



# House of Representatives

General Assembly

**File No. 554**

February Session, 2008

Substitute House Bill No. 5875

*House of Representatives, April 9, 2008*

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 THE PROTECTION OF FAMILY VIOLENCE VICTIMS IN FAMILY RELATIONS MATTERS AND THE NOTIFICATION OF A FAMILY OR HOUSEHOLD MEMBER AFTER A MOTOR VEHICLE FATALITY.***

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

1 Section 1. (NEW) (*Effective July 1, 2008*) (a) In any court proceeding  
2 in a family relations matter, as defined in section 46b-1 of the general  
3 statutes, the court may, within available resources, upon motion of the  
4 attorney for any party, order that the testimony of a party or a child  
5 who is a subject of the proceeding be taken outside the physical  
6 presence of any other party if a protective order, restraining order or  
7 standing criminal restraining order has been issued on behalf of the  
8 party or child, and the other party is subject to the protective order or  
9 restraining order. Such order may provide for the use of alternative  
10 means to obtain the testimony of any party or child, including, but not  
11 limited to, the use of a secure video connection for the purpose of  
12 conducting hearings by videoconference. Such testimony may be taken  
13 in a room other than the courtroom or at another location outside the

14 courthouse or outside the state. The court shall provide for the  
15 administration of an oath to such party or child prior to the taking of  
16 such testimony in accordance with the rules of the superior court.

17 (b) Nothing in this section shall be construed to limit any party's  
18 right to cross-examine a witness whose testimony is taken in a room  
19 other than the courtroom pursuant to an order under this section.

20 (c) An order under this section may remain in effect during the  
21 pendency of the proceedings in the family relations matter.

22 Sec. 2. Section 14-108a of the general statutes is repealed and the  
23 following is substituted in lieu thereof (*Effective October 1, 2008*):

24 (a) (1) The Commissioner of Transportation shall prescribe for the  
25 Division of State Police within the Department of Public Safety and for  
26 each police department and officer and other suitable agencies or  
27 individuals a uniform investigation of accident report, in such form as  
28 the commissioner shall prescribe, which form shall be followed in  
29 filing all such reports.

30 [(b)] (2) In each motor vehicle accident in which any person is killed  
31 or injured or in which damage to the property of any one individual,  
32 including the operator, in excess of one thousand dollars is sustained,  
33 the police officer, agency or individual who, in the regular course of  
34 duty, investigates such accident, either at the time of or at the scene of  
35 the accident or thereafter, by interviewing the participants or  
36 witnesses, shall, within five days after completing such investigation,  
37 complete and forward one copy of such report to the Commissioner of  
38 Transportation. Such report shall call for and contain all available  
39 detailed information to disclose the location and cause of the accident,  
40 the conditions then existing, the persons and vehicles involved and the  
41 names of the insurance companies issuing their automobile liability  
42 policies, as well as the enforcement action taken. The Commissioner of  
43 Transportation shall forward to the Commissioner of Motor Vehicles  
44 one copy of each report of any accident involving a school bus. The  
45 Commissioner of Motor Vehicles may inquire into or investigate any

46 accident reported pursuant to this subsection and may request the  
47 assistance of the Division of State Police within the Department of  
48 Public Safety for such purposes.

49 (b) (1) In each motor vehicle accident in which any person is killed,  
50 the police officer, agency or individual who, in the regular course of  
51 duty, investigates such accident shall use reasonable efforts to identify  
52 and notify a member of the person's family or household of the fatality  
53 as soon as practicable after the accident. Such notification shall (A)  
54 indicate that the person was killed in a motor vehicle accident, the  
55 location of the accident and the location of the person's body, and (B)  
56 on and after the date the applicable police department, agency or  
57 individual adopts a policy under subdivision (3) of this subsection, be  
58 made in accordance with such policy.

59 (2) Not later than October 1, 2008, the Police Officer Standards and  
60 Training Council established under section 7-294b shall establish a  
61 uniform policy for identifying and notifying a member of a person's  
62 family or household with respect to any motor vehicle accident in  
63 which a person is killed. The council shall make the uniform policy  
64 available to each police department, agency or individual required to  
65 adopt a policy pursuant to subdivision (3) of this subsection. The  
66 council shall design the uniform policy to ensure that such notification  
67 is made promptly in a manner appropriate for the identified member  
68 of the person's family or household.

