

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-51—HB 6650

Emergency Certification

**AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET
CONCERNING THE JUDICIAL BRANCH, CHILD PROTECTION,
CRIMINAL JUSTICE, WEIGH STATIONS AND CERTAIN STATE
AGENCY CONSOLIDATIONS**

SUMMARY: This act makes many changes to implement the state budget, including reorganizing state agencies. Among other things, it:

1. dissolves the Department of Public Works (DPW), establishes a Department of Construction Services (DCS) as its successor for purposes of construction and construction management, and shifts some DPW duties to the Department of Administrative Services (DAS) and others to the Office of Policy and Management (OPM);
2. divides, between the State Department of Education (SDE) and DCS, responsibility for reviewing and approving school construction grant applications;
3. dissolves the Department of Information Technology (DOIT) and makes DAS its successor;
4. eliminates the Department of Public Safety (DPS) and the Department of Emergency Management and Homeland Security (DEMHS) and creates the Department of Emergency Services and Public Protection (DESPP) as a successor agency, with some exceptions; and
5. eliminates the Division of Special Revenue (DSR) and transfers its responsibilities to the Department of Consumer Protection (DCP), its successor agency.

The act makes criminal justice changes including allowing the Department of Correction (DOC) commissioner to award inmates risk reduction earned credits and release certain inmates to home confinement.

The act also makes changes affecting weigh station supervision and the suspension period for drivers convicted of driving under the influence (DUI). The following sections of the act make technical and conforming changes in addition to those discussed below: §§ 141, 142, 144, 145, 153-161, 163, 166, 169-172, 176-179, & 181.

EFFECTIVE DATE: July 1, 2011 unless noted below.

**§§ 1-20 & 223 — CHANGES RELATED TO CHILDREN'S MATTERS AND
PUBLIC DEFENDERS**

Transfer of Functions from Commission on Child Protection to Public Defender

Under prior law, the Commission on Child Protection (CCP) was required to ensure that children and indigent parents who required legal services and

OLR PUBLIC ACT SUMMARY

guardians ad litem (GALs) in child protection, child custody, and child support cases received high quality representation from people knowledgeable and trained in the law applicable to these cases. The chief child protection attorney, who served at the CCP's pleasure, was responsible for establishing the system of legal representation and ensuring its quality.

The act eliminates the CCP and the position of the chief child protection attorney. It makes the Public Defender Services Commission (PDSC) the successor to the CCP, and transfers all of the CCP's functions, powers, and duties to the PDSC. The chief public defender assumes the duties previously assigned to the chief child protection attorney. Among other things, the chief public defender must train, supervise, and pay Division of Public Defender Services (DPDS) assigned counsel.

§§ 2, 3, & 7 — Legal Services and Guardians Ad Litem for Children, Youth, and Others

The act transfers to DPDS the chief child protection attorney's duty to provide (1) legal services and GALs to children, youth, and indigent respondents in family relations matters when the state has been ordered to pay the individual's legal costs and (2) legal services and GALs to children, youth, and indigent parties in civil juvenile matters before the Superior Court. As under prior law regarding the CCP, the act permits the court to direct the division to provide assigned counsel to indigent respondents only in family relations matters concerning paternity and contempt proceedings. The act makes several related conforming changes, including requiring DPDS to establish training, practice, and caseload standards for assigned counsel.

Prior law authorized the chief child protection attorney, in carrying out these requirements, to contract with appropriate not-for-profit legal services agencies and lawyers to represent children and indigent parties in such proceedings. The act transfers this authority to the Office of the Chief Public Defender, as well as specifically authorizing the office to contract with mental health professionals to serve as GALs in family relations matters. As under prior law, the act specifies that any such contract may include terms that encourage or require the use of a multidisciplinary agency model of legal representation.

The act requires the chief public defender to maintain a list of trial lawyers who may represent children, parents, or guardians in child protection and family relations matters as described above. (The law already requires her to maintain a list of trial attorneys for criminal habeas corpus and delinquency matters.)

The law authorizes a public defender to represent an indigent defendant prior to his or her appearance in court in a criminal, criminal habeas corpus, extradition, or delinquency case. The act specifies that DPDS assigned counsel may also represent such defendants, as well as indigent children, youths, respondents, or parties, until the court assigns them an attorney.

The law requires people receiving appointed public defender services based on indigency to reimburse expenses for such services when financially able to do so. The act extends these requirements to parents, guardians, children, or youth receiving appointed DPDS counsel as described above.

OLR PUBLIC ACT SUMMARY

§§ 1, 4, & 8 — Income and Eligibility

By law, the PDSC must adopt rules relating to the operation of the Public Defender Services Division. The act specifies that these rules must include income and eligibility guidelines for representing indigent people. PDSC already has such guidelines for those on trial for misdemeanors, felonies, and delinquency.

The act specifies that existing provisions in the public defender law regarding eligibility of minors for public defender services do not apply to minors receiving the services described above in family relations matters and juvenile matters in Superior Court. For such matters, the act applies the same procedures for determining eligibility for counsel as applied in the CCP statutes that the act repeals.

§§ 2, 5, 9-11, 15, & 19 — Change from Special Assistant Public Defender to DPDS Assigned Counsel

Under prior law, Superior Court judges could appoint a special assistant public defender on a contractual basis in an appropriate case. The appointment was temporary and was paid for by the PDSC. The act eliminates the position of “special assistant public defender” and replaces it with “Division of Public Defender Services assigned counsel.” Among other conforming changes, the act specifies that division-assigned counsel are entitled to the same immunity from personal liability that state officers and employees (including other public defenders) possess.

The act also specifies that the chief public defender’s duties include supervising the training of division-assigned counsel. She is already responsible for supervising the training of other public defenders, assistant public defenders, deputy assistant public defenders, and other staff.

The act specifies that juvenile court records can be disclosed to DPDS employees who require access to the records in the performance of their duties related to division-assigned counsel.

§ 12 — Public Defender Privileged Communications

Consistent with existing law, the act provides that confidential communications (whether oral or written) between a public defender and someone he or she has been appointed to represent, as well as any records the public defender prepares in rendering legal advice to such person, are privileged and cannot be disclosed by the public defender unless the client gives his or her informed consent to waive the privilege. This privilege and prohibition on disclosure extends to any civil or criminal case or proceeding, as well as any legislative or administrative proceeding. These protections extend to anyone considered to be an “indigent defendant” in the public defender law, including those people added to the indigency definition by the act (see § 6 below).

The confidentiality provisions apply to the chief public defender; deputy chief public defender; public defenders, assistant, and deputy assistant public defenders; DPDS assigned counsel; and division employees.

OLR PUBLIC ACT SUMMARY

For purposes of waiving the privilege, the act applies the same definition of “informed consent” as applies in the Rules of Professional Conduct for attorneys. Under those rules, informed consent is agreement by a client to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of, and reasonably available alternatives to, the proposed course of conduct (Rule 1.0(f)).

§§ 2 & 20 — Reporting Requirements

By law, the chief public defender must submit an annual report to the PDSC. The report must include information on the costs, projected needs, and recommendations for statutory changes or changes to court rules that are appropriate to improve the criminal justice system, offender rehabilitation, and related objectives. The act requires the report to also recommend such changes related to the representation of children and parents or guardians in child protection and family relations matters.

The act requires the chief public defender, by January 2, 2012, to submit a report to the Appropriations and Judiciary committees on (1) the status of the transfer of the CCP’s functions, powers, and duties to the PDSC in accordance with the act and (2) any recommendations for further legislative action concerning this transfer.

§§ 16 & 17 — Abuse and Neglect Cases

Child’s Attorney Also Acting as Guardian Ad Litem. Children who are subjects of abuse and neglect litigation generally have an attorney to represent their wishes (legal interests) and a GAL to represent their best interests. Prior law required the child’s attorney to simultaneously perform both functions, creating a conflict when the child’s legal choices contradict what the attorney determines are in the child’s best interests. In cases where there is a conflict, prior law allowed the child’s attorney to notify the court and the court to appoint a separate GAL. The act requires the attorney to act solely in the child’s legal interests rather than as both an attorney and GAL.

Appointment of Attorneys. Under the act, the office of the Chief Public Defender, rather than the judge, assigns attorneys to represent children in abuse and neglect proceedings. But it continues to allow judges to appoint them based on immediate need. In either case, the judge must give the parties advance notice of the assignment or appointment.

Under the act, when a child who needs representation in an abuse or neglect case is already represented in an ongoing probate or family matter, the judge can appoint that attorney to represent the child in the abuse or neglect matter. The judge must notify the office of the Chief Public Defender when doing this. The appointed attorney must be knowledgeable about representing such children.

Appointment of a GAL. The act narrows the circumstances under which a GAL is appointed. Under prior law, a GAL was appointed automatically at the beginning of every abuse and neglect case (with the child’s attorney fulfilling both roles) and a separate GAL was appointed as soon as a conflict arose between the child’s wishes and legal interests. Under the act, GALs do not serve in all

abuse and neglect cases.

Under the act, either the court or the child’s attorney can determine that the child cannot adequately protect his or her best interests. If the attorney then determines that following the child’s wishes could lead to substantial physical, financial, or other harm, the child’s attorney may ask, and the judge may order, that a separate GAL be assigned. The court must either appoint a volunteer GAL or direct the office of the Chief Public Defender to assign a GAL. A GAL already representing the interests of the child in another matter cannot be selected in the current matter (if it is determined that appointment of a GAL is necessary).

Role of a GAL. By law, the GAL need not be an attorney but must be knowledgeable about the needs and protection of children. The act additionally requires that a GAL be knowledgeable about relevant court procedures. The act eliminates provisions requiring the GAL to (1) act in conformity with the Rules of Professional Conduct (which do not regulate non-attorney conduct) and (2) speak on behalf of the child’s best interests. The act instead requires the GAL to perform an independent investigation and allows the GAL to present at any hearing information pertinent to the court’s best interests determination. He or she may be cross-examined at the opposing attorney’s request.

