



Senate

General Assembly

File No. 754

January Session, 2015

Substitute Senate Bill No. 650

Senate, April 29, 2015

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 TEMPORARY RESTRAINING ORDERS.

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

1 Section 1. Section 6-32 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) Each state marshal shall receive each process directed to such
4 marshal when tendered, execute it promptly and make true return
5 thereof; and shall, without any fee, give receipts when demanded for
6 all civil process delivered to such marshal to be served, specifying the
7 names of the parties, the date of the writ, the time of delivery and the
8 sum or thing in demand. If any state marshal does not duly and
9 promptly execute and return any such process or makes a false or
10 illegal return thereof, such marshal shall be liable to pay double the
11 amount of all damages to the party aggrieved.

12 (b) When serving a restraining order issued pursuant to section 46b-
13 15, as amended by this act, or a civil protection order issued pursuant
14 to section 46b-16a, a state marshal shall indicate whether the service

15 was successful or unsuccessful and if successful the date, time and
16 place of service and whether such service was in hand or abode
17 service.

18 (c) A state marshal (1) may access the Judicial Branch's Internet-
19 based service tracking system, and (2) shall, as soon as possible, but
20 not later than two hours after the time that service is effectuated for a
21 restraining order issued pursuant to section 46b-15, as amended by
22 this act, or a civil protection order issued pursuant to section 46b-16a,
23 input into the service tracking system the date, time and method of
24 service. If prior to the date of the scheduled hearing concerning the
25 restraining order or civil protection order, service has not been
26 effectuated, a state marshal shall input into the service tracking system
27 that service was unsuccessful.

28 [(b)] (d) A civil [protective] protection order issued pursuant to
29 section 46b-16a constitutes civil process for purposes of the powers
30 and duties of a state marshal. The cost of serving a civil [protective]
31 protection order issued pursuant to section 46b-16a shall be paid by
32 the Judicial Branch in the same manner as the cost of serving a
33 restraining order issued pursuant to section 46b-15, as amended by
34 this act, and fees and expenses associated with the serving of a civil
35 [protective] protection order shall be calculated in accordance with
36 subsection (a) of section 52-261, as amended by this act.

37 Sec. 2. Subsection (j) of section 6-38b of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective*
39 *October 1, 2015*):

40 (j) The commission may adopt such rules as it deems necessary for
41 conduct of its internal affairs. [and] The commission shall adopt
42 regulations in accordance with the provisions of chapter 54 for: [the]
43 (1) The application and investigation requirements for filling vacancies
44 in the position of state marshal; (2) the provision of consistent and
45 reliable access to a state marshal for persons applying for a restraining
46 order under section 46b-15, as amended by this act; (3) the provision of
47 services to persons with limited English proficiency; (4) the provision

48 of services to persons who are deaf or hearing impaired; and (5)
49 service of process that is a photographic copy, micrographic copy or
50 other electronic image of an original document that clearly and
51 accurately copies such original document.

52 Sec. 3. Section 46b-15 of the general statutes is repealed and the
53 following is substituted in lieu thereof (*Effective October 1, 2015*):

54 (a) Any family or household member, as defined in section 46b-38a,
55 who has been subjected to a continuous threat of present physical pain
56 or physical injury, stalking or a pattern of threatening, including, but
57 not limited to, a pattern of threatening, as described in section 53a-62,
58 by another family or household member may make an application to
59 the Superior Court for relief under this section.

60 (b) The application form shall allow the applicant, at the applicant's
61 option, to indicate whether the respondent holds a permit to carry a
62 pistol or revolver, an eligibility certificate for a pistol or revolver, a
63 long gun eligibility certificate or an ammunition certificate or possesses
64 one or more firearms or ammunition. The application shall be
65 accompanied by an affidavit made under oath which includes a brief
66 statement of the conditions from which relief is sought. Upon receipt
67 of the application the court shall order that a hearing on the
68 application be held not later than fourteen days from the date of the
69 order except that, if the court issues an ex parte order against a
70 respondent who is a peace officer as defined in section 53a-3, such
71 hearing shall be held not later than five days from the date of the
72 order. The court, in its discretion, may make such orders as it deems
73 appropriate for the protection of the applicant and such dependent
74 children or other persons as the court sees fit. In making such orders,
75 the court, in its discretion, may consider relevant court records if the
76 records are available to the public from a clerk of the Superior Court or
77 on the Judicial Branch's Internet web site. Such orders may include
78 temporary child custody or visitation rights, and such relief may
79 include, but is not limited to, an order enjoining the respondent from
80 (1) imposing any restraint upon the person or liberty of the applicant;

81 (2) threatening, harassing, assaulting, molesting, sexually assaulting or
82 attacking the applicant; or (3) entering the family dwelling or the
83 dwelling of the applicant. Such order may include provisions
84 necessary to protect any animal owned or kept by the applicant
85 including, but not limited to, an order enjoining the respondent from
86 injuring or threatening to injure such animal. If an applicant alleges an
87 immediate and present physical danger to the applicant, the court may
88 issue an ex parte order granting such relief as it deems appropriate. If a
89 postponement of a hearing on the application is requested by either
90 party and granted, the ex parte order shall not be continued except
91 upon agreement of the parties or by order of the court for good cause
92 shown. If a hearing on the application is scheduled or an ex parte order
93 is granted and the court is closed on the scheduled hearing date, the
94 hearing shall be held on the next day the court is open and any such ex
95 parte order shall remain in effect until the date of such hearing.

96 (c) If the court issues an ex parte order pursuant to subsection (b) of
97 this section, with a hearing date to be held not later than fourteen days
98 from the date of the order, and service has not been made on the
99 respondent in conformance with subsection (h) of this section by the
100 date of the hearing, and the applicant is in attendance at such hearing,
101 the court shall continue the hearing to such date as necessary to
102 achieve service on the respondent and shall extend any ex parte order
103 until such date, but not to exceed fourteen days from the originally
104 scheduled hearing date, unless the applicant requests the court not to
105 continue the ex parte order. The clerk shall prepare a new order of
106 hearing and notice containing the new hearing date, which shall be
107 served upon the respondent in accordance with the provisions of this
108 section, along with all of the documents initially intended for service,
109 not less than three days before the new hearing date. If service has not
110 been made on the respondent by the date of the second hearing on the
111 application, the ex parte order shall not be continued.

112 ~~[(c)]~~ (d) Any ex parte restraining order entered under subsection (b)
113 of this section in which the applicant and respondent are spouses, or
114 persons who have a dependent child or children in common and who

115 live together, may include, if no order exists, and if necessary to
116 maintain the safety and basic needs of the applicant or the dependent
117 child or children in common of the applicant and respondent, in
118 addition to any orders authorized under subsection (b) of this section,
119 any of the following: (1) An order prohibiting the respondent from (A)
120 taking any action that could result in the termination of any necessary
121 utility services or necessary services related to the family dwelling or
122 the dwelling of the applicant, (B) taking any action that could result in
123 the cancellation, change of coverage or change of beneficiary of any
124 health, automobile or homeowners insurance policy to the detriment
125 of the applicant or the dependent child or children in common of the
126 applicant and respondent, or (C) transferring, encumbering, concealing
127 or disposing of specified property owned or leased by the applicant; or
128 (2) an order providing the applicant with temporary possession of an
129 automobile, checkbook, documentation of health, automobile or
130 homeowners insurance, a document needed for purposes of proving
131 identity, a key or other necessary specified personal effects.

