



**2021 Edition**

# Domestic Violence and Civil Protection Orders in Connecticut

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A Guide to Resources in the Law Library

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## **Domestic Violence Hotline:**

1-888-774-2900 (English)  
1-844-831-9200 (Spanish)

*Prepared by Connecticut Judicial Branch, Superior Court Operations, Judge Support  
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References to online legal research databases refer to in-library use of these databases. Remote access is not available.

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# Introduction

## A Guide to Resources in the Law Library

- **Family violence:** “means 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, but not limited to, stalking or a pattern of threatening, between family or household members. Verbal abuse or argument does not constitute family violence unless there is present danger and the likelihood that physical violence will occur.” Conn. Gen. Stat. § [46b-38a](#)(1) (2021).
- **Family or household member:** “means any of the following persons, regardless of the age of such person: (A) Spouses or former spouses; (B) parents or their children; (C) persons related by blood or marriage; (D) persons other than those persons described in subparagraph (C) of this subdivision presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or who have recently been in, a dating relationship.” Conn. Gen. Stat. § [46b-38a](#)(2) (2021).
- **Family violence crime:** “means a crime as defined in section 53a-24, other than a delinquent act, as defined in section 46b-120, which, in addition to its other elements, contains as an element thereof an act of family violence to a **family or household member**. ‘Family violence crime’ does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse.” Conn. Gen. Stat. § [46b-38a](#)(3) (2021).
- **Restraining orders vs. protective orders:** “**Restraining orders** differ from protective orders in that the former are civil and can be issued without the accused person being arrested. **Protective orders** in a family violence situation are criminal and are issued after the accused has been arrested for committing a **family violence crime**.” [OLR Bill Analysis substitute Senate Bill 334](#) (October 1, 2002). (Emphasis added.)
- **Civil Protection Order:** “Any person who has been the victim of sexual abuse, sexual assault or stalking may make an application to the Superior Court for relief under this section, provided such person has not obtained any other court order of protection arising out of such abuse, assault or stalking and does not qualify to seek relief under section 46b-15. **As used in this section, ‘stalking’** means two or more wilful acts, performed in a threatening, predatory or disturbing manner of: Harassing, following, lying in wait for, surveilling, monitoring or sending unwanted gifts or messages to another person directly, indirectly or through a third person, by any method, device or other means, that **causes such person to reasonably fear for his or her physical safety**.” Conn. Gen. Stat. § [46b-16a](#)(a) (2021).

# Section 1: Family Violence Restraining Order

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to a family violence restraining order issued under Conn. Gen. Stat. [§ 46b-15](#) (2021).

## **DEFINITIONS:**

- **Restraining orders in a family violence situation:** "Restraining orders differ from protective orders in that the former are civil and can be issued without a person being arrested." [OLR Bill Analysis substitute Senate Bill 334](#) (October 1, 2002).
- **Application for relief from abuse:** "(a) Any family or household member, as defined in section 46b-38a, who has been subjected to a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening, including, but not limited to, a pattern of threatening, as described in section 53a-62, by another family or household member may make an application to the Superior Court for relief under this section." Conn. Gen. Stat. [§ 46b-15](#)(a) (2021).
- **Affidavit:** "The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought." Conn. Gen. Stat. [§ 46b-15](#)(b) (2021).
- **Relief:** "The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit....Such orders may include temporary child custody or visitation rights, and such relief may include, but is not limited to, an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal." Conn. Gen. Stat. [§ 46b-15](#)(b) (2021).
- **Ex parte order:** "If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate." Conn. Gen. Stat. [§ 46b-15](#)(b) (2021).
- **Time limitation:** "No order of the court shall exceed one year, except that an order may be extended by the court upon motion of the applicant for such additional time as the

court deems necessary.” Conn. Gen. Stat. [§ 46b-15](#)(g) (2021).

