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CLIENT ADVISORY

Criminal Law
Adopted Legislation
October 2009

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Forensic Testing

This public act states that written consent of the prosecuting attorney is needed prior to the Department of State Police or the Division of Forensic Services contracting out forensic testing for any active investigation or for any matter pending before a court of competent jurisdiction.

Effective August 24, 2009. *See Public Act 96-0642.*

Eavesdropping Devices

This public act exempts as an eavesdropping device the use by a law enforcement officer or an individual acting on behalf of a law enforcement individual of an eavesdropping camera or audio device during an ongoing hostage or barricade situation when the use of such device is necessary to protect the safety of the general public.

Effective January 1, 2010. *See Public Act 96-0643.*

Eavesdropping and Police Recordings

This public act exempts as an eavesdropping device the use of an in-car video camera which records conversations of a peace officer and individual conversations under certain circumstances. This public act also exempts recordings of sounds made by a person while in the presence of a uniformed peace officer and while an occupant of a police vehicle, as well as recordings during the use of a taser weapon by a peace officer. These recordings shall be retained by the law enforcement agency that employs the peace officer for a period of 90 days, unless the recordings are part of an arrest record or deemed as evidence in any criminal, civil or administrative proceeding. These recordings will then be destroyed upon court order.

Effective August 25, 2009. *See Public Act 96-0670.*

Law Enforcement Records

This public act states that a minor who has been charged with a misdemeanor offense as a first offense, is entitled to an expungement review by the court unless there are certain objections. The expungement review is conducted upon the minor's 18th birthday or upon completion of the minor's sentence or disposition of the charge against the minor, whichever is later. This public act also defines "expunge" as physically destroying the minor's records and removing the minor's name from any official index or public record, or both. This public act also requires that law enforcement records for minors arrested for an offense prior to their 17th birthday or minors arrested for a non-felony offense, if committed by an adult prior to their 18th birthday, shall not be forwarded to the FBI unless the minor was charged as an adult.

Effective January 1, 2010. *See Public Act 96-0707.*

Possession of Firearm

This public act amends the Unified Code of Corrections to require, as a condition of probation or discharge, that an individual refrain from the possession of a firearm or other dangerous weapon where the original offense is a felony or, if a misdemeanor, the offense involved the intentional or knowing infliction, or threat, of bodily harm.

Effective August 25, 2009. *See Public Act 96-0695.*

Stalking

The Criminal Code of 1961 is amended to expand the meaning of "stalking" to include a person knowingly

engaging in conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of a third person or to suffer emotional distress. The Code also expands the meaning of “cyberstalking” to include using electronic communications directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of a third person or to suffer emotional distress. The Code is also amended to define various terms in relation to stalking and cyberstalking and list various actions that are not considered stalking.

The Code is further amended to include as aggravated stalking a violation of a no contact order or a violation of a civil no contact order.

Effective January 1, 2010. *See Public Act 96-0686.*

Loans To Ex-Offenders

This Department of Commerce and Economic Opportunity Law of the Civil Administrative Code is amended to allow the Department of Commerce and Economic Opportunity to establish an ex-offender business ownership grant and loan program. The Department will provide grants to organizations that work with ex-offenders to facilitate the re-entry of ex-offenders into society.

Effective January 1, 2010. *See Public Act 96-0656.*

Assessment For Bail

The Code of Criminal Procedure is amended to allow the court to order a risk assessment evaluation by a program provider, pretrial service, probation, or parole agency of any person who is charged with a violation of an order of protection based on information contained in the complaint or police report. These agencies shall have a summary of the defendant’s criminal history for the evaluation. This amendment also sets forth requirements that any global positioning technology must have before it may be used pursuant to the Code.

Effective August 25, 2009. *See Public Act 96-0688.*