132 [(d)] (e) At the hearing on any application under this section, if the
133 court grants relief pursuant to subsection (b) of this section and the
134 applicant and respondent are spouses, or persons who have a
135 dependent child or children in common and who live together, and if
136 necessary to maintain the safety and basic needs of the applicant or the
137 dependent child or children in common of the applicant and
138 respondent, any orders entered by the court may include, in addition
139 to the orders authorized under subsection (b) of this section, any of the
140 following: (1) An order prohibiting the respondent from (A) taking any
141 action that could result in the termination of any necessary utility
142 services or services related to the family dwelling or the dwelling of
143 the applicant, (B) taking any action that could result in the cancellation,
144 change of coverage or change of beneficiary of any health, automobile
145 or homeowners insurance policy to the detriment of the applicant or
146 the dependent child or children in common of the applicant and
147 respondent, or (C) transferring, encumbering, concealing or disposing
148 of specified property owned or leased by the applicant; (2) an order
149 providing the applicant with temporary possession of an automobile,

150 checkbook, documentation of health, automobile or homeowners
151 insurance, a document needed for purposes of proving identity, a key
152 or other necessary specified personal effects; or (3) an order that the
153 respondent: (A) Make rent or mortgage payments on the family
154 dwelling or the dwelling of the applicant and the dependent child or
155 children in common of the applicant and respondent, (B) maintain
156 utility services or other necessary services related to the family
157 dwelling or the dwelling of the applicant and the dependent child or
158 children in common of the applicant and respondent, (C) maintain all
159 existing health, automobile or homeowners insurance coverage
160 without change in coverage or beneficiary designation, or (D) provide
161 financial support for the benefit of any dependent child or children in
162 common of the applicant and the respondent, provided the respondent
163 has a legal duty to support such child or children and the ability to
164 pay. The court shall not enter any order of financial support without
165 sufficient evidence as to the ability to pay, including, but not limited
166 to, financial affidavits. If at the hearing no order is entered under this
167 subsection or subsection [(c)] (d) of this section, no such order may be
168 entered thereafter pursuant to this section. Any order entered pursuant
169 to this subsection shall not be subject to modification and shall expire
170 one hundred twenty days after the date of issuance or upon issuance
171 of a superseding order, whichever occurs first. Any amounts not paid
172 or collected under this subsection or subsection [(c)] (d) of this section
173 may be preserved and collectible in an action for dissolution of
174 marriage, custody, paternity or support.

175 [(e)] (f) Every order of the court made in accordance with this
176 section shall contain the following language: (1) "This order may be
177 extended by the court beyond one year. In accordance with section
178 53a-107 of the Connecticut general statutes, entering or remaining in a
179 building or any other premises in violation of this order constitutes
180 criminal trespass in the first degree. This is a criminal offense
181 punishable by a term of imprisonment of not more than one year, a
182 fine of not more than two thousand dollars or both."; and (2) "In
183 accordance with section 53a-223b of the Connecticut general statutes,
184 any violation of subparagraph (A) or (B) of subdivision (2) of

185 subsection (a) of section 53a-223b constitutes criminal violation of a
186 restraining order which is punishable by a term of imprisonment of
187 not more than five years, a fine of not more than five thousand dollars,
188 or both. Additionally, any violation of subparagraph (C) or (D) of
189 subdivision (2) of subsection (a) of section 53a-223b constitutes
190 criminal violation of a restraining order which is punishable by a term
191 of imprisonment of not more than ten years, a fine of not more than ten
192 thousand dollars, or both."

193 ~~[(f)]~~ (g) No order of the court shall exceed one year, except that an
194 order may be extended by the court upon motion of the applicant for
195 such additional time as the court deems necessary. If the respondent
196 has not appeared upon the initial application, service of a motion to
197 extend an order may be made by first-class mail directed to the
198 respondent at the respondent's last-known address.

199 ~~[(g) The]~~ (h) (1) Except as provided in subdivision (2) of this
200 subsection, the applicant shall cause notice of the hearing pursuant to
201 subsection (b) of this section and a copy of the application and the
202 applicant's affidavit and of any ex parte order issued pursuant to
203 subsection (b) of this section to be served on the respondent not less
204 than [five] three days before the hearing.

205 (2) When (A) an application indicates that a respondent holds a
206 permit to carry a pistol or revolver, an eligibility certificate for a pistol
207 or revolver, a long gun eligibility certificate or an ammunition
208 certificate or possesses one or more firearms or ammunition, and (B)
209 the court has issued an ex parte order pursuant to subsection (b) of this
210 section, service of process shall be effectuated by a police officer in lieu
211 of service by a proper officer. When service is to be effectuated by a
212 police officer, the clerk of the court shall send, by facsimile or other
213 means, the application, the applicant's affidavit, the ex parte order and
214 the notice of the hearing to the law enforcement agency, for the town
215 in which the respondent resides, not later than two hours after the
216 issuance of such order. The law enforcement agency shall receive all
217 process directed to such agency. A police officer of the law

218 enforcement agency shall promptly execute such service and make
219 true return thereof. Service of process by a police officer on a
220 respondent shall be in hand. At the time a police officer effectuates
221 service, the respondent shall surrender all pistols, revolvers, other
222 firearms and ammunition owned by, or in the control or possession of,
223 such respondent to the police officer. In the event that pistols,
224 revolvers, other firearms and ammunition cannot be surrendered by
225 the respondent to the police officer at the time service is effectuated
226 because such pistols, revolvers, other firearms and ammunition are at a
227 location other than the location where service is effectuated, the
228 respondent shall, not later than twenty-four hours after the time
229 service is effectuated, transfer, deliver or surrender such pistols,
230 revolvers, other firearms and ammunition in accordance with section
231 29-36k, as amended by this act. When service is effectuated by a police
232 officer, the information contained in the application or applicant's
233 affidavit shall not alone constitute grounds for arrest under subsection
234 (a) of section 46b-38b. A photographic copy, a micrographic copy or
235 other electronic image that clearly and accurately copies the
236 application, the applicant's affidavit, any ex parte order and the notice
237 of hearing shall be permitted when effectuating service under this
238 section.

239 [The cost of such service] (3) All costs incurred in effectuating
240 service of process under this section, except service effectuated by a
241 police officer, shall be paid for by the Judicial Branch. Upon the
242 granting of an ex parte order, the clerk of the court shall provide two
243 copies of the order to the applicant. [Upon the granting of an order
244 after notice and hearing, the clerk of the court shall provide two copies
245 of the order to the applicant and a copy to the respondent. Every order
246 of the court made in accordance with this section after notice and
247 hearing shall be accompanied by a notification that is consistent with
248 the full faith and credit provisions set forth in 18 USC 2265(a), as
249 amended from time to time.] Immediately after making service on the
250 respondent, the proper officer or police officer shall (A) send or cause
251 to be sent, by facsimile or other means, a copy of the application, or the
252 information contained in such application, stating the date and time

253 the respondent was served, to the law enforcement agency or agencies
254 for the town in which the applicant resides, the town in which the
255 applicant is employed and the town in which the respondent resides,
256 [.] and (B) as soon as possible, but not later than two hours after the
257 time that service is effectuated, input into the Judicial Branch's
258 Internet-based service tracking system the date, time and method of
259 service. If, prior to the date of the scheduled hearing, service has not
260 been effectuated, the proper officer or police officer shall input into the
261 service tracking system that service was unsuccessful.

