



# House of Representatives

General Assembly

**File No. 701**

January Session, 2011

Substitute House Bill No. 6629

*House of Representatives, May 3, 2011*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING DOMESTIC VIOLENCE.***

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 Section 46b-15 of the general statutes is repealed and the  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 October 1, 2011*):

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

12 (b) The application form shall allow the applicant, at the applicant's  
13 option, to indicate whether the respondent holds a permit to carry a  
14 pistol or revolver or possesses one or more firearms. The application

15 shall be accompanied by an affidavit made under oath which includes  
16 a brief statement of the conditions from which relief is sought. Upon  
17 receipt of the application the court shall order that a hearing on the  
18 application be held not later than fourteen days from the date of the  
19 order. The court, in its discretion, may make such orders as it deems  
20 appropriate for the protection of the applicant and such dependent  
21 children or other persons as the court sees fit. In making such orders,  
22 the court, in its discretion, may consider relevant court records if the  
23 records are available to the public from a clerk of the Superior Court or  
24 on the Judicial Branch's Internet web site. Such orders may include  
25 temporary child custody or visitation rights, and such relief may  
26 include, but is not limited to, an order enjoining the respondent from  
27 (1) imposing any restraint upon the person or liberty of the applicant;  
28 (2) threatening, harassing, assaulting, molesting, sexually assaulting or  
29 attacking the applicant; or (3) entering the family dwelling or the  
30 dwelling of the applicant. Such order may include provisions  
31 necessary to protect any animal owned or kept by the applicant  
32 including, but not limited to, an order enjoining the respondent from  
33 injuring or threatening to injure such animal. If an applicant alleges an  
34 immediate and present physical danger to the applicant, the court may  
35 issue an ex parte order granting such relief as it deems appropriate. If a  
36 postponement of a hearing on the application is requested by either  
37 party and granted, the order shall not be continued except upon  
38 agreement of the parties or by order of the court for good cause shown.

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

46 (d) No order of the court shall exceed six months, except that an  
47 order may be extended by the court upon motion of the applicant for  
48 such additional time as the court deems necessary. If the respondent

49 has not appeared upon the initial application, service of a motion to  
50 extend an order may be made by first-class mail directed to the  
51 respondent at his or her last known address.

52 (e) The applicant shall cause notice of the hearing pursuant to  
53 subsection (b) of this section and a copy of the application and the  
54 applicant's affidavit and of any ex parte order issued pursuant to  
55 subsection (b) of this section to be served on the respondent not less  
56 than five days before the hearing. The cost of such service shall be paid  
57 for by the Judicial Branch. Upon the granting of an ex parte order, the  
58 clerk of the court shall provide two copies of the order to the applicant.  
59 Upon the granting of an order after notice and hearing, the clerk of the  
60 court shall provide two copies of the order to the applicant and a copy  
61 to the respondent. Every order of the court made in accordance with  
62 this section after notice and hearing shall be accompanied by a  
63 notification that is consistent with the full faith and credit provisions  
64 set forth in 18 USC 2265(a), as amended from time to time.  
65 Immediately after making service on the respondent, the proper officer  
66 shall send or cause to be sent, by facsimile or other means, a copy of  
67 the application, or the information contained in such application,  
68 stating the date and time the respondent was served, to the law  
69 enforcement agency or agencies for the town in which the applicant  
70 resides, the town in which the applicant is employed and the town in  
71 which the respondent resides. The clerk of the court shall send, by  
72 facsimile or other means, a copy of any ex parte order and of any order  
73 after notice and hearing, or the information contained in any such  
74 order, to the law enforcement agency or agencies for the town in which  
75 the applicant resides, the town in which the applicant is employed and  
76 the town in which the respondent resides, within forty-eight hours of  
77 the issuance of such order.

78 (f) A caretaker who is providing shelter in his or her residence to a  
79 person sixty years or older shall not be enjoined from the full use and  
80 enjoyment of his or her home and property. The Superior Court may  
81 make any other appropriate order under the provisions of this section.

82 (g) When a motion for contempt is filed for violation of a restraining  
83 order, there shall be an expedited hearing. Such hearing shall be held  
84 within five court days of service of the motion on the respondent,  
85 provided service on the respondent is made not less than twenty-four  
86 hours before the hearing. If the court finds the respondent in contempt  
87 for violation of an order, the court may impose such sanctions as the  
88 court deems appropriate.

89 (h) An action under this section shall not preclude the applicant  
90 from seeking any other civil or criminal relief.

91 Sec. 2. Section 46b-38a of the general statutes is repealed and the  
92 following is substituted in lieu thereof (*Effective October 1, 2011*):

93 For the purposes of sections 46b-38a to 46b-38f, inclusive, as  
94 amended by this act:

95 (1) "Family violence" means an incident resulting in physical harm,  
96 bodily injury or assault, or an act of threatened violence that  
97 constitutes fear of imminent physical harm, bodily injury or assault  
98 between family or household members. Verbal abuse or argument  
99 shall not constitute family violence unless there is present danger and  
100 the likelihood that physical violence will occur.

101 (2) "Family or household member" means (A) spouses, former  
102 spouses; (B) parents and their children; (C) persons eighteen years of  
103 age or older related by blood or marriage; (D) persons sixteen years of  
104 age or older other than those persons in subparagraph (C) presently  
105 residing together or who have resided together; (E) persons who have  
106 a child in common regardless of whether they are or have been  
107 married or have lived together at any time; and (F) persons in, or who  
108 have recently been in, a dating relationship, regardless of the age of  
109 such persons.

110 (3) "Family violence crime" means a crime as defined in section 53a-  
111 24 which, in addition to its other elements, contains as an element  
112 thereof an act of family violence to a family member and shall not

113 include acts by parents or guardians disciplining minor children unless  
114 such acts constitute abuse.

115 (4) "Institutions and services" means peace officers, service  
116 providers, mandated reporters of abuse, agencies and departments  
117 that provide services to victims and families and services designed to  
118 assist victims and families.

119 Sec. 3. Section 46b-38b of the general statutes is repealed and the  
120 following is substituted in lieu thereof (*Effective October 1, 2011*):

121 (a) Whenever a peace officer determines upon speedy information  
122 that a family violence crime [ except a family violence crime involving  
123 a dating relationship,] has been committed within such officer's  
124 jurisdiction, such officer shall arrest the person or persons suspected of  
125 its commission and charge such person or persons with the  
126 appropriate crime. The decision to arrest and charge shall not (1) be  
127 dependent on the specific consent of the victim, (2) consider the  
128 relationship of the parties, or (3) be based solely on a request by the  
129 victim. Whenever a peace officer determines that a family violence  
130 crime has been committed, such officer may seize any firearm or  
131 electronic defense weapon, as defined in section 53a-3, at the location  
132 where the crime is alleged to have been committed that is in the  
133 possession of any person arrested for the commission of such crime or  
134 suspected of its commission or that is in plain view. Not later than  
135 seven days after any such seizure, the law enforcement agency shall  
136 return such firearm or electronic defense weapon in its original  
137 condition to the rightful owner thereof unless such person is ineligible  
138 to possess such firearm or electronic defense weapon or unless  
139 otherwise ordered by the court.

140 (b) No peace officer investigating an incident of family violence  
141 shall threaten, suggest or otherwise indicate the arrest of all parties for  
142 the purpose of discouraging requests for law enforcement intervention  
143 by any party. Where complaints are made by two or more opposing  
144 parties, the officer shall evaluate each complaint separately to  
145 determine whether such officer should make an arrest or seek a

146 warrant for an arrest. Notwithstanding the provisions of subsection (a)  
147 of this section, when a peace officer reasonably believes that a party in  
148 an incident of family violence has used force as a means of self  
149 defense, such officer is not required to arrest such party under this  
150 section.

151 (c) No peace officer shall be held liable in any civil action regarding  
152 personal injury or injury to property brought by any party to a family  
153 violence incident for an arrest based on probable cause or for any  
154 conditions of release imposed pursuant to subsection (b) of section 54-  
155 63c.

156 (d) It shall be the responsibility of the peace officer at the scene of a  
157 family violence incident to provide immediate assistance to the victim.  
158 Such assistance shall include, but not be limited to: (1) Assisting the  
159 victim to obtain medical treatment if such treatment is required; (2)  
160 notifying the victim of the right to file an affidavit for a warrant for  
161 arrest; (3) informing the victim of services available and referring the  
162 victim to the Office of Victim Services; and (4) providing assistance in  
163 accordance with the uniform protocols for treating victims of family  
164 violence whose immigration status is questionable established  
165 pursuant to subsection (g) of this section. In cases where the officer has  
166 determined that no cause exists for an arrest, assistance shall include:  
167 (A) Assistance as provided in subdivisions (1) to (4), inclusive, of this  
168 subsection; and (B) remaining at the scene for a reasonable time until,  
169 in the reasonable judgment of the officer, the likelihood of further  
170 imminent violence has been eliminated.

171 (e) (1) Each law enforcement agency shall develop, in conjunction  
172 with the Division of Criminal Justice, and implement specific  
173 operational guidelines for arrest policies in family violence incidents.  
174 Such guidelines shall include, but not be limited to: (A) Procedures for  
175 the conduct of a criminal investigation; (B) procedures for arrest and  
176 for victim assistance by peace officers; (C) education as to what  
177 constitutes speedy information in a family violence incident; (D)  
178 procedures with respect to the provision of services to victims; and (E)

179 such other criteria or guidelines as may be applicable to carry out the  
180 purposes of sections 46b-1, 46b-15, as amended by this act, 46b-38a to  
181 46b-38f, inclusive, as amended by this act, and 54-1g. Such procedures  
182 shall be duly promulgated by such law enforcement agency.

183 (2) On and after July 1, 2010, each law enforcement agency shall  
184 designate at least one officer with supervisory duties to expeditiously  
185 process, upon request of a victim of family violence or other crime who  
186 is applying for U Nonimmigrant Status (A) a certification of  
187 helpfulness on Form I-918, Supplement B, or any subsequent  
188 corresponding form designated by the United States Department of  
189 Homeland Security, confirming that the victim of family violence or  
190 other crime has been helpful, is being helpful, or is likely to be helpful  
191 in the investigation or prosecution of the criminal activity, and (B) any  
192 subsequent certification required by the victim.

