General Assembly

Raised Bill No. 6566

January Session, 2003

LCO No. **3650**

Referred to Committee on Judiciary

Introduced by:
(JUD)

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:

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 Section 46b-15a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2003*):

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

(b) A valid foreign order of protection that is consistent with 18 USC 2265, as from time to time amended, shall be accorded full faith and credit by a court of this state and may be enforced as if it were the order of a court in this state. A foreign order of protection shall be presumed valid if such order appears authentic on its face. The fact that a foreign order of protection has not been entered into the automated registry of protective orders maintained pursuant to section 51-5c, as amended by this act, the Connecticut on-line law enforcement

communication teleprocessing system maintained by the Department of Public Safety or the National Crime Information Center (NCIC) computerized index of criminal justice information shall not be grounds for refusing to enforce such order in this state.

(c) A law enforcement officer shall enforce a foreign order of protection in accordance with its terms and the law of this state, and shall arrest any person suspected of violating such order and charge such person with the applicable crime. Nothing in this subsection shall affect the responsibility of a law enforcement officer to make an arrest pursuant to section 46b-38b.

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

(e) A child custody provision in a foreign order of protection may be enforced in this state if such 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, 28 USC 1738A, as from time to time amended.

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

order for which registration is sought, but no such notice was given.

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

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

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

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

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

(a) A person is guilty of criminal trespass in the first degree when: (1) Knowing that such person is not licensed or privileged to do so, such person enters or remains in a building or any other premises after an order to leave or not to enter personally communicated to such 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. (NEW) (*Effective October 1, 2003*) (a) A person is guilty of
169 criminal violation of a foreign order of protection when a foreign order
170 of protection, as defined in section 46b-15a of the general statutes, as
171 amended by this act, has been issued against such person, after notice
172 and an opportunity to be heard has been provided to such person, in a

173 case involving the use, attempted use or threatened use of physical
174 force against another, and such person, having knowledge of the terms
175 of the order (1) does not stay away from a person or place in violation
176 of the order, (2) contacts a person in violation of the order, (3) imposes
177 any restraint upon the person or liberty of a person in violation of the
178 order, or (4) threatens, harasses, assaults, molests, sexually assaults or
179 attacks a person in violation of the order.

180 (b) Criminal violation of a foreign order of protection is a class A
181 misdemeanor.

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

Statement of Purpose:

To provide for the recognition and enforcement in this state of foreign orders of protection.

[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.]