Current Trends in Juvenile Justice

Prepared by: Francis J. Carino,
Supervisory Assistant State’s Attorney

School Safety Conference - 2018

Issues impacting today’s students and educators

✓ School threats - assessment and response
✓ Laws relating to:
  • Mandated Reporting of Abuse & Neglect
  • Tobacco and Vaping
  • Cell Phones in School
  • Sexting
  • Bullying
✓ Recent Juvenile Justice “Reforms”
  • School Related FWSN Cases
  • Placing Juveniles in Pre-trial Detention
  • Transfer to the Adult Criminal Court
  • New Dispositional Options in Delinquency Cases
School threats - 
Assessment and Response

PA 16-67 (effective 10/1/16)

**Threatening 1st**
(4) violates subdivision (1) or (2) of this subsection (threat using hazardous substance or crime of violence) with the intent to cause an evacuation of a building or the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution-sponsored activities. **Class C felony**

**Threatening 2nd**
(3) violates subdivision (1) or (2) of this subsection (intentionally place another in fear of imminent serious physical injury or crime of violence with intent to terrorize) and the person threatened is in a building or on the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution-sponsored activities. **Class D felony**
NEW!!!

ENHANCING SCHOOL SAFETY
USING A THREAT ASSESSMENT MODEL
An Operational Guide for
Preventing Targeted School Violence

https://www.secretservice.gov/data/protection/ntac/
USSS_NTAC_Enhancing_School_Safety_Guide_7.11.18.pdf

Laws relating to:
Mandated Reporters
What must be reported? (CGS §17a-101a)

Mandated reporters are required to report or cause a report to be made when, in their professional capacity, they have reasonable cause to suspect or believe that a child under the age of 18

- has been abused, neglected or
- has had non-accidental physical injury, or injury which is at variance with the history given of such injury
- is placed in imminent risk of serious harm

Police are no longer required to make a report of child abuse/neglect when a youth is arrested for prostitution, as formerly required by CGS §46-133(d)(2), because the minimum age for a prostitution arrest is now 18.

What must be reported? (NEW PA 15-205)

Any school employee is required to report or cause a report to be made when, in the ordinary course of their employment has reasonable cause to suspect or believe that:

- a person being educated by the technical high school system or a local or regional board of ed, other than as part of an adult ed program,
- is a victim under the provisions of:
  - §53a-70 (Sexual assault 1st),
  - §53a-70a (Aggravated sexual assault 1st),
  - §53a-71 (Sexual assault 2nd),
  - §53a-72a (Sexual assault 3rd),
  - §53a-72b (Sexual assault 3rd with a firearm) or
  - §53a-73a (Sexual assault 4th), and
- the perpetrator is a school employee.

NOTICE: No age limit!!!!
What must be reported? (NEW PA 15-205)

CGS §53a-65(13) “School employee” means: (A) A teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary, middle or high school or working in a public or private elementary, middle or high school; or (B) any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education, or (ii) a private elementary, middle or high school, pursuant to a contract with the supervisory agent of such private school.

What is reasonable cause to suspect or believe? (PA 15-205)

A mandated reporter's suspicion or belief may be based on factors including, but not limited to:

• observations,
• allegations,
• facts or
• statements

by a child, victim, or third party.

Such suspicion or belief does not require certainty or probable cause.
When and how is a report made? (CGS §17a-101b & c)

- Mandated reporters are required to make an oral report, by telephone or in person to DCF or the police, as soon as practical but not later than twelve hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm or a student is the victim sexual assault by a school employee.

- A written report (DCF form 136) shall be filed within 48 hours of the oral report.

- If the police receive an oral report, they shall immediately notify DCF.

- Following a discussion of possible abuse with other mandated reporters, unless a mandated reporter is certain that another mandated reporter will make the report and reference the other mandated reporters by name, each should report.

What is the penalty for failing to report? (CGS §17a-101a)

- Fine of not less than $500 nor more than $2500 and required participation in an educational and training program.

PA 13-297 - Effective 10/1/13 - the penalty for the failure of a mandated reporter to make a timely report of suspected child abuse or neglect goes from a $500 - $2500 fine to a class A misdemeanor.

