



STATE OF CONNECTICUT
SENTENCING COMMISSION

FOR IMMEDIATE RELEASE

Wednesday, December 6st, 2017

NOTICE OF PUBLIC HEARING

Monday, December 11, 2017 10 a.m.
Legislative Office Building, Room 2B
300 Capitol Avenue
Hartford, CT 06106

On Monday, December 11, 2017, the Connecticut Sentencing Commission will hold a public hearing on several potential legislative proposals:

1. Reform of the Sex Offender Registry and other recommendations of the Special Committee on Sex Offenders (see Appendix A)
2. Proposed Constitutional Amendment on Pretrial Release and Detention that would (a) permit denial of release for high-risk defendants and (b) deny detention of defendants for lack of funds to buy a bail bond. (see Appendix B).
3. Four proposals from the Sentencing Commission's Advisory Group on Collateral Consequences of Criminal Conviction (see Appendix C).

The hearing will take place in Room 2B of the Legislative Office Building, 300 Capitol Avenue, Hartford, at 10 a.m.

Sign-up for the public hearing will begin promptly at 8:30 a.m. and will conclude at 9:30 a.m. in the 1st floor Atrium of the Legislative Office Building. Speaker order will be determined by lottery. Anyone wishing to testify after the drawing is closed must sign up on the official list in Room 2B, at which point sign-up will be accepted on a first come, first served basis. Written testimony for the public hearing will be accepted for distribution to Commission members during the sign up period. If you would like each Commissioner to have a copy for the hearing, please submit 30 copies. If you would simply like to have your testimony submitted for the public record please submit one copy. Please note that any testimony submitted for the public record will be placed on the Commission's website and is subject to Connecticut's Freedom of Information statutes and regulations. At any point prior to the hearing, electronic testimony for the public record can be submitted to the Commission via email: SentencingCommission@ccsu.edu. Speakers will be

limited to three minutes of testimony. Testimony should be limited to matters related to the proposals on the agenda.

If you have any questions, please contact Alex Tsarkov at (860) 832-1681 or via e-mail at the address listed above.

Appendix A

Proposed Recommendations on the Registry, Management and Sentencing of Sex Offenders

A. Registry Proposal

The proposal to amend Chapter 969 of the Connecticut General Statutes both strengthens and focuses the Connecticut sex offender registry. Under current law, the crime that the offender was convicted of determines the requirement to register and the length of time the person will be on the registry.

Under this proposal, the categories of sex offenders who must register with the Department of Emergency Services and Public Protection (DESPP) based on the crime for which they were convicted remain the same. However, the length of time on the registry and whether it is a public registry or a law enforcement-only registry will be determined by evaluating the registrant's risk of reoffending.

This proposal will eventually result in fewer offenders on the public sex offender registry; those higher-risk offenders who warrant the focused attention of probation and parole, law enforcement, and the public. Validated actuarial risk assessment instruments will be used to determine a person's likelihood of reoffending.

The current registry has no reward for a registrant's appropriate behavior and no sanction for a registrant's inappropriate behavior, other than the failure to report a change of address, which is a class D felony. Changes to the registry are based on the recognition that placement on the public registry can impede the registrant's successful reentry into society by making it more difficult to find housing or employment. This proposal will penalize registrant's inappropriate behavior and reward appropriate behavior. All registrants will have an opportunity to petition to shorten their registration period or apply for removal from the public registry. In order to do so, registrants will have to show, by their conduct, that they have reduced their risk to the community.

Under the new system, some registrants will be on the registry for shorter periods than under the current system, and others will be on for longer periods. However, that determination will be based on the registrant's risk to the community. The registrants will have an opportunity to lower their risk profile by participating in programming for behavioral health, vocational training, and other services designed to enhance community reintegration and by avoiding re-arrest for any new criminal activity.

1. Current Law

Under current law, certain categories of sex offenders must register for a specified period following their release into the community. The requirement applies to persons convicted, or acquitted by reason of mental disease or defect, of three types of offenses, including persons

convicted or acquitted by reason of mental disease or defect of a similar offense in another jurisdiction, for the duration stated below:

- criminal offenses against a victim who is a minor: generally 10 years for a first conviction or lifetime for a subsequent conviction;
- nonviolent sex offenses: generally 10 years for a first conviction or lifetime for a subsequent conviction; and
- sexually violent offenses: lifetime.

