



House of Representatives

General Assembly

File No. 622

January Session, 2003

Substitute House Bill No. 6566

House of Representatives, May 1, 2003

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FULL FAITH AND CREDIT FOR FOREIGN ORDERS OF PROTECTION.

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

1 Section 1. Section 46b-15a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) For the purposes of this section, "foreign order of protection"
4 means any protection order, as defined in 18 USC 2266, as from time to
5 time amended, or similar restraining or protective order issued by a
6 court of another state, the District of Columbia, a commonwealth,
7 territory or possession of the United States or an Indian tribe.

8 (b) A valid foreign order of protection that is consistent with 18 USC
9 2265, as from time to time amended, shall be accorded full faith and
10 credit by a court of this state and may be enforced as if it were the
11 order of a court in this state. A foreign order of protection shall be
12 presumed valid if such order is a certified copy from the issuing court.

13 The fact that a foreign order of protection has not been entered into the
14 automated registry of protective orders maintained pursuant to section
15 51-5c, as amended by this act, the Connecticut on-line law enforcement
16 communication teleprocessing system maintained by the Department
17 of Public Safety or the National Crime Information Center (NCIC)
18 computerized index of criminal justice information shall not be
19 grounds for refusing to enforce such order in this state.

20 (c) A law enforcement officer shall enforce a foreign order of
21 protection in accordance with its terms and the law of this state, and
22 shall arrest any person suspected of violating such order and charge
23 such person with a violation of section 53a-223b, as amended by this
24 act. Nothing in this subsection shall affect the responsibility of a law
25 enforcement officer to make an arrest pursuant to section 46b-38b.

26 (d) It shall be an affirmative defense in any action seeking
27 enforcement of a foreign order of protection or any criminal
28 prosecution involving the violation of a foreign order of protection that
29 such order is not consistent with or entitled to full faith and credit
30 pursuant to 18 USC 2265, as from time to time amended.

31 (e) A child custody provision in a foreign order of protection may be
32 enforced in this state if such provision (1) complies with the Uniform
33 Child Custody Jurisdiction Act or the Uniform Child Custody
34 Jurisdiction and Enforcement Act, and (2) is consistent with the
35 Parental Kidnapping Prevention Act of 1980, 28 USC 1738A, as from
36 time to time amended.

37 [(a) A protective order issued by a court of another state] (f) A
38 foreign order of protection may be registered in this state [,] by
39 sending to the Superior Court in this state: (1) A letter or other
40 document requesting registration; (2) two copies, including one
41 certified copy, of the [protective order] foreign order of protection
42 sought to be registered [,] and a statement under penalty of perjury
43 that, to the best of the knowledge and belief of the petitioner, the order
44 has not been modified; and (3) the name and address of the person
45 seeking registration, except [where such] if the disclosure of such name

46 and address would jeopardize the safety of such person.

47 ~~[(b)]~~ (g) On receipt of the documents required in subsection [(a)] (f)
48 of this section, the registering court shall: ~~[cause the protective order]~~
49 (1) Cause the foreign order of protection to be filed as a foreign
50 judgment, together with one copy of any accompanying documents
51 and information, regardless of their form; ~~and~~ (2) cause the foreign
52 order of protection to be entered in the automated registry of
53 protective orders maintained pursuant to section 51-5c, as amended by
54 this act, together with any accompanying information required or
55 permitted to be contained in the registry of protective orders pursuant
56 to the procedures adopted by the Chief Court Administrator under
57 section 51-5c, as amended by this act.

58 [(c) Within five days of the receipt by the registering court of the
59 documents required by subsection (a) of this section, the petitioner
60 shall notify any person named in the protective order of the
61 registration of the documents by certified mail, return receipt
62 requested, at the last-known address or by personal service, and
63 provide any such person with an opportunity to contest the
64 registration in accordance with this section. The notice required by this
65 subsection shall state that (1) a registered protective order is
66 enforceable as of the date of the registration in the same manner as a
67 protective order issued by a court of this state, (2) a hearing to contest
68 the validity of the registered protective order may be requested within
69 twenty days after service of notice, and (3) failure to contest the
70 registration shall, upon proof of notice, result in the confirmation of
71 the protective order and preclude further contest of such protective
72 order with respect to any matter that could be asserted.

