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2008-09 CRIMINAL JUSTICE LEGISLATION

For: Honorable Michael P. Lawlor

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You asked for a summary of all the criminal justice laws passed in 2008 and 2009.

Below is a brief description of changes to criminal justice laws passed in 2008 and 2009, arranged by subject.

BAIL

Court Findings Related to Release Conditions

When a person is arrested for certain serious crimes for which bail release is available, the law specifies factors that judges consider in determining what conditions of release will reasonably assure (1) the person's appearance in court and (2) that the safety of others will not be endangered. For people arrested for these serious crimes, **PA 08-01, Jan. S.S., § 25** requires the court to state for the record the factors it considered when it imposes conditions of release. It must also state any findings about the danger, if any, that the arrestee might pose to the safety of any other person that caused it to impose specific conditions of release.

EFFECTIVE DATE: Upon passage

CRIMES

Home Invasion and Burglary Crimes

PA 08-01, Jan. S.S., §§ 1-4 creates the crime of home invasion. The act makes this crime a class A felony with a 10-year mandatory minimum sentence. The act also increases the penalty for committing burglary of a dwelling at night by making it 1st degree burglary instead of 2nd degree burglary.

EFFECTIVE DATE: March 1, 2008

Hate Crimes

PA 08-49 makes it a discriminatory practice to place a noose or simulation of one (1) on public property or on private property without the owner's written consent and (2) with intent to intimidate or harass someone based on religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability.

Committing a discriminatory practice is a class A misdemeanor but it is a class D felony if property damage over \$1,000 results. It is also a class D felony if the person commits the discriminatory practice (1) while wearing a mask, hood, or other device designed to conceal his identity and (2) intends to deprive another person of any legally guaranteed right because of his religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability (CGS § 53-37a).

EFFECTIVE DATE: October 1, 2008

Larceny

By law, a person can commit larceny in a number of different ways and the law provides six degrees of larceny crimes, with penalties varying in most instances based on the value of the property taken. **PA 09-139** doubles most, but not all, of the values of the property which must be taken to commit each of the six degrees of larceny crimes. It also affects other statutes that refer to the larceny statutes for the penalties for taking property, including health insurance fraud (CGS § 53-443) and collecting fees for medical discount plan membership without providing promised benefits (CGS § 38a-479qq).

EFFECTIVE DATE: October 1, 2009

CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS)

Governing Board Membership and Executive Director

By law, the Criminal Justice Information System (CJIS) Governing Board, within the Office of Policy and Management (OPM) for administrative purposes only, is charged with overseeing the operations and administration of the state's offender-based tracking system and recommending legislation needed to implement, operate, and maintain the system.

PA 08-01, Jan S.S., §§ 39 & 43 increases the board's membership from 11 to 15 by adding the Judiciary Committee chairpersons and ranking members. The act makes the chief court administrator co-chairperson and authorizes the governor to appoint the other co-chairperson from among the board's members. The act also directs the board to hire an executive director.

EFFECTIVE DATE: Upon passage

Comprehensive, Statewide Information Technology System

PA 08-01, Jan. S.S., §§ 40 & 43 directs the CJIS Governing Board to design and implement a comprehensive, statewide information technology system. Its purpose is to facilitate immediate, seamless, and comprehensive information sharing among all of the following:

1. state agencies, departments, and boards and commissions that have jurisdiction over law enforcement and criminal justice matters;
2. local police departments; and
3. law enforcement officials.

The system must include a centralized tracking and information database, electronic documentary repository, analytical tools, and other components or elements the board determines are appropriate or necessary under its design and implementation plan. The system must be developed with state-of-the-art technology.

EFFECTIVE DATE: Upon passage

Access to the Criminal Justice Information System

PA 09-26 gives the Office of the Federal Public Defender access to shared criminal history information stored electronically in the state's Criminal Justice Information System. As with the state Division of Public Defender Services, access is limited to (1) conviction information; (2) information that is otherwise available to the public; and (3) information, including nonconviction information, concerning a client it is representing at the time of the request.

EFFECTIVE DATE: October 1, 2009

CRIMINAL RECORDS

Arrest Warrants on the Internet

PA 08-01, Jan. S.S., § 21 requires the Court Support Services Division (CSSD) to make available on the Internet information on all outstanding arrest warrants for probation violations and quarterly court reports of issuance of all outstanding arrest warrants for probation violations.

EFFECTIVE DATE: Upon passage

Release, Sale and Accuracy of Conviction Information

PA 07-243 required consumer reporting agencies to (1) inform consumers when they are providing reports for employment purposes that include "criminal matters of public record," such as arrest and conviction records; (2) verify any criminal matters of public record with the Judicial Department to ensure that information reported is complete and up-to-date; and (3) maintain procedures designed to ensure that any criminal matter of public record reported is complete and up-to-date.

PA 08-01, Jan. S.S., § 35 makes these provisions effective May 1, 2008 instead of February 1, 2008.