PA 15-205 - Effective 10/1/15 - the penalty is a class E felony if the violation is:
  • a subsequent violation, or
  • was wilful, intentional or due to gross negligence, or
  • if the person had actual knowledge that the victim was abused or neglected or the victim of one of the listed crimes.

There is immunity from any civil or criminal liability if such report is made in good faith.
Laws relating to: Tobacco & Vaping

Summary of Laws Applicable to Minors and Tobacco and Vaping

1. The definitions of the terms used in the statutes are found in CGS §53-344b(a) and CGS §19a-342a(a).

2. A “public place” means any area that is used or held out for use by the public whether owned or operated by public or private interests.

3. The selling, giving or delivering any tobacco product to a person under 18 is prohibited by CGS § 53-344(b).

4. The purchase, misrepresentation of their age to purchase or the possession in any public place of any tobacco product by a person under 18 is prohibited by CGS § 53-344b(c).

5. The selling, giving or delivering any electronic nicotine delivery system or vapor product to a person under 18 is prohibited by CGS § 53-344b(b).

6. The purchase, misrepresentation of their age to purchase or the possession in any public place of any electronic nicotine delivery system or vapor product to a person under 18 is prohibited by CGS § 53-344b(c).
Summary of Laws Applicable to Minors and Tobacco and Vaping

7. The use of any electronic nicotine delivery system or vapor product by any person in a public building or a school, regardless of age, is prohibited by CGS §19a-342a(b).

8. CGS §19a-342a(d) requires that signs be posted prohibiting the use of any electronic nicotine delivery system or vapor product.

9. These offenses are classified as violations or infractions so a person under 16 would be referred to the juvenile court or the juvenile review board. A 16 or 17-year-old would be served with a regular adult infraction ticket and they can either pay the fine or have a trial in the adult court.

10. Before initiating any law enforcement action, make sure the school posted the required signs and speak with the prosecutors in the juvenile court and the adult court to get their cooperation or they may decide not to prosecute the cases thereby negating your efforts.

Laws relating to: Cell Phones
**Cell Phones**

CGS §10-233j prohibits the possession or use a remotely activated paging device by a student unless the student obtains the written permission of the school principal for such possession and use.

The principal shall grant such permission only if the student or his parent or guardian establishes to the satisfaction of the principal that a reasonable basis exists for the possession and use of the device.

A local or regional board of education may restrict the student possession or use of cellular mobile telephones in the schools under its jurisdiction.

In determining whether to restrict such possession or use, the local or regional board of education shall consider the special needs of parents and students.

---

**Laws relating to: Sexting**
**Child Pornography & Sexting Statutes**

- The "Sexting" statute, CGS §53a-196h, was established in recognition of the fact that juveniles are actively engaged in the activity.
- While not condoning the activity, the legislature did not want juveniles found guilty of what would be a felony charge for an adult.
- A curriculum, developed in Texas, was adapted for use in Connecticut in situations where a juvenile have been involved in “sexting.” The curriculum consists of seven modules that juveniles can complete, preferably with a parent, that discuss the various legal, social, emotional, educational and career consequences of “sexting.” The program, “Before You Text” can be found at www.francarino.com in the “Civilian Presentation/Training Modules” section of the home page.

---

**Child Pornography**

"Child pornography" means any visual depiction including any photograph, film, videotape, picture or computer-generated image or picture, whether made or produced by electronic, mechanical or other means, of sexually explicit conduct, where the production of such visual depiction involves the use of a person under 16 years of age engaging in sexually explicit conduct.

"Sexually explicit conduct" means actual or simulated (A) sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal physical contact, whether between persons of the same or opposite sex, or with an artificial genital, (B) bestiality, (C) masturbation, (D) sadistic or masochistic abuse, or (E) lascivious exhibition of the genitals or pubic area of any person.
**Possessing Child Pornography**

<table>
<thead>
<tr>
<th>Degree</th>
<th>Number of Pictures*</th>
<th>Penalty (for adults)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3rd</td>
<td>less than 20</td>
<td>1-5 years</td>
</tr>
<tr>
<td>2nd</td>
<td>20 to 49 pictures</td>
<td>2 to 10 years</td>
</tr>
<tr>
<td>1st</td>
<td>50 or more</td>
<td>5 to 20 years</td>
</tr>
</tbody>
</table>

*Fewer depictions required if serious physical injury is involved or if a video involving more than one child or more than one act.

