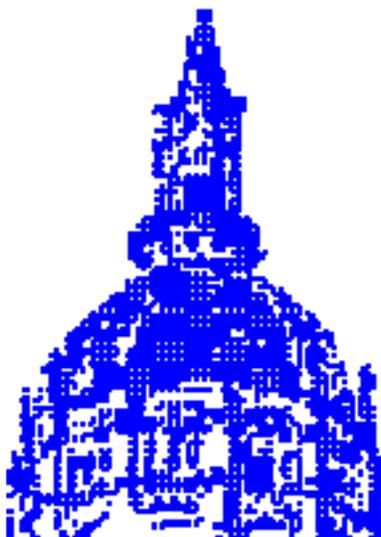


Office of Legislative Research
Connecticut General Assembly



**OLR ACTS AFFECTING
CRIME**



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NOTICE TO READERS

This report provides brief highlights of public and special acts affecting crime enacted during the 2002 regular session.

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, the House Clerk's office, or the General Assembly's website (<http://www.cga.state.ct.us/default.asp>). Complete summaries of all public acts passed during the 2002 regular session will be available in early fall when OLR's *Public Act Summary* book is published, and some are now available on the OLR website (<http://www.cga.state.ct.us/olr/publicactsummaries.asp>)

All acts summarized here are effective October 1, 2002, unless otherwise noted.

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CRIMES

Animal Abuse

An act passed by the legislature, but vetoed by the governor, would have expanded the animal abuse law by (1) specifying the type of shelter that a person in charge of, or caring for, a dog, considering all surrounding circumstances, must provide and (2) setting outdoor dog care conditions (subjecting violators to a fine of up to \$1,000, up to a year in prison, or both) that include standards for:

1. outdoor housing facilities,
2. tethering and chaining, and
3. cable and line measurements.

PA 02-62 (VETOED)

Motor Vehicle Violations

Anyone, other than someone who holds a Department of Transportation certificate as a household goods carrier, who holds himself out as such a carrier with the intent to benefit himself or to injure or defraud another commits a Class B misdemeanor (punishable by up to \$1,000, up to six months imprisonment, or both). And anyone who buys, sells, or offers for sale or brokerage any motor vehicle without a DMV license is guilty of a Class B misdemeanor.

PA 02-70

Terrorism

The legislature reacted to the 9/11 terrorist attacks by establishing several new anti-terrorism crimes.

Coercive Threats. It is a felony to use or threaten to use physical force or violence with intent to intimidate or coerce the civilian population or a government unit. A person who commits this crime is subject to the penalties for the next highest degree of felony if the court finds that the person's history and character and the nature and circumstances of his criminal conduct indicate that the increased penalty will best serve the public interest.

Releasing Dangerous Chemicals or Organisms. It is a class B felony punishable by one to 20 years in prison, a fine of up to \$15,000, or both to illegally fabricate a weapon (1) designed or intended to cause death or serious physical injury by the release, dissemination, or impact of toxic or poisonous chemicals or their precursors; (2) involving a disease organism; or (3) designed to release radiation or radioactivity at a level dangerous to human life. It does not apply to the lawful manufacture of these weapons.

Damage to Public Transportation. A person commits this crime when he:

1. intends to damage bus, railroad, or other public transportation property or interrupt or impair transportation services to the public;
2. damages such property or tampers with it and causes the property to be in danger of damage; and
3. intends to intimidate or coerce the civilian population or a government unit.

The crime is a class C felony, punishable by one to 10 years in prison, a fine of up to \$10,000, or both. By law, someone who damages railroad property is subject to penalties ranging from a class B misdemeanor to a class D felony, depending on the circumstances or the amount of damage caused.

Contaminating Public Water or Food Supply. A person commits this crime for terrorist purposes when he:

1. intends to intimidate or coerce the civilian population or a government unit and
2. introduces a hazardous substance into a (a) storage or distribution reservoir, lake, pond, or stream tributary that is used for supplying town, city, or borough inhabitants with water or

(b) food source or supply intended for human consumption.

