



General Assembly

February Session, 2002

Raised Bill No. 5515

LCO No. 1603

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING PROTECTION FOR VICTIMS OF CRIME.

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

1 Section 1. (NEW) (*Effective October 1, 2002*) (a) A person is guilty of
2 criminal violation of a protective order in the first degree when such
3 person commits criminal violation of a protective order in the second
4 degree as provided in section 53a-223 of the general statutes, as
5 amended by this act, and, in the commission of such offense, commits
6 any other offense under chapter 952 of the general statutes.

7 (b) Criminal violation of a protective order in the first degree is a
8 class D felony, provided any person found guilty under this section
9 shall be sentenced to a term of imprisonment of which thirty days of
10 the sentence imposed may not be suspended or reduced by the court,
11 except that if the commission of such other offense under chapter 952
12 of the general statutes involved the use, attempted use or threatened
13 use of physical force against another person, sixty days of the sentence
14 imposed may not be suspended or reduced by the court.

15 Sec. 2. Section 53a-223 of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective October 1, 2002*):

17 (a) A person is guilty of criminal violation of a protective order in
18 the second degree when an order issued pursuant to subsection (e) of
19 section 46b-38c, as amended by this act, or section 54-1k, as amended
20 by this act, or 54-82r, as amended by this act, has been issued against
21 such person, and such person violates such order.

22 (b) Criminal violation of a protective order in the second degree is a
23 class A misdemeanor.

24 Sec. 3. Section 53a-40d of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective October 1, 2002*):

26 (a) A persistent offender of crimes involving assault, stalking,
27 trespass, threatening, harassment or criminal violation of a protective
28 order is a person who (1) stands convicted of assault in the third
29 degree under section 53a-61, stalking in the second degree under
30 section 53a-181d, threatening in the second degree under section 53a-
31 62, as amended, harassment in the second degree under section 53a-
32 183, criminal violation of a protective order in the first degree under
33 section 1 of this act, criminal violation of a protective order in the
34 second degree under section 53a-223, as amended by this act, [or]
35 criminal trespass in the first degree under section 53a-107, as amended
36 by this act, or criminal trespass in the second degree under section 53a-
37 108, and (2) has, within the five years preceding the commission of the
38 present crime, been convicted of a capital felony, a class A felony, a
39 class B felony, except a conviction under section 53a-86 or 53a-122, a
40 class C felony, except a conviction under section 53a-87, 53a-152 or 53a-
41 153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-
42 72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216,
43 assault in the third degree under section 53a-61, stalking in the second
44 degree under section 53a-181d, threatening in the second degree under
45 section 53a-62, as amended, harassment in the second degree under
46 section 53a-183, criminal violation of a protective order in the first
47 degree under section 1 of this act, criminal violation of a protective
48 order in the second degree under section 53a-223, as amended by this

49 act, [or] criminal trespass in the first degree under section 53a-107, as
50 amended by this act, or criminal trespass in the second degree under
51 section 53a-108 or has been released from incarceration with respect to
52 such conviction, whichever is later.

53 (b) When any person has been found to be a persistent offender of
54 crimes involving assault, stalking, trespass, threatening, harassment or
55 criminal violation of a protective order, and the court is of the opinion
56 that his history and character and the nature and circumstances of his
57 criminal conduct indicate that an increased penalty will best serve the
58 public interest, the court shall: (1) If the crime is a felony, in lieu of
59 imposing the sentence authorized for the crime under section 53a-35a,
60 impose the sentence of imprisonment authorized by section 53a-35a for
61 the next more serious degree of felony; or (2) if the crime is a
62 misdemeanor, in lieu of imposing the sentence authorized for the
63 crime under section 53a-36, impose the sentence of imprisonment
64 authorized by [said] section 53a-36 for the next more serious degree of
65 misdemeanor, except that if the crime is a class A misdemeanor the
66 court shall impose the sentence of imprisonment for a class D felony,
67 as authorized by section 53a-35a.