- **Other remedies:** “An action under this section shall not preclude the applicant from seeking any other civil or criminal relief.” Conn. Gen. Stat. [§ 46b-15](#)(k) (2021).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).  
Chapter 815a. Orders of Protection and Relief  
[§ 46b-15](#). Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Service of application, affidavit, any ex parte order and notice of hearing. Copies. Expedited hearing for violation of order. Other remedies.  
[§ 46b-15a](#). Foreign order of protection. Full faith and credit. Enforcement. Affirmative defense. Child custody provision. Registration.  
[§ 46b-15b](#). Duties of Superior Court re applicants for restraining orders in domestic violence situations.  
[§ 46b-15c](#). Powers of court in family relations matter re taking out-of-court testimony when one party is subject to a protective order, restraining order or standing criminal restraining order. Videoconference hearings permitted. Oaths. Cross-examination.  
[§ 46b-15d](#). Courthouse space allocation for meeting between person seeking service of hearing notice and order and proper officer.  
[§ 46b-15e](#). Chief Court Administrator’s responsibilities re applications for restraining orders and collection of data relating to restraining orders and civil protection orders.  
[§ 46b-16](#). Petition to Superior Court for ex parte order re temporary care and custody of child when parent arrested for custodial interference. Duration of order.  
[§ 46b-38a](#). Family violence prevention and response: Definitions.  
  
Chapter 945. Crimes  
[§ 53-247](#). Cruelty to animals. Animals engaged in exhibition of fighting. Intentional injury or killing of police animals or dogs in volunteer canine search and rescue teams.  
  
Chapter 952. Penal code: Offenses  
[§ 53a-107](#). Criminal trespass in the first degree: Class A misdemeanor.  
[§ 53a-223b](#). Criminal violation of a restraining order: Class D Felony

**PUBLIC ACT  
HISTORY:**

- [2017 Conn. Acts 163](#) § 1 (Effective January 1, 2018)
- [2017 Conn. Acts 237](#) § 112 (Effective July 1, 2017)
- [2016 Conn. Acts 34](#) §§ 3-5 (Effective October 1, 2016)
- [2016 Conn. Acts 105](#), §§ 4-5 (Effective October 1, 2016)
- [2014 Conn. Acts 234](#), §§ 3-7,10-11 (Effective October 1, 2014)
- [2014 Conn. Acts 217](#), §§ 120-128,191 (Effective January 1, 2015.)
- [2013 Conn. Acts 194](#), § 2 (Effective October 1, 2013)
- [2013 Conn. Acts. 3](#), §§ 36-38 (Effective October 1, 2013)
- [2012 Conn. Acts 114](#) (Effective October 1, 2012)
- [2010 Conn. Acts 144](#) (Effective October 1, 2010)
- [2007 Conn. Acts 78](#) (Effective October 1, 2007)
- [2005 Conn. Acts 152 § 3](#) (Effective October 1, 2005)

**FORMS:**

- [Filing an Application for a Restraining Order](#)
- [JD-FM-137](#). Application for Relief from Abuse
- [JD-FM-138](#). Affidavit – Relief from Abuse
- [JD-FM-164](#). Affidavit Concerning Children
- [JD-FM-233](#). Supplemental Affidavit and Request for Orders of Maintenance

**OLR REPORTS:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- Michelle Kirby, Senior Legislative Attorney, *Restraining Orders and Gun Possession*, Connecticut General Assembly, Office of Legislative Research Report No. [2017-R-0072](#) (February 24, 2017).
- Michelle Kirby, Senior Legislative Attorney, *2016 Domestic Violence Laws*, Connecticut General Assembly, Office of Legislative Research Report No. [2016-R-0243](#) (October 7, 2016)
- Michelle Kirby, Senior Legislative Attorney, *Domestic Violence and Mental Health Provisions in Recent Laws*, Connecticut General Assembly, Office of Legislative Research Report No. [2016-R-0231](#) (October 5, 2016)
- Veronica Rose, Chief Analyst, *Firearm Possession and Domestic Violence Restraining or Protective Orders and Convictions*, Connecticut General Assembly, Office of Legislative Research Report No. [2014-R-0181](#) (July 31, 2014)
- Sandra Norman-Eady, Chief Attorney, *Summary of Family Violence Laws*, Connecticut General Assembly. Office of Legislative Research Report No. [2009-R-0349](#) (October 2, 2009)
- Sandra Norman-Eady, Chief Attorney, *Protective Orders*, Connecticut General Assembly, Office of Legislative Research Report No. [2007-R-0567](#) (September 27, 2007) "None of the orders require crime victims to keep their distance from abusers or potential abusers. Restraining orders are civil orders."

### **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your [local law librarian](#) to learn about the tools available to you to update cases.

