



**Substitute House Bill No. 5497**

**Public Act No. 10-144**

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
SPEAKER OF THE HOUSE OF REPRESENTATIVES' TASK FORCE  
ON DOMESTIC VIOLENCE.**

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

Section 1. Subsection (b) of section 46b-15 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the respondent holds a permit to carry a pistol or revolver or possesses one or more firearms. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than fourteen days from the date of the order. The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. In making such orders, the court, in its discretion, may consider relevant court records if the records are available to the public from a clerk of the Superior Court or on the Judicial Branch's Internet web site. Such [order] orders may include temporary child custody or visitation rights, and such relief

**Substitute House Bill No. 5497**

may include, but is not limited to, an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. The court, in its discretion, may make such orders as it deems appropriate for the protection of any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.

Sec. 2. Subsection (e) of section 46b-15 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(e) The applicant shall cause notice of the hearing pursuant to subsection (b) of this section and a copy of the application and the applicant's affidavit and of any ex parte order issued pursuant to subsection (b) of this section to be served on the respondent not less than five days before the hearing. The cost of such service shall be paid for by the Judicial Branch. Upon the granting of an ex parte order, the clerk of the court shall provide two [certified] copies of the order to the applicant. Upon the granting of an order after notice and hearing, the clerk of the court shall provide two [certified] copies of the order to the applicant and a copy to the respondent. Every order of the court made in accordance with this section after notice and hearing shall [contain the following language: "This court had jurisdiction over the parties and the subject matter when it issued this protection order. Respondent was afforded both notice and opportunity to be heard in

**Substitute House Bill No. 5497**

the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, 18 USC 2265, this order is valid and enforceable in all fifty states, any territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico and tribal lands." ] be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. Immediately after making service on the respondent, the proper officer shall send or cause to be sent, by facsimile or other means, a copy of the application, or the information contained in such application, stating the date and time the respondent was served, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides. The clerk of the court shall send, by facsimile or other means, a copy of any ex parte order and of any order after notice and hearing, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, within forty-eight hours of the issuance of such order.

Sec. 3. Section 46b-38c of the 2010 supplement to the general statutes, as amended by section 65 of public act 09-7 of the September special session, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) There shall be family violence response and intervention units in the Connecticut judicial system to respond to cases involving family violence. The units shall be coordinated and governed by formal agreement between the Chief State's Attorney and the Judicial Department.

(b) The Court Support Services Division, in accordance with the agreement between the Chief State's Attorney and the Judicial

**Substitute House Bill No. 5497**

Department, shall establish within each geographical area of the Superior Court a local family violence intervention unit to implement sections 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f, inclusive, and 54-1g. The Court Support Services Division shall oversee direct operations of the local units.

(c) Each such local family violence intervention unit shall: (1) Accept referrals of family violence cases from a judge or prosecutor, (2) prepare written or oral reports on each case for the court by the next court date to be presented at any time during the court session on that date, (3) provide or arrange for services to victims and offenders, (4) administer contracts to carry out such services, and (5) establish centralized reporting procedures. All information provided to a family relations [officer] counselor, family relations counselor trainee or family services supervisor employed by the Judicial Branch in a local family violence intervention unit shall be used solely for the purposes of preparation of the report and the protective order forms for each case and recommendation of services and shall otherwise be confidential and retained in the files of such unit and not be subject to subpoena or other court process for use in any other proceeding or for any other purpose, except that [if] a family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Branch:

(A) Shall disclose to the court and the prosecuting authority for appropriate action information that the victim has indicated that the defendant holds a permit to carry a pistol or revolver or possesses one or more firearms; [, the family relations officer shall disclose such information to the court and the prosecuting authority for appropriate action]

(B) May disclose to an employee of the Department of Children and Families information that indicates that a defendant poses a danger or threat to a child or a parent of the child;

***Substitute House Bill No. 5497***

(C) May disclose to another family relations counselor, family relations counselor trainee or family services supervisor information pursuant to guidelines adopted by the Chief Court Administrator;

(D) May disclose to a bail commissioner employed by the Judicial Branch information regarding a defendant who is on or is being considered for pretrial release;

(E) May disclose to a law enforcement agency information that indicates that a defendant poses a danger or threat to another person;

(F) May disclose, after disposition of a family violence case, (i) to a probation officer or a juvenile probation officer, for purposes of determining service needs and supervision levels, information regarding a defendant who has been convicted and sentenced to a period of probation in the family violence case, and (ii) to organizations under contract with the Judicial Branch to provide family violence programs and services, for purposes of determining program and service needs, information regarding defendants who are their clients.

(d) In all cases of family violence, a written or oral report and recommendation of the local family violence intervention unit shall be available to a judge at the first court date appearance to be presented at any time during the court session on that date. A judge of the Superior Court may consider and impose the following conditions to protect the parties, including, but not limited to: (1) Issuance of a protective order pursuant to subsection (e) of this section; (2) prohibition against subjecting the victim to further violence; (3) referral to a family violence education program for batterers; and (4) immediate referral for more extensive case assessment. Such protective order shall be an order of the court, and the clerk of the court shall cause (A) a [certified] copy of such order to be sent to the victim, and (B) a copy of such order, or the information contained in such order, to be sent by

***Substitute House Bill No. 5497***

facsimile or other means within forty-eight hours of its issuance to the law enforcement agency for the town in which the victim resides and, if the defendant resides in a town different from the town in which the victim resides, to the law enforcement agency for the town in which the defendant resides. If the victim is employed in a town different from the town in which the victim resides, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such order, or the information contained in such order, to the law enforcement agency for the town in which the victim is employed within forty-eight hours of the issuance of such order.

