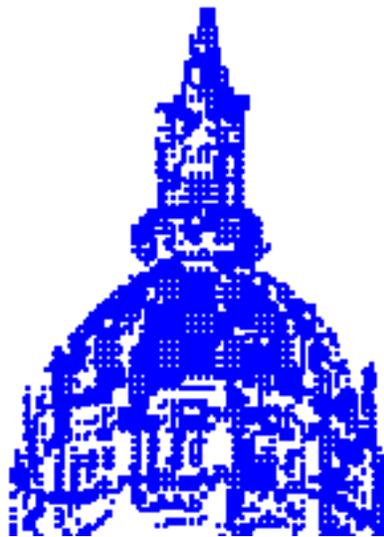


2000
ACTS AFFECTING

CRIME

Office of Legislative Research



Prepared for members of the
Connecticut General Assembly

by
Sandra Norman-Eady, Senior Attorney
2000-R-0646
June 26, 2000

NOTICE TO READERS

This report provides brief highlights of the 2000 public acts affecting crime. Not all provisions of the acts are included. Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library or the House Clerk's office. *Highlights of the Revised FY 01 Budget* is available from the Office of Fiscal Analysis. Complete summaries of all public acts passed during the 2000 session will be available in early fall when OLR's Public Act Summary book is published. Some are now available on OLR's website: <http://www.cga.state.ct.us/olr>.

TABLE OF CONTENTS

ACCESS TO CRIMINAL RECORDS	4
Criminal Justice Information	4
Nonconviction Information	4
Criminals' Residential Addresses	4
Crime Compacts	5
CRIMES	5
Shoplifting Devices	5
Criminal Acts In The Name Of A Limited Liability Company	5
Bigotry Or Bias	6
Vehicle Identification Numbers	6
Hunting	7
Damaging Railroad Property	7
CRIME VICTIMS	7
Crime Victims' Compensation	7
Victim's Rights	8
CRIMINAL JUSTICE AGENCIES	9
Special Juvenile Prosecutors And Special Inspectors	9
Racial Disparity In The Criminal Justice System	9
CRIMINAL PROCEDURE	10
Search Warrants	10
Statute Of Limitations In Sexual Assault Cases	10
Statute Of Limitations For Prosecuting Escape	11
Rearrest Warrants	11
EDUCATORS	11
Teaching Certificates	11
INCREASED PENALTIES	11
Environmental Laws	11
Sexual Assault	12
PRISON AND PRISONERS	12
Administrative Parole	12
Attaching Government Pension Payments	13
PROBATION	13
Electronic Monitoring	13
Probation Fees	13
SHERIFFS	13
Sheriff Reforms	13
WITNESSES AND JURIES	14
Witness Fees	14
Jurors	15
YOUTHS	15
Violence Free Zones	15
Juvenile Offenders	15
Youth In Crisis	16
Youthful Offenders	16

ACCESS TO CRIMINAL RECORDS

Criminal Justice Information

This act gives the Division of Public Defender Services access to conviction information, public information, and any information regarding its clients. This information includes electronically maintained offender and case data on felonies, misdemeanors, violations, motor vehicle offenses punishable by imprisonment, and infractions.

The act specifically lists the Office of the Victim Advocate as a “criminal justice agency” for the purpose of determining access to criminal records. This specification gives the office access to criminal history record information, which includes conviction and nonconviction information but not intelligence, presentence investigations, investigative information, or certain information maintained by the Bail Commission. **(PA 00-20, effective upon passage)**

Nonconviction Information

This act gives the Department of Mental Health and Addiction Services (DMHAS) access to the Office of Adult Probation’s (OAP) presentence investigation reports and related files for purposes of diagnosis and treatment.

It eliminates one of the two situations under which OAP must complete a presentence

investigation report. Under the act, OAP does not have to complete reports for felony offenders whose last convictions were more than five years before the present convictions. OAP must continue to complete a report for first-time felony offenders. As always, courts may order a presentence investigation for any defendant accused of any crime other than a capital felony.

The act permits the Judicial Department to honor an agreement requiring nonconviction information to be disclosed to DMHAS for (1) court-ordered evaluations and (2) programs and services to people with psychiatric disabilities and substance abuse treatment needs. By law, “nonconviction information” means erased criminal records, youthful offender status information, and continuances that are more than 13 months old. It does not include conviction or current offender information. **(PA 00-64, effective October 1, 2000)**

Criminals’ Residential Addresses

This act requires the consumer protection commissioner to add, by regulation, two new statements to the residential property condition report that people offering residential real estate for sale, exchange, or lease must give prospective buyers before the execution of any binder, contract to purchase, option, or

lease containing a purchase option.