EFFECTIVE DATE: Upon passage

PA 08-53 eliminates the requirement of verifying the information with the Judicial Department to ensure it is up-to-date and instead requires anyone, including a consumer reporting agency, who purchases "criminal matters of public record" from the Judicial Department, to follow certain procedures. They must at least:

1. purchase from the Judicial Department, on a monthly basis or other schedule set by the Judicial Department, updated records or information available to comply with the act's provisions and
2. update their records to permanently delete any erased records.

The act requires the Judicial Department to make information concerning any "criminal matter of public record" that has been erased available to anyone who purchases these records. Under prior law, the Judicial Department was generally prohibited from disclosing these erased records. The erased records relate to criminal charges that were dismissed, nolle, or resulted in a not guilty finding or convictions for which a pardon was granted. The act prohibits anyone from further disclosing the erased records.

It also alters the definition of "criminal matters of public record" to exclude erased records and pardons.

EFFECTIVE DATE: May 1, 2008

Erasure of Criminal Records Released to the Public

By law, courts, police, and prosecutors must erase the records of any criminal defendant whenever (1) he or she is found not guilty of the charge or the charge is dismissed in a final judgment; (2) at least 13 months have elapsed since any charge in his or her criminal case has been nolle; or (3) he or she received an absolute pardon. A nolle is a formal statement by the prosecuting attorney that he or she will not prosecute a case further.

The erasure requirement does not apply to cases where defendants have multiple charges (counts) in a single information or indictment (charging document). **PA 08-151** eliminates the multi-count exception in electronic records or portions of electronic records released to the public. This means that courts, police, and prosecutors must erase from electronic, but not paper records, charges in multi-count information or indictments for which defendants are not convicted. Electronic records means computer printouts and records created, generated, sent, communicated, received, or stored electronically, including faxes, e-mails, telexes, and Internet messaging.

EFFECTIVE DATE: October 1, 2009

Waiving Court Fees for Criminal Records Provided To Federal Public Defenders

PA 08-47 eliminates the requirement that the Office of the Federal Public Defender pay the fee specified in CGS § 52-259 for any certified copy of any criminal record. That statute does not explicitly mention fees for copies of criminal records, but it requires a \$25 fee for a certified copy of any judgment file.

EFFECTIVE DATE: July 1, 2008

DIVERSIONARY PROGRAMS AND OFFENDERS IN THE COMMUNITY

Reentry Beds

PA 08-1, Jan. S.S., §17 requires DOC to contract for an additional 35 reentry beds for immediate occupancy, an additional 50 reentry beds for occupancy by July 1, 2008, and another 50 for occupancy by November 15, 2008.

EFFECTIVE DATE: Upon passage

Diversiónary Beds

PA 08-01, Jan. S.S., § 18 requires the Judicial Branch's Court Support Services Division to contract for (1) an additional 35 diversionary beds for immediate occupancy, (2) an additional 50 diversionary beds for occupancy by July 1, 2008, and (3) another 50 for occupancy by November 15, 2008.

EFFECTIVE DATE: Upon passage

Committee to Study Municipal Siting Incentives for Community-Based Offender Facilities and Housing

PA 08-01, Jan. S.S., § 33 establishes an 18-member committee to study how the state can effectively give municipalities incentives to allow community-based facilities for offenders (such as halfway houses and transitional and supportive housing) to be located in their communities.

EFFECTIVE DATE: Upon Passage

Diversion Program for Offenders with Psychiatric Disabilities

PA 08-01, Jan. S.S., § 41 creates a supervised diversionary program for people with psychiatric disabilities, which it defines as a mental or emotional condition, other than solely substance abuse, that (1) has substantial adverse effects on the defendant's ability to function and (2) requires care and treatment. People with these conditions who have been accused of less serious motor vehicle violations or crimes that carry prison sentences are eligible unless they (1) are ineligible for accelerated rehabilitation due to the nature of the charges or previous participation in other diversionary programs or (2) have participated in the program twice before.

CSSD must develop individualized treatment plans for applicants whom it determines are amenable to treatment if appropriate services are available. Program participants must be supervised by a probation officer with a reduced caseload and specialized training in working with people with psychiatric disabilities.

If the accused satisfactorily completes the program, he or she may apply for dismissal of the charges. CSSD must provide the court with information about the person's participation; the court must dismiss the charges if it finds that he or she satisfactorily completed the program. If a participant does not apply for a dismissal, the act authorizes the court to dismiss the charges on its own motion if it finds satisfactory program completion. After dismissal, all records of the charges are erased, except for those in CSSD's database as described below.

EFFECTIVE DATE: October 1, 2008

Memorandum of Understanding (MOU) to Reunify Incarcerated Women with Their Children

PA 09-7, Sept. S.S., § 180 requires the Department of Children and Families (DCF) and DOC commissioners to enter a MOU to develop a program to reunify incarcerated women with their children in the community when appropriate. The commissioners must submit a report to the Appropriations and Human Services committees by January 1, 2010 describing the program developed under the MOU and estimate the number of eligible individuals and the savings to be achieved. DCF and DOC can transfer funds between the agencies without the Finance Advisory Committee's consent to achieve savings related to the program.