Violators are subject to one to 10 years in prison, a fine of up to \$10,000, or both. The crime carries a five-year mandatory minimum sentence.

Criminal Misrepresentation.

A person commits this crime when, with respect to a criminal matter under investigation by a state or local agency or official, he:

1. knowingly and willfully (a) falsifies, conceals, or covers up a material fact by trick, scheme, or device; (b) makes a materially false, fictitious, or fraudulent statement or representation; or (c) makes or uses a false writing or document knowing it has a materially false, fictitious, or fraudulent statement or entry;
2. intends to intimidate or coerce the civilian population or a government unit; and
3. materially impairs the investigation.

This is a class C felony punishable by one to 10 years in prison, a fine of up to \$10,000, or both.

Computer Crimes. The law establishes the offense of computer crime in furtherance of terrorist purposes, which raises the penalty for computer crimes

in most instances when they are done with intent to intimidate or coerce the civilian population or a government unit. Computer crimes cover:

1. unauthorized access to a computer system;
2. theft of computer services;
3. interruption of computer services;
4. misuse of computer system information;
5. destruction of computer equipment;
6. unauthorized use of a computer or computer network for certain purposes; and
7. unlawful sale, distribution, or possession of software designed to falsify electronic mail transmission information.

The law makes this a class B felony, punishable by one to 20 years in prison, a fine of up to \$15,000, or both. It also imposes a five-year mandatory minimum sentence if the crime was directed at a public agency charged with protecting public safety.

Computer crimes carry penalties ranging from a class B misdemeanor to a class B felony, depending on the conduct and the amount of property damage caused. **PA 02-97**

Sexual Assault by a Coach

A new law creates separate forms of sexual assault crimes based on the relationship between the actor and the victim.

It makes it a crime for a person who provides intensive, ongoing instruction or a coach of an athletic activity to engage in sexual intercourse or have sexual contact with (1) a secondary school student receiving coaching or instruction in a secondary school setting or (2) anyone under age 18 receiving such coaching or instruction.

The act makes sexual intercourse with a person under these circumstances 2nd degree sexual assault, punishable by one to 10 years in prison (with a nine-month mandatory minimum), a fine of up to \$10,000, or both. It makes sexual contact with a person under these circumstances 4th degree sexual assault, punishable by up to one year in prison, a fine of up to \$2,000, or both. **PA 02-106**

Restraining Order Violations

A new law makes violating a family violence restraining order a class A misdemeanor. A restraining order violator can already be held in contempt of court, which is punishable by imprisonment for up to six months, a fine of up to \$500, or both. He is guilty of 1st degree criminal trespass, a Class A misdemeanor, if he enters a premises in violation of a restraining order.

The law establishes four circumstances under which a person violates a restraining order. These occur when the

target of the order knows its terms and violates them by (1) not staying away from the person or place named in the order; (2) contacting the person; (3) restraining the person or the person's liberty; or (4) threatening, harassing, assaulting or sexually assaulting, molesting, or attacking the person. **PA 02-127**

CRIME PREVENTION

Terrorism

A new law adds felonies involving the unlawful or threatened use of physical force or violence with intent to intimidate or coerce the civilian population or a government unit to the list of crimes that can be the subject of a grand jury investigation or a wiretap order. **PA 02-97**

Seizure of Firearms

Beginning soon people will have to surrender any firearm, instead of just handguns, within two business days after the occurrence of any event that makes them ineligible to possess the firearm.