(e) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including, but not limited to, an order enjoining the defendant from (1) imposing any restraint upon the person or liberty of the victim, (2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or (3) entering the family dwelling or the dwelling of the victim. A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal. Such order shall be made a condition of the bail or release of the defendant and shall contain the following language: "In accordance with section 53a-223 of the Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, in accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or

***Substitute House Bill No. 5497***

release, and may result in raising the amount of bail or revoking release." Every order of the court made in accordance with this section after notice and hearing shall also contain the following language: ["This court had jurisdiction over the parties and the subject matter when it issued this protection order. Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, 18 USC 2265, this order is valid and enforceable in all fifty states, any territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico and tribal lands."] "This order is accorded full faith and credit pursuant to 18 USC Section 2265, as amended from time to time." The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51-5c, as amended by this act.

(f) The Judicial Branch may establish, within available appropriations, a pilot program in three judicial districts for the purpose of using electronic monitoring in accordance with this subsection. Such pilot program shall be conducted in at least one judicial district that contains an urban area, as defined in section 4b-13, and at least one judicial district that does not contain such an urban area. Pursuant to such pilot program, the court may order that any person appearing in such judicial district who is charged with the violation of a restraining order or a protective order, and who has been determined to be a high-risk offender by the family violence intervention unit, be subject to electronic monitoring designed to warn law enforcement agencies, a state-wide information collection center and the victim when the person is within a specified distance of the victim, if the court finds that such electronic monitoring is necessary to protect the victim, provided the cost of such electronic monitoring is paid by the person who is subject to such electronic monitoring, subject to guidelines established by the Chief Court Administrator. If

**Substitute House Bill No. 5497**

the court orders that such person be subject to electronic monitoring, the clerk of the court shall send, by facsimile or other means, a copy of the order, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the person resides. The Judicial Branch shall cease operation of any pilot program established under this subsection not later than March 31, 2011, unless resources are available to continue operation of the pilot program.

[(f)] (g) In cases referred to the local family violence intervention unit, it shall be the function of the unit to (1) identify victim service needs and, by contract with victim service providers, make available appropriate services, and (2) identify appropriate offender services and where possible, by contract, provide treatment programs for offenders.

[(g)] (h) There shall be a pretrial family violence education program for persons who are charged with family violence crimes. At a minimum, such program shall inform participants of the basic elements of family violence law and applicable penalties. The court may, in its discretion, invoke such program on motion of the defendant when it finds: (1) That the defendant has not previously been convicted of a family violence crime which occurred on or after October 1, 1986; (2) the defendant has not had a previous case assigned to the family violence education program; (3) the defendant has not previously invoked or accepted accelerated rehabilitation under section 54-56e for a family violence crime which occurred on or after October 1, 1986; and (4) that the defendant is not charged with a class A, class B or class C felony, or an unclassified felony carrying a term of imprisonment of more than ten years, or unless good cause is shown, a class D felony or an unclassified offense carrying a term of imprisonment of more than five years. Participation by any person in the accelerated pretrial rehabilitation program under section 54-56e prior to October 1, 1986, shall not prohibit eligibility of such person for



**Substitute House Bill No. 5497**

the pretrial family violence education program under this section. The court may require that the defendant answer such questions under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury as will assist the court in making these findings. The court, on such motion, may refer the defendant to the family violence intervention unit, and may continue the defendant's case pending the submission of the report of the unit to the court. The court shall also give notice to the victim or victims that the defendant has requested assignment to the family violence education program, and, where possible, give the victim or victims opportunity to be heard. Any defendant who accepts placement in the family violence education program shall agree to the tolling of any statute of limitations with respect to the crime or crimes with which the defendant is charged, and to a waiver of the defendant's right to a speedy trial. Any such defendant shall appear in court and shall be released to the custody of the family violence intervention unit for such period, not exceeding two years, and under such conditions as the court shall order. If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial. If the defendant satisfactorily completes the family violence education program and complies with the conditions imposed for the period set by the court, the defendant may apply for dismissal of the charges against the defendant and the court, on finding satisfactory compliance, shall dismiss such charges. Upon dismissal all records of such charges shall be erased pursuant to section 54-142a.

[(h)] (i) A fee of two hundred dollars shall be paid to the court by any person who enters the family violence education program, except that no person shall be excluded from such program for inability to pay the fee, provided (1) the person files with the court an affidavit of indigency or inability to pay, and (2) the court enters a finding thereof. All such fees shall be credited to the General Fund.

**Substitute House Bill No. 5497**

[(i)] (j) The Judicial Department shall establish an ongoing training program for judges, Court Support Services Division personnel and clerks to inform them about the policies and procedures of sections 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f, inclusive, and 54-1g, including, but not limited to, the function of the family violence intervention units and the use of restraining and protective orders.