262 (4) Upon the granting of an order after notice and hearing, the clerk
263 of the court shall provide two copies of the order to the applicant and a
264 copy to the respondent. The clerk of the court shall send, by facsimile
265 or other means, a copy of [any ex parte order and of] any order after
266 notice and hearing, or the information contained in any such order, to
267 the law enforcement agency or agencies for the town in which the
268 applicant resides, the town in which the applicant is employed and the
269 town in which the respondent resides, within forty-eight hours of the
270 issuance of such order. If the victim is enrolled in a public or private
271 elementary or secondary school, including a technical high school, or
272 an institution of higher education, as defined in section 10a-55, the
273 clerk of the court shall, upon the request of the victim, send, by
274 facsimile or other means, a copy of such ex parte order or of any order
275 after notice and hearing, or the information contained in any such
276 order, to such school or institution of higher education, the president
277 of any institution of higher education at which the victim is enrolled
278 and the special police force established pursuant to section 10a-156b, if
279 any, at the institution of higher education at which the victim is
280 enrolled. Every order of the court made in accordance with this section
281 after notice and hearing shall be accompanied by a notification that is
282 consistent with the full faith and credit provisions set forth in 18 USC
283 2265(a), as amended from time to time.

284 [(h)] (i) A caretaker who is providing shelter in his or her residence
285 to a person sixty years or older shall not be enjoined from the full use
286 and enjoyment of his or her home and property. The Superior Court

287 may make any other appropriate order under the provisions of this
288 section.

289 [(i)] (j) When a motion for contempt is filed for violation of a
290 restraining order, there shall be an expedited hearing. Such hearing
291 shall be held within five court days of service of the motion on the
292 respondent, provided service on the respondent is made not less than
293 twenty-four hours before the hearing. If the court finds the respondent
294 in contempt for violation of an order, the court may impose such
295 sanctions as the court deems appropriate.

296 [(j)] (k) An action under this section shall not preclude the applicant
297 from seeking any other civil or criminal relief.

298 (l) For purposes of this section, "police officer" has the same
299 meaning as provided in section 54-1t, and "law enforcement agency"
300 has the same meaning as provided in section 54-1t.

301 Sec. 4. Section 52-261 of the general statutes is repealed and the
302 following is substituted in lieu thereof (*Effective October 1, 2015*):

303 (a) Except as provided in [subsection (b)] subsections (b) and (c) of
304 this section and section 52-261a, each officer or person, other than a
305 police officer as defined in section 54-1t, who serves process, summons
306 or attachments on behalf of: (1) An official of the state or any of its
307 agencies, boards or commissions, or any municipal official acting in his
308 or her official capacity, shall receive a fee of not more than thirty
309 dollars for each process served and an additional fee of thirty dollars
310 for the second and each subsequent service of such process, except that
311 such officer or person shall receive an additional fee of ten dollars for
312 each subsequent service of such process at the same address or for
313 notification of the office of the Attorney General in dissolution and
314 postjudgment proceedings if a party or child is receiving public
315 assistance; and (2) any person, except a person described in
316 subdivision (1) of this subsection, shall receive a fee of not more than
317 forty dollars for each process served and an additional fee of forty
318 dollars for the second and each subsequent service of such process,

319 except that such officer or person shall receive an additional fee of
320 twenty dollars for each subsequent service of such process at the same
321 address or for notification of the office of the Attorney General in
322 dissolution and postjudgment proceedings if a party or child is
323 receiving public assistance. Each such officer or person shall also
324 receive the fee set by the Department of Administrative Services for
325 state employees for each mile of travel, to be computed from the place
326 where such officer or person received the process to the place of
327 service, and thence in the case of civil process to the place of return. If
328 more than one process is served on one person at one time by any such
329 officer or person, the total cost of travel for the service shall be the
330 same as for the service of one process only. Each officer or person who
331 serves process shall also receive the moneys actually paid for town
332 clerk's fees on the service of process. Any officer or person required to
333 summon jurors by personal service of a warrant to attend court shall
334 receive for the first ten miles of travel while so engaged, such mileage
335 to be computed from the place where such officer or person receives
336 the process to the place of service, twenty-five cents for each mile, and
337 for each additional mile, ten cents. For summoning any juror to attend
338 court otherwise than by personal service of the warrant, such officer or
339 person shall receive only the sum of fifty cents and actual
340 disbursements necessarily expended by such officer or person in
341 making service thereof as directed. Notwithstanding the provisions of
342 this section, for summoning grand jurors, such officer or person shall
343 receive only such officer's or person's actual expenses and such
344 reasonable sum for services as are taxed by the court. The following
345 fees shall be allowed and paid: (A) For taking bail or bail bond, one
346 dollar; (B) for copies of writs and complaints, exclusive of
347 endorsements, one dollar per page, not to exceed a total amount of
348 nine hundred dollars in any particular matter; (C) for endorsements,
349 forty cents per page or fraction thereof; (D) for service of a warrant for
350 the seizure of intoxicating liquors, or for posting and leaving notices
351 after the seizure, or for the destruction or delivery of any such liquors
352 under order of court, twenty dollars; (E) for the removal and custody
353 of such liquors so seized, reasonable expenses, and twenty dollars; (F)

354 for the levy of an execution, when the money is actually collected and
355 paid over, or the debt or a portion of the debt is secured by the officer,
356 fifteen per cent on the amount of the execution, provided the
357 minimum fee for such execution shall be thirty dollars; (G) on the levy
358 of an execution on real property and on application for sale of personal
359 property attached, to each appraiser, for each half day of actual
360 service, reasonable and customary expenses; (H) for causing an
361 execution levied on real property to be recorded, fees for travel, twenty
362 dollars and costs; (I) for services on an application for the sale of
363 personal property attached, or in selling mortgaged property
364 foreclosed under a decree of court, the same fees as for similar services
365 on executions; (J) for committing any person to a community
366 correctional center, in civil actions, twenty-one cents a mile for travel,
367 from the place of the court to the community correctional center, in
368 lieu of all other expenses; and (K) for summoning and attending a jury
369 for reassessing damages or benefits on a highway, three dollars a day.
370 The court shall tax as costs a reasonable amount for the care of
371 property held by any officer under attachment or execution. The
372 officer serving any attachment or execution may claim compensation
373 for time and expenses of any person, in keeping, securing or removing
374 property taken thereon, provided such officer shall make out a bill.
375 The bill shall specify the labor done, and by whom, the time spent, the
376 travel, the money paid, if any, and to whom and for what. The
377 compensation for the services shall be reasonable and customary and
378 the amount of expenses and shall be taxed by the court with the costs.

379 (b) Each officer or person shall receive the following fees: (1) For
380 service of an execution on a summary process judgment, not more
381 than fifty dollars; and (2) for removal under section 47a-42 of a
382 defendant or other occupant bound by a summary process judgment,
383 and the possessions and personal effects of such defendant or other
384 occupant, not more than one hundred dollars per hour.

385 (c) The cost of service of a restraining order, issued pursuant to
386 section 46b-15, as amended by this act, and fees and expenses
387 associated with the service of such restraining order shall be calculated

388 in accordance with subsection (a) of this section, except that round trip
389 mileage for up to two attempts at in-hand service of such restraining
390 order may be calculated if such service is eventually effectuated, with
391 any additional fees authorized only by a court order for good cause
392 shown.

393 Sec. 5. (NEW) (*Effective October 1, 2015*) In each superior court where
394 a restraining order issued under section 46b-15 of the general statutes,
395 as amended by this act, may be made returnable, the Chief Court
396 Administrator shall, where feasible, work to allocate space in such
397 court so as to permit a meeting between a person seeking service of the
398 notice of hearing and any order issued under section 46b-15 of the
399 general statutes, as amended by this act, and a state marshal.