**NOTE:** it is the age of the person in the picture that matters, not the age of the offender.

For juvenile offenders under the age of 18 the maximum penalty is probation supervision with residential placement for up to 18 months with a possible 12 month extension.

A juvenile, age 15 or older, charged with 1st, 2nd or 3rd degree possession, may, but probably won’t, be transferred to the adult criminal court.

---

**Defenses to charge of possession of child pornography:**

The accused:
- Possessed fewer than three depictions; and
- Did not request the depictions; and
- Promptly and in good faith, without keeping or showing them, except to law enforcement, took reasonable steps to destroy the depictions.

Or:

Possessed the depiction for bona fide artistic, medical, scientific, educational, religious, governmental or judicial purpose.

Or:

The acts of the accused are covered by the sexting law (CGS §53a-196h).
The Sexting Law CGS §53a-196h

**SENDER:**
- under age 16
- knowingly and voluntarily transmits a visual depiction of themselves **engaged in sexually explicit conduct**
- by means of an electronic communication device
- to a person under age 18

**RECIPIENT:**
- any age under 18
- receives a visual depiction of the sender, under age 16, engaged in sexually explicit conduct
- by means of an electronic communication device;

*The sexting law didn't make sexting legal, it only reduced the crime to a misdemeanor.*

P.A. 17-25 eliminated the minimum age restrictions effective 10/1/2017.

Dissemination of an intimate image (PA 15-213)

1. Intentionally disseminates by electronic or other means a photograph, film, videotape or other recorded image of:
   - the genitals, pubic area or buttocks of another person with less than a fully opaque covering of such body part, or the breast of such other person who is female with less than a fully opaque covering of any portion of such breast below the top of the nipple, or
   - another person engaged in sexual intercourse, and

2. without the consent of such other person, knowing that such other person understood that the image would not be so disseminated, and

3. such other person suffers harm as a result of such dissemination.

For purposes of this subsection, “disseminate” means to sell, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, present, exhibit, advertise or otherwise offer.

CGS §53a-189c Class A misdemeanor

- Doesn't require “sexually explicit conduct” and there are no age restrictions.
- Only applies when someone other than the person in the depiction sends it.
Laws relating to: Bullying

CGS §10-222d now defines "bullying" as:

**ACTION**
- Written, Oral or Electronic Communication
- Physical Act or Gesture

**SOURCE**
- by one or more students AND
- repeatedly AND
- directed at another student attending school in the same school district

**RESULT**
- causes physical or emotional harm to such student or damage to such student's property,
- places such student in reasonable fear of harm to himself or herself, or of damage to his or her property,
- creates a hostile environment at school for such student,
- infringes on the rights of such student at school,
- substantially disrupts the education process or the orderly operation of a school.

Bullying might be a crime if the communication, act or gesture is actually a crime.
"Bullying” is also defined as:

**ACTION**
- Written, Oral or Electronic Communication
- Physical Act or Gesture

**MOTIVATION**
Based on any actual or perceived differentiating characteristic, such as:
- Race
- Color
- Religion
- Ancestry
- National Origin
- Gender
- Sexual Orientation
- Gender Identity or Expression
- Socio-economic Status
- Academic Status
- Physical Appearance
- Mental, Physical, Developmental or Sensory Disability
- Association with an individual or group who has or is perceived to have one or more of such characteristics

*Bullying might be a crime if the communication, act or gesture is actually a crime.*

*Bullying might be a hate crime (felony) if the communication, act or gesture is a crime and based on:*
- Race
- Color
- Religion
- Ancestry
- National Origin
- Gender
- Sexual Orientation
- Gender Identity or Expression
- Socio-economic Status
- Academic Status
- Physical Appearance
- Mental, Physical, Developmental or Sensory Disability
- Association with an individual or group who has or is perceived to have one or more of such characteristics

**POLICE RESPONSIBILITIES**

1. If the police department puts an officer in the school
   - "pursuant to a contract with the local or regional board of education" and
   - that officer "in the performance of his or her duties, has regular contact with students" and
   - "provides services to or on behalf of students enrolled in a public elementary, middle or high school," then

   that officer might be deemed to be a "school employee" for purposes of the Act according to the definition of "school employee" found in the Act.  (PA 11-232)

   **Are you a “school employee?”**
2. If deemed to be a "school employee" then the officer will be subject to the reporting requirement that is required to be in every "safe school climate plan."