Removal of Attorney for Cause. By law, when a GAL is appointed in a case, the child’s attorney generally continues to represent the child’s legal interests unless the court finds good cause for removal. Under the act, when such good cause is found, the judge must notify the office of the Chief Public Defender and that office, rather than the court, must assign a different attorney.

Fees. Previously, the law required the court to pay attorneys and GALs when the parents or the child’s estate could not do so. Under the act, the office of the Chief Public Defender pays the fees unless the parents, guardian, or child’s estate are able to pay. When some ability to pay is established, the court must assess the rate and the office of the Chief Public Defender may seek reimbursement from the parents, guardians, or the estate.

Counsel for Relatives Who Intervene. The act specifies that relatives allowed to intervene in a case regarding temporary custody or permanent guardianship of neglected or abused children or youth are not entitled to court-appointed counsel or representation by division-assigned counsel, except as provided in the law requiring courts to appoint attorneys in certain circumstances in juvenile court proceedings.

§§ 6 & 18 — *Appointment of Attorney in Juvenile Matters*

By law, unchanged by the act, courts must appoint attorneys to represent children or youth, guardians, and parents in juvenile court proceedings and appeals when justice requires it. Judges must provide attorneys to represent a child in an abuse or neglect or termination of parental rights case. The act transfers from CCP to DPDS the duty to (1) set the compensation rate for such attorneys and (2) pay for attorneys appointed under these provisions.

The act specifies that in the public defender statutes, “indigent defendant” includes (in addition to those already included) anyone who has a right to counsel under the provisions described above and who lacks the financial means when

OLR PUBLIC ACT SUMMARY

requesting representation to secure competent legal representation and to provide other necessary expenses of such representation.

§ 21 — INTENSIVE PROBATION

The act expands probation officers' responsibilities. Under the act, probation officers:

1. must provide intensive pretrial supervision services when the court orders them to,
2. must complete alternative sentencing plans for people who enter a stated plea agreement with a prison term of up to two years when the court orders them to, and
3. may evaluate and develop a community release plan for people sentenced to a prison term of up to two years who have (a) served at least 90 days in prison and (b) complied with DOC prison rules and necessary treatment programs.

If an officer develops a community release plan for an offender under the act, the officer must apply for a sentence modification hearing. By law, the sentencing court can, if it finds good cause after holding a sentence modification hearing, (1) reduce a person's sentence, (2) discharge the defendant, or (3) discharge the defendant on probation or conditional discharge for a period of up to the time the defendant could have been originally sentenced.

The act requires the Judicial Branch's Court Support Services Division to develop guidelines for performing these functions.

EFFECTIVE DATE: Upon passage

§§ 22-25 — RISK REDUCTION EARNED CREDITS FOR INMATES

Regardless of other statutes, the act allows the DOC commissioner to award risk reduction earned credits of up to five days per month for inmates, retroactive to April 1, 2006, to (1) reduce an inmate's maximum prison sentence and (2) make inmates eligible sooner for release from prison under supervision. It applies to inmates who were sentenced to prison for a crime committed on or after October 1, 1994 and committed to DOC custody on or after that date. Inmates who committed offenses before October 1, 1994 are eligible for various credits under existing law for good conduct, obedience to prison rules, employment, and outstanding meritorious performance.

Inmates convicted of the following crimes are ineligible for credits under the act:

1. murder (CGS § 53a-54a),
2. capital felony (CGS § 53a-54b),
3. felony murder (CGS § 53a-54c),
4. arson murder (CGS § 53a-54d),
5. 1st degree aggravated sexual assault (CGS § 53a-70a), or
6. home invasion (CGS § 53a-100aa).

Under the act, an inmate can earn credits for (1) adhering to his or her offender accountability plan (a plan with an inmate's treatment goals and program

OLR PUBLIC ACT SUMMARY

needs to assist the offender's reintegration into the community), (2) participating in eligible programs and activities, and (3) good conduct and obeying institutional rules as designated by the commissioner (but good conduct and obedience alone is not enough to earn credits). Credits cannot reduce a mandatory minimum sentence.

At the commissioner's or his designee's discretion, an inmate can lose all or some of his or her earned credits for (1) misconduct, (2) insubordination, (3) refusal to conform to recommended programs or activities or institutional rules, or (4) other good cause. An inmate's conduct at any time while serving a sentence can cause him or her to lose credits. If the inmate loses more credits than he or she has earned, the loss is deducted from future credits. Credits are only earned while sentenced to prison and committed to DOC custody. They cannot be transferred or applied to a subsequent prison sentence.

The act requires the commissioner to phase in the award of credits for conduct occurring before July 1, 2011, consistent with public safety, risk reduction, administrative purposes, and sound correctional practice. It gives the commissioner discretion in this process but requires him to complete the phase-in by July 1, 2012.

The act requires the commissioner to adopt policies and procedures to (1) determine the amount of credit an inmate can earn to reduce a prison sentence and (2) phase in the awarding of retroactive credits.

Credits and Eligibility for Release

Prior law required DOC personnel to supervise offenders who committed a crime on or after October 1, 1994 until the end of the maximum term of their sentence. The act allows the credits to reduce the maximum term.

Under prior law, an offender sentenced to (1) up to two years was not eligible for release from prison under supervision until serving 50% of his or her sentence and (2) more than two years was not eligible for parole until serving 50% of his or her sentence for a non-violent offense or 85% of his or her sentence for a violent offense (some offenses, such as capital felony, make an inmate ineligible for parole). The act allows an offender's eligibility to be based on his or her sentence as reduced by the credits.

The act similarly reduces an inmate's sentence by the amount of the credits for purposes of calculating when the Board of Pardons and Paroles must hold a parole eligibility hearing for a (1) non-violent offender who remains incarcerated after serving 75% of his or her sentence and (2) violent offender who remains incarcerated after serving 85% of his or her sentence.

§§ 26-27 — HOME CONFINEMENT FOR CERTAIN OFFENDERS

Regardless of other statutes, the act allows the DOC commissioner to release a sentenced inmate, after admission and conducting a risk and needs assessment, to the inmate's residence if he or she was sentenced for: (1) driving under the influence (DUI); (2) operating a motor vehicle with a refused, suspended, or revoked license or registration; (3) possessing a controlled substance other than a

OLR PUBLIC ACT SUMMARY

narcotic, a hallucinogen, or less than four ounces of marijuana; or (4) drug paraphernalia crimes. These released offenders cannot leave their homes without authorization.

Based on the person's assessment, the commissioner can require:

1. electronic monitoring of the offender, including by a global positioning system;
2. automatic testing of breath, blood, or transdermal alcohol concentration levels and tamper attempts at least hourly, regardless of the person's location (made possible, presumably, by an electronic alcohol testing system) and, for drug offenders, random drug tests; and
3. other conditions the commissioner considers appropriate.

Under the act, someone released to his or her home remains in DOC custody and is supervised by DOC employees. The commissioner can revoke the release and return the person to prison for violating release conditions.

Advisory Committee

Regarding release of DUI and operating without a license or registration offenders, the act requires the commissioner to create an advisory committee to develop a protocol for:

1. training DOC staff who assess and supervise offenders eligible for this type of release,
2. evaluating outcomes,
3. establishing victim impact panels, and
4. treating participants.

§§ 28 & 29 — EDUCATING STUDENTS IN JUVENILE DETENTION FACILITIES

The act makes local and regional boards of education responsible for providing, and paying part of the cost of, regular and special education and related services for students held in juvenile detention centers operated by, or under contract with, the Judicial Department.

Responsible Districts

The act requires the school district where a detention facility is located to provide educational services, either directly or under contract with public or private educational service providers and in accordance with state and federal education laws. The district may charge tuition to the district where the child would otherwise go to school. Educational services must begin on the date the student is placed in detention and financial responsibility commences on the date services begin.

Under the act, the student's home district, or if no such district can be identified, the district where the detention center is located, must pay a basic contribution towards the cost of the student's education equal to its average per pupil cost for the previous year. The State Board of Education (SBE) must, on a current basis, pay any costs exceeding the responsible district's basic contribution.

OLR PUBLIC ACT SUMMARY

To receive the state payments, a district must apply to the SBE for a grant according to the same procedure used for excess cost grants for educational services for students in other types of state residential placements.

Students No Longer Enrolled

Under the act, the student's home district must pay a basic contribution for the student even if he or she has (1) been suspended or expelled from school by that district or (2) withdrawn, dropped out, or otherwise terminated school enrollment there. Once the student's home district receives notice from the educational service provider for the juvenile detention facility, it must re-enroll the student. If no home school district can be identified, the notice must go to the district where the detention center is located, and that district must enroll the student.

Judicial Branch Notice to School Districts

Under the act, the Judicial Branch must give written notice of the detention within one business day after the student is placed. The notice must go to the student's home district or, if none can be identified, to the district where the detention center is located. It must include the student's name and date of birth, guardian or parental address, placement location, contact information, and other information necessary to provide educational services.

Assignment and Transfer of Academic Credit

Before the student is discharged from detention, the act requires the district responsible for providing educational services to assess the schoolwork he or she completed and determine the academic credit earned. The credit is considered credit from that school district and must be accepted in transfer by the school district where the student continues his or her education after being discharged from the juvenile detention facility.

§§ 30 & 225 — JUVENILE COURT ACCESS

By law, the Juvenile Court hears family matters on the civil side in separate, closed courtrooms as far away as is practicable from other cases. Family matters include child abuse, neglect, dependency, and contested termination of parental rights cases.

This act eliminates a pilot program designed to increase public access to these cases. The program operated in a courthouse the chief court administrator selected and gave judges the discretion to exclude the public at a party's request. It required the Judicial Branch to adopt policies and procedures after consulting with the Juvenile Access Policy Board, which dissolved December 31, 2010 after recommending against continuing the program.

In place of the pilot program, the act permits all family matters judges to open their courtrooms to people with a legitimate interest in the hearing or work of the court. People who may be granted access include:

1. foster parents and relatives;
2. service providers; and

OLR PUBLIC ACT SUMMARY

3. members of the media and individuals or representatives of any agency, entity, or association.