400 Sec. 6. (NEW) (*Effective October 1, 2015*) (a) The Chief Court
401 Administrator shall revise and simplify the process for filing an
402 application for relief from abuse under section 46b-15 of the general
403 statutes, as amended by this act. The Chief Court Administrator shall
404 ensure that any person seeking to file an application for relief from
405 abuse is provided with a one-page, plain language explanation of how
406 to apply for relief from abuse under section 46b-15 of the general
407 statutes, as amended by this act.

408 (b) The Chief Court Administrator shall annually collect data on (1)
409 the number of restraining orders issued under section 46b-15 of the
410 general statutes, as amended by this act, and civil protection orders
411 issued under section 46b-16a of the general statutes; (2) the method of
412 service of such orders in cases in which a respondent is successfully
413 served with the order; and (3) the number of such orders issued that
414 subsequently expire or are dismissed because the respondent could not
415 be served with the order.

416 Sec. 7. (*Effective from passage*) The State Marshal Commission shall
417 study its "marshal of the day" practice, which is used for the collection,
418 dissemination and service of restraining and protective orders. Such
419 study shall include, but not be limited to, an examination of the wait
420 times for applicants as a result of such practice and whether such

421 practice promotes efficient and timely service of restraining and
422 protective orders. On or before February 1, 2016, the State Marshal
423 Commission shall report, in accordance with the provisions of section
424 11-4a of the general statutes, on the results of such study to the joint
425 standing committee of the General Assembly having cognizance of
426 matters relating to the judiciary.

427 Sec. 8. Section 29-36k of the general statutes is repealed and the
428 following is substituted in lieu thereof (*Effective October 1, 2015*):

429 (a) [Not later than two business days] Except as provided in
430 subsection (b) of this section, not later than two business days after the
431 occurrence of any event that makes a person ineligible to possess a
432 pistol or revolver or other firearm or ammunition, such person shall (1)
433 transfer in accordance with section 29-33 all pistols and revolvers
434 which such person then possesses to any person eligible to possess a
435 pistol or revolver and transfer in accordance with any applicable state
436 and federal laws all other firearms to any person eligible to possess
437 such other firearms by obtaining an authorization number for the sale
438 or transfer of the firearm from the Commissioner of Emergency
439 Services and Public Protection, and submit a sale or transfer of
440 firearms form to said commissioner within two business days, [except
441 that a person subject to a restraining or protective order or a foreign
442 order of protection may only transfer a pistol, revolver or other firearm
443 or ammunition under this subdivision to a federally licensed firearms
444 dealer pursuant to the sale of the pistol, revolver or other firearm and
445 ammunition to the federally licensed firearms dealer,] or (2) deliver or
446 surrender such pistols and revolvers and other firearms and
447 ammunition to the Commissioner of Emergency Services and Public
448 Protection or a law enforcement agency, or (3) transfer such
449 ammunition to any person eligible to possess such ammunition. The
450 commissioner or a law enforcement agency shall exercise due care in
451 the receipt and holding of such pistols and revolvers and other
452 firearms or ammunition. [For the purposes of this section, a "person
453 subject to a restraining or protective order or a foreign order of
454 protection" means a person who knows that such person is subject to

455 (A) a restraining or protective order of a court of this state that has
456 been issued against such person, after notice and an opportunity to be
457 heard has been provided to such person, in a case involving the use,
458 attempted use or threatened use of physical force against another
459 person, or (B) a foreign order of protection, as defined in section 46b-
460 15a, that has been issued against such person in a case involving the
461 use, attempted use or threatened use of physical force against another
462 person.]

463 (b) Immediately, but in no event more than twenty-four hours after
464 notice has been provided to a person subject to a restraining or
465 protective order or a foreign order of protection, such person shall (1)
466 transfer any pistol, revolver or other firearm or ammunition that such
467 person then possesses to a federally licensed firearms dealer pursuant
468 to the sale of the pistol, revolver or other firearm or ammunition to the
469 federally licensed firearms dealer, or (2) deliver or surrender such
470 pistols and revolvers and other firearms and ammunition to the
471 Commissioner of Emergency Services and Public Protection or a law
472 enforcement agency.

473 [(b)] (c) Such person, or such person's legal representative, may, at
474 any time up to one year after such delivery or surrender to the
475 Commissioner of Emergency Services and Public Protection or a law
476 enforcement agency, transfer such pistols and revolvers in accordance
477 with the provisions of section 29-33 to any person eligible to possess a
478 pistol or revolver and transfer such other firearms and ammunition, in
479 accordance with any applicable state and federal laws, to any person
480 eligible to possess such other firearms and ammunition, provided any
481 person subject to a restraining or protective order or a foreign order of
482 protection, or such person's legal representative, may only transfer
483 such pistol, revolver or other firearm or ammunition to a federally
484 licensed firearms dealer pursuant to the sale of the pistol, revolver or
485 other firearm or ammunition to the federally licensed firearms dealer.
486 Upon notification in writing by the transferee and such person, the
487 Commissioner of Emergency Services and Public Protection or law
488 enforcement agency shall, within ten days, deliver such pistols and

489 revolvers [or] and other firearms [or] and ammunition to the
490 transferee. If, at the end of such year, such pistols and revolvers [or]
491 and other firearms [or] and ammunition have not been so transferred,
492 the commissioner or law enforcement agency shall cause them to be
493 destroyed.

494 [(c)] (d) Any person who fails to transfer, deliver or surrender any
495 such pistols and revolvers and other firearms [or] and ammunition as
496 provided in this section shall be subject to the penalty provided for in
497 section 53a-217, as amended by this act, or 53a-217c, as amended by
498 this act.

499 (e) For the purposes of this section: (1) "Person subject to a
500 restraining or protective order or a foreign order of protection" means
501 a person who knows that such person is subject to (A) a restraining or
502 protective order of a court of this state that has been issued against
503 such person, after notice has been provided to such person, in a case
504 involving the use, attempted use or threatened use of physical force
505 against another person, or (B) a foreign order of protection, as defined
506 in section 46b-15a, that has been issued against such person in a case
507 involving the use, attempted use or threatened use of physical force
508 against another person; and (2) "law enforcement agency" has the same
509 meaning as provided in section 54-1t.

510 Sec. 9. Section 53a-217 of the general statutes is repealed and the
511 following is substituted in lieu thereof (*Effective October 1, 2015*):

512 (a) A person is guilty of criminal possession of a firearm,
513 ammunition or an electronic defense weapon when such person
514 possesses a firearm, ammunition or an electronic defense weapon and
515 (1) has been convicted of a felony committed prior to, on or after
516 October 1, 2013, or of a violation of subsection (c) of section 21a-279 or
517 section 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176,
518 53a-178 or 53a-181d committed on or after October 1, 2013, (2) has been
519 convicted as delinquent for the commission of a serious juvenile
520 offense, as defined in section 46b-120, (3) has been discharged from
521 custody within the preceding twenty years after having been found

