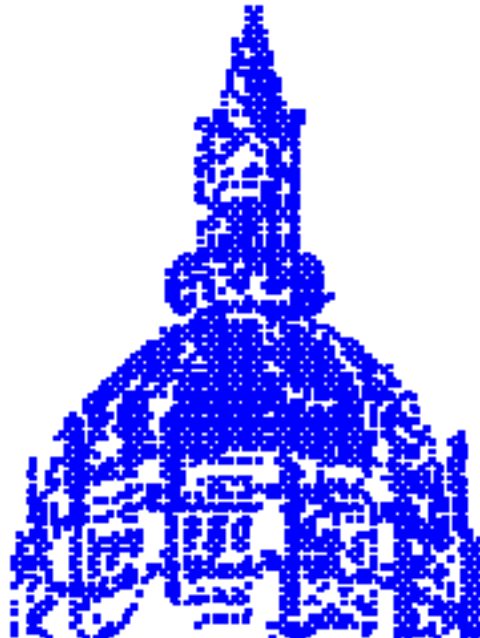


Office of Legislative Research  
Connecticut General Assembly



**CRIMINAL JUSTICE**



2011-R-0257

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## TO THE READER

This report provides highlights of new laws (Public Acts) affecting crime and criminal justice enacted during the 2011 regular legislative session. At the end of each summary we indicate the Public Act (PA) number and the date the legislation takes effect.

Not all provisions of the acts are included here. Complete summaries of all 2011 Public Acts will be available on OLR's webpage: [www.cga.ct.gov/olr/OLRPASums.asp](http://www.cga.ct.gov/olr/OLRPASums.asp).

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 ([www.cga.ct.gov/](http://www.cga.ct.gov/)).

### TABLE ON PENALTIES

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. They must specify the period of incarceration for anyone so sentenced. The prison terms below represent the range within which a judge must set the sentence. The judge also sets the exact amount of a fine, up to the limits listed below. Some crimes have a mandatory minimum sentence or a minimum sentence higher than the minimum term specified in the table. Repeated or persistent offenses may result in a higher sentence range than specified here.

<i>Classification of Crime</i>	<i>Imprisonment</i>	<i>Fine</i>
Capital felony	execution or life	—
Class A felony (murder)	25 to 60 years	up to \$20,000
Class A felony	10 to 25 years	up to 20,000
Class B felony	1 to 20 years	up to 15,000
Class C felony	1 to 10 years	up to 10,000
Class D felony	1 to 5 years	up to 5,000
Class A misdemeanor	up to 1 year	up to 2,000
Class B misdemeanor	up to 6 months	up to 1,000
Class C misdemeanor	up to 3 months	up to 500

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## **CRIMES**

### ***Gun Possession by a Minor***

Under this act, a parent or guardian commits a class A misdemeanor (see Table on Penalties) if he or she (1) knows that his or her minor child has a firearm (a sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver, or other loaded or unloaded weapon from which a shot may be discharged), (2) knows the child is ineligible to possess it, and (3) fails to make reasonable efforts to halt the child's possession.

If the child injures or kills someone with the firearm, the parent or guardian commits a class D felony.

(PA 11-51, § 33, effective October 1, 2011)

### ***Sexual Assault of People Receiving DDS Services***

A new law makes it 2nd degree sexual assault to have sexual intercourse, and 4th degree sexual assault to have intentional sexual contact, with someone who is placed or receiving services under the Department of Developmental Services (DDS) commissioner's direction in a facility or program, whether public or private, and over whom the perpetrator has disciplinary or supervisory authority. DDS provides services to people with developmental and intellectual disabilities.

By law, it is already 2nd degree sexual assault to have sexual intercourse, and 4th degree sexual assault to have intentional sexual contact, with someone (1) whose mental condition makes them unable to consent or (2) who is in custody or detained in a hospital or other institution and over whom the perpetrator has supervisory or disciplinary authority.

Second-degree sexual assault is a class C felony (see Table on Penalties) unless the victim is under age 16, in which case it is a class B felony. In either case, the law requires a mandatory minimum of nine months' imprisonment.

