
OLR Bill Analysis

sSB 1091 (File 617, as amended by Senate "A")*

AN ACT CONCERNING THE DEFINITION OF DOMESTIC VIOLENCE, REVISING STATUTES CONCERNING DOMESTIC VIOLENCE, CHILD CUSTODY, FAMILY RELATIONS MATTER FILINGS AND BIGOTRY OR BIAS CRIMES AND CREATING A PROGRAM TO PROVIDE LEGAL COUNSEL TO INDIGENTS IN RESTRAINING ORDER CASES.

SUMMARY

This bill makes various changes in the laws relating to domestic violence, civil restraining orders, family violence, assistance programs, and certain crimes. Generally, it:

1. establishes a general definition of domestic violence that includes coercive control as a form of domestic violence (§ 1);
2. allows victims subject to coercive control by a family or household member to be eligible for civil restraining orders (§ 2);
3. requires the court to sanction a party that files frivolous and fabricated pleadings or motions (§ 10);
4. creates a grant program to provide free legal assistance to indigent restraining order applicants (§ 15);
5. categorizes criminal violation of a protection order or condition of release as a family violence crime in certain circumstances (§ 4);
6. establishes a time frame for U Nonimmigrant Status certification (§ 5);
7. prescribes a specific notice to each person who receives a family violence protective order or standing criminal protection order (§§ 6 & 7);

8. requires courthouses constructed on or after July 1, 2021, to include a room for family violence victims and advocates (§ 11);
9. expands the “best interest of the child” factors in family relations matters to include the child’s physical and emotional health (§§ 8 & 9);
10. expands the judicial districts within which the chief court administrator must allow one or more family violence victim advocates to provide services to domestic violence victims (§ 12);
11. expands the factors the court may consider when determining release conditions (§ 16);
12. provides eligible domestic violence victims easier access to certain assistance programs (§§ 13 & 14);
13. expands the crimes of 1st, 2nd, and 3rd degree intimidation based on actions motivated in whole or in substantial part by certain attributes (§§ 17-19); and
14. establishes additional protections for tenants who are protected by certain orders of protection by, among other things, requiring a landlord to change a dwelling unit’s locks upon the tenant’s request or allow the tenant to do so within a certain time period (§§ 20-22).

It also makes minor, technical, and conforming changes.

*Senate Amendment “A” (1) changes the effective date of the provisions related to the general definition of “domestic violence” to upon passage and the provisions related to the secure courtroom, family violence victim advocate, and “family violence crime” to July 1, 2021; (2) eliminates the requirement for a restraining order application to be accompanied by a statement made under penalty of false statement; (3) requires a remote appearance to be requested in writing at least two days before the proceeding; (4) specifies that the legal assistance program must be provided free of cost to eligible indigent

individuals; (5) requires the judicial branch to transfer the grant program funds to the administering organization; (6) prescribes a specific notice to each person who receives a standing criminal protection order; (7) clarifies that for court houses built prior to July 1, 2021, the chief court administrator must provide space for victims and advocates only if the room is available and its use is practical; (8) makes changes to the assistance programs that alleged domestic violence victims may qualify for; (9) eliminates the insurance-related provisions; (10) adds provisions related to changing locks for tenants under protection orders; and (11) makes other minor changes.

EFFECTIVE DATE: October 1, 2021, except (1) the U Nonimmigrant Status, state assistance programs, secure courtroom, family violence victim advocate, and “family violence crime” definition provisions take effect on July 1, 2021; and (2) the provisions on the general definition of “domestic violence” and the legal assistance grant program take effect upon passage.

§ 1 — DOMESTIC VIOLENCE

Family Relations Matters and Support

The bill creates a general definition for the term “domestic violence” and applies it to all provisions related to family relations matters (see BACKGROUND) and support. In doing so, it includes coercive control as a form domestic violence.