193 (f) The Police Officer Standards and Training Council, in  
194 conjunction with the Division of Criminal Justice, shall establish an  
195 education and training program for law enforcement officers,  
196 supervisors and state's attorneys on the handling of family violence  
197 incidents. Training under such program shall: (1) Stress the  
198 enforcement of criminal law in family violence cases and the use of  
199 community resources, and include training for peace officers at both  
200 recruit and in-service levels; and (2) include, but not be limited to: (A)  
201 The nature, extent and causes of family violence; (B) legal rights of and  
202 remedies available to victims of family violence and persons accused  
203 of family violence; (C) services and facilities available to victims and  
204 batterers; (D) legal duties imposed on police officers to make arrests  
205 and to offer protection and assistance, including applicable probable  
206 cause standards; and (E) techniques for handling incidents of family  
207 violence that minimize the likelihood of injury to the officer and  
208 promote the safety of the victim. On and after July 1, 2010, training  
209 under such program shall also include, within available  
210 appropriations, information on (i) the impact of arrests of multiple  
211 parties in a family violence case on the immigration status of the  
212 parties; (ii) crime scene investigation and evaluation practices in family

213 violence cases designed by the council to reduce the number of  
214 multiple arrests in family violence cases; and (iii) practical  
215 considerations in the application of state statutes related to family  
216 violence. On and after July 1, 2010, such training shall also address,  
217 within available appropriations, eligibility for federal T Visas for  
218 victims of human trafficking and federal U Visas for unauthorized  
219 immigrants who are victims of family violence and other crimes.

220 (g) Not later than July 1, 2010, the Police Officer Standards and  
221 Training Council shall establish uniform protocols for treating victims  
222 of family violence whose immigration status is questionable, and shall  
223 make such protocols available to law enforcement agencies. Each law  
224 enforcement agency shall adopt and use such protocols on and after  
225 the date they are established by the council.

226 Sec. 4. Section 46b-38c of the general statutes is repealed and the  
227 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

233 (b) The Court Support Services Division, in accordance with the  
234 agreement between the Chief State's Attorney and the Judicial  
235 Department, shall establish within each geographical area of the  
236 Superior Court a local family violence intervention unit to implement  
237 sections 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f,  
238 inclusive, as amended by this act, and 54-1g. The Court Support  
239 Services Division shall oversee direct operations of the local units.

240 (c) Each such local family violence intervention unit shall: (1) Accept  
241 referrals of family violence cases from a judge or prosecutor, (2)  
242 prepare written or oral reports on each case for the court by the next  
243 court date to be presented at any time during the court session on that  
244 date, (3) provide or arrange for services to victims and offenders, (4)

245 administer contracts to carry out such services, and (5) establish  
246 centralized reporting procedures. All information provided to a family  
247 relations counselor, family relations counselor trainee or family  
248 services supervisor employed by the Judicial [Branch] Department in a  
249 local family violence intervention unit shall be used solely for the  
250 purposes of preparation of the report and the protective order forms  
251 for each case and recommendation of services and shall otherwise be  
252 confidential and retained in the files of such unit and not be subject to  
253 subpoena or other court process for use in any other proceeding or for  
254 any other purpose, except that a family relations counselor, family  
255 relations counselor trainee or family services supervisor employed by  
256 the Judicial [Branch] Department:

257 (A) Shall disclose to the court and the prosecuting authority for  
258 appropriate action information that the victim has indicated that the  
259 defendant holds a permit to carry a pistol or revolver or possesses one  
260 or more firearms;

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

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

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

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

272 (F) May disclose, after disposition of a family violence case, [(i)] to a  
273 probation officer or a juvenile probation officer, for purposes of  
274 determining service needs and supervision levels, information  
275 regarding a defendant who has been convicted and sentenced to a

276 period of probation in the family violence case; [, and (ii) to  
277 organizations under contract with the Judicial Branch to provide  
278 family violence programs and services, for purposes of determining  
279 program and service needs, information regarding defendants who are  
280 their clients; and]

281 (G) May disclose, after a conviction in a family violence case, to a  
282 probation officer for the purpose of preparing a presentence  
283 investigation report, any information regarding the defendant that has  
284 been provided to the family relations counselor, family relations  
285 counselor trainee or family services supervisor in the case or in any  
286 other case that resulted in the conviction of the defendant;

287 (H) May disclose to any organization under contract with the  
288 Judicial Department to provide family violence programs and services,  
289 for the purpose of determining program and service needs,  
290 information regarding any defendant who is a client of such  
291 organization, provided no information that personally identifies the  
292 victim may be disclosed to such organization; and

293 [(G)] (I) [The family relations counselor, family relations counselor  
294 trainee or family services supervisor shall] Shall disclose such  
295 information as may be necessary to fulfill such counselor's, trainee's or  
296 supervisor's duty as a mandated reporter under section 17a-101a to  
297 report suspected child abuse or neglect.

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

309 such order to be sent to the victim, and (B) a copy of such order, or the  
310 information contained in such order, to be sent by facsimile or other  
311 means within forty-eight hours of its issuance to the law enforcement  
312 agency for the town in which the victim resides and, if the defendant  
313 resides in a town different from the town in which the victim resides,  
314 to the law enforcement agency for the town in which the defendant  
315 resides. If the victim is employed in a town different from the town in  
316 which the victim resides, the clerk of the court shall, upon the request  
317 of the victim, send, by facsimile or other means, a copy of such order,  
318 or the information contained in such order, to the law enforcement  
319 agency for the town in which the victim is employed within forty-eight  
320 hours of the issuance of such order.

321 (e) A protective order issued under this section may include  
322 provisions necessary to protect the victim from threats, harassment,  
323 injury or intimidation by the defendant, including, but not limited to,  
324 an order enjoining the defendant from (1) imposing any restraint upon  
325 the person or liberty of the victim, (2) threatening, harassing,  
326 assaulting, molesting or sexually assaulting the victim, or (3) entering  
327 the family dwelling or the dwelling of the victim. A protective order  
328 issued under this section may include provisions necessary to protect  
329 any animal owned or kept by the victim including, but not limited to,  
330 an order enjoining the defendant from injuring or threatening to injure  
331 such animal. Such order shall be made a condition of the bail or release  
332 of the defendant and shall contain the following [language]  
333 notification: "In accordance with section 53a-223 of the Connecticut  
334 general statutes, any violation of this order constitutes criminal  
335 violation of a protective order which is punishable by a term of  
336 imprisonment of not more than five years, a fine of not more than five  
337 thousand dollars, or both. Additionally, in accordance with section  
338 53a-107 of the Connecticut general statutes, entering or remaining in a  
339 building or any other premises in violation of this order constitutes  
340 criminal trespass in the first degree which is punishable by a term of  
341 imprisonment of not more than one year, a fine of not more than two  
342 thousand dollars, or both. Violation of this order also violates a  
343 condition of your bail or release, and may result in raising the amount

344 of bail or revoking release." Every order of the court made in  
345 accordance with this section after notice and hearing shall [also contain  
346 the following language: "This order is accorded full faith and credit  
347 pursuant to 18 USC Section 2265, as amended from time to time."] be  
348 accompanied by a notification that is consistent with the full faith and  
349 credit provisions set forth in 18 USC 2265(a), as amended from time to  
350 time. The information contained in and concerning the issuance of any  
351 protective order issued under this section shall be entered in the  
352 registry of protective orders pursuant to section 51-5c.

353 (f) The Judicial [Branch] Department may establish, within available  
354 appropriations, a pilot program in three judicial districts for the  
355 purpose of using electronic monitoring in accordance with this  
356 subsection. Such pilot program shall be conducted in at least one  
357 judicial district that contains an urban area, as defined in section 4b-13,  
358 and at least one judicial district that does not contain such an urban  
359 area. Pursuant to such pilot program, the court may order that any  
360 person appearing in such judicial district who is charged with the  
361 violation of a restraining order or a protective order, and who has been  
362 determined to be a high-risk offender by the family violence  
363 intervention unit, be subject to electronic monitoring designed to warn  
364 law enforcement agencies, a state-wide information collection center  
365 and the victim when the person is within a specified distance of the  
366 victim, if the court finds that such electronic monitoring is necessary to  
367 protect the victim, provided the cost of such electronic monitoring is  
368 paid by the person who is subject to such electronic monitoring,  
369 subject to guidelines established by the Chief Court Administrator. If  
370 the court orders that such person be subject to electronic monitoring,  
371 the clerk of the court shall send, by facsimile or other means, a copy of  
372 the order, or the information contained in any such order, to the law  
373 enforcement agency or agencies for the town in which the person  
374 resides. The Judicial [Branch] Department shall cease operation of any  
375 pilot program established under this subsection not later than March  
376 31, 2011, unless resources are available to continue operation of the  
377 pilot program.

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

383 (h) (1) There shall be a pretrial family violence education program  
384 for persons who are charged with family violence crimes. At a  
385 minimum, such program shall inform participants of the basic  
386 elements of family violence law and applicable penalties. The court  
387 may, in its discretion, invoke such program on motion of the  
388 defendant when it finds: [(1)] (A) That the defendant has not  
389 previously been convicted of a family violence crime which occurred  
390 on or after October 1, 1986; [(2)] (B) the defendant has not had a  
391 previous case assigned to the family violence education program; [(3)]  
392 (C) the defendant has not previously invoked or accepted accelerated  
393 rehabilitation under section 54-56e for a family violence crime which  
394 occurred on or after October 1, 1986; (D) the defendant has not  
395 previously participated in a diversionary intervention program  
396 through a family violence intervention unit; and [(4)] (E) that the  
397 defendant is not charged with a class A, class B or class C felony, or an  
398 unclassified felony carrying a term of imprisonment of more than ten  
399 years, or unless good cause is shown, a class D felony, [or] an  
400 unclassified offense carrying a term of imprisonment of more than five  
401 years, or an offense which involved the infliction of serious physical  
402 injury, as defined in section 53a-3. Participation by any person in the  
403 accelerated pretrial rehabilitation program under section 54-56e prior  
404 to October 1, 1986, shall not prohibit eligibility of such person for the  
405 pretrial family violence education program under this section. The  
406 court may require that the defendant answer such questions under  
407 oath, in open court or before any person designated by the clerk and  
408 duly authorized to administer oaths, under the penalties of perjury as  
409 will assist the court in making these findings. The court may require  
410 the defendant to enter a conditional plea on the family violence crime  
411 charges as a condition for assignment to the family violence education  
412 program, provided such charges shall be dismissed upon the

413 defendant's successful completion of the family violence education  
414 program.

