

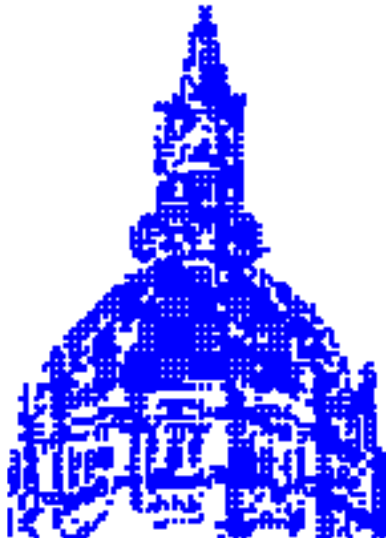
Office of Legislative Research

Connecticut General Assembly



OLR ACTS AFFECTING

CRIME AND PUBLIC SAFETY



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NOTICE TO READERS

This report provides brief highlights of new laws affecting Crime and Public Safety enacted during the 2012 regular session. Each entry indicates the public act (PA) number.

Not all provisions of the acts are included here. Complete summaries of all 2012 public acts will be available when OLR publishes its Public Act Summary book; some are already on OLR's website.

(www.cga.ct.gov/olr/OLRPASums.asp). All acts summarized here take effect October 1, 2012, unless otherwise noted.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, House Clerk's Office, or General Assembly's website (www.cga.ct.gov/).

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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.

Classification of Crime	Imprisonment	Fine
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
Class D misdemeanor	up to 30 days	up to 250

COURTS

Court Operation

PA 12-133 makes numerous changes in court operation, including:

1. allowing the Judicial Branch to enter into agreements with other agencies on a broader range of security matters;
2. expanding the courts' use of electronic documents and communications;
3. indemnifying attorneys appointed by the court to inventory the files of inactive, suspended, disbarred, or resigned attorneys in the same way as state employees;
4. specifying that someone who pleads not guilty to an infraction or certain violations can agree with the prosecutor on the amount of the fine and pay it without appearing before a judicial authority;
5. requiring the Department of Motor Vehicles to give the jury administrator the latest updated file of people holding identity cards to use when compiling the master list for summoning jurors;
6. requiring a defendant to make a motion for a *nolle* 13 months after a prosecutor continues a case and there is no

prosecution or disposition in order to have the records erased, instead of having them automatically qualify for erasure;

7. allowing Court Support Services Division (CSSD) personnel to use videoconferencing to interview defendants at police stations, when determining bail and conditions of release; and
8. requiring the court to determine that a matter is not frivolous before it waives a court fee or the state pays service of process costs for an indigent party.

Veterans' Eligibility for Pretrial Diversion Programs

PA 12-208 (1) allows veterans and surviving spouses to use the accelerated rehabilitation program twice rather than just once and (2) broadens eligibility for diversionary programs for (a) people with psychiatric disabilities and (b) drug education by adding certain veterans and spouses. It also gives veterans and spouses access to state and federal departments of veterans' affairs services as alternatives to those offered by the Department of Mental Health and Addiction Services.

CRIMES AND PENALTIES

Animal Cruelty

PA 12-86 increases the penalty for subsequent convictions for specified types of animal cruelty as defined in existing law. Under prior law, for first or subsequent offenses, violators could be imprisoned for up to one year, fined up to \$1,000, or both. The act increases the penalties for subsequent offenses to imprisonment for up to five years, a fine of up to \$5,000 or both.

Bank and Credit Union Robberies

PA 12-186 establishes the crime of 2nd degree robbery when certain activities are committed at a bank or credit union. Under the act, someone is guilty of this crime when, during the course of a larceny, he or she intimidates an employee by intentionally engaging in conduct that causes someone else to reasonably fear for his or her physical safety or the safety of another. The actor's purpose must be to (1) prevent or overcome resistance to the taking of the property or its retention immediately after the taking or (2) force the property owner or another person to deliver the property or engage in other conduct that aids in the crime's commission.

Second-degree robbery is a class C felony (see Table on Penalties).

Commercial Sexual Exploitation of a Child

PA 12-141 creates the class C felony (see Table on Penalties) of commercial sexual exploitation of a minor, which involves knowingly purchasing advertising space to advertise for a commercial sex act depicting a minor. (The act does not define "minor" but presumably it means a person under age 18.) The act specifies that (1) lack of knowledge of the depicted person's age or (2) reliance on a non-government identification are not defenses.

It permits the accused to avoid conviction by proving he or she made a reasonable, bona fide attempt to ascertain the victim's age by (1) requiring him or her to produce a government-issued identity card and (2) keeping and producing a copy.

