



General Assembly

Substitute Bill No. 462

February Session, 2014



AN ACT CONCERNING CIVIL RESTRAINING AND PROTECTIVE ORDERS.

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

1 Section 1. Section 46b-15 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2014*):

4 (a) Any family or household member, as defined in section 46b-38a,
5 who has been subjected to a continuous threat of present physical pain
6 or physical injury, stalking or a pattern of threatening, including, but
7 not limited to, a pattern of threatening, as described in section 53a-62,
8 by another family or household member may make an application to
9 the Superior Court for relief under this section.

10 (b) The application form shall allow the applicant, at the applicant's
11 option, to indicate whether the respondent holds a permit to carry a
12 pistol or revolver or possesses one or more firearms or ammunition.
13 The application shall be accompanied by an affidavit made under oath
14 which includes a brief statement of the conditions from which relief is
15 sought. Upon receipt of the application the court shall order that a
16 hearing on the application be held not later than fourteen days from
17 the date of the order. The court, in its discretion, may make such
18 orders as it deems appropriate for the protection of the applicant and

19 such dependent children or other persons as the court sees fit. In
20 making such orders, the court, in its discretion, may consider relevant
21 court records if the records are available to the public from a clerk of
22 the Superior Court or on the Judicial Branch's Internet web site. Such
23 orders may include temporary child custody or visitation rights, and
24 such relief may include, but is not limited to, an order enjoining the
25 respondent from (1) imposing any restraint upon the person or liberty
26 of the applicant; (2) threatening, harassing, assaulting, molesting,
27 sexually assaulting or attacking the applicant; or (3) entering the family
28 dwelling or the dwelling of the applicant. Such order may include
29 provisions necessary to protect any animal owned or kept by the
30 applicant including, but not limited to, an order enjoining the
31 respondent from injuring or threatening to injure such animal. If an
32 applicant alleges an immediate and present physical danger to the
33 applicant, the court may issue an ex parte order granting such relief as
34 it deems appropriate. If a postponement of a hearing on the
35 application is requested by either party and granted, the ex parte order
36 shall not be continued except upon agreement of the parties or by
37 order of the court for good cause shown. If a hearing on the application
38 is scheduled or an ex parte order is granted and the court is closed on
39 the scheduled hearing date, the hearing shall be held on the next day
40 the court is open and any such ex parte order shall remain in effect
41 until the date of such hearing.

42 (c) Any ex parte restraining order entered under subsection (b) of
43 this section in which the applicant and respondent are spouses, or
44 persons who have a dependent child or children in common and who
45 live together, may include, if no order exists, and if necessary to
46 maintain the safety and basic needs of the applicant or the dependent
47 child or children in common of the applicant and respondent, in
48 addition to any orders authorized under subsection (b) of this section,
49 any of the following: (1) An order prohibiting the respondent from (A)
50 taking any action that could result in the termination of any necessary
51 utility services or necessary services related to the family dwelling or
52 the dwelling of the applicant, (B) taking any action that could result in

53 the cancellation, change of coverage or change of beneficiary of any
54 health, automobile or homeowners insurance policy to the detriment
55 of the applicant or the dependent child or children in common of the
56 applicant and respondent, or (C) transferring, encumbering, concealing
57 or disposing of specified property owned or leased by the applicant; or
58 (2) an order providing the applicant with temporary possession of an
59 automobile, checkbook, documentation of health, automobile or
60 homeowners insurance, a document needed for purposes of proving
61 identity, a key or other necessary specified personal effects.