415 (2) The court, on such motion, may refer the defendant to the family  
416 violence intervention unit, and may continue the defendant's case  
417 pending the submission of the report of the unit to the court. The court  
418 shall also give notice to the victim or victims that the defendant has  
419 requested assignment to the family violence education program, and,  
420 where possible, give the victim or victims opportunity to be heard.  
421 Any defendant who accepts placement in the family violence  
422 education program shall agree to the tolling of any statute of  
423 limitations with respect to the crime or crimes with which the  
424 defendant is charged, and to a waiver of the defendant's right to a  
425 speedy trial. Any such defendant shall appear in court and shall be  
426 released to the custody of the family violence intervention unit for  
427 such period, not exceeding two years, and under such conditions as  
428 the court shall order. If the defendant refuses to accept, or, having  
429 accepted, violates such conditions, the defendant's case shall be  
430 brought to trial. If [the] a defendant who did not enter a conditional  
431 plea under subdivision (1) of this subsection satisfactorily completes  
432 the family violence education program and complies with the  
433 conditions imposed for the period set by the court, the defendant may  
434 apply for dismissal of the charges against the defendant and the court,  
435 on finding satisfactory compliance, shall dismiss such charges.

436 (3) Upon dismissal of charges under this subsection, all records of  
437 such charges shall be erased pursuant to section 54-142a.

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

444 (j) The Judicial Department shall establish an ongoing training  
445 program for judges, Court Support Services Division personnel and

446 clerks to inform them about the policies and procedures of sections  
447 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f, inclusive, as  
448 amended by this act, and 54-1g, including, but not limited to, the  
449 function of the family violence intervention units and the use of  
450 restraining and protective orders.

451 Sec. 5. Subsection (a) of section 53a-40e of the general statutes is  
452 repealed and the following is substituted in lieu thereof (*Effective*  
453 *October 1, 2011*):

454 (a) If any person is convicted of (1) a violation of subdivision (1) or  
455 (2) of subsection (a) of section 53-21, section 53a-59, 53a-59a, 53a-60,  
456 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-  
457 72a, 53a-72b, 53a-73a, 53a-181c, 53a-181d, 53a-181e, 53a-182b, 53a-183,  
458 53a-223, as amended by this act, 53a-223a, as amended by this act, or  
459 53a-223b, as amended by this act, or attempt or conspiracy to violate  
460 any of said sections or section 53a-54a, against a family or household  
461 member, as defined in section 46b-38a, as amended by this act, or (2)  
462 any crime that the court determines constitutes a family violence  
463 crime, as defined in section 46b-38a, as amended by this act, or attempt  
464 or conspiracy to commit any such crime, the court may, in addition to  
465 imposing the sentence authorized for the crime under section 53a-35a  
466 or 53a-36, if the court is of the opinion that the history and character  
467 and the nature and circumstances of the criminal conduct of such  
468 offender indicate that a standing criminal protective order will best  
469 serve the interest of the victim and the public, issue a standing criminal  
470 protective order which shall remain in effect for a duration specified  
471 by the court until modified or revoked by the court for good cause  
472 shown. If any person is convicted of any crime against a family or  
473 household member, as defined in section 46b-38a, as amended by this  
474 act, other than a crime specified in subdivision (1) or (2) of this  
475 subsection, the court may, for good cause shown, issue a standing  
476 criminal protective order pursuant to this subsection.

477 Sec. 6. Section 54-216 of the general statutes is repealed and the  
478 following is substituted in lieu thereof (*Effective October 1, 2011*):

479 (a) The Office of Victim Services or, on review, a victim  
480 compensation commissioner may order that services be provided for  
481 the restitution of any person eligible for such services in accordance  
482 with the provisions of sections 54-201 to 54-233, inclusive. Such  
483 services may include but shall not be limited to medical, psychiatric,  
484 psychological and social services and social rehabilitation services.

485 (b) The Office of Victim Services or, on review, a victim  
486 compensation commissioner may order that such restitution services  
487 be provided to victims of child abuse and members of their families,  
488 victims of sexual assault and members of their families, victims of  
489 domestic violence and members of their families, and members of the  
490 family of any victim of homicide. For the purposes of this subsection,  
491 "members of their families" or "member of the family" does not include  
492 the person responsible for such child abuse, sexual assault, domestic  
493 violence or homicide.

494 (c) The Office of Victim Services may contract with any public or  
495 private agency for any services ordered under this section.

496 Sec. 7. Section 4-165 of the general statutes is repealed and the  
497 following is substituted in lieu thereof (*Effective October 1, 2011*):

498 (a) No state officer or employee shall be personally liable for  
499 damage or injury, not wanton, reckless or malicious, caused in the  
500 discharge of his or her duties or within the scope of his or her  
501 employment. Any person having a complaint for such damage or  
502 injury shall present it as a claim against the state under the provisions  
503 of this chapter.

504 (b) For the purposes of this section, (1) "scope of employment"  
505 includes but is not limited to, (A) representation by an attorney  
506 appointed by the Public Defender Services Commission as a public  
507 defender, assistant public defender or deputy assistant public defender  
508 or an attorney appointed by the court as a special assistant public  
509 defender of an indigent accused or of a child on a petition of  
510 delinquency, (B) representation by such other attorneys, referred to in

511 section 4-141, of state officers and employees in actions brought  
512 against such officers and employees in their official and individual  
513 capacities, (C) the discharge of duties as a trustee of the state  
514 employees retirement system, (D) the discharge of duties of a  
515 commissioner of the Superior Court hearing small claims matters or  
516 acting as a fact-finder, arbitrator or magistrate or acting in any other  
517 quasi-judicial position, (E) the discharge of duties of a person  
518 appointed to a committee established by law for the purpose of  
519 rendering services to the Judicial Department, including, but not  
520 limited to, the Legal Specialization Screening Committee, the State-  
521 Wide Grievance Committee, the Client Security Fund Committee, the  
522 advisory committee appointed pursuant to section 51-81d and the  
523 State Bar Examining Committee, [and] (F) military duty performed by  
524 the armed forces of the state while under state active duty, and (G)  
525 representation by an individual appointed by the Commission on  
526 Child Protection, or by the court, as a guardian ad litem or attorney for  
527 a party in a neglect, abuse, termination of parental rights, delinquency  
528 or family with service needs proceeding; provided the actions  
529 described in subparagraphs (A) to [(F)] (G), inclusive, of this  
530 subdivision arise out of the discharge of the duties or within the scope  
531 of employment of such officers or employees, and (2) "state employee"  
532 includes a member or employee of the soil and water district boards  
533 established pursuant to section 22a-315.

534 Sec. 8. Section 51-181e of the general statutes is repealed and the  
535 following is substituted in lieu thereof (*Effective July 1, 2011*):

536 (a) For the purposes of this section, "domestic violence docket"  
537 means a docket in a geographical area separate and apart from other  
538 criminal matters for the hearing of family violence matters.

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

544 establish, within available resources, a domestic violence docket in  
545 each geographical area so designated under this subsection. If the  
546 Chief Court Administrator establishes such dockets, the Chief Court  
547 Administrator shall, prior to establishing such dockets, examine the  
548 effectiveness of domestic violence dockets in existence prior to June 7,  
549 2010, and incorporate, within available resources, the operational  
550 elements of such dockets that the Chief Court Administrator deems  
551 beneficial to victims of family violence. If the Chief Court  
552 Administrator does not establish such dockets by June 30, 2011, the  
553 Chief Court Administrator shall submit a report, in accordance with  
554 section 11-4a, to the joint standing committee of the General Assembly  
555 having cognizance of matters relating to the judiciary, stating the  
556 reasons why such dockets were not established.

557 (c) Not later than December 31, 2011, the Chief Court Administrator  
558 shall identify each geographical area that does not have a domestic  
559 violence docket and designate six geographical areas from among such  
560 geographical areas for the establishment of domestic violence dockets.  
561 Not later than June 30, 2012, the Chief Court Administrator shall  
562 establish, within available resources, a domestic violence docket in the  
563 geographical areas so designated under this subsection. Not later than  
564 July 15, 2012, the Chief Court Administrator shall submit a report, in  
565 accordance with section 11-4a, to the joint standing committee of the  
566 General Assembly having cognizance of matters relating to the  
567 judiciary, indicating the geographical areas so designated and the  
568 progress made in establishing such dockets pursuant to this  
569 subsection.

570 Sec. 9. Section 29-36k of the general statutes is repealed and the  
571 following is substituted in lieu thereof (*Effective October 1, 2011*):

572 (a) Not later than two business days after the occurrence of any  
573 event that makes a person ineligible to possess a pistol or revolver or  
574 other firearm, such person shall (1) transfer in accordance with section  
575 29-33 all pistols and revolvers which such person then possesses to any  
576 person eligible to possess a pistol or revolver and transfer in

577 accordance with any applicable state and federal laws all other  
578 firearms to any person eligible to possess such other firearms by  
579 obtaining an authorization number for the sale or transfer of the  
580 firearm from the Commissioner of Public Safety, and submit a sale or  
581 transfer of firearms form to said commissioner within two business  
582 days, except no person described in subdivision (3) of subsection (a) of  
583 section 53a-217 may transfer a pistol or revolver pursuant to this  
584 subdivision, or (2) deliver or surrender such pistols and revolvers and  
585 other firearms to the Commissioner of Public Safety. The commissioner  
586 shall exercise due care in the receipt and holding of such pistols and  
587 revolvers and other firearms. For the purposes of this section, a  
588 "person described in subdivision (3) of subsection (a) of section 53a-  
589 217" means a person described in said subdivision, regardless of  
590 whether such person was convicted under said subdivision.

