



General Assembly

January Session, 2009

Raised Bill No. 6681

LCO No. 4842

04842_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING THE SERVICE OF RESTRAINING ORDERS
FOR RELIEF FROM DOMESTIC ABUSE.**

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

1 Section 1. Section 46b-15 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) Any family or household member as defined in section 46b-38a
4 who has been subjected to a continuous threat of present physical pain
5 or physical injury by another family or household member or person
6 in, or has recently been in, a dating relationship who has been
7 subjected to a continuous threat of present physical pain or physical
8 injury by the other person in such relationship may make an
9 application to the Superior Court for relief under this section.

10 (b) The application form shall allow the applicant, at the applicant's
11 option, to indicate whether the respondent holds a permit to carry a
12 pistol or revolver or possesses one or more firearms. The application
13 shall be accompanied by an affidavit made under oath which includes
14 a brief statement of the conditions from which relief is sought. Upon
15 receipt of the application the court shall order that a hearing on the

16 application be held not later than fourteen days from the date of the
17 order. The court, in its discretion, may make such orders as it deems
18 appropriate for the protection of the applicant and such dependent
19 children or other persons as the court sees fit. Such order may include
20 temporary child custody or visitation rights and such relief may
21 include but is not limited to an order enjoining the respondent from (1)
22 imposing any restraint upon the person or liberty of the applicant; (2)
23 threatening, harassing, assaulting, molesting, sexually assaulting or
24 attacking the applicant; or (3) entering the family dwelling or the
25 dwelling of the applicant. The court, in its discretion, may make such
26 orders as it deems appropriate for the protection of any animal owned
27 or kept by the applicant including, but not limited to, an order
28 enjoining the respondent from injuring or threatening to injure such
29 animal. If an applicant alleges an immediate and present physical
30 danger to the applicant, the court may issue an ex parte order granting
31 such relief as it deems appropriate. If a postponement of a hearing on
32 the application is requested by either party and granted, the order
33 shall not be continued except upon agreement of the parties or by
34 order of the court for good cause shown.

35 (c) Every order of the court made in accordance with this section
36 shall contain the following language: "This order may be extended by
37 the court beyond six months. In accordance with section 53a-107,
38 entering or remaining in a building or any other premises in violation
39 of this order constitutes criminal trespass in the first degree. This is a
40 criminal offense punishable by a term of imprisonment of not more
41 than one year, a fine of not more than two thousand dollars or both."

42 (d) No order of the court shall exceed six months, except that an
43 order may be extended by the court upon motion of the applicant for
44 such additional time as the court deems necessary. If the respondent
45 has not appeared upon the initial application, service of a motion to
46 extend an order may be made by first-class mail directed to the
47 respondent at his or her last known address.

48 (e) The applicant or, if the applicant requests assistance from the
49 court, the clerk of the court shall cause notice of the hearing pursuant
50 to subsection (b) of this section and a copy of the application and the
51 applicant's affidavit and of any ex parte order issued pursuant to
52 subsection (b) of this section to be served on the respondent not less
53 than five days before the hearing. If the applicant requests assistance
54 from the court in arranging service, the clerk of the court shall assign
55 responsibility for such service to the state marshal assigned to that
56 court by the State Marshal Commission pursuant to subsection (e) of
57 section 6-38b, as amended by this act, to accept and serve restraining
58 orders. The cost of such service shall be paid for by the Judicial Branch.
59 Upon the granting of an ex parte order, the clerk of the court shall
60 provide two certified copies of the order to the applicant and, if the
61 clerk of the court assigned responsibility for service of the order to a
62 state marshal, one certified copy of the order to such state marshal.
63 Upon the granting of an order after notice and hearing, the clerk of the
64 court shall provide two certified copies of the order to the applicant
65 and a copy to the respondent. Every order of the court made in
66 accordance with this section after notice and hearing shall contain the
67 following language: "This court had jurisdiction over the parties and
68 the subject matter when it issued this protection order. Respondent
69 was afforded both notice and opportunity to be heard in the hearing
70 that gave rise to this order. Pursuant to the Violence Against Women
71 Act of 1994, 18 USC 2265, this order is valid and enforceable in all fifty
72 states, any territory or possession of the United States, the District of
73 Columbia, the Commonwealth of Puerto Rico and tribal lands."
74 Immediately after making service on the respondent, the proper officer
75 shall send or cause to be sent, by facsimile or other means, a copy of
76 the application, or the information contained in such application,
77 stating the date and time the respondent was served, to the law
78 enforcement agency or agencies for the town in which the applicant
79 resides, the town in which the applicant is employed and the town in
80 which the respondent resides and, if the clerk of the court assigned
81 responsibility for service to a state marshal, to the clerk of the court.