Sec. 4. Section 51-5c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(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, as amended by this act, 46b-38c, as amended by this act, 53a-40e, as amended by this act, 54-1k, as amended by this act, 54-82q and 54-82r, and (2) foreign orders of protection that have been registered in this state pursuant to section 46b-15a. 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, which shall include policies and procedures governing the disclosure of information in the registry to the judges of the Superior Court and employees of the Judicial Department.

(b) (1) The following information contained in the registry of protective orders shall not be subject to disclosure and may be accessed only in accordance with this section, unless otherwise ordered by the court: (A) Any information that would identify a person protected by an order contained in the registry; (B) any information that is confidential pursuant to state or federal law, including, but not limited to, any information that is confidential pursuant to a court order; and (C) any information entered in the registry pursuant to an ex parte order prior to a hearing by a court

***Substitute House Bill No. 5497***

having jurisdiction over the parties and the subject matter.

(2) Any judge of the Superior Court or any employee of the Judicial Department who is authorized by policies and procedures adopted by the Chief Court Administrator pursuant to subsection (a) of this section shall have access to such information. The Chief Court Administrator may grant access to such information to personnel of the Department of Public Safety, the Department of Correction, the Board of Pardons and Paroles, the Psychiatric Security Review Board, the Division of Criminal Justice, any municipal or tribal police department within this state or any other agency, organization or person determined by the Chief Court Administrator, pursuant to policies and procedures adopted by the Chief Court Administrator, to have a legitimate interest in the information contained in the registry. Any person who obtains such information pursuant to this subdivision may use and disclose the information only in the performance of such person's duties.

(3) Except as provided in subsection (c) of this section, the information contained in the registry shall be provided to and may be accessed through the Connecticut on-line law enforcement communications teleprocessing system maintained by the Department of Public Safety. Nothing in this section shall be construed to permit public access to the Connecticut on-line law enforcement communications teleprocessing system.

(c) Any person protected by an order contained in the registry of protective orders may make a request in writing, on a form prescribed by the Chief Court Administrator, that the registry not disclose such protected person's name and address except to the law enforcement agency for the town in which (1) such protected person resides, (2) such protected person is employed, or (3) the person subject to the order resides.

**Substitute House Bill No. 5497**

(d) Any person who has reason to believe that information concerning such person which is contained in the registry of protective orders is not consistent with a valid court order may submit a written request for verification of such information to the clerk of the superior court for the judicial district in which such order was issued. If the clerk finds that such information contained in the registry is not consistent with such order, the clerk shall promptly cause such information to be removed from the registry.

(e) The orders and other information required or permitted to be contained in the registry of protective orders may be entered in the registry in any written or electronic form approved by the Chief Court Administrator. For the purposes of this section, an order is contained in the registry if the information contained in such order and information concerning the issuance of such order is entered in the registry in a manner approved by the Chief Court Administrator pursuant to this subsection.

Sec. 5. Section 53a-40e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) If any person is convicted of (1) a violation of section 53a-59, 53a-59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-181c, 53a-181d, 53a-181e, 53a-182b, 53a-183, 53a-223, 53a-223a, as amended by this act, or 53a-223b or attempt or conspiracy to violate any of said sections or section 53a-54a, against a family or household member, as defined in section 46b-38a, or (2) any crime that the court determines constitutes a family violence crime, as defined in section 46b-38a, or attempt or conspiracy to commit any such crime, the court may, in addition to imposing the sentence authorized for the crime under section 53a-35a or 53a-36, if the court is of the opinion that the history and character and the nature and circumstances of the criminal conduct of such offender indicate that a standing criminal [restraining] protective order will best serve the

**Substitute House Bill No. 5497**

interest of the victim and the public, issue a standing criminal [restraining] protective order which shall remain in effect for a duration specified by the court until modified or revoked by the court for good cause shown. If any person is convicted of any crime against a family or household member, as defined in section 46b-38a, other than a crime specified in subdivision (1) or (2) of this subsection, the court may, for good cause shown, issue a standing criminal [restraining] protective order pursuant to this subsection.

(b) Such standing criminal [restraining] protective order may include, but [is] need not be limited to, provisions enjoining the offender from (1) imposing any restraint upon the person or liberty of the victim; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the victim; or (3) entering the family dwelling or the dwelling of the victim.

[(c) Every standing criminal restraining order of the court made in accordance with this section shall contain the following language: "This order shall remain in effect until modified or revoked by the court for good cause shown. In accordance with section 53a-223a, violation of a standing criminal restraining order issued by the court pursuant to subsection (a) of this section shall be punishable by a term of imprisonment of not less than one year nor more than five years, a fine of not more than five thousand dollars or both."]

(c) Such standing criminal protective order shall include the following notice: "In accordance with section 53a-223a of the Connecticut general statutes, violation of this order shall be punishable by a term of imprisonment of not less than one year nor more than five years, a fine of not more than five thousand dollars, or both."