Death Penalty Eliminated

PA 12-5:

1. eliminates the death penalty as a sentencing option for capital felonies committed on or after the act's effective date, thus making life imprisonment without the possibility of release the most severe

- penalty a court can impose;
2. renames the crime of capital felony as “murder with special circumstances”; and
 3. makes a number of changes to apply the rules for capital felony crimes to murder with special circumstances, as necessary.

The act also requires the Department of Correction (DOC) to confer special circumstances high security status on any inmate (1) convicted of murder with special circumstances committed on or after the act’s effective date or (2) whose death sentence is commuted by the Board of Pardons and Paroles, or reduced by a court, to life without the possibility of release.

These inmates must be placed in administrative segregation (AS) while DOC reclassifies them. The options for these prisoners are: remaining in AS, or being placed in protective custody or in a housing unit for the maximum security population under specified confinement conditions.

EFFECTIVE DATE: Upon passage, and the provision renaming the crime of capital felony as murder with special circumstances applies to crimes committed on and after that date.

Desecrating or Stealing War or Veterans’ Memorials

PA 12-38 makes it a class D felony (see Table on Penalties) to (1) desecrate or steal a war or veterans’ memorial monument; (2) put one up for sale or possess, buy, or attempt to buy one knowing that it has been unlawfully removed from its official location; or (3) transfer or dispose of any part of it.

EFFECTIVE DATE: Upon passage

Domestic Violence

PA 12-114 gives family violence victims greater support from the courts, law enforcement agencies, and court-based victim service providers. Among other things, it:

1. extends, from six months to one year, the maximum period that a civil restraining order can remain in effect without a court-ordered extension;
2. makes stalking or patterns of threatening between family or household members forms of family violence;
3. modifies the Judicial Branch’s CSSD’s uniform, weighted, release criteria by adding that conditions be sufficient to reasonably ensure that a pretrial release will not endanger the safety of others;

4. adds to conduct that constitutes 1st degree threatening;
5. requires probation officers who notify the police that they suspect a probationer of violating his or her terms of probation to also notify (a) the crime victim if he or she has given contact information and (b) the Office of Victim Services (OVS);
6. allows OVS to award medical, psychiatric, psychological, and social and rehabilitative services as restitution to children who witness domestic violence, including those not related to the victim; and
7. establishes a statewide model family law enforcement policy that agencies must use.

Failing to Report a Child Missing

PA 12-112 makes it a class A misdemeanor (see Table on Penalties) to knowingly fail to report the disappearance of a child under age 12. The duty to report applies to any parent, guardian, or person who has custody or control of, or is supervising, the child and who either does not know the child's location or has not had contact with him or her for a 24-hour period.

Fraudulent Fundraising

PA 12-195 makes it a Class C misdemeanor (see Table on Penalties) to fraudulently solicit funds on behalf of a veterans' charitable organization in order to benefit financially from such contributions.

Habeas Corpus Reform

Regarding habeas corpus petitions, **PA 12-115**:

1. requires the court, on its own or if asked by a party, to determine if there is good cause to proceed to trial on the petition and
2. requires courts to dismiss petitions related to a criminal conviction that are not filed before certain dates unless the petitioner proves good cause for the delay.

Prior statutes and court rules did not authorize such preliminary reviews or impose filing deadlines.

The act does not apply to petitions (1) claiming actual innocence, (2) challenging prison conditions, or (3) challenging the imposition of the death penalty.

EFFECTIVE DATE: October 1, 2012 and applicable to petitions filed on or after that date.

Legalizing the Palliative Use of Marijuana

PA 12-55 legalizes marijuana use for patients with a doctor's certificate stating that the patient has a debilitating disease—cancer, AIDS or HIV, or Parkinson's disease—and could benefit from the palliative use of marijuana. The act generally protects patients, their caregivers or doctors, "dispensaries" (pharmacists), or growers from being (1) subject to prosecution or civil lawsuits or (2) denied any right or benefit for specified actions relating to palliative usage. The protections do not apply when the patient ingests marijuana at work or school, in the public or moving vehicles, or in front of children. The act also directs that palliative use be curtailed when required by federal law or to obtain federal funding.

The act allows the Department of Consumer Protection (DCP) to designate other debilitating conditions and charge various fees to cover direct and indirect costs. He must also:

1. set licensing, administrative, and practice rules and standards;
2. determine the number of dispensaries (the act specifies between three and 10); and
3. establish a board of expert physicians to (a) hold

public hearings to evaluate petitions claiming that other conditions be designated as debilitating conditions, (b) recommend inclusion of new conditions, and (c) submit regulations making marijuana a Class II rather than Class I drug (the latter are subject to the most stringent regulation).