69 (3) Not later than January 1, 2009, each police department, agency or  
70 individual that, in the regular course of duty, has responsibility for  
71 investigating motor vehicle accidents shall consider the provisions of  
72 the uniform policy established by the Police Officer Standards and  
73 Training Council pursuant to subdivision (2) of this subsection and  
74 adopt a policy for identifying and notifying a member of a person's  
75 family or household with respect to any motor vehicle accident in  
76 which a person is killed. Each such police department, agency or  
77 individual shall design its policy to ensure that such notification is  
78 made promptly in a manner appropriate for the identified member of

79 the person's family or household.

80 (4) Policies established or adopted pursuant to this subsection shall  
81 not be considered regulations under section 4-166.

82 (5) For the purposes of this subsection, "police department"  
83 includes, but is not limited to, the Division of State Police within the  
84 Department of Public Safety.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	14-108a

**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 chamber thereof for any purpose:

---

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

**Section 1** permits the court, within available resources, to order that the testimony of a party or a child who is a subject of the proceeding be taken outside the physical presence of any other party if a protective order, restraining order or standing criminal restraining order has been issued on behalf of the party or child. Since this provision is permissive and within available appropriations, any cost to the Judicial Department under the bill could be accommodated without requiring additional budgeted resources.

**Section 2** requires the Police Officer Standards and Training Council (POST) to establish and disseminate a uniform policy for identifying and notifying a member of a person’s family or household with respect to fatal motor vehicle accidents. Accommodation of these requirements would be performed by current staff and at no additional cost to POST. Upon establishment of a uniform policy, Basic Training courses would be altered to include instruction regarding the policy.

The bill also requires state and local police departments to consider POST’s uniform policy in establishing an official policy for each department. The state police and most municipal police departments already have such a policy; it is anticipated that those that do not would be able to establish a uniform policy at no additional cost to the departments.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 5875*****AN ACT CONCERNING THE PROTECTION OF FAMILY VIOLENCE VICTIMS IN FAMILY RELATIONS MATTERS AND THE NOTIFICATION OF A FAMILY OR HOUSEHOLD MEMBER AFTER A MOTOR VEHICLE FATALITY.*****SUMMARY:**

This bill authorizes the Superior Court, in any family relations matter to order that the testimony of a party or a child who is a subject of the proceeding be taken outside the physical presence of any other party under certain circumstances.

The bill requires that for every motor vehicle accident in which any person is killed, the police officer, agency, or individual who, in the regular course of duty, investigates it must use reasonable efforts to identify and notify a member of the person's family or household of the fatality as soon as practicable after the accident. It specifies what the notification must include. It requires the Police Officer Standards and Training Post Council and each police department, agency, or individual responsible for investigating motor vehicle accidents to adopt a policy for doing so.

The bill specifies that (1) it applies to the State Police and (2) policies established or adopted under the bill are regulations under the Uniform Administrative Procedures Act.

EFFECTIVE DATE: October 1, 2008, except the provision that deals with the testimony of children becomes effective July 1, 2008.

**TESTIMONY**

The bill authorizes the court, in any court proceeding in a family relations matter to order that the testimony of a party or a child who is a subject of the proceeding be taken outside the physical presence of

any other party if (1) a protective order, restraining order, or standing criminal restraining order has been issued on behalf of the party or child and (2) the other party is subject to the protective order or restraining order. The court may do so within available resources and upon the motion of the attorney for any party.

The order may provide for the use of alternative means to obtain the testimony, including the use of a secure video connection to conducting hearings by videoconference. The order remains in effect throughout the proceeding. Testimony may be taken in a room other than the courtroom or at another location outside the courthouse or the state. The court must provide for administering of an oath before taking the testimony in accordance with Superior Court rules.

The bill specifies that it does not limit any party's right to cross-examine a witness whose testimony is taken in a room other than the courtroom.

## **NOTIFICATION OF FAMILY**

### ***Required Notification***

The bill requires the notification to indicate that the person was killed in a motor vehicle accident. It must also indicate the location of the accident, the location of the person's body, and be made in accordance with the policy the bill requires the police to adopt.