591 (b) [Such] Except for a person described in subdivision (3) of  
592 subsection (a) of section 53a-217, such person, or such person's legal  
593 representative, may, at any time up to one year after such delivery or  
594 surrender, transfer such pistols and revolvers in accordance with the  
595 provisions of section 29-33 to any person eligible to possess a pistol or  
596 revolver and transfer such other firearms in accordance with any  
597 applicable state and federal laws to any person eligible to possess such  
598 other firearms. Upon notification in writing by the transferee and such  
599 person, the Commissioner of Public Safety shall within ten days  
600 deliver such pistols and revolvers or other firearms to the transferee. If,  
601 at the end of such year, such pistols and revolvers or other firearms  
602 have not been so transferred, the commissioner shall cause them to be  
603 destroyed.

604 (c) Any person who fails to transfer, deliver or surrender any such  
605 pistols and revolvers and other firearms as provided in this section  
606 shall be subject to the penalty provided for in section 53a-217 or 53a-  
607 217c.

608 Sec. 10. Section 29-36n of the general statutes is repealed and the  
609 following is substituted in lieu thereof (*Effective October 1, 2011*):

610 (a) The Commissioner of Public Safety, in conjunction with the Chief  
611 State's Attorney and the Connecticut Police Chiefs Association, shall  
612 develop a protocol to ensure that persons who become ineligible to  
613 possess a pistol or revolver have, in accordance with section 29-36k, as  
614 amended by this act, transferred such pistol or revolver to a person  
615 eligible to possess such pistol or revolver or have delivered or  
616 surrendered such pistol or revolver to said commissioner.

617 (b) The Commissioner of Public Safety, in conjunction with the  
618 Chief State's Attorney and the Connecticut Police Chiefs Association,  
619 shall update the protocol developed pursuant to subsection (a) of this  
620 section to reflect the provisions of sections 29-7h, 29-28, 29-28a, 29-29,  
621 29-30, 29-32 and 29-35, subsections (b) and (e) of section 46b-15, as  
622 amended by this act, subsections (c) and (d) of section 46b-38c, as  
623 amended by this act, and sections 53-202a, 53-202l, 53-202m and 53a-  
624 217 and shall include in such protocol specific instructions for the  
625 transfer, delivery or surrender of pistols and revolvers when the  
626 assistance of more than one law enforcement agency is necessary to  
627 effect the requirements of section 29-36k, as amended by this act.

628 Sec. 11. Section 53a-223 of the general statutes is repealed and the  
629 following is substituted in lieu thereof (*Effective October 1, 2011*):

630 (a) A person is guilty of criminal violation of a protective order  
631 when an order issued pursuant to subsection (e) of section 46b-38c, as  
632 amended by this act, or section 54-1k or 54-82r has been issued against  
633 such person, and such person violates such order.

634 (b) No person who is listed as a protected person in such protective  
635 order may be criminally liable for (1) soliciting, requesting,  
636 commanding, importuning or intentionally aiding in the violation of  
637 the protective order pursuant to subsection (a) of section 53a-8, or (2)  
638 conspiracy to violate such protective order pursuant to section 53a-48.

639 [(b)] (c) Criminal violation of a protective order is a class D felony.

640 Sec. 12. Section 53a-223a of the general statutes is repealed and the

641 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

646 (b) No person who is listed as a protected person in such standing  
647 criminal protective order may be criminally liable for (1) soliciting,  
648 requesting, commanding, importuning or intentionally aiding in the  
649 violation of the standing criminal protective order pursuant to  
650 subsection (a) of section 53a-8, or (2) conspiracy to violate such  
651 standing criminal protective order pursuant to section 53a-48.

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

654 Sec. 13. Section 53a-223b of the general statutes is repealed and the  
655 following is substituted in lieu thereof (*Effective October 1, 2011*):

656 (a) A person is guilty of criminal violation of a restraining order  
657 when (1) (A) a restraining order has been issued against such person  
658 pursuant to section 46b-15, as amended by this act, or (B) a foreign  
659 order of protection, as defined in section 46b-15a, has been issued  
660 against such person in a case involving the use, attempted use or  
661 threatened use of physical force against another, and (2) such person,  
662 having knowledge of the terms of the order, (A) does not stay away  
663 from a person or place in violation of the order, (B) contacts a person in  
664 violation of the order, (C) imposes any restraint upon the person or  
665 liberty of a person in violation of the order, or (D) threatens, harasses,  
666 assaults, molests, sexually assaults or attacks a person in violation of  
667 the order.

668 (b) No person who is listed as a protected person in such restraining  
669 order or foreign order of protection may be criminally liable for (1)  
670 soliciting, requesting, commanding, importuning or intentionally  
671 aiding in the violation of the restraining order or foreign order

672 pursuant to subsection (a) of section 53a-8, or (2) conspiracy to violate  
673 such restraining order or foreign order of protection pursuant to  
674 section 53a-48.

675 [(b)] (c) Criminal violation of a restraining order is a class D felony.

676 Sec. 14. Section 54-84a of the general statutes is repealed and the  
677 following is substituted in lieu thereof (*Effective October 1, 2011*):

678 [If any person on trial for crime has a husband or wife, he or she  
679 shall be a competent witness but may elect or refuse to testify for or  
680 against the accused, except that either spouse who has received  
681 personal violence from the other or is the spouse of one who is charged  
682 with violation of any of sections 53-20, 53-21, 53-23, 53-304, 53a-70, 53a-  
683 70a, 53a-71 and 53a-83 to 53a-88, inclusive, may, upon his or her trial  
684 for offenses arising out of such personal violence or from violation of  
685 the provisions of any of said sections, be compelled to testify in the  
686 same manner as any other witness.]

687 (a) Except as provided in subsection (b) of this section, in any  
688 criminal proceeding, a person may elect or refuse to testify against his  
689 or her then lawful spouse.

690 (b) The testimony of a spouse may be compelled, in the same  
691 manner as for any other witness, in a criminal proceeding against the  
692 other spouse for (1) joint participation with the spouse in ongoing or  
693 future criminal conduct, (2) bodily injury, sexual assault or other  
694 violence attempted, committed or threatened upon the spouse, or (3)  
695 bodily injury, sexual assault, risk of injury pursuant to section 53-21, or  
696 other violence attempted, committed or threatened upon the minor  
697 child of either spouse, or any minor child in the care or custody of  
698 either spouse.

699 Sec. 15. (NEW) (*Effective October 1, 2011*) (a) For the purposes of this  
700 section, "confidential communication" means any oral or written  
701 communication made between spouses during a marriage that is  
702 intended to be confidential and is induced by the affection, confidence,

703 loyalty and integrity of the marital relationship.

704 (b) Except as provided in subsection (c) of this section, in any  
705 criminal proceeding, a spouse shall not be (1) required to testify to a  
706 confidential communication made by one spouse to the other during  
707 the marriage, or (2) allowed to testify to a confidential communication  
708 made by one spouse to the other during the marriage without the  
709 consent of the other spouse, if living.

710 (c) The testimony of a spouse regarding a confidential  
711 communication may be compelled, in the same manner as for any  
712 other witness, in a criminal proceeding against the other spouse for (1)  
713 joint participation with the spouse in ongoing or future criminal  
714 conduct, (2) bodily injury, sexual assault or other violence attempted,  
715 committed or threatened upon the spouse, or (3) bodily injury, sexual  
716 assault, risk of injury pursuant to section 53-21 of the general statutes,  
717 or other violence attempted, committed or threatened upon the minor  
718 child of either spouse, or any minor child in the care or custody of  
719 either spouse.

720 Sec. 16. Subsection (a) of section 38a-660 of the general statutes is  
721 repealed and the following is substituted in lieu thereof (*Effective*  
722 *October 1, 2011*):

723 (a) As used in this section and sections 18 to 21, inclusive, of this act:

724 (1) "Commissioner" means the Insurance Commissioner;

725 (2) "Insurer" means any domestic, foreign or alien insurance  
726 company which has qualified generally to transact surety business in  
727 this state under the requirements of chapter 698 and specifically to  
728 transact bail bond business in this state;

729 (3) "Surety bail bond agent" means any person who has been  
730 approved by the commissioner and appointed by an insurer by power  
731 of attorney to execute or countersign bail bonds for the insurer in  
732 connection with judicial proceedings;

733 (4) "License" means a surety bail bond agent license issued by the  
734 commissioner to a qualified individual as provided in this section;

735 (5) "Solicit" includes any written or printed presentation or  
736 advertising made by mail or other publication, or any oral presentation  
737 or advertising in person or by means of telephone, radio or television  
738 which implies that an individual is licensed under this section, and any  
739 activity in arranging for bail which results in compensation to the  
740 individual conducting that activity;

741 (6) "Disqualifying offense" means: (A) A felony; or (B) a  
742 misdemeanor if an element of the offense involves dishonesty or  
743 misappropriation of money or property; and

744 (7) "Managing general agent" means any person appointed or  
745 employed by an insurer to supervise or otherwise manage the bail  
746 bond business written in this state by surety bail bond agents  
747 appointed by such insurer.

748 Sec. 17. Subsection (k) of section 38a-660 of the general statutes is  
749 repealed and the following is substituted in lieu thereof (*Effective*  
750 *October 1, 2011*):

751 (k) (1) To further the enforcement of this section and sections 18 to  
752 21, inclusive, of this act and to determine the eligibility of any licensee,  
753 the commissioner may, as often as [he] the commissioner deems  
754 necessary, examine the books and records of any such licensee. Each  
755 person licensed as a surety bail bond agent in this state shall, on or  
756 before January thirty-first, annually, pay to the commissioner a fee of  
757 four hundred fifty dollars to cover the cost of examinations under this  
758 subsection.

759 (2) The fees received by the commissioner pursuant to subdivision  
760 (1) of this subsection shall be used to conduct examinations under  
761 subdivision (1) of this subsection and shall be deposited in the account  
762 established in subdivision (3) of this subsection.