EFFECTIVE DATE: Upon passage

DOC RELEASE AUTHORITY

Granting Furloughs

PA 08-01, Jan. S.S., § 16 eliminated any “compelling reason consistent with rehabilitation” as a permissible reason for the DOC commissioner to grant a furlough request and restricted furloughs to contact prospective employers to those where the commissioner confirms that an employment opportunity exists or an employment interview is scheduled.

PA 09-7, Sept. S.S., § 35 reinstates the provision allowing furloughs for any “compelling reason consistent with rehabilitation” and eliminates the requirement that the commissioner confirm that an employment opportunity exists or an employment interview is scheduled when granting a furlough to contact prospective employers. It also increases, from 30 to 45 days, the length of a furlough that the commissioner can grant an inmate for these and other authorized reasons such as visiting a dying relative, attending a relative's funeral, or obtaining medical services not otherwise available.

EFFECTIVE DATE: Upon passage

Aliens Convicted Of Crimes

PA 09-7, Sept. S.S., § 94 authorizes the DOC commissioner to release to the United States Immigration and Customs Enforcement any alien convicted of a crime who (1) is sentenced to a prison term of five years or less and (2) has served at least 50% of the sentence. The act specifies the commissioner may do so under the provisions of existing law that authorize the commissioner to transfer any person from one correctional institution to another or to any public or private nonprofit halfway house, group home, or mental health facility or, after satisfactory participation in a residential program, to any approved community or private residence. Under this law, any transferred inmate remains under the commissioner's jurisdiction.

United States Immigration and Customs Enforcement (ICE) is a component of the Department of Homeland Security, which protects national security by enforcing federal customs and immigration laws.

Under existing law, inmates can be released for deportation by the Board of Pardons and Parole after serving 50% of their sentence unless their crimes (such as murder) make them ineligible for parole. Inmates must be sentenced to a prison term of at least two years to be eligible for parole consideration.

EFFECTIVE DATE: Upon passage

FAMILY VIOLENCE

Pretrial Family Education Program

PA 09-7, Sept. S.S., § 65 requires that the pretrial family violence education program for people charged with family violence crimes inform participants of the basic elements of family violence law and applicable penalties.

EFFECTIVE DATE: July 1, 2010

Police Officer Standards and Training Council (Post) and Family Violence Issues

By July 1, 2010, **PA 09-7, Sept. S.S., § 64** requires POST to establish uniform protocols for treating family violence victims whose immigration status is questionable and make them available to law enforcement agencies. The agencies must adopt and use the protocols once established, and peace officers at family violence scenes must help victims in accordance with the protocols.

The act requires each law enforcement agency to designate at least one supervisor to expeditiously process specified federal documentation when asked to do so by a victim of family violence or other crime applying for U Nonimmigrant status. The official must process (1) a certificate of helpfulness on Form I-918, Supplement B or any subsequent corresponding form designated by the U.S. Department of Homeland Security, confirming that the victim has been, is being, or is likely to be helpful in investigating or prosecuting the criminal activity and (2) any subsequent certification the victim requires.

By law, POST training for law enforcement officers handling family violence matters must include legal duties of police officers to make arrests and offer help and protection. The act specifies that the training must include applicable probable cause standards. Starting July 1, 2010, it requires that the training include, within available appropriations, information on:

1. the impact of arrests of multiple parties in a family violence case on the parties' immigration status;
2. crime scene investigation and evaluation practices in family violence cases designed by POST to reduce the number of multiple arrests in such cases;
3. practical considerations in the application of state statutes related to family violence and other crimes; and
4. eligibility for federal T visas for victims of human trafficking and federal U visas for unauthorized immigrants who are victims of family violence and other crimes.

EFFECTIVE DATE: July 1, 2010

Family Violence Law Training and Disparity of Cases Among Geographic Areas

Within available appropriations, **PA 09-7, Sept. S.S., § 66** requires the Judicial Department to provide training to its staff, including court personnel, on family violence issues and law, including issues and law related to family violence in immigrant communities. The training must address arrest policies and eligibility for federal T Visas for victims of human trafficking and federal U Visas for unauthorized immigrants who are victims of family violence and other crimes.

The act also requires the Judicial Department, on an ongoing basis, within available appropriations, to study and implement methods to reduce disparities in the disposition of family violence cases among geographic areas.

EFFECTIVE DATE: July 1, 2010

JUVENILES

Board of Pardons and Paroles (BOPP) and DOC Access to Juvenile and Youthful Offender Records

PA 08-01, Jan. S.S., §§ 23 & 24 requires courts to give BOPP members and employees and DOC employees access to otherwise confidential records concerning juvenile delinquency and youthful offender proceedings in certain circumstances. Access is limited to members or employees who need this to perform their jobs and only records involving a (1) juvenile or youthful offender who has been convicted of a crime on the regular criminal docket or (2) youthful offender who was sentenced to jail time are disclosable.

The records must also be relevant to:

1. the performance of a risk and needs assessment while the person is incarcerated,
2. a release from incarceration or pardon decision, or
3. the determination of the person's supervision and treatment needs while on parole or some other form of supervised release.