For a child's safety and protection, judges may direct members of the last group who are present at a hearing not to disclose information that identifies the child, his or her custodian or caretaker, or members of the child's family involved in the case.

The act specifies that it does not affect a foster parent's statutory right to be heard at hearings where the child's best interests are an issue.

The act also repeals obsolete reporting statutes related to the pilot program.
EFFECTIVE DATE: Repeal of the reporting statutes is effective upon passage.

§§ 31-32 — JUDICIAL FORECLOSURE MEDIATION PROGRAM

The act extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009.

PA 11-201 also extends the sunset date of the judicial foreclosure mediation program, and makes other changes to it.

§ 33 — GUN POSSESSION BY A MINOR

The act makes it a class A misdemeanor (see Table on Penalties) for a parent or guardian who knows that his or her minor child or ward possesses a firearm and is ineligible to do so, to fail to make reasonable efforts to remove the firearm from the child. If the child injures or kills someone with the firearm, the parent or guardian commits a class D felony (see Table on Penalties).

EFFECTIVE DATE: October 1, 2011

§ 34 — JUVENILE JURISDICTION POLICY AND OPERATIONS COORDINATING COUNCIL

The act requires the 30-member Juvenile Jurisdiction Policy and Operations Coordinating Council (JJPOCC) to submit recommendations concerning the implementation of changes to expand juvenile court jurisdiction to those under age 18. Its report is due January 1, 2012 and must go to the governor; committees on Appropriations, Human Services, and Judiciary; and the Select Committee on Children.

The JJPOCC was established in 2007 to monitor the implementation of changes required to raise the age of juvenile court jurisdiction from age 15 to 17. Under existing law, court jurisdiction has been extended to 16-year-olds; it is scheduled to be extended to 17-year-olds on July 1, 2012.

EFFECTIVE DATE: Upon passage

§ 35 — REPORT ON UNIFIED COMMUNITY CORRECTIONS

The act requires the DOC and children and families commissioners and OPM secretary, in consultation with the JJPOCC and Criminal Justice Policy and Advisory Commission, to report on the feasibility of establishing, and steps to implement, a unified community corrections agency by July 1, 2013, to serve

OLR PUBLIC ACT SUMMARY

adult and juvenile offenders who can be safely served in community-based programs. They must report by January 1, 2012, to the governor; Appropriations, Human Services, and Judiciary committees; and the Select Committee on Children.

EFFECTIVE DATE: Upon passage

§§ 36 & 37 — PROBATE SURPLUS

By law, beginning annually on June 30, 2011, surplus money in the Probate Court Administration Fund is to be transferred to the General Fund. The act provides that on the last day of both FY 11 and FY 12, \$4 million from the Probate Court Administration Fund will not be transferred to the General Fund.

Under the act, \$150,000 of the probate surplus goes to the Judicial Branch's Court Support Services Division, half on June 30, 2011 and half on June 30, 2012. The funding is for competency examinations of children and youth involved in juvenile matters and youth in crisis matters under sHB 6637, but the bill did not become law. Children and youth, like adults, are presumed to be competent, but by law must undergo mental examinations if there is reason to believe that they may be unable to understand the proceedings or participate in their own defense (legally incompetent).

The following also have provisions allocating the \$4 million probate surplus: PA 11-6 (§ 50), PA 11-48 (§ 42), and PA 11-61 (§ 100).

EFFECTIVE DATE: Upon passage

§§ 38-41 — WEIGH STATION COVERAGE AND RESPONSIBILITIES

By law, the Department of Motor Vehicles (DMV) and DPS share responsibility for staffing the state's six weigh stations. The act gives the DMV commissioner primary responsibility for staffing and coordinating coverage and hours of operation at these facilities. It requires her to adjust work shifts at the weigh stations daily to create an unpredictable schedule. Under prior law, the DMV commissioner carried out this function with the DPS commissioner. (This act merges DPS into DESPP and makes it DPS's successor agency).

Under prior law, DPS and DMV each staffed three work shifts in each seven-day period (Sunday through Saturday) at the Danbury weigh station. The act gives DMV responsibility for all six work shifts. It requires the DMV commissioner, whenever possible, to coordinate coverage at the Danbury and Greenwich weigh stations to assure that both stations are covered at the same time. Under prior law, the DPS commissioner performed this function.

Prior law required the staffing of 10 staggered shifts in each seven-day period (Sunday through Saturday) at portable scale locations in four geographical areas established by the DPS commissioner. The act requires the DESPP commissioner to assign troopers to enforce commercial motor vehicle laws in 10 work shifts during this seven-day period in four geographical areas established by the DMV commissioner. As under prior law, the DMV commissioner must concentrate the shifts in those areas where the permanent weigh stations are open fewer hours. The act eliminates the requirement that the shifts be staggered. Under prior law,

OLR PUBLIC ACT SUMMARY

the DPS commissioner could assign any personnel remaining in the DPS traffic unit to the permanent weigh stations in Waterford and Middletown or the portable scale locations. The act instead authorizes the DMV commissioner to assign DMV personnel to these locations.

Prior law also required the DPS commissioner to assign DPS traffic unit personnel to work between nine and 12 shifts in each seven-day period from Sunday through Saturday to patrol and enforce highway safety laws. The act instead requires the DESPP commissioner to assign one trooper to each weigh station work shift in each seven-day period to enforce these laws. The DESPP commissioner must consult with the DMV commissioner in assigning the troopers.

The act requires DESPP, in addition to enforcing commercial motor vehicle laws at weigh stations, to assign troopers trained in commercial motor vehicle enforcement to patrol state highways to enforce these laws (roaming enforcement).

Under prior law, the transportation commissioner, in consultation with the DMV and DPS commissioners, was to (1) establish a program to implement regularly scheduled operating hours for the weigh stations by January 1, 2004, and (2) report annually on the program to the Transportation Committee, starting October 1, 2004. The act requires the DMV and DESPP commissioners to meet these requirements as of January 1, 2012 and October 1, 2012, respectively.

Traffic Backlogs

The act makes DMV's commercial vehicle safety division, rather than the State Police, responsible for temporarily closing any weigh station where a traffic backlog is causing a traffic hazard.

Log Books

Prior law required the weigh stations to submit logs containing certain information to the DPS commissioner, and for the commissioner, by December 15, 2007, after consulting with the DMV commissioner, to develop and distribute a form to record this information. It required the DPS commissioner, starting January 1, 2008, to submit a semi-annual written report with this information to the Transportation Committee, and for the information to be posted on DMV and DPS websites. The act instead requires the logs to be submitted to the DMV commissioner, who must (1) develop and distribute the form by December 15, 2011, and (2) report the information to the Transportation Committee by January 1, 2012, and semi-annually thereafter. Also, the report need only be posted on the DMV website.

The act modifies the information the logs must contain. Specifically the logs must include:

1. the location and date of each shift, rather than the location, date, and hours of each shift;
2. the number of vehicles weighed, rather than the number and weight of vehicles inspected; and
3. the number and type of safety inspections, rather than just the type of

OLR PUBLIC ACT SUMMARY

vehicle inspections.

Finally, under the act, the log books no longer need to include the operating costs for each shift.

§§ 42-72, 90-92, 96-104, & 112-113 — DEPARTMENT OF PUBLIC WORKS DISSOLUTION

The act dissolves DPW and transfers its personnel powers, duties, obligations, and other government functions that do not relate to construction or construction management to DAS beginning July 1, 2011. Under the act, the DAS commissioner generally assumes responsibility for (1) purchasing, selling, leasing, subleasing, and acquiring property for state agencies; (2) disposing of surplus state property; (3) supervising the care and control of certain state buildings and grounds; and (4) establishing and maintaining security standards for most state property. If any of the departments' orders or regulations conflict, the act allows the DAS commissioner to implement policies or procedures to resolve the conflict while adopting the policies and procedures in regulation.

The act establishes DCS as an independent executive branch agency headed by a commissioner with the authority to, among other things, designate a deputy or deputies. It makes DCS the successor department to DPW with respect to the construction of state buildings and property, including administering most state capital improvement projects and selecting consultants to assist on them.

DAS and DCS Overlap

While the act transfers most of DPW's responsibilities to DAS, there are some instances in which functions previously within DPW will be shared by DAS and DCS. For instance, the act requires the attorney general's office, upon request by the appropriate commissioner, to provide assistance in contract negotiations to the (1) DAS commissioner regarding the purchase or lease of real estate and (2) DCS commissioner regarding the construction. It requires the DAS commissioner to consult with the DCS commissioner when renegotiating a lease to allow the lessor to make necessary alterations or additions costing \$500,000 or less.

The act also makes the DAS commissioner responsible for accepting and executing trusts created for procuring, erecting, and maintaining a memorial on public grounds or within a public building. However, it requires the commissioner, in addition to receiving legislative approval as required under existing law, to consult with the DCS commissioner before making, erecting, or removing from its location any statue or sculpture upon state property.

Additionally, the act requires the Minority Business Enterprise Review Committee to consult with both DAS and DCS regarding compliance with state programs for minority business enterprises. Previously, it consulted with DPW only. It also places both the DAS and DCS commissioners on the Connecticut Capitol Center Commission.

Property Inventories

Prior law required DPW to maintain a complete and current inventory of all

OLR PUBLIC ACT SUMMARY

state-owned or –leased property and premises, including space-utilization data. The act instead requires (1) DAS to maintain an inventory of leased property and (2) OPM to maintain an inventory of owned property. DAS must also maintain a comprehensive and complete inventory of all improved and unimproved real estate available to the state by lease.

Additionally, the OPM secretary must be informed of property transfers effectuated by the transportation commissioner. In creating the owned property inventory, the OPM secretary must make recommendations concerning the reuse or disposition of state property and identify existing buildings that (1) are of historic, architectural, or cultural significance and (2) would be suitable to meet the state’s or the public’s needs for renewable energy sources. The act also removes a reference to OPM’s bureau of real property management.