62 (d) At the hearing on any application under this section, if the court
63 grants relief pursuant to subsection (b) of this section and the applicant
64 and respondent are spouses, or persons who have a dependent child or
65 children in common and who live together, and if necessary to
66 maintain the safety and basic needs of the applicant or the dependent
67 child or children in common of the applicant and respondent, any
68 orders entered by the court may include, in addition to the orders
69 authorized under subsection (b) of this section, any of the following:
70 (1) An order prohibiting the respondent from (A) taking any action
71 that could result in the termination of any necessary utility services or
72 services related to the family dwelling or the dwelling of the applicant,
73 (B) taking any action that could result in the cancellation, change of
74 coverage or change of beneficiary of any health, automobile or
75 homeowners insurance policy to the detriment of the applicant or the
76 dependent child or children in common of the applicant and
77 respondent, or (C) transferring, encumbering, concealing or disposing
78 of specified property owned or leased by the applicant; (2) an order
79 providing the applicant with temporary possession of an automobile,
80 checkbook, documentation of health, automobile or homeowners
81 insurance, a document needed for purposes of proving identity, a key
82 or other necessary specified personal effects; or (3) an order that the
83 respondent: (A) Make rent or mortgage payments on the family
84 dwelling or the dwelling of the applicant and the dependent child or
85 children in common of the applicant and respondent, (B) maintain
86 utility services or other necessary services related to the family

87 dwelling or the dwelling of the applicant and the dependent child or
88 children in common of the applicant and respondent, (C) maintain all
89 existing health, automobile or homeowners insurance coverage
90 without change in coverage or beneficiary designation, or (D) provide
91 financial support for the benefit of any dependent child or children in
92 common of the applicant and the respondent, provided the respondent
93 has a legal duty to support such child or children and the ability to
94 pay. The court shall not enter any order of financial support without
95 sufficient evidence as to the ability to pay, including, but not limited
96 to, financial affidavits. If at the hearing no order is entered under this
97 subsection or subsection (c) of this section, no such order may be
98 entered thereafter pursuant to this section. Any order entered pursuant
99 to this subsection shall not be subject to modification and shall expire
100 one hundred twenty days after the date of issuance or upon issuance
101 of a superseding order, whichever occurs first. Any amounts not paid
102 or collected under this subsection or subsection (c) of this section may
103 be preserved and collectable in an action for dissolution of marriage,
104 custody, paternity or support.

105 [(c)] (e) Every order of the court made in accordance with this
106 section shall contain the following language: (1) "This order may be
107 extended by the court beyond one year. In accordance with section
108 53a-107 of the Connecticut general statutes, entering or remaining in a
109 building or any other premises in violation of this order constitutes
110 criminal trespass in the first degree. This is a criminal offense
111 punishable by a term of imprisonment of not more than one year, a
112 fine of not more than two thousand dollars or both."; and (2) "In
113 accordance with section 53a-223b of the Connecticut general statutes,
114 any violation of subparagraph (A) or (B) of subdivision (2) of
115 subsection (a) of section 53a-223b constitutes criminal violation of a
116 restraining order which is punishable by a term of imprisonment of
117 not more than five years, a fine of not more than five thousand dollars,
118 or both. Additionally, any violation of subparagraph (C) or (D) of
119 subdivision (2) of subsection (a) of section 53a-223b constitutes
120 criminal violation of a restraining order which is punishable by a term

121 of imprisonment of not more than ten years, a fine of not more than ten
122 thousand dollars, or both."

123 [(d)] (f) No order of the court shall exceed one year, except that an
124 order may be extended by the court upon motion of the applicant for
125 such additional time as the court deems necessary. If the respondent
126 has not appeared upon the initial application, service of a motion to
127 extend an order may be made by first-class mail directed to the
128 respondent at the respondent's last-known address.

