
OLR Bill Analysis

sHB 6702

AN ACT CONCERNING DOMESTIC VIOLENCE AND SEXUAL ASSAULT.

SUMMARY:

This bill makes several modifications to the domestic violence and sexual assault laws. It:

1. specifies that a restraining order may include provisions to require the person being restrained to provide financial assistance and maintain utility services at the applicant's dwelling under certain conditions;
2. revises the protocol for surrendering a firearm by a person who is subject to a restraining or protective order or a foreign order of protection;
3. requires probation officers to provide notice of suspected probation violations to assigned victim advocates, if the officer has the advocate's contact information;
4. requires the chief court administrator to maintain a separate, secure area in certain courthouses for family violence victims and their advocates;
5. permits a sexual assault victim to terminate a rental agreement without penalty under some circumstances;
6. requires assessments of the effectiveness of on-going family violence training or intervention programs provided by the Department of Correction (DOC) and the Judicial Branch's Court Support Services Division (CSSD);
7. establishes a task force to study the feasibility of permitting a sexual assault victim who is not the perpetrator's family or

household member to apply for a restraining order;

8. requires that the family violence training program for judges, Judicial Branch personnel, and court clerks be available to guardians ad litem; and
9. increases, from two to three, the number of Criminal Justice Policy Advisory Commission members who represent community-based offender and victim services providers.

The bill also updates statutory references to “battered women” and “batterers” to be consistent with current terminology (i.e., “domestic violence victims” and “persons who commit acts of family violence”).

EFFECTIVE DATE: October 1, 2013, except the provision on victims’ waiting areas in courthouses is effective July 1, 2013, and the sections on the feasibility study and family violence program assessments are effective upon passage.

§ 1 — FINANCIAL AND UTILITY OBLIGATIONS IN RESTRAINING ORDERS

The bill specifies that a restraining order may include provisions to require the person being restrained to (1) provide financial assistance to the protected person for a maximum of 120 days and (2) maintain utility services at the protected person’s residence, if the parties were living together when the restraining order application was filed. Such provisions may be included in the order if (1) the person being restrained has the legal duty and the ability to pay and (2) it is necessary for the safety and basic needs of the victim and his or her dependent children.

By law, the court may issue an ex parte restraining order (i.e., without notice to the alleged offender) if the court finds the applicant is in immediate and present physical danger. The bill excludes the financial and utility service assistance described above, from being included in such ex parte orders.

§§ 18 & 19 — PROTOCOL FOR TRANSFER OR SURRENDER OF FIREARMS

The law requires people who become ineligible to possess pistols, revolvers, or firearms due to the issuance of a restraining or protective order or a foreign order of protection (see BACKGROUND) for acts involving physical force to, within two business days, transfer them to a federally licensed firearms dealer or surrender them to the emergency services and public protection (DESPP) commissioner.

The law, unchanged by the bill, requires the commissioner, in conjunction with the chief state's attorney and the Connecticut Police Chiefs Association, to develop a protocol to ensure that persons who become ineligible to possess pistols or revolvers transfer, deliver, or surrender them as appropriate. The bill adds "other firearms" to the required protocol and update, conforming those provisions to the existing firearm transfer and surrender laws. The bill requires that such protocol include provisions to ensure that a person who becomes ineligible to possess one of these weapons due to the issuance of one or more of the types of protective orders listed above makes advance arrangements with the appropriate police department before he or she transfers, delivers, or surrenders his or her weapon or weapons to the local police department or the Division of State Police.

§§ 2 & 3 — NOTIFYING VICTIM ADVOCATES ABOUT SUSPECTED PROBATION VIOLATION

The bill requires a probation officer to notify the victim advocate assigned to assist a crime victim, rather than only the victim, when the offender has been released on probation and his or her probation officer has notified the police that there is probable cause to believe that the offender has violated the terms of his release. Under the bill, the probation officer need only do this if he or she has the advocate's name and contact information.