Sec. 6. Section 53a-223a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

**Substitute House Bill No. 5497**

(a) A person is guilty of criminal violation of a standing criminal [restraining] protective order when an order issued pursuant to subsection (a) of section 53a-40e, as amended by this act, has been issued against such person, and such person violates such order.

(b) Criminal violation of a standing criminal [restraining] protective order is a class D felony.

Sec. 7. Section 54-1k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) Upon the arrest of a person for a violation of subdivision (1) or (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a, or any attempt thereof, or section 53a-181c, 53a-181d or 53a-181e, the court may issue a protective order pursuant to this section. Upon the arrest of a person for a violation of section 53a-182b or 53a-183, the court may issue a protective order pursuant to this section if it finds that such violation caused the victim to reasonably fear for his or her physical safety. Such order shall be an order of the court, and the clerk of the court shall cause (1) a [certified] copy of such order or the information contained in such order to be sent to the victim, and (2) a copy of such order, or the information contained in such order, to be sent by facsimile or other means within forty-eight hours of its issuance to the [appropriate law enforcement agency] law enforcement agency or agencies for the town in which the victim resides, the town in which the victim is employed and the town in which the defendant resides.

(b) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including but not limited to, an order enjoining the defendant from (1) imposing any restraint upon the person or liberty of the victim, (2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or (3) entering

**Substitute House Bill No. 5497**

the dwelling of the victim. A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal. Such order shall be made a condition of the bail or release of the defendant and shall contain the following language: "In accordance with section 53a-223 of the Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, in accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or release and may result in raising the amount of bail or revoking release."

(c) The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51-5c, as amended by this act.

Sec. 8. Section 53a-28 of the general statutes is amended by adding subsection (f) as follows (*Effective October 1, 2010*):

(NEW) (f) When sentencing a person to a period of probation who is or has been subject to a protective order issued under section 54-1k, as amended by this act, the court may issue a protective order that is effective during such period of probation.

Sec. 9. Subsection (c) of section 17b-90 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

**Substitute House Bill No. 5497**

(c) In IV-D support cases, as defined in subdivision (13) of subsection (b) of section 46b-231, in addition to the prohibitions of subsection (b) of this section, no information shall be released concerning the whereabouts of one party to another party (1) against whom a protective order, a restraining order or a standing criminal [restraining] protective order with respect to the former party is in effect, or (2) if the department has reason to believe that the release of the information may result in physical or emotional harm to the former party.

Sec. 10. Section 18-81m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

When any person against whom a standing criminal [restraining] protective order has been issued pursuant to subsection (a) of section 53a-40e, as amended by this act, is released from confinement in a correctional institution, the Commissioner of Correction shall notify such person of the existence of the standing criminal [restraining] protective order against him, the terms of the order and the penalty for violation of the order and the commissioner shall provide such person with a copy of the order. If such person is released on parole or probation, the parole or probation officer shall, at the end of such term of parole or probation, remind such person of the existence of the standing criminal [restraining] protective order against him, the terms of the order and the penalty for violation of the order and the parole or probation officer shall provide such person with a copy of the order.

Sec. 11. Section 46b-15c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) In any court proceeding in a family relations matter, as defined in section 46b-1, the court may, within available resources, upon motion of the attorney for any party, order that the testimony of a party or a child who is a subject of the proceeding be taken outside the



**Substitute House Bill No. 5497**

physical presence of any other party if a protective order, restraining order or standing criminal [restraining] protective order has been issued on behalf of the party or child, and the other party is subject to the protective order, [or] restraining order or standing criminal protective order. Such order may provide for the use of alternative means to obtain the testimony of any party or child, including, but not limited to, the use of a secure video connection for the purpose of conducting hearings by videoconference. Such testimony may be taken in a room other than the courtroom or at another location outside the courthouse or outside the state. The court shall provide for the administration of an oath to such party or child prior to the taking of such testimony in accordance with the rules of the Superior Court.

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

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

Sec. 12. Section 53a-40d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) A persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order is a person who (1) stands convicted of assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b or criminal trespass under section 53a-107 or 53a-108, and (2) has, [within the five years preceding the commission of the present crime,] (A) been convicted of a capital felony, a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a

**Substitute House Bill No. 5497**

conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b, or criminal trespass under section 53a-107 or 53a-108, (B) been convicted in any other state of any crime the essential elements of which are substantially the same as any of the crimes enumerated in subparagraph (A) of this subdivision, or [has] (C) been released from incarceration with respect to such conviction. [ whichever is later.]

(b) When any person has been found to be a persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order, the court shall, in lieu of imposing the sentence authorized for the crime under section 53a-36 or section 53a-35a, as applicable, impose the sentence of imprisonment authorized by said section 53a-36 or section 53a-35a for the next more serious degree of misdemeanor or felony, except that if the crime is a class A misdemeanor the court shall impose the sentence of imprisonment for a class D felony, as authorized by section 53a-35a.

Sec. 13. (NEW) (*Effective from passage*) (a) For the purposes of this section, "domestic violence docket" means a docket in a geographical area separate and apart from other criminal matters for the hearing of family violence matters.