763 (3) There is established an account to be known as the "surety bail

764 bond agent examination account", which shall be a separate,  
765 nonlapsing account within the Insurance Fund established under  
766 section 38a-52a. The account shall contain any moneys required by law  
767 to be deposited in the account and any such moneys remaining in the  
768 account at the close of the fiscal year shall be transferred to the General  
769 Fund.

770       Sec. 18. (NEW) (*Effective October 1, 2011*) (a) No surety bail bond  
771 agent shall execute a bail bond without charging the premium rate  
772 approved by the commissioner pursuant to chapter 701 of the general  
773 statutes.

774       (b) Not later than the tenth day of each month, each surety bail bond  
775 agent shall certify to the commissioner under oath, on a form  
776 prescribed by the commissioner, that the premium for each surety bail  
777 bond executed by such agent in the preceding month was not less  
778 than, and did not exceed, the premium rate approved by the  
779 commissioner. The filing of a false certification by a surety bail bond  
780 agent shall be grounds for administrative action in accordance with  
781 section 38a-774 of the general statutes.

782       (c) Each insurer shall semiannually conduct an audit, for the period  
783 from January first to June thirtieth and from July first to December  
784 thirty-first, of each of its appointed surety bail bond agents to ensure  
785 such agents are charging the premium rate as required by subsection  
786 (a) of this section. Not later than forty-five days after the closing period  
787 of each audit, each insurer shall notify the commissioner of the failure  
788 of any surety bail bond agent to charge the premium rate approved by  
789 the commissioner pursuant to chapter 701 of the general statutes. Such  
790 notice shall include the name of the surety bail bond agent, the case  
791 docket number if assigned, the total amount of the bail bond, the date  
792 the bail bond was executed, the five-digit identification code assigned  
793 to the insurer by the National Association of Insurance Commissioners  
794 and the date the premium was due.

795       (d) Not later than January thirty-first, annually, each insurer shall  
796 file with the commissioner a statement certifying the total amount of

797 bail bonds executed by such insurer and the total amount of premiums  
798 collected by such insurer on such bail bonds in the calendar year  
799 preceding.

800 (e) Nothing in this section shall be construed to prohibit or limit a  
801 premium financing arrangement that complies with section 19 of this  
802 act.

803 Sec. 19. (NEW) (*Effective October 1, 2011*) (a) A surety bail bond agent  
804 may enter into a premium financing arrangement with a principal or  
805 any indemnitor in which such surety bail bond agent extends credit to  
806 such principal or indemnitor.

807 (b) If a surety bail bond agent enters into a premium financing  
808 arrangement, the surety bail bond agent shall require (1) the principal  
809 on the bail bond or any indemnitor to make a minimum down  
810 payment of thirty-five per cent of the premium due, at the premium  
811 rate approved by the commissioner pursuant to chapter 701 of the  
812 general statutes, and (2) the principal and any indemnitor to execute a  
813 promissory note for the balance of the premium due. Such promissory  
814 note shall provide that such balance shall be paid not later than fifteen  
815 months after the date of the execution of the bail bond. If such balance  
816 has not been paid in full to the surety bail bond agent by the due date  
817 or a payment due under such arrangement is more than sixty days in  
818 arrears, such surety bail bond agent shall file a civil action seeking  
819 appropriate relief with the court not later than seventy-five days after  
820 such due date. The surety bail bond agent shall make a diligent effort  
821 to obtain judgment after filing such civil action on such promissory  
822 note unless good cause is shown for failure to obtain judgment,  
823 including, but not limited to, the filing for bankruptcy by the principal  
824 or the indemnitor or failure to serve process despite good-faith efforts.

825 Sec. 20. (NEW) (*Effective October 1, 2011*) (a) All premiums, including  
826 any part of a premium that a surety bail bond agent is obligated to  
827 return to a principal or indemnitor, and other funds belonging to  
828 insurers or others that are received by a surety bail bond agent in  
829 performing such agent's duties as a surety bail bond agent, shall be

830 deemed trust funds received by such agent in a fiduciary capacity.  
831 Such agent shall account for and pay such funds to the insurer or  
832 persons entitled to such funds pursuant to the surety bail bond agent's  
833 contract with the insurer or managing general agent. No fees, expenses  
834 or charges of any kind shall be deducted from any premium the surety  
835 bail bond agent is obligated to return to a principal or indemnitor,  
836 except as authorized under this section and sections 18 and 19 of this  
837 act.

838 (b) A surety bail bond agent shall keep and make available to the  
839 commissioner or the commissioner's designee any books, accounts and  
840 records as necessary to enable the commissioner to determine whether  
841 such agent is complying with the provisions of sections 18 to 21,  
842 inclusive, of this act. A surety bail bond agent shall preserve the books,  
843 accounts and records pertaining to a premium payment for at least  
844 three years after making such payment. Records that are preserved by  
845 photographic or digital reproduction or records that are in  
846 photographic or digital form shall be deemed to be in compliance with  
847 this subsection.

848 (c) Any surety bail bond agent who diverts or appropriates any of  
849 the funds received under subsection (a) of this section for such agent's  
850 own use shall be subject to the penalties for larceny under sections 53a-  
851 122 to 53a-125b, inclusive, of the general statutes, depending on the  
852 amount involved.

853 Sec. 21. (NEW) (*Effective October 1, 2011*) If a bail bond executed by a  
854 surety bail bond agent is forfeited and such forfeiture has remained  
855 unpaid for at least sixty days after the date payment has become due,  
856 no such surety bail bond agent or insurer that appointed such agent  
857 shall execute a bail bond in this state until the full amount of the  
858 forfeited bail bond is paid to the Office of the Chief State's Attorney in  
859 accordance with procedures set forth by said office.

860 Sec. 22. Subsection (b) of section 54-64a of the general statutes is  
861 repealed and the following is substituted in lieu thereof (*Effective*  
862 *October 1, 2011*):

863 (b) (1) When any arrested person charged with the commission of a  
864 class A felony, a class B felony, except a violation of section 53a-86 or  
865 53a-122, a class C felony, except a violation of section 53a-87, 53a-152  
866 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c,  
867 inclusive, section 53a-72a, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136  
868 or 53a-216, or a family violence crime, as defined in section 46b-38a, as  
869 amended by this act, is presented before the Superior Court, said court  
870 shall, in bailable offenses, promptly order the release of such person  
871 upon the first of the following conditions of release found sufficient to  
872 reasonably assure the appearance of the arrested person in court and  
873 that the safety of any other person will not be endangered: (A) Upon  
874 such person's execution of a written promise to appear without special  
875 conditions, (B) upon such person's execution of a written promise to  
876 appear with nonfinancial conditions, (C) upon such person's execution  
877 of a bond without surety in no greater amount than necessary, (D)  
878 upon such person's execution of a bond with surety in no greater  
879 amount than necessary. In addition to or in conjunction with any of the  
880 conditions enumerated in subparagraphs (A) to (D), inclusive, of this  
881 subdivision, the court may, when it has reason to believe that the  
882 person is drug-dependent and where necessary, reasonable and  
883 appropriate, order the person to submit to a urinalysis drug test and to  
884 participate in a program of periodic drug testing and treatment. The  
885 results of any such drug test shall not be admissible in any criminal  
886 proceeding concerning such person.

887 (2) The court may, in determining what conditions of release will  
888 reasonably assure the appearance of the arrested person in court and  
889 that the safety of any other person will not be endangered, consider the  
890 following factors: (A) The nature and circumstances of the offense, (B)  
891 such person's record of previous convictions, (C) such person's past  
892 record of appearance in court after being admitted to bail, (D) such  
893 person's family ties, (E) such person's employment record, (F) such  
894 person's financial resources, character and mental condition, (G) such  
895 person's community ties, (H) the number and seriousness of charges  
896 pending against the arrested person, (I) the weight of the evidence  
897 against the arrested person, (J) the arrested person's history of

898 violence, (K) whether the arrested person has previously been  
899 convicted of similar offenses while released on bond, and (L) the  
900 likelihood based upon the expressed intention of the arrested person  
901 that such person will commit another crime while released.

902 (3) When imposing conditions of release under this subsection that  
903 will reasonably assure the appearance of the arrested person in court  
904 and that the safety of any other person, including, but not limited to,  
905 the victim, will not be endangered, the court shall state for the record  
906 any factors under subdivision (2) of this subsection that it considered  
907 and the findings that it made as to the danger, if any, that the arrested  
908 person might pose to the safety of any other person, including, but not  
909 limited to, the victim, upon the arrested person's release that caused  
910 the court to impose the specific conditions of release that it imposed.

911 Sec. 23. (*Effective from passage*) (a) There is established a task force for  
912 the purpose of (1) evaluating existing policies and procedures used by  
913 law enforcement agencies when responding to incidents of family  
914 violence and violations of restraining and protective orders, and (2)  
915 developing a state-wide law enforcement model policy for use by law  
916 enforcement agencies when responding to incidents of family violence  
917 and violations of protective orders. Such model policy shall include  
918 procedures for arrests pursuant to section 46b-38b of the general  
919 statutes, as amended by this act.

920 (b) The task force shall consist of the following members:

921 (1) One appointed by the speaker of the House of Representatives;

922 (2) One appointed by the president pro tempore of the Senate;

923 (3) One appointed by the minority leader of the House of  
924 Representatives;

925 (4) One appointed by the minority leader of the Senate;

926 (5) One appointed by the Governor;

927 (6) One representative of the Police Officer Standards and Training  
928 Council with experience in domestic violence training, appointed by  
929 the chairperson of the council;

930 (7) One representative of the Office of the Chief State's Attorney,  
931 appointed by the Chief State's Attorney;

932 (8) One representative of the Office of the Chief Public Defender,  
933 appointed by the Chief Public Defender;

934 (9) One representative of the Office of the Victim Advocate,  
935 appointed by the Victim Advocate;

936 (10) One representative of the Division of State Police with  
937 experience in domestic violence training, appointed by the  
938 Commissioner of Public Safety;

939 (11) One judge of the Superior Court assigned to hear criminal  
940 matters, appointed by the Chief Court Administrator;

941 (12) One victim of domestic violence, one victim advocate with in-  
942 court experience in domestic violence matters, and one representative  
943 of the Connecticut Coalition Against Domestic Violence, Inc., each  
944 appointed by the executive director of the Connecticut Coalition  
945 Against Domestic Violence, Inc.;

946 (13) One representative of the Legal Assistance Resource Center of  
947 Connecticut, appointed by the executive director of said center; and

948 (14) One representative of the Connecticut Police Chiefs  
949 Association, appointed by the president of the association.