EFFECTIVE DATE: Upon passage

Youth Who Run Away

PA 08-41 permits judges to order 16- and 17-year-old runaways who they adjudicate as being "youth in crisis" to submit to the control of their parents, guardians, foster parents, or other custodians for a period the court specifies. The court must find that the youth meets the legal criteria under the youth in crisis law (i.e., that the reason for running away was not justified).

The order cannot override any other law or extend beyond the youth's 18th birthday. As with other court orders directed at youth in crisis, violations are not delinquent acts and cannot subject the youth to detention or imprisonment.

The law allows parents and foster parents to initiate youth in crisis proceedings. The act expands the list of caregivers who may take this action to include guardians and other custodians.

EFFECTIVE DATE: October 1, 2008

Families with Service Needs

PA 08-86 makes a number of changes in the laws governing families with service needs (FWSN) children. These are children who have run away without good cause, are truant or beyond control of their parents or school authorities, or engaged in certain forms of sexual or immoral conduct.

The law authorizes juvenile court judges to place FWSN children under the supervision of a juvenile probation officer or commit them to the Department of Children and Families (DCF) and to issue orders setting conditions they must meet. The act:

1. makes information obtained about potential FWSN children receiving diversionary services confidential;
2. specifies that judges can modify or enlarge a FWSN child's conditions of supervision, conforming law to existing practice;
3. requires motions alleging that a FWSN child (a) has violated a court order or (b) is in imminent risk and needs to be placed in a staff-secure facility to be served on parties in the same manner as authorized for serving FWSN petitions;
4. sets clear and convincing evidence as the standard judges must use to determine whether a FWSN child (a) has violated a court order or (b) should be committed to DCF after release from a staff-secure facility; and
5. consistent with federal law, requires DCF to develop permanency plans for FWSN children committed to its care, with yearly court reviews.

The act also extends the sunset law applicable to the FWSN Advisory Board from July 1, 2008 to July 1, 2010 and makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2008, except the sunset date for the FWSN Advisory Board is effective upon passage.

Raising the Age of Juvenile Court Jurisdiction

PA 09-7, Sept. S.S., §§ 69-93, 104 & 113:

1. delays raising the maximum age for juvenile court jurisdiction to 17 from January 1, 2010 to July 1, 2012;
2. consistent with the phase-in of the raise-the-age provisions, delays the repeal of the Youth in Crisis law from January 1, 2010 to January 1, 2012 and restricts eligibility to youths age 17 beginning in 2010, rather than those age 16 and 17;
3. revises the definition of delinquent act;
4. expressly eliminates juvenile court jurisdiction over matters involving emancipated minors;
5. allows police officers to release an arrested child into the child's own custody and makes it a delinquent act for a child that has been released in this manner to willfully fail to appear in court;
6. modifies rules for the admissibility of children's confessions in delinquency proceedings;
7. limits the use of pretrial detention, but adds violating conditions of a suspended detention order as a basis for detaining a child;
8. modifies and expands vocational probation options;
9. authorizes Superior Court judges to obtain a child's educational records;
10. changes the ages of children and older teens about whom the education commissioner must provide information;
11. transfers some functions expressly assigned to the Judicial Branch's Court Support Services Division (CSSD) to the entire Judicial Branch and authorizes the chief court administrator to issue bids to contract for space or services for juveniles;

12. expands the availability of record erasure for children (a) convicted as delinquent or (b) adjudicated as a child in a family with service needs (FWSN – truants, runaways, or children beyond control of parents or school officials) but delays, from 16 to 17, and then from 17 to 18, the age children must reach before becoming entitled to court consideration of an erasure petition;
13. revives the Juvenile Jurisdiction Policy and Operations Coordinating Council; and
14. transfers funds from the Judicial Branch to the Department of Children and Families (DCF) for residential board and care services.

EFFECTIVE DATE: January 1, 2010, except the provisions extending juvenile court jurisdiction to 17-year-olds and the repeal of the Youth in Crisis law are effective July 1, 2012, and the provisions concerning the expansion of Judicial Branch responsibilities, contract bidding, fund transfers, and the juvenile justice coordinating council are effective on passage.

Juvenile Prosecutorial Officials

PA 09-7, Sept. S.S., §§ 121-129 provides that, within available appropriations, juvenile prosecutors employed by the Division of Criminal Justice on October 5, 2009 (1) are deemed to have been appointed by the Criminal Justice Commission and (2) have and must exercise all the powers and perform all the duties of an assistant state's attorney.

The act also provides that starting October 5, 2009 any “prosecutorial official” assigned to handle juvenile matters in the criminal session of the Superior Court will have been appointed by the Criminal Justice Commission.

EFFECTIVE DATE: Upon Passage

PARDONS AND PAROLE

Parole Eligibility

PA 08-01, Jan. S.S., § 5 makes someone convicted of 2nd degree burglary or home invasion ineligible for parole until he or she has served at least 85% of the sentence imposed. The law imposes this same 85%

requirement on people convicted of an offense where the underlying facts and circumstances of the offense involve the use, attempted use, or threatened use of physical force against another person.