In addition, the court may require registration for 10 years for an offender convicted, or acquitted by reason of a mental disease or defect, of any felony that the court determines was committed for a sexual purpose.

Connecticut is one of the few jurisdictions that does not permit removal from the registry.

Under current state law, if a court finds that public dissemination of a sex offender's registration information is not required for public safety, access is limited to law enforcement agencies. This applies to only a small group of individuals. The court may grant this access restriction to persons who committed second-degree sexual assault in a spousal or cohabiting relationship (CGS § 54-255(a)). Similarly, if a court finds that public dissemination is not required for public safety, it may restrict registry dissemination for persons who committed offenses against a minor, nonviolent sex offenses, or sexually violent offenses, where the victim was a relative of the person (CGS § 54-255(b)).

Select categories of sex offenders are exempt from registration requirements. Specifically, a court may exempt a person if registration is not required for public safety and the person was (1) convicted of having sexual intercourse with a victim age 13 to 15 (second-degree sexual assault) and (2) under age 19 when the crime was committed (CGS § 54-251(b)).

A court may also exempt a person convicted or found not guilty by reason of mental disease or defect of having sexual contact with another person without consent or nonconsensual voyeuristic recording of a person. In both cases, the court must find that registration of the person is not required for public safety (CGS § 54-251(c)).

2. Prospective Changes to the Registry

The following changes would apply prospectively to individuals who are convicted on or after the effective date of legislation. The registration requirement would be based on an assessment of the risk an individual poses to reoffend, rather than on the current system based on the offense.

i. *Sex Offender Registration Board*

- An independent Sex Offender Registration Board of experts would be authorized to determine whether an offender who is required to register should be placed on the public registry or law enforcement registry. Specifically:
 - The lowest-risk offenders, based on an actuarial risk assessment, shall presumptively be placed on the law enforcement registry for 10 years.
 - The moderate-risk offenders, based on an actuarial risk assessment, shall be placed on either the public registry for life or the law enforcement registry for 20 years, based on the Board's decision rather than a presumption (see below).
 - The highest-risk offenders, based on an actuarial risk assessment, shall presumptively be placed on the public registry for life.
- In making such a classification, the Board shall use the scoring from validated actuarial risk assessment instruments, with the exception of moderate risk scoring. In addition, the Board may override the tier classification based on other factors including the nature and circumstance of the offense, any other aggravating or mitigating factors, and the impact to the victim, if known, and the community.
- The Board is within the executive branch.
- The Board's decision to place an offender on the law enforcement registry is not subject to appeal.
- The Board's decision to place an offender on the public registry may be appealed when the registrant requests a hearing before the Board.
- There shall be a presumption that an offender who scored high risk on the actuarial assessment will be placed on the public registry.
- For any offender who scored moderate risk on the actuarial assessment, the Board shall determine placement on the public or law enforcement registry by considering the factors set forth above in addition to the actuarial assessment. Given the extremely wide range of individuals who fall into a moderate range of risk (from just slightly above low risk to just slightly below high risk) and the extensive research on decision-making bias when there are no specific standards and guidelines in place, the registration board shall develop a set of evidence-based criteria to utilize a structured decision-making tool that takes into account the factors relevant to determine whether a moderate level individual would be best placed on the public or the law enforcement registry. There would be no statutory presumption of assignment to either the public registry for life or the law enforcement registry for 20 years.
- There shall be a presumption that an offender who scored low on the actuarial assessment will be placed on the law enforcement registry.
- After ten years on the public registry, an offender may petition the Board to be moved to the 20-year law enforcement registry.
- Victims shall be notified and may provide input when an offender petitions the Board for reclassification from the public registry to the law enforcement registry.
- An offender requesting a change in registration requirements shall be in compliance with the registry at the time of the request. A probation or parole

officer or the state's attorney may make a recommendation at the time of the request regarding an offender who is or has been under probation or parole supervision.