The act requires all state agencies to provide DAS or OPM, as appropriate, with any requested information and notify (1) DAS of any new or terminated leases and (2) OPM of any change in property ownership. DAS and OPM must update the inventories at least annually and must share the inventories with each other. By June 30, 2012 and annually thereafter, they must also submit a copy of the inventories to the Appropriations and Government Administration and Elections (GAE) committees.

“State property” means any improved or unimproved real property or building owned or leased by a state agency and “state agency” means any office, department, board, council, commission, institution, constituent unit of the state system of higher education, vocational-technical school, or other agency in the executive, legislative, or judicial branch of state government.

PA 11-61, § 89, requires the DAS commissioner to prepare an annual inventory of state-owned improved and unimproved real estate that is unused or underutilized. The commissioner must submit, annually by January 1, to the Appropriations and GAE committees, a status report on the inventory and recommend possible reuse or disposition of such real estate. It also requires, rather than allows upon request, the OPM secretary to physically compile the inventory of improved or unimproved real estate available to the state by lease. It eliminates a requirement for the administrative services commissioner to share the inventory with the State Properties Review Board.

Security Standards

The act transfers, from DPW to DAS, responsibility for establishing and maintaining security standards for state property. However, it gives DCS sole authority and oversight responsibility for implementing security audit recommendations for capital improvements. The DCS commissioner must also (1) determine whether state building renovation projects would have a significant impact on the building’s security characteristics and (2) review preliminary designs for new state construction projects for compliance with security standards. The act also removes from the State-Wide Security Management Council the attorney appointed by the DPW commissioner (see also § 143).

State Facilities Plan

OLR PUBLIC ACT SUMMARY

Generally, DAS assumes DPW's responsibilities regarding the state facilities plan, including its implementation. However, the act requires both DAS and DCS to assist agencies and departments with long-range facilities planning.

The act also requires DAS to adopt regulations that mandate all agencies seeking to enter into a lease, lease renewal, or holdover agreement to submit them to the OPM secretary for approval. (PA 11-61, § 88, requires the regulations to mandate that the DAS commissioner, rather than the agencies, submit the agreements for approval.) Prior law required the DPW commissioner to submit only negotiated lease requests that exceed gross cost and total square footage limits approved by the secretary. The act also eliminates a requirement that deemed approved any lease request not acted upon by the OPM secretary within 10 work days.

The act allows both the DAS and DCS commissioners, as applicable, to audit the books of any contractor employed by the respective commissioners.

§§ 73-75 — AFFIRMATIVE ACTION AND DISCRIMINATION

Affirmative Action Plans

The act exempts state agencies with fewer than 25 full-time employees from the requirement to file an affirmative action plan. (State agencies include departments, boards, and commissions.) Under prior law, all state agencies had to file a plan.

The act also decreases how frequently certain agencies must file their plans. Prior law required agencies with (1) more than 20 full-time employees to file their plans annually if they had already had a plan approved by the Commission on Human Rights and Opportunities (CHRO) and semi-annually if they had not and (2) 20 or fewer full-time employees to file biennially.

Under the act, only agencies with 250 or more full-time employees must file semi-annually or annually, depending on the existence of previously approved plans. Agencies with 25 to 249 full-time employees must file biennially (unless the plan is not approved, in which case CHRO may require that it be resubmitted until it is).

The act requires all plans to be filed electronically. (PA 11-61, § 113, requires electronic filing only if practicable.) It specifies that any plan filed more than 90 days late is deemed disapproved. It requires CHRO's executive director, rather than the agency's regulations, to establish a filing schedule.

Discrimination

The act also reduces the frequency and length of training CHRO and the Permanent Commission on the Status of Women must provide to affirmative action officers, renamed equal employment opportunity officers by the act, on state and federal discrimination laws. Beginning October 1, 2011, the act reduces training for the officers from (1) 10 to five hours during their first year of service and (2) five hours per year to three hours every two years thereafter. The reduced training also applies to individuals designated by the attorney general to represent state agencies before CHRO or the federal Equal Employment Opportunity

OLR PUBLIC ACT SUMMARY

Commission (EEOC).

The act also allows state agencies to refrain from investigating a discrimination complaint that has also been filed with CHRO or EEOC. The agencies may instead rely on the applicable commission's process. Under prior law, agencies' affirmative action officers had to investigate most complaints filed against their agencies. Similarly, the act allows DAS and CHRO to rely on an EEOC or CHRO investigation of a complaint made by or against an agency head, an agency affirmative action officer, or any member of a state board or commission. Under prior law, all such complaints were referred to CHRO for review and, if appropriate, DAS investigation.

Working Group

The act requires CHRO's executive director to chair a working group to (1) review the commission's existing regulations governing affirmative action plans and (2) recommend changes. The recommendations must include (1) elimination of unnecessary or redundant regulations, (2) improvements in the use of statewide data (including CORE-CT, Labor Department, and census data) for efficient information collection concerning affirmative action plans, (3) whether the regulations are constitutional and comply with state and federal law, and (4) streamlining the regulations' content and structure.

The group includes the executive director as the chairperson, the OPM secretary and DAS commissioner or their designees, and eight other members chosen by the executive director. These members must include at least one representative from each of the following types of agencies: (1) regulation and protection, (2) conservation and development, (3) human services, (4) transportation, and (5) education. The executive director's appointees must also have experience with (1) drafting state agency affirmative action plans, (2) affirmative action law or education, and (3) the impact of affirmative action on minority communities.

The executive director must convene the working group by July 1, 2011 and it must issue its recommendations by November 1, 2011. By January 1, 2012, CHRO must publish a notice of intent to amend its regulations to implement the group's recommendations in the *Connecticut Law Journal*.

PA 11-61, § 115, allows a designee to perform the executive director's duties associated with the working group.

EFFECTIVE DATE: Upon passage

§§ 42, 76-89, & 223 — DOIT

The act dissolves DOIT and reestablishes it as a division within DAS, which becomes its successor agency. Beginning July 1, 2011, DAS assumes DOIT's personnel powers, duties, obligations, and other government functions. The act requires the DAS commissioner to appoint a chief information officer (CIO) to lead the division but transfers the existing DOIT CIO's powers to the DAS commissioner. Among other things, the act makes the DAS commissioner, rather than the CIO of DOIT, responsible for:

OLR PUBLIC ACT SUMMARY

1. developing and updating an annual information and telecommunications (IT) strategic plan;
2. identifying and implementing (a) telecommunication systems to efficiently service state agencies and (b) opportunities for reducing costs associated with these systems;
3. approving or disapproving state agency acquisition of hardware and software;
4. approving or disapproving state agency requests or proposed contracts for IT systems consultants;
5. purchasing, leasing, or contracting for telecommunication system facilities, equipment, and services for executive branch agencies other than the constitutional offices; and
6. serving on the Geospatial Information Systems Council.

If any DAS or DOIT orders or regulations conflict, the act allows the DAS commissioner to implement policies or procedures to resolve the conflict while adopting the policies and procedures in regulation.

Under the act, DAS does not inherit the DOIT CIO's responsibility to (1) develop and implement an integrated set of IT policies for state agencies and (2) produce a series of comprehensive standards and planning guidelines pertaining to the development, acquisition, implementation, and management of IT systems. PA 11-48, § 14, requires OPM to perform these duties.

The act removes the requirements that the IT strategic plan have goals of (1) establishing direction for state agencies to collect, store, manage, and use information in an efficient manner and (2) developing a comprehensive information policy for state agencies. It also removes a requirement that the plan include a policy concerning the infusion of new technology for state agency IT systems. It requires DAS to develop the strategic plan in accordance with policies established by OPM.

Additionally, the act eliminates a requirement for the CIO of DOIT to approve the provisions of subcontracts for information system or telecommunication system facilities, equipment, or services. Instead, it requires only that the DAS commissioner approve the disclosure of the provisions. (However, it does transfer to the DAS commissioner the requirement to approve the selection of a subcontractor.) It also repeals a requirement that the CIO provide for the professional development of the state's IT professionals.

The act also places the Commission for Educational Technology within DAS. Under prior law, it was within DOIT for administrative purposes only.

§§ 45, 90, 93-95, & 105-111 — DIVISION OF FIRE, EMERGENCY, AND BUILDING SERVICES

The act dissolves the DPS Division of Fire, Emergency, and Building Services and transfers most of its functions to DCS. It transfers to DCS the Office of the State Building Inspector and the Office of the State Fire Marshal but not the Office of State-Wide Emergency Telecommunications. The transfer makes DCS responsible for enforcing the Fire Safety Code and the State Building Code. Under the act, the heads of the two transferring offices report to the DCS

OLR PUBLIC ACT SUMMARY

commissioner rather than the head of the division. If any of the departments' orders or regulations conflict, the act allows the DCS commissioner to implement policies or procedures to resolve the conflict while adopting the policies and procedures in regulation.

The act eliminates a provision under which the state building inspector serves as the administrative head of the Office of the State Building Inspector. The office's responsibilities include (1) the adoption, administration, and interpretation of the State Building Code; (2) licensing municipal building officials; and (3) oversight of elevators, escalators, and boilers.

Additionally, the act transfers, from DPS to DCS, oversight of (1) crane operators, (2) passenger tramways, and (3) motion pictures and motion picture projectors. It also transfers to DCS responsibility for adopting regulations concerning building demolition and licensing people engaged in that business.

State Fire Marshal

Under prior law, the DPS commissioner served as state fire marshal. The act instead requires the DCS commissioner to appoint the state fire marshal. It also allows the DCS commissioner to (1) delegate the fire marshal's responsibilities to others and (2) appoint a deputy state fire marshal.

The state fire marshal is responsible for, among other things:

1. adopting and administering the State Fire Prevention Code and Fire Safety Code;
2. certifying local fire marshals, deputy fire marshals, fire inspectors, and investigators;
3. hearing and adjudicating complaints against local fire marshals, deputy fire marshals, and fire inspectors;
4. abating fire hazards;
5. investigating fires and explosions; and
6. regulating (a) flammable and combustible liquids, (b) liquefied petroleum gas, (c) hazardous chemicals, (d) explosives and blasting agents, and (e) fireworks, including storage, use, transportation, and transmission, as applicable.