EFFECTIVE DATE: March 1, 2008

Changes to the Board of Pardons and Paroles

Membership, Qualifications, and Appointment. PA 08-01, Jan. S.S., § 12 increases the BOPP's membership from 13 to a maximum of 25 between February 1, 2008 and July 1, 2008. On June 30, 2008, it ends the terms of seven board members the chairman assigned exclusively to parole hearings. Terms of the chairman and members assigned to pardon hearings or those appointed by the governor beginning on February 1, 2008 are not affected. Beginning July 1, 2008, it reduces the membership of the BOPP to 18 and requires 12 members to serve exclusively on parole release panels and five exclusively on pardons panels. The act provides qualification criteria for all members appointed starting February 1, 2008.

Starting February 1, 2008, the act requires (1) the governor to specify appointments for chairman, full-time or part-time parole panel members, and pardons panel members and (2) both houses of the General Assembly, rather than just one, to approve the governor's appointments.

Beginning with the appointments the governor submits to the General Assembly on February 1, 2008, the act requires their referral to the Judiciary Committee. Under the act, the five board members appointed by the governor beginning on February 1, 2008 to serve on parole panels serve full-time and receive compensation as set by DAS.

The act requires the board to employ at least one psychologist with expertise in risk assessment and recidivism of criminal offenders.

Parole and Pardons Panels. Beginning on July 1, 2008, the act (1) requires a parole release panel to consist of two members from among those the governor appointed on or after February 1, 2008 to serve on parole panels and (2) only allows the chairman to designate a full-time member to serve temporarily in his place.

Under the act, pardon panel members can be chosen from those members (1) assigned to pardons hearings by the chairman or (2) appointed by the governor, starting on February 1, 2008, to serve on pardons panels.

By law, 12 of the 18 members of the Board of Pardons and Paroles are appointed to serve on parole release panels and the chairman can serve on parole release and pardon panels. Of the 12 members appointed to serve on parole panels, five are full-time members paid a salary by DAS and seven are paid \$100 per day of service and necessary expenses.

PA 08-1, Jan. S.S. required a parole panel to consist of two members, with at least one being a full-time member, and the chairman or a full-time member designated to serve temporarily as chairman. **PA 09-7, Sept. S.S., § 36** no longer requires one of the two members to be a full-time member.

Training for Board Members and Parole Officers. The act requires the board's chairman and executive director to establish a formal training program for board members and parole officers.

Board Procedures. The act gives the chairman authority and responsibility for establishing procedural rules for members to follow when conducting hearings, reviewing recommendations made by board employees, and making decisions.

EFFECTIVE DATE: Upon passage

Electronic Monitoring Of Additional Parolees

PA 08-01, Jan. S.S., § 22 requires DOC to use a global positioning system (GPS) to electronically monitor an additional 200 parolees immediately after the act becomes effective, and an additional 100 parolees by July 1, 2008, whose risk levels indicate that they are most likely to re-offend.

EFFECTIVE DATE: Upon passage

Repeal of Parole Administrative Review Procedure

PA 08-01, Jan. S.S., § 44 eliminates the parole administrative review procedure. Prior law allowed an inmate to be released after an administrative review without a panel conducting a hearing if (1) a board employee reviewed the inmate's case and recommended parole, (2) at least two members of a board panel approved, and (3) the chairman did not deem a hearing necessary and a victim did not request one.

Only those eligible for parole after serving 50% of their sentence (generally those who committed nonviolent crimes) could be released on parole without a hearing under this procedure. People who committed crimes where the underlying facts and circumstances of the offense involved the use, attempted use, or threatened use of physical force against another person could not use this procedure.

EFFECTIVE DATE: July 1, 2008

Information for Parole Decisions

PA 08-1, Jan. SS, § 12 prohibits a board panel from holding a hearing on someone's suitability for parole unless the chairman (1) has made reasonable efforts to determine the existence of and obtain all information deemed pertinent to the decision and (2) certifies that all existing pertinent information has been obtained or is unavailable.

Prior law required the prosecutor to request that a transcript be prepared of any sentencing hearing at which a defendant is sentenced to a definite, non-suspended sentence of more than two years imprisonment and have a copy of it delivered to the Board of Pardons and Paroles. **PA 09-7, Sept. S.S., §§ 135-136**, instead:

1. requires the prosecutor to make a request for the transcript on the record,
2. eliminates the prosecutor's duty to have a copy delivered to the board, and
3. requires the chief court administrator to provide a copy to the board, in a format the chief court administrator proscribes.

The act requires that during FY 10 and FY 11, \$50,000 of the Other Expense account of the Division of Criminal Justice be transferred to the Judicial Department's Other Expenses account to carry out these requirements.

EFFECTIVE DATE: Upon passage

PENALTIES

Persistent Offenders

By law, someone may be prosecuted as a persistent dangerous felony offender if he or she stands convicted of certain serious crimes and has prior convictions of certain serious crimes.

PA 08-01, Jan. S.S., §§ 6-11, adds the crimes of home invasion, 1st degree burglary, and 2nd degree burglary with a firearm to the list of crimes that can make a person a persistent dangerous felony offender.

