



# Senate

General Assembly

**File No. 615**

February Session, 2014

Substitute Senate Bill No. 462

*Senate, April 17, 2014*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **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2 statutes is repealed and the following is substituted in lieu thereof  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)   |

**Statement of Legislative Commissioners:**

In sections 1 and 2, technical changes were made for consistency with the provisions of the general statutes.

**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 15 \$</b> | <b>FY 16 \$</b> |
|--|---------------------|-----------------|-----------------|
| Judicial Dept.                                   | GF - Cost           | 174,329         | 209,195         |
| State Comptroller - Fringe Benefits <sup>1</sup> | GF - Cost           | 60,866          | 76,691          |
| Various State Agencies                           | GF - Potential Cost | Less than 1,000 | Less than 1,000 |
| Correction, Dept.                                | GF - Potential Cost | See Below       | See Below       |

**Municipal Impact:** None

### **Explanation**

The bill allows the court to order financial support in civil restraining orders which is anticipated to result in a cost of \$174,329 in FY 15 and \$209,195 in FY 16 plus associated fringe benefits costs of \$60,866 in FY 15 and \$76,691 in FY 16 for personnel necessary to assist individuals with the preparation of financial affidavits and calculation of recommended support.

sHB 5030, the revised FY 15 budget, as favorably reported by the Appropriations Committee, provides funding of \$104,598 in FY 15 for half-year funding of three positions and other expenses and \$36,520 for fringe benefits.

The bill may result in a cost of less than \$1,000 in FY 15 to those agencies participating in the task force to reimburse legislators and

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

agency staff for mileage expenses.

The bill creates new, unclassified felonies and enhances penalties for certain offenses. The bill enhances the penalty for certain violations of 53a-223 and its subsections. On average, 30 offenders are prosecuted or accept plea bargains under this statute annually. Additionally, the bill enhances penalties for certain criminal violation of a restraining order. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for incarceration would result. On average, it costs the agency \$50,690 (including benefits) to incarcerate an offender.

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

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

**OLR Bill Analysis****sSB 462*****AN ACT CONCERNING CIVIL RESTRAINING AND PROTECTIVE ORDERS.*****SUMMARY:**

This bill makes numerous changes in the laws that govern restraining orders and protective orders. It:

1. expands the court's authority in civil restraining order cases by broadening the measures an order can contain, such as ordering the respondent to (a) refrain from terminating necessary utility services, cancelling or changing insurance policies, or transferring, concealing, or disposing of specified property, (b) make rent or mortgage payments, (c) maintain utilities and insurance, and (d) provide specified personal effects and financial support;
2. establishes other requirements pertaining to civil restraining orders such as, (a) prohibiting modification after it has been entered, (b) establishing an expiration date, (c) allowing any amounts owed on a financial order to be collected in divorce, annulment, or legal separation actions, and (d) requiring specific language pertaining to criminal violation of the order and the corresponding penalties;
3. establishes a task force to study service of restraining orders pertaining to family and household members;
4. increases, from a class D to a class C felony, the penalty for criminal violation of restraining orders, protective orders, and standing criminal protective orders involving such actions as threatening, harassing, and assault; and

5. requires the updating of the specific language contained in certain protective and standing criminal protective orders to reflect the increased penalties.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2014, except for the task force provision, which is effective upon passage.

### **§ 1 — RESTRAINING ORDERS: FAMILY AND HOUSEHOLD MEMBERS**

The bill broadens the court's authority in civil restraining order cases, both upon receipt of an application for such an order and at a hearing on the application.

By law, any family or household member (see BACKGROUND) subjected to continuous threat of present physical pain or physical injury, stalking, or a pattern of threatening may apply to the Superior Court for a restraining order. The court may issue an order as it deems appropriate to protect the applicant and any dependent children or other people as it sees fit.

Under current law, the order, whether issued *ex parte* (i.e. without a hearing) or after a hearing, may include temporary child custody or visitation rights and provisions to protect any animals. It may also prohibit the respondent from:

1. imposing any restraint on the applicant;
2. threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the applicant; or
3. entering the family home or the home of the applicant.

#### ***Ex Parte Order***

By law, if an applicant alleges an immediate and present physical danger to the applicant, the court, upon receipt of the application may issue a restraining order *ex parte* that contains any of the orders

described above.

The bill broadens the measures the order may contain when the applicant and respondent are (1) spouses or (2) people who lived together who have dependent children in common. If no order exists and the court deems it necessary to maintain the safety and the basic needs of such applicant and the children, it may:

1. prohibit the respondent from taking any action that could result in shutting off necessary utility services or other necessary services related to the family home or the applicant's home;
2. prohibit the respondent from taking any action that could result in the cancellation or change of health, automobile, or homeowners' insurance policy coverage or designated beneficiary to the detriment of the applicant or any dependent children they have in common;
3. prohibit the respondent from transferring, encumbering, concealing, or disposing of specified property the applicant owns or leases; or
4. require the respondent to temporarily provide the applicant with an automobile, checkbook, health documents, automobile or homeowners insurance, a document needed for proving identity, a key, or other necessary specified personal effects.