73 (d) The respondent may request a hearing within twenty days after
74 service of the notice. At any such hearing, the court shall confirm the
75 registered order unless the person contesting the registration
76 establishes that (1) the issuing court did not have jurisdiction, (2) the
77 protective order sought to be registered has been vacated, stayed or
78 modified by a court having jurisdiction to do so, or (3) the respondent

79 was entitled to notice of the proceeding before the court that issued the
80 order for which registration is sought, but no such notice was given.

81 (e) If a timely request for a hearing to contest the validity of the
82 registration is not made, the registration is confirmed as a matter of
83 law with respect to those who have received proper notice and the
84 petitioner shall notify all such persons of the confirmation.

85 (f) Confirmation of a registered order, whether by operation of law
86 or after notice and hearing, precludes further contest of the order with
87 respect to any matter that could have been asserted at the time of
88 registration.]

89 Sec. 2. Subsection (a) of section 51-5c of the general statutes is
90 repealed and the following is substituted in lieu thereof (*Effective*
91 *October 1, 2003*):

92 (a) The Chief Court Administrator shall establish and maintain an
93 automated registry of protective orders that shall contain (1) protective
94 or restraining orders issued by courts of this state, including, but not
95 limited to, orders issued pursuant to sections 46b-15, 46b-38c, 53a-40e,
96 54-1k, 54-82q and 54-82r, and [may also contain protective orders
97 issued by courts of other states] (2) foreign orders of protection that
98 have been registered in this state pursuant to section 46b-15a, as
99 amended by this act. The registry shall clearly indicate the date of
100 commencement, the termination date, if specified, and the duration of
101 any order contained therein. The Chief Court Administrator shall
102 adopt policies and procedures for the operation of the registry.

103 Sec. 3. Section 53a-107 of the general statutes is repealed and the
104 following is substituted in lieu thereof (*Effective October 1, 2003*):

105 (a) A person is guilty of criminal trespass in the first degree when:
106 (1) Knowing that such person is not licensed or privileged to do so,
107 such person enters or remains in a building or any other premises after
108 an order to leave or not to enter personally communicated to such
109 person by the owner of the premises or other authorized person; or (2)

110 such person enters or remains in a building or any other premises in
111 violation of a restraining order issued pursuant to section 46b-15 or a
112 protective order issued pursuant to section 46b-38c, 54-1k or 54-82r by
113 the Superior Court; or (3) such person enters or remains in a building
114 or any other premises in violation of a foreign order of protection, as
115 defined in section 46b-15a, as amended by this act, that has been issued
116 against such person, after notice and an opportunity to be heard has
117 been provided to such person, in a case involving the use, attempted
118 use or threatened use of physical force against another person.

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

120 Sec. 4. Section 53a-217 of the general statutes is repealed and the
121 following is substituted in lieu thereof (*Effective October 1, 2003*):

122 (a) A person is guilty of criminal possession of a firearm or
123 electronic defense weapon when such person possesses a firearm or
124 electronic defense weapon and (1) has been convicted of a felony, (2)
125 has been convicted as delinquent for the commission of a serious
126 juvenile offense, as defined in section 46b-120, (3) knows that such
127 person is subject to a restraining or protective order [issued by] of a
128 court of this state or to a foreign order of protection, as defined in
129 section 46b-15a, as amended by this act, that has been issued against
130 such person, after notice and an opportunity to be heard has been
131 provided to such person, in a case involving the use, attempted use or
132 threatened use of physical force against another person, or (4) knows
133 that such person is subject to a firearms seizure order issued pursuant
134 to subsection (d) of section 29-38c after notice and an opportunity to be
135 heard has been provided to such person. For the purposes of this
136 section, "convicted" means having a judgment of conviction entered by
137 a court of competent jurisdiction.

138 (b) Criminal possession of a firearm or electronic defense weapon is
139 a class D felony, for which two years of the sentence imposed may not
140 be suspended or reduced by the court.

141 Sec. 5. Section 53a-217c of the general statutes is repealed and the

142 following is substituted in lieu thereof (*Effective October 1, 2003*):