PA 11-61 (§§ 91 & 92) specifies that the commissioner of emergency services and public protection, instead of the state fire marshal, investigates the cause, circumstances, and origins of fires involving property damage or personal injury or death. It also requires the commissioner, instead of the state fire marshal, to provide quarterly reports to the insurance commissioner detailing arson cases.

§§ 45, 90, & 115-132 — STATE SCHOOL CONSTRUCTION PROJECTS

Under prior law, SDE was responsible for the entire school construction grant process, including (1) reviewing and approving school building project grant applications from local and regional boards of education, (2) establishing priority categories, (3) making grant payments, and (4) auditing the projects. The act divides these responsibilities between SDE and DCS. It generally makes DCS responsible for most of the process while maintaining the SDE commissioner's

OLR PUBLIC ACT SUMMARY

responsibility to evaluate projects for compliance with certain educational requirements. Additionally, it makes numerous changes to project requirements and state reimbursement rates.

Division Between SDE and DCS

The act requires towns or regional school districts to submit school construction grant applications to the SDE commissioner, who must review the application to (1) determine if it complies with educational requirements, (2) assign building projects to the priority categories established by law, and (3) determine whether the projects assist the state in meeting the requirements of the 2008 stipulation and order in the *Sheff* settlement. The SDE commissioner also determines whether an interdistrict magnet school project helps the state meet the *Sheff* requirements.

The act requires the SDE commissioner to send the applications to the DCS commissioner by August 31 of each fiscal year. The DCS commissioner reviews the applications on the basis of school construction standards established by regulations adopted by DCS in consultation with SDE and, under the act, approves the applications. The act requires the DCS commissioner to consult with the SDE commissioner before approving a grant application to remedy fire and catastrophe damage, correct code violations, replace roofs, remedy air quality emergencies, or purchase and install portable classroom buildings if such an application is made after the deadline.

The DCS commissioner estimates the amount of the grant for which a project is eligible, based on reimbursement percentages determined by the SDE commissioner, and, as under existing law, submits the list of eligible projects to the governor and legislature. The act adds the OPM secretary as a recipient of the list. It transfers to DCS responsibility for (1) determining eligible project costs, (2) entering into grant commitments upon legislative authorization, (3) certifying the amounts to the comptroller, and (4) auditing projects.

Other Duties Requiring Consultation

The act transfers several existing SDE duties to DCS, but requires DCS to fulfill these duties in consultation with SDE. For instance, the act generally makes the DCS commissioner responsible for the part of the process relating to construction, including (1) adopting regulations concerning per-square-foot costs for school construction, (2) determining whether reasonable lease costs must be part of a school construction grant, and (3) requiring renovation projects to meet the same state and federal codes and regulations as alteration projects.

However, the DCS commissioner must consult with the SDE commissioner in deciding whether to (1) modify standard space specification requirements for projects in districts that have fewer than 150 students in kindergarten through eighth grade or (2) waive any building project requirements for interdistrict magnet schools. If a building ceases to be used as an interdistrict magnet school, the DCS commissioner must determine, in consultation with the SDE commissioner, whether (1) title to the building and any legal interest in related land revert to the state and (2) the district must reimburse the state. The DCS

OLR PUBLIC ACT SUMMARY

commissioner may also request that the SDE commissioner withhold the amount owed from the district's education cost sharing grant.

Additionally, the DCS commissioner, in consultation with the SDE commissioner, is responsible for collecting, publishing, and distributing information on (1) procedures for school building committees, (2) building methods and materials suitable for school construction, and (3) relevant educational methods, requirements, and materials. The DCS commissioner, in consultation with the SDE commissioner, must also:

1. provide advisory services to local officials and agencies on long-range school plant planning and educational specifications;
2. review the sketches and preliminary plans and outline specifications for school building projects and the educational programs they are designed to house; and
3. advise boards of education and school building committees on the suitability of such plans on the basis of educational effectiveness, sound construction, and reasonable economy of cost.

Regulations

The act provides that the State Board of Education's (SBE) existing regulations continue in force until (1) the education commissioner, in consultation with the DCS commissioner, determines that they should be transferred to DCS and (2) either DCS or the SBE amends the regulations to effect the transfer. It requires the DCS commissioner, in consultation with the education commissioner, to adopt regulations by June 30, 2013 to apply to projects for which an application is submitted on or after July 1, 2013.

Grant Requirements

In addition to the changes in the grant process and the transfer of most responsibilities to DCS, the act also makes several changes in the requirements and reimbursement rates for state-funded school construction projects.

1. For applications made on or after July 1, 2011, it reduces reimbursement rates for building a new or replacement school to between 10% and 70% of the eligible cost from between 20% and 80%, unless a district can show that new construction is less expensive than renovating or remodeling an existing school. Reimbursement rates for renovations, extensions, major alterations, remedying code violations, and replacing roofs on existing schools remain on the 20% to 80% reimbursement scale.
2. For applications made on or after July 1, 2011, it reduces the state reimbursement rate for building new interdistrict magnet schools from up to 95% to up to 80% of the eligible cost. (PA 11-61, § 86, makes an identical change for approved facilities for a regional vocational-agricultural science and technology center operated by a local or regional school district.)
3. Starting with the December 2011 list, it requires the DCS commissioner to include with the annual school project priority list he or she submits to the legislative school construction review committee a report on the SDE

OLR PUBLIC ACT SUMMARY

- commissioner's review of enrollment projections for each project on the list.
4. Starting July 1, 2012, it bars previously approved projects from requesting more than one legislative reauthorization for a change in cost or scope greater than an amount determined by the SDE or DCS commissioner as appropriate (existing law allows two reauthorizations). As under existing law, regional vocational-technical school projects are exempt from this reauthorization limit. A district may submit a second reauthorization only if it can demonstrate exigent circumstances.
 5. The act requires the DCS commissioner to set a per-square-foot cost for school construction by county and authorizes him or her to reject any application for a project that exceeds that cost for the county where it is located.
 6. Starting with project applications filed on or after July 1, 2011, the act eliminates grant eligibility for projects at the Connecticut Science Center. Under prior law, science center projects were considered interdistrict magnet school projects and reimbursed at 95% of their eligible cost.
 7. Starting with the list submitted in December 2011, the act requires school construction priority lists submitted to the legislative review committee to include the OPM secretary's comments and recommendations on the listed projects. Such recommendations must be submitted by December 31 each year. It allows the legislative committee to modify the list for any reason, not only when it finds that the DCS commissioner acted arbitrarily or unreasonably in establishing the list.
 8. The act requires the DCS commissioner to cancel grant commitments made before July 1, 2010 for projects that do not begin construction by April 30, 2015. It allows towns and districts to reapply for a cancelled grant.

HVAC Systems

The act also requires the DCS commissioner to submit a plan for making the purchase or replacement of heating, ventilation, and air conditioning (HVAC) systems eligible for school construction grants if they increase energy efficiency or reduce heating fuel costs for a town or district. The plan must include (1) criteria and conditions for state reimbursement, as well as recommended reimbursement rates; (2) an estimate of the potential costs to the state and potential savings to towns and districts; and (3) various methods of sharing realized savings between towns or districts and the state. The commissioner must submit the plan by January 2, 2012 to the Appropriations, Education, and Finance committees.

School Building Projects Advisory Council

The act establishes a School Building Projects Advisory Council consisting of the OPM secretary and DCS commissioner, or their designees, and three members appointed by the governor, one of whom must have experience in school building project matters, one in architecture, and one in engineering. The council is chaired

OLR PUBLIC ACT SUMMARY

by the DCS commissioner or his or her designee, and a DCS employee responsible for school building projects serves as its administrative staff.

The act requires the council to (1) meet at least quarterly to discuss school building project matters; (2) develop model blueprints for new projects; (3) conduct studies, research, and analyses; and (4) recommend improvements to the school building projects process to the governor and the Appropriations, Education, and Finance committees.

§ 114 — SDE AND DCS REPORTS ON MERGERS

The act requires the SDE and DCS commissioners to each submit a report by January 2, 2012 to the Appropriations, Education, GAE, and Public Safety committees. The reports must cover (1) the status of the merger of DPS, DPW, and SDE functions into DCS; (2) the status of school construction regulations; (3) outstanding issues regarding the division of duties between SDE and DCS; (4) recommendations for strengthening DCS's audit functions; and (5) recommendations for further legislative action.

The act also requires the DAS commissioner to submit a report by January 2, 2012 on the status of its mergers with DOIT and DPW. The report must be submitted to the Appropriations and GAE committees and contain recommendations for future legislative action on the mergers.

§§ 133 & 134 — DESPP ESTABLISHED

The act establishes DESPP, under a commissioner appointed by the governor, and designates it as the state's emergency management and homeland security agency. It requires the commissioner to provide a coordinated, integrated program for protecting life and property and for statewide emergency management and homeland security. He or she (1) must appoint up to two deputy commissioners to help administer DESPP and (2) may take necessary action to apply for, qualify for, and accept, any federal emergency management or homeland security funds.

The act designates DESPP as the successor agency to (1) DEMHS and (2) DPS, except for the regulation of amusements and exhibitions, which the act transfers to DCP, and the following, which it transfers to DCS: films; elevators, escalators, and lifts; cranes and hoisting equipment; boilers and water heaters; fire, emergency, and building services, including the state fire safety and prevention codes and state building and demolition codes; and paintball facilities.

Under the act, DPS orders or regulations in force on July 1, 2011, except those pertaining to the transferred areas, continue in force and effect as DESPP orders or regulations until amended, repealed, or superseded. When any order or regulation of the departments conflict, the DESPP commissioner may implement policies and procedures consistent with law while in the process of adopting regulations, provided notice of intent to adopt regulations is printed in the *Connecticut Law Journal* within 20 days of implementation. The policy or procedure is valid until final regulations take effect.

The act requires the Legislative Commissioners' Office, when codifying these provisions, to make technical, grammatical, and punctuation changes necessary to

OLR PUBLIC ACT SUMMARY

implement them. The act makes numerous technical and conforming changes.