- At any time, a probation or parole officer or the state's attorney may request that an offender on the law enforcement registry be moved to the public registry because of the registrant's failure to meet conditions of parole or probation or new criminal activity.

ii. *Removal Mechanism*

- After 10 years on the law enforcement registry for 20-year registrants, an offender may petition the Superior Court to be removed from the registry.
- After five years on the law enforcement registry for 10-year registrants, an offender may petition the Superior Court to be removed from the registry.
- An offender is not eligible for removal directly from the public registry, but must be placed on the law enforcement registry first.
- A registrant would not be eligible to petition the court for removal sooner than (1) five years after the conviction for a felony offense not requiring registration, (2) three years after the conviction for a class A misdemeanor offense not requiring registration, or (3) one year after conviction for any other misdemeanor offense not requiring registration.
- The Superior Court shall hold a hearing for a petitioning offender eligible for removal. The court shall notify the Office of Victim Services within the Judicial Branch, the Victim Services Unit within the Department of Correction, the Office of the Chief Public Defender, and the appropriate state's attorney of the hearing date.
- The Office of the Chief Public Defender shall assign counsel for an indigent offender.
- The Superior Court shall order that a risk assessment be conducted unless the requirement is waived for good cause. The Superior Court may also refer the case to the Sex Offender Registration Board for assessment and recommendation.
- At the hearing, the court shall permit the registrant and the state's attorney to present evidence and allow the victim to make a statement. The victim shall also be allowed to submit a statement in writing.
- The court may order an offender's removal from the registry if, in the opinion of the court, such removal shall assist the offender in reintegration into the community and shall be consistent with public safety. In making this determination, the court shall consider the nature of the offense and the petitioner's conduct since the offense, including (1) the offender's history of sex offender and/or behavioral health treatment; (2) the results of any relevant risk assessments and evaluations by behavioral health professionals; (3) the offender's history of employment and education; (4) the offender's compliance with the terms of parole, probation, and the requirements of the sex offender registry; and (5) any other factors bearing on the offender's reintegration into the community. The registrant shall have the burden of proof by a preponderance of the evidence.

- If the court orders an offender removed from the registry, the court shall notify the DESPP; the Court Support Services Division, if applicable; and the Office of Victim Services within the Judicial Branch; the Parole and Community Services Division, if applicable; and the Victim Services Unit within the Department of Correction; and the local police department or the state police troop having jurisdiction over the registrant's address.
- The registrant and the state's attorney shall have the right to appeal the decision of the Superior Court and the decision of the court shall be subject to review for abuse of discretion.

3. Retroactive Changes to the Registry

i. "Grandfathered" Registrants

Offenders who were retroactively placed on the registry at the time the registry went into effect (i.e., offenders who were convicted prior to January 1, 1998, without knowledge that they would be subject to a registry) shall be eligible to petition the Superior Court for removal. Also eligible to petition the court for removal are offenders who would no longer be required to register but for the retroactive changes in law (i.e., the increase in the length of time an offender is required to register for an offense).

Victims shall be notified and have the opportunity to provide a statement as set forth above.

The Superior Court shall hold a hearing according to the procedures and criteria for removal set forth above. After the hearing, the court may (1) completely remove an offender from the registry or (2) move the offender to the law enforcement registry. In making such a determination, the court may refer the case to the Sex Offender Registration Board for assessment and recommendation.

If a request for removal is denied after a hearing, subsequent petitions may be filed 10 years after such a decision. For good cause shown, the Superior Court may permit a subsequent petition to be filed before the 10-year period.

ii. Other Offenders Currently on the Registry

Other offenders currently on the registry (i.e., those who were convicted after the creation of the registry) shall not be eligible to petition the court for removal from the registry. However, these offenders would be eligible to petition the Sex Offender Registration Board to move from the public to the law enforcement registry. The Board would use the criteria set forth above to determine whether to grant the request. If moved to the law enforcement registry, registrants shall continue to serve the remainder of their registration term as they are not eligible for removal. Victims shall be notified and have the opportunity to provide a statement if a registrant petitions to be moved to the law enforcement registry.

Offenders required to register for 10 years may petition the Board to move to the law enforcement registry after five years. Those required to register for life may petition after 10 years.