Under such plans, "school employees who witness acts of bullying or receive reports of bullying" are required "to orally notify the safe school climate specialist, or another school administrator if the safe school climate specialist is unavailable, not later than one school day after such school employee witnesses or receives a report of bullying, and to file a written report not later than two school days after making such oral report."

POLICE RESPONSIBILITIES

3. If deemed to be a "school employee." then the officer will also be required to complete the training described in the Act.

4. The Act also requires that principals or their designee notify the police when they "believe that any act of bullying constitutes criminal conduct."

*Officers are reminded that you still need to make your own determination based on the facts and your department policy whether an arrest is necessary. You are NOT bound by the principal's "belief."*
The Act provides immunity from any "claim for damages" for any school employee "who reports, investigates and responds to bullying in accordance with the provisions of the safe school climate plan if such employee was acting in good faith in the discharge of his or her duties or within the scope of his or her employment." The immunity does not apply to "acts or omissions constituting gross, reckless, wilful or wanton misconduct."

Ask your Corporation Counsel if an officer in the school would be deemed a "school employee" under the definition found in the Act.

Recent Juvenile Justice “Reforms”
School Related FWSN Cases
**FWSN Offenses** involve a child *(under 18)* who:

1. has without just cause **run away** from his parental home or other properly authorized and lawful place of abode;
2. is **beyond the control** of his/her parent, parents, guardian or other custodian;
3. has engaged in **indecent or immoral conduct**;

is thirteen years of age or older and has **engaged in sexual intercourse** with another person and such other person is thirteen years of age or older and not more than two years older or younger than such child;

---

*Don’t let defiance of school rules cases become school-based arrests again.*

---

**Emergency Mobile Psychiatric Services**

[Image and web link: http://www.empsct.org]
Recent Juvenile Justice “Reforms”
Placing Juveniles in Pre-trial Detention

Previously Required to Place a Juvenile in Detention

(A) there is probable cause to believe that the child has committed the acts alleged,
(B) there is no less restrictive alternative available and
(C) one of the following:

1. a strong probability that the child will run away,
2. a strong probability that the child will commit other offenses injurious to the child or to the community,
3. probable cause to believe that the child's continued residence in the child's home poses a risk to the child or the community because of the serious and dangerous nature of the acts the child is alleged to have committed,
4. a need to hold the child for another jurisdiction,
5. the child has failed to respond to the court process, or
6. the child has violated the conditions of release;
**Impact of PA 16-147 (effective 1/1/2017)**

(A) there is probable cause to believe that the child has committed the acts alleged,
(B) there is no less restrictive alternative available and
(C) one of the following:

1. a strong probability that the child will run away,
2. a strong probability that the child will commit other offenses injurious to the child or to the community,
3. probable cause to believe that the child's continued residence in the child's home poses a risk to the child or the community because of the serious and dangerous nature of the acts the child is alleged to have committed,
4. a need to hold the child for another jurisdiction,
5. the child has failed to respond to the court process, or
6. the child has violated the conditions of release;

---

**From the minutes of the March 16, 2017 JJPOC meeting:**

Concern was expressed about the number of kids that have touched CJTS that go on to other incarceration. Kids need a gentler approach; they are scared, lost and have not been supported in the development they need. Group homes are a better facility when working with kids.

Out of the 125 kids placed at CJTS during 2016, 48 or 39% were convicted of violent offenses such as assault, threatening, robbery, forcible sex assault and weapons charges.
Required to Place a Juvenile in Detention After 1/1/2017

(A) there is probable cause to believe that the child has committed the acts alleged,
(B) there is no less restrictive alternative available and
(C) one of the following:

1. probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition,
2. a need to hold the child in order to ensure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court process, or

How will the police know?

Create your own in-house database of Orders to Take Into Custody received from the court.

Check with the juvenile’s home town police department to see if this ground might apply.

