

# Division of Criminal Justice



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## POST Legal Update Juvenile Laws

*Presented by:*  
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2015

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### ***Three significant changes for 2015:***

- ✓ ***Transfer to the adult criminal court (PA 15-183)***
- ✓ ***New mandated reporting requirement for "school employees" (PA 15-205)***
- ✓ ***Increased penalties for any mandated reporter that fails to make a timely report (PA 15-205)***

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## ***Delinquency Offenders: Transfer to the Adult Court***

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

<u>TRANSFER TYPE</u>	<u>QUALIFYING OFFENSES</u>	<u>PROCEDURE</u>
<p style="text-align: center;">Automatic Transfer</p> <p>CGS §46b-127(a)</p>	<p>Capital Felonies Class A Felonies Class B Felonies CGS §53a-54d (Arson Murder)</p>	<p>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.</p>
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<p style="text-align: center;">Discretionary Transfer</p> <p>CGS §46b-127(b)</p>	<p>Class C Felonies Class D Felonies Class E Felonies Unclassified Felonies</p>	<p>Prosecutor's motion; To transfer, court must find probable cause; Adult court may return case to juvenile court.</p>

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

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<p style="text-align: center;">Automatic Transfer</p> <p>CGS §46b-127(a)</p>	<p>Capital Felonies Class A Felonies Class B Felonies CGS §53a-54d (Arson Murder)</p>	<p>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.</p> <hr/> <p>Prosecutor's motion; To transfer, court must find probable cause and best interests of child &amp; public are not served by keeping case as a juvenile matter; Adult court may return case to juvenile court.</p>
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>✓ any prior criminal or juvenile offenses;</li> <li>✓ seriousness of such offenses;</li> <li>✓ evidence of intellectual disability or mental illness;</li> <li>✓ availability of services in juvenile court;</li> </ul> </div>		
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The class B felonies no longer automatically transferrable after 10/1/15 (PA 15-183):

- manslaughter 1<sup>st</sup>
- assault on DOC employee
- sexual assault 2<sup>nd</sup> (victim under 16)
- kidnapping 2<sup>nd</sup>
- burglary 1<sup>st</sup> - 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 2<sup>nd</sup>
- larceny 1<sup>st</sup>
- identity theft 1<sup>st</sup>
- robbery 1<sup>st</sup> - 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 1<sup>st</sup>
- computer crime 1<sup>st</sup>
- computer crime in furtherance of terrorist purposes

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<b>Not Automatic Transfer</b>	<b>Automatic Transfer</b>
<p><b>Manslaughter 1st §53a-55(a)(1) Class B felony:</b></p> <ul style="list-style-type: none"> <li>✓ intent to cause serious physical injury</li> <li>✓ cause the death of such person or third person</li> </ul>	<p><b>Assault 1st §53a-59(a)(1) Class B felony:</b></p> <ul style="list-style-type: none"> <li>✓ intent to cause serious physical injury</li> <li>✓ cause such injury to such person or to a third person</li> <li>✓ by means of a deadly weapon or dangerous instrument</li> </ul>
<p><b>Burglary 1st §53a-101(a)(2) Class B felony:</b></p> <ul style="list-style-type: none"> <li>✓ unlawfully enters or remains in a building w/intent to commit a crime, and</li> <li>✓ intentionally, knowingly or recklessly inflicts or attempts to inflict bodily injury on anyone</li> </ul>	<p><b>Burglary 1st §53a-101(a)(1) Class B felony:</b></p> <ul style="list-style-type: none"> <li>✓ unlawfully enters or remains in a building w/intent to commit a crime, and</li> <li>✓ is armed w/explosives, deadly weapon or dangerous instrument</li> </ul>
	<p><b>Burglary 1st §53a-101(a)(3) Class B felony:</b></p> <ul style="list-style-type: none"> <li>✓ unlawfully enters or remains in a dwelling at night w/intent to commit a crime</li> </ul>

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## ***Not Automatic Transfer***

### **Robbery 1st §53a-134(a)(1)**

#### **Class B felony:**

- ✓ commit robbery, and
- ✓ cause serious physical injury

### **Robbery 1st §53a-134(a)(3)**

#### **Class B felony:**

- ✓ commit robbery, and
- ✓ use or threaten use a dangerous instrument

### **Robbery 1st §53a-134(a)(4)**

#### **Class B felony:**

- ✓ commit robbery, and
- ✓ display or threaten use of what is represented to be a firearm

## ***Automatic Transfer***

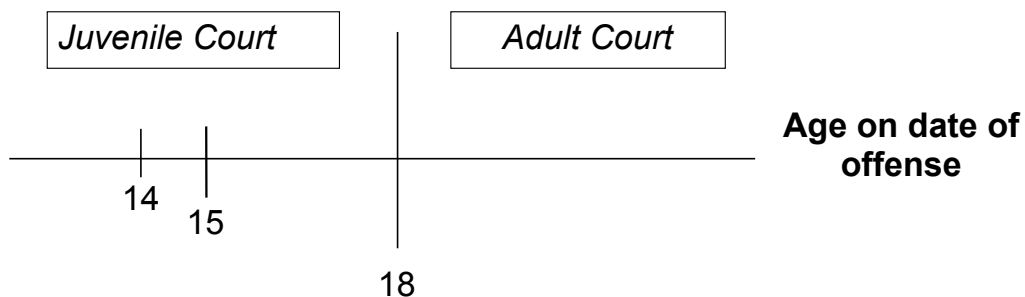
### **Robbery 1st §53a-134(a)(2)**

#### **Class B felony:**

- ✓ commit robbery, and
- ✓ armed w/a deadly weapon

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## ***Age of Transfer: After October 1, 2015***



Fifteen  
~~Fourteen~~ is 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~~ ~~fifteen~~ cannot be transferred.

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## ***Mandated Reporting Requirements***

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### ***What must be reported? (CGS §17a-101a)***

Police are mandated reporters and 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 also required to make a report of child abuse/neglect whenever a 16 or 17 year old is arrested for prostitution; (CGS §46-133(d)(2))

***Include in your report any evidence that the accused acted alone or willingly.***

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## ***New Reporting Requirement for “School Employees”***

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.

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### ***What else 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: **NOTICE: No age limit for students not in adult ed!!!**

- 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.

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## ***What is reasonable cause to suspect or believe? (NEW 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.

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## ***When and how is a report made? (CGS §17a-101b & c)***

- Persons required to make a report must 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 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.

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***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.

Mandated reporters could also be sued for damages if further injury is caused to the child because they did not act.

***The 2016 Regular Session begins on  
February 3, 2016 . . .***

# ***Presented by:***

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