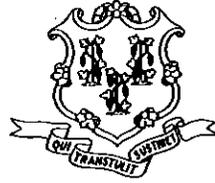


The Connecticut General Assembly

Legislative Commissioners' Office

Max S. Case
Commissioner
Edwin J. Maley Jr.
Commissioner

Larry G. J. Shapiro
Director



Legislative Office Building
Suite 5500
Hartford, Connecticut
06106-1591
(860) 240-8410
fax (860) 240-8414
e-mail:
Richard.Taff@cga.ct.gov

HB 6707

An Act Making Minor, Technical and Conforming Changes to Certain Statutes
Concerning Criminal and Civil Law and Procedure.

Judiciary Committee
Public Hearing
March 26, 2009

Explanation of changes:

Section 1. Section 46b-15(b)

Conforms language to similar language in sections 46b-38c(e) and 54-1k, enacted as part of the same 2007 public act (PA 07-78), for consistency purposes and to clarify and reflect legislative intent that the pet protection order is part of the initial order protecting the applicant, children and others, and not a separate order to protect only the animal.

Sec. 2. Section 46b-38b(d)

Accuracy. A victim does not file an arrest warrant but files an affidavit for an arrest warrant.

Sec. 3. Section 46b-86(a)

Language repositioned for clarity and accuracy. The language in brackets concerning modification of a requirement to maintain life insurance was added by a floor amendment in 2001. (See LCO 7035 to HB 6126). The sponsor of the amendment, Rep. John Wayne Fox, explained that the amendment "would allow for modification for the required maintenance of life insurance. Under existing law as it is interpreted, the court does not have authority to modify a life insurance provision of a separation agreement or judgment." However, the placement of this new language in the first sentence by the amendment resulted in an awkward and grammatically confusing sentence. In response to a question as to whether a showing of a change in circumstances is required, Rep. Fox acknowledged that the placement of the new language was not the best by replying: "It's not entirely clear from the way in which the amendment is drafted, although it does come

under 46b-86. The answer to your question is yes, you would have to establish a substantial change in circumstances, as you do with other provisions of the statute." - The language added by the floor amendment is repositioned and included in the list of orders that may be modified for clarity, readability and accuracy.

Sec. 4. Section 49-9a.

Technical changes for consistency in terminology and accuracy.

Sec. 5. Section 51-164n(b)

Accuracy. Prior to the 2007 session, the penalty set forth in subsection (a) of section 20-341 was a \$200 fine that did not require a court appearance and could be mailed in. Public act 07-188, section 2, changed the penalty from a fine only to a class B misdemeanor, which would require a court appearance. Consequently, the reference to "subsection (a) of section 20-341" should be deleted from this provision that allows fine-only violations to be mailed in.

Sec. 6. Section 52-225a

Consistency in wording between subsections (a) and (c).

Sec. 7. Section 52-593a

Accuracy. In 2000, public act 00-99 reformed the sheriff system. Those reforms included eliminating the high sheriffs and replacing process-serving deputy sheriffs with state marshals. When this section was amended in 2000, two inadvertent errors were made. Although the public act mechanically replaced references to "deputy sheriff" with the new title "state marshal" throughout the general statutes, in this section the public act inadvertently replaced the broader term "officer", which includes not only a deputy sheriff but also a constable or other proper officer (all of whom are authorized to serve process under section 52-50), with the narrower term "state marshal". Also, in deleting a provision that allowed the process to be personally delivered to the office of the high sheriff, the public act inadvertently deleted the phrase "within the time limited by law". That was a requirement that applied not only to the delivery of process to the office of a high sheriff but also to the delivery of process to any and all officers.

The section is therefore revised to restore its applicability to not only state marshals but also to constables and other proper officers and to clarify that the process must still be delivered to the officer within the time limited by law to bring the action.

In *Abitz v. Fierer* (2008), a Superior Court judge held that: "The court concludes that in amending section 52-593a, the general assembly did not intend to exclude process served by constables from its saving effect. Proper interpretation of section 52-593a, as amended by Public Act 00-99, leads to the conclusion that the statute is available to save an action in which the plaintiff places process in the hands of a constable for service within the time limited by statute and it is served by the constable within the next thirty days."

Sec. 8. Section 53-289c(b)

Grammar, usage.