- Sandra Norman-Eady, Chief Attorney, *Restraining Orders*, Connecticut General Assembly. Office of Legislative Research Report No. [2005-R-0861](#) (December 8, 2005).
- [D. S. v. R. S.](#), 199 Conn. App. 11, 234 A.3d 1150 (2020). "Consistent with this court's decision in *Princess Q. H.*, we note that the trial court's reference to the statutory definition of stalking was incorrect. The narrower statutory definition set forth in § 53a-181d, however, is not inconsistent with the common understanding of stalking relied on by this court in *Princess Q. H.* We further note that, in *Princess Q. H.*, this court intentionally articulated a broader standard of stalking in the civil protection order context than the one employed in the criminal context. See [Princess Q. H. v. Robert H.](#), supra, 150 Conn. App. 115. Accordingly, evidence establishing that the defendant's conduct met the criminal standard of stalking is more than sufficient to satisfy the civil standard. In other words, in proving the requisite elements of the criminal definition, the elements of the civil definition necessarily are satisfied." (p. 20)

"In light of the foregoing, including the court's findings and the breadth afforded the definition of stalking espoused in *Princess Q. H.*, we cannot conclude that the court erred when it continued the restraining order against the defendant as it pertains to the child." (p. 21)
- [Tala E. H. v. Syed I.](#), 183 Conn. App. 224, 247, 192 A.3d 494 (2018). "On the basis of our review of the record and the court's oral decision, we conclude that the court did not abuse its discretion in continuing the protective order for six months. The court's decision indicates that it was predicated upon its findings that the defendant sent the plaintiff hundreds of obsessive text messages, went to the homes of her male companion and her family, visited her workplace, used security cameras to keep track of her, sent her text messages questioning her about the time she came and went, and placed a tracking device on the car he permitted her to use to find her location. Such acts constituted stalking under § 46b-15."
- [Faticanti v. Faticanti](#), Superior Court, Judicial District of Tolland at Rockville, No. TTD-FA-184024765-S, (May 11, 2018) (2018 WL 2418807) (2018 Conn. Super. LEXIS) "First, it should be noted that when the restraining order was issued in *Put[man] v. Kennedy* in 2004, Section 46b-15 was different than the current statute that is applicable in the present case. Specifically, the statute in effect in 2004 provided relief if a family or household member was able to establish **that he or she was 'subjected to a continuous threat of present physical pain or physical injury by the other person.'** **General Statutes (Rev. to 2003) § 46b-15(a).** The statute was amended in 2011 to include additional conduct,

namely, stalking and a pattern of threatening, such that if either were established, then it would warrant the issuance of a restraining order. See General Statutes (Rev. to 2011) § 46b-15(a). Section 46b-15 also was amended in 2012 to clarify that a pattern of threatening conduct would include, **but is not limited to, 'a pattern of threatening, as described in section 53a-62 ...'** See General Statutes (Rev. to 2012) § 46b-15(a).

At the time the restraining order was issued in *Put[man] v. Kennedy*, the applicant was limited to proving that the proposed protected parties had been subjected to a continuous threat of present physical pain or physical injury. In this case, the applicant was not so limited. Based upon the changes in the statute between 2004 and 2018, the applicant was entitled to relief if she established that she had been subjected to (1) a continuous threat of present physical pain or physical injury; *or*, (2) stalking; *or*, (3) a pattern of threatening, including, but not limited to, a pattern of threatening, as described in section 53a-62. See, e.g., *Princess Q.H. v. Robert H.*, *supra*, 150 Conn. App. 117 (trial court found respondent had engaged in stalking and a pattern of threatening; when a respondent engages in either type of conduct described in Section 46b-15(a), then the statute affords relief to the victim)."

- *State v. Elmer G.*, 176 Conn. App. 343, 359-60, 170 A.3d 749 (2017). "To convict a defendant of criminal violation of a restraining order, the state must prove beyond a reasonable doubt that a restraining order was issued against the defendant and that the defendant, having knowledge of the terms of the order, contacted a person in violation of the order. General Statutes § 53a-223b(a)(2)(B); *State v. Carter*, 151 Conn. App. 527, 534-35, 95 A.3d 1201 (2014), appeal dismissed, 320 Conn. 564, 132 A.3d 729 (2016) (certification improvidently granted).
- *Jordan M. v. Darric M.*, 168 Conn. App. 314, 319, 146 A.3d 1041 (2016). "A review of the evidence presented at the September 4 and September 15, 2015 hearings regarding the restraining order reveals that there was no evidence of a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening.... 'The plain language of § 46b-15 clearly requires a continuous threat of present physical pain or physical injury before a court can grant a domestic violence restraining order.' *Krystyna W. v. Janusz W.*, 127 Conn. App. 586, 590, 14 A.3d 483 (2011).... The defendant's behavior, although wrongfully and flagrantly in violation of the court's August 21, 2015 orders, and not to be condoned, does not satisfy the elements of § 46b-15. Accordingly, we conclude that the court improperly granted the restraining order against the defendant."