Fourth-degree sexual assault is a class A misdemeanor unless the victim is under age 16, in which case it is a class D felony.

(PA 11-113, effective October 1, 2011)

### ***Assault of Health Care Employee and Workplace Violence***

A new law makes assault of a health care employee a class C felony (see Table on Penalties). It also specifies that it is a defense that the defendant has a mental, physical, or intellectual disability.

This law also requires (1) certain health care employers to develop and implement workplace violence prevention and response plans and (2) health care employers to report

incidents of workplace violence to local law enforcement.

(PA 11-175, effective July 1, 2011 for provisions on workplace safety committees, risk assessment, violence prevention plans, patient care assignment, and regulations; October 1, 2011 for the remaining provisions)

### ***Unauthorized Photographs by First Responders***

A new law establishes criminal penalties for specified persons who, when responding to a request to provide someone with medical or other assistance, knowingly (1) take that person's photograph or digital image or (2) make such an image available to a third person. The penalties apply to peace officers, firefighters, ambulance drivers, emergency medical responders, emergency medical technicians, and paramedics, but only when these actions are not in the performance of their duties. The penalties also do not apply if these actions are done with the consent of the assisted person or someone in that person's immediate family.

Under the act, the penalty is up to one year in prison, up to a \$2,000 fine, or both.

(PA 11-47, effective October 1, 2011)

### ***Transgender Discrimination***

A new law statutorily prohibits discrimination on the basis of gender identity or

expression in employment, public accommodations, the sale or rental of housing, the granting of credit, and other laws over which the Commission on Human Rights and Opportunities has jurisdiction. By law, the penalty for discrimination in certain settings can include imprisonment.

The act makes it a class A misdemeanor (see Table on Penalties) to deprive someone of rights, privileges, or immunities secured or protected by state or federal laws or constitutions because of the person's gender identity or expression. The act makes it a class D felony for anyone to do so based on gender identity or expression while wearing a mask, hood, or other device designed to conceal his or her identity.

(PA 11-55, effective October 1, 2011)

### ***Criminal Impersonation***

A new law expands the definition of criminal impersonation to include the use of an electronic device to impersonate someone else with intent to defraud, deceive, or injure, that results in personal injury, financial loss, or the initiation of judicial proceedings. It does not apply to law enforcement officers performing their official duties. Under existing law, unchanged by the act, criminal impersonation is a class A misdemeanor (see Table on Penalties).

(PA 11-221, effective October 1, 2011)

### ***Identity Theft***

A new law expands the type of conduct that constitutes an identity theft crime. Under prior law, this crime involved knowingly using another person's personal identifying information (such as Social Security number) to obtain or attempt to obtain, in the person's name and without his or her consent, money, credit, goods, services, property, or medical information. The act removes the requirement that the perpetrator must use the person's name for the action to constitute a crime.

By law, identity theft is a class B, C, or D felony (see Table on Penalties) depending on the value of the property involved and age of the victim.

(PA 11-165, effective October 1, 2011)

### ***Tampering with or Destroying Voting Equipment***

Under prior law, a person could generally be imprisoned for up to five years for tampering with or destroying voting equipment before or during an election. A new law specifies that this provision applies only when a person intends to cause a vote to register improperly.

(PA 11-20, § 22, effective upon passage)

### ***Elder Abuse***

A new law makes it a class A misdemeanor (see Table on Penalties) to present fraudulent or malicious information in an elder abuse report to, or investigation by the Department of Social Services (DSS). And DSS cannot interview an elder abuse victim alone if a physician who examined the victim in the 30 days before DSS gets an abuse report provides a letter stating that he or she believes that interviewing the person alone is medically inadvisable. The new law also eliminates an exception from immunity for bad faith and malicious elder abuse reports, thereby immunizing people who make such reports from civil liability.