The law (1) allows a peace officer to seize a firearm in plain view at the scene of a family violence crime even if no arrest is made; (2) expands the circumstances under which the firearm may be seized to include crimes involving dating relationships; (3) allows for the

seizure from someone suspected of committing a crime but not arrested; and (4) increases, from up to 48 hours to up to seven days, the time a peace officer has to return a firearm seized at a domestic violence crime scene to its rightful owner. **PA 02-120**

Registry of Protective and Restraining Orders

The chief court administrator must establish and maintain an automated registry of protective and restraining orders issued by Connecticut courts (it may also include protective orders issued by courts in other states registered with the Superior Court). **PA 02-132, effective January 1, 2003**

Child Abuse Investigations

Under a new law, the State Police Child Abuse and Neglect Unit must help multidisciplinary teams investigate reports of child abuse or neglect at the DCF commissioner's request. The unit must already provide this assistance at the request of the head of a local law enforcement agency. Multidisciplinary teams are located in each judicial district. They review selected child abuse or neglect cases, reduce the trauma to child victims, and ensure the child's protection and treatment. **PA 02-138**

Risk Assessment Boards

A new law establishes a 23-member advisory committee to make recommendations concerning the (1) establishment of one or more sexual offender risk assessment boards and (2) process for someone to report, in confidence, that a person in state custody or receiving state services is at risk of engaging in illegal sexual behavior. The board(s)' duty would be to assess and evaluate adjudicated and non-adjudicated sexual offenders who are in state custody or receiving services from a state contract provider, determine if they pose a risk of engaging in illegal sexual behavior, and make recommendations concerning their appropriate placement and level of supervision. **PA 02-138, effective upon passage (6/30/02)**

CRIME VICTIMS

Employment Protection

The law will soon bar employers from firing or otherwise penalizing, threatening, or coercing an employee for:

1. attending a court proceeding or participating in a police investigation related to a criminal case in which he was a victim;
2. having a restraining order issued on his behalf in a domestic violence case; or
3. having a protective order issued on his behalf by a court in Connecticut or another state, as long as the out-of-state order is registered here.

An employee is a crime victim if he (1) suffered direct or threatened physical, emotional, or financial harm as a result of a crime or (2) is the guardian or immediate family member of a minor, physically disabled, or incompetent person who suffered such harm, or of a homicide victim.

An employee's recourse for violations is the same as that for an employee retaliated against for obeying a court order to testify as a witness in a criminal case. He can, no later than 90 days after an employer's violation, file suit for damages and for reinstatement or other means of rescinding the violation.

The law also prohibits all employers, including the state and its political subdivisions, from taking certain actions against people who have had their arrest, criminal charge, or conviction records erased. An employer cannot require an employee or prospective employee to disclose such records or deny employment or discharge an employee solely because of records. Any employment application form asking for criminal history information must contain clear notice that the applicant need not disclose such erased information and that he is

considered never to have been arrested and can so swear under oath. The erased records covered by the law include delinquency; family with service needs; youthful offender status; criminal charges that have been dismissed, nolle, or resulted in a not guilty finding; and absolute pardons.

Previously, the portion of a job application containing an applicant's arrest record information was available only to members of an employer's personnel department or the person in charge of hiring. This law allows the information to be given also to employees or agents of the employer involved in interviewing the applicant. But it extends the confidentiality requirements to the entire criminal history record of job applicants and employees. **PA 02-136**

Help for Restraining Order Applicants

A new law will soon require courts to give applicants for a restraining order in domestic violence situations information on how to (1) continue the order beyond the initial order and (2) contact domestic violence counselors. **PA 02-127**

Crime Victim Compensation

By law, the Office of Victim Services can make payments (1) to, or for the benefit of, an injured person; (2) to any person

responsible for the maintenance of a victim who suffered a pecuniary loss because of the victim's personal injury; and (3) to, or for the benefit of, dependents of a victim who died. The applicant for compensation has 45 days after notice of an award to claim it or the award is vacated. A new law will soon give the office the option, if the applicant has not claimed the award after 45 days, of ordering payments from the award to health care providers or victim service providers and vacating any remaining amount. **PA 02-132**