§ 135 — DESPP REPORT ON MERGER STATUS

By November 1, 2011, and again, by January 2, 2012, the act requires the DESPP commissioner to submit a report to the Appropriations and Public Safety and Security committees on (1) the status of the merger of DPS, DEMHS, the Office of State-Wide Telecommunications (OSET), the Police Officer Standards and Training Council (POST), and the Fire Prevention and Control Commission and (2) any recommendations for further legislative action on the merger.

§ 136 — DPS ELIMINATED

DPS Eliminated; State Police Placed in DESPP

The act (1) eliminates DPS, (2) puts the Division of State Police within DESPP, (3) makes the DESPP commissioner the division's administrative head and commanding officer, and (4) requires the commissioner to appoint a deputy commissioner to head the division. Under prior law, the State Police was within DPS and the DPS commissioner could, but was not required to, appoint a deputy commissioner. By law, the deputy commissioner must be a state police officer.

Division of Emergency Management and Homeland Security

The act eliminates DEMHS (§ 162) and instead establishes a Division of Emergency Management and Homeland Security within DESPP. The DESPP commissioner serves as the division's administrative head and must delegate his or her jurisdiction over the department to a deputy commissioner.

The deputy commissioner must have at least five years of professional training in, and knowledge of, managerial or strategic planning experience in public safety, security, emergency services, and emergency response. Under the act anyone with a record of criminal, unlawful, or unethical conduct is ineligible to serve as deputy commissioner. Also ineligible is anyone whose present or past political activities or financial interests may (1) substantially conflict with his or her duties as deputy commissioner, (2) expose him or her to potential undue influence, or (3) compromise his or her ability to be entrusted with necessary state or federal security clearances.

§ 137 — EMERGENCY MANAGEMENT COORDINATING ADVISORY BOARD CREATED

The act establishes this 13-member board to advise DESPP how to:

1. improve communication and cooperation in providing emergency response services locally and statewide;
2. improve emergency response and incident management, including communications and use of technology and coordination and implementation of state and federally required emergency response plans;
3. improve the state's use of regional management structures; and
4. strengthen cooperation and communication among federal, state, and local

OLR PUBLIC ACT SUMMARY

governments; the Connecticut National Guard, police, fire, emergency medical and other first responders; emergency managers; and public health officials.

The DESPP commissioner, or his or her designee, serves as board chairperson. Table 1 lists the other board members.

Table 1: Emergency Management Coordinating Advisory Board Members

<i>Member</i>	<i>Representing</i>	<i>Designated By</i>
Connecticut State Firefighters Association president or designee	Volunteer firefighters	NA
Uniformed Professional Firefighters Association president or designee	Professional firefighters	NA
American Federation of State, County and Municipal Employees, Council 15, president or designee	Municipal police	NA
Connecticut Conference of Municipalities executive director or designee	NA	NA
POST member	NA	POST chairperson
Commission on Fire Prevention and Control member	NA	Commission chairperson
Connecticut Emergency Management Association president or designee	NA	NA
Emergency Management and Homeland Security Division representative	NA	DESPP commissioner
State Police Division representative	NA	DESPP commissioner
Scientific Services Division representative	NA	DESPP commissioner
OSET representative	NA	DESPP commissioner

The board must meet quarterly and when the chairperson deems necessary. Annually, starting on January 2, 2012, it must submit a report to the governor and the Public Safety and Security committee on its findings and recommendations on any communication and cooperation necessary to protect Connecticut citizens and enhance state and local government emergency response.

§§ 138 & 139 — WORKERS’ COMPENSATION CLAIM PROCESS

The act streamlines the processing of workers’ compensation claims involving police officers and firefighters.

Prior law required the state comptroller to draw an order on the treasurer to pay workers’ compensation claims for (1) police officers eligible for relief under the provisions of the Police Association of Connecticut’s constitution and bylaws and (2) firefighters eligible for relief under the Connecticut State Firefighters Association’s constitution and bylaws. The act requires the DESPP commissioner to process the claims. By law, the pertinent association must submit adequate proof of a person’s eligibility to obtain benefits, which are limited to available appropriations.

OLR PUBLIC ACT SUMMARY

§ 140 — GRANTS TO FIRE SCHOOLS AND OTHER ENTITIES

The act transfers to the DESPP commissioner, from the state comptroller, the duty to disburse funds appropriated for regional fire schools, regional emergency dispatch centers, and county-wide fire radio base networks. It makes a conforming change by requiring the entities to submit their annual audited disbursement reports to the commissioner instead of the comptroller through the Connecticut State Firemen's Association.

§ 143 — STATE-WIDE SECURITY MANAGEMENT COUNCIL

The act adds the president of the Uniformed Professional Fire Fighters Association (UPFFA) to this council and removes an attorney appointed by the public works commissioner (retaining the commissioner.) It makes a conforming change by replacing the DPS and DEMHS commissioners with the DESPP commissioner, and it allows any of the council members to appoint a designee. Only the UPFFA president could appoint designees under prior law.

The council coordinates nonexempt state agencies' activities that relate to statewide state facility security. Exempt agencies must report to the council quarterly on (1) the frequency, character, and resolution of workplace violence and (2) security-related expenditures

§ 146 — POST

The act puts POST, which was within the State Police for administrative purposes only, within DESPP for all purposes. As was the case for the DPS commissioner, the DESPP commissioner serves *ex officio* on the council. The act maintains the council's current membership.

§ 147 — POST FUNCTIONS MODIFIED

POST is responsible for (1) developing a comprehensive municipal police training plan; (2) training, certifying, and establishing minimum qualifications for municipal police officers; (3) enforcing professional standards for certification and decertification of police officers; and (4) developing standards for, and granting accreditation to, law enforcement units that meet the standards. (While the agency's responsibilities are mainly described in terms of "police officers," its authority extends to other persons who perform police functions, according to a 1993 attorney general's opinion.)

The act modifies the following POST functions. It requires POST to:

1. instead of visiting and inspecting police basic training schools at least annually, develop a schedule for such annual visits and inspections in consultation with the DESPP commissioner;
2. get the commissioner's approval to accept contributions, grants, gifts, donations, services, or other financial assistance from any governmental unit, public agency or the private sector;
3. develop objective and uniform criteria for recommending, rather than

OLR PUBLIC ACT SUMMARY

granting, waivers of regulations or granting a waiver or council procedures; and

4. work with the commissioner and state and federal agencies and departments involved with police training. Under prior law, POST consulted and cooperated with these entities.

The act eliminates the council's authority to hire an executive director and hire other staff, instead authorizing it to make recommendations to the commissioner about the hiring of personnel. It requires POST to make recommendations to the commissioner to hire staff. The act also eliminates the council's authority to appoint special police officers. (PA 11-61, § 154, restores this authority.)

§ 148 — POST AUTHORITY TO ADOPT REGULATIONS

The act eliminates this council's authority to adopt regulations. It instead allows POST to recommend regulations to the DESPP commissioner. It authorizes the DESPP commissioner to adopt regulations addressing POST issues. As under prior law, the regulations are binding on all law enforcement units except the State Police.

§ 149 — CONNECTICUT POLICE ACADEMY

The act requires DESPP to operate the Connecticut Police Academy to provide municipal police training. DESPP must fix tuition and fees for training, education programs and sessions, and such other purposes as the commissioner deems necessary for the operation and support of the academy, subject to OPM approval. The fees must be used only for police education and training.

Under prior law, POST operated the academy and did not charge tuition or training fees. The state paid for these costs through the state's general appropriations to POST in the Personal Services and Other Expenses accounts.

Municipal Police Officer Training and Education Extension Account

The act allows DESPP to establish and maintain a municipal police officer training and education extension account as a separate, nonlapsing General Fund account. The account (1) holds any money the law requires to be deposited in it and (2) must be used for operating training and education extension programs and sessions DESPP establishes.

Proceeds from operating the education programs and sessions must be deposited in the General Fund and credited to and become a part of the account's resources. Direct expenses incurred in conducting the programs and sessions must be charged against the account on the state comptroller's order. Payments of bond interest and principal or any sums transferable to any fund for such payments and any related equipment cost may also be so charged. Any balance must remain in the account for training and education programs and sessions.

Recovery of Municipal Police Training Costs

OLR PUBLIC ACT SUMMARY

The act eliminates a provision that allows POST to recover from any municipality that operated a local police training school that it closed on or after January 1, 2007, the costs of providing law enforcement training at POST for their recruits. (But it does not authorize DESPP to recover the costs. It is unclear if all costs have been recovered.)

§§ 150 & 151 — COMMISSION ON FIRE PREVENTION AND CONTROL

The act removes this 12-member commission, appointed by the governor, from within DPS for administrative purposes only and puts it within DESPP for all purposes. The commission's membership remains unchanged.

The act eliminates the commission's authority to adopt regulations, allowing it instead to recommend regulations to the DESPP commissioner. It allows the commissioner to adopt implementing regulations.

The act requires the commission to submit its annual report to the DESPP commissioner, in addition to the governor and Legislative Management Committee.

It requires the commission to get the DESPP commissioner's approval to apply for and receive and distribute federal and private funds or contributions available for firefighter training and education.

By law, the commission is primarily responsible for providing training, life safety education, and professional competency certification to fire service personnel, and it serves as both an advisory and policy making body.

§ 152 — OFFICE OF STATE FIRE ADMINISTRATION

The act requires DESPP, instead of the Office of State Fire Administration, to establish and maintain a state fire school. It specifies that the school must provide firefighter training and educational services. It requires DESPP, in consultation with the Fire Prevention and Control Commission, to fix fees for education programs and sessions and other purposes deemed necessary for operating and supporting the school. Under prior law, the office fixed fees, subject to the commission's approval. By law, the fees must be used solely for training and education.

In conformance, the act allows DESPP, instead of the commission, to establish and maintain a state fire school training and education extension account as a separate General Fund account. The act requires, rather than allows, the account to be used for (1) operating the school's training and education programs and sessions; (2) buying equipment for operating the programs and sessions; and (3) within available funding, reimbursing fire departments for Firefighter 1 and firefighter recruit training programs.