Risk of harm to the child & violation of conditions of release no longer considered.
Required to Place a Juvenile in Detention After 7/1/2018

(A) there is probable cause to believe that the child has committed the acts alleged,
(B) there is no appropriate less restrictive alternative available and
(C) one of the following:

1. **probable cause to believe that the level of risk that the child will pose a risk poses to public safety if released to the community prior to the court hearing or disposition cannot be managed in a less restrictive setting**, 

2. a need to hold the child in order to ensure the child’s appearance before the court, or compliance with court process, as demonstrated by the child’s previous failure to respond to the court process, or

3. a need to hold the child for another jurisdiction.

*Risk of harm to the child & violation of conditions of release still not considered.*

*New Juvenile Arrest Warrant (JD-JM-176) and Order to Detain (JD-JM-190) forms for 2018.*

---

**To: Any Proper Officer of the State of Connecticut**

By Authority of the State of Connecticut, you are hereby commanded to arrest the body of the within-named child:

(A) The child and the parent or guardian of the child or some other suitable person or agency is to be issued a Juvenile Summons form JD-JM-95 to appear in the Superior Court for juvenile matters at no less than five (5) days and no more than ten (10) days after the date of service of this warrant upon the child.

(B) Bail set at $50,000. If the child is unable to post bail in the amount specified, the child may be delivered to the custody of the Superintendent of the Juvenile Detention Center at Hartford until the specified bail is posted, or until further order of the court.

(C) On the basis of the facts alleged in the affidavit(s) in support of this warrant, the Court finds probable cause to believe that one or more of the circumstances indicated below is/are applicable and that detention is the appropriate least restrictive alternative available:

- 1. There is probable cause to believe that the level of risk that the child poses to public safety if released to the community prior to the court hearing or disposition cannot be managed in a less restrictive setting.
- 2. There is a need to hold the child to ensure the child’s appearance before the court or compliance with court process, as demonstrated by the child’s previous failure to respond to the court process.
- 3. There is a need to hold the child for another jurisdiction.

And therefore you are hereby commanded to:

- Take the above named child into custody and deliver him or her to the custody of the Superintendent of the Juvenile Detention Center at Hartford to be held until review.

☐ Said child is ordered not to be released by the Juvenile Detention Superintendent or designee.

Date, Time and Signature: 7/10/18 10:30 PM

Michael J. Jones

NOTE: the language, formerly in box A, that used to permit the police to place a juvenile in a detention center if "the officer is unable to release the child on the child’s own recognizance or locate a parent, guardian or other suitable person or agency willing and able to take custody of the child within a reasonable period of time" has been eliminated. If the juvenile cannot be released as directed, the police should contact the DCF Careline at 860-550-6550, a dedicated law enforcement line, to seek their assistance in either placing the juvenile in a shelter or taking temporary custody of the juvenile.
Secure Holding at the Police Station

A juvenile may be held in an adult cell as long as they are held “separate and apart” from any adult detainee. Sight and sound separation is recommended.

A 16 or 17 year old charged with both juvenile and adult charges may be held in an adult cell, with other adults, if the reason for the secure holding is an adult charge or held in a juvenile cell or brought to a juvenile detention center if the reason for the secure holding is a juvenile charge.

Juveniles should not be securely confined at police station for more than 6 hours; (Used to be a condition of federal funding, now it’s in the statute.)

- The time starts when the juvenile is placed in secure holding area and doesn't end until the juvenile leaves the building.
- Document any reasons for an extended hold beyond 6 hours.
- Not clear what consequence will result from going beyond 6 hours.
- Avoid interviewing the juvenile after holding securely beyond 6 hours.
- A DCF protocol exists in the event the judge refuses to sign the Order to Detain due to the lack of applicable grounds.

Recent Juvenile Justice “Reforms”

Transfer to the Adult Court
**Transfer to the Adult Court - Prior to 2012**

**TRANSFER TYPE**
- Automatic Transfer
  - CGS §46b-127(a)

**QUALIFYING OFFENSES**
- Capital Felonies
- Class A Felonies
- Class B Felonies
- CGS §53a-54d (Arson Murder)

**PROCEDURE**
- Automatic transfer.
  - Class B Felonies and certain Class A sexual assault cases may be returned to juvenile court upon motion of the State’s Attorney.