CRIMINAL PROCEDURE

Record Retention

The official court records of felony cases must be preserved for longer periods. When a defendant is convicted after a trial, (1) non-capital felony case records must be retained for at least 20 years from the date the case is disposed of or the defendant completes his sentence, whichever is later and (2) capital felony case records must be retained for at least 25 years after his death. The official records include the complete court file, exhibits, and the transcripts of all related proceedings, including jury selection. Before, a judge could

order these records, like other criminal records, destroyed after seven years. **PA 02-29**

Affirmative Defense to Animal Confinement Laws

Anyone prosecuted for violating a new dog tethering or confinement law can claim, as an affirmative defense, that his actions were inconsistent with his usual and customary conduct. **PA 02-62 (VETOED)**

Wiretap Evidence

Wiretap evidence obtained validly under federal law is admissible in state court regardless of state law on obtaining wiretap evidence. **PA 02-97**

Affirmative Defense to Illegal Assault Weapon Possession

In any prosecution for illegal assault weapon possession, based on the possession of Auto-Ordnance Thompson type; Avtomat Kalashnikov AK-47 type; and MAC-10, MAC-11, and MAC-11 Carbine type assault weapons, it is an affirmative defense that the defendant:

1. in good faith purchased or otherwise obtained title to the weapon between October 1, 1993 and May 8, 2002 in compliance with pertinent state and federal laws;
2. has possessed the weapon in compliance with the

existing law's conditions for possessing assault weapons; and

3. is not otherwise disqualified or prohibited from possessing such weapon.

If the defendant proves such affirmative defense by a preponderance of the evidence, DPS must return the weapon to him once he notifies the department before October 1, 2003 and gets a certificate of possession. **PA 02-120**

Modifying Release Conditions

Courts will soon be allowed to hear a prosecutor's motion to modify the release conditions for a restraining order violator who will be arraigned at the next sitting of the geographical area court where the offense was allegedly committed without first notifying the accused, the bail commissioner, or any surety. Courts can already do this for people charged with family violence crimes, violating protective orders, or certain types of stalking. **PA 02-127**

Venue for Infractions and Violations

A new law specifies that infractions and violation matters, instead of just motor vehicle matters, that a magistrate may hear and decide may be held at Superior Court facilities the chief court administrator designates. **PA 02-132**

Sexual Assault Statute of Limitations

A new law extends, from two to 30 years after the victim reaches age 18, or up to five years from the date he notifies the police or a prosecutor of the crime, the statute of limitations for prosecuting sexual abuse, sexual exploitation, or sexual assault of a minor, except when the offense is a class A felony. **PA 02-138, effective upon passage (June 30, 2002) and applicable to crimes committed on and after that date**

Pretrial Alcohol Education Program

Drivers under age 21 will soon be allowed to participate in the Pretrial Alcohol Education Program, which is available to people charged with DWI for the first time. Another law prevented these drivers from applying when they were found to have a BAC of .02% or more.

The new law makes several changes in program procedures. It:

1. requires an applicant to pay a nonrefundable \$100 evaluation fee in addition to the \$50 application fee when he applies for the program;
2. requires him to be referred to DMHAS for evaluation at the same time he is referred to the Bail Commission for

assessment and confirmation of eligibility, rather than afterward;

3. requires the Bail Commission to receive the evaluation report before it refers him to DMHAS for placement in a program and specifies that the program must be an alcohol intervention program;
4. eliminates the minimum 15-session counseling program for someone whose BAC is .16% or more while allowing such a program to be required based on the evaluation report and court order; and
5. reduces the program fees from \$425 to \$325 for a 10-session, and from \$600 to \$500 for a 15-session, program, apparently reflecting the new up-front \$100 evaluation fee.

PA 02-1, JSS, effective July 1, 2002

INCREASED OR DECREASED PENALTIES

Habitually Overweight Trucks

Previously, the court had to note on the record any conviction or bond forfeiture involving an overweight violation of more than 15% above a truck's applicable gross weight limit. In addition to the fine that might already have otherwise been paid for the violation, the commissioner had to demand that an out-of-state

owner or lessee of such a truck post a \$2,000 bond with DMV subject to forfeiture for a second such violation. An in-state owner or operator was subject to an additional civil fine of \$2,000 for a second such overweight violation. The commissioner could revoke the vehicle's registration for 30 days.