The act allows DESPP, instead of the commission, to establish and maintain a state fire school auxiliary services account as a separate General Fund account. By law, the account must be used to operate, maintain, and repair auxiliary facilities and for such other auxiliary activities of the fire school. The act allows DESPP, instead of the commission, to borrow money from the General Fund to establish or continue auxiliary services activities; but it can do so only with the

OLR PUBLIC ACT SUMMARY

approval of both OPM and the Finance Advisory Committee (FAC). Under prior law, the commission needed only FAC approval to borrow money.

§ 162 — DEMHS ELIMINATED

The act eliminates DEMHS, which was the designated state agency responsible for providing a coordinated, integrated program for statewide emergency management and homeland security. It instead requires the DESPP commissioner to organize the newly created Division of Emergency Management and Homeland Security to carry out emergency management, civil preparedness, and homeland security missions, including the provisions of the state and national civil preparedness plans (i.e., functions formerly carried out by DEMHS).

Under prior law, the commissioner could enter into contracts for the furnishing of goods and services for the department. The act removes this contracting authority.

§ 164 — OSET

The act puts OSET in DESPP and requires the DESPP commissioner to perform the OSET functions formerly performed by the DPS commissioner. Under prior law, OSET was within the DPS Division of Fire, Emergency and Building Services.

By law, OSET administers the state's enhanced 9-1-1 (E 9-1-1) program, which provides emergency dispatch services to people who dial 9-1-1. OSET works with the Department of Public Utility Control to carry out its functions.

§ 165 — E 9-1-1 COMMISSION

The act modifies the composition of this commission, replacing the DPS commissioner with the DESPP commissioner and the DEMHS representative with a Division of Emergency Management and Homeland Security representative.

§ 167 — DEPUTY STATE FIRE MARSHAL

The act eliminates the deputy state fire marshal's position. Under prior law, the DPS commissioner was authorized to appoint a deputy state fire marshal, who served as an unclassified employee.

§ 168 — RESIDENT TROOPER PROGRAM COST

Under prior law, towns paid 70% of the cost and other expenses of maintaining a resident state trooper. The act increases, from 70% to 100%, the amount towns must pay resident troopers for overtime and fringe benefits directly associated with overtime costs. Towns continue to pay 70% of regular costs and other expenses.

§§ 173-175 — REGULATION OF AMUSEMENTS AND EXHIBITIONS

OLR PUBLIC ACT SUMMARY

The act transfers the authority to regulate amusements and exhibitions from DPS to DCP and makes DCP the successor agency to DPS for this purpose. The act makes DCP a successor agency to DSR, which under prior law was responsible for regulating gaming in the state.

In cases where a DPS or DSR order or regulation conflicts with one of DCP's, the DCP commissioner may implement policies and procedures consistent with law while adopting regulations, provided notice of intent to adopt regulations is printed in the *Connecticut Law Journal* within 20 days of implementation. The policy or procedure is valid until final regulations take effect.

By January 2, 2012, the act requires the DCP commissioner to submit a status report to the Appropriations and Public Safety and Security committees on DCP's assumption of responsibility for regulating amusements and exhibitions, the mergers of DAS, DPW, and DOIT and any recommendations for legislative action.

The act requires the Legislative Commissioners Office to make technical, grammatical, and punctuation changes necessary to carry out the provisions on the transfer of amusement and exhibition regulatory authority to DCP.

§ 180 — STATE-WIDE COOPERATIVE CRIME CONTROL TASK FORCE POLICY BOARD

The act moves this board, which was in the Division of State Police for administrative purposes only, into DESPP. It replaces the POST director with a POST member designated by the chairperson on the board's state committee.

§§ 173 & 182-215 — DEPARTMENT OF CONSUMER PROTECTION

Division of Special Revenue

The act dissolves DSR and transfers its powers, duties, obligations, and other government functions to DCP beginning July 1, 2011. On the same date, the act also eliminates the DSR executive director position, transferring his authority and responsibilities to the DCP commissioner. Under the act, DCP assumes responsibility for administering state gaming laws and regulations, including oversight of bingo, bazaars and raffles, and sealed tickets, and regulatory oversight of the Connecticut Lottery Corporation (CLC).

Legislative Report

The act requires the DCP commissioner to submit a report to the Appropriations and General Law committees, by January 2, 2012, on (1) the status of the DCP and DSR merger and (2) any recommendations for further legislative action concerning the merger.

Application of Ethics Code

The Code of Ethics for Public Officials prohibits public officials and state employees from agreeing to accept compensation, or being a member or employee of a business that agrees to represent a client for compensation, before

OLR PUBLIC ACT SUMMARY

certain regulatory agencies. Under prior law, the prohibition covered appearances before DSR and DCP's office in charge of liquor control. The act extends the restriction to any appearance before DCP.

Under prior law, the DSR executive director could not participate in political activities, which included, among other things, campaigning for a candidate in a partisan election through speeches or writings. The act does not transfer this restriction to the DCP commissioner.

Abatement Review Committee Membership

The act adds the DCP commissioner, or his designee (who must be a DCP employee), to the Abatement Review Committee. The other three members are the (1) state comptroller, (2) OPM secretary, and (3) DRS commissioner, or their designees who must be agency employees. By law, the committee considers and approves tax abatements that come before it, including those that the DRS and DCP commissioners (DSR executive director under prior law) authorize.

§§ 197 & 198 — CLC

By law, CLC is a quasi-public agency responsible for operating the state lottery in an entrepreneurial manner and increasing lottery revenue, among other things.

Board of Directors. CLC's board of directors consists of 13 members whom the governor and legislative leaders appoint. The act specifically prohibits the DCP commissioner from serving on the board.

Assessment of Regulatory Costs. Beginning April 1, 2012 and annually thereafter, the act requires OPM to assess CLC to reimburse DCP, instead of DSR, for the reasonable and necessary regulatory costs the department incurs in overseeing the corporation.

The act also changes the due dates for OPM's assessment of the regulatory costs. It changes, from August 1 to May 1, the date by which OPM must submit to CLC its assessment of the preceding year's cost and an estimate of the next year's costs. It changes, from September 15 to June 15, the date by which OPM must finalize the assessment for the preceding year. Finally, it requires CLC to make its first quarterly payment for the assessment on July 1, rather than October 1, and every three months thereafter.

§§ 206 & 208-211 — Bingo

Enforcement. By law, bingo operators must keep accurate receipt and disbursement records and make them available for inspection by the DCP commissioner (DSR executive director under prior law). The act requires bingo operators to also make these records available for inspection by the chief law enforcement official of the municipality where the game operates.

If the commissioner finds a bingo violation after an investigation, he may suspend or revoke a person's bingo permit and issue a cease and desist order. The law allows the party named in the order to request a hearing. Under prior law, the hearing could not be held until at least 14 days after the notice was mailed. The act increases this to at least 30 days after the notice was mailed.

OLR PUBLIC ACT SUMMARY

Prizes. With four exceptions, prior law limited to \$100 the maximum value of any prize that a bingo permittee could award. The act increases (1) this to \$200 and (2) the values under the four exceptions.

One exception allowed a permittee to award individual prizes valued at \$101 to \$300 in one day if the total value of all prizes did not exceed \$1,200. The act increases the award under this exception by allowing prizes valued at \$251 to \$750 in any day as long as the total value does not exceed \$2,500.

Under the second exception, prior law allowed a permittee to offer one or two winner-take-all games or series of games on days bingo is allowed if 90% of the receipts were awarded as prizes for such games and each prize did not exceed \$500. The act increases this to \$1,000.

The third exception allowed a class A permittee to award two special weekly grand prizes of up to \$125. If no one won the grand prize, the permittee added the money to the following week's special grand prize as long as the prize did not accumulate for more than 16 weeks or exceed \$2,000. The act increases the weekly prize to \$500 and maximum accumulation to \$5,000.

Under the final exception, a permittee could award door prizes valued at up to \$200 in the aggregate. The act increases this amount to \$500 in the aggregate.

The law allows seniors' organizations (age 60 and over) and parent teacher associations (PTA) to operate and conduct bingo games without a permit if they abide by certain conditions. One condition concerns prize amount. The act increases the amounts that seniors and PTAs can award from \$25 to \$50 and from \$20 to \$50, respectively.

Annual Fee. The act increases the annual registration fee for (1) bingo product manufacturers or equipment dealers from \$1,750 to \$2,500 and (2) PTAs from \$40 to \$80.

§§ 207 & 214 — *Bazaars and Raffles*

Fifty-Fifty Coupon Game. The act eliminates the requirement that organizations conducting a fifty-fifty coupon game furnish to the municipality's chief of police or first selectman a verified statement showing (1) the total number of coupons purchased and sold for each drawing and (2) the total number and amount of prizes awarded and the names and addresses of the winners. The law still requires an organization conducting any bazaar or raffle to provide the municipality with a verified statement showing, among other things, gross receipts and net profits.

Cow-Chip Raffle. The act eliminates the requirement that an organization conducting a cow-chip raffle furnish, along with its application, a plot plan that displays the area being used for the raffle and the numbered plots.

Teacup Raffle. The act eliminates the provision under which DSR was the sole sheet ticket issuer, thus allowing other entities to issue these tickets. A sheet ticket may contain up to 25 coupons, each with the same number and including a "hold" stub for the purchaser and a corresponding numbered stub that has the purchaser's name, address, and telephone number.

§§ 212 & 213 — *Sealed Tickets*

OLR PUBLIC ACT SUMMARY

The act restructures the process for manufacturing and distributing sealed tickets. The act does not change the organizations that qualify to sell sealed tickets.

“Sealed tickets” are cards with tabs which, when pulled, expose pictures of various objects, symbols, or numbers and which entitle the ticketholder to receive a prize if the combination of objects, symbols, or numbers pictured matches what is determined to be a winning combination.

Manufacturers. The act requires sealed ticket manufacturers (1) to register with DCP, (2) pay a \$5,000 annual registration fee, and (3) undergo state and national criminal history checks as a condition of registration. The act prohibits (1) manufacturers from selling sealed tickets to anyone except registered distributors and (2) distributors from buying sealed tickets from anyone except qualified sealed ticket manufacturers.