(PA 11-224, effective October 1, 2011)

### **CRIMES RELATED TO SPECIFIC BUSINESSES OR LICENSEES**

#### ***Pawnbrokers, Secondhand Dealers, and Precious Metals and Stone Dealers***

A new law makes numerous changes in the statutes governing pawnbrokers, secondhand dealers, and dealers in precious metals and stones. Among other things, it:

1. requires that someone act willfully to be guilty of engaging in the pawnbroker business without a license (violators commit a class D felony, see Table on Penalties);
2. makes it a class D felony to, without a license, willfully engage in the business of a secondhand dealer, precious metals and stone dealer, or junk dealer;
3. makes it a class A misdemeanor for specified other actions by pawnbrokers, secondhand dealers, and precious metals and stone dealers.

(PA 11-100, effective October 1, 2011)

### ***Mortgage Licensing and Other Banking Provisions***

A new law makes numerous changes to the banking law, including some changes that extend criminal penalties to new categories of people. In addition to other changes, the act extends the prohibition on specified fraudulent conduct to any individuals or legal entities subject to the banking commissioner's jurisdiction (rather than just those licensed or registered with the commissioner), in connection with any activity subject to that jurisdiction.

The act also expands the reach of the criminal prohibition on residential mortgage fraud to include such fraud committed by loan processors or underwriters. Residential mortgage fraud is either a class D felony (for a single act) or a class C felony (multiple acts) (see Table on Penalties).

(PA 11-216, various effective dates)

### ***Unlawful Nonlicensed Advertising***

A new law specifies that the existing prohibition on willfully and falsely pretending to qualify to practice a licensed trade, or offering to or practicing a licensed trade without a license or registration, applies to people who, in a print, electronic, television or radio advertisement or listing offer to perform work they are not licensed to perform. Covered trades include electricians, plumbers, and several others. In addition to civil and other penalties, violators commit a class B misdemeanor (see Table on Penalties). (The law specifies certain procedures the Department of Consumer Protection (DCP) commissioner must follow before anyone may be prosecuted for a licensing law violation.)

(PA 11-117, §§ 3-4, effective October 1, 2011)

### ***Swimming Pool Builders and Maintenance and Repair Contractors***

A new law extends to swimming pool builders and swimming pool maintenance and repair contractors the existing penalties for contractors who work without a license. Violators are guilty of a class B misdemeanor (see Table on Penalties) in addition to being subject to civil penalties.

(PA 11-81, § 2, effective July 1, 2012)

### ***Driving Schools and Driving Instructors***

A new law makes operating a driver's school without a license a class B misdemeanor (see Table on Penalties). It also makes it a class B misdemeanor for anyone without a driving instructor's license to (1) teach people to drive, for pay or (2) teach driving at a driving school.

(PA 11-213, §§ 24-25, effective July 1, 2011)

### ***Cigarettes and Tobacco Products***

A new law reduces penalties for certain cigarette dealers who continue to sell cigarettes or taxed tobacco products after their licenses expire.

It is illegal to sell, offer to sell, or possess with intent to sell cigarettes or taxed tobacco products without a license from the Department of Revenue

Services (DRS). Under prior law, the penalty for each knowing violation was a fine of up to \$ 500, up to three months in jail, or both, with each day of unauthorized operation counted as a separate offense. In the case of a cigarette dealer who operates for no more than 90 days after his or her license expires, the act reduces the penalty to an infraction, with a \$ 90 fine.

The act also reduces penalties for certain cigarette dealers who possess cigarettes that do not have required Connecticut tax stamps.

It is illegal to sell, offer to sell, display for sale, or possess cigarettes without the required Connecticut tax stamp, except that a licensed cigarette dealer may possess unstamped cigarettes, other than those that may not legally be stamped, at a licensed location for no more than 24 hours. Under prior law, the penalty for any knowing violation was a fine of up to \$ 1,000, up to one year in jail, or both. Under the act, if it is the dealer's first violation and he or she possesses no more than 600 unstamped cigarettes, the penalty is reduced to an infraction, with a \$90 fine.

(PA 11-61, §§ 62-63, July 1, 2011)



## ***Audits of Long-Term Care Institutional Providers***

A new law exempts nursing homes from the general Department of Social Services (DSS) audit provisions but sets up a similar statutory process for auditing long-term care providers that receive DSS payments that apparently mirrors current practice. Under the new law, in addition to other penalties related to submitting false information, any person, including a corporation, that knowingly (1) makes or causes to make false or misleading statements or (2) submits false or misleading fiscal information or data on forms DSS approves is guilty of a Class D felony (see Table on Penalties).