A new law revises this sanction process. It (1) eliminates the enhanced penalty for a second offense, (2) requires third or subsequent offenses that trigger the additional penalties to occur within the same calendar year and makes imposition of the additional penalty discretionary with the commissioner rather than mandatory, (3) eliminates an additional mandatory court-imposed fine for a fourth violation within a calendar year, and (4) lowers this fine from \$10,000 to \$5,000 for a fifth such violation.

The law requires the court to note any such conviction, other than bond forfeiture for nonappearance, and transmit the information to DMV. When he receives information about a third such conviction within a calendar year, the commissioner may schedule a hearing to review the registrant's record and notify him of such. The commissioner may review information and evidence presented at the hearing that, among other things, may include the frequency of the registrant's commercial vehicle operations, fleet size, and any possible culpability for the

overweight on the part of the shipper. After the hearing, he may impose a civil penalty of an additional \$2,000 on the registrant or revoke his registration for 30 days and may refuse to issue a registration for the vehicle for any further period he deems reasonable. **PA 02-70, effective July 1, 2002**

Terrorism

A new law increases the penalty, from a class D to a class C felony, for hindering the prosecution of a person who committed, for terrorist purposes, a class A or B felony or an unclassified felony with a possible prison term of more than 10 years.

It reduces the penalty, from a class D felony to a class A misdemeanor, for threatening to commit a violent crime with intent to, or with reckless disregard of the risk of, terrorizing someone.

It eliminates a provision making it a class D felony to threaten to commit a violent crime with the intent of causing evacuation of a building, place of assembly, or public transportation facility or causing serious public inconvenience. But this conduct appears to be covered by the class A misdemeanor crime. A class D felony is punishable by one to five years in prison, a fine of up to \$5,000, or both. A class A misdemeanor is punishable by

up to one year in prison, a fine of up to \$2,000, or both. **PA 02-97**

Failure to Report Child Abuse

The law raises the penalty for any mandated reporter who fails to report from a maximum of \$500 to between \$500 and \$2,500. **PA 02-106**

Possession of Assault Weapons

By law, illegal possession of an assault weapon is a class D felony. A new law will soon exempt possession of certain types of assault weapons if they were purchased or acquired between October 1, 1993 and May 8, 2002 and the purchase and buyer meet certain conditions. (It does not affect other restrictions on the weapons, such as those governing sales and transportation.) **PA 02-120**

Violation of Restraining Orders

This law subjects a restraining order violator to the enhanced penalty for persistent offenders if, in addition to violating the order, he was within the previous five years convicted of or released from prison for committing:

1. a capital or class A felony;
2. a class B felony, except promoting 1st degree prostitution or 1st degree larceny;

3. a class C felony, except promoting 2nd degree prostitution or bribing jurors;
4. 2nd or 3rd degree assault or criminal trespass, 3rd degree burglary or robbery, 3rd degree sexual assault, 2nd degree stalking or harassment; or
5. threatening, unlawful restraint, criminal use of a firearm, reckless burning, or violating a protective order.

The law also subjects a person who committed any of the above crimes to the persistent offender penalty if, within the five previous years, he was convicted of violating a restraining order.

An enhanced penalty is the sentence for the next more serious degree of the crime. The enhanced penalty for violating a restraining order would be the sentence for a class D felony. Before imposing the enhanced penalty, the court must consider the defendant's history and character and the nature of the circumstances of his criminal conduct. **PA 02-127**

Sexual Assault of a Minor

A new law (1) increases the classification and maximum penalty for sex crimes involving minors under age 16 and (2) requires courts to include a five-year period of special parole in any sentence for first-degree aggravated sexual assault. **PA 02-138**

Drunk Driving

This law lowers the blood alcohol content (BAC) for drunk driving from .10 to .08. The criminal penalties for a first offense are a \$500 to 1,000 fine and either up to six months imprisonment (with a 48 hour mandatory minimum) or a six-month suspended sentence with 100 hours of community service. **PA 02-1, JSS, effective July 1, 2002**

OBSOLETE LAWS

The legislature cleaned up the statutes by repealing hundreds of obsolete and antiquated laws. Specifically, it repeals a law prohibiting gambling, strip shows, prostitution, and similar activities at or near agricultural fairs, including fines and other criminal penalties for violations.