The Connecticut Supreme Court ruled that a convicted offender has the right to have a jury make the findings about whether he or she should be subject to the more stringent penalties associated with the persistent dangerous felony offender classification. PA 08-01 eliminates the required findings and instead requires the court to impose the higher penalty on an offender who meets the criteria of a persistent dangerous felony offender. The act also eliminates the required court findings in the provision that increases the penalty one class for acts of terrorism and the other categories of persistent offenders.

EFFECTIVE DATE: March 1, 2008

PA 08-51 sets minimum penalties for persistent dangerous felony offenders and, in some instances, increases the maximum penalties for these offenders. It does so in the following way.

1. For those with one of the required prior convictions, it changes the penalty from up to 40 years in prison to a range between twice the minimum penalty for the crime the person stands convicted of, including twice any mandatory minimum sentence that applies, to a maximum of 40 years or twice the maximum penalty for the crime the person stands convicted of, whichever is longer. (This is often referred to as “two strikes.”)
2. For those with two of the required prior convictions, it changes the penalty from up to life in prison (statutorily defined as up to 60 years) to a range between three times the minimum penalty for the crime the person stands convicted of, including three times any mandatory minimum sentence that applies, and life in prison (60 years). (This is often referred to as “three strikes.”)

The act requires the prosecutor, when a person is arrested for one of the crimes that could make him or her eligible for prosecution as a persistent dangerous felony offender, to investigate whether the person meets the criteria to be sentenced as a persistent dangerous felony offender by having two of the required prior convictions. If the prosecutor determines the person would be eligible and the person has been presented to a geographical area courthouse, the prosecutor must have the person transferred to a judicial district courthouse.

The act prohibits a court from accepting a plea of guilty, not guilty, or no contest from someone arrested for one of these crimes unless it finds that the prosecutor investigated the person's eligibility for prosecution and sentencing as a persistent dangerous felony offender.

If the prosecutor finds that a person has the two required prior convictions making him or her eligible for prosecution and sentencing as a persistent dangerous felony offender, the act requires the prosecutor to state on the record specific reasons for terminating or not initiating proceedings to seek an enhanced sentence.

The act also makes a number of appropriations to criminal justice agencies.

EFFECTIVE DATE: Upon passage, except for the appropriations which are effective July 1, 2008.

Administrative Driver's License Suspensions

When evidence lawfully obtained from a hospital indicates that a driver involved in an accident had a blood alcohol level (BAC) exceeding legal limits (.08% or more for people 21 or older and .02% or more for people under age 21), the law permits the Department of Motor Vehicles commissioner administratively to suspend his or her driver's license. **PA 08-01, Jan. S.S., § 34**, imposes the same suspension periods that apply to cases in which a driver's breath test indicates a BAC level over the legal limit.

EFFECTIVE DATE: Upon passage

Penalty for Engaging a Police Officer in Pursuit and Assaulting a Public Transit Employee

PA 09-191 increases the penalty, from a class D to a class C felony, for someone who, in order to elude a police officer, increases his or her driving speed after an officer in a police vehicle signals him or her to stop by using an audible signal or flashing lights for a:

1. first offense that causes death or serious physical injury and
2. second offense.

The act makes assault of public transit personnel a class C felony, the same penalty as for assault of public safety and emergency medical personnel. A person commits assault of public transit personnel by assaulting a reasonably identifiable public transit employee who is performing his or her duties, with intent to prevent the employee from performing them, by taking certain specified actions.

EFFECTIVE DATE: October 1, 2009

PROBATION

Violation of Conditions of Probation or Conditional Discharge

By law, the issuance of an arrest warrant or a notice to appear for a violation of probation or conditional discharge interrupts the sentence until a court makes a final determination concerning the violation. **PA 08-01, Jan. S.S., § 36** requires the probationer to comply with any conditions already imposed unless the court orders otherwise.

EFFECTIVE DATE: Upon passage

Probation Terms, Termination, and Violation Hearings

PA 08-102 reduces the maximum probation term the court can impose on someone convicted of a (1) class C, D, or unclassified felony from five to three years; (2) class A misdemeanor from three to two years; and (3) class B misdemeanor from two years to one. But it also gives the court discretion to continue to sentence someone up to the maximum probation terms provided in prior law, on a case-by-case basis.

The act requires a person's probation officer to submit a progress report to the sentencing court, state's attorney, and the probationer's attorney of record if the probationer was sentenced to more than a certain number of years of probation for one of these felonies or misdemeanors. The court must then consider the report and any victim statement to decide whether to continue or terminate the probation. These provisions apply only to sentences imposed on or after October 1, 2008.

The act also reduces the maximum terms of conditional discharge to which a court can sentence an offender. The act reduces the term for:

1. class C, D, or unclassified felonies from five years to three years;
2. class A misdemeanors from three years to two years; and
3. class B misdemeanors from two years to one year.

The act changes the conditions that are imposed on someone who is arrested for a violation of probation or conditional discharge. It also requires the court to dispose of or schedule a hearing on the violation within 120 days after arraignment unless good cause is shown. Prior law required the court to bring a defendant before it for a hearing on the violation without unnecessary delay.