(PA 11-236, §§ 5-6, effective upon passage, except that the exemption of nursing homes from the general DSS audit provision is effective July 1, 2011)

## **DNA TESTING**

### ***DNA Samples Required***

A new law requires law enforcement agencies to require anyone they arrest for any of 39 serious felonies to provide a DNA sample before he or she is released from custody if the arrestee (1) is a convicted felon and (2) has not previously provided a DNA sample. The law enforcement agency that makes the arrest sets the time and place

for collecting and collects the sample. It must do this within available funding.

The law expands the circumstances under which the Department of Public Safety's Division of Scientific Services must expunge a DNA profile from the DNA data bank and the State Police forensic laboratory must purge all records of it. It eliminates the requirement for offenders to request the expungement or purging.

(PA 11-207, effective October 1, 2011)

### ***DNA Sample Quality***

Sex offenders and felons must submit DNA samples of sufficient quality to determine a person's identity. A new law authorizes the various agencies under whose authority sex offenders and felons are confined or supervised to take repeat samples until one of sufficient quality is obtained. It also:

1. authorizes the Department of Correction (DOC) to use reasonable force to obtain the sample from felons and sex offenders in its custody;
2. makes it a class D felony (see Table on Penalties) to willfully fail to appear at the scheduled time and place to submit a sample, instead of failing to submit a sample;

3. requires the first report the Department of Mental Health and Addiction Services (DMHAS) or DDS files with the court that addresses whether an acquittee should be discharged from custody to indicate whether the individual has submitted or refused to submit a DNA sample;
  4. allows DNA data bank information to be supplied to law enforcement officers to rule out criminal suspects;
  5. subjects people to arrest for willfully refusing to submit a sample to the Court Support Services Division (CSSD); and
  6. moves up the date for taking a sample from a DMHAS or DDS detainee to the date of the first court hearing after commitment.
- (PA 11-144, effective October 1, 2011)

***DNA Data Bank Oversight Panel***

A new law adds the chief public defender, or a designee, to the DNA Data Bank Oversight Panel but prohibits him or her from participating in discussions about, or having access to, personally identifiable data bank information.

(PA 11-9, effective upon passage)

**DOMESTIC VIOLENCE**

A new law makes many changes to the laws on family violence. Among other things, it:

1. protects victims of orders of protection from criminal liability under certain circumstances;
2. requires law enforcement officers to arrest a person who commits a family violence crime against someone he or she is dating;
3. doubles the fee for the pretrial family violence education program;
4. requires family violence offenders who use or attempt or threaten to use physical force to commit the crime to surrender any firearms they possess to the public safety commissioner; and
5. requires the chief court administrator to study and assess family violence training programs.

The new law establishes a 16-member task force to (1) evaluate law enforcement agencies' policies and procedures for responding to incidents of family violence and restraining and protective order violations and (2) develop a model statewide policy for such responses.

With certain exceptions, a spouse may elect or refuse to testify against his or her spouse in a criminal proceeding. The

new law modifies the exceptions to this so-called “spousal privilege.”

(**PA 11-152**, effective October 1, 2011, except that the provisions on the task force and chief court administrator’s assessments and studies are effective upon passage)

## **DRUGS**

### ***Marijuana Possession***

The legislature passed a law reducing the penalty for possessing less than one-half ounce of marijuana from a crime that carries a possible prison term to (1) a \$150 fine for a first offense and (2) a \$200 to \$500 fine for a subsequent offense. Three-time violators must participate in a drug education program, at their own expense.

The new law also reduces, from a crime to an infraction, the penalty for certain actions involving drug paraphernalia relating to less than one-half ounce of marijuana. People who commit a violation or infraction can pay the fine by mail rather than appearing in court, except for juveniles, who would go to juvenile court. The law requires a 60-day suspension of the driver’s license of anyone under age 21 convicted of a violation or infraction under it.