Under the bill, “domestic violence” means:

1. a continuous threat of present physical pain or physical injury against a family or household member;
2. stalking, including 2nd degree stalking, of a family or household member;
3. a pattern of threatening, including 2nd degree threatening, of a family or household member or a third party that intimidates the family or household member; or
4. coercive control of a family or household member, which is a

pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty.

Coercive Control

Under the bill, "coercive control" includes unreasonably:

1. isolating the family or household member from friends, relatives, or other support;
2. depriving the family or household member of basic necessities;
3. controlling, regulating, or monitoring the family or household member's movements, communications, daily behavior, finances, economic resources, or access to services;
4. compelling the family or household member by force, threat, or intimidation, including, but not limited to, threats based on actual or suspected immigration status to (a) engage in conduct from which they have a right to abstain or (b) abstain from conduct that they have a right to pursue;
5. committing or threatening to commit cruelty to animals that intimidates the family or household member; or
6. forcing the performance of sex acts, or making threats of a sexual nature, including threatened acts of sexual conduct, threats based on a person's sexuality, or threats to release sexual images.

Because the bill's definition applies to all of Title 46b unless context otherwise requires, the following provisions in existing law would specifically incorporate "domestic violence" as described above:

1. continuing restraining orders (CGS § 46b-15b);
2. various family violence investigations and programs (CGS §§ 46b-38b, -38c, -38g, -38j, 38k, 38l & -38m);
3. certain provisions on appointing guardians ad litem, custody

decisions, and visitation rights (CGS §§ 46b-54, -56 & -59); and

4. certain paternity provisions (CGS § 46b-168a).

Family or Household Members

By law, “family or household members” are any of the following, regardless of age:

1. spouses or former spouses;
2. parents or their children;
3. people related by blood or marriage;
4. people not 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).

§ 10 — FRIVOLOUS CLAIMS

Under the bill, in any family relations matter, including restraining order actions involving domestic violence, if the court finds that a pattern of frivolous and intentionally fabricated pleadings or motions are filed by one party, then it must sanction the party in an appropriate manner that allows the matter to proceed without undue delay or obstruction.

§§ 2, 3 & 15 — CIVIL RESTRAINING ORDERS

Eligibility to File Petition (§ 2)

The bill expands the eligibility criteria to petition the court for a restraining order, allowing domestic violence victims who are subject to coercive control by a family and household member to be eligible petitioners.

Under existing law, any family or household member who has been subjected to continuous threats of present physical pain or physical

injury, stalking, or a pattern of threatening, may apply to the Superior Court for a restraining order. By law a court may issue an order as it deems appropriate to protect the applicant and any dependent children or other people as it sees fit.

Service of Process (§ 2)

By law the court must hold a hearing on the application for a restraining order within 14 days of receiving the application. It must give the alleged offender at least three days' notice before the hearing. The bill requires the proper officer responsible for serving process to accept all documents in an electronic format if they are presented to him or her in that way. As under existing law, the judicial branch must pay the service costs.

Specific Court Order Disclosure (§ 2)

Under existing law, any civil restraining order the court makes must include specific language about what violation of the order constitutes 1st degree criminal trespass and the corresponding penalties. The court order must also include specific language about what constitutes a criminal violation of a civil restraining order and the corresponding penalties (CGS § 46b-15(e)).

The bill additionally requires that each applicant who receives a civil restraining order must be given a notice that contains the following specific language: "If a restraining order has been issued on your behalf or on behalf of your child, you may elect to give testimony or appear in a family court proceeding remotely, pursuant to section 46b-15c. Please notify the court in writing at least two days in advance of a proceeding if you choose to give testimony or appear remotely, and your physical presence in the courthouse will not be required in order to participate in the court proceeding." (The bill requires a similar notification for family violence protective orders; see § 6 below.)

Alternate Means of Obtaining Testimony (§ 3)

Under certain circumstances, the bill requires, rather than allows, the court to take a person's testimony absent the person they are

protected from.