§ 17 — SEPARATE WAITING AREA FOR VICTIMS

The bill requires the chief court administrator for each court where family, family violence, or domestic violence matters are heard, to provide a secure office for family violence crimes victims and their advocates. It must be separate from (1) any area that accommodates respondents, defendants, their families, friends, attorneys, or witnesses

and (2) the prosecutor's office.

§ 5 — TERMINATION OF RENTAL AGREEMENT BECAUSE OF SEXUAL ASSAULT

The bill extends to sexual assault victims, rather than only to those victimized by family violence crimes, the right to terminate a rental agreement without penalty. The bill applies to the following crimes:

1. 1st, 2nd, or 4rd degree sexual assault, or 3rd degree sexual assault with a firearm;
2. sexual assault in a spousal or cohabiting relationship; and
3. when the victim is the tenant's child, aggravated sexual assault of a minor.

It covers agreements entered into or renewed on or after January 1, 2014. Tenants who have been sexually assaulted or are custodial parents or guardians of a child who has been the victim of such crimes must also reasonably believe that it is necessary to move because of fear of imminent harm.

Under the bill, tenants must comply with the notice requirements currently applicable to family violence victims. Among other things, victims must give landlords 30 days advance notice.

§§ 20-22 — ASSESSMENT OF FAMILY VIOLENCE RELATED PROGRAMS

The bill requires assessments of the effectiveness of on-going family violence training or intervention programs provided by DOC and CSSD.

§ 20 — CSSD Programs

Assessment. The bill requires the chief court administrator, by May 31, 2014, to:

1. assess the effectiveness of the family violence programs provided by CSSD, including the pretrial family violence education, EVOLVE, and EXPLORE programs (see

BACKGROUND);

2. consider the Pew-MacArthur Results First Initiative's cost-benefit analysis model with respect to each program; and
3. determine whether any changes may be implemented to improve the programs' cost-effectiveness.

Reporting. Under the bill, the chief court administrator must submit a report to the Appropriations and Judiciary committees by June 30, 2014. It must:

1. describe the assessment,
2. identify any program changes CSSD implemented as a result, and
3. make any recommendations she deems appropriate concerning statutory or program changes to improve the program's cost-effectiveness.

§ 21 — Training Programs for Judges and Judicial Branch Staff

The bill also requires the chief court administrator to:

1. conduct an assessment of the family violence training programs for judges and Judicial Branch staff, including the training on family violence intervention units program;
2. compare its programs with those in other northeastern states; and
3. submit a report on her assessment to the Judiciary Committee by December 31, 2013.

§ 22 — DOC Programs

Assessment. The bill requires the correction commissioner, by May 31, 2014 to:

1. assess the effectiveness of each DOC program for people under his supervision who have been convicted of a family violence

crime,

2. consider the Pew-MacArthur Results First Initiative's cost-benefit analysis model with respect to each program; and
3. determine whether any changes may be implemented to improve a program's cost-effectiveness.

Reporting. Under the bill, the commissioner must submit his report to the Appropriations and the Judiciary committees, by June 30, 2014. The report must:

1. describe the assessment,
2. identify any program changes DOC implemented as a result of the assessment, and
3. make recommendations that he deems appropriate concerning statutory or program changes to improve the cost-effectiveness of the department's programs.

§ 23 — RESTRAINING ORDER FEASIBILITY STUDY TASK FORCE ***Feasibility Study***

The bill establishes a task force to study the feasibility of amending the state's restraining order laws to permit victims who are not an offender's family or household member but who have been subject to crimes such as sexual assault and stalking to apply for a restraining order against the offender.

Task Force Members and Appointments

Under the bill the task force consists of the following 11 members:

1. the judiciary committee's co-chairpersons and ranking members, or their designees, who must be chosen from among the committee members;
2. the chief court administrator, who must serve as the task force's chairperson;

3. the chief state's attorney, or his designee;
4. three members, appointed by the chief justice of the Supreme Court, one each representing the court's civil, criminal, and family divisions; and
5. two representatives of Connecticut Sexual Assault Crisis Services, Inc., appointed by its executive director.