522 not guilty of a crime by reason of mental disease or defect pursuant to
523 section 53a-13, (4) knows that such person is subject to (A) a
524 restraining or protective order of a court of this state that has been
525 issued against such person, after notice [and an opportunity to be
526 heard] has been provided to such person, in a case involving the use,
527 attempted use or threatened use of physical force against another
528 person and such person has not complied with the provisions of
529 section 29-36k, as amended by this act, or (B) a foreign order of
530 protection, as defined in section 46b-15a, that has been issued against
531 such person in a case involving the use, attempted use or threatened
532 use of physical force against another person and such person has not
533 complied with the provisions of section 29-36k, as amended by this act,
534 (5) (A) has been confined on or after October 1, 2013, in a hospital for
535 persons with psychiatric disabilities, as defined in section 17a-495,
536 within the preceding sixty months by order of a probate court, or with
537 respect to any person who holds a valid permit or certificate that was
538 issued or renewed under the provisions of section 29-28 or 29-36f in
539 effect prior to October 1, 2013, such person has been confined in such
540 hospital within the preceding twelve months, or (B) has been
541 voluntarily admitted on or after October 1, 2013, to a hospital for
542 persons with psychiatric disabilities, as defined in section 17a-495,
543 within the preceding six months for care and treatment of a psychiatric
544 disability and not solely for being an alcohol-dependent person or a
545 drug-dependent person as those terms are defined in section 17a-680,
546 (6) knows that such person is subject to a firearms seizure order issued
547 pursuant to subsection (d) of section 29-38c after notice and an
548 opportunity to be heard has been provided to such person, or (7) is
549 prohibited from shipping, transporting, possessing or receiving a
550 firearm pursuant to 18 USC 922(g)(4). For the purposes of this section,
551 "convicted" means having a judgment of conviction entered by a court
552 of competent jurisdiction, "ammunition" means a loaded cartridge,
553 consisting of a primed case, propellant or projectile, designed for use
554 in any firearm, and a motor vehicle violation for which a sentence to a
555 term of imprisonment of more than one year may be imposed shall be
556 deemed an unclassified felony.

557 (b) Criminal possession of a firearm, ammunition or an electronic
558 defense weapon is a class C felony, for which two years of the sentence
559 imposed may not be suspended or reduced by the court, and five
560 thousand dollars of the fine imposed may not be remitted or reduced
561 by the court unless the court states on the record its reasons for
562 remitting or reducing such fine.

563 Sec. 10. Section 53a-217c of the general statutes is repealed and the
564 following is substituted in lieu thereof (*Effective October 1, 2015*):

565 (a) A person is guilty of criminal possession of a pistol or revolver
566 when such person possesses a pistol or revolver, as defined in section
567 29-27, and (1) has been convicted of a felony committed prior to, on or
568 after October 1, 2013, or of a violation of subsection (c) of section 21a-
569 279 or section 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175,
570 53a-176, 53a-178 or 53a-181d committed on or after October 1, 1994, (2)
571 has been convicted as delinquent for the commission of a serious
572 juvenile offense, as defined in section 46b-120, (3) has been discharged
573 from custody within the preceding twenty years after having been
574 found not guilty of a crime by reason of mental disease or defect
575 pursuant to section 53a-13, (4) (A) has been confined prior to October
576 1, 2013, in a hospital for persons with psychiatric disabilities, as
577 defined in section 17a-495, within the preceding twelve months by
578 order of a probate court, or has been confined on or after October 1,
579 2013, in a hospital for persons with psychiatric disabilities, as defined
580 in section 17a-495, within the preceding sixty months by order of a
581 probate court, or, with respect to any person who holds a valid permit
582 or certificate that was issued or renewed under the provisions of
583 section 29-28 or 29-36f in effect prior to October 1, 2013, such person
584 has been confined in such hospital within the preceding twelve
585 months, or (B) has been voluntarily admitted on or after October 1,
586 2013, to a hospital for persons with psychiatric disabilities, as defined
587 in section 17a-495, within the preceding six months for care and
588 treatment of a psychiatric disability and not solely for being an alcohol-
589 dependent person or a drug-dependent person as those terms are
590 defined in section 17a-680, (5) knows that such person is subject to (A)

591 a restraining or protective order of a court of this state that has been
592 issued against such person, after notice [and an opportunity to be
593 heard] has been provided to such person, in a case involving the use,
594 attempted use or threatened use of physical force against another
595 person and such person has not complied with the provisions of
596 section 29-36k, as amended by this act, or (B) a foreign order of
597 protection, as defined in section 46b-15a, that has been issued against
598 such person in a case involving the use, attempted use or threatened
599 use of physical force against another person and such person has not
600 complied with the provisions of section 29-36k, as amended by this act,
601 (6) knows that such person is subject to a firearms seizure order issued
602 pursuant to subsection (d) of section 29-38c after notice and an
603 opportunity to be heard has been provided to such person, (7) is
604 prohibited from shipping, transporting, possessing or receiving a
605 firearm pursuant to 18 USC 922(g)(4), or (8) is an alien illegally or
606 unlawfully in the United States. For the purposes of this section,
607 "convicted" means having a judgment of conviction entered by a court
608 of competent jurisdiction.

609 (b) Criminal possession of a pistol or revolver is a class C felony, for
610 which two years of the sentence imposed may not be suspended or
611 reduced by the court, and five thousand dollars of the fine imposed
612 may not be remitted or reduced by the court unless the court states on
613 the record its reasons for remitting or reducing such fine.

614 Sec. 11. Subsection (b) of section 29-36n of the general statutes is
615 repealed and the following is substituted in lieu thereof (*Effective*
616 *October 1, 2015*):

617 (b) The Commissioner of Emergency Services and Public Protection,
618 in conjunction with the Chief State's Attorney and the Connecticut
619 Police Chiefs Association, shall update the protocol developed
620 pursuant to subsection (a) of this section to reflect the provisions of
621 sections 29-7h, 29-28, 29-28a, 29-29, 29-30, 29-32, as amended by this
622 act, and 29-35, subsections (b) and [(g)] (h) of section 46b-15, as
623 amended by this act, subsections (c) and (d) of section 46b-38c and

624 sections 53-202a, 53-202l, 53-202m and 53a-217, as amended by this act,
625 and shall include in such protocol specific instructions for the transfer,
626 delivery or surrender of pistols and revolvers and other firearms and
627 ammunition when the assistance of more than one law enforcement
628 agency is necessary to effect the requirements of section 29-36k, as
629 amended by this act.

630 Sec. 12. Section 29-32 of the general statutes is repealed and the
631 following is substituted in lieu thereof (*Effective October 1, 2015*):

632 (a) For the purposes of this section, "conviction" means the entry of a
633 judgment of conviction by any court of competent jurisdiction.

634 (b) Any state permit or temporary state permit for the carrying of
635 any pistol or revolver may be revoked by the Commissioner of
636 Emergency Services and Public Protection for cause and shall be
637 revoked by said commissioner upon conviction of the holder of such
638 permit of a felony or of any misdemeanor specified in subsection (b) of
639 section 29-28 or upon the occurrence of any event which would have
640 disqualified the holder from being issued the state permit or
641 temporary state permit pursuant to subsection (b) of section 29-28.
642 Upon the revocation of any state permit or temporary state permit, the
643 person whose state permit or temporary state permit is revoked shall
644 be notified in writing and such state permit or temporary state permit
645 shall be forthwith delivered to the commissioner. Any law
646 enforcement authority shall confiscate and immediately forward to the
647 commissioner any state permit or temporary state permit that is
648 illegally possessed by any person. The commissioner may revoke the
649 state permit or temporary state permit based upon the commissioner's
650 own investigation or upon the request of any law enforcement agency.
651 Any person who fails to surrender any permit within five days of
652 notification in writing of revocation thereof shall be guilty of a class A
653 misdemeanor.

