive, whether the defendant may be eligible to earn risk reduction credits and whether the defendant may be eligible to apply for parole.

#### Section 2 Additional Information for Victim

This section amends *subsection (d) of C.G.S. §54-91c, Testimony of victim or representative of deceased victim prior to acceptance of plea agreement and at sentencing hearing. Terms of proposed plea agreement. Notification by state's attorney*, which currently requires that the state's attorney provide in writing, upon request and before the court accepts such, the proposed terms of plea. The act adds to the information required to be provided by the state's attorney. Now in cases where the plea agreement is more than 2 years of incarceration or the total effective sentence is more than a 2 year term of imprisonment, the prosecutor must provide to the victim the maximum imprisonment that the defendant could receive, whether the defendant is eligible for risk reduction credits and whether the defendant is eligible to apply for parole if a plea agreement.

### WITNESSES

- *P. A. 17-24 An Act Concerning Intimidating a Witness (Effective October 1, 2017)*

This act amends *C.G.S. §53a-151a, Intimidating a witness: Class C felony*, and enhances the penalty for violating this statute from a class C to a class B felony.

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