(b) Not later than December 31, 2010, the Chief Court Administrator shall identify geographical areas that do not have a domestic violence docket and designate three geographical areas from among such geographical areas for the establishment of domestic violence dockets. Not later than June 30, 2011, the Chief Court Administrator may

**Substitute House Bill No. 5497**

establish, within available resources, a domestic violence docket in each geographical area so designated under this subsection. If the Chief Court Administrator establishes such dockets, the Chief Court Administrator shall, prior to establishing such dockets, examine the effectiveness of domestic violence dockets in existence prior to the effective date of this section, and incorporate, within available resources, the operational elements of such dockets that the Chief Court Administrator deems beneficial to victims of family violence. If the Chief Court Administrator does not establish such dockets by June 30, 2011, the Chief Court Administrator shall submit a report, in accordance with section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary, stating the reasons why such dockets were not established.

Sec. 14. Section 54-85b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) An employer shall not deprive an employee of employment, penalize or threaten or otherwise coerce an employee with respect [thereto] to employment, because (1) the employee obeys a legal subpoena to appear before any court of this state as a witness in any criminal proceeding, (2) the employee attends a court proceeding or participates in a police investigation related to a criminal case in which the employee is a crime victim, or attends or participates in a court proceeding related to a civil case in which the employee is a victim of family violence, as defined in section 46b-38a, (3) a restraining order has been issued on the employee's behalf pursuant to section 46b-15, as amended by this act, [or] (4) a protective order has been issued on the employee's behalf by a court of this state or by a court of another state, provided if issued by a court of another state, the protective order shall be registered in this state pursuant to section 46b-15a, or (5) the employee is a victim of family violence, as defined in section 46b-38a.

**Substitute House Bill No. 5497**

For the purposes of this section, "crime victim" means an employee who suffers direct or threatened physical, emotional or financial harm as a result of a crime or an employee who is an immediate family member or guardian of (A) a person who suffers such harm and is a minor, physically disabled, as defined in section 46a-51, or incompetent, or (B) a homicide victim.

(b) Any employer who violates subdivision (1) of subsection (a) of this section shall be guilty of criminal contempt and shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(c) If an employer discharges, penalizes or threatens or otherwise coerces an employee in violation of subsection (a) of this section, the employee, not later than [ninety] one hundred eighty days from the occurrence of such action, may bring a civil action for damages and for an order requiring the employee's reinstatement or otherwise rescinding such action. If the employee prevails, the employee shall be allowed a reasonable attorney's fee to be fixed by the court.

Sec. 15. (NEW) (*Effective October 1, 2010*) (a) For the purposes of this section:

(1) "Employer" means a person engaged in business who has three or more employees, including the state and any political subdivision of the state;

(2) "Employee" means any person engaged in service to an employer in the business of the employer;

(3) "Family violence" means family violence, as defined in section 46b-38a of the general statutes; and

(4) "Leave" includes paid or unpaid leave which may include, but is not limited to, compensatory time, vacation time, personal days off or

***Substitute House Bill No. 5497***

other time off.

(b) If an employee is a victim of family violence, an employer shall permit the employee to take paid or unpaid leave during any calendar year in which such leave is reasonably necessary (1) to seek medical care or psychological or other counseling for physical or psychological injury or disability for the victim, (2) to obtain services from a victim services organization on behalf of the victim, (3) to relocate due to such family violence, or (4) to participate in any civil or criminal proceeding related to or resulting from such family violence. An employer may limit unpaid leave under this section to twelve days during any calendar year. Leave under this section shall not affect any other leave provided under state or federal law.

(c) If an employee's need to use leave under this section is foreseeable, an employer may require advance notice, not to exceed seven days prior to the date such leave is to begin, of the intention to use such leave. If an employee's need for such leave is not foreseeable, an employer may require an employee to give notice of such intention as soon as practicable.

(d) Upon an employer's request, an employee who takes leave pursuant to this section shall provide the employer a signed written statement certifying that the leave is for a purpose authorized under this section. The employer may also, but need not, request that the employee provide a police or court record related to the family violence or a signed written statement that the employee is a victim of family violence, provided such statement is from an employee or agent of a victim services organization, an attorney, an employee of the Judicial Branch's Office of Victim Services or the Office of the Victim Advocate, or a licensed medical professional or other licensed professional from whom the employee has sought assistance with respect to the family violence.

**Substitute House Bill No. 5497**

(e) Nothing in this section shall be construed to (1) prevent employers from providing more leave than is required under this section, (2) diminish any rights provided to any employee under the terms of the employee's employment or a collective bargaining agreement, or (3) preempt or override the terms of any collective bargaining agreement effective prior to October 1, 2010.

(f) Nothing in this section shall be construed to require an employer to provide paid leave under this section if (1) the employee is not entitled to paid leave pursuant to the terms and conditions of the employee's employment, or (2) such paid leave exceeds the maximum amount of leave due the employee during any calendar year, provided the employee shall be entitled to unpaid leave under this section if paid leave is exhausted or not provided.

(g) Any written statement or police or court record provided to an employer pursuant to subsection (d) of this section shall be maintained as confidential by the employer and shall not be further disclosed by the employer except as required by federal or state law or as necessary to protect the employee's safety in the workplace, provided the employee is given notice prior to the disclosure.