654 (c) Any local permit for the carrying of a pistol or revolver issued
655 prior to October 1, 2001, may be revoked by the authority issuing the
656 same for cause, and shall be revoked by the authority issuing the same

657 upon conviction of the holder of such permit of a felony or of any
658 misdemeanor specified in subsection (b) of section 29-28 or upon the
659 occurrence of any event which would have disqualified the holder
660 from being issued such local permit. Upon the revocation of any local
661 permit, the person whose local permit is revoked shall be notified in
662 writing and such permit shall be forthwith delivered to the authority
663 issuing the same. Upon the revocation of any local permit, the
664 authority issuing the same shall forthwith notify the commissioner.
665 Upon the revocation of any permit issued by the commissioner, the
666 commissioner shall forthwith notify any local authority which the
667 records of the commissioner show as having issued a currently valid
668 local permit to the holder of the permit revoked by the commissioner.
669 Any person who fails to surrender such permit within five days of
670 notification in writing or revocation thereof shall be guilty of a class A
671 misdemeanor.

672 (d) If a state permit or temporary state permit for the carrying of any
673 pistol or revolver is revoked because the person holding such permit is
674 subject to an ex parte order issued pursuant to section 46b-15, as
675 amended by this act, or 46b-16a, upon expiration of such order, such
676 person may notify the Department of Emergency Services and Public
677 Protection that such order has expired. Upon verification of such
678 expiration and provided such person is not otherwise disqualified
679 from holding such permit pursuant to subsection (b) of section 29-28,
680 the department shall reinstate such permit.

681 Sec. 13. Section 29-36i of the general statutes is repealed and the
682 following is substituted in lieu thereof (*Effective October 1, 2015*):

683 (a) Any eligibility certificate for a pistol or revolver shall be revoked
684 by the Commissioner of Emergency Services and Public Protection
685 upon the occurrence of any event which would have disqualified the
686 holder from being issued the certificate pursuant to section 29-36f.

687 (b) Upon the revocation of any eligibility certificate, the person
688 whose eligibility certificate is revoked shall be notified in writing and
689 such certificate shall be forthwith delivered to the Commissioner of

690 Emergency Services and Public Protection. Any person who fails to
691 surrender such certificate within five days of notification in writing of
692 revocation thereof shall be guilty of a class A misdemeanor.

693 (c) If an eligibility certificate for a pistol or revolver is revoked
694 because the person holding such certificate is subject to an ex parte
695 order issued pursuant to section 46b-15, as amended by this act, or
696 46b-16a, upon expiration of such order, such person may notify the
697 Department of Emergency Services and Public Protection that such
698 order has expired. Upon verification of such expiration and provided
699 such person is not otherwise disqualified from holding such certificate
700 pursuant to section 29-36f, the department shall reinstate such
701 certificate.

702 Sec. 14. Section 29-37s of the general statutes is repealed and the
703 following is substituted in lieu thereof (*Effective October 1, 2015*):

704 (a) A long gun eligibility certificate shall be revoked by the
705 Commissioner of Emergency Services and Public Protection upon the
706 occurrence of any event which would have disqualified the holder
707 from being issued the certificate pursuant to section 29-37p.

708 (b) Upon the revocation of any long gun eligibility certificate, the
709 person whose certificate is revoked shall be notified, in writing, and
710 such certificate shall be forthwith delivered to the Commissioner of
711 Emergency Services and Public Protection. Any person who fails to
712 surrender such certificate within five days of notification, in writing, of
713 revocation thereof shall be guilty of a class A misdemeanor.

714 (c) If a long gun eligibility certificate is revoked because the person
715 holding such certificate is subject to an ex parte order issued pursuant
716 to section 46b-15, as amended by this act, or 46b-16a, upon expiration
717 of such order, such person may notify the Department of Emergency
718 Services and Public Protection that such order has expired. Upon
719 verification of such expiration and provided such person is not
720 otherwise disqualified from holding such certificate pursuant to
721 section 29-37p, the department shall reinstate such certificate.

722 Sec. 15. Section 29-38p of the general statutes is repealed and the
723 following is substituted in lieu thereof (*Effective October 1, 2015*):

724 (a) An ammunition certificate shall be revoked by the Commissioner
725 of Emergency Services and Public Protection upon the occurrence of
726 any event which would have disqualified the holder from being issued
727 the certificate pursuant to section 29-38n.

728 (b) Upon the revocation of any ammunition certificate, the person
729 whose certificate is revoked shall be notified, in writing, and such
730 certificate shall be forthwith delivered to the Commissioner of
731 Emergency Services and Public Protection. Any person who fails to
732 surrender such certificate within five days of notification, in writing, of
733 revocation thereof shall be guilty of a class A misdemeanor.

734 (c) If an ammunition certificate is revoked because the person
735 holding such certificate is subject to an ex parte order issued pursuant
736 to section 46b-15, as amended by this act, or 46b-16a, upon expiration
737 of such order, such person may notify the Department of Emergency
738 Services and Public Protection that such order has expired. Upon
739 verification of such expiration and provided such person is not
740 otherwise disqualified from holding such certificate pursuant to
741 section 29-38n, the department shall reinstate such certificate.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	6-32
Sec. 2	<i>October 1, 2015</i>	6-38b(j)
Sec. 3	<i>October 1, 2015</i>	46b-15
Sec. 4	<i>October 1, 2015</i>	52-261
Sec. 5	<i>October 1, 2015</i>	New section
Sec. 6	<i>October 1, 2015</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>October 1, 2015</i>	29-36k
Sec. 9	<i>October 1, 2015</i>	53a-217
Sec. 10	<i>October 1, 2015</i>	53a-217c
Sec. 11	<i>October 1, 2015</i>	29-36n(b)
Sec. 12	<i>October 1, 2015</i>	29-32

Sec. 13	<i>October 1, 2015</i>	29-36i
Sec. 14	<i>October 1, 2015</i>	29-37s
Sec. 15	<i>October 1, 2015</i>	29-38p

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:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Dept. of Administrative Services	GF - Cost	Up to 500,000	None
Department of Emergency Services and Public Protection	GF - Cost	See Below	See Below
Judicial Dept.	GF - Savings	Approximately 12,000	Approximately 12,000
Judicial Dept.	GF - Cost	Approximately 100,000	Approximately 100,000
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

Explanation

Section 1 of the bill allows state marshals access to the Judicial Department's service tracking system. This provision conforms statute with current practice and does not result in a fiscal impact.

Section 2 requires State Marshall Commission (SMC) to adopt regulations for (1) the provision of consistent and reliable access to a state marshal for persons applying for a restraining order under section 46b-15; (2) the provision of services to persons with limited English proficiency; (3) the provision of services to persons who are deaf or hearing impaired; and (4) service of process that is a

photographic copy, micrographic copy or other electronic image of an original document that clearly and accurately copies such original document.

Currently, SMC staff consists of two full-time employees. SMC staff does not have the expertise required to develop such regulations. It is estimated the Department of Administrative Services (DAS) would have to retain consultants, at a cost of up to \$275,000 to research and draft such regulations.

Section 3 results in a potential cost to towns and potential savings to the Judicial Department. It requires presiding law enforcement agencies to deliver ex parte orders whenever the application indicates that the respondent possesses firearms, ammunition, or a permit to do so. The bill specifies that the Judicial Department is not required to reimburse the police officer for the cost of service, as is done when service is completed by a state marshal. Approximately 300 ex parte civil restraining orders served in FY 14 involved respondents with a firearm. It is anticipated that police departments will incur travel and administrative expenses to serve these orders. The level of such costs is dependent upon the number of orders delivered and the travel time and mileage required to do so. The bill results in savings of approximately \$12,000 to the Judicial Department (300 orders with a reimbursement of \$40/order). The bill also makes various changes to civil restraining order application forms and hearing dates and does not result in a fiscal impact.

Section 4 is estimated to result in a cost of up to \$100,000 annually to the Judicial Department for additional mileage reimbursement for service of civil restraining and protective orders.