129 [(e)] (g) The applicant shall cause notice of the hearing pursuant to
130 subsection (b) of this section and a copy of the application and the
131 applicant's affidavit and of any ex parte order issued pursuant to
132 subsection (b) of this section to be served on the respondent not less
133 than five days before the hearing. The cost of such service shall be paid
134 for by the Judicial Branch. Upon the granting of an ex parte order, the
135 clerk of the court shall provide two copies of the order to the applicant.
136 Upon the granting of an order after notice and hearing, the clerk of the
137 court shall provide two copies of the order to the applicant and a copy
138 to the respondent. Every order of the court made in accordance with
139 this section after notice and hearing shall be accompanied by a
140 notification that is consistent with the full faith and credit provisions
141 set forth in 18 USC 2265(a), as amended from time to time.
142 Immediately after making service on the respondent, the proper officer
143 shall send or cause to be sent, by facsimile or other means, a copy of
144 the application, or the information contained in such application,
145 stating the date and time the respondent was served, to the law
146 enforcement agency or agencies for the town in which the applicant
147 resides, the town in which the applicant is employed and the town in
148 which the respondent resides. The clerk of the court shall send, by
149 facsimile or other means, a copy of any ex parte order and of any order
150 after notice and hearing, or the information contained in any such
151 order, to the law enforcement agency or agencies for the town in which
152 the applicant resides, the town in which the applicant is employed and
153 the town in which the respondent resides, within forty-eight hours of

154 the issuance of such order. If the victim is enrolled in a public or
155 private elementary or secondary school, including a technical high
156 school, or an institution of higher education, as defined in section 10a-
157 55, the clerk of the court shall, upon the request of the victim, send, by
158 facsimile or other means, a copy of such ex parte order or of any order
159 after notice and hearing, or the information contained in any such
160 order, to such school or institution of higher education, the president
161 of any institution of higher education at which the victim is enrolled
162 and the special police force established pursuant to section 10a-156b, if
163 any, at the institution of higher education at which the victim is
164 enrolled.

165 [(f)] (h) A caretaker who is providing shelter in his or her residence
166 to a person sixty years or older shall not be enjoined from the full use
167 and enjoyment of his or her home and property. The Superior Court
168 may make any other appropriate order under the provisions of this
169 section.

170 [(g)] (i) When a motion for contempt is filed for violation of a
171 restraining order, there shall be an expedited hearing. Such hearing
172 shall be held within five court days of service of the motion on the
173 respondent, provided service on the respondent is made not less than
174 twenty-four hours before the hearing. If the court finds the respondent
175 in contempt for violation of an order, the court may impose such
176 sanctions as the court deems appropriate.

177 [(h)] (j) An action under this section shall not preclude the applicant
178 from seeking any other civil or criminal relief.

179 Sec. 2. (*Effective from passage*) (a) There is established a task force to
180 study service of restraining orders issued pursuant to section 46b-15 of
181 the general statutes, as amended by this act. Such study shall include,
182 but not be limited to, an examination of: (1) Policies, procedures and
183 regulations relating to the service of such restraining orders by state
184 marshals, including any policies, procedures or regulations relating to
185 the methods by which a state marshal is initially notified of the need to

186 effectuate service of a restraining order; (2) the length of time available
187 to effectuate service of a restraining order; (3) the permissible methods
188 of service; (4) the effectiveness of the respondent profile information
189 sheet and marshal access to databases containing identifiable
190 respondent information; (5) reimbursement rates for service of
191 restraining orders, including an assessment of reimbursement rates
192 used in other states; (6) best practices established by other states, if
193 any, with respect to service of restraining orders; and (7) the feasibility
194 of expanding which persons shall be authorized to serve restraining
195 orders.

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

197 (1) Two appointed by the president pro tempore of the Senate, one
198 of whom shall be a representative of the Connecticut Coalition Against
199 Domestic Violence and one of whom shall be a representative of the
200 office of the Chief State's Attorney;

201 (2) Two appointed by the speaker of the House of Representatives,
202 one of whom shall be a representative of the Speaker's Task Force on
203 Domestic Violence and one of whom shall be a victim of domestic
204 violence;

205 (3) Two appointed by the majority leader of the Senate, one of
206 whom shall be a representative of the State Marshal Commission and
207 one of whom shall be an advocate for victims of domestic violence;

208 (4) Two appointed by the majority leader of the House of
209 Representatives, one of whom shall be a representative of the state
210 police force and one of whom shall be a state marshal;