(h) If an employer discharges, penalizes or threatens or otherwise coerces an employee in violation of this section, the employee, not later than one hundred eighty days from the occurrence of such action, may bring a civil action for damages and for an order requiring the employee's reinstatement or otherwise rescinding such action. If the employee prevails, the employee shall be allowed a reasonable attorney's fee to be fixed by the court.

Sec. 16. Section 17a-28 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

**Substitute House Bill No. 5497**

(a) As used in this section:

(1) "Person" means (A) any individual named in a record, maintained by the department, who (i) is presently or at any prior time was a ward of or committed to the commissioner for any reason; (ii) otherwise received services, voluntarily or involuntarily, from the department; or (iii) is presently or was at any prior time the subject of an investigation by the department; (B) the parent of a person, as defined in subparagraph (A) of this subdivision, if such person is a minor; or (C) the authorized representative of a person, as defined in subparagraph (A) of this subdivision, if such person is deceased;

(2) "Attorney" means the licensed attorney authorized to assert the confidentiality of or right of access to records of a person;

(3) "Authorized representative" means a parent, guardian, conservator or other individual authorized to assert the confidentiality of or right of access to records of a person;

(4) "Consent" means permission given in writing by a person, his attorney or his authorized representative to disclose specified information, within a limited time period, regarding the person to specifically identified individuals;

(5) "Records" means information created or obtained in connection with the department's child protection activities or activities related to a child while in the care or custody of the department, including information in the registry of reports to be maintained by the commissioner pursuant to section 17a-101k, provided records which are not created by the department are not subject to disclosure, except as provided pursuant to subsection (f), (l) or (n) of this section;

(6) "Disclose" means (A) to provide an oral summary of records maintained by the department to an individual, agency, corporation or organization, or (B) to allow an individual, agency, corporation or

***Substitute House Bill No. 5497***

organization to review or obtain copies of such records in whole, part or summary form;

(7) "Near fatality" means an act, as certified by a physician, that places a child in serious or critical condition.

(b) Notwithstanding the provisions of section 1-210, 1-211 or 1-213, records maintained by the department shall be confidential and shall not be disclosed, unless the department receives written consent from the person or as provided in this section. Any unauthorized disclosure shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. Any employee of the department who in the ordinary course of such person's employment has reasonable cause to suspect or believe that another employee has engaged in the unauthorized disclosure of records shall report in writing such unauthorized disclosure of records to the commissioner. The report shall include the name of the person disclosing the information and the nature of the information disclosed and to whom it was disclosed, if known.

(c) When information concerning an incident of abuse or neglect has been made public or when the commissioner reasonably believes publication of such information is likely, the commissioner or the commissioner's designee may disclose, with respect to an investigation of such abuse or neglect: (1) Whether the department has received a report in accordance with sections 17a-101a to 17a-101c, inclusive, or section 17a-103, and (2) in general terms, any action taken by the department, provided (A) the names or other individually identifiable information of the minor victim or other family member is not disclosed, and (B) the name or other individually identifiable information of the person suspected to be responsible for the abuse or neglect is not disclosed unless the person has been arrested for a crime due to such abuse or neglect.



***Substitute House Bill No. 5497***

(d) The commissioner shall make available to the public, without the consent of the person, information in general terms or findings concerning an incident of abuse or neglect which resulted in a child fatality or near fatality of a child, provided disclosure of such information or findings does not jeopardize a pending investigation.

(e) The commissioner shall, upon written request, disclose the following information concerning agencies licensed by the Department of Children and Families, except foster care parents, relatives of the child who are certified to provide foster care or prospective adoptive families: (1) The name of the licensee; (2) the date the original license was issued; (3) the current status of the license; (4) whether an agency investigation or review is pending or has been completed; and (5) any licensing action taken by the department at any time during the period such license was issued and the reason for such action, provided disclosure of such information will not jeopardize a pending investigation.

(f) The commissioner or the commissioner's designee shall, upon request, promptly provide copies of records, without the consent of a person, to (1) a law enforcement agency, (2) the Chief State's Attorney, or the Chief State's Attorney's designee, or a state's attorney for the judicial district in which the child resides or in which the alleged abuse or neglect occurred, or the state's attorney's designee, for purposes of investigating or prosecuting an allegation of child abuse or neglect, (3) the attorney appointed to represent a child in any court in litigation affecting the best interests of the child, (4) a guardian ad litem appointed to represent a child in any court in litigation affecting the best interests of the child, (5) the Department of Public Health, in connection with: (A) Licensure of any person to care for children for the purposes of determining the suitability of such person for licensure, subject to the provisions of sections 17a-101g and 17a-101k, or (B) an investigation conducted pursuant to section 19a-80f, (6) any