68 Sec. 4. Section 53a-107 of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2002*):

70 (a) A person is guilty of criminal trespass in the first degree when:
71 (1) Knowing that such person is not licensed or privileged to do so,
72 such person enters or remains in a building or any other premises after
73 an order to leave or not to enter personally communicated to such
74 person by the owner of the premises or other authorized person; or (2)
75 such person enters or remains in a building or any other premises in
76 violation of a restraining order issued by the Superior Court pursuant
77 to section 46b-15, as amended. [or a protective order issued pursuant
78 to section 46b-38c, 54-1k or 54-82r by the Superior Court.]

79 (b) Criminal trespass in the first degree is a class A misdemeanor.

80 Sec. 5. Subsection (e) of section 46b-38c of the general statutes is
81 repealed and the following is substituted in lieu thereof (*Effective*
82 *October 1, 2002*):

83 (e) A protective order issued under this section may include
84 provisions necessary to protect the victim from threats, harassment,
85 injury or intimidation by the defendant, including, but not limited to,
86 an order enjoining the defendant from (1) imposing any restraint upon
87 the person or liberty of the victim; (2) threatening, harassing,
88 assaulting, molesting or sexually assaulting the victim; or (3) entering
89 the family dwelling or the dwelling of the victim. Such order shall be
90 made a condition of the bail or release of the defendant and shall
91 contain the following language: "In accordance with section 53a-223 of
92 the general statutes, any violation of this order constitutes criminal
93 violation of a protective order. [Additionally, in accordance with
94 section 53a-107, entering or remaining in a building or any other
95 premises in violation of this order constitutes criminal trespass in the
96 first degree. These are criminal offenses each] This is a criminal offense
97 punishable by a term of imprisonment of not more than one year, a
98 fine of not more than two thousand dollars, or both. Violation of this
99 order also violates a condition of your bail or release, and may result in
100 raising the amount of bail or revoking release." Every order of the
101 court made in accordance with this section after notice and hearing
102 shall also contain the following language: "This court had jurisdiction
103 over the parties and the subject matter when it issued this protection
104 order. Respondent was afforded both notice and opportunity to be
105 heard in the hearing that gave rise to this order. Pursuant to the
106 Violence Against Women Act of 1994, 18 USC 2265, this order is valid
107 and enforceable in all fifty states, any territory or possession of the
108 United States, the District of Columbia, the Commonwealth of Puerto
109 Rico and tribal lands." The Department of Public Safety, in cooperation
110 with the Office of the Chief Court Administrator, shall establish a
111 twenty-four-hour registry of protective orders on the Connecticut on-
112 line law enforcement communications teleprocessing system.

113 Sec. 6. Section 46b-38h of the general statutes is repealed and the
114 following is substituted in lieu thereof (*Effective October 1, 2002*):

115 If any person is convicted of a violation of section 53a-59, 53a-59a,
116 53a-60, 53a-60a, 53a-60b, as amended, 53a-60c, 53a-70, 53a-70a, 53a-70b,
117 53a-71, 53a-72a, 53a-72b, 53a-181c, 53a-181d, 53a-181e, 53a-223, as
118 amended by this act, or 53a-223a, or section 1 of this act, against a
119 family or household member, as defined in section 46b-38a, or a
120 person in a dating relationship, the court shall include a designation
121 that such conviction involved domestic violence on the court record for
122 the purposes of criminal history record information, as defined in
123 subsection (a) of section 54-142g.

124 Sec. 7. Subsection (b) of section 54-1g of the general statutes is
125 repealed and the following is substituted in lieu thereof (*Effective*
126 *October 1, 2002*):

127 (b) Any arrested person who is charged with a violation of section 1
128 of this act or section 53a-223, as amended by this act, shall be promptly
129 presented to the superior court next sitting for the geographical area
130 where the offense is alleged to have been committed. If the alleged
131 offense was committed in a geographical area of the Superior Court
132 other than the geographical area where the protective order was
133 issued, the prosecutorial official for the geographical area [of the
134 Superior Court] where the alleged offense was committed shall notify
135 the prosecutorial official for the geographical area where the protective
136 order was issued of the alleged violation of such protective order. On
137 motion of any party or the court, the prosecution of such offense may
138 be transferred to the superior court for the geographical area where the
139 protective order was issued.