- Sulpasso v. Sulpasso, Superior Court, Judicial District of New Haven, No. NNH-FA16-4068976 (July 27, 2016) (2016 WL 4497728) (2016 Conn. Super. LEXIS 2047). "The question presented is whether a restraining order pursuant to Gen. statutes section 46b-15 can issue on the basis of a court finding that the respondent had engaged in stalking as the term is commonly understood, even though [s]he had not engaged in stalking in violation of Connecticut Gen. statutes section 53a-181d....**Thus, one need not engage in behaviors** which would lead to *criminal* prosecution under General Statutes § 53a-181 before a court can issue a *civil* restraining order (emphasis provided)."
- Wendy V. v. Santiago, 319 Conn. 540, 545, 125 A.3d 983, 986 (2015). "The appeals here are moot because no practical relief can be afforded to the plaintiff. Simply put, the relief the plaintiff is requesting is a hearing and she has already received that hearing. The plaintiff, however, claims that in the context of family violence restraining orders, the issue of the denial of an application without a hearing falls within an exception to the mootness doctrine because it is capable of repetition, yet evading review. See State v. Boyle, supra, 287 Conn. at 487 n. 3, 949 A.2d 460 ('an otherwise moot question may qualify for [appellate] review under the capable of repetition, yet evading review exception [to the mootness doctrine]' [emphasis added; internal quotation marks omitted] ); see also Loisel v. Rowe, 233 Conn. 370, 378-87, 660 A.2d 323 (1995) (mootness doctrine and capable of repetition, yet evading review exception, discussed). We disagree that the exception is applicable here."
- Angiollo v. Angiollo, Superior Court, Judicial District of New Haven, No. NNH-FA14-4061466, (Aug. 25, 2014) (2014 WL 4816874) (2014 Conn. Super. LEXIS 2082). "In granting the restraining order application filed on behalf of Ava, the court also considered the fact that by Ava witnessing her father striking Luca, it caused Ava to be in fear of her father. The court also considered the fact that Ava would have concern that it might happen again, either to Luca or to Ava. The striking or hitting was with such force that the incident left bruising on Luca's buttocks. Ava's behavior after the incident, as described by Ms. Severino, is consistent with a child in fear. The court considered the fact that exposing a child to domestic violence, even if that child is not the victim of the violence, is sufficient to establish neglect. See In Re Tayler F., 296 Conn. 524, 995 A.2d 611 (2010) (Hearsay statements which formed the basis of court's finding of neglect, including the fact that children had witnessed domestic violence, were properly admitted where the children were emotionally unavailable to testify.)"
- Princess Q.H. v. Robert H., 150 Conn. App. 105, 89 A.3d 896 (2014) "'Stalking' is defined as '[t]he act or an instance of

following another by stealth.... The offense of following or loitering near another, often surreptitiously, to annoy or harass that person or to commit a further crime such as **assault or battery.**' Black's Law Dictionary (9th Ed. 2009). To **'loiter' means 'to remain in an area for no obvious reason.'** Merriam-Webster's Collegiate Dictionary (11th Ed.2011). We interpret the statute in accordance with these commonly accepted definitions, satisfied that the plain meaning of the statute does not yield an unworkable or absurd result. We reject the defendant's reliance on the narrower definitions of stalking codified in our Penal Code. In so doing, we are mindful that our legislature reasonably may have chosen to rely on a narrower definition of stalking in delineating criminal liability, while deciding that a broader definition of stalking was appropriate in the dissimilar context of affording immediate relief to victims under § 46b-15. See [Putman v. Kennedy](#), 104 Conn.App. 20, 25-26, 932 A.2d 439 (2007) ('[t]he legislature promulgated § 46b-15 to provide an expeditious means of relief for abuse victims')." (p. 115)

"...[W]e conclude that the court did not abuse its discretion in concluding in the context of all the evidence presented to it **that the defendant's conduct in driving past her home, turning around, and immediately driving past her home a second time constituted an act of stalking.**" (p. 116)

