



House of Representatives

File No. 708

General Assembly

February Session, 2016

(Reprint of File No. 345)

Substitute House Bill No. 5366
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 22, 2016

AN ACT CONCERNING COURT OPERATIONS.

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

1 Section 1. Subsection (k) of section 17a-112 of the 2016 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage*):

4 (k) Except in the case where termination of parental rights is based
5 on consent, in determining whether to terminate parental rights under
6 this section, the court shall consider and shall make written findings
7 regarding: (1) The timeliness, nature and extent of services offered,
8 provided and made available to the parent and the child by an agency
9 to facilitate the reunion of the child with the parent; (2) whether the
10 Department of Children and Families has made reasonable efforts to
11 reunite the family pursuant to the federal [Adoption Assistance and
12 Child Welfare Act of 1980, as amended] Adoption and Safe Families
13 Act of 1997, as amended from time to time; (3) the terms of any
14 applicable court order entered into and agreed upon by any individual
15 or agency and the parent, and the extent to which all parties have

16 fulfilled their obligations under such order; (4) the feelings and
17 emotional ties of the child with respect to the child's parents, any
18 guardian of such child's person and any person who has exercised
19 physical care, custody or control of the child for at least one year and
20 with whom the child has developed significant emotional ties; (5) the
21 age of the child; (6) the efforts the parent has made to adjust such
22 parent's circumstances, conduct, or conditions to make it in the best
23 interest of the child to return such child home in the foreseeable future,
24 including, but not limited to, (A) the extent to which the parent has
25 maintained contact with the child as part of an effort to reunite the
26 child with the parent, provided the court may give weight to incidental
27 visitations, communications or contributions, and (B) the maintenance
28 of regular contact or communication with the guardian or other
29 custodian of the child; and (7) the extent to which a parent has been
30 prevented from maintaining a meaningful relationship with the child
31 by the unreasonable act or conduct of the other parent of the child, or
32 the unreasonable act of any other person or by the economic
33 circumstances of the parent.

34 Sec. 2. Subsection (o) of section 17a-112 of the 2016 supplement to
35 the general statutes is repealed and the following is substituted in lieu
36 thereof (*Effective from passage*):

37 (o) In the case where termination of parental rights is granted, the
38 guardian of the person or statutory parent shall report to the court not
39 later than thirty days after the date judgment is entered on a case plan,
40 as defined by the federal [Adoption Assistance and Child Welfare Act
41 of 1980] Adoption and Safe Families Act of 1997, as amended from
42 time to time, for the child which shall include measurable objectives
43 and time schedules. At least every three months thereafter, such
44 guardian or statutory parent shall make a report to the court on the
45 progress made on implementation of the plan. The court may convene
46 a hearing upon the filing of a report and shall convene and conduct a
47 permanency hearing pursuant to subsection (k) of section 46b-129 for
48 the purpose of reviewing the permanency plan for the child [no] not
49 more than twelve months from the date judgment is entered or from

50 the date of the last permanency hearing held pursuant to subsection
51 (k) of section 46b-129, whichever is earlier, and at least once a year
52 thereafter while the child remains in the custody of the Commissioner
53 of Children and Families. For children where the commissioner has
54 determined that adoption is appropriate, the report on the
55 implementation of the plan shall include a description of the
56 reasonable efforts the department is taking to promote and expedite
57 the adoptive placement and to finalize the adoption of the child,
58 including documentation of child specific recruitment efforts. At such
59 hearing, the court shall determine whether the department has made
60 reasonable efforts to achieve the permanency plan. If the court
61 determines that the department has not made reasonable efforts to
62 place a child in an adoptive placement or that reasonable efforts have
63 not resulted in the placement of the child, the court may order the
64 Department of Children and Families, within available appropriations,
65 to contract with a child-placing agency to arrange for the adoption of
66 the child. The department, as statutory parent, shall continue to
67 provide care and services for the child while a child-placing agency is
68 arranging for the adoption of the child.

69 Sec. 3. Subsection (j) of section 45a-717 of the 2016 supplement to the
70 general statutes is repealed and the following is substituted in lieu
71 thereof (*Effective from passage*):

72 (j) In the case where termination of parental rights is granted, the
73 guardian of the person or statutory parent shall report to the court
74 within thirty days of the date judgment is entered on a case plan, as
75 defined by the federal [Adoption Assistance and Child Welfare Act of
76 1980] Adoption and Safe Families Act of 1997, as amended from time
77 to time, for the child. At least every three months thereafter, such
78 guardian or statutory parent shall make a report to the court on the
79 implementation of the plan. The court may convene a hearing upon
80 the filing of a report and shall convene a hearing for the purpose of
81 reviewing the plan no more than twelve months from the date
82 judgment is entered or from the date of the last permanency hearing
83 held pursuant to subsection (k) of section 46b-129 if the child or youth