Under current law, in any court proceeding in a family relations matter, the court may, within available resources and upon motion of any party's attorney, order that the testimony of a party or a child who is a subject of the proceeding be taken outside the physical presence of any other party. This option applies only if a protective order (i.e., an order issued at the time of arraignment during a criminal proceeding), restraining order, or standing criminal protective order (i.e., an order issued at the end of a criminal case) has been issued on behalf of the party or child, and the other party is subject to it. The bill instead requires the court to make such an order upon the written request of a party or his or her attorney made at least two days before the proceeding.

Under the bill, a notice describing the alternative means of testifying must be:

1. posted on the judicial branch's website;
2. included in any written or electronic form that describes the automatic orders in cases involving a dissolution of marriage or legal separation; and
3. included in any written or electronic form provided to a person who receives a family violence protective order, standing criminal protective order, or a civil restraining order.

Legal Assistance Grant Program (§15)

The bill (1) establishes a grant program to provide legal assistance at no cost to indigent individuals when applying for temporary restraining orders and (2) funds it by using money from state lawsuit settlements.

Administering Organization. The grant program must be administered by the organization that administers the program for the use of interest earned on lawyers' clients' funds accounts. The judicial branch must transfer funds appropriated to it for the purpose of the

grant program to the administering organization.

Request for Proposals (RFP). Under the bill, within three months of receiving funding from the state each year (see “Program Funding” below), the administering organization must issue an RFP from nonprofit entities whose principal purpose is providing legal services at no cost to indigent individuals for the purpose of awarding grants. Under the program, the nonprofit entity will (1) provide counsel to indigent individuals who are interested in applying for a restraining order and (2) represent the individuals throughout the process, including at prehearing conferences and at the hearing on an application to the extent practicable within the funding awarded.

A nonprofit entity responding to the RFP may partner with law schools, other nonprofit entities, or non-governmental, publicly funded organizations to provide services under a grant. Each RFP response must specify the judicial district courthouse or courthouses for which services will be provided.

Judicial Districts and Grant Amounts. The organization administering the program may only award a grant to provide services in the Fairfield, Hartford, New Haven, Stamford-Norwalk, or Waterbury judicial districts. Grants must not exceed \$200,000, except a grant to provide services in the judicial district with the highest average number of applications for civil restraining orders over the previous three fiscal years may receive a grant of up to \$400,000.

Grants may not be used to provide services to individuals who are not indigent.

Grant Eligibility. The organization administering the program may only award a grant to a nonprofit entity whose principal purpose is providing legal services to individuals who are indigent, if it demonstrates the ability to:

1. verify, when meeting with a potential client, that he or she is indigent and meets applicable household income eligibility requirements the entity sets;

2. arrange for at least one individual who has relevant training or experience and is authorized to provide legal counsel to eligible indigent individuals regarding restraining orders to be present in the courthouse or courthouses identified in response to the RFP or be available to meet remotely during all business hours;
3. provide continued representation, to the greatest extent practicable within the funding awarded, to eligible indigent individuals throughout the restraining order process, if the individuals request continued representation after receiving assistance with the restraining order application;
4. provide any individual in the courthouse who expresses an interest in applying for a restraining order with all applicable forms; and
5. track and report to the organization administering the program on the services provided, including (a) the procedural outcomes; (b) the number of instances where legal counsel was provided before filing an application but not during the remainder of the restraining order process and the reasons limiting the duration of the representation; and (c) information on any other legal representation provided.

Grant Award Preference. In awarding grants, preference must be given to nonprofit entities with experience offering legal representation to individuals during the restraining order process or that (1) demonstrate the ability to provide legal representation to clients regarding matters ancillary to the circumstances that supported the restraining order application or (2) can provide quality remote services should courthouses be closed to the public.

Courthouse Office Space. The chief court administrator must provide each grant recipient with office space, if available, in the judicial district courthouse or courthouses to conduct intake interviews and assist clients with applications for restraining orders. The chief court administrator must also require court clerks at these courthouses, before accepting a restraining order application, to (1) inform each

applicant or person inquiring about filing an application about pro bono legal services that are available from the grant recipient for income-eligible individuals and, if office space has been provided, where they can be found and (2) provide the individual with a card or pamphlet with information about pro bono legal services if the cards or pamphlets have been provided to the courthouse by the grant recipient.