4. Further Details

Entities making classification decisions

- Sex Offender Registration Board
- Superior Court

Sex Offender Registration Board Membership

The Sex Offender Registration Board shall be comprised of eight members. The members of the Board shall be appointed as follows:

1. The Governor shall appoint two people with substantial experience in providing sexual assault victims with victim advocacy services.
2. Three clinicians who meet the criteria for clinical membership in the Connecticut Association for the Treatment of Sexual Offenders (CATSO) or the Association for the Treatment of Sexual Abusers (ATSA) and who have at least five years of experience in the assessment of sex offenders, nominated by the Chief Court Administrator and appointed by the Governor.
3. Three persons with at least five years of experience in sex offender management and supervision who have received training in evidence-based supervision of sex offenders, nominated by the Chief Court Administrator and appointed by the Governor.

Members of the Sex Offender Registration Board shall serve on a part-time per diem basis.

A panel consisting of three members of the Board, at least one of whom shall be from each of the above categories, shall meet to review and determine the classification of each registrant or make a recommendation for removal for each applicant.

Registry Tiers

- Public registry (High Risk)
- Law enforcement registry or public registry (Moderate Risk)
- Law enforcement registry (Low Risk)

Length of Registration Requirement

- Lifetime public registration
- 20 year law enforcement registration

- 10 year law enforcement registration

Residence Address Verification

- Quarterly for offenders on the public registry, plus an annual in-person verification of residence address by law enforcement or a probation or parole officer.
- Semiannually for offenders on the law enforcement registry for 20 years
- Annually for offenders on the law enforcement registry for 10 years.

Victim Notification

Victims would receive notification of (1) placement on the registry whether public or law enforcement and (2) the registrant’s address for the law enforcement registry.

Victims shall be permitted to provide input (1) when an offender petitions the Board or the Superior Court for reclassification from the public registry to the law enforcement registry and (2) when an offender petitions the Superior Court for removal from the registry.

The process for victim notification shall be developed in collaboration with victim advocacy services.

Table 1: Proposed Changes to Connecticut’s Registration of Sex Offenders Law

Tier	Access to the Registration	Duration on the Registry	Address Verification Requirement	Victim Notification*	
				Initial Placement	Offender’s Address
High Risk	Public	Lifetime	Quarterly	Yes	Public
Moderate Risk	Law enforcement only or public	20 years	Semiannually	Yes	Upon request
Low Risk	Law enforcement only	10 years	Annually	Yes	Upon request

*A victim may provide input to the Board when an offender petitions for reclassification from the public registry to the law enforcement registry or petitions the Superior Court for removal from the registry.

B. Additional Recommendations

1. Review (a) child pornography statutes and (b) the law on sexual assault in the second degree as it applies to those under age 21 to determine possible revisions related to sex offender registration requirements.
2. Continue the Sentencing Commission's study of sex offender sentencing, management, and registration to:
 - a. monitor and evaluate the effects of the change to the risk-based system;
 - b. ensure that supervision conditions are tailored to meet the person's criminogenic risk and need areas;
 - c. examine behavioral health issues related to sex offender management;
 - d. examine compliance with registry requirement and the consequences of technical violations;
 - e. require the Judicial Branch, in collaboration with the DESPP, to produce an annual report, enumerating the number of sexual assault cases presented in Connecticut criminal courts, including initial charge, plea, conviction, sentence, and indicating whether the person was on the sex offender registry at the time of the offense; the report shall also include Sex Offender Registry data as it pertains to conviction and registration terms; and
 - f. encourage the Judicial Branch to collaborate with the Department of Correction (DOC) to review recidivism rates for offenders convicted of a sex offense.
3. Consider adding conviction for human trafficking offenses to the list of violations that require registration.
4. To comply with federal sex offender registry requirements, amend the statutes to require registrants to notify DESPP (at least 21 days in advance) of any intention to travel outside the United States.
5. Oppose general housing and zoning residency restrictions for sex offenders other than appropriate limitations imposed as an individualized supervision condition, which will increase public safety and strengthen supervision of persons in the community.
6. To enhance the efficiency and proficiency of assessment, treatment and supervision services across the Judicial Branch and DOC:
 - a. maximize funding allocated to sex offender treatment and supervision,
 - b. maximize sex offender assessment and treatment resources by eliminating redundancy,
 - c. reduce technical violations of parole and probation supervision, and
 - d. deploy a more consistent and uniform sex offender treatment process throughout the system.