Section 5 requires the chief court administrator, where feasible, to allocate space for a meeting between a state marshal and a restraining order applicant. Currently, state marshals meet with applicants in the Court Service Centers, found in most courthouses. To the extent that this area of the courthouse is sufficient to meet this provision of the bill, this section does not result in a fiscal impact.

Section 6 requires the Judicial Department to collect data on civil restraining and protection orders. It is anticipated that the agency can accommodate these changes without additional resources.

Section 7 of the bill requires SMC to study the Judicial Branch's "marshal of the day" practice. It also requires the study to include an examination of the wait times for applicants and whether such practice promotes efficient and timely service of restraining and protective orders. SMC has neither the resources nor the expertise to conduct such a study. It is anticipated DAS would need to contract out with a firm that would be able to deploy field staff to all courthouses in the state to collect data on when orders are issued, served and why they are not served. It is estimated such data collection and analysis would cost DAS up to \$225,000.

Section 8 expands the crime of criminal possession of a firearm, ammunition, electronic defense weapon, pistol, or revolver, which carries with it a mandatory minimum two year sentence. There are currently 288 offenders incarcerated for criminal possession. In FY 14, there were a total of 875 violations and 504 resulted in conviction or plea bargain. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for probation and supervision in the community or incarceration would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as opposed to \$50,690 (including benefits) to incarcerate an offender. Criminal possession also carries with it a mandatory fine of \$5,000, which the court can reduce if it finds sufficient reason. In FY 14, a total of \$5,985 in fine revenue was collected. To the extent that the expanded offenses result in additional fines collected, the bill also results in potential revenue gain.

Sections 11-15 do not result in a fiscal impact to the Department of Emergency Services and Public Protection or the municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would

continue into the future subject to inflation.

Sources: *Department of Correction Summary of Offenders by Controlling Offense, as of 1/1/2015*
Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sSB 650*****AN ACT CONCERNING TEMPORARY RESTRAINING ORDERS.*****SUMMARY:**

This bill makes changes in various laws that relate to orders of protection (see BACKGROUND), service of process, and firearms and ammunition possession.

With regard to the service of civil restraining orders, the bill:

1. revises the application form for a civil restraining order to allow an applicant to indicate whether the accused holds a firearm eligibility certificate or an ammunition certificate;
2. requires (a) police officers, instead of state marshals or other proper officers, to serve process in certain circumstances and (b) the accused, where possible, to surrender any firearms or ammunition in his or her possession or control to the police at the time of service;
3. requires an expedited hearing for peace officers subject to an ex parte order (an order issued without a hearing);
4. reduces, from five to three, the number of days before a hearing date that process must be served; and
5. continues an ex parte order beyond the initial hearing date under certain circumstances.

The bill also (1) allows state marshals to access the Judicial Branch's Internet-based service tracking system (see BACKGROUND), (2) requires them to enter specific information into the system, and (3) increases the mileage expenses they may recover for serving process.

The bill requires the Judicial Branch to (1) revise and simplify the restraining order application process, (2) allocate space in the court for meetings between state marshals and restraining order applicants, and (3) annually collect restraining and protection order data.

It expands the state marshal commission's regulatory authority and requires the commission to study the Judicial Branch's "marshal of the day" practice (see BACKGROUND).

The bill extends certain firearms and ammunition prohibitions to a person subject to an ex parte order in cases involving physical force. It requires the Department of Emergency Services and Public Protection (DESPP) commissioner, upon the (1) request of a person who was subject to such an order and (2) verification of the order's expiration, to reinstate any gun permit, firearms eligibility certificate, or ammunition certificate revoked as a result of such an order, if the person is otherwise eligible for the credential.

It makes a person ineligible to possess firearms or ammunition when he or she receives legal notice of the ex parte order and makes it a class C felony for such a person to violate the firearms or ammunition transfer, delivery, or surrender requirements.

The bill also shortens, from two business days to 24 hours, the time period within which a person who is subject to any type of order of protection (see BACKGROUND) in a case involving physical force must transfer, deliver, or surrender his or her firearms and ammunition. It (1) adds the municipal police department, instead of just the State Police, as an option to receive the delivery or surrender of firearms and ammunition by those who are required to do so and (2) requires the DESPP commissioner to update the existing protocol to allow for such a surrender.

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2015, except the section on the state marshal commission's study is effective on passage.

§ 3 — CIVIL RESTRAINING ORDERS***Application***

Under current law, a civil restraining order application form must allow an applicant, at his or her option, to indicate whether the accused (respondent) holds a gun permit or possesses firearms or ammunition. Under the bill, the application form must also give the applicant the option to indicate whether the respondent holds a handgun eligibility certificate, long gun eligibility certificate, or an ammunition certificate.

Initial Hearing Date

Under existing law, the court must hold a hearing within 14 days after receipt of a restraining order application. The bill advances the hearing date when the respondent is a peace officer subject to an ex parte order. In such a case, the court must hold a hearing within five days after it issues the ex parte order. (The bill does not specify how the court will know that the respondent is a peace officer.)

The bill reduces, from five to three, the number of days before a hearing date by which a respondent must receive notice of a hearing and any ex parte order.

Under the bill, a photographic copy, micrographic copy, or other electronic image that clearly and accurately copies the application, the applicant's affidavit, any ex parte order, and the hearing notice is allowed when effectuating service of a civil restraining order.

Second Hearing Date and Ex Parte Order Extension

Under current law, an ex parte order is in effect until the hearing date, 14 days from the date of the order. The bill requires the court, unless the applicant requests otherwise, to continue an ex parte order if (1) service has not been made on the respondent by the date of the hearing and (2) the applicant attends the hearing. The bill requires the court, under such circumstances, to (1) continue the hearing to a date necessary to achieve service on the respondent and (2) extend any ex parte order until such date, but not more than 14 days from the

original hearing date.

Under the bill, the court must prepare a new hearing and notice order containing the new hearing date. The respondent must be served with the new hearing and notice order along with the original service documents by at least three days before the new hearing date. If service is not successful by the date of the second hearing, the ex parte order may not be continued.

Service by Police Officer

The bill limits service of process to police officers as the only authorized agents in cases where the court has issued an ex parte order on an application that indicates that the respondent (1) holds a gun permit, a handgun eligibility certificate, long gun eligibility certificate, or an ammunition certificate; or (2) possesses ammunition or one or more firearms. In such a case, the court must send, by fax or other means, the application, applicant's affidavit, ex parte order, and the hearing notice to the law enforcement agency for the town in which the respondent lives. The clerk must do so within two hours after the issuance of the ex parte order.

Under the bill, the law enforcement agency must receive all process directed to such agency, and a police officer from such agency must promptly serve process on the respondent in-hand and return service to the court.

As is required for other authorized agents under existing law, the bill requires a police officer to immediately notify (by fax or other means) the law enforcement agencies for the town in which the applicant and the respondent lives and the town where the applicant works of the date and time that service was made. Under the bill, police officers and other proper officers must, as soon as possible within two hours after serving a civil restraining order, enter the date, time, and method of service into the service tracking system. If service has not been effectuated prior to the date of the scheduled hearing, they must indicate in the system that service was unsuccessful.

Surrender of Firearms and Ammunition to the Police Officer

The bill requires the respondent to surrender all firearms and ammunition he or she owns or has in his or her control or possession to the police officer at the time the officer serves the order. If the firearms and ammunition cannot be surrendered at that time because they are not in the location where service is effectuated, the respondent must, within 24 hours after the time he or she is served, (1) transfer his or her firearms or ammunition to a federally licensed firearms dealer pursuant to a sale or (2) deliver or surrender such firearms and ammunition to the DESPP commissioner, the state police, or any municipal police department.

