



# Senate

General Assembly

**File No. 562**

January Session, 2005

Substitute Senate Bill No. 34

*Senate, April 28, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT AUTHORIZING THE ISSUANCE OF PROTECTIVE ORDERS IN HARASSMENT CASES.**

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

1 Section 1. Section 54-1k of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 Upon the arrest of a person for a violation of section 53a-181c, 53a-  
4 181d or 53a-181e, the court may issue a protective order pursuant to  
5 this section. Upon the arrest of a person for a violation of section 53a-  
6 182b or 53a-183, the court may issue a protective order pursuant to this  
7 section if it finds that such violation caused the victim to reasonably  
8 fear for his or her physical safety. Such order shall be an order of the  
9 court, and the clerk of the court shall cause a certified copy of such  
10 order to be sent to the victim, and a copy of such order, or the  
11 information contained in such order, to be sent by facsimile or other  
12 means within forty-eight hours of its issuance to the appropriate law  
13 enforcement agency. A protective order issued under this section may

14 include provisions necessary to protect the victim from threats,  
 15 harassment, injury or intimidation by the defendant, including but not  
 16 limited to, an order enjoining the defendant from (1) imposing any  
 17 restraint upon the person or liberty of the victim, (2) threatening,  
 18 harassing, assaulting, molesting or sexually assaulting the victim, or  
 19 (3) entering the dwelling of the victim. Such order shall be made a  
 20 condition of the bail or release of the defendant and shall contain the  
 21 following language: "In accordance with section 53a-223 of the  
 22 Connecticut general statutes, any violation of this order constitutes  
 23 criminal violation of a protective order which is punishable by a term  
 24 of imprisonment of not more than five years, a fine of not more than  
 25 five thousand dollars, or both. Additionally, in accordance with section  
 26 53a-107 of the Connecticut general statutes, entering or remaining in a  
 27 building or any other premises in violation of this order constitutes  
 28 criminal trespass in the first degree [. These are criminal offenses each]  
 29 which is punishable by a term of imprisonment of not more than one  
 30 year, a fine of not more than two thousand dollars, or both. Violation  
 31 of this order also violates a condition of your bail or release and may  
 32 result in raising the amount of bail or revoking release." The  
 33 information contained in and concerning the issuance of any protective  
 34 order issued under this section shall be entered in the registry of  
 35 protective orders pursuant to section 51-5c.

|   |                 |       |
|---|-----------------|-------|
| This act shall take effect as follows and shall amend the following sections: |                 |       |
| Section 1   | October 1, 2005 | 54-1k |

**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-Effect          | FY 06 \$             | FY 07 \$             |
|---|----------------------|----------------------|----------------------|
| Judicial Dept.  | GF - Cost            | 5,600                | 5,600                |
| Judicial Department (Probation);<br>Correction, Dept. | GF - Cost            | Potential            | Potential            |
| Judicial Dept.  | GF - Revenue<br>Gain | Potential<br>Minimal | Potential<br>Minimal |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill includes harassment as an offense for which the court may issue a protective order. As there are roughly 2,100 harassment cases annually (first and second degree), the court could issue up to 2,100 protective orders each year under the bill. The Judicial Department would incur a minimal cost to notify victims via certified mail of the issuance of these orders.

Violation of a protective order is a Class D felony, punishable by imprisonment for up to five years, a fine of up to \$5,000, or both. To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits). It is anticipated that any revenue from criminal fines under the bill would be minimal.

**OLR Bill Analysis**

sSB 34

**AN ACT AUTHORIZING THE ISSUANCE OF PROTECTIVE ORDERS IN HARASSMENT CASES****SUMMARY:**

This bill permits a court to issue a protective order when someone is arrested for 1<sup>st</sup> or 2<sup>nd</sup> degree harassment if it finds that the crime victim is in reasonable fear for his safety.

The bill makes a technical correction by changing the penalty for violating a protective order, which must appear on all such orders, to reflect the current penalty provided in the state penal code.

EFFECTIVE DATE: October 1, 2005

**BACKGROUND*****Protective Orders***

With one exception, courts may issue a protective order in family violence cases where the victim is in fear of immediate harm. Courts may also issue a protective order in stalking cases. The order may contain any provisions necessary to protect the victim from threats, harassment, injury, or intimidation by the defendant, including a prohibition against him restraining, threatening, harassing, assaulting, molesting, or sexually assaulting the victim or entering the victim's home.

The clerk of court must cause a certified copy of the order to be sent to the victim and, within 48 hours of its issuance, to the appropriate law enforcement agency.

The order must be made a condition of the defendant's bail or release and must contain the same language warning the defendant of the consequences of violating the order that appears in orders issued to protect victims of family violence, including a statement of penalties.

***Harassment***

A person commits 1<sup>st</sup> degree harassment when he has been convicted of at least one of the statutorily specified felonies and, with intent to harass, annoy, alarm, or terrorize another person, he (1) threatens to kill or physically injure that person or another person and (2) communicates the threat in a manner likely to cause annoyance or alarm. First-degree harassment is a class D felony, punishable by up to five years in prison, a \$5,000 fine, or both.

A person commits 2<sup>nd</sup> degree harassment when he (1) uses indecent or obscene language over the telephone; (2) with intent to harass, annoy, or alarm, communicates with a person in a manner likely to annoy or alarm; or (3) with intent to harass, annoy, or alarm, calls a person, regardless of whether a conversation ensues, in a manner likely to annoy or alarm. Second-degree harassment is a class C misdemeanor, punishable by up to three months in prison, a \$500 fine, or both.

### ***Related Bills***

sSB 975 and 1324, also reported favorably by the Judiciary Committee, allows judges to issue a standing criminal restraining order when a person violates a protective order and issue emergency protective orders after court hours, respectively.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40      Nay 0