**TRANSFER TYPE**
- Discretionary Transfer
  - CGS §46b-127(b)

**QUALIFYING OFFENSES**
- Class C Felonies
- Class D Felonies
- Class E Felonies
- Unclassified Felonies

**PROCEDURE**
- Prosecutor’s motion;
  - To transfer, court must find probable cause;
  - Adult court may return case to juvenile court.

---

**Transfer to the Adult Court - After 2012**

**TRANSFER TYPE**
- Automatic Transfer
  - CGS §46b-127(a)

**QUALIFYING OFFENSES**
- Capital Felonies
- Class A Felonies
- Class B Felonies
- CGS §53a-54d (Arson Murder)

**PROCEDURE**
- Automatic transfer.
  - Class B Felonies and certain Class A sexual assault cases may be returned to juvenile court upon motion of the State’s Attorney.

**Consider:**
- ✓ any prior criminal or juvenile offenses;
- ✓ seriousness of such offenses;
- ✓ evidence of intellectual disability or mental illness;
- ✓ availability of services in juvenile court;

**TRANSFER TYPE**
- Discretionary Transfer
  - CGS §46b-127(b)

**QUALIFYING OFFENSES**
- Class C Felonies
- Class D Felonies
- Class E Felonies
- Unclassified Felonies

**PROCEDURE**
- Prosecutor’s motion;
  - To transfer, court must find probable cause and best interests of child & public are not served by keeping case as a juvenile matter;
  - Adult court may return case to juvenile court.
**Consequences of a Transfer**

A child transferred from the juvenile court to the adult court loses all juvenile protections including the right to:

✓ be kept separate from adult offenders;
✓ confidentiality;
✓ a maximum sentence of 4 years in a juvenile facility;
✓ get their record erased;
✓ automatic suppression of statements made to police without a parent present;

**Transfer to the Adult Court - After 2013**

<table>
<thead>
<tr>
<th>TRANSFER TYPE</th>
<th>QUALIFYING OFFENSES</th>
<th>PROCEDURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automatic Transfer</td>
<td>Capital Felonies</td>
<td>Automatic transfer.</td>
</tr>
<tr>
<td>CGS §46b-127(a)</td>
<td>Class A Felonies</td>
<td>Class B Felonies and certain Class A sexual assault cases may be returned</td>
</tr>
<tr>
<td></td>
<td>Some Class B Felonies</td>
<td>to juvenile court upon motion of the State's Attorney.</td>
</tr>
<tr>
<td></td>
<td>CGS §53a-54d (Arson Murder)</td>
<td></td>
</tr>
<tr>
<td>Discretionary Transfer</td>
<td>Some Class B Felonies</td>
<td>Prosecutor’s motion;</td>
</tr>
<tr>
<td>CGS §46b-127(b)</td>
<td>Class C Felonies</td>
<td>To transfer, court must find</td>
</tr>
<tr>
<td></td>
<td>Class D Felonies</td>
<td>probable cause and best interests of child &amp; public are not served by</td>
</tr>
<tr>
<td></td>
<td>Class E Felonies</td>
<td>keeping case as a juvenile matter;</td>
</tr>
<tr>
<td></td>
<td>Unclassified Felonies</td>
<td>Adult court may return</td>
</tr>
<tr>
<td></td>
<td></td>
<td>case to juvenile court.</td>
</tr>
</tbody>
</table>

Consider:
✓ any prior criminal or juvenile offenses;
✓ seriousness of such offenses;
✓ evidence of intellectual disability or mental illness;
✓ availability of services in juvenile court;

47

48
The class B felonies no longer automatically transferrable after 10/1/15 (PA 15-183):
- manslaughter 1st
- assault on DOC employee
- sexual assault 2nd (victim under 16)
- kidnapping 2nd
- burglary 1st - w/injury or attempted injury (still automatic transfer: §53a-101(a)(1) - armed w/explosives, deadly weapon or dangerous instrument or §53a-101(a)(3) a dwelling at night - even if not occupied)
- arson 2nd
- larceny 1st
- identity theft 1st
- robbery 1st - w/serious physical injury, use or threatens w/dangerous instrument or displays or threatens the use of what he represents to be a pistol, revolver, rifle, shotgun, machine gun or other firearm;
- (still automatic transfer: §53a-134(a)(2) - armed w/deadly weapon)
- importing child porn
- possession child porn 1st
- computer crime 1st
- computer crime in furtherance of terrorist purposes