- [Rosemarie B.-F. v. Curtis P.](#), 133 Conn. App. 472, 477, 38 A.3d 138 (2012) **"In the defendant's view, the events that occurred on February 19, 2011, no matter how probative of his misconduct, were insufficient to support the court's judgment because the only other facts of record were protective orders that had been issued many years earlier. [Putman v. Kennedy](#), 104 Conn App. 26, 34, 932 A.2d 434 (2007), cert. denied, 285 Conn. 909, 940 A.2d 809 (2008), clearly holds that one incident, combined with a finding that a respondent presently poses a continuous threat, is sufficient to satisfy § 46b-15."**
- [Krystyna W. v. Janusz W.](#), 127 Conn. App. 586, 592, 14 A.3d 483 (2011). **"The defendant's final claim is that the court exceeded its statutory authority under § 46b-15 by extending the protection of the restraining order to the adult daughter. The defendant argues that the daughter, because she was not a minor, was required to make her own application for a restraining order under the statute in order to be afforded such protection. We disagree. As previously noted, the express language of § 46b-15 (b) provides in relevant part that '[t]he court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. . . .' (Emphasis added.) "**

- Angelia V. v. Timothy A., Superior Court, Judicial District of New London at Norwich, No. FA 07-411365S (January 4, 2011) (2011 WL 522013) (2011 Conn. Super. LEXIS 89). “In ***Rondeau v. Parenteau***, 2010 Conn. Super. Lexis 263 [49 Conn. L. Rptr. 287] (2010, dos Santos, J.), the court, permitted a permanent restraining order. The court in ***Allshouse v. Farmer***, 1997 Ct. Sup. 2220 [19 Conn. L. Rptr. 4] (1997, Tierney, J.), likewise found that under certain circumstances, a court may enter a permanent civil restraining order. Finally, the court in ***Toal v. Toal***, 2008 Ct. Sup. 3738 (2008, Gordon, J.), permanently extended a restraining order.”
- Putman v. Kennedy, 104 Conn. App. 20, 25, 932 A.2d 439 (2007). “We agree with the defendant that the court improperly issued the restraining order under § 46b-15. Although the court had a reasonable concern that the **defendant’s actions may have endangered the daughters** that concern does not fall within the plain meaning of the statute. Section 46b-15 specifically requires a direct causal link between the defendant and the continuous threat of physical harm to the subject. See Putman v. Kennedy, *supra*, 279 Conn. at 171, 900 A.2d 1256 (‘domestic violence restraining orders will not issue in the absence of the showing of a threat of violence’). The legislature promulgated § 46b-15 to provide an expeditious means of relief for abuse victims. See *id.*, 172. It is not a statute to provide a remedy in every custody and visitation dispute, however urgent.”
- Putman v. Kennedy, 104 Conn. App. 26, 34, 932 A.2d 434 (2007). “Furthermore, neither a pattern of abuse nor the **son’s subjective fear of the defendant is a requirement for the finding of a continuous threat**. Had the legislature intended these factors to be requirements, the statute would have stated so explicitly.’ See Farmers Texas County Mutual v. Hertz Corp., 282 Conn. 535, 546–47, 923 A.2d 673 (2007) (‘[i]t is well settled that we decline to engraft additional requirements onto clear statutory language’ [internal quotation marks omitted]); see also Fedus v. Planning & Zoning Commission, 278 Conn. 751, 770 n.17, 900 A.2d 1 (2006) (noting that legislature knows how to enact legislation consistent with its intent).”
- Putman v. Kennedy, 279 Conn. 162, 172, 900 A.2d 1256 (2006). “...in the sensitive and often explosively litigated context of family dysfunction and dissolution, there is a reasonable possibility that a domestic violence restraining order will have prejudicial collateral legal consequences for its subject, even after its expiration. Accordingly, the subject of an improperly rendered domestic violence restraining order is likely to benefit from the vacatur of that order, and dismissal of his or her appeal as moot solely on the basis of **that order’s expiration is improper**.”