950 (c) Any member of the task force appointed under subdivision (1),  
951 (2), (3) or (4) of subsection (b) of this section may be a member of the  
952 General Assembly.

953 (d) All appointments to the task force shall be made not later than  
954 thirty days after the effective date of this section. Any vacancy shall be  
955 filled by the appointing authority.

956 (e) The members of the task force shall select two chairpersons of  
957 the task force from among the members of the task force. Such  
958 chairpersons shall schedule the first meeting of the task force, which  
959 shall be held not later than sixty days after the effective date of this  
960 section.

961 (f) The administrative staff of the joint standing committee of the  
962 General Assembly having cognizance of matters relating to the  
963 judiciary shall serve as administrative staff of the task force.

964 (g) Not later than December 1, 2011, the task force shall submit a  
965 report detailing its recommendations for a model policy and  
966 implementation plan to the joint standing committee of the General  
967 Assembly having cognizance of matters relating to the judiciary, in  
968 accordance with section 11-4a of the general statutes. The task force  
969 shall terminate on the date it submits such report or January 1, 2012,  
970 whichever is later.

971 Sec. 24. (*Effective from passage*) (a) The Chief Court Administrator  
972 shall conduct an assessment of any training programs for judges and  
973 Judicial Branch staff related to family violence, including, but not  
974 limited to, the ongoing training program for judges, Court Support  
975 Services Division personnel and clerks established in subsection (j) of  
976 section 46b-38c of the general statutes, as amended by this act. At a  
977 minimum, such assessment shall compare such training programs to  
978 those of other northeastern states.

979 (b) The Chief Court Administrator shall conduct a study of the  
980 principles and effectiveness of the pretrial family violence education  
981 program established in section 46b-38c of the general statutes, as  
982 amended by this act, using a results-based accountability framework.  
983 The study shall include, but not be limited to, the identification of  
984 goals of the program, the identification of fundamental elements and  
985 critical components of the program, an assessment of short-term and  
986 long-term outcomes of the program, an assessment of the feasibility  
987 and cost of extending the pretrial family education program beyond  
988 the nine weeks currently provided, an assessment of the feasibility and

989 cost of extending programs known as EVOLVE and EXPLORE to all  
 990 regions of the state, and a comparison of the program to pretrial  
 991 diversionary domestic violence programs used in other northeastern  
 992 states.

993 (c) The Chief Court Administrator shall conduct a study of the  
 994 principles and effectiveness of the domestic violence dockets in this  
 995 state and related contracted programs using a results-based  
 996 accountability framework. The study shall include, but not be limited  
 997 to, the identification of the goals, fundamental elements and critical  
 998 components of the dockets, and the identification of short-term and  
 999 long-term outcomes of the dockets and related contracted programs.

1000 (d) Not later than January 1, 2012, the Chief Court Administrator  
 1001 shall submit a report on the assessment and studies under subsections  
 1002 (a), (b) and (c) of this section to the joint standing committee of the  
 1003 General Assembly having cognizance of matters relating to the  
 1004 judiciary, in accordance with section 11-4a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	46b-15
Sec. 2	<i>October 1, 2011</i>	46b-38a
Sec. 3	<i>October 1, 2011</i>	46b-38b
Sec. 4	<i>October 1, 2011</i>	46b-38c
Sec. 5	<i>October 1, 2011</i>	53a-40e(a)
Sec. 6	<i>October 1, 2011</i>	54-216
Sec. 7	<i>October 1, 2011</i>	4-165
Sec. 8	<i>July 1, 2011</i>	51-181e
Sec. 9	<i>October 1, 2011</i>	29-36k
Sec. 10	<i>October 1, 2011</i>	29-36n
Sec. 11	<i>October 1, 2011</i>	53a-223
Sec. 12	<i>October 1, 2011</i>	53a-223a
Sec. 13	<i>October 1, 2011</i>	53a-223b
Sec. 14	<i>October 1, 2011</i>	54-84a
Sec. 15	<i>October 1, 2011</i>	New section
Sec. 16	<i>October 1, 2011</i>	38a-660(a)
Sec. 17	<i>October 1, 2011</i>	38a-660(k)

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Sec. 18	<i>October 1, 2011</i>	New section
Sec. 19	<i>October 1, 2011</i>	New section
Sec. 20	<i>October 1, 2011</i>	New section
Sec. 21	<i>October 1, 2011</i>	New section
Sec. 22	<i>October 1, 2011</i>	54-64a(b)
Sec. 23	<i>from passage</i>	New section
Sec. 24	<i>from passage</i>	New section

**Statement of Legislative Commissioners:**

In sections 4(h)(2) and 9(a), provisions were inserted for clarity and consistency.

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Judicial Dept.	GF - Cost	309,750	413,000
Judicial Dept.	GF - Revenue Gain	243,750	325,000
Criminal Justice, Div.	GF - Cost	180,000	240,000
Pub. Defender Serv. Com.	GF - Cost	90,000	120,000
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Cost	137,750	183,700
Insurance Dept.	IF - Revenue Gain	243,675	250,650
Insurance Dept.	GF - Potential Revenue Gain	Potential	Potential

Note: GF=General Fund; IF=Insurance Fund

**Municipal Impact:** None

### **Explanation**

**Section 4** of the bill increases the fee for the Family Violence Education Program to \$400, which will result in an annual revenue gain of \$243,750 in FY 12<sup>2</sup> and \$325,000 in FY 13 to the General Fund.<sup>3</sup>

**Section 8** of the bill requires the Chief Court Administrator to establish domestic violence dockets in six Geographical Area (GA) courts by June 30, 2012. The bill specifies that the Chief Court Administrator must implement the provisions of this section within available resources. However, if the bill were to be implemented, the

<sup>1</sup> The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state pension funds.

<sup>2</sup> The FY 12 figure reflects an October 1, 2011 effective date.

<sup>3</sup> This estimate assumes 50% of participants will have the \$400 program fee waived by the court due to indigence.

total costs to the Judicial Department, Division of Criminal Justice and Public Defender Services Commission would be \$717,500 in FY 12 and \$956,700 million in FY 13. A break-out of costs by agency can be found in the table below:

<b>Agency</b>	<b>FY 12</b>	<b>FY 13</b>
Judicial Department	\$ 309,750	\$ 413,000
Criminal Justice	\$ 180,000	\$ 240,000
Public Defenders	\$ 90,000	\$ 120,000
Comptroller (Fringe)	\$ 137,750	\$ 183,700
<b>Total Cost</b>	<b>\$ 717,500</b>	<b>\$ 956,700</b>

The existence of a specialized domestic violence docket is expected to increase the likelihood that offenders will be referred to treatment.<sup>4</sup> Expansion of domestic dockets to include six additional GA courts would result in approximately 434 more referrals each year. This would result in an annual cost of \$113,000<sup>5</sup> to provide expanded services. Additionally, it would cost the Judicial Department \$300,000 to provide a full-time contractual victim advocate at each of the six GA courts (\$50,000 per court).

The existence of a specialized domestic violence docket in six additional GA courts is expected to increase the number of court appearances.<sup>6</sup> Approximately 8,850 additional court appearances would be held annually if domestic violence dockets were established in each of the six GA courts; on a daily basis, this would yield roughly 36 additional court appearances statewide.<sup>7</sup>

Four additional state prosecutor positions would be required to handle this additional workload at an annual cost of \$240,000. In addition, two more public defenders would be required since they

<sup>4</sup> 20% more offenders are referred to treatment when a domestic violence docket is in place. Source: The Village Center for Applied Research & Evaluation, Inc. Stop Violence Against Women: Project Bridgeport Domestic Violence Docket Evaluation, Table 5, Page 14, 2001.

<sup>5</sup> The average cost for referral to treatment is \$261.

<sup>6</sup> Approximately 17% more hearings are held in each case.

<sup>7</sup> This was calculated as follows: 11,787 / 248 calendar days.

handle 50% of the GA caseload; the annual cost of these positions would be \$200,000.

**Section 17** of the bill establishes a separate, non-lapsing “surety bail bond agent examination account” within the Insurance Fund for the purpose of covering consultant costs for the examination of the books and records of surety bail bond licensees (the average cost of such examinations in FY 09 was \$13,000 per exam). Licensed surety bail bond agents are required to pay an annual fee of \$450 to the Department of Insurance (DOI) under the bill, resulting in a revenue gain of \$243,675 in FY 12 and \$250,650 in FY 13 in this account. Using these funds, an average of 19 examinations of surety bail bond agents could be conducted in FY 12 and FY 13. Any funds remaining in the account at the end of the fiscal year are transferred to the General Fund, resulting in a revenue gain.

**Section 24** of the bill requires the Judicial Department to conduct studies using Results Based Accountability on the effectiveness of the pretrial family violence education program and the effectiveness of domestic violence dockets. It is anticipated that these studies will not result in additional costs for the agency.

### ***The Out Years***

The annualized ongoing revenue identified above would remain constant into the future since fine amounts are set by statute. The annualized ongoing costs identified above would continue into the future subject to inflation. Funds in the surety bail bond agent examination account will fluctuate dependent upon the number of surety bail bond agent licensees in the out-years.

*Sources: Core-CT Financial Accounting System  
Department of Administrative Services website  
The Village Center for Applied Research & Evaluation, Inc. Stop Violence Against Women: Project Bridgeport Domestic Violence Docket Evaluation, Table 5, Page 14, 2001*

**OLR Bill Analysis****sHB 6629*****AN ACT CONCERNING DOMESTIC VIOLENCE.*****SUMMARY:**

This bill makes numerous changes to the laws on family violence. Among other things, it:

1. protects victims of orders of protection from criminal liability under certain circumstances;
2. requires law enforcement officers to arrest a person who commits a family violence crime against someone he or she is dating;
3. limits participation in, and doubles the fee for, the pretrial family violence education program,
4. requires family violence offenders who use or attempt or threaten to use physical force to commit the crime to surrender any firearms they possess to the public safety commissioner; and
5. requires the chief court administrator to establish new domestic violence dockets and study and assess family violence training programs.