<table>
<thead>
<tr>
<th>NOT AUTOMATIC TRANSFER</th>
<th>STILL AUTOMATIC TRANSFER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Manslaughter 1st</strong> §53a-55(a)(1) Class B felony:</td>
<td><strong>Assault 1st</strong> §53a-59(a)(1) Class B felony:</td>
</tr>
<tr>
<td>✓ intent to cause serious physical injury</td>
<td>✓ intent to cause serious physical injury</td>
</tr>
<tr>
<td>✓ cause the death of such person or third person</td>
<td>✓ cause such injury to such person or to a third person</td>
</tr>
<tr>
<td>✓ by means of a deadly weapon or dangerous instrument</td>
<td>✓ by means of a deadly weapon or dangerous instrument</td>
</tr>
<tr>
<td><strong>Sex Assault 2nd</strong> §53a-71 Class B felony:</td>
<td><strong>Risk of Injury</strong> §53-21(a)(2) Class B felony:</td>
</tr>
<tr>
<td>engage in sexual intercourse with another person and:</td>
<td>have contact with the intimate parts of a child under the age of 16 or subjects a child under 16 to contact with the intimate parts of such person, in a sexual and indecent manner likely to impair the health or morals of such child</td>
</tr>
<tr>
<td>✓ the other person is 13 or older but under 16 and the actor is more than 3 years older than such other person; or</td>
<td>✓ the other person is under 16 and physically helpless;</td>
</tr>
<tr>
<td>✓ the other person is under 16 and impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse; or</td>
<td>✓ the other person is under 16 and physically helpless;</td>
</tr>
<tr>
<td>✓ the other person is under 16 and physically helpless;</td>
<td>✓ the other person is under 16 and physically helpless;</td>
</tr>
<tr>
<td><strong>Burglary 1st</strong> §53a-101(a)(2) Class B felony:</td>
<td><strong>Burglary 1st</strong> §53a-101(a)(1) Class B felony:</td>
</tr>
<tr>
<td>✓ unlawfully enters or remains in a building w/intent to commit a crime, and</td>
<td>✓ unlawfully enters or remains in a building w/intent to commit a crime, and</td>
</tr>
<tr>
<td>✓ intentionally, knowingly or recklessly inflicts or attempts to inflict bodily injury on anyone</td>
<td>✓ is armed w/explosives, deadly weapon or dangerous instrument</td>
</tr>
<tr>
<td><strong>Robbery 1st</strong> §53a-134(a)(1) Class B felony:</td>
<td><strong>Robbery 1st</strong> §53a-134(a)(3) Class B felony:</td>
</tr>
<tr>
<td>✓ commit robbery, and</td>
<td>✓ commit robbery, and</td>
</tr>
<tr>
<td>✓ cause serious physical injury</td>
<td>✓ use or threaten use a dangerous instrument</td>
</tr>
<tr>
<td><strong>Robbery 1st</strong> §53a-134(a)(3) Class B felony:</td>
<td><strong>Robbery 1st</strong> §53a-134(a)(3) Class B felony:</td>
</tr>
<tr>
<td>✓ commit robbery, and</td>
<td>✓ commit robbery, and</td>
</tr>
<tr>
<td>✓ use or threaten use a dangerous instrument</td>
<td>✓ armed w/deadly weapon</td>
</tr>
<tr>
<td><strong>Robbery 1st</strong> §53a-134(a)(4) Class B felony:</td>
<td></td>
</tr>
<tr>
<td>✓ commit robbery, and</td>
<td></td>
</tr>
<tr>
<td>✓ display or threaten use of what is represented to be a firearm</td>
<td></td>
</tr>
</tbody>
</table>

Talk to the prosecutor before signing a warrant to agree on the charge for a class B felony.
Sec. 53a-55. Manslaughter 1st degree: Class B felony.
(a) A person is guilty of manslaughter in the first degree when:
(3) under circumstances evincing an extreme indifference to human life,
he recklessly engages in conduct which creates a grave risk of death to
another person, and thereby causes the death of another person.