The bill specifies that when a police officer effectuates service, the information in the application or applicant's affidavit does not alone constitute grounds for an arrest for a family violence crime.

§ 1 — SERVICE TRACKING BY STATE MARSHALS

The bill requires a state marshal, when serving a civil restraining or protection order, to indicate whether or not he or she successfully served process. If service was successful, the marshal must also indicate the date, time, and place of service and whether service was made in-hand or to the last known address.

The bill allows state marshals to access the Judicial Branch's Internet-based service tracking system (see BACKGROUND). It requires them, as soon as possible within two hours after serving a civil restraining or protection order, to enter the date, time, and method of service into the system. If the person was not served before the date of the scheduled hearing, the marshal must indicate in the system that service was unsuccessful.

§§ 1 & 4 — MILEAGE EXPENSE FOR IN-HAND SERVICE OF PROCESS

By law, mileage expense for in-hand service of a civil restraining or protection order is computed for the round trip from the place where the authorized agent receives the process to the place of service and to

the court where the service is to be returned. The bill increases the mileage expenses an authorized agent, except a police officer, may recover for service of a civil restraining order by allowing him or her to charge mileage for up to two round trips as may be reasonably necessary to serve process on the respondent, with any additional fees authorized by a court for good cause, provided the service is effectuated. This increase does not apply to the service of civil protection orders.

By law, an authorized agent's mileage fee is the same as that set by the Department of Administrative Services for state employees.

§§ 5 & 6 — JUDICIAL BRANCH'S COURT SPACE AND APPLICATION PROCESS

Civil Restraining Order

The bill requires the chief court administrator, where feasible, to allocate space for a meeting between a state marshal and a restraining order applicant in each Superior Court to which the service of a restraining order may be returned.

The bill also requires the chief court administrator to revise and simplify the process for filing a restraining order application. Under the bill, the chief court administrator must ensure that anyone seeking to apply for relief from abuse is given a one-page, plain language explanation of how to apply for a civil restraining order. By law, a person must be a family or household member to seek relief under a civil restraining order. A non-household or non-family member may only apply for a civil protection order.

The above provisions do not apply to civil protection order applicants or that application process.

Civil Restraining and Civil Protection Orders

Under the bill, the chief court administrator must also collect data annually on the:

1. number of restraining or protection orders issued,

2. method used when service of such orders was successfully made, and
3. number of orders that expired or were dismissed because the respondent could not be served.

§§ 2 & 7 — STATE MARSHAL COMMISSION REGULATIONS AND STUDY

Under current law, the state marshal commission (1) may adopt rules it deems necessary to conduct its internal affairs and (2) must adopt regulations regarding the application and investigation requirements for filling vacant state marshal positions.

The bill further authorizes the commission to adopt regulations that provide for:

1. consistent and reliable access to a state marshal for civil restraining order applicants (but not for civil protection order applicants),
2. services to people with limited English proficiency or who are deaf or hearing impaired, and
3. service of process using a clear and accurate copy of the original document.

The bill requires the state marshal commission to study its "marshal of the day" practice, used for the collection, dissemination, and service of restraining and protective orders. The study must at least examine (1) whether the practice promotes efficient and timely service of restraining and protective orders and (2) the applicants' wait times. By February 1, 2016, the commission must report the study's results to the Judiciary Committee.

§ 8 — ELIGIBILITY TO POSSESS FIREARMS AND AMMUNITION

Under existing law, a person is ineligible to possess firearms and ammunition when the court issues a civil restraining or protection order against him or her after notice and a hearing in a case involving

the use, attempted use, or threatened use of physical force against another person.

Under the bill, in the same type of case, if the court issues an ex parte order, the person subject to the order (respondent) becomes ineligible to possess firearms and ammunition when he or she receives notice of the order.

§§ 8-11 — TRANSFER, DELIVERY, OR SURRENDER OF FIREARMS AND AMMUNITION

§ 8 — *Time Frame to Transfer, Deliver, or Surrender*

The bill shortens the time period within which a person must transfer, deliver, or surrender his or her firearms and ammunition if he or she becomes ineligible to possess them as a result of a civil restraining order, civil protection order, criminal protective order, or foreign order of protection. It also sets the shortened deadline for ex parte orders.

Under current law, the deadline is within two business days after the person becomes ineligible. Under the bill, the deadline is within 24 hours of becoming ineligible, including after receiving notice of an ex parte order.

§ 8 — *Delivery or Surrender to Police Departments*

The bill adds the municipal police department, instead of just the State Police, as an option to receive the delivery or surrender of firearms and ammunition by those who are required to do so.

It requires such police department, as is currently the case for the DESPP commissioner, to exercise due care when receiving and holding the weapons.

Under existing law, a person or his or her legal representative may, up to one year after delivery or surrender of his or her firearms or ammunition to DESPP, ask the commissioner to transfer them to an eligible person. By law the commissioner must do so within 10 days of receipt of the request (except in a case involving a protection order,

weapons may only be transferred to a federally licensed dealer pursuant to a sale). Under the bill, the same may be asked of police departments.

By law, the commissioner must destroy any firearms or ammunition that have not been transferred by the end of one year. Under the bill, this also applies to police departments to which weapons are delivered or surrendered.

§ 8 — Violation

Under the bill, a person who is ineligible as a result of an ex parte order who violates the transfer, delivery, or surrender requirement is guilty of criminal possession of a firearm, as is the case under existing law for violators subject to other orders of protection.

By law, criminal possession of a firearm is a class C felony, punishable by up to 10 years in prison, a fine of up to \$10,000, or both.

§ 11 — Protocol for Gun and Ammunition Transfer, Delivery, or Surrender

The law requires the DESPP commissioner, in conjunction with the chief state's attorney and the Connecticut Police Chiefs Association, to develop a protocol to ensure that people who become ineligible to possess firearms transfer, deliver, or surrender them as appropriate. Under the bill, the commissioner must update the protocol to (1) apply to a person who becomes ineligible to possess firearms due to the issuance of an ex parte order and (2) allow for the delivery and surrender of firearms and ammunition to municipal police.

§§ 12–15 — REINSTATEMENT OF GUN AND AMMUNITION CREDENTIALS

The bill requires DESPP to reinstate any gun permit, handgun eligibility certificate, long gun eligibility certificate, or ammunition certificate it revoked based on an ex parte order, if the order expires and

1. the respondent, who is not otherwise disqualified, notifies the

department and

2. DESPP verifies the expiration.

BACKGROUND

Orders of Protection

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

Civil Protection Order. 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).

Criminal Protective Orders. Courts may issue 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. 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 to prevent violence, threatening acts, or harassment against; contact or communication with; or physical proximity to another person issued by 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 (CGS § 46b-15a and 18 USC § 2266(5)).

Judicial Branch's Service Tracking System

The Judicial Branch's Protective Order Registry's tracking component enables state marshals to record the service of process in civil restraining order cases. This component uses an around-the-clock, toll-free voice recognition system that marshals can access by cell phone, and the system updates state and national protection order files and faxes a notice of service to corresponding police departments,

as soon as service information is recorded.

Marshal of the Day Practice

Under the “marshal of the day” practice, the state marshal commission assigns a state marshal responsible for service of process of restraining orders to each Judicial District for every court day.

Related Bills

sHB 6848, reported favorably by the Judiciary Committee, contains provisions related to ex parte orders and eligibility to possess firearms and ammunition.

sHB 7004, reported favorably by the Judiciary Committee, contains provisions related to the service of restraining orders.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 22 Nay 18 (04/11/2015)