7. Maximize the communication and collaboration between the Judicial Branch and DOC's Parole and Community Services Division when transitioning sex offender supervision between agencies. This will:
 - a. increase public safety,
 - b. eliminate redundancy with respect to assessment and treatment services, and
 - c. ensure the timely and informed transfer of community supervision.
8. Coordinate sex offender assessment and supervision training efforts between the Judicial Branch and DOC to ensure all agencies, treatment and supervision staff adhere to established best practices and maximize training resources.
9. Build capacity and training among law enforcement officers and prosecutors to utilize trauma-informed interviewing techniques and improve investigation and prosecution of sexual assault cases.
10. Increase staffing and fully fund services for sexual assault victims, both of juvenile and adult offenders, and their supporters including pre- and post-conviction community and court-based victim advocacy services.
11. Require any proposed registry change to include establishing a multidisciplinary advisory group to plan for the implementation of the changes in ways that would minimize the impact on victims and prepare the law enforcement community for new procedures.
12. Increase staffing in post-conviction community and court-based advocacy services for sexual assault victims to ensure proper victim notification of registry-based hearings and support for submitting testimony or appearing at such hearings, before making prospective changes to the sex offender registry.
13. Any removal mechanism of sex offenders from the registry should be prospective and not retroactive to avoid the re-victimization of victims who believed at the time of sentencing that the sentence and the registry requirements were fixed.
14. Restructure and add additional information to the registry's public website, including:
 - Highlighting resources for victims of sexual assault such as the statewide sexual assault crisis hotlines, and the Judicial Branch's CT SAVIN.
 - Adding information regarding the offender's probation or parole status as well as stipulations
 - Making statutes pertaining to sex crimes available in clear and easy to understand language.
 - Creating "Statute FAQs" to describe in plain language the elements of each crime.
 - Creating a link to information for landlords and realtors regarding housing of offenders
 - Including a link to resources describing Connecticut's collaborative model for supervision and treatment and supports available to offenders re-entering the

community.

16. Expand the notifications provided through the Judicial Branch's CT SAVIN to include certain sex offender supervision classifications and sex offender registry statuses.
17. Maintain the collaborative model of supervision, treatment, and victim advocacy to support victims, increase community safety, and reduce recidivism among offenders.
18. Create material for landlords and public housing authorities to encourage them to rent to offenders.
19. Propose substantive changes to CGS § 54-261 "Community Response Education Program" to include proactive prevention education program and materials offered to municipalities and members of the public to understand Connecticut's collaborative model of supervision and treatment for offenders who have committed sex offenses and are reentering the community. The educational component should include information about interventions based on assessed risk, need, and protective factors in order to prevent new sex offenses. Materials and program should be created to encourage school districts to meet the K-12 educational requirements outlined in PA 14-196 "An Act Concerning a Statewide Sexual Abuse and Assault Awareness Program for Connecticut," which went into effect on October 1, 2016.

Appendix B

Proposed Constitutional Amendment on Pretrial Release and Detention

The Commission is seeking testimony on the ability of Connecticut's current pretrial justice system to justly and fairly maximize public safety, offenders' appearance in court, and the release of bailable defendants. In Connecticut, police officers, bail staff, and judges impose financial conditions of release—secured money bonds—on individuals held in custody prior to trial. Once imposed, a defendant is required to deposit an amount of money with a professional bail bondsman or the court in order to be released from jail.

The Commission is exploring the reasons in support of or opposition to a constitutional amendment on pretrial release and detention that would (a) permit denial of release for high-risk defendants and (b) deny detention of defendants for lack of funds to secure a bail bond.

Appendix C

Proposals that would minimize or prevent unintended collateral consequence of incarceration.

A. Adoption and Safe Families Act (ASFA) of 1997

Congress passed the ASFA in part to promote the safety, permanency, and well-being of children in foster care. One mandate of Section 103 of that law is that states must file a petition to terminate parental rights (TPR) on behalf of a child who has been in foster care for 15 consecutive months, or 15 of the most recent 22 months. Exceptions exist where: (1) at the option of the state, the child is being cared for by a relative; (2) the state finds that termination of parental rights would not be in the child's best interests; or (3) the state has not provided appropriate services for the safe return of the child to his or her home. The provision can be triggered by parental incarceration, even when the parent attempts to remain engaged in services designed to support reunification. Thus, despite the stated intent, the law may lead to the severance of family ties that is not in the best interests of the child. The Connecticut Sentencing Commission is considering proposing legislation that would address this concern. Listed below are some specific issues the Commission is reviewing.