EFFECTIVE DATE: October 1, 2008 except for the provision that changes the conditions of release after an arrest warrant or a notice to appear for a violation of probation or conditional discharge, which is effective upon passage.

Probation Supervision Fees

By law, a person sentenced to probation must pay the court a \$200 fee. **PA 09-84** provides that a person sentenced to a period of probation following a period of incarceration is not required to pay the fee until he or she is released from prison and begins probation.

EFFECTIVE DATE: October 1, 2009

SEX OFFENDERS

Residential Sex Offender Facilities

PA 08-01, Jan. S.S., §§ 19 & 20 requires DOC and CSSD to (1) each contract for 12 beds in staff-secure residential sex offender treatment facilities for occupancy by July 1, 2008 and (2) report to the governor and the General Assembly by April 15, 2008 concerning the progress made in contracting for these beds.

EFFECTIVE DATE: Upon passage

Sexual Offender Name Changes

PA 08-54 prohibits superior and probate courts from issuing orders or otherwise allowing people required to register as sex offenders to change their names unless they:

1. notify the public safety commissioner of their intent to seek a name change before filing a name change application with the court;
2. include in the notice the new name being sought; and
3. include in the application a sworn statement that the change is not being sought to avoid the legal consequences of a criminal conviction, including registration as a sex offender.

The act gives the commissioner standing, through the attorney general, to challenge the application in the court where the name change is being sought. The court may deny the application if it finds, by a preponderance of the evidence, that the applicant is seeking the name change to avoid the legal consequences of a criminal conviction.

The law, unchanged by the act, requires people required to register as sex offenders to notify the commissioner of any name change in writing and without undue delay. It also requires the clerk of any court to notify the commissioner whenever the court orders a name change for a person required to register.

EFFECTIVE DATE: Upon passage

Notification of the Release of a Registered Sexual Offender into the Community

PA 09-199 requires the Department of Public Safety to notify the superintendent of schools in the community where a sex offender registrant lives or plans to live whenever the registrant is released from prison. The notice must be by email and include the same registry information currently available to the public through the Internet.

EFFECTIVE DATE: September 1, 2009

Sex Offenders in Homeless Shelters

PA 09-7, Sept. S.S., § 118 requires state-funded homeless shelters that provide residence to offenders listed on the sex offender registry to verify that they are residing there upon the request of law enforcement officers. It requires shelter operating policies to establish a procedure for releasing this information to these officers. Lastly, it prohibits shelters serving homeless families from providing residence to these offenders.

EFFECTIVE DATE: Upon passage

VICTIMS

Automated Notification and Plea Bargains

PA 08-01, Jan. S.S., §§ 13-14 & 26-32 requires the Judicial Branch to contract for the establishment and implementation of a statewide, automated victim notification system (SAVIN) to notify registered crime victims of relevant offender information and status reports.

BOPP Statements from Victims' Families; Victim Advocates

By law, crime victims' immediate family members may appear and make a statement before the BOPP panel that is considering the perpetrator's parole eligibility only if the actual victim of the crime is dead. The act expressly gives the board discretion to allow one or more family members of a live victim to appear and speak.

The act also directs OVS to assign two full-time victim advocates to assist victims who appear before BOPP panels or submit written statements.

EFFECTIVE DATE: Upon passage

Protective Orders

PA 08-84 expands courts' authority to issue protective orders. Under the act, they may do so when a person is arrested for committing or attempting to commit:

1. risk of injury by touching the intimate parts of a child under age 16 or subjecting the child to contact with the offender's intimate parts in a sexual and indecent manner likely to impair the child's health or morals;
2. risk of injury by willfully or unlawfully causing or permitting a child under age 16 to be placed in a situation that (a) endangers the child's life or limb, (b) will likely injure his or her health, or (c) will likely impair his or her morals;
3. risk of injury by doing any other act likely to impair the health or morals of a child under age 16;
4. first-, second-, third-, or fourth-degree sexual assault;
5. first-degree aggravated sexual assault;
6. aggravated assault of a minor; or
7. third-degree sexual assault with a firearm.

Courts may already issue protective orders when someone is arrested for stalking or first- or second-degree harassment. By law, violation of a protective order is a class D felony. A violation also violates bail or release conditions and may result in a court raising the amount of bail or revoking release.

EFFECTIVE DATE: October 1, 2008

Forensic Sex Evidence Exams

PA 09-7, Sept. S.S., § 178 appropriates \$1,021,060 to the Judicial Department in both FY 10 and FY 11 for forensic sex evidence exams. It requires the Office of Victim Services to administer the appropriations.

EFFECTIVE DATE: Upon passage

Sexual Assault Forensic Examiners

PA 09-7, Sept. S.S., §§ 47-49 authorizes the Office of Victim Services (OVS) to establish a program to train sexual assault forensic examiners (SAFE) and make them available to adult and adolescent sexual assault victims at participating hospitals. It act allows OVS to apply for and use funds from federal, state, and private sources for the program.