All appointments must be made within 30 days of the bill's effective date. Appointing authorities must fill vacancies.

The chief court administrator must schedule the first meeting, which must be held within 60 days of passage.

The Judiciary Committee's administrative staff must serve as the task force's administrative staff.

Reporting Requirement and Termination

The task force must report its findings and recommendations to the Judiciary Committee by February 5, 2014. It terminates when it submits its report or on February 5, 2014, whichever is later.

§ 4 — GUARDIAN AD LITEM TRAINING

The bill extends eligibility for participating in the Judicial Branch's family violence training program to guardians ad litem (see BACKGROUND). By law, the branch is required to provide on-going training on matters including family relations, family violence intervention units, the use of restraining and protective orders, and statistics on family violence cases to (1) judges, (2) CSSD personnel, and (3) court clerks.

§ 16 — CRIMINAL JUSTICE POLICY ADVISORY COMMISSION (CJPAC)

The bill adds an additional member to CJPAC. Under current law, the commission has 20 members, two of whom represent community-based offender and victim services providers. The bill adds a third. CJPAC analyzes the criminal justice system, determines the system's

long-term needs, recommends policy priorities and advises and assists the governor and General Assembly in developing plans, policies, programs, and legislation to improve the system's effectiveness.

BACKGROUND

Person Subject to a Restraining Order, Protective Order or a Foreign Order of Protection

A person who can be charged with violating a “restraining or protective order or a foreign order of protection” is one who knows about the order and had the opportunity to contest its validity at a court hearing. Judges can issue them in cases involving the use, attempted use, or threatened use of physical force against another person.

Restraining or Protective Orders

Restraining and protective orders are court-issued orders typically issued to protect victims of family violence crimes from threatened or further harm. These orders may, among other things, prohibit the respondents from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim’s home. Restraining orders are generally effective for six months. Protective orders are a condition of bail or other release from incarceration. Criminal violation of a restraining order or protective order is a class D felony (PA 05-147).

Foreign Order of Protection

“Foreign order of protection” means any protection order or similar restraining or protective order issued by a court of another state, the District of Columbia, a commonwealth, territory or possession of the United States or an Indian tribe.

Family Violence Crime

“Family violence crimes” are felonies and misdemeanors other than delinquent acts, which, in addition to their other elements, are directed at a family or household member.

Household Member

By law “family or household members” are any of the following people, regardless of their ages:

1. spouses or former spouses;
2. parents or their children;
3. people related by blood or marriage;
4. people other than those related by blood or marriage presently living together or who have lived together;
5. people who have a child in common, regardless of whether they are or have been married or have lived together; and
6. people in, or who have recently been in, a dating relationship (CGS § 46b-38a).

EVOLVE

EVOLVE is a behavior modification group for male offenders convicted of domestic violence offenses against female intimate partners. Clients are either referred by the court or required to attend as a condition of probation. The classes meet twice a week for 26 weeks and are available in Bridgeport, New Haven, New London, and Waterbury.

EXPLORE

EXPLORE is also a 26-week group-based program for men convicted of family violence offenses against female intimate partners. Like the EVOLVE program, clients are referred by the court or required to attend as a condition of probation. Classes are currently offered in Bantam/Litchfield, Danbury, Derby, Hartford, Manchester, Middletown, New Haven, New London, Norwalk, Plainville, Stamford, and Willimantic.

Guardian Ad Litem (GAL)

A guardian ad litem (GAL) is a person the court can appoint during any proceeding in which (1) a minor child, (2) an undetermined or unborn or class of people, (3) a person whose identity or address is

unknown, or (4) an incompetent person, is either a party or may have an interest in the outcome of the proceeding. The GAL's primary role is to gather information at the court's request and to report on what he or she believes to be in the client's best interests.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)