Additionally, if a poster of reasonable size containing information about pro bono legal services has been provided to a courthouse a grant recipient serves, the chief court administrator must require the poster displayed in a manner that is visible to the public at or near the location where restraining order applications are filed in the courthouse.

Judicial Branch Website Information. The bill requires the chief court administrator to post information about the pro bono legal services described above on the judicial branch's website where restraining order filing instructions are provided.

Analysis of Program Impact. Under the bill, for each year that the program is funded, the organization administering the program must conduct, or must partner with an academic institution or other qualified entity to conduct, an analysis of the program's impact, including the:

1. procedural outcomes for applications the program assisted with;
2. types and extent of legal services provided under the program, including on matters ancillary to the restraining order application; and
3. number of cases where legal services were provided before an application was filed but not during the restraining order process, and why.

Report to the Legislature. By July 1 of the year following any year

in which the program received funding, the administering organization must report the results of the analysis to the Judiciary Committee.

Program Funding. Under the bill, up to 5% of the total amount the administering organization receives may be used for the reasonable administration costs, including the analysis and report the bill requires (see above).

§§ 4-6, 11, 12 & 16 — FAMILY VIOLENCE

Family Violence Crime (§ 4)

Under existing law, “family violence crime” means a crime other than a delinquent act, which, in addition to its other elements, contains an element of an act of family violence to a family or household member (CGS § 46b-38a(3)). “Family violence” is an incident resulting in physical harm, bodily injury, or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury, or assault, including stalking or a pattern of threatening between family or household members. It excludes verbal abuse or argument unless there is present danger and the likelihood that physical violence will occur (CGS § 46b-38a(1)).

The bill expands the definition of family violence crime to include 1st and 2nd degree violation of conditions of release and criminal violation of a protective order, standing criminal protective order, or restraining order when the condition of release or court order is issued for an act of family violence or a family violence crime.

As under existing law, “family violence crime” does not include acts by parents or guardians disciplining minor children unless these acts constitute abuse.

Family Violence Protective Order (§ 6)

By law, a family violence protective order may include provisions necessary to protect the victim from threats, harassment, injury, or intimidation by the defendant.

Under the bill, each person who receives a family violence

protective order must be given a notice that contains the following language: “If a protective order has been issued on your behalf or on behalf of your child, you may elect to give testimony or appear in a family court proceeding remotely, pursuant to section 46b-15c. Please notify the court in writing at least two days in advance of a proceeding if you choose to give testimony or appear remotely, and your physical presence in the courthouse will not be required in order to participate in the court proceeding.”

U Nonimmigrant Status (§ 5)

Under existing law, each law enforcement agency must designate at least one officer with supervisory duties to expeditiously process, upon the request of a family violence or other crime victim who is an undocumented individual applying for U Nonimmigrant Status, a certification of helpfulness and any subsequent certification the victim requires. (U Nonimmigrant Status is for victims of certain crimes, such as human trafficking, who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.)

Required Time Frame. The bill defines the term “expeditiously,” and in so doing requires each law enforcement agency, starting July 1, 2021, to provide the certification:

1. within 60 days after receiving the request for certification of helpfulness or
2. within 14 days after receiving the request if (a) the victim is in federal immigration removal proceedings or detained or (b) the victim’s child, parents, or siblings would become ineligible for an immigration benefit by virtue of the victim or his or her sibling attaining age 18 years or the victim’s child attaining age 21 years.

Certification. Under the bill, by signing a certification of helpfulness, the officer or agency is not determining eligibility for U Nonimmigrant Status but only providing information the U.S.

Department of Homeland Security requires, certifying that the:

1. requesting individual or his or her family member is a victim of one of the enumerated crimes eligible for U Nonimmigrant Status (e.g., human trafficking);
2. victim possesses or possessed information about that crime;
3. victim has been, is being, or is likely to be helpful in investigating that crime; and
4. victim has not failed or refused to provide reasonably requested information or assistance.