82 The clerk of the court shall send, by facsimile or other means, a copy of
83 any ex parte order and of any order after notice and hearing, or the
84 information contained in any such order, to the law enforcement
85 agency or agencies for the town in which the applicant resides, the
86 town in which the applicant is employed and the town in which the
87 respondent resides, within forty-eight hours of the issuance of such
88 order. If the clerk of the court assigned responsibility for service to a
89 state marshal and such marshal fails to serve the order on the
90 respondent at least five days prior to the hearing, such marshal shall,
91 at least two days prior to such hearing, submit to the clerk of the court
92 a written request to reschedule the hearing. The clerk of the court shall
93 schedule a new date for the hearing that is not more than fourteen
94 days after the date originally scheduled for the hearing and shall give
95 notice of the rescheduled hearing date to the applicant.

96 (f) If the clerk of the court has assigned responsibility for service of
97 the order on the respondent to a state marshal pursuant to subsection
98 (e) of this section, the clerk of the court shall record the name of the
99 state marshal assigned to serve such order and maintain a record
100 indicating whether the state marshal made in hand service and, if so,
101 the date and time of such service.

102 (g) Not later than October 1, 2010, and annually thereafter, the
103 Judicial Branch shall submit a report to the joint standing committee of
104 the General Assembly on the judiciary and the State Marshal
105 Commission in accordance with the provisions of section 11-4a setting
106 forth the following information for each state marshal for the
107 preceding fiscal year: The number of restraining orders assigned to
108 that state marshal and the number of restraining orders successfully
109 served by that state marshal at least five days prior to the scheduled
110 hearing. The Judicial Branch shall make such annual report available to
111 the public on its Internet web site not later than fourteen days after
112 submission.

113 [(f)] (h) A caretaker who is providing shelter in his or her residence

114 to a person sixty years or older shall not be enjoined from the full use
115 and enjoyment of his or her home and property. The Superior Court
116 may make any other appropriate order under the provisions of this
117 section.

118 [(g)] (i) When a motion for contempt is filed for violation of a
119 restraining order, there shall be an expedited hearing. Such hearing
120 shall be held within five court days of service of the motion on the
121 respondent, provided service on the respondent is made not less than
122 twenty-four hours before the hearing. If the court finds the respondent
123 in contempt for violation of an order, the court may impose such
124 sanctions as the court deems appropriate.

125 [(h)] (j) An action under this section shall not preclude the applicant
126 from seeking any other civil or criminal relief.

127 Sec. 2. Section 6-38b of the general statutes is repealed and the
128 following is substituted in lieu thereof (*Effective July 1, 2009*):

129 (a) There is established a State Marshal Commission which shall
130 consist of eight members appointed as follows: (1) The Chief Justice
131 shall appoint one member who shall be a judge of the Superior Court;
132 (2) the speaker of the House of Representatives, the president pro
133 tempore of the Senate, the majority and minority leaders of the House
134 of Representatives and the majority and minority leaders of the Senate
135 shall each appoint one member; and (3) the Governor shall appoint one
136 member who shall serve as chairperson. No member of the
137 commission shall be a state marshal, except that two state marshals
138 appointed by the State Marshals Advisory Board in accordance with
139 section 6-38c shall serve as ex officio, nonvoting members of the
140 commission.