The act makes it a misdemeanor to tell certain lies to law enforcement officers about palliative marijuana use and specifies that insurers are not required to cover this treatment.

EFFECTIVE DATE: October 1, 2012, except the provisions (1) defining various terms, (2) providing for dispensary and producer licensing, and (3) creating the Board of Physicians are effective upon passage.

Motor Vehicles

Completing Repealed Alcohol and Drug Addiction Treatment Program. **PA 12-121** allows an individual (1) whose motor vehicle license, privilege, or certificate was suspended or revoked, under certain circumstances, on or before December 31, 2011, and (2) who was participating in, or eligible to participate in, the alcohol and drug treatment program eliminated by PAs 11-48 and 11-51, to complete it or an equivalent program the

commissioner designates, and then seek reinstatement of his or her license or privilege.

EFFECTIVE DATE: Upon passage

Drunk Driving. PA 12-178 makes a number of changes in the driving under the influence (DUI) laws, including:

1. placing restrictions on the first year of driving with an ignition interlock device after a second DUI conviction;
2. allowing a DUI offender whose license has been permanently revoked to request restoration after two, rather than six years, but be subject to lifetime use of an ignition interlock device after restoration, subject to a request for removal of the device for good cause after 15 years (under prior law, the first request could be made after 10 years) ; and
3. increasing, from \$25 to \$75, the maximum participation fee an organization conducting a victim impact panel program can charge a DUI offender the court orders to attend the program by the court (previously they could charge \$75 for panels in the pretrial alcohol education program).

EFFECTIVE DATE: July 1, 2012, except the provisions on lifetime ignition interlock use after license reinstatement for third or subsequent DUI offenders are effective January 1, 2013.

Expressions of Remorse. PA 12-124 makes certain statements or other conduct by someone convicted of a motor vehicle offense that resulted in death or serious physical injury inadmissible as an admission of (1) liability or (2) against interest in a civil or criminal proceeding. The act applies to apologies and other expressions of remorse made to the victim or the victim's relative or representative after conviction but before sentencing.

“Move Over” Law

PA 12-19 applies the “move over” law to highways with two or more lanes in each direction. The previous law applied to highways with three or more lanes in each direction.

The “move over” law requires a motorist approaching one or more stationary emergency vehicles, as defined by law, located in the travel or breakdown lane, or on the shoulder of a highway with their flashing lights activated to (1) immediately slow to a reasonable speed below the posted speed limit and (2) move over one lane if traveling in the lane adjacent to

the location of the emergency vehicle, unless this would be unreasonable or unsafe.

A violation that results in the injury or death of the emergency vehicle operator carries a fine of up to \$2,500 and \$10,000, respectively; any other violation is an infraction.

Poaching

PA 12-84 increases the penalty for poaching from a class C to class B misdemeanor (see Table on Penalties). By law, a person commits this crime by entering on any premises to hunt, trap, or fish despite knowing that he or she is not licensed or privileged to do so.

Regulated Professions

Fine Art Secured Lenders.

PA 12-131 creates a fine art secured lending license that anyone, including a pawnbroker, in the business of loaning money on the deposit of fine art must obtain from designated town officials. Among other things, the act subjects licensees to performance and recordkeeping requirements and authorizes penalties similar to those that already apply to pawnbrokers.

Under the act, anyone who willfully engages in the fine art secured lending business without a license or after being notified that his or her license has been suspended or revoked commits a

class D felony (see Table on Penalties). Any violation for which no penalty is specified is a class A misdemeanor.

Massage Therapists. PA 12-64 extends regulation of the massage therapy field to people who employ massage therapists, instead of just the practitioners. It also expands the list of practices and services that cannot be advertised unless performed by licensed massage therapists.

Mechanical Contractors. PA 12-18 establishes a penalty for unregistered mechanical contractors who willfully direct their employees, or supply someone else with unlicensed employees, to engage in plumbing and piping or heating, piping, and cooling work. Violators are subject to a \$1,000 fine for a first offense and \$2,500 for second and subsequent offenses.

Public Utilities. PA 12-148 requires the Public Utilities Regulatory Authority (PURA) to initiate a proceeding to:

1. review electric and gas company emergency preparation and service restoration practices, infrastructure adequacy, and coordination efforts;
2. identify the most cost-effective levels of electric company tree trimming

and system hardening needed to achieve maximum system reliability and minimize outages; and

3. establish electric and gas company emergency performance standards.

The act requires PURA to open a proceeding to establish standards for restoring intrastate telecommunications under certain circumstances after an emergency. It also requires telephone telecommunications companies to issue credits to customers who lose service under certain circumstances.