The bill specifies that a current or ongoing investigation, filing of criminal charges, prosecution, or conviction is not required for a victim to request and obtain certification.

Secure Courthouse Room (§ 11)

Under current law, in each court where family or family violence matters are heard or a domestic violence docket is located, the chief court administrator must provide a separate, secure room for family violence crime victims and advocates, so long as the room is available and its use is practical. The bill requires the chief court administrator to provide this space in all courthouses except for those constructed before July 1, 2021, in which case the space must be provided if the room is available and its use is practical.

By law, this room must be separate from any public or private court area and is intended to accommodate the respondent or defendant or their family, friends, attorneys, or witnesses. The room must be separate from the state's attorney's office.

Family Violence Victim Advocate (§ 12)

The bill expands the judicial districts within which the chief court administrator must allow one or more family violence victim advocates to provide services to domestic violence victims.

Under current law, the chief court administrator must allow these

services in the Superior Court's Family Division in one or more judicial districts. The bill instead provides that they are allowed in the Superior Court's Family Division in each judicial district and in each geographical area court.

Additionally, under the bill, a family violence victim advocate providing services in the Superior Court's Family Division or a geographical area court must be given, upon request, a copy of any police report required to perform his or her duties that is in the possession of the state's attorney, the State Police, any municipal police department, or any other law enforcement agency. The bill specifies that this applies notwithstanding existing laws restricting document disclosure.

Conditions of Release (§ 16)

The bill expands the factors the court may consider when determining what release conditions will reasonably ensure an arrested person's appearance in court and that the safety of any other person will not be endangered.

Under existing law, in determining what release conditions will reasonably ensure the arrested person's appearance, the court may consider the nature and circumstances of the offense and the person's record of prior convictions, past record of court appearance, family ties, employment record, financial resources, character, mental condition, and community ties.

Under the bill, in the case of a 2nd degree violation of a condition of release that was issued for a family violence crime, the court may also consider the heightened risk posed to family violence victims by violations of release conditions.

Similarly, the bill allows the court to consider the heightened risk posed to family violence victims by violations of release conditions and protection orders when determining release conditions for people charged with class A felonies, most class B or C felonies, and other specified crimes, including family violence crimes.

Under existing law, the court may consider factors such as the person's past record of court appearance after being admitted to bail and the number and seriousness of charges pending against the arrested person.

§ 7 — STANDING CRIMINAL PROTECTIVE ORDER

By law, a court may independently issue, on a victim's behalf, a standing criminal protective order after a person is convicted of certain crimes (CGS § 53a-40e).

Under the bill, when the court issues a standing criminal protective order, each person who receives the order must be given a notice that contains the following language: "If a standing criminal protective order has been issued on your behalf or on behalf of your child, you may elect to give testimony or appear in a family court proceeding remotely, pursuant to section 46b-15c. Please notify the court in writing at least two days in advance of a proceeding if you choose to give testimony or appear remotely, and your physical presence in the courthouse will not be required in order to participate in the court proceeding."

§§ 8 & 9 — "BEST INTEREST OF THE CHILD" FACTORS

The bill expands the list of factors a guardian ad litem (GAL) or counsel for the minor child (CMC) must consider in determining a child's best interest to include the child's physical and emotional safety. The bill makes the same change to the list of factors a court must consider in custody decisions.

Guardians ad Litem and Counsels for the Minor Child (§ 8)

By law, a GAL is someone, not necessarily an attorney, who the court appoints during certain proceedings to gather information at its request and report on what he or she believes is in a person's best interest. A CMC is an attorney appointed by the court to advocate in court for a minor child's (under age 18) best interest.

