

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-214—sHB 6702
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING DOMESTIC VIOLENCE AND SEXUAL ASSAULT

SUMMARY: This act makes a number of changes to the domestic violence and sexual assault laws. It:

1. 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;
2. requires probation officers to provide notice of suspected probation violations to assigned victim advocates, if the officer has the advocate's contact information;
3. requires the chief court administrator to maintain a separate, secure room in certain courthouses for family violence victims and their advocates, if such room is available and its use practical;
4. permits a sexual assault victim to terminate a rental agreement without penalty under some circumstances;
5. requires the chief court administrator to (a) develop a plan to include temporary financial support as relief available to an applicant for a restraining order and (b) assess the effectiveness of family violence training programs for judges and Judicial Branch staff;
6. establishes a task force to study the feasibility of permitting a sexual assault victim who is not a perpetrator's family or household member to apply for a restraining order;
7. requires the Judicial Branch to make the family violence training program for judges, Judicial Branch personnel, and court clerks available to guardians ad litem; and
8. increases, from two to three, the number of Criminal Justice Policy Advisory Commission (CJPAC) members who represent community-based offender and victim services providers.

The act 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 (1) provision on victims' waiting areas in courthouses is effective July 1, 2013 and (2) provisions on the temporary financial support plan, family violence training program assessment, and feasibility study are effective upon passage.

§§ 17 & 18 — PROTOCOL FOR TRANSFER OR SURRENDER OF FIREARMS

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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 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 commissioner (see BACKGROUND).

By law, the commissioner, in conjunction with the chief state's attorney and the Connecticut Police Chiefs Association, must develop a protocol to ensure that people who become ineligible to possess pistols or revolvers transfer, deliver, or surrender them. The act extends the protocol to cover "other firearms," conforming to the existing firearm transfer and surrender laws. The act requires that the 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 State Police.

§§ 1 & 2 — NOTIFYING VICTIM ADVOCATES ABOUT SUSPECTED PROBATION VIOLATION

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

§ 16 — SEPARATE WAITING AREA FOR VICTIMS

The act requires the chief court administrator, for each court where family, family violence, or domestic violence matters are heard, to provide a secure room for family violence crime victims and their advocates, if such a room is available and its use practical. The room must be separate from (1) any area that accommodates respondents; defendants; or their families, friends, attorneys, or witnesses and (2) the prosecutor's office.

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 (see BACKGROUND).

§ 4 — TERMINATION OF RENTAL AGREEMENT BECAUSE OF SEXUAL ASSAULT

The act extends to sexual assault victims the ability existing law gives to those victimized by family violence crimes to terminate a rental agreement without penalty. The act applies to victims of the following crimes:

1. 1st, 2nd, 3rd, or 4th degree sexual assault;
2. 1st degree aggravated sexual assault;
3. 3rd degree sexual assault with a firearm;
4. sexual assault in a spousal or cohabiting relationship; and

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5. aggravated sexual assault of a minor, when the victim is the custodial child of the tenant.

The act 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 act, tenants must comply with the same notice requirements that existing law applies to family violence victims. Among other things, victims must give landlords 30 days' advance notice.

§ 19 — TEMPORARY FINANCIAL SUPPORT RELIEF PLAN

The act requires the chief court administrator to develop a plan to make temporary financial support part of the relief available to a person who applies for a restraining order. She must do so in consultation with state agencies, private organizations, and advocates who have experience filing for restraining orders or providing services to domestic violence victims. The plan must include:

1. an assessment of best practices in other states related to temporary financial support;
2. recommended procedures for determining the (a) assets available to an applicant and respondent, (b) respondent's ability to pay, and (c) amount necessary to maintain the applicant's safety and basic needs, if the respondent has a duty to support the applicant or the respondent's dependent children;
3. recommended procedures for collecting temporary financial support owed by a respondent;
4. strategies for establishing the court procedures needed to include temporary financial support in court orders;
5. a feasibility assessment of making temporary financial support available to people eligible to apply for restraining orders as family or household members, but for whom the respondent is not obligated to provide support; and
6. recommendations for legislation and implementation.

The chief court administrator must submit the plan to the House Speaker's Task Force on Domestic Violence and the Judiciary Committee by January 15, 2014.

§ 20 — ASSESSMENT OF TRAINING PROGRAMS FOR JUDGES AND JUDICIAL BRANCH STAFF

The act requires the chief court administrator to (1) assess the Judicial Branch's family violence training programs for judges and staff, including the training program on family violence response and intervention units; (2) compare Connecticut's programs with those in other northeastern states; and (3) report on the assessment to the Judiciary Committee by December 31, 2013.

§ 21 — RESTRAINING ORDER FEASIBILITY STUDY TASK FORCE

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Feasibility Study

The act establishes an 11-member task force to study the feasibility of amending the state's restraining order laws to permit victims who are not part of an offender's family or household, but who have been subjected to crimes such as sexual assault and stalking, to apply for a restraining order against the offender.

Task Force Members and Appointments

Task force members include:

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 Connecticut Supreme Court chief justice, 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 by July 25, 2013. Appointing authorities must fill vacancies.

The chief court administrator must schedule the task force's first meeting by August 24, 2013. 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.

§ 3 — GUARDIAN AD LITEM TRAINING

The act extends eligibility for participating in the Judicial Branch's family violence training program to guardians ad litem (i.e., persons appointed by the court to protect the interests of minors or incompetent individuals in a particular matter). By law, the branch is required to provide ongoing training on matters including family relations, family violence crimes, arraignment, family violence intervention units, the use of restraining and protective orders, and statistics on family violence cases to judges, Court Support Services Division personnel, and court clerks.

§ 15 — CRIMINAL JUSTICE POLICY ADVISORY COMMISSION (CJPAC)

The act adds an additional member to CJPAC. Under prior law, the commission had 21 members, two of whom represented community-based offender and victim services providers. The act adds a third representative of such providers. By law, CJPAC analyzes the criminal justice system; determines its long-term needs; recommends policy priorities; and advises and assists the

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governor and General Assembly in developing plans, policies, programs, and legislation to improve the system's effectiveness.

BACKGROUND

Restraining or Protective Orders

Connecticut courts can issue a variety of protective and restraining orders to protect crime victims who fear for their safety. These orders may, among other things, prohibit criminal defendants or respondents from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim or entering the victim's home.

Restraining orders are issued by civil courts. The court can make appropriate orders to protect the applicant and dependent children or others, including issuing temporary child custody or visitation orders. The court can issue an immediate ex parte order (without notice to the respondent) as appropriate if the applicant alleges immediate and present physical danger.

A protective order is issued at the time of arraignment during a criminal proceeding. These orders are usually recommended by either the family relations office or the state's attorney and remain in effect from the date they are issued until the disposition of the criminal case. In some cases, a protective order can be removed prior to the resolution of the underlying case being settled.

Standing criminal restraining orders are orders that are issued at the end of a criminal case.

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).

OLR Tracking: MK:KD:JKL:RO