(**PA 11-71**, most provisions take effect July 1, 2011)

### ***Controlled Substances***

A new law requires the DCP commissioner to adopt regulations designating as controlled substances five specified synthetic versions of marijuana, salvia divinorum (a perennial herb in the mint family native to certain parts of Mexico), and salvinorum A. The law prescribes criminal penalties for various actions involving controlled substances.

(**PA 11-73**, effective July 1, 2011)

Another new law requires the DCP commissioner to designate mephedrone and MDPV, or any other name by which they are known, as controlled substances in schedule I of the Controlled Substances Act’s scheduling regulations.

(**PA 11-210, § 3**, effective July 1, 2011)

### ***Emergency Medical Assistance for Persons Experiencing A Drug Overdose***

A new law prohibits prosecuting a person for possessing drugs or drug paraphernalia based solely on discovery of evidence arising from efforts to seek medical assistance for a drug overdose. It applies to incidents involving someone who is reasonably believed to be suffering a drug overdose by ingesting, inhaling, or injecting an intoxicating liquor or any drug or substance.

(PA 11-210, §§ 1-2, effective October 1, 2011)

## **JUVENILES**

### ***Juvenile Justice***

A new law makes a number of modifications to statutes governing the Department of Children and Families (DCF), many of which are designed to end DCF's responsibility for children when they reach age 20.

It also:

1. gives uniform definitions to "child," "youth," and "delinquent child" in DCF statutes, thus expanding the laws regarding children to cover 16- and 17-year-olds;
2. removes crimes related to failure to appear and violations of the conditions of release from the definition of "delinquent child," "delinquent act," and related provisions;
3. excludes delinquent acts from the definition of "family violence crimes" and related provisions;
4. adds as serious juvenile offenses (SJOs) 1<sup>st</sup> and 2<sup>nd</sup> degree strangulation and home invasion, and, after July 1, 2012, criminally negligent cruelty to a person, intentional child cruelty, and manslaughter with a motor vehicle, thereby increasing penalties for these offenses;
5. removes 2<sup>nd</sup> degree manslaughter with a firearm, 2<sup>nd</sup> degree hindering prosecution, 2<sup>nd</sup> degree manslaughter with a motor vehicle, and misconduct with a motor vehicle from the enumerated SJOs, thus either requiring them to be prosecuted on an adult docket or, in the case of hindering prosecution, as a less serious delinquent act;
6. beginning July 1, 2012, permits 17-year-olds alleged to have committed an offense which is pending on the youthful offender, regular criminal, or any motor vehicle docket on or after that date to have their cases transferred to juvenile court, when that is in their and the public's best interest;
7. modifies the standards governing the admissibility of confessions made by 16- and 17-year-olds;
8. eliminates prior law's requirement that DCF plan to keep juveniles sent to the Connecticut Juvenile Training School (CJTS) for at least one year (this is identical to a provision in PA 11-156);
9. requires police to notify the superintendent of the school district where an arrested student is

- attending, as an alternative to the district where he or she lives;
10. requires schools to maintain confidentiality about matters that involve students age 16 and 17, as well as younger students;
  11. mandates that records of cases in which a child has been convicted as delinquent for evading responsibility with a motor vehicle involving death or serious injury be reported to the Department of Motor Vehicles (DMV) for use in determining whether administrative sanctions against the child's driver's license are warranted;
  12. allows courts to specifically authorize by subsequent court order that confidential records the court has released to a (a) person with a legitimate interest in the information or (b) crime victim may be released further to other people;
  13. streamlines the process for CJTS and community detention facilities to get educational records; and
  14. requires police departments to handle reports of missing 15- to 17-year-olds in the same manner as they handle reports involving missing children and vulnerable adults.