211 (5) Two appointed by the minority leader of the Senate, one of
212 whom shall be a representative of the Connecticut Police Chiefs
213 Association and one of whom shall be a representative of the Office of
214 the Chief Public Defender;

215 (6) Two appointed by the minority leader of the House of

216 Representatives, one of whom shall be a representative of the legal aid
217 assistance programs in the state and one of whom shall be a state
218 marshal;

219 (7) Two appointed by the Governor, one of whom shall be a
220 representative of the Connecticut Police Chiefs Association and one of
221 whom shall be a representative of the Office of the Victim Advocate;
222 and

223 (8) Two appointed by the Chief Court Administrator, one of whom
224 shall be a judge of the Superior Court assigned to hear civil matters
225 and one of whom shall be an employee of the Judicial Branch whose
226 duties concern the operations of the Superior Court.

227 (c) All appointments to the task force shall be made not later than
228 thirty days after the effective date of this section. Any vacancy shall be
229 filled by the appointing authority.

230 (d) The speaker of the House of Representatives and the president
231 pro tempore of the Senate shall select the chairpersons of the task force
232 from among the members of the task force. Such chairpersons shall
233 schedule the first meeting of the task force, which shall be held not
234 later than sixty days after the effective date of this section.

235 (e) The administrative staff of the joint standing committee of the
236 General Assembly having cognizance of matters relating to the
237 judiciary shall serve as administrative staff of the task force.

238 (f) Not later than December 15, 2014, the task force shall submit a
239 report on its findings and recommendations to the joint standing
240 committee of the General Assembly having cognizance of matters
241 relating to the judiciary, in accordance with the provisions of section
242 11-4a of the general statutes. The task force shall terminate on the date
243 that it submits such report or December 15, 2014, whichever is later.

244 Sec. 3. Section 53a-223 of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective October 1, 2014*):

246 (a) A person is guilty of criminal violation of a protective order
247 when an order issued pursuant to subsection (e) of section 46b-38c, as
248 amended by this act, or section 54-1k, as amended by this act, or 54-
249 82r, as amended by this act, has been issued against such person, and
250 such person violates such order.

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

256 (c) Criminal violation of a protective order is a class D felony, except
257 that any violation of a protective order that involves (1) imposing any
258 restraint upon the person or liberty of a person in violation of the
259 protective order, or (2) threatening, harassing, assaulting, molesting,
260 sexually assaulting or attacking a person in violation of the protective
261 order is a class C felony.

262 Sec. 4. Section 53a-223a of the general statutes is repealed and the
263 following is substituted in lieu thereof (*Effective October 1, 2014*):

264 (a) A person is guilty of criminal violation of a standing criminal
265 protective order when an order issued pursuant to subsection (a) of
266 section 53a-40e has been issued against such person, and such person
267 violates such order.

268 (b) No person who is listed as a protected person in such standing
269 criminal protective order may be criminally liable for (1) soliciting,
270 requesting, commanding, importuning or intentionally aiding in the
271 violation of the standing criminal protective order pursuant to
272 subsection (a) of section 53a-8, or (2) conspiracy to violate such
273 standing criminal protective order pursuant to section 53a-48.

274 (c) Criminal violation of a standing criminal protective order is a
275 class D felony, except that any violation that involves (1) imposing any
276 restraint upon the person or liberty of a person in violation of the

277 standing criminal protective order, or (2) threatening, harassing,
278 assaulting, molesting, sexually assaulting or attacking a person in
279 violation of the standing criminal protective order is a class C felony.

280 Sec. 5. Section 53a-223b of the general statutes is repealed and the
281 following is substituted in lieu thereof (*Effective October 1, 2014*):

282 (a) A person is guilty of criminal violation of a restraining order
283 when (1) (A) a restraining order has been issued against such person
284 pursuant to section 46b-15, as amended by this act, or (B) a foreign
285 order of protection, as defined in section 46b-15a, has been issued
286 against such person in a case involving the use, attempted use or
287 threatened use of physical force against another, and (2) such person,
288 having knowledge of the terms of the order, (A) does not stay away
289 from a person or place in violation of the order, (B) contacts a person in
290 violation of the order, (C) imposes any restraint upon the person or
291 liberty of a person in violation of the order, or (D) threatens, harasses,
292 assaults, molests, sexually assaults or attacks a person in violation of
293 the order.

