



General Assembly

February Session, 2016

Raised Bill No. 5597

LCO No. 2636



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT PROTECTING DOMESTIC VIOLENCE VICTIMS SEEKING
RESTRAINING ORDERS.***

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

1 Section 1. Subsection (b) of section 46b-15 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2016*):

4 (b) The application form shall allow the applicant, at the applicant's
5 option, to indicate whether the respondent holds a permit to carry a
6 pistol or revolver, an eligibility certificate for a pistol or revolver, a
7 long gun eligibility certificate or an ammunition certificate or possesses
8 one or more firearms or ammunition. The application form shall also
9 allow the applicant, at the applicant's option, to state whether or not he
10 or she has probable cause to believe that a family or household
11 member poses a risk of imminent personal injury to the applicant, in
12 which case, the court shall notify the office of the state's attorney for
13 the judicial district in which the application was filed to commence
14 proceedings pursuant to section 29-38c, as amended by this act. The
15 application shall be accompanied by an affidavit made under oath
16 which includes a brief statement of the conditions from which relief is

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

44 Sec. 2. Section 29-38c of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective October 1, 2016*):

46 (a) Upon complaint on oath by any state's attorney or assistant
47 state's attorney or by any two police officers, to any judge of the
48 Superior Court, that such state's attorney or police officers have
49 probable cause to believe that (1) a person poses a risk of imminent

50 personal injury to himself or herself or to other individuals, (2) such
51 person possesses one or more firearms, and (3) such firearm or
52 firearms are within or upon any place, thing or person, such judge may
53 issue a warrant commanding a proper officer to enter into or upon
54 such place or thing, search the same or the person and take into such
55 officer's custody any and all firearms and ammunition. Such state's
56 attorney or police officers shall not make such complaint unless such
57 state's attorney or police officers have conducted an independent
58 investigation and have determined that such probable cause exists and
59 that there is no reasonable alternative available to prevent such person
60 from causing imminent personal injury to himself or herself or to
61 others with such firearm.

62 (b) A warrant may issue only on affidavit sworn to by the
63 complainant or complainants before the judge and establishing the
64 grounds for issuing the warrant, which affidavit shall be part of the
65 seizure file. In determining whether grounds for the application exist
66 or whether there is probable cause to believe they exist, the judge shall
67 consider: (1) Recent threats or acts of violence by such person directed
68 toward other persons; (2) recent threats or acts of violence by such
69 person directed toward himself or herself; and (3) recent acts of cruelty
70 to animals as provided in subsection (b) of section 53-247 by such
71 person. In evaluating whether such recent threats or acts of violence
72 constitute probable cause to believe that such person poses a risk of
73 imminent personal injury to himself or herself or to others, the judge
74 may consider other factors including, but not limited to (A) the
75 reckless use, display or brandishing of a firearm by such person, (B) a
76 history of the use, attempted use or threatened use of physical force by
77 such person against other persons, (C) prior involuntary confinement
78 of such person in a hospital for persons with psychiatric disabilities,
79 and (D) the illegal use of controlled substances or abuse of alcohol by
80 such person. If the judge is satisfied that the grounds for the
81 application exist or that there is probable cause to believe that they
82 exist, such judge shall issue a warrant naming or describing the

83 person, place or thing to be searched. The warrant shall be directed to
84 any police officer of a regularly organized police department or any
85 state police officer. It shall state the grounds or probable cause for its
86 issuance and it shall command the officer to search within a reasonable
87 time the person, place or thing named for any and all firearms and
88 ammunition. A copy of the warrant shall be given to the person named
89 therein together with a notice informing the person that such person
90 has the right to a hearing under this section and the right to be
91 represented by counsel at such hearing.

92 (c) The applicant for the warrant shall file a copy of the application
93 for the warrant and all affidavits upon which the warrant is based with
94 the clerk of the court for the geographical area within which the search
95 will be conducted no later than the next business day following the
96 execution of the warrant. Prior to the execution and return of the
97 warrant, the clerk of the court shall not disclose any information
98 pertaining to the application for the warrant or any affidavits upon
99 which the warrant is based. The warrant shall be executed and
100 returned with reasonable promptness consistent with due process of
101 law and shall be accompanied by a written inventory of all firearms
102 and ammunition seized.

103 (d) Not later than fourteen days after the execution of a warrant
104 under this section, the court for the geographical area where the
105 person named in the warrant resides shall hold a hearing to determine
106 whether the firearm or firearms and any ammunition seized should be
107 returned to the person named in the warrant or should continue to be
108 held by the state. At such hearing the state shall have the burden of
109 proving all material facts by clear and convincing evidence. If, after
110 such hearing, the court finds by clear and convincing evidence that the
111 person poses a risk of imminent personal injury to himself or herself or
112 to other individuals, the court may order that the firearm or firearms
113 and any ammunition seized pursuant to the warrant issued under
114 subsection (a) of this section continue to be held by the state for a
115 period not to exceed one year, otherwise the court shall order the

116 firearm or firearms and any ammunition seized to be returned to the
117 person named in the warrant. If the court finds that the person poses a
118 risk of imminent personal injury to himself or herself or to other
119 individuals, the court shall give notice to the Department of Mental
120 Health and Addiction Services which may take such action pursuant to
121 chapter 319i as it deems appropriate.

122 (e) Any person whose firearm or firearms and ammunition have
123 been ordered seized pursuant to subsection (d) of this section, or such
124 person's legal representative, may transfer such firearm or firearms
125 and ammunition in accordance with the provisions of section 29-33 or
126 other applicable state or federal law, to any person eligible to possess
127 such firearm or firearms and ammunition. Upon notification in writing
128 by such person, or such person's legal representative, and the
129 transferee, the head of the state agency holding such seized firearm or
130 firearms and ammunition shall within ten days deliver such firearm or
131 firearms and ammunition to the transferee.

132 (f) An action under this section shall not preclude any person from
133 seeking any other civil or criminal relief against the person named in
134 the warrant.

135 [(f)] (g) For the purposes of this section, "ammunition" means a
136 loaded cartridge, consisting of a primed case, propellant or projectile,
137 designed for use in any firearm.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	46b-15(b)
Sec. 2	October 1, 2016	29-38c

Statement of Purpose:

To protect domestic violence victims through use of the risk warrant process set forth in section 29-38c of the general statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]