
OLR Bill Analysis

sHB 5326

AN ACT CONCERNING THE FACTORS THAT A COURT WILL CONSIDER WHEN DECIDING WHETHER A RESTRAINING ORDER IS TO BE EXTENDED.

SUMMARY

This bill lowers the threshold for a court to approve an applicant's request to extend a civil restraining order (see BACKGROUND) and specifies factors the court must consider when making that decision.

Under current law, a civil restraining order is generally for up to one year, unless the applicant requests more time and the court deems it necessary. The bill instead allows the court to grant the extension if it deems the additional time appropriate for continued protection.

In determining whether to extend a restraining order, the bill requires the court to consider the factors it considered when determining whether to issue the initial order (see below) and the following factors:

1. the severity of the acts that served as grounds for the order;
2. the ongoing impact of the acts on the applicant;
3. the respondent's (i.e., the person against whom the order is issued) adherence to, or violations of, the order; and
4. any new or ongoing behavior that constitutes domestic violence (see BACKGROUND).

Under the bill, the fact that a respondent has not violated the existing order does not preclude the order's extension.

EFFECTIVE DATE: October 1, 2024

ADDITIONAL FACTORS THE COURT MUST CONSIDER

Under the bill, when determining whether to extend the restraining order, the court must also consider the factors it considered before issuing the initial order. These factors are described below.

Under existing law, in making an ex parte order (i.e., where only one party is present), the court may consider relevant court records if they are publicly available from a Superior Court clerk or on the judicial branch's website.

Additionally, at the time of the hearing on the order, the court may also consider a report prepared by the judicial branch's family services unit, if the person who prepared the report is available to testify at the hearing and is subject to cross examination. The report may include, as available:

1. any existing or prior orders of protection obtained from the protection order registry,
2. information on any pending criminal case or past criminal case in which the respondent was convicted of a violent crime,
3. any outstanding arrest warrant for the respondent,
4. the respondent's level of risk based on a risk assessment tool used by the judicial branch's Court Support Services Division, and
5. information on any pending or disposed family matters case involving the applicant and respondent (CGS § 46b-15(b)).

BACKGROUND

Civil Restraining Order

By 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, or any domestic violence victim who is subject to coercive control by a family or household member may apply to the Superior Court for a restraining order. 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. It may issue an ex parte order if it

deems that there is imminent risk of harm (CGS § 46b-15(a)).

Domestic Violence

“Domestic Violence” generally means the following:

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 (CGS § 46b-1(b)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 28 Nay 7 (03/28/2024)