140 Sec. 8. Section 54-1k of the general statutes is repealed and the
141 following is substituted in lieu thereof (*Effective October 1, 2002*):

142 Upon the arrest of a person for a violation of section 53a-181c, 53a-
143 181d or 53a-181e the court may issue a protective order pursuant to

144 this section. Such order shall be an order of the court, and the clerk of
145 the court shall cause a certified copy of such order to be sent to the
146 victim, and a certified copy of such order to be sent within forty-eight
147 hours of its issuance to the appropriate law enforcement agency. A
148 protective order issued under this section may include provisions
149 necessary to protect the victim from threats, harassment, injury or
150 intimidation by the defendant, including, but not limited to, an order
151 enjoining the defendant from (1) imposing any restraint upon the
152 person or liberty of the victim; (2) threatening, harassing, assaulting,
153 molesting or sexually assaulting the victim; or (3) entering the
154 dwelling of the victim. Such order shall be made a condition of the bail
155 or release of the defendant and shall contain the following language:
156 "In accordance with section 53a-223 of the general statutes, any
157 violation of this order constitutes criminal violation of a protective
158 order. [Additionally, in accordance with section 53a-107, entering or
159 remaining in a building or any other premises in violation of this order
160 constitutes criminal trespass in the first degree. These are criminal
161 offenses each] This is a criminal offense punishable by a term of
162 imprisonment of not more than one year, a fine of not more than two
163 thousand dollars, or both. Violation of this order also violates a
164 condition of your bail or release and may result in raising the amount
165 of bail or revoking release." Any protective order issued under this
166 section shall be entered in the registry of protective orders established
167 under subsection (e) of section 46b-38c, as amended by this act.

168 Sec. 9. Subsection (c) of section 54-69 of the general statutes is
169 repealed and the following is substituted in lieu thereof (*Effective*
170 *October 1, 2002*):

171 (c) Notwithstanding the provisions of subsection (b) of this section,
172 a hearing may be had on an application by any such state's attorney
173 without a copy of such application and notice of the hearing being
174 served upon the surety or sureties upon such bond, if any, the
175 appropriate bail commissioner and the accused person if the accused
176 person is charged with the commission of a family violence crime, as

177 defined in section 46b-38a, or a violation of section 53a-181c, 53a-181d,
178 53a-181e or 53a-223, as amended by this act, or section 1 of this act, and
179 is being presented at [the next sitting of] the Superior Court as
180 required by section 54-1g, as amended by this act.

181 Sec. 10. Subsection (b) of section 54-82r of the general statutes is
182 repealed and the following is substituted in lieu thereof (*Effective*
183 *October 1, 2002*):

184 (b) A protective order shall set forth the reasons for the issuance of
185 such order, be specific in terms and describe in reasonable detail, and
186 not by reference to the complaint or other document, the act or acts
187 being restrained. A protective order issued under this section may
188 include provisions necessary to protect the witness from threats,
189 harassment, injury or intimidation by the adverse party including, but
190 not limited to, enjoining the adverse party from (1) imposing any
191 restraint upon the person or liberty of the witness, (2) threatening,
192 harassing, assaulting, molesting or sexually assaulting the witness, or
193 (3) entering the dwelling of the witness. Such order shall contain the
194 following language: "In accordance with section 53a-223 of the general
195 statutes, any violation of this order constitutes criminal violation of a
196 protective order. [Additionally, in accordance with section 53a-107 of
197 the general statutes, entering or remaining in a building or any other
198 premises in violation of this order constitutes criminal trespass in the
199 first degree. These are criminal offenses each] This is a criminal offense
200 punishable by a term of imprisonment of not more than one year, a
201 fine of not more than two thousand dollars, or both." If the adverse
202 party is the defendant in the criminal case, such order shall be made a
203 condition of the bail or release of the defendant and shall also contain
204 the following language: "Violation of this order also violates a
205 condition of your bail or release and may result in raising the amount
206 of bail or revoking release."