294 (b) No person who is listed as a protected person in such restraining
295 order or foreign order of protection may be criminally liable for (1)
296 soliciting, requesting, commanding, importuning or intentionally
297 aiding in the violation of the restraining order or foreign order of
298 protection pursuant to subsection (a) of section 53a-8, or (2) conspiracy
299 to violate such restraining order or foreign order of protection
300 pursuant to section 53a-48.

301 (c) [Criminal] (1) Except as provided in subdivision (2) of this
302 subsection, criminal violation of a restraining order is a class D felony.

303 (2) Criminal violation of a restraining order is a class C felony if the
304 offense is a violation of subparagraph (C) or (D) of subdivision (2) of
305 subsection (a) of this section.

306 Sec. 6. Subsection (e) of section 46b-38c of the 2014 supplement to
307 the general statutes is repealed and the following is substituted in lieu

308 thereof (*Effective October 1, 2014*):

309 (e) A protective order issued under this section may include
310 provisions necessary to protect the victim from threats, harassment,
311 injury or intimidation by the defendant, including, but not limited to,
312 an order enjoining the defendant from (1) imposing any restraint upon
313 the person or liberty of the victim, (2) threatening, harassing,
314 assaulting, molesting or sexually assaulting the victim, or (3) entering
315 the family dwelling or the dwelling of the victim. A protective order
316 issued under this section may include provisions necessary to protect
317 any animal owned or kept by the victim including, but not limited to,
318 an order enjoining the defendant from injuring or threatening to injure
319 such animal. Such order shall be made a condition of the bail or release
320 of the defendant and shall contain the following notification: "In
321 accordance with section 53a-223 of the Connecticut general statutes,
322 any violation of this order constitutes criminal violation of a protective
323 order which is punishable by a term of imprisonment of not more than
324 [five] ten years, a fine of not more than [five] ten thousand dollars, or
325 both. Additionally, in accordance with section 53a-107 of the
326 Connecticut general statutes, entering or remaining in a building or
327 any other premises in violation of this order constitutes criminal
328 trespass in the first degree which is punishable by a term of
329 imprisonment of not more than one year, a fine of not more than two
330 thousand dollars, or both. Violation of this order also violates a
331 condition of your bail or release, and may result in raising the amount
332 of bail or revoking release." Every order of the court made in
333 accordance with this section after notice and hearing shall be
334 accompanied by a notification that is consistent with the full faith and
335 credit provisions set forth in 18 USC 2265(a), as amended from time to
336 time. The information contained in and concerning the issuance of any
337 protective order issued under this section shall be entered in the
338 registry of protective orders pursuant to section 51-5c.

339 Sec. 7. Subsection (b) of section 54-1k of the general statutes is
340 repealed and the following is substituted in lieu thereof (*Effective*

341 *October 1, 2014*):

342 (b) A protective order issued under this section may include
343 provisions necessary to protect the victim from threats, harassment,
344 injury or intimidation by the defendant, including but not limited to,
345 an order enjoining the defendant from (1) imposing any restraint upon
346 the person or liberty of the victim, (2) threatening, harassing,
347 assaulting, molesting or sexually assaulting the victim, or (3) entering
348 the dwelling of the victim. A protective order issued under this section
349 may include provisions necessary to protect any animal owned or kept
350 by the victim including, but not limited to, an order enjoining the
351 defendant from injuring or threatening to injure such animal. Such
352 order shall be made a condition of the bail or release of the defendant
353 and shall contain the following language: "In accordance with section
354 53a-223 of the Connecticut general statutes, any violation of this order
355 constitutes criminal violation of a protective order which is punishable
356 by a term of imprisonment of not more than [five] ten years, a fine of
357 not more than [five] ten thousand dollars, or both. Additionally, in
358 accordance with section 53a-107 of the Connecticut general statutes,
359 entering or remaining in a building or any other premises in violation
360 of this order constitutes criminal trespass in the first degree which is
361 punishable by a term of imprisonment of not more than one year, a
362 fine of not more than two thousand dollars, or both. Violation of this
363 order also violates a condition of your bail or release and may result in
364 raising the amount of bail or revoking release."

