



House of Representatives

General Assembly

File No. 548

February Session, 2014

Substitute House Bill No. 5341

House of Representatives, April 15, 2014

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 THE DESIGNATION OF A PERSON CONVICTED OF CRIMINAL VIOLATION OF A STANDING CRIMINAL PROTECTIVE ORDER AS A PERSISTENT OFFENDER.

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

1 Section 1. Section 53a-40d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014, and*
3 *applicable to convictions entered on or after said date*):

4 (a) A persistent offender of crimes involving assault, stalking,
5 trespass, threatening, harassment, criminal violation of a protective
6 order, criminal violation of a standing criminal protective order or
7 criminal violation of a restraining order is a person who (1) stands
8 convicted of assault under section 53a-61, stalking under section 53a-
9 181d, threatening under section 53a-62, harassment under section 53a-
10 183, criminal violation of a protective order under section 53a-223,
11 criminal violation of a standing criminal protective order under section
12 53a-223a, criminal violation of a restraining order under section 53a-
13 223b or criminal trespass under section 53a-107 or 53a-108, and (2) has,

14 prior to the commission of the present crime, (A) been convicted of a
15 capital felony under the provisions of section 53a-54b in effect prior to
16 April 25, 2012, a class A felony, a class B felony, except a conviction
17 under section 53a-86 or 53a-122, a class C felony, except a conviction
18 under section 53a-87, 53a-152 or 53a-153, or a class D felony under
19 sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103,
20 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section 53a-61,
21 stalking under section 53a-181d, threatening under section 53a-62,
22 harassment under section 53a-183, criminal violation of a protective
23 order under section 53a-223, criminal violation of a standing criminal
24 protective order under section 53a-223a, criminal violation of a
25 restraining order under section 53a-223b, or criminal trespass under
26 section 53a-107 or 53a-108, or (B) been convicted in any other state of
27 any crime the essential elements of which are substantially the same as
28 any of the crimes enumerated in subparagraph (A) of this subdivision.
29 [, or (C) been released from incarceration with respect to such
30 conviction.]

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

42 Sec. 2. Section 53a-40e of the general statutes is repealed and the
43 following is substituted in lieu thereof (*Effective October 1, 2014*):

44 (a) If any person is convicted of (1) a violation of subdivision (1) or
45 (2) of subsection (a) of section 53-21, section 53a-59, 53a-59a, 53a-60,
46 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-

47 72a, 53a-72b, 53a-73a, 53a-181c, 53a-181d, 53a-181e, 53a-182b, 53a-183,
48 53a-223, 53a-223a or 53a-223b or attempt or conspiracy to violate any of
49 said sections or section 53a-54a, against a family or household
50 member, as defined in section 46b-38a, or (2) any crime that the court
51 determines constitutes a family violence crime, as defined in section
52 46b-38a, or attempt or conspiracy to commit any such crime, the court
53 may, in addition to imposing the sentence authorized for the crime
54 under section 53a-35a or 53a-36, if the court is of the opinion that the
55 history and character and the nature and circumstances of the criminal
56 conduct of such offender indicate that a standing criminal protective
57 order will best serve the interest of the victim and the public, issue a
58 standing criminal protective order which shall remain in effect for a
59 duration specified by the court until modified or revoked by the court
60 for good cause shown. If any person is convicted of any crime against a
61 family or household member, as defined in section 46b-38a, other than
62 a crime specified in subdivision (1) or (2) of this subsection, the court
63 may, for good cause shown, issue a standing criminal protective order
64 pursuant to this subsection.

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

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

76 (d) For the purposes of this section and any other provision of the
77 general statutes, "standing criminal protective order" means (1) a
78 standing criminal restraining order issued prior to October 1, 2010, or
79 (2) a standing criminal protective order issued on or after October 1,

80 2010.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014, and applicable to convictions entered on or after said date</i>	53a-40d
Sec. 2	<i>October 1, 2014</i>	53a-40e

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:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Correction, Dept.	GF - Potential Cost	See Below	See Below

Municipal Impact: None

Explanation

The bill results in a potential cost to the Department of Correction by adding violation of a standing criminal protective order to statutes enhancing penalties for persistent offenders. On average, 15 offenders are convicted or accept plea bargains under this statute annually. To the extent that future offenders qualify under the persistent offender statutes and are sentenced to longer prison sentences, costs for incarceration would result. On average, it costs the agency \$50,690 (including benefits) to incarcerate an offender annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sHB 5341*****AN ACT CONCERNING THE DESIGNATION OF A PERSON CONVICTED OF CRIMINAL VIOLATION OF A STANDING CRIMINAL PROTECTIVE ORDER AS A PERSISTENT OFFENDER.*****SUMMARY:**

This bill subjects a standing criminal protective order violator to an enhanced penalty for persistent offenders if, in addition to violating the order, he or she has a prior conviction for certain crimes. It also adds criminal violation of a standing criminal protective order to the list of prior convictions that can subject someone to the enhanced persistent offender penalty.

As of October 1, 2010, the law renamed standing criminal restraining orders as standing criminal protective orders. The bill ensures that anywhere the term standing criminal protective order is used in the statutes, it includes standing criminal restraining orders issued before October 1, 2010.

EFFECTIVE DATE: October 1, 2014, and applicable to convictions entered on and after that date.

PERSISTENT OFFENDERS OF CERTAIN CRIMES

By law, to be considered a persistent offender a person must (1) stand convicted of certain crimes and (2) have a prior conviction of certain crimes. The bill adds criminal violation of a standing criminal protective order to the list of crimes for which a person can stand convicted to qualify as a persistent offender. Under existing law, someone must stand convicted of one of the following crimes:

1. 3rd degree assault;
2. 2nd degree stalking, threatening, or harassment;

3. 1st or 2nd degree criminal trespass; or
4. criminal violation of other types of victim protection orders (a protective or restraining order).

To be sentenced as a persistent offender, the person must have a prior conviction of certain crimes. The bill adds a prior conviction of criminal violation of a standing criminal protective order to this list. Under existing law, a person must have a prior conviction of:

1. a capital felony committed before April 25, 2012 or class A felony;
2. a class B felony, except promoting 1st degree prostitution and 1st degree larceny;
3. a class C felony, except promoting 2nd degree prostitution and bribing jurors;
4. 2nd or 3rd degree assault, 3rd degree burglary or robbery, 3rd degree sexual assault, 2nd degree stalking or harassment, 2nd degree threatening, 1st degree unlawful restraint, 1st or 2nd degree criminal trespass, or criminal use of a firearm or electronic defense weapon;
5. criminal violation of other types of victim protection orders (a protective or restraining order); or
6. a similar crime in another state.

By law, the enhanced penalty is the sentence for the next more serious degree of the crime.

By subjecting a standing criminal protective order violator to the enhanced penalty if he or she has one of the required prior convictions, the bill increases the penalty for such a violator from a class D, which is the penalty for criminal violation of such an order, to a class C felony. By law, a class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both. A class C felony is punishable

by one to 20 years in prison, a fine of up to \$10,000, or both.

BACKGROUND

Standing Criminal Protective Orders

The law allows the court to issue one of these orders when:

1. someone is convicted of a family violence crime or certain other crimes against a family or household member and
2. the history, character, nature, and circumstances of the offender’s conduct indicates that the order best serves the victim’s and public’s interests.

For most family violence crimes, the court need only find good cause to issue the order.

The court sets the order’s duration and terms and can modify or revoke it for good cause.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (03/28/2014)