(PA 11-157, effective October 1, 2011, except the provisions involving 17-year-olds in delinquency proceedings are effective July 1, 2012)

### ***Juvenile Detention and Disproportionate Minority Contact***

A new law prohibits police officers from placing children they arrest, but who have not yet appeared before a judge, in a juvenile detention center without a court order. It also:

1. allows detention center intake supervisors to admit only a child who is (a) the subject of a detention order, (b) ordered by a court to be held in detention, or (c) transferred to the center to await a court appearance;
2. eliminates a provision specifying the classifications of offender and pretrial detainees that can be admitted to an overcrowded juvenile detention center; and
3. requires judicial and executive officials to report to the legislature and governor every two years on progress made in addressing disproportionate minority contact (DMC).

Under the new law, DMC means that a disproportionate number of juvenile members of minority groups come into contact with the juvenile justice system.

(PA 11-154, effective October 1, 2011, except DMC reporting requirement is effective upon passage)

### ***Juvenile Jurisdiction Policy and Operations Coordinating Council***

A new law 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 and the committees on Appropriations, Children, Human Services, and Judiciary. The JJPOCC was established in 2007 to monitor the implementation of changes required in the juvenile justice system to raise the age of juvenile court jurisdiction from age 15 to age 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.

(PA 11-51, § 34, effective upon passage)

### ***Educating Students in Juvenile Detention Facilities***

A new law makes local and regional boards of education responsible for providing and paying for part of the cost of regular educational and special education and related services for students in state- or community-run juvenile detention centers. It defines these as facilities operated by, or under contract with, the Judicial Branch.

(PA 11-51, §§ 28-29, effective July 1, 2011)

### ***Juvenile Reentry and Education***

A new law:

1. expands a student's right to re-enroll in his or her old school district after being sent to a juvenile detention center, the Connecticut Juvenile Training School, or another residential placement for committing an offense for which he or she could be expelled from school;
2. requires school districts to immediately enroll or re-enroll a student transferring from either of the unified school districts (USDs) run by DOC and DCF (USD #1 and USD #2, respectively);
3. requires a school district to re-enroll such a student in his or her former school, if the student went to school in the district before

- attending school in a USD and the former school has appropriate grade levels for the student;
4. establishes a deadline by which a new school district or charter school must notify a transfer student's previous district or charter school of a student's enrollment, and extends to USD #2 the required deadlines for a new school district or charter school to notify USD #1 of a student's transfer; and
  5. requires school districts and charter schools to give students credit for instruction received in USD #2 within 30 days after receiving the student's records, as they already had to do for instruction received in USD #1.

(PA 11-115, effective July 1, 2011)

### ***Juvenile Open Court Pilot Program***

A new law repeals a Judicial Branch Juvenile Access Pilot Program, established in 2009 to increase public access to proceedings where a child is alleged to be uncared for, neglected, abused, or dependent, or is the subject of a petition for termination of parental rights. It also repeals obsolete statutes concerning (1) the Juvenile Access Pilot Program Advisory Board, which terminated on

January 1, 2011 and (2) a Judicial Branch report due by December 31, 2010 reviewing the pilot program.

(PA 11-51, §§ 30 and 225, effective July 1, 2011 except the repeal of certain obsolete statutes is effective upon passage)

### ***Services For Children On Parole***

By July 1, 2011, a new law requires DCF and the Judicial Department to conclude a memorandum of understanding to implement the appropriate transfer of funds and services between the two agencies to provide services for children on parole in FYs 12 and 13.

(PA 11-6, § 74, effective upon passage)

### ***Delinquent Children Committed To DCF Custody***

A new law allows some detained juvenile delinquents to qualify for leave and release earlier than they would have otherwise. Under existing DCF facility rules, juvenile delinquents cannot be granted leave or release unless they have satisfactorily completed a 60-day fitness and security risk evaluation.

The act allows the DCF commissioner to waive this requirement when a delinquent who transferred from one facility to another had already satisfactorily completed the evaluation before the transfer.

The act also eliminates a requirement that DCF prepare a plan to keep delinquents sent to the CJTS housed in that facility for at least one year, and to take a comprehensive approach to juvenile rehabilitation (this is identical to a provision in PA 11-157).