The bill establishes a 16-member task force to (1) evaluate law enforcement agencies' policies and procedures for responding to incidents of family violence and restraining and protective order violations and (2) develop a model statewide policy for such responses.

The bill specifically requires judges to consider the safety of victims

and state this consideration on the record before releasing an arrestee on bail.

It specifies that guardians ad litem acting within the scope of their employment are among the state employees immunized against personal liability.

With certain exceptions, a spouse may elect or refuse to testify against his or her spouse in a criminal proceeding. The bill modifies the exceptions to this so-called "spousal privilege."

The bill makes changes to, and adds new, requirements for surety bail bond agents. (A surety bail bond agent, through a contract with an insurer, sells bail bonds in criminal cases and is regulated by the insurance commissioner.)

Lastly, the bill makes minor and technical changes.

EFFECTIVE DATE: October 1, 2011, except that the provisions on (1) the task force and chief court administrator's assessments and studies and (2) domestic violence docket are effective upon passage and July 1, 2011, respectively.

## **§§ 1-6 — FAMILY VIOLENCE**

### ***Family Violence Defined***

By law, "family violence" is an incident, other than the non-abusive disciplining of a minor child, between family or household members that either causes physical injury or creates fear that physical injury is about to occur. "Family or household members" include individuals in, or who were in, a dating relationship. The bill specifies that a person of any age may be in a dating relationship for the purpose of identifying family or household members under family violence laws.

### ***Restraining Orders***

The bill expands the conduct that can serve as the basis for a restraining order. It allows any family or household member to apply for such an order if he or she has been subjected to stalking or a pattern

of verbal intimidation or threatening. By law, continuous threat of immediate physical pain or physical injury can be the basis for the order.

By law, a court may issue a restraining order after a hearing or, in an emergency, without a hearing. The court may include in the order any provisions necessary to protect the victim from injury or intimidation, including requirements for temporary child custody or visitation rights. Orders typically prohibit the offender from assaulting, threatening, molesting, or restraining the victim or entering the family's or victim's dwelling. The order is effective for six months unless the court extends it upon the applicant's or its own motion. Anyone violating the order can be held in contempt of court. Additionally, entering or remaining on property in violation of the order constitutes first-degree criminal trespass.

### ***Investigating Family Violence Crimes***

The law outlines appropriate actions by police and court personnel responding to family violence crimes. The bill expands the people police officers must immediately arrest upon learning that such a crime has been committed in their jurisdiction. Under current law, police must arrest and charge any suspected family violence offender, other than a person involved in a dating relationship. The bill eliminates this exception, thus, requiring that any suspected family violence offender be arrested and charged.

### ***Family Violence Response and Intervention Units***

As required by law, the Judicial Department, through the Court Support Services Division, has a family violence intervention unit in each geographical area court to respond to family violence cases. The units prepare reports on each case for the court, provide or arrange for victim and offender services, and administer contracts to carry out these services. Generally, the information the units receive is confidential. However, the units may disclose information for specified purposes to its contract providers, prosecutors, employees of the Department of Children and Families, bail commissioners, law

enforcement agencies, and probation officers.

The bill expands the circumstances under which the units may share information with probation officers. It allows them to disclose to probation officers information that may be used to conduct a presentence investigation on, and recommend an appropriate sentence for, a defendant convicted of a family violence crime.

The bill eliminates the restriction on when the units may disclose information to their contract providers and restricts the information that may be provided. Under current law, they may disclose the information only after the disposition of the family violence case. The bill eliminates this restriction, thus allowing units to share the information during the pendency of the criminal proceedings. It prohibits the units from disclosing information to contract providers that would personally identify a victim.

### ***Family Violence Education***

By law, a Pretrial Family Violence Education program serves people who are charged with, but not convicted of, a family violence crime. In order to qualify for the program, a defendant must not:

1. be charged with an A, B, or C felony; unclassified felony punishable by more than 10 years imprisonment; or, unless there is good cause, a class D felony;
2. have previously participated in the program; or
3. have been convicted of, or accepted accelerated rehabilitation for, a family violence crime committed after October 1, 1986.

The bill further limits participation by excluding defendants who (1) previously participated in any diversionary program through a family violence intervention unit, instead of just the family violence education program or (2) were charged with an offense involving the infliction of serious physical injury.

Additionally, the bill permits a court to require a defendant to enter

a conditional plea on the family violence charge against him or her as a condition to participating in the program. It requires the court to dismiss the charge if the defendant successfully completes the program.

By law, any defendant placed in the program is released to the custody of a family violence intervention unit for up to two years under such condition as the court orders. By law, unchanged by the bill, if the defendant did not enter a conditional plea (presumably because he or she was not asked to do so), successfully completes the program, and complied with any conditions the court set, the court must dismiss the charges. If the defendant violates the program's conditions, he or she will be brought to trial.

The bill doubles, from \$200 to \$400, the fee defendants pay to participate in the program if they can afford it.

### ***Standing Criminal Protective Order***

The bill adds to the list of crimes for which, if violated, a court may issue a standing criminal protective. It allow courts to do so whenever a person is convicted of committing or attempting or conspiring to commit:

1. aggravated sexual assault of a minor,
2. fourth-degree sexual assault,
3. risk of injury by willfully or unlawfully causing or permitting a child under age 16 to be placed in danger or in a situation that is likely to result in the child being injured or his or her morals impaired, or
4. risk of injury by having contact with the intimate body parts of a child under age 16 or subjecting the child to the offender's intimate body parts in a sexual and indecent manner likely to impair the child's health or morals.

By law, unchanged by the bill, the court must find that (1) the victim

is a member of the offender's family or household and (2) the order will best serve the victim and public's interest given the history, character, nature, and circumstances of the crime. Standing criminal restraining orders are effective until the court modifies or revokes them.

Violators of the order are guilty of a class D felony, punishable by up to five years in prison, a \$5,000 fine, or both.

### ***Restitution Services***

The bill adds domestic violence victims and their families to the list of people for whom the Office of Victim Services may order restitution services, including medical, psychiatric, psychological, and social services. The office may already order restitution for families of homicide victims and victims of child abuse or sexual assault and their families.

The bill provides that offenders of the above-listed crimes are not eligible for restitution services as "family members."

### **§ 5 — PROTECTIVE ORDER**

The bill eliminates a requirement for protective orders issued after notice and a hearing to include notice that the order "is accorded full faith and credit pursuant to 18 USC Section 2265, as amended from time to time." Instead, it requires that the order be accompanied by notice that is consistent with the full faith and credit provisions of the federal law (see BACKGROUND).

### **§§ 9 AND 10 — POSSESSION OF FIREARMS**

The bill eliminates the option people who know they are the subject of a restraining or protective order or foreign order of protection resulting from the use or attempted or threatened use of physical force have to transfer any firearm they possess to someone legally allowed to possess it. Thus, they must deliver or surrender the firearm to the public safety commissioner within two business days after a court enters the order. By law, failure to relinquish possession is a class D felony, punishable by up to five years in prison, a \$5,000 fine, or both.

The bill broadens the information the public safety commissioner, chief state's attorney, and Connecticut Police Chiefs Association must include in their update of the protocol they developed to ensure that people who are ineligible to possess firearms either transfer them to someone eligible or deliver or surrender them to the commissioner to include specific instructions on delivering and surrendering firearms. The update must already include specific instructions on transferring firearms. By law, the protocol covers instances in which more than one law enforcement agency is necessary to ensure the transfer, delivery, or surrender.

### **§§ 11-13 — CRIMINAL LIABILITY OF PROTECTED PERSONS**

The bill prohibits anyone listed as a protected person in a protective order, standing criminal protective order, restraining order, or foreign order of protection from being held criminally liable for (1) soliciting, requesting, commanding, importuning, or intentionally aiding in the order's violation or (2) conspiracy to violate it (see BACKGROUND).

### **§ 23 — TASK FORCE TO EVALUATE LAW ENFORCEMENT RESPONSES**

The bill establishes a 16-member task force to (1) evaluate law enforcement agencies' policies and procedures for responding to incidents of family violence and restraining and protective order violations and (2) develop a model statewide policy for such responses. The model policy must include arrest procedures currently required by law, as amended by the bill.

The task force must report its recommendations for a model policy and implementation plan to the Judiciary Committee by December 1, 2011. The task force terminates on that date or January 1, 2012, whichever is later.

The task force consists of:

1. one person each appointed by the governor and top four legislative leaders;

2. a representative of the Police Officer Standards and Training Council experienced in domestic violence training appointed by the council chairperson;
3. a representative of the Office of the Chief State's Attorney, Office of the Chief Public Defender, and Office of the Victim Advocate appointed by the head of each office;
4. a representative of the Division of State Police experienced in domestic violence training appointed by the public safety commissioner;
5. a Superior Court judge assigned to hear criminal matters appointed by the chief court administrator;
6. a domestic violence victim, victim advocate with in-court experience in domestic violence matters, and Connecticut Coalition Against Domestic Violence, Inc. representative each appointed by the coalition's executive director;
7. a Legal Assistance Resource Center of Connecticut representative appointed by the center's executive director; and
8. a Connecticut Police Chiefs Association representative appointed by the association's president.

The bill requires the appointing authorities to (1) make their appointments within 30 days after the bill's passage and (2) fill vacancies. The task force members must select two chairpersons from their ranks who must schedule the first meeting to be held within 60 days after the bill's passage. The Judiciary Committee's administrative staff serve as such for the task force.

#### **§ 8 — DOMESTIC VIOLENCE DOCKET**

The bill requires the chief court administrator, by December 31, 2011, to designate geographical areas that do not have a domestic violence docket for the establishment of new domestic violence dockets. The bill requires her, by June 30, 2012, to establish a domestic

violence docket in each of the designated areas, within available resources. By July 15, 2012, the chief court administrator must report to the Judiciary Committee on the designated geographic areas and her progress toward establishing the new dockets.