By law, a court may appoint a GAL or CMC in all matters pertaining to the interests of any child, including the custody, care,

support, education, and visitation of the child, so long as the court deems such representation to be in the minor child's best interest. The law also provides a list of factors GALs and CMCs must consider in determining the child's best interest, such as the effect of an abuser's actions on the child, whether any domestic violence has occurred between the parents or between a parent and another individual or the child, whether the child or his or her sibling has been abused or neglected, and the stability of the child's existing or proposed residence.

Court Orders and Modifications (§ 9)

By law the court may make or modify any order regarding the custody, care, education, visitation, and support of the children in its jurisdiction. Under the law, the court in its best judgment may assign parental responsibility for raising the child to (1) the parents jointly, (2) either parent, or (3) a third party. The court may make and modify any order considering, among other things, both parents' rights and responsibilities and other custody arrangements as the court determines to be in the child's best interest. Under existing law, the "best interest of the child" factors the court must consider are the same as described above for GALs and CMCs. The bill similarly expands the list of factors the court, in making and modifying orders, must consider when determining the child's best interest by requiring the court to also consider the child's physical and emotional safety.

§§ 13 & 14 — CASH ASSISTANCE PROGRAMS

Under the bill's assistance program provisions below, a "domestic violence victim" is someone who has been abused or subjected to extreme cruelty by physical acts that resulted in or were threatened to result in physical injury; sexual abuse; sexual activity involving a child in the home; being forced to participate in nonconsensual sexual acts or activities; threats of or attempts at physical or sexual abuse; mental abuse; or neglect or deprivation of medical care.

TFA Diversion Assistance

By law, the Department of Social Services (DSS) commissioner must offer immediate diversion assistance to prevent certain families who

are applying for monthly temporary family assistance (TFA) from needing such assistance. Under the law, diversion assistance must be offered to families that (1) upon initial assessment are determined eligible for TFA, (2) demonstrate a short-term need that cannot be met with current or anticipated family resources, and (3) with the provision of a service or short-term benefit, would be prevented from needing monthly TFA.

The bill requires DSS, within available resources, to (1) deem a person who requests diversion assistance on the basis of being a domestic violence victim to have met the short-term need requirement (i.e. the second requirement above) and (2) not subject such person to the third requirement above.

Under the bill, in determining (1) whether the domestic violence victim's family is eligible for TFA and (2) the appropriate amount of diversion assistance to provide, the DSS commissioner must not include as a member of the family the spouse, domestic partner, or other household member credibly accused of domestic violence by the victim. Also, the commissioner must not count the income or assets of such a spouse, domestic partner, or other household member.

SAGA Cash Assistance Program (§ 14)

In general, state-administered general assistance (SAGA) provides cash assistance to single or married childless individuals who have very low incomes, do not qualify for any other cash assistance program, and are considered "transitional" or "unemployable."

Under the bill, a domestic violence victim who is not eligible for TFA diversion assistance must be eligible for a one-time assistance payment under SAGA within available DSS resources. The one-time payment must be equivalent to what the victim would be entitled to receive as diversion assistance if the victim and his or her family, if any, were eligible for diversion assistance.

In determining whether and in what amount a domestic violence victim and his or her family are eligible for a one-time assistance

payment, the commissioner must not include as a member of the victim's family the spouse, domestic partner, or other household member credibly accused of domestic violence by the victim. Additionally, the commissioner must not count the income or assets of such a spouse, domestic partner, or other household member. Under this section, "family" has the same meaning as used under the TFA program.

Substantiated Allegations (§§ 13 & 14)

The bill specifies that for the diversion program and SAGA assistance program, the DSS commissioner may substantiate the allegations of domestic violence.

By law, allegations by a domestic violence victim may be enough to establish domestic violence where DSS has no independent, reasonable basis to find the applicant or recipient not credible. A victim may be required to provide a sworn statement or to submit to the department any available evidence including the following: (1) police, government agency, or court records; (2) documentation from a shelter worker or legal, medical, clerical, or other professional from whom the applicant or recipient sought assistance in dealing with domestic violence; or (3) a statement from someone with knowledge of the circumstances that provide the basis for the claim (CGS § 17b-112a).

