



General Assembly

February Session, 2002

Amendment

LCO No. 4525

SB0033404525HD0

Offered by:

REP. MUSHINSKY, 85th Dist.

SEN. WILLIAMS, 29th Dist.

REP. LAWLOR, 99th Dist.

To: Subst. Senate Bill No. 334

File No. 369

Cal. No. 397

"AN ACT CONCERNING DOMESTIC VIOLENCE."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2002*) (a) A person is guilty of
4 criminal violation of a restraining order when a restraining order has
5 been issued against such person pursuant to section 46b-15 of the
6 general statutes, as amended by this act, and such person, having
7 knowledge of the terms of the order (1) does not stay away from a
8 person or place in violation of the order, (2) contacts a person in
9 violation of the order, (3) imposes any restraint upon the person or
10 liberty of a person in violation of the order, or (4) threatens, harasses,
11 assaults, molests, sexually assaults or attacks a person in violation of
12 the order.

13 (b) Criminal violation of a restraining order is a class A
14 misdemeanor.

15 Sec. 2. (NEW) (*Effective October 1, 2002*) The Superior Court shall
16 provide any person who applies for a restraining order in a domestic
17 violence situation with information on steps necessary to continue
18 such order beyond the initial period and shall provide an applicant
19 with information on how to contact domestic violence counselors and
20 counseling organizations.

21 Sec. 3. Section 53a-223 of the general statutes is repealed and the
22 following is substituted in lieu thereof (*Effective October 1, 2002*):

23 (a) A person is guilty of criminal violation of a protective order
24 when an order issued pursuant to subsection (e) of section 46b-38c, or
25 section 54-1k or 54-82r has been issued against such person, and such
26 person violates such order.

27 (b) Criminal violation of a protective order is a class [A
28 misdemeanor] D felony.

29 Sec. 4. Section 53a-40d of the general statutes is repealed and the
30 following is substituted in lieu thereof (*Effective October 1, 2002*):

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

47 amended, harassment under section 53a-183, criminal violation of a
48 protective order under section 53a-223, as amended by this act,
49 criminal violation of a restraining order under section 1 of this act, or
50 criminal trespass under section 53a-107 or 53a-108 or has been released
51 from incarceration with respect to such conviction, whichever is later.

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

65 Sec. 5. Subsection (c) of section 54-69 of the general statutes is
66 repealed and the following is substituted in lieu thereof (*Effective*
67 *October 1, 2002*):

68 (c) Notwithstanding the provisions of subsection (b) of this section,
69 a hearing may be had on an application by any such state's attorney
70 without a copy of such application and notice of the hearing being
71 served upon the surety or sureties upon such bond, if any, the
72 appropriate bail commissioner and the accused person if the accused
73 person is charged with the commission of a family violence crime, as
74 defined in section 46b-38a, or a violation of section 53a-181c, 53a-181d,
75 53a-181e, [or] 53a-223, as amended by this act, or section 1 of this act
76 and is being presented at the next sitting of the Superior Court as
77 required by section 54-1g, as amended by this act.

78 Sec. 6. (NEW) (*Effective October 1, 2002*) Upon the receipt of a report

79 of suspected abuse of any child committed to the Commissioner of
80 Children and Families as delinquent, the Department of Children and
81 Families shall, no later than ten days after receipt of the complaint,
82 provide written notification of such report to the child's legal guardian
83 and the child's attorney in the delinquency proceeding that resulted in
84 the commitment. If, after investigation, the department substantiates
85 the reported abuse, the department shall, no later than ten days after
86 receipt of the complaint, provide written notification to the child's
87 legal guardian and the child's attorney in the delinquency proceeding
88 that resulted in the commitment of the substantiation of the reported
89 abuse.

90 Sec. 7. Subsection (e) of section 46b-15 of the general statutes, as
91 amended by section 12 of public act 01-130, is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2002*):

93 (e) The applicant shall cause notice of the hearing pursuant to
94 subsection (b) of this section and a copy of the application and the
95 applicant's affidavit and of any ex parte order issued pursuant to
96 subsection (b) of this section to be served on the respondent not less
97 than five days before the hearing. Upon the granting of an ex parte
98 order, the clerk of the court shall provide two certified copies of the
99 order to the applicant and a copy to the Family Division. Upon the
100 granting of an order after notice and hearing, the clerk of the court
101 shall provide two certified copies of the order to the applicant and a
102 copy to the Family Division and a copy to the respondent. Every order
103 of the court made in accordance with this section after notice and
104 hearing shall contain the following language: "This court had
105 jurisdiction over the parties and the subject matter when it issued this
106 protection order. Respondent was afforded both notice and
107 opportunity to be heard in the hearing that gave rise to this order.
108 Pursuant to the Violence Against Women Act of 1994, 18 USC 2265,
109 this order is valid and enforceable in all fifty states, any territory or
110 possession of the United States, the District of Columbia, the
111 Commonwealth of Puerto Rico and tribal lands." [The clerk of the
112 court shall send a certified copy of any ex parte order and of any order

113 after notice and hearing to the law enforcement agency for the town in
 114 which the applicant resides and, if the respondent resides in a town
 115 different than the town in which the applicant resides, to the law
 116 enforcement agency for the town in which the respondent resides,
 117 within forty-eight hours of the issuance of such order. If the applicant
 118 is employed in a town different than the town in which the applicant
 119 resides, the clerk of the court shall, upon the request of the applicant,
 120 send a certified copy of any such order, to the law enforcement agency
 121 for the town in which the applicant is employed within forty-eight
 122 hours of the issuance of such order.] Immediately after making service
 123 on the respondent, the state marshal shall provide a true and attested
 124 copy of any ex parte order, including the applicant's affidavit and a
 125 cover sheet stating the date and time the respondent was served, to the
 126 law enforcement agency for the town in which the applicant resides. If
 127 the respondent was not served in such town, the state marshal shall
 128 immediately transmit by facsimile a true and attested copy to the law
 129 enforcement agency for the town in which the respondent resides. If
 130 the applicant is employed in a town different than the town in which
 131 the applicant resides, or in which the respondent resides, the state
 132 marshal shall transmit by facsimile a true and attested copy of any
 133 such order, including the applicant's affidavit, to the law enforcement
 134 agency for the town in which the applicant is employed."

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>