***Substitute House Bill No. 5497***

state agency which licenses such person to educate or care for children pursuant to section 10-145b or 17a-101j, subject to the provisions of sections 17a-101g and 17a-101k concerning nondisclosure of findings of responsibility for abuse and neglect, (7) the Governor, when requested in writing, in the course of the Governor's official functions or the Legislative Program Review and Investigations Committee, the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary and the select committee of the General Assembly having cognizance of matters relating to children when requested in the course of said committees' official functions in writing, and upon a majority vote of said committee, provided no names or other identifying information shall be disclosed unless it is essential to the legislative or gubernatorial purpose, (8) a local or regional board of education, provided the records are limited to educational records created or obtained by the state or Connecticut-Unified School District #2, established pursuant to section 17a-37, (9) a party in a custody proceeding under section 17a-112 or 46b-129, in the Superior Court where such records concern a child who is the subject of the proceeding or the parent of such child, (10) the Chief Child Protection Attorney, or his or her designee, for purposes of ensuring competent representation by the attorneys whom the Chief Child Protection Attorney contracts with to provide legal and guardian ad litem services to the subjects of such records and to ensure accurate payments for services rendered by such contract attorneys, [and] (11) the Department of Motor Vehicles, for purposes of checking the state's child abuse and neglect registry pursuant to subsection (e) of section 14-44, and (12) a judge of the Superior Court and all necessary parties in a family violence proceeding when such records concern family violence with respect to the child who is the subject of the proceeding or the parent of such child who is the subject of the proceeding. A disclosure under this section shall be made of any part of a record, whether or not created by the department, provided no confidential record of the Superior Court shall be disclosed other than the petition

**Substitute House Bill No. 5497**

and any affidavits filed therewith in the superior court for juvenile matters, except upon an order of a judge of the Superior Court for good cause shown. The commissioner shall also disclose the name of any individual who cooperates with an investigation of a report of child abuse or neglect to such law enforcement agency or state's attorney for purposes of investigating or prosecuting an allegation of child abuse or neglect. The commissioner or the commissioner's designee shall, upon request, subject to the provisions of sections 17a-101g and 17a-101k, promptly provide copies of records, without the consent of the person, to (A) the Department of Public Health for the purpose of determining the suitability of a person to care for children in a facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82 to 19a-87, inclusive, and 19a-87b, and (B) the Department of Social Services for determining the suitability of a person for any payment from the department for providing child care.

(g) When the commissioner or his designee determines it to be in a person's best interest, the commissioner or his designee may disclose records, whether or not created by the department and not otherwise privileged or confidential communications under state or federal law, without the consent of a person to:

(1) Multidisciplinary teams which are formed to assist the department in investigation, evaluation or treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services under contract with the department for a child referred to the provider;

(2) Any agency in another state which is responsible for investigating or protecting against child abuse or neglect for the purpose of investigating a child abuse case;

(3) An individual, including a physician, authorized pursuant to section 17a-101f to place a child in protective custody if such

***Substitute House Bill No. 5497***

individual has before him a child whom he reasonably suspects may be a victim of abuse or neglect and such individual requires the information in a record in order to determine whether to place the child in protective custody;

(4) An individual or public or private agency responsible for a person's care or custody and authorized by the department to diagnose, care for, treat or supervise a child who is the subject of a record of child abuse or neglect or a public or private agency responsible for a person's education for a purpose related to the individual's or agency's responsibilities;

(5) The Attorney General or any assistant attorney general providing legal counsel for the department;

(6) Individuals or public or private agencies engaged in medical, psychological or psychiatric diagnosis or treatment of a person perpetrating the abuse or who is unwilling or unable to protect the child from abuse or neglect when the commissioner or his designee determines that the disclosure is needed to accomplish the objectives of diagnosis or treatment;

(7) A person who reports child abuse pursuant to sections 17a-101a to 17a-101c, inclusive, and section 17a-103, who made a report of abuse involving the subject child, provided the information disclosed is limited to (A) the status of the investigation and (B) in general terms, any action taken by the department;

(8) An individual conducting bona fide research, provided no information identifying the subjects of records shall be disclosed unless (A) such information is essential to the purpose of the research; (B) each person identified in a record or his authorized representative has authorized such disclosure in writing; and (C) the department has given written approval;

***Substitute House Bill No. 5497***

(9) The Auditors of Public Accounts or their representative, provided no information identifying the subjects of the records shall be disclosed unless such information is essential to an audit conducted pursuant to section 2-90;

(10) The Department of Social Services, provided the information disclosed is necessary to promote the health, safety and welfare of the child;

(11) A judge of the Superior Court for purposes of determining the appropriate disposition of a child convicted as delinquent or a child who is a member of a family with service needs;

(12) The superintendents, or their designees, of state-operated facilities within the department; and

(13) The Department of Developmental Services, to allow said department to determine eligibility, facilitate enrollment and plan for the provision of services to a child, who is a client of said department but who is not yet participating in said department's voluntary services program. Records provided pursuant to this subdivision shall be limited to a written summary of any investigation conducted by the Department of Children and Families pursuant to section 17a-101g. At the time that a parent or guardian completes an application for enrollment of a child in the Department of Developmental Services voluntary services program, said department shall notify such parent or guardian that records specified in this subdivision may be provided by the Department of Children and Families to the Department of Developmental Services without the consent of such parent or guardian.