84 is in the care and custody of the Commissioner of Children and
85 Families, whichever is earlier, and at least once a year thereafter until
86 such time as any proposed adoption plan has become finalized. If the
87 Commissioner of Children and Families is the statutory parent for the
88 child, at such a hearing the court shall determine whether the
89 department has made reasonable efforts to achieve the permanency
90 plan. In the case where termination of parental rights is granted, the
91 guardian of the person or statutory parent shall obtain the approval of
92 the court prior to placing the child or youth for adoption outside the
93 state. Before ordering or approving such placement, the court shall
94 make findings concerning compliance with the provisions of section
95 17a-175. Such findings shall include, but not be limited to: (1) A finding
96 that the state has received notice in writing from the receiving state, in
97 accordance with subsection (d) of Article III of section 17a-175,
98 indicating that the proposed placement does not appear contrary to the
99 interests of the child, (2) the court has reviewed such notice, (3)
100 whether or not an interstate compact study or other home study has
101 been completed by the receiving state, and (4) if such a study has been
102 completed, whether the conclusions reached by the receiving state as a
103 result of such study support the placement.

104 Sec. 4. Subsections (a) and (b) of section 46b-15 of the general
105 statutes are repealed and the following is substituted in lieu thereof
106 (*Effective October 1, 2016*):

107 (a) Any family or household member, as defined in section 46b-38a,
108 who has been subjected to a continuous threat of present physical pain
109 or physical injury, stalking or a pattern of threatening, including, but
110 not limited to, a pattern of threatening, as described in section 53a-62,
111 by another family or household member may make an application to
112 the Superior Court for relief under this section. The court shall provide
113 any person who applies for relief under this section with the
114 information set forth in section 46b-15b, as amended by this act.

115 (b) The application form shall allow the applicant, at the applicant's
116 option, to indicate whether the respondent holds a permit to carry a

117 pistol or revolver or possesses one or more firearms or ammunition.
118 The application shall be accompanied by an affidavit made under oath
119 which includes a brief statement of the conditions from which relief is
120 sought. Upon receipt of the application the court shall order that a
121 hearing on the application be held not later than fourteen days from
122 the date of the order. The court, in its discretion, may make such
123 orders as it deems appropriate for the protection of the applicant and
124 such dependent children or other persons as the court sees fit. In
125 making such orders ex parte, the court, in its discretion, may consider
126 relevant court records if the records are available to the public from a
127 clerk of the Superior Court or on the Judicial Branch's Internet web
128 site. In addition, at the time of the hearing, the court, in its discretion,
129 may also consider a report prepared by the family services unit of the
130 Judicial Branch that may include, as available: Any existing or prior
131 orders of protection obtained from the protection order registry;
132 information on any pending criminal case or past criminal case in
133 which the respondent was convicted of a violent crime; any
134 outstanding arrest warrant for the respondent; and the respondent's
135 level of risk based on a risk assessment tool utilized by the Court
136 Support Services Division. The report may also include information
137 pertaining to any pending or disposed family matters case involving
138 the applicant and respondent. Any report provided by the Court
139 Support Services Division to the court shall also be provided to the
140 applicant and respondent. Such orders may include temporary child
141 custody or visitation rights, and such relief may include, but is not
142 limited to, an order enjoining the respondent from (1) imposing any
143 restraint upon the person or liberty of the applicant; (2) threatening,
144 harassing, assaulting, molesting, sexually assaulting or attacking the
145 applicant; or (3) entering the family dwelling or the dwelling of the
146 applicant. Such order may include provisions necessary to protect any
147 animal owned or kept by the applicant including, but not limited to, an
148 order enjoining the respondent from injuring or threatening to injure
149 such animal. If an applicant alleges an immediate and present physical
150 danger to the applicant, the court may issue an ex parte order granting
151 such relief as it deems appropriate. If a postponement of a hearing on

152 the application is requested by either party and granted, the ex parte
153 order shall not be continued except upon agreement of the parties or
154 by order of the court for good cause shown. If a hearing on the
155 application is scheduled or an ex parte order is granted and the court is
156 closed on the scheduled hearing date, the hearing shall be held on the
157 next day the court is open and any such ex parte order shall remain in
158 effect until the date of such hearing. If the applicant is under eighteen
159 years of age, a parent, guardian or responsible adult who brings the
160 application as next friend of the applicant may not speak on the
161 applicant's behalf at such hearing unless there is good cause shown as
162 to why the applicant is unable to speak on his or her own behalf,
163 except that nothing in this subsection shall preclude such parent,
164 guardian or responsible adult from testifying as a witness at such
165 hearing. As used in this subsection, "violent crime" includes: (A) An
166 incident resulting in physical harm, bodily injury or assault; (B) an act
167 of threatened violence that constitutes fear of imminent physical harm,
168 bodily injury or assault, including, but not limited to, stalking or a
169 pattern of threatening; (C) verbal abuse or argument if there is a
170 present danger and likelihood that physical violence will occur; and
171 (D) cruelty to animals as set forth in section 53-247.