The act also:

1. requires cell phone service providers to report on the backup power generation capabilities of their cell towers and
2. requires the Department of Energy and Environmental Protection (DEEP), in consultation with the utility companies, the Department of Transportation (DOT), the Department of Emergency Services and Public Protection (DESPP), and an association of municipalities, to develop a procedure for expedited road clearing for public safety personnel after an emergency by January 1, 2013.

It expands the scope of the state's civil preparedness and

training requirements by requiring all private utility companies, including electric, gas, telephone, water, and cable TV companies, to comply with the state's comprehensive civil preparedness plan. It also requires all state departments, offices, and agencies to participate in civil preparedness planning, training, and exercises when directed to do so by the DESPP commissioner.

EFFECTIVE DATE: Upon passage, except the provisions regarding civil preparedness planning and training are effective July 1, 2012.

Unclassified Misdemeanors

PA 12-80:

1. creates a new misdemeanor classification (a class D misdemeanor),
2. adjusts the penalties of currently unclassified misdemeanors to fit them into classifications while deeming others to be classified,
3. reduces the penalties for some unclassified misdemeanors to fine-only violations,
4. sets the possible probation term for the class D misdemeanor and changes the terms for some unclassified misdemeanors, and
5. repeals some unclassified misdemeanors.

By law, misdemeanors are punishable by imprisonment for up to one year. They are classified according to severity as class A, class B, and class C. There are also unclassified misdemeanors, which are punishable by imprisonment but not designated under one of these classes.

EFFECTIVE DATE: October 1, 2012, except the changes to probation terms are effective October 1, 2012 and applicable to sentences imposed for crimes committed on or after that date.

Voter Intimidation and Interference

PA 12-193 increases the penalties for violating certain election laws related to influencing or intimidating voters, making them class C or D felonies (see Table on Penalties).

Table 1 compares penalties under prior law and the act.

Table 1: Penalties under Prior Law and the Act

<i>Crime</i>	<i>Penalty Under Prior Law</i>	<i>Penalty Under the Act</i>
Circulating misleading instructions to any voter	A fine of up to \$500, up to five years in prison, or both	Class D felony

<i>Crime</i>	<i>Penalty Under Prior Law</i>	<i>Penalty Under the Act</i>
Influencing or attempting to influence any voter to refrain from voting by force, threat, bribery, or corrupt, fraudulent, or deliberately deceitful means and with the intent to disenfranchise the voter	A fine of up to \$500 and three months to one year in prison	Class D felony
Threatening, forcing, or bribing a voter; suppressing or destroying any vote; miscounting any vote; or falsely or wrongfully announcing results	A fine of up to \$1,000, up to one year in prison, or both	Class C felony
An employer who, within 60 days before an election, school district election, or municipal or school district meeting, attempts to influence, threatens, or later retaliates against an employee in connection with the election or meeting	A fine of between \$100 and \$500, six months to one year in prison, or both	Class D felony
Inducing or attempting to induce an elector to do anything that enables anyone to see or know how the elector or another person voted	Up to five years in prison, no fine	Class D felony
Tampering with a voting tabulator, or defacing or destroying a ballot or any other device used to vote, with the intent to cause the voting equipment to incorrectly register votes	Up to five years in prison, no fine	Class C felony

EFFECTIVE DATE: July 1, 2012, except the absentee voting provision is effective upon passage.

Zappers and Phantom-Ware

PA 12-135 (1) makes it a crime to willfully and knowingly buy, sell, install, transfer, or possess zappers or phantom-ware and (2) subjects violators to (a) imprisonment for one to five years, fines of up to \$100,000, or both, and (b) liability for unpaid state taxes, penalties, and interest.

“Zappers” and “phantom-ware” are computer programs that alter sales records by under-reporting or otherwise manipulating electronic cash register transaction data. They are used primarily by retailers and restaurateurs to hide a portion of their profits, thus reducing tax liability.

Under the act, these programs are contraband, thus, the Department of Revenue Services may confiscate them along with devices on which they have been installed. Also, the government may initiate forfeiture proceedings to seize profits obtained as a result of a user’s unlawful activities.

EFFECTIVE DATE: Upon passage

CRIME VICTIMS

PA 12-133 makes several changes in laws concerning services for crime victims. It:

1. authorizes victim compensation when OVS or a victim compensation commissioner reasonably concludes that (a) an alleged crime of sexual assault or risk of injury to a minor occurred and (b) the personal injury was disclosed to certain individuals;
2. eliminates the \$100 deductible on the total amount of victim compensation determined for an injury;
3. expands OVS’s lien for reimbursement of compensation paid to someone; and
4. extends, from June 30, 2012 to June 30, 2013, the termination date for the Sexual Assault Forensic Examiners Advisory Committee, which advises OVS on a program to train sexual assault forensic examiners and make them available to sexual assault victims at participating hospitals.