The act creates a 12-member committee to advise OVS on establishing and implementing the program.

EFFECTIVE DATE: Upon passage

OTHER PROVISIONS

Risk Assessment Strategy

PA 08-1, Jan. S.S., § 37 requires DOC, Board of Pardons and Paroles, and the Court Support Services Division to develop a risk assessment strategy for offenders in DOC custody that will:

1. use a risk assessment tool that accurately rates an offender's likelihood to commit another crime after release from custody and
2. identify support programs that will best position the offender for successful reentry into the community.

Annually, beginning January 1, 2009, the agencies must report to the governor and Judiciary Committee on the strategy's development, implementation, and effectiveness.

EFFECTIVE DATE: Upon passage

Criminal Justice Policy Advisory Commission

PA 08-01, Jan. S.S., § 38 increases the responsibilities of the Criminal Justice Policy Advisory Commission. The act adds the following responsibilities:

1. monitoring developments throughout the state's criminal justice system;

2. annually, beginning February 15, 2009, reporting to the legislature and governor on (a) the reentry strategy's effectiveness and outcomes, (b) the level of integration and coordination of the information technology systems criminal justice agencies use, and (c) other systemwide issues the commission identifies;
3. by the same date annually, and with the OPM undersecretary serving as facilitator, sponsoring day-long reviews of the state's criminal justice system for the criminal justice community, including reports on progress made during the prior year and challenges to be met;
4. identifying specific reentry service needs in geographic areas throughout the state;
5. identifying institution- and community-based programs and services that effectively address offenders' needs and reduce recidivism, including education and training, employment preparation and job banks, and transitional health care, family support, substance abuse, domestic violence, and sexual offender programs and services;
6. developing a guide to reentry service best practices; and
7. developing and annually updating a plan to ensure that reentry services are available, which may include establishing community reentry centers.

EFFECTIVE DATE: Upon passage

Wrongful Conviction and Compensation

PA 08-143 authorizes certain people convicted in state court and sentenced to a term of imprisonment to present a claim against the state with the claims commissioner for compensation for wrongful conviction. The act requires that they follow the procedures in place for filing a claim against the state.

The act requires the Advisory Commission on Wrongful Convictions to monitor and evaluate the implementation of (1) the procedure the act establishes for compensating wrongfully incarcerated persons; (2) the pilot program to electronically record interrogations of arrested persons; and (3) eyewitness identification procedures that, when practicable, use a double-blind administration.

EFFECTIVE DATE: October 1, 2008

Racial and Ethnic Impact Statements

PA 08-143 requires that beginning with the 2009 session of the General Assembly, a racial and ethnic impact statement be prepared for certain bills and amendments that could, if passed, increase or decrease the pretrial or sentenced prison population. It also requires that by January 1, 2009, the Judiciary Committee recommend a joint legislative rule on the procedure for preparing the statements, their content, and the types of acts and amendments for which they should be prepared.

EFFECTIVE DATE: Upon Passage

Sentencing Task Force

PA 08-143 extends the reporting deadline for the Connecticut Sentencing Task Force from December 1, 2008 to July 1, 2009. It also requires the task force to recommend, by January 7, 2009, whether to establish a permanent sentencing commission and, if so, the permanent commission's mission, duties, membership, and procedures.

EFFECTIVE DATE: Upon Passage

Reporting Inmate Population Density and Correctional Facility Data

The law requires the Department of Correction (DOC) commissioner to submit to the governor and the Judiciary and Labor committees, quarterly reports containing the number of inmate assaults on staff and other inmates, inmate disciplinary reports, and workers' compensation claims. Beginning with the first calendar quarter of FY 2010, **PA 09-39** requires that the reports provide the required information for each correctional facility, instead of the system as a whole. In addition, the act requires the reports to include, for each facility and each calendar quarter, the:

1. average number of inmates,
2. average number of permanent beds, and
3. inmate population density.

The act also requires an explanation of and measure to address certain increases in inmate population density.

EFFECTIVE DATE: July 1, 2009

Competency to Stand Trial

PA 09-79 permits information sharing among health care providers treating or evaluating a criminal defendant who has been found, or is believed to be, not guilty due to a mental disease or defect. Prior law had no express authorization for sharing this information without the defendant's written consent. In addition, the act specifies that the 15-day deadline for completing initial competency examinations refers to 15 business days. When a court orders a defendant to be treated to restore his or her competency, the act requires the examiners to give the court-ordered health care provider information they obtained in the course of their evaluation within 24 hours. Finally, no later than five business days after a court determines that a defendant (1) will not become competent within the time that he or she can be detained or supervised or (2) has become competent, the person in charge of the treatment facility, or a designee, must give a copy of its progress report to the examiners that originally evaluated the defendant.

EFFECTIVE DATE: Upon passage

Criminal Justice Commission

PA 09-7, Sept. S.S. § 168 transfers the Criminal Justice Commission from the executive department for fiscal and budgetary purposes only to the Division of Criminal Justice. It requires the division to provide the commission support staff.

EFFECTIVE DATE: Upon passage

SC/JO:ts