### ***Police Officer Standards and Training Council Policy***

The bill requires the POST, by October 1, 2008, to establish a uniform policy that ensures that the notification is made promptly in an appropriate manner. POST must make the policy available to each police department, agency, or individual the bill requires to adopt a notification policy.

### ***Law Enforcement Agencies***

The bill requires that, by January 1, 2009, each police department, agency, or individual responsible for investigating motor vehicle accidents adopt a policy for identifying and notifying a member of a

person's family or household about any motor vehicle accident in which a person is killed. When doing so, it requires them to consider the provisions of the uniform policy POST establishes. The policy they adopt must be designed to ensure that notification is made promptly and in an appropriate manner.

## **BACKGROUND**

### ***Family Relations Matters***

Family relations matters are Superior Court proceedings affecting or involving:

1. divorces, legal separations, and annulments;
2. alimony, support, custody, and change of name in connection with a divorce, legal separation, or annulment;
3. applications for a protective order based on physical abuse by a family or household member or person in dating relationship;
4. complaints for change of name;
5. civil support obligations;
6. custody including habeas corpus and other proceedings to determine the custody and visitation of children;
7. habeas corpus brought by or on behalf of any mentally ill person except a person charged with a criminal offense;
8. appointment of a commission to inquire whether a person is wrongfully confined;
9. juvenile matters (see below);
10. all divorce, dissolution, and annulment rights and remedies;
11. paternity;
12. actions related to prenuptial and separation agreements and to

matrimonial decrees of a foreign jurisdiction;

13. all other matters within the Superior Court's jurisdiction concerning children or family relations as may be determined by Superior Court judges; and
14. appeals from probate concerning:
  - adoption or termination of parental rights;
  - appointment and removal of guardians;
  - custody of a minor child;
  - appointment and removal of conservators;
  - orders for custody of any child; and
  - orders of commitment of persons to public and private institutions and to other appropriate facilities as provided by statute (CGS § 46b-1).

**Juvenile Matters**

Juvenile matters are those involving:

1. child abuse and neglect;
2. status offenders, such as truants and runaways;
3. emancipating minors; and
4. delinquency.

**Standing Criminal Restraining Order**

By law, courts can issue these orders, in addition to the sentence authorized by law, in certain criminal cases to protect crime victims from future harm. The orders may, among other things, prohibit the offender from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the

victim's home. The criminal cases covered are those involving the commission of, or attempt or conspiracy to commit:

1. murder;
2. 1<sup>st</sup> and 2<sup>nd</sup> degree assault;
3. 1<sup>st</sup> and 2<sup>nd</sup> degree assault of an aged, blind, disabled, pregnant, or mentally retarded person;
4. 2<sup>nd</sup> and 3<sup>rd</sup> degree assault with a firearm;
5. 2<sup>nd</sup> degree assault with a firearm of an aged, blind, disabled, pregnant, or mentally retarded person;
6. 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree sexual assault;
7. aggravated 1<sup>st</sup> degree sexual assault;
8. sexual assault in a spousal or cohabitating relationship;
9. stalking;
10. 1<sup>st</sup> or 2<sup>nd</sup> degree harassment;
11. criminal violation of a restraining order, a standing criminal restraining order, and a protective order; and
12. a family violence crime.

The court may also issue a standing criminal restraining order when a person is convicted of any crime against a family or household member, rather than just the ones listed. In these cases, the court may issue the order for good cause shown and does not have to find the order to be in the best interest of the victim or the public. "Family or household members" are spouses, former spouses, parents and their children, people age 18 or older related by blood or marriage, people age 16 or older either living together or who have lived together, people who have a child together, and people in, or who once were in, a dating relationship (CGS 43a-40e). A "family violence crime" is an

incident between family or household members that either causes physical injury or creates fear that physical injury is about to occur, but does not include verbal abuse or arguments.

***Restraining and Protective Orders***

Restraining and protective orders are court-issued, civil and criminal orders, respectively, typically issued to protect victims of family violence crimes from threatened or further harm. These orders may, among other things, prohibit the respondents from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim’s home. Restraining orders are generally effective for six months. Protective orders are a condition of bail or other release from custody (CGS §§ 46b-15 and 54-1k).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 0 (03/24/2008)