172 Sec. 5. Section 46b-15b of the general statutes is repealed and the
173 following is substituted in lieu thereof (*Effective October 1, 2016*):

174 The Superior Court shall provide any person who applies for a
175 restraining order in a domestic violence situation with information on
176 steps necessary to continue such order beyond the initial period and
177 shall provide an applicant with information on how to contact a
178 domestic violence [counselors and counseling organizations]
179 counselor, as defined in section 52-146k, and a domestic violence
180 agency, as defined in section 52-146k.

181 Sec. 6. Subsection (b) of section 46b-16a of the general statutes is
182 repealed and the following is substituted in lieu thereof (*Effective*
183 *October 1, 2016*):

184 (b) The application shall be accompanied by an affidavit made by
185 the applicant under oath that includes a statement of the specific facts
186 that form the basis for relief. Upon receipt of the application, if the
187 allegations set forth in the affidavit meet the requirements of
188 subsection (a) of this section, the court shall schedule a hearing not
189 later than fourteen days from the date of the application. If a
190 postponement of a hearing on the application is requested by either
191 party, no ex parte order shall be continued except upon agreement of
192 the parties or by order of the court for good cause shown. If the court is
193 closed on the scheduled hearing date, the hearing shall be held on the
194 next day the court is open and any ex parte order that was issued shall
195 remain in effect until the date of such hearing. If the applicant is under
196 eighteen years of age, a parent, guardian or responsible adult who
197 brings the application as next friend of the applicant may not speak on
198 the applicant's behalf at such hearing unless there is good cause shown
199 as to why the applicant is unable to speak on his or her own behalf,
200 except that nothing in this subsection shall preclude such parent,
201 guardian or responsible adult from testifying as a witness at such
202 hearing. If the court finds that there are reasonable grounds to believe
203 that the respondent has committed acts constituting grounds for
204 issuance of an order under this section and will continue to commit
205 such acts or acts designed to intimidate or retaliate against the
206 applicant, the court, in its discretion, may make such orders as it
207 deems appropriate for the protection of the applicant. If the court finds
208 that there are reasonable grounds to believe that an imminent danger
209 exists to the applicant, the court may issue an ex parte order granting
210 such relief as it deems appropriate. In making such orders, the court, in
211 its discretion, may consider relevant court records if the records are
212 available to the public from a clerk of the Superior Court or on the
213 Judicial Branch's Internet web site. Such orders may include, but are
214 not limited to, an order enjoining the respondent from: (1) Imposing
215 any restraint upon the person or liberty of the applicant; (2)
216 threatening, harassing, assaulting, molesting, sexually assaulting or
217 attacking the applicant; and (3) entering the dwelling of the applicant.

218 Sec. 7. Subsection (f) of section 52-259 of the 2016 supplement to the
 219 general statutes is repealed and the following is substituted in lieu
 220 thereof (*Effective October 1, 2016*):

221 (f) There shall be paid to the clerk of the Superior Court for
 222 [receiving and filing an assessment of damages by appraisers of land
 223 taken for public use or] the appointment of a commissioner of the
 224 Superior Court, two dollars; for recording the commission and oath of
 225 a notary public or certifying under seal to the official character of any
 226 magistrate, ten dollars; for issuing a certificate that an attorney is in
 227 good standing, ten dollars; for certifying under seal, two dollars; for
 228 exemplifying, twenty dollars; for making all necessary records and
 229 certificates of naturalization, the fees allowed under the provisions of
 230 the United States statutes for such services; and for making copies, one
 231 dollar per page. Any fee set forth in this subsection shall be payable in
 232 accordance with subsection (m) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17a-112(k)
Sec. 2	<i>from passage</i>	17a-112(o)
Sec. 3	<i>from passage</i>	45a-717(j)
Sec. 4	<i>October 1, 2016</i>	46b-15(a) and (b)
Sec. 5	<i>October 1, 2016</i>	46b-15b
Sec. 6	<i>October 1, 2016</i>	46b-16a(b)
Sec. 7	<i>October 1, 2016</i>	52-259(f)

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 17 \$	FY 18 \$
Resources of the General Fund	GF - Revenue Loss	Approximately \$500	Approximately \$500

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill eliminates a land fee and results in a revenue loss of approximately \$500 annually.

The bill makes additional procedural changes to the Judicial Department which does not result in a fiscal impact.