### ***Hearing on the Application***

Under the bill, at the hearing on the application, if the court grants relief under similar circumstances as described under the ex parte provisions, it may order the respondent to:

1. make rent or mortgage payments on the family home or the home of the applicant and their dependent children;
2. maintain utility services or other necessary services related to the family home or the home of the applicant and their dependent children;

3. maintain all existing health, automobile, or homeowners insurance coverage without change in coverage or beneficiary designation; or
4. provide financial support for the benefit of any dependent children, if the respondent has a legal duty to support them and the ability to pay.

These are in addition to orders authorized under current law and those authorized in an ex parte order under the bill.

The bill prohibits the court from entering any financial support order without sufficient evidence of a person's ability to pay, including financial affidavits. And, it allows any amounts not paid or collected under an order to be preserved and collected in a divorce, custody, paternity, or support action.

Under the bill, if an order is not entered at the hearing, one cannot be entered after that. An order entered at a hearing cannot be modified and must expire 120 days after the issue date or upon issuance of a superseding order, whichever occurs first.

### ***Specific Language in the Court Order***

By law, any civil restraining order that the court makes must include specific language about what violation of the order constitutes 1st degree criminal trespass and the corresponding penalties.

The bill expands the required notice in the court order to also include specific language about what constitutes a criminal violation of a civil restraining order and the corresponding penalties.

## **§ 2 — TASK FORCE**

The bill establishes a task force to study service of restraining orders pertaining to family and household members. The study must examine the:

1. policies, procedures, and regulations relating to state marshals serving restraining orders, including methods for their initial

- notification;
2. length of time available to serve a restraining order;
  3. permissible methods of service;
  4. effectiveness of the respondent profile information sheet and marshal access to databases containing identifiable respondent information;
  5. reimbursement rates for service, including an assessment of other states' reimbursement rates;
  6. other states' best practices, if any, with respect to service of restraining orders; and
  7. feasibility of expanding the list of persons who can serve restraining orders.

### ***Task Force Members and Appointments***

The 16-member task force includes:

1. two members appointed by the Senate president pro tempore (representing the Connecticut Coalition Against Domestic Violence and the chief states attorney);
2. two members appointed by the Senate majority leader (an advocate for domestic violence victims and a representative of the State Marshal Commission);
3. two members appointed by the Senate minority leader (representing the Connecticut Police Chiefs Association and the Office of the Chief Public Defender);
4. two members appointed by the House speaker (a domestic violence victim and a representative from the speaker's task force on domestic violence);
5. two members appointed by the House majority leader (a state

- marshal and a representative of the State Police);
6. two members appointed by the House minority leader (a state marshal and a representative of the legal aid assistance programs in the state);
  7. two members appointed by the governor (representing the Connecticut Police Chief's Association and the Office of the Victim Advocate); and
  8. two members appointed by the chief court administrator (a Superior Court judge assigned to hear civil matters and a Judicial Branch employee whose duties concern the operations of the Superior Court).

All appointments must be made within 30 days after the bill passes and any vacancies must be filled by the appointing authority.

The House speaker and Senate president pro tempore must select the task force's chairpersons from among its members. The chairpersons must schedule and hold the first meeting within 60 days after the bill passes. 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 December 15, 2014. It terminates when it submits the report or on December 15, 2014, whichever is later.

### **§§ 3-9 — INCREASED PENALTY FOR VIOLATING CERTAIN ORDERS**

#### ***§§ 3-6 — Increased Penalty***

Under current law, criminal violation of a protective order, standing criminal protective order, or civil restraining order is a class D felony punishable by imprisonment of up to five years, a fine of up to \$5,000, or both.

Under the bill, these crimes become class C felonies and the

penalties increase to imprisonment for up to 10 years, a fine of up to \$10,000, or both, if the violation of any of these orders involves (1) imposing any restraint on the person or liberty of a person in violation of the order or (2) threatening, harassing, assaulting, molesting, sexually assaulting, or attacking a person in violation of the order.

### **§§ 7-9 — Required Notice**

The bill requires the specific language contained in standing criminal protective orders and certain protective orders to be updated to reflect the penalty increase. The affected protective orders are those related to (1) family violence; (2) stalking, harassment, sexual assault, and risk of injury; and (3) witness harassment.

## **BACKGROUND**

### ***Family or Household Members***

By law, “family or household members” are any of the following, 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 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 who are or were recently dating (CGS § 46b-38a).

### ***Related Bills***

sHB 5593, §§ 1-10, reported favorably by the Judiciary Committee, has similar provisions to this bill.

sSB 152, § 6, reported favorably by the Judiciary Committee, expands the crime of criminal violation of a protective order to include

when a person violates a protective order issued by a court when sentencing a person to a period of probation.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 3 (04/02/2014)