- To further protect an incarcerated parent's ability to participate in child welfare case hearings, including by phone or video if in-person attendance is not possible.
- To ensure that an incarcerated parent's lack of participation in a required program does not disadvantage them if that parent did not have reasonable access to that program.
- To ensure that an incarcerated parent's lack of involvement in their child's life, when caused by factors beyond that parent's control despite the parent's good faith efforts, do not count against that parent in termination of parental rights proceedings.

B. An Act Concerning Misdemeanor Sentences.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 53a-26a is added to the Penal Code, to read:

Section 53a-26a. (a) Every offense which is prescribed by any law of the state to be punishable by imprisonment up to or not exceeding one year shall be punishable by imprisonment for a period not to exceed 364 days. This section shall apply to all offenses, regardless of the date the offense was committed. Any misdemeanor offense for which a person was sentenced to a term of imprisonment of one year shall still be regarded as a misdemeanor conviction.

(b) A person who was sentenced to a term of imprisonment of one year prior to the effective date of this legislation for an offense previously punishable by a term of imprisonment not to exceed one year may submit an application before the court that entered the judgment of conviction in the case to have the term of the sentence modified to the maximum term specified in subdivision (a). A motion for modification pursuant

to this section may be filed with the court at any time and shall be granted notwithstanding the date of conviction.

Rationale for the Proposal

By changing the maximum sentence for misdemeanor offenses by a single day, we hope to limit some of the most severe immigration consequences for offenses Connecticut only considers misdemeanors. This small change primarily targets two categories of offenses that trigger deportation and other immigration consequences under the Immigration and Nationality Act for all noncitizens, including green card holders. First, noncitizens convicted of a single offense where the maximum possible sentence is at least one year can be subject to deportation, regardless of the actual sentence imposed. Second, noncitizens actually sentenced to at least one year for certain offenses are subject to mandatory detention and deportation for conviction of an “aggravated felony,” even where the sentence is suspended. A one-day reduction in maximum sentences would help address the disconnect between the state’s misdemeanor offenses and the stark and asymmetrical immigration consequences that can result.

Under the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101 et seq., a single “crime involving moral turpitude” is a deportable offense if it is committed within five years of entry and punishable by a sentence of a year or more. 8 U.S.C. § 1227(a)(2)(A)(i). This ground of deportability is based on whether the offense is “a crime for which a sentence of one year or longer may be imposed,” not the actual length of the sentence imposed. 8 U.S.C. § 1227(a)(2)(A)(i)(II). Not only does this conviction render a person deportable, but it also renders individuals without green cards ineligible for cancellation of removal, an important form of discretionary relief from removal for individuals with longstanding family and community ties to the United States. 8 U.S.C. § 1229b(b)(1)(C). It thus prevents immigration judges from exercising discretion they would otherwise have to consider the totality of the circumstances in deciding a particular case.

A “crime involving moral turpitude” covers a broad swath of offenses. Although this area of law is still in flux, this term generally includes most assault offenses (*Guevara v. Holder*, 533 F. App’x 23, 27 (2d Cir. 2013)), almost all offenses involving fraud (*Mendez v. Mukasey*, 547 F.3d 345, 347 (2d Cir. 2008)), and almost all offenses involving theft, including petty theft offenses (*Chiaromonte v. INS*, 626 F.2d 1093, 1097 (2d Cir. 1980)). See Jorge L. Baron, et al., A Brief Guide to Representing Non-citizen Criminal Defendants in Connecticut 27-69 (revised May 2017), https://law.yale.edu/system/files/documents/pdf/Clinics/vlsc_CrimImmGuide.pdf.