One statement must inform residents that (1) information about the residence addresses of people convicted of crimes may be obtained from law enforcement agencies or the Department of Public Safety (DPS) and (2) DPS maintains an Internet site that includes the residence addresses of people required to register with DPS under the sexual offender registration law, and who have registered. **(PA 00-179, effective October 1, 2000)**

Crime Compacts

This act enacts the National Crime Prevention and Privacy Compact, which provides a legal framework for states and the federal government to share electronically with each other criminal history records, excluding sealed records, for authorized noncriminal justice purposes.

The act also creates a new system for Connecticut and other states adopting the Interstate Compact for Adult Offender Supervision. Its stated purpose is to (1) track offenders, (2) effectively transfer supervision, and (3) return offenders to their original jurisdiction when necessary.

The act creates the State Council for Interstate Adult Offender Supervision to oversee the state's participation in the interstate commission. **(PA 00-**

185, effective July 1, 2000, except the provisions on the Interstate Compact for Adult Offender Supervision are effective when a 35th jurisdiction enacts the compact but no earlier than July 1, 2001.)

CRIMES

Shoplifting Devices

This act makes it a class A misdemeanor to possess a shoplifting device under circumstances indicating an intent to use it to shoplift. A shoplifting device is any device, instrument, or other thing specifically designed or adapted to advance or facilitate shoplifting by defeating an anti-theft or inventory control device.

By law, shoplifting is intentionally possessing goods, wares, or merchandise offered for sale in a store or other mercantile establishment and intending to keep them without paying for them. **(PA 00-9, effective October 1, 2000)**

Criminal Acts In The Name Of A Limited Liability Company

This act makes a person criminally liable for actions he performs or causes to be performed in the name of or on behalf of a limited liability company to the same extent as if they were performed in his name or on his behalf. **(PA 00-11, effective October 1, 2000)**

Bigotry Or Bias

This act creates the crimes of intimidation based on bigotry or bias in the first and third degree and makes the crime of intimidation based on bigotry or bias a second-degree crime.

It creates a hate crimes diversion program under the accelerated rehabilitation (AR) program, and allows the court to require people charged with certain bias crimes to participate in it as a condition of being granted AR. And it allows the court, as a condition of probation or conditional discharge, to require an offender to participate in an anti-bias crime education program if he is convicted of (1) the act's bigotry and bias crimes; (2) deprivation of rights, desecration of property, or cross burning; or (3) deprivation of a person's civil rights by a person wearing a mask or hood.

The act requires that basic or review training programs conducted or administered by the State Police, Police Officer Standards and Training Council, or municipal police departments include training on bigotry and bias crimes. It creates a Hate Crimes Advisory Committee in the Office of the Chief State's Attorney.

The act also makes conforming changes, including adding the new crimes to the statutes that (1) increase penalties for persistent offenders, (2) require local law enforcement officials to report to the State

Police on crimes of intimidation based on bigotry or bias, and (3) provide a civil cause of action for damages from criminal acts of intimidation based on bigotry or bias. (**PA 00-72**, effective July 1, 2001, except that provisions establishing bigotry and bias crimes and certain conforming changes are effective October 1, 2000)

Vehicle Identification Numbers

This act includes construction equipment, agricultural tractors, and farm implements within the meaning of the term "motor vehicle" for purposes of the criminal statutes governing (1) larceny; (2) possessing a motor vehicle or a major component part of a motor vehicle with a mutilated, altered, or removed vehicle identification, factory, or engine number; (3) altering, removing, obliterating, or defacing an identification number; and (4) operating an illegal motor vehicle "chop shop."