143 (a) A person is guilty of criminal possession of a pistol or revolver
144 when such person possesses a pistol or revolver, as defined in section
145 29-27, and (1) has been convicted of a felony or of a violation of
146 subsection (c) of section 21a-279 [.] or section 53a-58, 53a-61, 53a-61a,
147 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d, (2) has
148 been convicted as delinquent for the commission of a serious juvenile
149 offense, as defined in section 46b-120, (3) has been discharged from
150 custody within the preceding twenty years after having been found
151 not guilty of a crime by reason of mental disease or defect pursuant to
152 section 53a-13, (4) has been confined in a hospital for persons with
153 psychiatric disabilities, as defined in section 17a-495, within the
154 preceding twelve months by order of a probate court, (5) knows that
155 such person is subject to a restraining or protective order [issued by] of
156 a court of this state or to a foreign order of protection, as defined in
157 section 46b-15a, as amended by this act, that has been issued against
158 such person, after notice and an opportunity to be heard has been
159 provided to such person, in a case involving the use, attempted use or
160 threatened use of physical force against another person, (6) knows that
161 such person is subject to a firearms seizure order issued pursuant to
162 subsection (d) of section 29-38c after notice and an opportunity to be
163 heard has been provided to such person, or (7) is an alien illegally or
164 unlawfully in the United States. For the purposes of this section,
165 "convicted" means having a judgment of conviction entered by a court
166 of competent jurisdiction.

167 (b) Criminal possession of a pistol or revolver is a class D felony.

168 Sec. 6. Section 53a-223b of the general statutes is repealed and the
169 following is substituted in lieu thereof (*Effective October 1, 2003*):

170 (a) A person is guilty of criminal violation of a restraining order
171 when (1) (A) a restraining order has been issued against such person
172 pursuant to section 46b-15, or (B) a foreign order of protection, as
173 defined in section 46b-15a, as amended by this act, has been issued
174 against such person, after notice and an opportunity to be heard has

175 been provided to such person, in a case involving the use, attempted
 176 use or threatened use of physical force against another, and (2) such
 177 person, having knowledge of the terms of the order, [(1)] (A) does not
 178 stay away from a person or place in violation of the order, [(2)] (B)
 179 contacts a person in violation of the order, [(3)] (C) imposes any
 180 restraint upon the person or liberty of a person in violation of the
 181 order, or [(4)] (D) threatens, harasses, assaults, molests, sexually
 182 assaults or attacks a person in violation of the order.

183 (b) Criminal violation of a restraining order is a class A
 184 misdemeanor.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in additional individuals being subject to protective orders in Connecticut and various associated criminal violations. It is anticipated that law enforcement and criminal justice agencies can handle this workload without incurring a fiscal impact. To the extent that fines are collected from individuals who are prosecuted for criminal violations under the bill, a revenue gain may result but is anticipated to be minimal.

OLR Bill Analysis

sHB 6566

AN ACT CONCERNING FULL FAITH AND CREDIT FOR FOREIGN ORDERS OF PROTECTION**SUMMARY:**

To comply the federal Violence Against Women Act, this bill requires (1) state courts to accord full faith and credit to valid foreign orders of protection and (2) courts and law enforcement officers to enforce them as state orders. A "foreign order of protection" is currently an injunction or other order issued to prevent violent or threatening acts or harassment against, contact or communication with, or physical proximity to, another person issued by another state; the District of Columbia; a U.S. commonwealth, territory, or possession; or an Indian tribe in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

The bill requires rather than allows courts that register foreign orders of protection to have them entered in the automated registry of protective orders maintained by the chief court administrator. It eliminates a requirement for the (1) person seeking to register the order to notify any person named in it and (2) court to hold a hearing on the request of anyone contesting registration.

Lastly, the bill makes crimes that currently apply to the subjects of restraining or protective orders issued in this state applicable to the subjects of foreign orders of protection.

EFFECTIVE DATE: October 1, 2003

FULL FAITH AND CREDIT TO, AND ENFORCEMENT OF, FOREIGN PROTECTIVE ORDERS

Under federal law and the bill, courts must honor and law enforcement agencies must enforce valid out-of-state protective orders. These orders are valid if (1) a court with jurisdiction over the parties and the matter issued it and (2) the respondent was given reasonable notice and an opportunity for a hearing. In the case of *ex parte* orders,

notice and an opportunity to be heard must be provided within a time sufficient to protect the respondent's due process rights, as required by state or tribal law. The bill establishes a presumption of validity for certified copies of foreign orders.

It requires law enforcement officers to enforce foreign protective orders based on their terms and state law. It requires them to arrest people suspected of violating the orders and charge them with criminal violation of a restraining order. The law, unchanged by the bill, already authorizes law enforcement officers to arrest anyone they learn has committed a family violence crime.

The bill establishes the invalidity of a foreign order as an affirmative defense to any action to enforce it or any prosecution for violating it.