§§ 17 & 19 — INTIMIDATION BASED ON BIGOTRY OR BIAS

Under current law, the crimes of 1st, 2nd, and 3rd degree intimidation based on bigotry or bias address certain actions that intimidate or harass another person because of his or her actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

The bill expands these crimes to include any such action that is motivated in whole or in substantial part by any of the attributes listed above, whether actual or perceived.

First-Degree Intimidation (§ 17)

Under current law, a person commits the 1st degree crime of

intimidation based on bigotry or bias if he or she, maliciously and with specific intent to intimidate or harass someone because of any of the attributes listed above, whether actual or perceived, caused physical injury to that person or a third person (CGS § 53a-181j).

By law, 1st degree intimidation is a class C felony punishable by a fine of up to \$10,000 with a \$3,000 minimum, up to 10 years in prison, or both.

Second-Degree Intimidation (§ 18)

Under current law a person commits the 2nd degree crime of intimidation if he or she acts maliciously and with specific intent to intimidate or harass another individual or a group of people because of any of the attributes listed above, whether actual or perceived, by:

1. making physical contact with the victim;
2. damaging, destroying, or defacing property; or
3. threatening to do either of these things, and the victim has reasonable cause to believe he or she will carry out the threat (CGS § 53a-181k).

By law, 2nd degree intimidation is a class D felony punishable by a fine of up to \$5,000 with a \$1,000 minimum, up to five years in prison, or both.

Third-Degree Intimidation (§ 19)

Under current law, a person commits the 3rd degree crime if he or she intends to intimidate or harass someone or a group of people because of any of the attributes listed above, whether actual or perceived, and he or she (1) damages, destroys, or defaces any property or (2) threatens to do so by word or act or advocates or urges another person to do so and gives the victim reasonable cause to believe the act will occur (CGS § 53a-181l).

By law, 3rd degree intimidation is a class E felony punishable by a fine of up to \$3,500 with a \$1,000 minimum, up to three years in prison,

or both.

§§ 20-22 — LOCK CHANGES FOR TENANTS UNDER PROTECTION ORDERS

Circumstances Requiring Lock Change

The bill requires landlords to change a dwelling unit's locks or allow a tenant to do so upon a tenant's request when:

1. at the time the tenant makes the request, he or she is named as a protected person in a court-issued civil restraining or protection order; family violence protective order; criminal protective order; foreign order of protection registered in Connecticut; or a protective order issued in cases of stalking, harassment, sexual assault, risk of injury to or impairing morals of a child (see BACKGROUND);
2. the order requires the respondent or defendant to stay away from the tenant's home or stay a minimum distance away from the tenant; and
3. the tenant provides a copy of the order to the landlord.

No later than six hours after receiving a request, a landlord must let the tenant know if the landlord will change the locks or allow the tenant to do so. A landlord who agrees to make the change must do so no later than 48 hours after receiving the request.

Requirements for Lock Changes Performed by the Landlord

Under the bill, if the landlord uses a professional locksmith or contractor to change the locks for the above reasons, the landlord is responsible for paying for the service. The landlord may charge the tenant a fee not to exceed the "actual reasonable cost" of changing the locks (i.e., the cost of the lock mechanism along with the fee the landlord paid for professional contractor or locksmith services). If the tenant fails to pay the fee, the landlord may recoup the costs by either bringing suit against the tenant or deducting the amount from the tenant's security deposit when the tenant vacates the unit. The bill prohibits the landlord from starting eviction proceedings against the

tenant because of his or her failure to pay for the lock replacement.

The landlord must provide the tenant with a key to the new locks before or at the time of the lock change.

Requirements for Lock Changes Performed by the Tenant

The bill allows the tenant to change the locks if the landlord (1) has informed the tenant that he or she is responsible for changing the locks, (2) fails to change the locks, or (3) fails to allow the tenant to do so within six hours after the tenant's request. Under these circumstances, the tenant must (1) ensure that the locks are changed in a workmanlike manner, using locks of similar or better quality than the originals, and (2) give the landlord a key to the new locks within two business days after the locks were changed or at a later time for good cause.