365 Sec. 8. Subsection (b) of section 54-82r of the general statutes is
366 repealed and the following is substituted in lieu thereof (*Effective*
367 *October 1, 2014*):

368 (b) A protective order shall set forth the reasons for the issuance of
369 such order, be specific in terms and describe in reasonable detail, and
370 not by reference to the complaint or other document, the act or acts
371 being restrained. A protective order issued under this section may
372 include provisions necessary to protect the witness from threats,
373 harassment, injury or intimidation by the adverse party including, but

374 not limited to, enjoining the adverse party from (1) imposing any
375 restraint upon the person or liberty of the witness, (2) threatening,
376 harassing, assaulting, molesting or sexually assaulting the witness, or
377 (3) entering the dwelling of the witness. Such order shall contain the
378 following language: "In accordance with section 53a-223 of the
379 Connecticut general statutes, any violation of this order constitutes
380 criminal violation of a protective order which is punishable by a term
381 of imprisonment of not more than [five] ten years, a fine of not more
382 than [five] ten thousand dollars, or both. Additionally, in accordance
383 with section 53a-107 of the Connecticut general statutes, entering or
384 remaining in a building or any other premises in violation of this order
385 constitutes criminal trespass in the first degree which is punishable by
386 a term of imprisonment of not more than one year, a fine of not more
387 than two thousand dollars, or both." If the adverse party is the
388 defendant in the criminal case, such order shall be made a condition of
389 the bail or release of the defendant and shall also contain the following
390 language: "Violation of this order also violates a condition of your bail
391 or release and may result in raising the amount of bail or revoking
392 release."

393 Sec. 9. Subsection (c) of section 53a-40e of the general statutes is
394 repealed and the following is substituted in lieu thereof (*Effective*
395 *October 1, 2014*):

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

402 Sec. 10. Subsection (b) of section 29-36n of the 2014 supplement to
403 the general statutes is repealed and the following is substituted in lieu
404 thereof (*Effective October 1, 2014*):

405 (b) The Commissioner of Emergency Services and Public Protection,

406 in conjunction with the Chief State's Attorney and the Connecticut
 407 Police Chiefs Association, shall update the protocol developed
 408 pursuant to subsection (a) of this section to reflect the provisions of
 409 sections 29-7h, 29-28, 29-28a, 29-29, 29-30, 29-32 and 29-35, subsections
 410 (b) and [(e)] (g) of section 46b-15, as amended by this act, subsections
 411 (c) and (d) of section 46b-38c and sections 53-202a, 53-202l, 53-202m
 412 and 53a-217 and shall include in such protocol specific instructions for
 413 the transfer, delivery or surrender of pistols and revolvers and other
 414 firearms and ammunition when the assistance of more than one law
 415 enforcement agency is necessary to effect the requirements of section
 416 29-36k.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	46b-15
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>October 1, 2014</i>	53a-223
Sec. 4	<i>October 1, 2014</i>	53a-223a
Sec. 5	<i>October 1, 2014</i>	53a-223b
Sec. 6	<i>October 1, 2014</i>	46b-38c(e)
Sec. 7	<i>October 1, 2014</i>	54-1k(b)
Sec. 8	<i>October 1, 2014</i>	54-82r(b)
Sec. 9	<i>October 1, 2014</i>	53a-40e(c)
Sec. 10	<i>October 1, 2014</i>	29-36n(b)

JUD *Joint Favorable Subst.*

APP *Joint Favorable*