The act increases the criminal penalty for (1) willfully removing, changing, obliterating, or defacing a vehicle's factory serial or other identification number and (2) knowingly purchasing, selling, or possessing a vehicle or major component part with a mutilated, altered, or removed vehicle identification, factory, or engine number. The penalty increases from up to a \$500 fine, one year imprisonment, or both, to a fine of up to \$2,500,

imprisonment for up to three years, or both, for a first offense and a fine of up to \$5,000, imprisonment for up to five years, or both, for a second or subsequent offense. (**PA 00-103**, effective October 1, 2000)

Hunting

This act creates the crimes of negligent hunting and hunting while under the influence or impaired. The classifications for the four separate negligent hunting crimes range from a class C misdemeanor to a class D felony. Drunken hunting is a class A misdemeanor. The act imposes enhanced penalties for persistent offenders. It generally requires the person arrested for these crimes to surrender his weapon. (**PA 00-142**, effective October 1, 2000)

Damaging Railroad Property

This act establishes the crimes of damaging railroad property in the first, second, and third degrees. First-degree damage to railroad property is a Class D felony and occurs when someone intentionally damages railroad property valued at more than \$1,500 or causes a service interruption or impairment.

Second-degree damage to railroad property is a Class A misdemeanor and occurs when someone intentionally damages railroad property valued at over \$250 or causes a risk of service interruption or impairment.

Third-degree damage to railroad property is a Class B misdemeanor and occurs when someone (1) intentionally or recklessly damages railroad property or places it at risk of damage or (2) uses any potentially harmful or destructive force or substance to damage such property (**PA 00-149**, effective October 1, 2000)

CRIME VICTIMS

Crime Victims' Compensation

This act allows crime victims' dependents to apply for victim compensation (1) up to two years after they discover or reasonably should have discovered that the person upon whom they were dependent was victimized or (2) by August 24, 2000, whichever is later. The applicant must sign a statement under penalty of false statement setting forth the date the victimization was discovered and why it took more than two years after the crime to discover it.

The act establishes a rebuttable presumption that the dependent person is entitled to compensation if he files the statement and is otherwise eligible for compensation. (**PA 00-110**, effective upon passage)

Victim's Rights

This act prohibits a person convicted of any offense involving the use, attempted use, or threatened use of physical force against another person from being released on bail while awaiting sentencing or appealing his conviction. It also makes several statutory changes in favor of crime victims.

Specifically, it:

1. eliminates the statute of limitations for filing a wrongful death lawsuit against someone convicted of first-degree manslaughter or first-degree manslaughter with a firearm, or found not guilty of either offense because of mental disease or defect;
2. permits the Office of Victim Services to include low interest loans in compensation payments for monetary losses suffered by a murder or manslaughter victim's spouse or dependent;
3. requires, rather than allows, towns to waive all or a portion of any interest on delinquent property taxes for recipients of victim compensation;
4. permits prosecutors to show lone 8 x 10 inch photographs of victims to the jury during their opening and closing arguments;
5. specifies that victims who make a statement at sentencing may state their opinion of any plea agreement;
6. permits a victim impact statement to be read in court at the sentencing hearing of a defendant found guilty of a capital felony;
7. requires victims of violent crimes or the representative or immediate family of such deceased victims to be permitted to attend all court proceedings that are part of the court record;
8. requires all state, local, and private agencies to cooperate with investigations conducted by the Office of the Victim Advocate;
9. gives the victim advocate full access to any records necessary to carry out his duties, rather than access limited to that of crime victims; and
10. requires an assistant or deputy state's attorney to sign a statement indicating his unsuccessful attempt to notify a victim, or any family member if the victim is deceased, of the date, time, and place of a sentencing hearing. (**PA 00-200**, effective October 1, 2000)

CRIMINAL JUSTICE AGENCIES

Special Juvenile Prosecutors And Special Inspectors

This act allows the chief state's attorney to hire special juvenile prosecutors and special inspectors temporarily by contract. By law, inspectors investigate crimes, gather evidence, and carry out other tasks the state's attorneys assign. The chief state's attorney appoints four chief inspectors to assist all the state's attorneys on a statewide basis. He also appoints as many other inspectors as he needs to carry out the business of his office and determines how many inspectors the state's attorneys can hire for their respective judicial districts.