Sec. 9. Section 53a-35a

Accuracy, clarity. The list of exceptions to the authorized minimum and maximum terms of imprisonment for the classes of felonies is incomplete. Over the years many penalty provisions have been changed or new crimes have been enacted that required mandatory minimum sentences, yet those sections are not referenced here. Rather than listing all the exceptions, and the circumstances under which those mandatory minimums come into play (e.g. where the victim is under 16 years or age; where computer crime for terrorist purposes is directed at a public agency; etc.), a general exception is added.

Sec. 10. Section 53a-36

Accuracy, clarity. The list of exceptions to the authorized terms of imprisonment for the classes of misdemeanors is incomplete. Over the years many penalty provisions have been changed or new crimes have been enacted that required mandatory minimum sentences for certain misdemeanors, yet those sections are not referenced here. Rather than listing all the exceptions, and the circumstances under which those mandatory minimums come into play, a general exception is added.

Sec. 11. Section 53a-39(d)

Parallelism.

Sec. 12. Section 53a-40b

Accuracy. Prior to the 2007 session, section 53a-222 concerned the offense of violation of conditions of release. In the 2007 session, public act 07-123, split that offense in two, creating violation of conditions of release in the first degree, a class D felony, limited to when a person was charged with a felony, and creating violation of conditions of release in the second degree, a class A misdemeanor, applicable to a person charged with a misdemeanor or motor vehicle violation for which a sentence to a term of imprisonment may be imposed. The latter, "new" offense is now codified at Sec. 53a-222a. Since section 53a-40b only contains a reference to section 53a-222, which is now just the first degree crime, it should be amended to also include a reference to the second degree crime, i.e. section 53a-222a.

Sec. 13. Section 53a-148a(a)

Accuracy, clarity. This section was enacted by public act 08-3 of the June special session. The term "public servant" is defined in section 53a-146, not in section 53a-147. But since this new section 53a-148a is codified in part XI of chapter 952 (the penal code), the definitions in section 53a-146 for that part already apply to this section and thus the multiple references to "as defined in section 53a-146" are unnecessary and redundant.

Sec. 14. Section 53a-174b

The section is restructured to conform to the customary format of a title 53a (penal code) section.

Sec. 15. Section 53a-192a(a)

Conforms to language used in definition of "trafficking" in section 46a-170, the federal trafficking law (18 USC 1589) and the trafficking laws of most other states.

Sec. 16. Section 54-86m

Consistency with style of general statutes.

Sec. 17. Section 54-102l

Under section 54-102g(c), a person who has been convicted or found not guilty by reason of mental disease or defect pursuant to section 53a-13 of certain crimes is required to submit to the taking of a DNA sample. Section 54-102l authorizes a person whose DNA profile has been included in the data bank to request its expungement if his or her criminal conviction has been reversed and the case dismissed. But the section fails to include the other circumstance where a DNA profile would be included in the data bank, namely a finding of not guilty by reason of mental disease or defect. For accuracy and consistency, the section is revised to also include the circumstance where a finding of not guilty by reason of mental disease or defect has been reversed and the case dismissed.

Sec. 18. Section 54-124a(h)

Deletion of obsolete language. Section 54-125b, which had authorized an administrative parole process, was repealed by public act 08-1 of the January special session, effective July 1, 2008. The language concerning the actions of the Board of Pardons and Paroles prior to July 1, 2008, and the references to the now-repealed section 54-125b are deleted as obsolete.

Sec. 19. Section 54-125a(a)

Accuracy. In 1993, public act 93-319 revised the class of inmates over which the Board of Parole (now the Board of Pardons and Paroles) had jurisdiction from those sentenced to a definite or aggregate sentence of more than "one year" to those sentenced to more than "two years". That change was made in the first sentence of this subsection, but the necessary corresponding change was not made in the last sentence. Persons sentenced to less than two years are released by the Department of Correction, not the Board of Pardons and Parole.

Sec. 20. Section 54-142q(i)

Accuracy. Public act 07-4 of the June special session revised subsections (a) and (b) with the result that the provision applicable to the Division of Public Defender Services, which

had been in subsection (b), became part of subsection (a). The subsection is revised to correct this erroneous reference.

Sec. 21. Section 54-201(4)

Clarity.

Sec. 22. Section 54-260b(a)

Accuracy. The defined term "wire communication" is not used in this section which was enacted in 2007.