207 Sec. 11. (NEW) (*Effective October 1, 2002*) (a) As used in this section:

208 (1) "Employer" means (A) any person, firm, corporation, limited

209 liability company, partnership or association engaged in business who
210 has employees in this state, and (B) the state and any political
211 subdivision of the state;

212 (2) "Employee" means any person who is a crime victim, as defined
213 in section 1-1k of the general statutes, and who is employed by an
214 employer; and

215 (3) "Undue hardship" means a significant difficulty and expense to
216 an employer's business or operations, taking into consideration the
217 size of the employer's business or operations and the employer's
218 critical need for a specific employee.

219 (b) An employer and any agent of such employer shall allow an
220 employee to leave work to exercise any right guaranteed to a crime
221 victim under subsection b. of article twenty-ninth of the amendments
222 to the Constitution of the state or any right provided to a crime victim
223 by any provision of the general statutes.

224 (c) An employer is not required to compensate an employee when
225 the employee leaves work pursuant to subsection (b) of this section.
226 The employee may elect to use, or the employer may require the
227 employee to use, the employee's accrued paid vacation, personal leave
228 or sick leave when the employee leaves work pursuant to subsection
229 (b) of this section. An employer may limit the amount of time for
230 which an employee is allowed to leave work pursuant to subsection (b)
231 of this section if the absence of the employee creates an undue
232 hardship to the employer's business or operations.

233 (d) An employer shall not deprive an employee of the employee's
234 employment, or penalize, threaten or otherwise coerce the employee
235 with respect to such employment, including, but not limited to,
236 depriving an employee of benefits or seniority, because the employee
237 leaves work pursuant to subsection (b) of this section or based on the
238 employee's status as a crime victim.

239 (e) If requested by an employer, an employee shall provide to the
240 employer, not later than two business days prior to leaving work
241 pursuant to subsection (b) of this section, a copy of the notice provided
242 to the employee pursuant to section 51-286e of the general statutes or,
243 in the case of an employee of the state, a form prepared and furnished
244 by the employing state agency that includes the case name, docket
245 number and date of the proceeding.

246 (f) Notwithstanding any provision of the general statutes, any
247 employment record or portion of such record documenting an
248 employee leaving work pursuant to subsection (b) of this section shall
249 be confidential.

250 (g) The Commissioner of Administrative Services shall adopt
251 regulations, in accordance with the provisions of chapter 54 of the
252 general statutes, to establish procedures and guidelines necessary to
253 implement the provisions of this section as applied to employees of the
254 state. Such regulations shall include, but not be limited to, procedures
255 for the periodic reporting by state agencies to the commissioner
256 concerning the agencies' current experience with leave time taken
257 pursuant to subsection (b) of this section.

258 (h) The Labor Commissioner shall adopt regulations, in accordance
259 with the provisions of chapter 54 of the general statutes, to establish
260 procedures and guidelines necessary to implement the provisions of
261 this section as applied to employees other than employees of the state.
262 Such regulations shall include, but not be limited to, (1) procedures of
263 the Labor Department for hearings and redress, including restoration
264 and restitution, for an employee who believes that there is a violation
265 by an employer of any provision of this section, and (2) procedures for
266 the periodic reporting by employers to the commissioner concerning
267 the employers' current experience with leave time taken pursuant to
268 subsection (b) of this section.

269 Sec. 12. (NEW) (*Effective October 1, 2002*) It is unlawful for an
270 employer or any agent of such employer to refuse to hire or employ a

271 crime victim because the crime victim has left work pursuant to section
272 11 of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>
Sec. 8	<i>October 1, 2002</i>
Sec. 9	<i>October 1, 2002</i>
Sec. 10	<i>October 1, 2002</i>
Sec. 11	<i>October 1, 2002</i>
Sec. 12	<i>October 1, 2002</i>

Statement of Purpose:

To provide for the crimes of criminal violation of a protective order in the first and second degrees, to provide for increased penalties for persistent offenders of such crimes, to revise the elements of the crime of criminal trespass in the first degree by eliminating provisions concerning the entering or remaining in a building or other premises in violation of a protective order, to make certain conforming changes and to establish provisions concerning employment leave and employment protection for crime victims.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]