EFFECTIVE DATE: October 1, 2012, except the provision extending the Sexual Assault Forensic Examiners Advisory Committee’s termination date is effective upon passage.

LAW ENFORCEMENT

Federal Probation Officers

PA 12-177 gives federal probation officers performing their duties access to the names and addresses of people issued (1) permits to sell or carry handguns, (2) eligibility certificates to possess them, or (3) certificates of possession for assault weapons.

Stolen Property Inventories

Under prior law, police had to hold as evidence property valued at \$250 or more seized in connection with an arrest or under a search warrant. **PA 12-72** increases the threshold from \$250 to \$1,000.

Traffic Stops and Racial Profiling

PA 12-74 suspends police departments' duty to record and report traffic stop information on July 1, 2012. It requires them to resume recording the information starting on July 1, 2013, and annually reporting summary data starting on October 1, 2013, if the Office of Policy and Management (OPM) has developed new standardized methods. It creates a Racial Prohibition Project Advisory Board to work with the Criminal Justice Information System Governing Board and help OPM

develop the methods. It makes other changes related to data recording, reporting, retention, and evaluation; review and disposition of complaints; officer training; and penalties for noncompliance, among other things.

EFFECTIVE DATE: July 1, 2012, except the provisions concerning the Racial Profiling Prohibition Project Advisory Board are effective upon passage.

Training Fish and Game Constables

PA 12-181 exempts certain fish and game protection constables from certification as police officers by the Police Officer Standards and Training Council (POST) if they (1) are appointed by a town in Hartford County having a population between 44,000 and 50,000 (i. e., Enfield) and (2) successfully complete a basic police training course tailored to their duties and provided by a POST-certified Enfield police officer. To carry a firearm in the course of their duties, they must be certified by a firearms trainer used by Enfield's Police Department and meet the recertification requirements that apply to the department's regular sworn officers.

PUBLIC SAFETY

Firearms Evidence Databank

PA 12-16 makes changes in the laws dealing with the state's firearms evidence databank.

Among other things, the act:

1. conforms the law to practice by expanding the types of images of discharged ammunition the databank must store to include images of other firearm ammunition, instead of just handguns (pistols and revolvers);
2. gives laboratory personnel discretion in determining what discharged ammunition to enter in the databank, and
3. eliminates the mandate for the laboratory to complete tests on handguns submitted to them within 60 days of submission.

Public Safety Data Network

PA 12-68 requires the (1) Department of Emergency Services and Public Protection (DESPP) to establish an electronic public safety data network (PSDN) for exchanging information among public safety and criminal justice entities. It requires the (1) Office of State-Wide Emergency Telecommunications (OSET) to create technical and operational standards for the network's establishment and (2) E 9-1-1

Commission, in consultation with the Coordinating Advisory Board, to advise the DESPP

commissioner on its planning, design, implementation, coordination, and governance.

The act adds the expenses associated with implementing and maintaining the PSDN to the other expenses the commissioner must consider when determining the amount of funding necessary for the E 9-1-1 program.

EFFECTIVE DATE: Upon passage for the establishment of the PSDN; July 1, 2012 for the remaining provisions.

E 9-1-1 Program. PA 12-114 requires OSET to study the cost, feasibility, and public safety considerations of redesigning the E 9-1-1 system to allow text messaging or communicating using other forms of mobile devices.

EFFECTIVE DATE: Upon passage

Recording Pistol and Revolver Sales

PA 12-191 requires gun dealers to (1) keep their handgun sales records in a form prescribed by federal law, rather than by the DESPP commissioner, and (2) make the records available for inspection at the request of any local or sworn state police officer or investigator on the State-wide Firearms Trafficking Task Force.

Failure to maintain the records or make them available for inspection is punishable by imprisonment for up to three years, a fine of up to \$500, or both.

Sexual Violence on College Campuses

PA 12-78 requires colleges to (1) adopt, disclose, and include in their annual, uniform campus crime report one or more policies on sexual assault and intimate partner violence. The policies must include detailed provisions for (1) providing information to students about their options for assistance if they are victims of such violence, (2) disciplinary procedures, and (3) the range of possible sanctions.

The act also requires the institutions, within existing budgetary resources, to offer (1) sexual assault and intimate partner violence primary prevention and awareness programming for all students and (2) ongoing prevention and awareness campaigns.

EFFECTIVE DATE: July 1, 2012

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