141 (b) The chairperson shall serve for a three-year term and all
142 appointments of members to replace those whose terms expire shall be
143 for terms of three years.

144 (c) No more than four of the members, other than the chairperson,
145 may be members of the same political party. Of the seven nonjudicial
146 members, other than the chairperson, at least three shall not be
147 members of the bar of any state.

148 (d) If any vacancy occurs on the commission, the appointing
149 authority having the power to make the initial appointment under the
150 provisions of this section shall appoint a person for the unexpired term
151 in accordance with the provisions of this section.

152 (e) Members shall serve without compensation but shall be
153 reimbursed for actual expenses incurred while engaged in the duties of
154 the commission.

155 (f) The commission, in consultation with the State Marshals
156 Advisory Board, shall adopt regulations in accordance with the
157 provisions of chapter 54 to establish professional standards, including
158 training requirements and minimum fees for execution and service of
159 process.

160 (g) The commission shall be responsible for the equitable
161 assignment of service of restraining orders to the state marshals in each
162 county and ensure that such restraining orders are served
163 expeditiously. The commission shall assign, on a rotating basis, a state
164 marshal to each superior court for each day that such court is in
165 session and such state marshal shall be available to accept for service
166 restraining orders issued by the court on that day. No marshal may
167 deviate from the assigned schedule without the written permission of
168 the commission. Failure of any state marshal to accept for service any
169 restraining order assigned by the commission or to serve such
170 restraining order expeditiously without good cause shall be sufficient
171 for the convening of a hearing for removal under subsection (j) of this
172 section.

173 (h) Any vacancy in the position of state marshal in any county as
174 provided in section 6-38 shall be filled by the commission with an

175 applicant who shall be an elector in the county where such vacancy
176 occurs. Any applicant for such vacancy shall be subject to the
177 application and investigation requirements of the commission.

178 (i) Except as provided in section 6-38f, no person may be a state
179 marshal and a state employee at the same time. This subsection does
180 not apply to any person who was both a state employee and a deputy
181 sheriff or special deputy sheriff on April 27, 2000.

182 (j) No state marshal may be removed except by order of the
183 commission for cause after due notice and hearing.

184 (k) The Judicial Branch shall post on its Internet web site
185 information on the procedure for filing a complaint against a state
186 marshal and a copy of the complaint form.

187 ~~[(k)]~~ (l) The commission may adopt such rules as it deems necessary
188 for conduct of its internal affairs and shall adopt regulations in
189 accordance with the provisions of chapter 54 for the application and
190 investigation requirements for filling vacancies in the position of state
191 marshal.

192 ~~[(l)]~~ (m) The commission shall be within the Department of
193 Administrative Services for administrative purposes only.

194 Sec. 3. *(Effective from passage)* (a) The Judicial Branch shall conduct a
195 cost-benefit analysis of having state marshals become full-time state
196 employees under the authority of the Judicial Branch. Such analysis
197 shall document the direct and indirect costs or savings, revenue gains
198 or losses, and qualitative and quantitative benefits or detriments that
199 could result from having state marshals become full-time state
200 employees.

201 (b) Not later than January 1, 2010, the Judicial Branch shall submit
202 such cost-benefit analysis to the joint standing committee of the
203 General Assembly on the judiciary in accordance with the provisions
204 of section 11-4a of the general statutes and make a summary of such

205 analysis available to the public on its Internet web site.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	46b-15
Sec. 2	<i>July 1, 2009</i>	6-38b
Sec. 3	<i>from passage</i>	New section

Statement of Purpose:

To improve the service of restraining orders for relief from domestic abuse by authorizing the clerks of the superior court to assign the service of restraining orders to specific state marshals and track the service thereof, and to require the Judicial Branch to conduct a cost benefit analysis of converting state marshals into full-time state employees.

[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.]