Under existing law, which the act does not change, he may contract with special assistant state's attorneys and special deputy assistant state's attorneys for undefined, temporary periods. The Criminal Justice Commission appoints state's attorneys in most other circumstances. **(PA 00-3, effective October 1, 2000)**

Racial Disparity In The Criminal Justice System

This act creates the 21-member Commission on Racial and Ethnic Disparity in the criminal justice system and establishes its duties. The commission must:

1. develop and recommend

2. policies to reduce the number of African-Americans and Latinos who are (a) in pretrial and sentenced correctional populations and (b) crime victims;
2. develop and recommend a training program for personnel in criminal justice agencies on the impact of disparate treatment of African-Americans and Latinos;
3. research criminal sentencing guidelines and recommend whether the legislature should create a commission to establish such guidelines for state courts;
4. examine the implementation of policies and procedures consistent with the American Bar Association's policies intended to ensure that death penalty cases are administered fairly, impartially, and in accordance with due process to (a) minimize the risk of executing innocent people and (b) eliminate discrimination in capital sentencing based on the victim's or defendant's race;
5. annually prepare and distribute a juvenile justice plan to reduce the number of African-Americans and Latinos in the juvenile justice system;
6. develop a curriculum to train employees in the

- juvenile justice system on cultural competency issues and strategies to address disproportionate minority confinement;
7. annually report to the governor and the legislature on (a) the number of African Americans and Latinos in the pretrial and sentenced population of correctional facilities and progress in reducing those numbers, (b) the adequacy of court interpreters, legal representation for indigent defendants, and residential and nonresidential treatment slots for African-Americans and Latinos, and (c) other information the commission considers appropriate; and
 8. annually report to the legislature by January 1 on what additional resources should be made available to reduce racial and ethnic disparity in the criminal justice system without affecting public safety. (**PA 00-154**, effective October 1, 2000)

CRIMINAL PROCEDURE

Search Warrants

This act requires judges to include on each search warrant the date and time of its issuance. The warrant must still (1) state the grounds or probable cause for its issuance; (2) identify the property to be searched for; (3)

name or describe the person, place, or thing to be searched; and (4) command the officer to conduct the search within a reasonable time.

The act provides that a warrant is not invalid solely because the judge inadvertently failed to include the time of issuance on it. (**PA 00-31**, effective October 1, 2000)

Statute Of Limitations In Sexual Assault Cases

This act increases the statute of limitations for the six most serious sexual assault crimes, which are first-degree sexual assault, aggravated first-degree sexual assault, sexual assault in a spousal or cohabiting relationship, second-degree sexual assault, and third-degree sexual assault, with and without a firearm. It increases the time someone has to request a new trial when DNA evidence is available.

It increases the time period within which a person may be charged with these sexual assault crimes, in many cases by 15 years, when the perpetrator is identified by DNA analysis and the victim notified the police or a prosecutor of the offense within five years of its commission.

The act also removes a three-year limit on how long a person has to request a new trial in a civil or criminal matter when the request is based on DNA evidence. It allows such a request anytime if it is based on evidence

that was not discoverable or available at the time of the original trial. **(PA 00-80, effective upon passage and applicable to offenses committed anytime, including prior to its passage)**

Statute Of Limitations For Prosecuting Escape

This act eliminates the five-year statute of limitations for the class C felony of first-degree escape, thus allowing someone to be prosecuted for this offense anytime. The act applies to all first-degree escapes, including those that took place prior to its passage.

First-degree escape consists of:

1. escaping from a correctional institution;
2. escaping from a group home, halfway house, mental health facility, or community placement while under the custody of the correction commissioner;
3. escaping from a correctional work detail or school;
4. failing to return from a correctional furlough, work release, or educational release;
5. escaping from a mental hospital while confined as not guilty by reason of mental disease or defect; and
6. leaving the state while under the authority of the

Psychiatric Security Review Board without its authorization. **(PA 00-87, effective upon passage)**

Rearrest Warrants

This act allows a judge to enter a rearrest warrant in a central computer system, and the person named in the warrant may be arrested based on the warrant's existence in the system. **(PA 00-209, effective October 1, 2000)**

EDUCATORS

Teaching Certificates

The act bars the State Board of Education from issuing or reissuing a teacher or school administrator certificate to anyone who has been convicted of certain felonies until at least five years after the person finishes serving his sentence (including any probation or parole) for the conviction. The felonies are capital or Class A felonies, arson murder, most Class B felonies, certain specified Class D felonies, and two drug crimes. **(PA 00-220, effective July 1, 2000)**

INCREASED PENALTIES

Environmental Laws

This act makes several changes to the enforcement laws regarding hazardous waste record keeping, handling, transportation, storage, and

disposal, and it increases the penalties for violating them. It expands the state hazardous waste program to cover used oil and establishes corresponding penalties for used oil violations. It increases, from one to two years, the maximum prison term for violating the laws related to asbestos disposal and solid waste handling and, from two to five years, the maximum term for subsequent violations.