By law, a domestic violence docket is a docket in a geographical area separate and apart from other criminal matters for hearing family violence matters.

#### **§ 24 — JUDICIAL DEPARTMENT TRAINING**

The bill requires the chief court administrator to:

1. assess training programs for judges and Judicial Department staff on family violence and, at the very least, compare them to similar training programs in other Northeastern states;
2. study the principles and effectiveness of the pretrial family violence education program using results-based accountability;
3. as a part of the study, identify the program's goals, fundamental elements, and critical components; assess its short- and long-term outcomes; assess the feasibility and cost of extending (a) the program beyond its nine week and (b) the EVOLVE and EXPLORE programs (see BACKGROUND) to all regions of the state; and compare the pretrial family violence education program to the pretrial diversionary domestic violence programs in other Northeastern states; and
4. study the principals and effectiveness of Connecticut's domestic violence dockets and related contracted programs using results-based accountability, including the goals, fundamental elements, critical components, and short- and long-term outcomes of the dockets and programs.

The chief court administrator must report on the assessments and studies to the Judiciary Committee by January 1, 2012.

#### **§ 22 — COURT-ORDERED RELEASE ON BAIL**

The bill specifically requires judges to consider the safety of victims and state this consideration on the record before releasing an arrestee on bail.

By law, when a person is arrested for a bailable offense, including a family violence crime, a judge must consider certain factors before determining what conditions of release will reasonably assure (1) the person's appearance in court and (2) that the safety of others will not be endangered. The judge must state on the record the factors he or she considered.

### **§ 7 — STATE EMPLOYEE IMMUNITY**

By law, state officers and employees are not personally liable for damages or injuries caused while discharging their duties or acting within the scope of their employment, unless their actions are wanton, reckless, or malicious. The bill specifies that employees appointed as guardians ad litem or attorneys to represent a party in a neglect, abuse, termination of parental rights, delinquency, or family with service needs proceeding are acting within the scope of their employment.

### **§§ 14 AND 15 — SPOUSAL PRIVILEGE**

By law, a person may elect or refuse to testify against his or her spouse in a criminal proceeding under the so-called spousal privilege. The bill modifies the exceptions to the privilege. Under the bill, a spouse may be compelled to testify in criminal proceedings involving (1) spousal abuse consisting of sexual assault, bodily injury, or any other violent act attempted, threatened, or committed; (2) child abuse consisting of sexual assault, risk of injury to a minor, bodily injury, or any other violent act attempted, threatened, or committed and involving the minor child of either spouse or a minor child in a spouse's care or custody; or (3) ongoing or future criminal conduct jointly engaged in by both spouses.

In other criminal proceedings in which a spouse elects to testify, he or she cannot be (1) required to divulge oral or written communications with the spouse that were intended to be confidential

or (2) allowed to testify about the communication without the consent of the spouse, unless the spouse is deceased.

By law, a spouse can be compelled to testify in criminal cases involving spousal violence, cruelty to persons, risk of injury to a minor, abandonment of a child under age six, criminal nonsupport, first- or second-degree sexual assault, first-degree aggravated sexual assault, and patronizing or promoting prostitution.

### **§ 17 — EXAMINATION OF BOOKS AND RECORDS; EXAMINATION FEE AND ACCOUNT**

The bill permits the insurance commissioner to examine a surety bail bond agent's books and records as often he deems necessary to enforce the bill. He already has this power with respect to license eligibility.

The bill requires agents to pay the commissioner a \$450 fee by January 31 each year to cover the costs of these examinations. The commissioner must deposit the fees in a surety bail bond agent examination account, which the bill creates as a separate, non-lapsing account in the Insurance Fund. The account must contain any money required to be deposited in it. The commissioner must use the money in the account for examinations. Any money remaining in the account at the end of each fiscal year must be transferred to the General Fund.

### **§ 18 — PREMIUM REQUIREMENTS**

The bill prohibits agents from executing a bail bond unless they charge the premium rate the insurance commissioner approved. It specifies that it does not prohibit or limit a premium financing arrangement that complies with its provisions (see § 19).

#### ***Premium Certifications***

***Monthly.*** The bill requires agents, by the 10th of each month, to certify under oath to the commissioner, on a form he prescribes, that the premium for each surety bail bond executed during the prior month did not differ from the approved premium rate.

If an agent files a false certification, the commissioner may, after notice and hearing, suspend or revoke the agent's license, impose a penalty of up to \$ 5,000, or both.

**Annual.** By January 31 each year, the bill requires insurers to file a statement with the commissioner certifying the total amount of bail bonds executed and the total amount of premiums collected in the preceding calendar year.

### **Audit Requirement**

The bill requires insurers transacting surety bail bond business in Connecticut to audit their appointed agents twice per year to ensure each is charging the approved premium rate. The audits must cover (1) January 1 to June 30 and (2) July 1 to December 31.

Within 45 days after each audit period ends, insurers must notify the commissioner of any agent who failed to charge the approved premium rate. The notice must include the:

1. agent's name;
2. case docket number, if assigned;
3. total bond amount;
4. date the bond was executed,
5. insurer's National Association of Insurance Commissioners identification code; and
6. date the premium was due.

## **§ 19 — PREMIUM FINANCING ARRANGEMENTS**

The bill allows surety bail bond agents to enter into premium financing arrangements with a principal or indemnitor where the agents extend credit. If they enter into such arrangements, they must require the principal on the bond or any indemnitor to (1) make a minimum down payment of 35% of the approved premium rate and

(2) execute a promissory note for the remaining premium due. The promissory note must require payment in full within 15 months of its execution.

If the balance owed is not paid in full by its due date or a payment is more than 60 days past due, the bill requires the agent to (1) file a civil court action seeking appropriate relief within 75 days after the balance was due and (2) make a diligent effort to obtain judgment, unless good cause is shown for failing to do so (e.g., the principal or indemnitor files for bankruptcy or service of process failed despite good faith efforts).

### **§§ 16 AND 20 — RECORD KEEPING AND ACCOUNTING FOR FUNDS**

The bill deems premiums, return premiums, or other funds an agent receives that belong to insurers or others to be trust funds received in a fiduciary capacity. The agent must account for and pay the funds to the insurer or person entitled to them according to the agent's contract with the insurer or managing general agent. The bill prohibits any fees, expenses, or charges of any kind from being deducted from the return premiums, unless otherwise allowed under the bill. ("Return premium" is any part of a premium that a surety bail bond agent is obligated to return to a principal or indemnitor.) The bill defines "managing general agent" as a person an insurer appoints or employs to supervise the bail bond business that the insurer's appointed surety bail bond agents write in Connecticut.

The bill requires an agent to keep, and make available to the commissioner or his designee, books, accounts, and records as necessary to enable the commissioner to determine whether the agent is complying with the bill. An agent must keep books, accounts, and records relating to premium payments for at least three years after payments are made. The bill permits photographic and digital reproductions of records.

An agent who unlawfully diverts or appropriates trust funds for his or her own use is guilty of larceny. (Larceny ranges from a class C

misdemeanor to a class B felony, depending on the amount involved.)

## § 21 — PROHIBITION AGAINST EXECUTING BONDS

The bill prohibits an agent or insurer from executing a future bond in Connecticut if a bond the agent executed is forfeited and the forfeiture has remained unpaid for at least 60 days after payment was due, until the full amount of the forfeited bond is paid to the Chief State's Attorney's Office.

### BACKGROUND

#### ***EXPLORE and EVOLVE Programs***

EXPLORE and EVOLVE are two of three of the Judicial Branch's family violence programs. The other is the Family Violence Education program. Both programs are available to men convicted of domestic violence. EXPLORE is a 26-session cognitive behavioral intervention program that focuses on behavior change by helping participants develop awareness, build positive interpersonal skills, and understand the harmful effects of violence on victims and children. The program is available in Bantam/Litchfield, Danbury, Danielson, Hartford, Manchester, Middletown, New Britain, New Haven, New London, Norwalk, and Stamford.

EVOLVE is a 52-session cognitive behavioral intervention program consisting of communication skill building, responsible parenting, and the impact of violence on victims and children. The program is available in Bridgeport, New Haven, New London, and Waterbury.

#### ***Definitions***

***Protective Order.*** Protective orders are criminal orders issued after an accused has been arrested for committing a family violence crime. They include provisions necessary to protect the victim from threats, harassment, injury, or intimidation. These orders generally terminate when the underlying criminal case concludes. However, under certain conditions, courts can issue a standing criminal protective order, in addition to any sentence of incarceration, against people convicted of certain family violence crimes. These orders stay in effect for a court-

specified time period.

**Restraining Order.** A restraining order differs from a protective order in that restraining orders are civil and can be issued without the target of the order being arrested.

**Foreign Order of Protection.** A foreign order of protection is any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court of another state; the District of Columbia; a U.S. commonwealth, territory, or possession; or an Indian tribe.

**Full Faith and Credit.** A protection order issued by the court of one state, Indian tribe, or territory must be accorded full faith and credit by the court of another state, Indian tribe, or territory (and enforced by the court and law enforcement personnel of the other jurisdiction as if it were the order of its own court.

Covered protection orders are those issued by a state, tribal, or territorial court:

1. with jurisdiction over the parties and matter under the law of such state, Indian tribe, or territory; and
2. after reasonable notice and an opportunity to be heard. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by state, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights (18 USC 2265 (a) and (b)).

### **Related bills**

sSB 28 (File 41) makes changes to, and adds new, requirements for surety bail bond agents. It expands surety bail bond licensing and appointment requirements. It establishes (1) bail bond solicitation,

record retention, and reporting standards and (2) premium financing, build-up funds, and collateral security requirements and restrictions. It requires agents to certify under oath to the insurance commissioner that they charged the bond premium rates the commissioner approved.

sHB 6053 (File 479) increases state and local officials' responsibilities to respond to acts of family violence.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 45 Nay 0 (04/14/2011)