Discretionary transfer

Sec. 53a-59. Assault 1st degree: Class B felony:
A person is guilty of assault in the first degree when:
(3) under circumstances evincing an extreme indifference to human life
he recklessly engages in conduct which creates a risk of death to
another person, and thereby causes serious physical injury to another
person;

Automatic transfer

Age of Transfer:  After October 1, 2015

Fifteen

Fourteen was the minimum age for transfer to the adult court.

No matter how serious the crime or how extensive the prior
record might be, a child under age fourteen could not be transferred.

Age on date of offense

Juvenile Court

Adult Court

13 14 15 18
**Impact of Changes**

Transfers to the Adult Criminal Court

- **FY12**: 140
- **FY13**: 168
- **FY14**: 185
- **FY15**: 191
- **FY16**: 150
- **FY17**: 115

**Transfers**

- **DISCRETIONARY**
- **AUTOMATIC**

**NOTE:** FY12 is 7/1/11 - 6/30/12

- "Best interests of the child" added to discretionary procedure in FY13
- Class B felonies became discretionary in FY16
- Minimum age increased in FY16

Source: Court Operations, Judicial Branch

---

**Recent Juvenile Justice “Reforms”**

**Other recent changes**
2018 Changes:

(1) Adjudications for possession of under 1/2 ounce of marijuana and related paraphernalia and driving under the influence added to list of adjudication for which the DMV will be notified.

(2) Responsibility for juvenile justice programs and services transferred from DCF to the Judicial Branch and CSSD (effective 7/1/18).

(3) CJTS was scheduled to close on June 30, 2018;

Actually closed on 4/12/18 “due to declining rate of juvenile and young adult arrests, record low crime rate and the impact of the Governor’s criminal justice reforms.”

Gov. Dannel P. Malloy

2018 Changes:

(4) Committed juveniles were released home or placed in staff-secure facilities.

(5) Juveniles committed to DCF on July 1, 2018 will be put on probation supervision or probation supervision with residential placement after that date;

(6) At this time there is no secure treatment facility for convicted delinquents in Connecticut;

(7) Some kids may be held in the pretrial juvenile detention centers or at Solnit Hospital;
How’s that working out?

DCF reported at the February JJPOC meeting that placing juveniles with a history of car theft in staff-secure facilities presents the “biggest obstacle right now” because some staff cars have been stolen from facility lots.

DCF reported at the May JJPOC meeting that of the 39 juveniles discharged from CJTS since January 1st, 14, or 35%, had already been rearrested within 4½ months of release.

Only one proposal was received to replace CJTS and it was not accepted. A secure facility may not be available until October.

An out-of-state residential treatment facility that was thought to be an alternative to CJTS indicated last Friday that, due to problems with some Connecticut kids leaving the facility, breaking into houses and stealing cars in the neighborhood, they will no longer accept kids with a “profile of consistent elopement and criminal behavior.”

In the past six weeks, Connecticut kids left the facility on two occasions. In the first, the kids stole a truck and the facility had to pay $3,000 in damages. In the other incident, the kids broke into a nearby home and stole two vehicles from that location. The facility already paid $3,700 and is waiting for a final bill.
2018 Changes:

(8) After July 1, 2018, adjudicated juveniles will be:
• discharged with or without a warning;
• put on probation supervision or probation supervision with residential placement;

(9) Probation supervision and probation supervision with residential placement will be for up to 18 months, with a possible extension of 12 months, for a total of 30 months, regardless of the seriousness of the charge; *(Prior to 7/1/18, the maximum commitment was 18 months with possible extension of 18 months, for a total of 36 months for non-SJO charges and 4 years for SJO charges.)*

A “new way of parenting?”

What will be the “impact of the Governor’s criminal justice reforms?”

You decide...
Prepared by:

Francis J. Carino  
Supervisory Assistant State’s Attorney  
Office of the Chief State’s Attorney  
300 Corporate Place  
Rocky Hill, CT 06067  
Tel.: (860) 258-5826  
Fax: (860) 258-5858  
Voice Pager: (860) 490-0647 (no texts!)  
E-mail: francis.carino@ct.gov  
CT Juvenile Law website: www.francarino.com