The bill allows the landlord to replace a lock installed by or at the request of a tenant if the lock was not properly installed or was not of similar or better quality compared to the original.

DWELLING UNIT ACCESS

The bill prohibits landlords from providing a key or any access to the dwelling unit to any tenant who is required to stay away from the unit as the named respondent or defendant in the court order. It specifies that the landlord has no duty under the rental agreement or by law to allow such a tenant to access the dwelling unit unless a court order allows the tenant to return to retrieve his or her possessions and personal effects. Additionally, the bill maintains the tenant's liability under the rental agreement for rent or damages to the dwelling unit.

Under the bill, a landlord or his or her agent who denies such a tenant access to the unit is immune from civil liability for adhering to this prohibition, so long as the landlord or agent complies with the bill's provisions and any applicable court order.

The bill also prohibits landlords from requiring a tenant who is named as a protected person under such an order to pay additional rent or an additional deposit or fee because of the exclusion of the

tenant who is the named respondent or defendant in the order.

BACKGROUND

Related Bills

sHB 6321 (File 461), favorably reported by the Judiciary Committee, adopts the Uniform Parentage Act which, among other things, (1) provides guidance on adjudicating parentage and adjudicating competing claims of parentage (e.g., creates “best interest of the child” factors that the court must consider); (2) provides the process for establishing acknowledged parentage through an acknowledgment agreement; and (3) provides for adjudicating genetic parentage and updates the rules governing children born under a surrogacy agreement.

In doing so, the bill also makes conforming changes throughout the statutes addressing things such as family relations matters (e.g., divorce, annulment, legal separation, custody, paternity, and support) and process in certain civil actions (e.g., paternity, support, and costs and fees related to wills and trusts).

Family Relations Matters

By law, “family relations matters” generally include divorce; legal separation; annulment; alimony; support; custody; visitation; civil restraining orders; name change; civil support obligations; petitions on behalf of a mentally ill person not charged with a crime; wrongful convictions; juvenile matters; paternity; appeals from probate court decisions about adoption, termination of parental rights, appointment and removal of guardians, custody of a minor child, appointment and removal of conservators, child custody orders, and other commitment orders; actions related to prenuptial and separation agreements and to matrimonial and civil union decrees of a foreign jurisdiction; dissolution, legal separation, or annulment of a civil union performed in a foreign jurisdiction; interstate child custody matters; and all other matters within the Superior Court’s jurisdiction about children or family relations as the court determines (CGS § 46b-1).

Civil Restraining or Protection Order

A family or household member may apply for a civil restraining order for relief from physical abuse, stalking, or a pattern of threatening by another family or household member (CGS § 46b-15).

A victim of sexual abuse, sexual assault, or stalking may apply for a civil protection order if he or she is not eligible for the restraining order described above (CGS § 46b-16a).

Family Violence Protective Order

At the recommendation of the family relations office or the State Attorney’s Office, a court may issue a family violence protection order in family violence cases to protect a victim from threats, harassment, injury, or intimidation. This order is issued at arraignment during a criminal proceeding (CGS § 46b-38c).

Criminal Protective Orders

Courts may independently issue, on behalf of a victim, a (1) protective order after a person is arrested for certain crimes or (2) standing criminal protective order after a person is convicted of certain crimes. These orders apply in cases that include stalking and harassment. The statutes governing these orders do not require a victim to apply for the order (CGS §§ 54-1k and 53a-40e).

Foreign Order of Protection

A foreign order of protection is an injunctive or other court order issued by a court of another state; the District of Columbia; a U.S. commonwealth, territory, or possession; or an Indian tribe in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection from (1) violence, threatening acts, or harassment or (2) contact, communication with, or physical proximity to another person (CGS § 46b-15a and 18 U.S.C. § 2266(5)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 34 Nay 4 (04/08/2021)

Appropriations Committee

Joint Favorable

Yea 48 Nay 1 (05/10/2021)