(PA 11-156, effective October 1, 2011)

## **POLICE PROCEDURES**

### ***Videotaped Confessions***

Under a new law, when someone is investigated for or accused of a capital felony or class A or B felony, any statement the person makes during a custodial interrogation at a place of detention is inadmissible as evidence against him or her in a criminal proceeding unless (1) the interrogation is electronically or digitally recorded and (2) the recording is substantially accurate and not intentionally altered. The presumption can be overcome under certain circumstances and the law includes a number of exceptions to the recording requirement.

(PA 11-174, § 1, effective January 1, 2014)

### ***Police Lineups***

By January 1, 2012, a new law requires the Department of Public Safety and municipal police departments to adopt procedures for photo and live

lineups that meet certain requirements. These requirements cover who can be included in a lineup, how it is conducted, what information can be shared with an eyewitness, and creating a written record at the end of the lineup procedure.

The act also creates a 19-member Eyewitness Identification Task Force to study eyewitness identification in criminal investigations and the use of sequential live and photo lineups. It must examine:

1. the science of sequential methods of conducting lineups,
2. use of sequential lineups in other states,
3. the practical implications of state law requiring sequential lineups, and
4. other related topics deemed appropriate.

The task force must report its findings and recommendations to the Judiciary Committee by April 1, 2012.

(PA 11-252, effective upon passage for the task force and October 1, 2011 for the lineup requirements)

### ***Notification to DCF for Youth Prostitution Arrests***

A new law requires a police officer who arrests a 16- or 17-year-old on prostitution charges to report suspected child abuse or neglect to DCF.

(PA 11-180, § 1, effective October 1, 2011)



## **PRISONS**

### ***Risk Reduction Earned Credits for Inmates***

A new law allows the DOC commissioner to award risk reduction earned credits for up to five days per month for certain 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. Inmates can earn credits for adhering to offender accountability plans, participating in eligible programs, or good conduct and obeying institutional rules (but this alone is not enough to earn credits). But credits cannot reduce a mandatory minimum sentence.

The credits apply 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, but inmates convicted of the following crimes are ineligible for the credits: murder, capital felony, felony murder, arson murder, home invasion, and 1<sup>st</sup> degree aggravated assault.

(PA 11-51, §§ 22-25, effective July 1, 2011)

### ***Home Confinement for Certain Offenders***

Regardless of other statutes, a new law 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 narcotic, a hallucinogen, or less than four ounces of marijuana; or (4) drug paraphernalia crimes. These released offenders cannot leave their home without authorization.

Based on the assessment of the inmate, 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.

(PA 11-51, §§ 26-27, effective July 1, 2011)

### ***Eliminating Prison Rape***

Within available appropriations, a new law requires state and municipal agencies that incarcerate or detain adult offenders, including immigration detainees, to adopt and comply with the applicable standards recommended by the National Prison Rape Elimination Commission for preventing, detecting, monitoring, and responding to sexual abuse. The agencies covered are prisons, jails, community correction facilities, and lockups.

(PA 11-159, effective October 1, 2012)

### ***Prison Advisory Committees***

A new law requires DOC to establish advisory committees in towns with a correctional facility that do not have a public safety committee as required by law. Under the act, an advisory committee consists of the facility warden and the following five members appointed jointly by the legislators who represent the town: a business community representative, a social services agency representative, a local law enforcement agency representative, and two members of the community.

The act requires the advisory committee to meet as necessary but at least quarterly to discuss inmate population demographics, DOC policies and practices, facility programming, and reentry initiatives. It requires each committee to report to the Judiciary Committee by January 1, 2012.

(PA 11-148, effective July 1, 2011)

### ***Report on Unified Community Corrections***

A new law requires the DOC and DCF commissioners and Office of Policy and Management 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 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.

(PA 11-51, § 35, effective upon passage)

### ***Information on Youthful Offenders in Prison***

A new law authorizes DOC to disclose otherwise confidential information about a youthful offender in its custody to his or

her parents or guardian. By law, parents and guardians already have access to police and court records.

(PA 11-39, effective upon passage)

## **PROBATION**

A new law 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 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 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 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 CSSD to develop guidelines for performing these functions.