It repeals another law that imposed fines and jail penalties for selling ice cut from specified polluted locations to homes, hotels, and restaurants.

Lastly, it eliminates criminal penalties of up to \$500 and 30 days in prison for selling anything as "turpentine" unless it is wholly distilled from rosin, turpentine gum, or scrapings from pine trees, and prohibits selling turpentine that has been adulterated with oil, benzene, or anything else unless it is so labeled. **PA 02-89**

PRISON AND PRISONERS

Credit for Time Served

The credit someone earns toward payment of a fine increases, from \$10 to \$50, for each day of confinement, when he is convicted of a crime and held in a Department of Correction (DOC) facility only for payment of the fine. The additional credit that someone with a satisfactory work record can earn for each day of productive or maintenance work also increases from \$10 to \$50.

DOC can release these individuals, with the agreement of the Judicial Department's Court Support Services Division (CSSD), to perform community service under CSSD supervision. A person earns a credit towards payment of his fine of \$50 per day for this service. He remains under DOC jurisdiction during this time and is released after completing the period of required service or when the fine is paid in full. The person can be returned to confinement if DOC determines that his conduct makes him unsuitable to continue in community service.

The credit someone earns towards payment of a fine for each day he spends confined in a DOC facility before sentencing because he could not obtain or was denied bail increases from \$10 to \$50.

In addition, a person can earn a reduction of his fine for good conduct if he obeys the facility rules while confined before sentencing in a DOC facility or police or courthouse lock-up. The act increases this amount from \$100 to \$500 for each 30 days of confinement. **PA 02-18**

YOUTHS

Youth in Crisis

A new law makes it clear that a “youth” under the youth in crisis program includes both 16- and 17-year-olds. Prior law defined a “youth” as a person age 16 to 18, while it defined a “youth in crisis” as someone age 16 to 17. The act permits the Judicial Department to use any juvenile justice appropriations to operate the youth in crisis program.

The new law immunizes police officers and local government and community agency officials who work with youths in crisis (like youth service bureau staff) for personal injuries that arise from the child or his parents voluntarily terminating services.

A youth in crisis is someone who comes under juvenile court jurisdiction because he has run away from home without just cause, is beyond his parents’ control, or has multiple unexcused absences from school. The court can require the youth to work, participate in community service, or go to school or some other educational

program; restrict his driving; and require mental health services.

PA 02-109, effective upon passage for the change in youth in crisis definition, July 1, 2002 for the funding provision, and October 1, 2002 for the immunity provision

Bullying

A new law requires all school boards to develop a bullying policy for use starting February 1, 2003. Bullying is repeated, overt acts by one or more students on school grounds or at a school-sponsored activity that are intended to ridicule, humiliate, or intimidate another student.

Each district’s bullying policies must:

1. permit anonymous reports of bullying by students and written reports of suspected bullying by parents or guardians,
2. require teachers and other school staff to notify school administrators of bullying acts they witness and students’ reports they receive
3. require school administrators to investigate parents’ written reports and review students’ anonymous reports,
4. require each school to maintain a publicly available list of the number of verified bullying acts that occurred there,

5. include an intervention strategy for school staff to deal with bullying,
6. provide for including language about bullying in student codes of conduct, and
7. require notice to parents or guardians of all students involved in a verified act of bullying. The notice must describe the school's response and any consequences that may result from further acts of bullying.

PA 02-119, effective July 1, 2002

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