It increases the maximum penalties for knowing (i.e., willful) violations of the state's water pollution control laws, environmental protection cease and desist orders, and activities authorized under the Department of Environmental Protection's general authority. It also increases the penalty for knowingly making false statements, representations, or certifications in documents required in connection with such laws, orders, and activities. **(PA 00-19, effective October 1, 2000)**

Sexual Assault

This act increases the penalty for having sexual intercourse with someone who is mentally incapacitated to the extent that he or she cannot consent to the intercourse. Previously, this crime was second-degree sexual assault, which is a class C felony with a nine-month mandatory minimum sentence. The act makes it first-degree sexual assault, which is a class B felony. The offender must serve

a combination of imprisonment and special parole that totals at least 10 years. He must serve at least 10 years imprisonment if the victim is under age 10 and at least 2 years if the victim is older. **(PA 00-161, effective October 1, 2000)**

PRISON AND PRISONERS

Administrative Parole

This act expands eligibility for parole without a hearing before the parole board (administrative parole) to inmates eligible for special parole under PA 99-196. With the exception of capital felons, inmates are eligible for special parole if they (1) have six months or less of their sentence remaining, (2) have served at least 95% of their sentence, (3) agree to supervised parole for one year, and (4) agree to serve the remainder of their term at the prison they were paroled from if they violate parole.

The act also makes eligible for administrative parole inmates sentenced to more than four years imprisonment but who have less than three years left to serve. **(PA 00-86, effective October 1, 2000)**

Attaching Government Pension Payments

This act permits:

1. the state to recover incarceration costs from a prisoner's state, federal, or municipal pension, other than individual retirement accounts and Keogh plans, and
2. crime victims to collect court-awarded damages from one of these benefit plans when the pension-holder or a beneficiary committed a crime that caused their damage.

Prior law prohibited creditors from attaching or seizing pension payments for these purposes. The act requires the state and crime victims to use the statutory procedures for wage executions and prohibits these recoveries from taking precedence over court orders diverting pension payments for alimony or child support. **(PA 00-113, effective October 1, 2000)**

PROBATION

Electronic Monitoring

This act specifies that judges may order electronic monitoring as a condition of probation, conditional discharge, or pretrial release. It authorizes the court to require people subject to such orders to pay a monitoring fee directly to the electronic monitor service provider.

The act requires the Court Support Services Division to notify the local law enforcement agency whenever a court determines a child or youth has violated probation by not complying with electronic monitoring requirements. The act makes it a class D felony for someone to intentionally damage state owned or leased electronic equipment, regardless of its value, if it is required as a condition of probation, conditional discharge, or pretrial release and if (1) he has no reasonable basis to believe he has a right to do so and (2) the damage interrupts the equipment's ability to function. **(PA 00-141, effective October 1, 2000)**

Probation Fees

The act eliminates a \$200 court-assessed fee a child's parents, guardians, or custodians must pay when the services of juvenile probation staff are required. **(PA 00-170, effective July 1, 2000)**

SHERIFFS

Sheriff Reforms

If the voters adopt the constitutional amendment eliminating sheriffs as constitutional officers, on December 1, 2000, these acts transfer (1) responsibility for transporting prisoners to courthouses, custody of prisoners at courthouses, and courthouse security from the

county sheriffs to the judicial department and (2) service of process functions to state marshals.

Under these acts, certain changes took effect on April 27, 2000. The Sheriffs Advisory Board membership increased from five to seven. The board, which administers the prisoner transportation and courthouse security system, must cooperate with and ensure that the sheriffs, deputies, special deputies, and staff cooperate with the Judicial Department for the transition of functions. The board must approve the appointment or removal of a deputy sheriff or special deputy sheriff. The board is eliminated on December 1, 2000.

The acts create an eight-member State Marshal Commission as an autonomous body in the Judicial Department. The commission fills vacancies in state marshal positions and oversees the application and investigation process for state marshals. The commission can remove a state marshal, but only for cause. The acts also create a State Marshals Advisory Board consisting of 24 state marshals.

Also effective as of April 27, a sheriff cannot directly or indirectly solicit campaign contributions from certain individuals. **(PAs 00-99 and 210, effective December 1, 2000 but certain provisions are effective on passage and all of the acts' provisions are ineffective if the voters do not approve the**

constitutional amendment eliminating county sheriffs.