The INA further classifies as “aggravated felonies” certain offenses that carry a sentence of one year or more, regardless of whether they are misdemeanors under state law or if the entire sentence imposed was suspended. The “aggravated felony” designation in turn triggers mandatory detention and deportation. The INA’s definition of aggravated felony includes “a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment [is] at least one year” and “a crime of violence (as defined in section 16 of title 18, but not including a purely political offense) for which the term of imprisonment at least one year.” 8 U.S.C. § 1101(a)(43)(F)-(G). See also *Forbes v. Lynch*, 642 F. App’x 29, 30 (2d Cir. 2016) (unpublished) (upholding classification of third-degree larceny under Connecticut law as a

theft offense constituting a deportable aggravated felony); *United States v. Pacheco*, 225 F. 3d 148 (2d Cir. 2000) (upholding classification of theft of \$10 videogame with one year suspended sentence as “aggravated felony”). If a person is convicted of an aggravated felony, that person becomes ineligible for nearly all forms of discretionary immigration relief, like asylum (which protects individuals with a well-founded fear of persecution in the country they fled), cancellation of removal, and special protections for certain victims of domestic violence. *See* 8 U.S.C. § 1158(b)(2)(B)(i) (rendering a person ineligible for asylum if convicted of aggravated felony); 8 U.S.C. § 1229b(b)(1)(C) (person convicted of aggravated felony is ineligible for cancellation of removal or adjustment of status); 8 U.S.C. § 1229(b)(2)(iv) (person convicted of aggravated felony is also ineligible for cancellation of removal or adjustment of status as a battered spouse or child).

While this minor change would protect noncitizens convicted of certain misdemeanor offenses, for some offenses it would not stave off deportation consequences under separate provisions of the INA, regardless of the maximum possible or actual sentence. These convictions include offenses relating to domestic violence, violating an order of protection, drug offenses, and firearm convictions. *See, e.g.*, 8 U.S.C. § 1227(a)(2)(B) (deportable for a single controlled substance conviction); 8 U.S.C. § 237(a)(2)(C) (deportable for a single firearm conviction); 8 U.S.C. § 1227(a)(2)(E) (deportable for a single domestic violence conviction or conviction for violating an order of protection). A noncitizen would also be deportable for multiple convictions for “crimes involving moral turpitude,” regardless of the maximum penalty for each offense. 8 U.S.C. § 1227(a)(2)(A)(ii).

This one-day change can shield Connecticut’s residents from some of the most severe immigration consequences that can result from a single misdemeanor conviction.

C. An Act Concerning Family Impact Statements

Purpose: *To require that a Family Impact Statement be considered by the court prior to sentencing in any case in which a custodial parent will be incarcerated.*

Be it enacted by the Senate and House of Representatives in General Assembly convened:

(NEW) (*Effective October 1, 2018*) (a) Prior to sentencing a defendant convicted of a misdemeanor or motor vehicle offense for which a sentence of imprisonment may be imposed, the court shall permit the defendant to submit a Family Impact Statement if the defendant is the parent or guardian of a minor child and has physical custody of the minor child. The judge shall consider such Family Impact Statement prior to pronouncing any sentence.

(b) A Family Impact Statement submitted by a defendant pursuant to subsection (a) of this section may address the impact on the minor child and other family members that would result if the defendant is sentenced to a term of imprisonment, including, but not limited to, the impact on the financial needs of the child and other family members, the relationship between the defendant and the child, the availability of community and family support for the child, the defendant's employment history and available employment opportunities, programs available to rehabilitate

the defendant if the defendant is not sentenced to a term of imprisonment, the seriousness of the offense and the defendant's criminal history.

(c) Nothing in this section shall be construed as creating a basis for vacating a conviction or ground for appellate relief in a criminal case.

D. Proposed Automatic Erasure of Record for Certain Offense

Connecticut does not have a mechanism providing for mandatory or automatic erasure of adult court convictions after a period of time. Instead, Connecticut relies on the discretionary pardons process provided by the Board of Pardons and Paroles.

The Commission is exploring the possibility of proposing legislation that would provide for automatic erasure of misdemeanor convictions if certain conditions are met including but not limited to (1) the passage of five years after the date of the conviction and (2) remaining conviction-free during that time.

The Commission is also exploring the possibility of automatic erasure of criminal records of certain individuals convicted when they were 16 or 17 years old prior to the passage of the Raise the Age legislation. These individuals are now treated as juveniles unless they can be transferred to adult court.