(PA 11-51, § 21, effective upon passage)

Another new law modifies the duties of probation officers by:

1. expressly requiring that they supervise and enforce all court-ordered conditions of probation;
2. extending their supervisory authority over offenders arraigned without a warrant and charged with a probation or condition of release violation;
3. consistent with current practice, relieving them of the responsibility of collecting and disbursing money;
4. limiting their involvement with arrested juveniles; and
5. allowing them to transport certain detained individuals to the nearest location where a police officer can make an arrest.

(PA 11-155, effective July 1, 2011)

## **MISCELLANEOUS**

### ***Bail Bond Agents and Professional Bondsmen***

The legislature passed a new law reforming the bail bond system. It expands surety bail bond licensing and appointment

requirements. It establishes (1) bail bond solicitation, record retention, and reporting standards and (2) premium financing, build-up funds, and collateral security requirements and restrictions.

The act allows a professional bondsman or a surety bail bond agent to accept collateral security or indemnity on a bail bond. Under the act, if a bondsman or agent accepted collateral or indemnity on a bond and the bond is terminated, he or she must return the collateral or indemnity within 21 days after (1) receiving a court's written report that a bond was terminated or (2) becoming aware that a bond was terminated even if, despite diligent inquiry, the court does not issue a written report. A bondsman or agent who violates these requirements is guilty of larceny.

Also, the act deems premiums or other funds a surety bail bond agent receives that belong to insurers or others to be trust funds received in a fiduciary capacity. An agent who unlawfully diverts or appropriates trust funds for his or her own use is guilty of larceny.

(PA 11-45, effective October 1, 2011)

### ***Eligibility for Accelerated Rehabilitation***

A new law (1) removes the bar on participation in the pretrial accelerated rehabilitation (AR)

program for someone adjudged a youthful offender in the past five years and (2) eliminates the court's access to the youthful offender records of someone adjudged a youthful offender more than five years ago. Prior law allowed the court to consider these records in determining whether to grant participation in AR.

By law and under the act, a person must meet the other AR eligibility requirements. Someone is eligible for AR if he or she is charged with certain nonserious crimes or motor vehicle violations, has no prior convictions of a crime or certain motor vehicle violations, and has not used AR before. The court may allow an eligible defendant to participate if it believes the defendant will probably not offend in the future.

(PA 11-158, effective October 1, 2011)

### ***Ignition Interlocks***

A new law reduces the period of license suspension for motorists convicted for the first or second time of driving under the influence of alcohol or drugs (DUI) to 45 days, but requires, as a condition of restoring a license, that offenders install a functioning, approved ignition interlock device on each vehicle they own or operate and drive only vehicles with this device for certain periods of time. Prior law required use of an ignition interlock after a license

suspension for a second offense, but not for a first offense.

The law requires first offenders to drive only vehicles equipped with ignition interlocks for one year after the 45-day license suspension. It requires second offenders to drive only these vehicles for three years after a 45-day license suspension. (But second offenders under age 21 have their license suspended for either 45 days or until they turn 21, whichever is longer.) The law allows the Department of Motor Vehicles (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. By law, motorists convicted of DUI are subject to imprisonment and a fine in addition to license suspension. DMV revokes the license of a motorist convicted of a third DUI violation.

**(PA 11-51, §§ 216-221 & § 227 and PA 11-48, §§ 51- 57 & 307, effective January 1, 2012)**

### ***Competency to Stand Trial***

A new law requires the person in charge of a mental health treatment facility providing inpatient treatment to a defendant who is incompetent to stand trial (usually Connecticut Valley Hospital), or a designee, to submit a clinical progress report to the court whenever she or the designee believes the defendant

remains incompetent but has improved sufficiently that continued inpatient commitment is not the least restrictive placement appropriate and available to restore competency.

The court must schedule a hearing within 10 days of receiving the report. If the court agrees with the report's findings, the law permits it to continue or modify the placement order. The act requires it to consider whether the availability of a less restrictive placement is a sufficient basis on which to release the defendant on (1) a promise to appear, (2) conditions of release, or (3) cash bail or bond. The court may order the defendant to continue treatment on an outpatient basis.

**(PA 11-15, effective October 1, 2011)**

CR/JO:ts