(h) The commissioner or his designee may disclose the name, address and fees for services to a person, to individuals or agencies involved in the collection of fees for such services, except as provided

***Substitute House Bill No. 5497***

in section 17b-225. In cases where a dispute arises over such fees or claims or where additional information is needed to substantiate the fee or claim, such disclosure of further information shall be limited to the following: (1) That the person was in fact committed to or otherwise served by the department; (2) dates and duration of service; and (3) a general description of the service, which shall include evidence that a service or treatment plan exists and has been carried out and evidence to substantiate the necessity for admission and length of stay in any institution or facility.

(i) Notwithstanding the provisions of subsections (f) and (l) of this section, the name of an individual reporting child abuse or neglect shall not be disclosed without his written consent except to (1) an employee of the department responsible for child protective services or the abuse registry; (2) a law enforcement officer; (3) an appropriate state's attorney; (4) an appropriate assistant attorney general; (5) a judge of the Superior Court and all necessary parties in a court proceeding pursuant to section 46b-129, or a criminal prosecution involving child abuse or neglect; or (6) a state child care licensing agency, executive director of any institution, school or facility or superintendent of schools pursuant to section 17a-101i.

(j) Notwithstanding the provisions of subsection (g) of this section, the name of any individual who cooperates with an investigation of a report of child abuse or neglect shall be kept confidential upon request or upon determination by the department that disclosure of such information may be detrimental to the safety or interests of the individual, except the name of any such individual shall be disclosed to the persons listed in subsection (i) of this section.

(k) Notwithstanding the confidentiality provisions of this section, the commissioner, upon request of an employee, shall disclose such records to such employee or his authorized representative which would be applicable and necessary for the purposes of an employee

***Substitute House Bill No. 5497***

disciplinary hearing or appeal from a decision after such hearing.

(l) Information disclosed from a person's record shall not be disclosed further without the written consent of the person, except if disclosed (1) pursuant to the provisions of section 19a-80f, or (2) to a party or his counsel pursuant to an order of a court in which a criminal prosecution or an abuse, neglect, commitment or termination proceeding against the party is pending. A state's attorney shall disclose to the defendant or his counsel in a criminal prosecution, without the necessity of a court order, exculpatory information and material contained in such record and may disclose, without a court order, information and material contained in such record which could be the subject of a disclosure order. All written records disclosed to another individual or agency shall bear a stamp requiring confidentiality in accordance with the provisions of this section. Such material shall not be disclosed to anyone without written consent of the person or as provided by this section. A copy of the consent form specifying to whom and for what specific use the record is disclosed or a statement setting forth any other statutory authorization for disclosure and the limitations imposed thereon shall accompany such record. In cases where the disclosure is made orally, the individual disclosing the information shall inform the recipient that such information is governed by the provisions of this section.

(m) In addition to the right of access provided in section 1-210, any person, regardless of age, his authorized representative or attorney shall have the right of access to any records made, maintained or kept on file by the department, whether or not such records are required by any law or by any rule or regulation, when those records pertain to or contain information or materials concerning the person seeking access thereto, including but not limited to records concerning investigations, reports, or medical, psychological or psychiatric examinations of the person seeking access thereto, provided that (1) information

***Substitute House Bill No. 5497***

identifying an individual who reported abuse or neglect of a person, including any tape recording of an oral report pursuant to section 17a-103, shall not be released unless, upon application to the Superior Court by such person and served on the Commissioner of Children and Families, a judge determines, after in camera inspection of relevant records and a hearing, that there is reasonable cause to believe the reporter knowingly made a false report or that other interests of justice require such release; and (2) if the commissioner determines that it would be contrary to the best interests of the person or his authorized representative or attorney to review the records, he may refuse access by issuing to such person or representative or attorney a written statement setting forth the reasons for such refusal, and advise the person, his authorized representative or attorney of the right to seek judicial relief. When any person, attorney or authorized representative, having obtained access to any record, believes there are factually inaccurate entries or materials contained therein, he shall have the unqualified right to add a statement to the record setting forth what he believes to be an accurate statement of those facts, and said statement shall become a permanent part of said record.

(n) (1) Any person, attorney or authorized representative aggrieved by a violation of subsection (b), (f), (g), (h), (i), (j) or (l) of this section or of subsection (m) of this section, except subdivision (2) of said subsection (m), may seek judicial relief in the same manner as provided in section 52-146j; (2) any person, attorney or authorized representative denied access to records by the commissioner under subdivision (2) of subsection (m) of this section may petition the superior court for the venue district provided in section 46b-142 in which the person resides for an order requiring the commissioner to permit access to those records, and the court after hearing, and an in camera review of the records in question, shall issue such an order unless it determines that to permit such access would be contrary to the best interests of the person or authorized representative.



***Substitute House Bill No. 5497***

(o) The commissioner shall promulgate regulations pursuant to chapter 54, within one year of October 1, 1996, to establish procedures for access to and disclosure of records consistent with the provisions of this section.

Sec. 17. (*Effective from passage*) The Chief Court Administrator shall apply for, receive, allocate, disburse and account for grants of funds made available by the United States, including, but not limited to, funds available pursuant to the federal Violence Against Women Act of 1994, 18 USC 2265, for the purpose of funding the electronic monitoring pilot program established under subsection (f) of section 46b-38c of the general statutes, as amended by this act.

Approved June 7, 2010