House "A" eliminates a provision of the underlying bill that would allow the Judicial Department to use existing bond authorizations for repairs, improvements, and acquisition of a juvenile court in Waterford. This is not anticipated to have a fiscal impact because the funds will be redistributed for other projects.

The amendment makes additional procedural changes that do not result in a fiscal impact.

The Out Years

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

OLR Bill Analysis**sHB 5366 (as amended by House "A")*****AN ACT CONCERNING COURT OPERATIONS.****SUMMARY:**

This bill makes a number of changes to court procedures, including:

1. prohibiting a parent, guardian, or responsible adult who brings a restraining or civil protection order application as next friend of someone under age 18 from speaking for the applicant at a hearing except for good cause;
2. allowing the court to consider additional information in a report from the Judicial Branch's family services unit at a hearing on a restraining order;
3. providing that an ex parte civil protection order does not continue if a party requests a postponement of the hearing on the order unless the parties agree to it or the court orders it for good cause;
4. changing the information on domestic violence counseling that courts must provide to people who apply for restraining orders;
5. eliminating a \$2 fee for filing with the court an appraiser's assessment of land taken for public use (§ 7); and
6. making technical changes by updating references to federal law (§§ 1-3).

*House Amendment "A" (1) eliminates provisions changing the requirements placed on a party on whose behalf a deposition is taken; allowing the Judicial Branch to use certain bond proceeds for a juvenile court in Waterford; specifying that a parent, guardian, or responsible

adult must make a restraining or civil protection order application on behalf of someone under age 18; allowing such a person to make the required affidavit on behalf of the minor or an incompetent person; and allowing the court to appoint a responsible adult for a minor who is a respondent and appears in court without a parent or guardian and (2) adds provisions allowing a parent, guardian, or responsible adult to testify as a witness at a hearing even if the person cannot speak on the minor's behalf and changing the information courts provide about domestic violence counseling.

EFFECTIVE DATE: October 1, 2016, except technical changes are effective upon passage.

§§ 4 & 6 — RESTRAINING AND CIVIL PROTECTION ORDERS

The law allows a person to apply for a:

1. restraining order, if he or she is a family or household member subjected to continuous threat of physical pain or physical injury, stalking, or pattern of threatening by another family or household member or
2. civil protection order, if he or she is a victim of sexual abuse, sexual assault, or stalking and cannot obtain a restraining order.

The bill prohibits a parent, guardian, or responsible adult who brings an application for one of these orders as next friend of someone under age 18 from speaking for the applicant at a hearing except for good cause showing why the applicant cannot speak on his or her own behalf. But the bill allows such a person to testify as a witness at a hearing on the application.

Restraining Orders

When issuing an ex parte order (an order issued before a hearing, when one of the parties is not present), the law allows the court to consider relevant publicly available court records. At a hearing on the application, the bill allows the court to consider a report from the Judicial Branch's family services unit that may include:

1. existing or prior protection orders from the protection order registry;
2. outstanding arrest warrants for the respondent;
3. his or her risk level as determined by a risk assessment tool used by the branch's Court Support Services Division;
4. information about a pending or disposed family matters case involving the applicant and respondent; and
5. information on pending or past criminal cases in which the respondent was convicted of a violent crime (including an incident resulting in physical harm, bodily injury, or assault; threatened violence constituting fear of imminent physical harm, bodily injury, or assault including stalking or a pattern of threatening; verbal abuse or argument with a present danger and likelihood that physical violence will occur; or cruelty to animals).

The bill requires that both the applicant and respondent receive this report.

Civil Protection Orders

The law requires scheduling a hearing on an application for a civil protection order within 14 days. Under the bill, if either party requests a postponement, any ex parte order issued by the court does not continue unless the parties agree to it or the court orders it for good cause.

§§ 4 & 5 — COURT NOTICE ON DOMESTIC VIOLENCE COUNSELING

Current law requires the court to provide people who apply for a restraining order in a domestic violence situation with contact information for domestic violence counselors and counseling organizations. The bill specifies that the counselors must (1) be engaged in a domestic violence agency; (2) have undergone at least 20

hours of related training and be certified as a counselor by the training agency; (3) be under the control of a direct supervisor of a domestic violence agency; and (4) primarily engage in giving advice, counsel, and assistance to, and advocacy for, domestic violence victims.

Instead of counseling organizations, the bill requires the courts to provide information about domestic violence agencies, which are offices, shelters, host homes, or agencies that (1) assist domestic violence victims through crisis intervention, emergency shelter referral, and medical and legal advocacy and (2) meet Department of Social Services' criteria for providing these services.

The bill specifies that courts must give this information, and information on how to continue an order beyond its initial period, to every restraining order applicant.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 2 (03/11/2016)