The bill provides that a child custody provision in a foreign protective order is enforceable in this state only if the provision (1) complies with the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and (2) is consistent with the Parental Kidnapping Prevention Act of 1980, as amended from time to time. The child custody acts specify the state with jurisdiction when the parties in a child custody or visitation dispute live in different states or countries. The parental kidnapping act requires state courts to give full faith and credit to valid child custody determinations.

The bill provides that courts must enforce a foreign order even if it is not entered in the (1) automated registry of protective orders, (2) Connecticut on-line law enforcement communication teleprocessing (COLLECT) system maintained by the Department of Public Safety, or (3) National Crime Information Center (NCIC) computerized index of criminal justice information (see BACKGROUND).

REGISTERING FOREIGN ORDERS OF PROTECTION

By law, the Superior Court may register a foreign order of protection if the person seeking registration:

1. requests it in a letter or some other document;

2. sends two copies of the order, including a certified copy, together with a statement signed under penalty of perjury that, to the best of petitioner's knowledge, the order has not been modified; and
3. includes her name and address, unless to do so would jeopardize her safety.

Upon receipt, the registering court must have the order, together with a copy of any accompanying documents, filed as a foreign judgment. The bill requires the court also to have the order, together with any required or permitted information, entered in the automated registry of protective orders maintained by the chief court administrator.

The bill eliminates a requirement for the (1) person seeking to register the order to notify any person named in it and (2) court to hold a hearing on the request of anyone contesting registration.

CRIMES

The bill makes crimes that currently apply to the subject of restraining or protective orders issued in this state applicable to the subject of a foreign order of protection. Like state orders, the foreign orders must (1) involve the use, attempted use, or threatened use of physical force against another person and (2) have been issued after the subject was provided notice and the opportunity for a hearing.

First-Degree Criminal Trespass

It makes it first-degree criminal trespass for the subject of the order to enter or remain in a building or any other premises in violation of the order. First-degree criminal trespass is a class A misdemeanor, punishable by up to one year in prison, a \$2,000 fine, or both.

Criminal Possession of a Firearm or Electronic Defense Weapon

The bill makes anyone who possesses a firearm or electronic defense weapon knowing that he is subject of the foreign order guilty of a class D felony, punishable by up to five years in prison, a \$5,000 fine, or both. The court must impose a minimum two-year term of

imprisonment.

Criminal Possession of a Pistol or Revolver

The bill makes anyone who possesses a pistol or revolver knowing that he is subject of the foreign order guilty of a class D felony, punishable by up to five years in prison, a \$5,000 fine, or both.

Criminal Violation of a Restraining Order

Under the bill, a person commits criminal violation of a restraining order when he, as the subject of the foreign order, knows of its terms and (1) fails stay away from a person or place or (2) contacts, imposes restraints on the person or liberty of, threatens, harasses, assaults, molests, sexually assaults, or attacks another person. Criminal violation of a restraining order is a class A misdemeanor, punishable by up to one year in prison, a \$2,000 fine, or both.

BACKGROUND

Federal Violence Against Women Act

The act provides that all orders of protection are valid and enforceable in every state, including Puerto Rico and U.S. territories and possessions, the District of Columbia, and tribal lands, provided the issuing court had jurisdiction over the parties and the subject matter, and the respondent was afforded both notice and the opportunity to be heard.

Protective and Restraining Orders

Courts can issue two different orders to protect victims of domestic violence: a civil restraining order or a criminal protective order. Both protect victims from future threats, harassment, intimidation, or injury. Protective orders can be issued only after an arrest for a family violence crime or for stalking.

Family Violence Crime

A family violence crime is an incident that results in physical harm or an act of threatened violence that constitutes fear of imminent physical harm between family or household members. "Family or household members" are spouses and former spouses, parents and their children,

people age 18 or older who are related by blood or marriage, unrelated people age 16 or older who are presently living together or who have lived together, people in or recently in a dating relationship, or people who have a child in common.

Registry of Protective Orders

The chief court administrator must maintain an automated registry of protective and restraining orders issued by courts of this state that may be accessed through the COLLECT system. He can include in the registry protective orders issued by courts in other states that are registered with the Superior Court.

The registry must clearly indicate the order’s beginning date and ending date (if specified) and its duration. The administrator must adopt policies and procedures to operate the registry.

A person who has reason to believe that information about him in the registry is not consistent with a valid court order can submit a written request to the Superior Court clerk in the judicial district where the order was issued to verify the information. The clerk must promptly have the information removed if he finds it is inconsistent with the order.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 41 Nay 0