Distributors. Under prior law, qualified organizations bought sealed tickets directly from DSR. The act requires an organization authorized to sell sealed tickets to buy them from a private sealed ticket distributor instead of from the state. It requires distributors to register with DCP and pay a \$2,500 annual registration fee. It requires distributors to (1) undergo state and national criminal history checks as a condition of registration, (2) be state residents, and (3) have a physical office in Connecticut, subject to inspection by DCP during normal business hours. The act prohibits any organization or anyone affiliated with an organization permitted to sell sealed tickets from being a distributor.

The act requires all sealed tickets purchased by distributors for sale in Connecticut to be stored or warehoused in the state before they are sold to an organization. It requires that tickets meet the standards for pull-tabs adopted by the North American Gaming Regulators Association.

Penalties. The act subjects manufacturers and distributors to existing law on investigating violations of the sealed tickets laws. The act increases the civil penalty for such violations or making a false statement from \$200 to \$500.

Annual Fees. The act requires manufacturers of, and dealers in, sealed ticket dispensing machines to register annually with DCP, instead of DSR. Under prior law, the application fee for both the dealer and manufacturer was \$625. The act doubles the manufacturer fee to \$1,250.

DSR Tickets. The act allows DCP to sell any sealed tickets in its possession on and after July 1, 2011, provided it does not buy any new tickets after that date. As was the case under prior law for DSR sealed ticket sales, permittees must buy these sealed tickets at a cost of 10% of the resale value. After all the tickets are sold, the act requires permittees to purchase from a distributor at a cost of 10% of the resale value. The act requires each distributor to submit 30% of its gross revenue from the ticket sales to the state treasurer each quarter.

§§ 216-222 & 224 — IGNITION INTERLOCKS

The act reduces the suspension period of a driver’s license or non-resident’s operating privilege for motorists convicted for a first or second time of DUI to 45 days. It requires, as a condition of DMV restoring a license, that offenders install a functioning, approved ignition interlock device on each vehicle they own or

OLR PUBLIC ACT SUMMARY

operate and drive only vehicles with such a device for specified periods of time. Prior law required use of an ignition interlock following a license suspension for a second offense, but not for a first offense (see Table 2). (By law, a driver's license is permanently revoked for a third DUI violation. See below.)

An ignition interlock requires a driver to breathe into it to operate the vehicle in which it is installed; it prevents a vehicle from starting if it detects blood alcohol content (BAC) above a certain threshold. The device also requires the driver to submit periodic breath samples while the vehicle is operating.

The act authorizes the DMV commissioner to extend the duration of ignition interlock restrictions for drivers who fail to comply with the device's installation or use requirements beyond those the act establishes. It requires her to adopt regulations specifying (1) which actions by an individual constitute noncompliance, (2) the conditions under which noncompliance will result in DMV extending the time period the individual must drive only vehicles equipped with ignition interlocks, and (3) the length of any such extension.

It requires the commissioner to allow an offender who has served the 45-day suspension and installed ignition interlocks on his or her vehicles to drive them even if he or she has not finished serving an "administrative per se" suspension (see BACKGROUND-*Administrative Per Se Suspensions*).

It requires DMV and the Judicial Branch's Court Support Services Division (CSSD), by February 1, 2012, to jointly develop and submit to the Judiciary and Transportation committees a plan to implement, starting January 1, 2014, the installation and use of ignition interlock devices for anyone convicted of DUI.

The act specifies that certain cost, supervision, installation, use, and other ignition interlock provisions apply only to motorists whose licenses are suspended for DUI convictions on or after January 1, 2012. But it allows the DMV commissioner, at the request of anyone convicted of DUI whose license is under suspension on that date, to reduce the suspension (presumably after the driver has served 45 days) and place a restriction on the license requiring that the motorist drive only a vehicle equipped with an ignition interlock device for the remainder of the suspension period.

Prior law required anyone whose license was suspended for DUI or for two or more administrative per se suspensions to take part in a DMV-approved substance abuse treatment program in order to have his or her license reinstated. The act eliminates this program. It also makes conforming changes. But by law, unchanged by the act, (1) a court may order a driver to participate in such a program and (2) the commissioner must consider participation in such a program, among other things, when deciding whether to restore a permanently revoked license (see below).

DUI Suspensions

By law, motorists convicted of DUI are subject to imprisonment, a fine, and suspension of their driver's licenses. Table 2 shows the DUI suspension period penalties under prior law and the act (see BACKGROUND-*DUI Convictions*).

TABLE 2: LICENSE SUSPENSIONS UNDER PRIOR LAW AND THE ACT

OLR PUBLIC ACT SUMMARY

DUI Violation	Suspension under Prior Law	Suspension under the Act
First	One year	45 days, followed by one year driving only a vehicle equipped with an ignition interlock device
Second (under age 21)	Three years or until driver turns 21, whichever is longer, followed by two years of driving only a vehicle equipped with an ignition interlock device	45 days or until driver turns 21, whichever is longer, followed by three years of driving only a vehicle equipped with an ignition interlock device
Second (age 21 or older)	One year, followed by two years of driving only a vehicle equipped with an ignition interlock device	45 days, followed by three years of driving only a vehicle equipped with an ignition interlock device

Costs of Installing Ignition Interlocks and Supervision of Offenders

By law, an individual required to use an ignition interlock must pay to install and maintain it. The act prohibits a court from waiving the installation and maintenance fees or costs. By law, the individual must also pay a \$100 fee, which goes to an account used to administer the program.

The act places anyone who is on probation and required to install an ignition interlock device under CSSD’s supervision; it places all others under DMV supervision. In either case, they are subject to any terms and conditions the DMV commissioner may prescribe and any laws or regulations she adopts consistent with the act.

The act requires the commissioner to ensure that companies installing the devices notify her and CSSD when anyone required to use an ignition interlock fails to comply with its installation, maintenance, or use requirements. The commissioner is not required to verify that a device has been installed on each motor vehicle owned by the person convicted of DUI.

Restoration of a Revoked License

The law allows someone whose driver’s license has been permanently revoked following a third DUI conviction to request a reduction or reversal of the revocation of driving privileges after six years. By law, the commissioner may do this if she determines that doing so does not endanger public safety, certain requirements are met (including successfully completing an alcohol education and treatment program), and the person agrees to install and use an ignition interlock. The act extends the time an ignition interlock device must remain in place in such circumstances. Under prior law, the device had to remain in place from the date the reversal or reduction was granted until 10 years passed from the date the license was revoked. The act instead requires that the ignition interlock remain in place for 10 years from the date the commissioner grants the reversal or reduction.

OLR PUBLIC ACT SUMMARY

Penalties for Drivers Who Violate the Act

The act increases penalties for violations of certain ignition interlock restrictions. Under prior law, these violations were class C misdemeanors (see Table on Penalties). The act instead subjects an individual under a court order or subject to DMV's ignition interlock restrictions who drives a vehicle (1) not equipped with a functioning ignition interlock or (2) that a court has ordered him or her not to drive, to the same penalties the law imposes on people who drive while their license is suspended or revoked for DUI or certain other offenses.

These penalties are, for a first offender, a fine of between \$500 and \$1,000 and imprisonment for up to one year, with a 30-day mandatory minimum. A driver who, for the second time, is subject to and violates the act's suspension and ignition interlock restrictions is subject to a fine of between \$500 and \$1,000 and imprisonment for up to two years, with a 120-day mandatory minimum. An individual who, for a third or subsequent time, is subject to and violates the act's suspension and interlock restrictions, faces a fine of between \$500 and \$1,000 and imprisonment for up to three years, with a one-year mandatory minimum. In each case, the court is not required to impose the mandatory minimum sentence if there are mitigating circumstances.

By law, unchanged by the act, anyone required to use an ignition interlock who (1) asks someone else to blow into the device to start a vehicle or (2) tampers with, bypasses, or alters the device, commits a class C misdemeanor.

Related Act

PA 11-48 contains identical ignition interlock provisions.
EFFECTIVE DATE: January 1, 2012, except for the provision requiring the joint report, which is effective upon passage.

§ 223 — STATE-WIDE EMERGENCY MANAGEMENT AND HOMELAND SECURITY COORDINATING COUNCIL

The act eliminates this council, which was responsible for advising DEMHS and DPS on various emergency management and homeland security issues such as:

1. applying for and distributing emergency management and homeland security funds;
2. planning, designing, implementing, and coordinating statewide emergency response systems;
3. assessing the state's overall emergency management and homeland security preparedness, policies, and communications;
4. strategies to improve emergency response and incident management; and
5. strengthening consultation, planning, cooperation, and communication among federal, state, and local governments; the Connecticut National Guard; police, fire, emergency medical and other first responders; emergency managers; public health officials; private industry; and community organizations.

OLR PUBLIC ACT SUMMARY

BACKGROUND

DUI Convictions

The law considers a subsequent DUI conviction one that occurs within 10 years of a prior conviction for the same offense. In practice, the first conviction of a driver for DUI is usually for the driver's second violation. By law, an individual charged with DUI, or, if under 21, operating a vehicle with a BAC of .02% or more, may apply to the court for admission to a Pretrial Alcohol Education Program (CGS § 54-56G). The applicant must state under oath that he or she has not been in the program in the preceding 10 years, or ever, if under age 21. The court must dismiss the DUI charges if the driver satisfactorily completes the program.

Administrative Per Se Suspensions

These are suspensions the commissioner must impose on drivers who refuse to submit to a test or whose test results indicate an elevated BAC; they are in addition to any suspension penalties imposed for conviction of any criminal DUI charge. By law, the commissioner must suspend the license of a person with a BAC of between 0.08 and 0.16 for 90 days for a first offense; nine months for a second offense; and two years for a third or subsequent offense. The license suspension period for a driver who refuses to take a test is six months for a first offense, one year for a second offense, and three years for a third or subsequent offense.

OLR TRACKING: CR: JKL:PF:TS