WITNESSES AND JURIES

Witness Fees

This act increases the amount people get for travel expenses when they are summoned to appear as witnesses in court, before the General Assembly, or before any other legal authority.

Under prior law, witnesses summoned to appear in criminal cases received 10 cents per mile the first day, and their actual traveling expenses up to 10 cents per mile for each additional day. Witnesses summoned to appear in civil proceedings and before the General Assembly received 10 cents per mile for each day.

The act instead requires that any person summoned to appear receive the same amount per mile that the commissioner of administrative services, with the approval of the secretary of policy and management, establishes for state employees. The current rate is 32.5 cents per mile.

The act also eliminates the prohibition against paying fees to bystanders called as witnesses in criminal trials. Thus, it requires that they receive the travel allowance as well as the 50 cents per day paid to all other people summoned to be witnesses in criminal cases. **(PA 00-45, effective October 1, 2000)**

Jurors

This act:

1. gives the jury administrator authority to create and maintain a list of people in specified categories to be excluded from the juror summoning process;
2. requires the jury administrator, when compiling the master file for summoning jurors, to delete the names of deceased people and certain people excluded from service;
3. requires the Department of Public Health commissioner to give the jury administrator, upon request, a list of deceased people annually;
4. allows the chief court administrator to authorize the jury administrator to use the previous year's master file to summon jurors if the new master file is unavailable or defective;
5. reduces, from one year to 10 months, the time that a summoned juror can postpone jury service but allows the jury administrator to grant postponement for up to one year from the date of the original summons; and
6. allows the court, in a criminal trial, to retain alternate jurors after deliberations begin and allows an alternate juror to

join the regular panel of jurors during deliberations if a juror becomes unable to serve. (**PA 00-116**, effective September 1, 2000, except for the provisions on alternate jurors, which are effective October 1, 2000)

YOUTHS

Violence Free Zones

The act also allows community action agencies to designate violence-free zones in accordance with federal law to address the needs of youth. The agencies can designate the zones in the 17 towns with enterprise zones (i.e., targeted investment communities). The program's purpose is to support the primary role of the family, focus on youth problems and crime prevention, and promote increased community cooperation. (**PA 00-158**, effective upon passage)

Juvenile Offenders

This act requires the chief court administrator to enter an agreement with the Connecticut Policy and Economic Council (CPEC) to evaluate programs serving juvenile offenders. The evaluation must determine if programs offered by state or municipal agencies or private providers are cost-effective in reducing recidivism. CPEC must submit a preliminary report on its activities to the Judiciary and

Human Services committees by January 1, 2001.

It creates a board to advise CPEC in the evaluation. The board is composed of the children and families and correction commissioners and the chief court administrator, or their designees, and the chairmen and ranking members of the Judiciary and Human Services committees. **(PA 00-172, effective October 1, 2000)**

Youth In Crisis

This act permits the Juvenile Court to assume jurisdiction over 16- and 17-year olds who are beyond their parents' control, run away from home, or fail to go to school. It terms such youths "youth in crisis." It allows (1) various people to refer such youths to the court, (2) the court to order the youth to participate in various services, and (3) the court to impose sanctions to enforce those orders. It specifies that a youth who violates such an order is not delinquent and cannot be incarcerated in a state detention or correctional facility.

The act authorizes police officers to look for runaway 16- and 17-year olds. Police officers who find them may report their location to the parents, refer them to Juvenile Court, take them to an agency that serves children, or keep them in custody for up to 12 hours. The law requires police to look for runaway children through age 15. **(PA 00-177, effective July 1,**

2001)

Youthful Offenders

This act makes a convicted delinquent who has been committed to DCF guilty of escape from custody if he (1) fails to return from a leave authorized by the Department of Children and Families (DCF) commissioner or (2) escapes from a public or private facility where DCF placed him. Escape from custody is a class C felony if the escapee's underlying offense is a felony and a class A misdemeanor otherwise.

It allows release of any information necessary to facilitate their return to custody and allows it to be released to more than just law enforcement agencies.

The act allows law enforcement agencies to release information about youthful offenders who have escaped from the institution to which they have been committed or for whom an arrest warrant has been issued. Such information could already be released about juveniles under age 16 who escape from a detention center or facility where they have been placed.

It allows the court to grant accelerated rehabilitation to someone previously adjudged a youthful offender, provided at least five years have passed since that occurred. **(PA 00-209, effective October 1, 2000)**