"Accordingly, we conclude that it is reasonably possible that adverse collateral consequences of the domestic violence restraining orders may occur, and, therefore, the defendant's appeals are not rendered moot by virtue of the expiration of the orders during the pendency of the appeals.<sup>14</sup> Link to the text of the note The Appellate Court, therefore, should have considered the merits of the defendant's appeals, rather than dismissing them as moot." [p. 176]

- Woods v. Berritieri, Superior Court, Judicial District of Tolland at Rockville, No. TTD FA04 4000071 (Oct. 31, 2005) (2005 WL 3112755) (2005 Conn. Super. LEXIS 2988). **"General Statutes § 46b-15 provides relief to any family member as defined in § 46b-38a who has been subjected to continuous threat of physical pain or physical injury by another family member. The statute provides the Court with the power to extend orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the Court sees fit."**
- Lawlor v. Curry, Superior Court, Judicial District of New Haven, No. FA 05-4006931S (Feb. 4, 2005) (2005 WL 647651) (2005 Conn. Super. LEXIS 378). **"This court would not have entered an ex parte temporary restraining order if it had been aware of the pending New Hampshire proceeding; and it therefore vacates the temporary restraining order, effective upon notice to both parties."**
- Odom v. Odom, Superior Court, Judicial District of Middletown, No. FA 02-0097864S, (Apr. 30, 2002) (32 Conn. L. Rptr. 116, 117) (2002 WL 1042492) (2002 Conn. Super. LEXIS 1511). **"In extending the statute to encompass dating relationships, the legislature has thus shown that restraining orders are intended to apply to those in familial, or quasi-familial relationships, ones that have aspects of intimacy, or repeated contact, or personal familiarity in ways that differ from mere friendship: 'a relationship which is more than - certainly more than strangers or more than a casual friend, some type of personal relationship that goes beyond the run of the mill acquaintance-type situation.'** ([H.R. Proceedings, 1999 Sess., May 28, 1999] Id. at 3554.) The entire legislative scheme is intended to offer legal protection to people where the threat or risk of violence derives from the powerful feelings that can occur in these intimate personal relationships."

..."This court thus concludes that the restraining order statute is indeed applicable to protect one former sister-in-law against a former sister-in-law. Their relationship arose out of marriage, but though matrimony has ended, the 'affinity' of the parties survives." (p. 117)

- Carroll v. Carroll, Superior Court, Judicial District of Hartford, No. FA 99-104387, (July 26, 1999) (1999 WL 596382) (1999 Conn. Super. LEXIS 2055). **"Lastly, since this action began as a 46b-15 application, the court finds that the intent of this statute was to protect the citizens of Connecticut from conduct alleged in the application. The court may fashion any orders it deems appropriate under the statute. This may include the limitation or denial of custody and visitation for a minor child if the Court feels that there is a fear of immediate physical harm."**
- Kulak v. Grant, Superior Court, Judicial District of Hartford, No. FA 98 0103760S, (Nov. 29, 1999) (1999 WL 1207152) (1999 Conn. Super. LEXIS 3230). **"The statute authorizing the issuance of civil restraining orders provides that the court may impose such sanctions as it deems appropriate for contempt of the order. Connecticut General Statutes, Section 46b-15(g). These include, attorney's fees and costs. Connecticut General Statutes, Section 52-256b. To find a party in contempt, the court must find that a person has disobeyed an order of the court, Fitzgerald v. Fitzgerald, 16 Conn. App. 548, 551 (1988)."**

### **Selected Federal Cases**

- Thurman v. City of Torrington, 595 F. Supp. 1521 (1984).
- DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189, 109 S. Ct. 998, 103 L.Ed. 2d 249 (1989).

### **WEST KEY NUMBER:**

- Protection of Endangered Persons
  - # 70 et seq. Protection orders in general
  - # 75 et seq. Domestic abuse orders in general
  - # 90 et seq. Enforcement in general
- Criminal Law
  - # 474.4(3) Battered or abused women or spouses

### **ENCYCLOPEDIAS:**

- 25 Am. Jur. 2d *Domestic Abuse and Violence*, Thomson West, 2014 (Also available on Westlaw).
  - I. In General
  - II. Persons Within the Scope of Statutes; Protected Persons
  - III. Authority and Jurisdiction of Courts to Grant Relief
  - IV. Scope of Relief
  - VI. Orders in General
  - VII. Appeal and Review of Orders of Protection
  - VIII. Violation of Order
- 24 Am. Jur. 2d *Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).
  - §§ 39-42. Physical violence or threat of violence

- 28 C.J.S. *Domestic Abuse and Violence*, Thomson West, 2019 (Also available on Westlaw).
  - I. In General
  - II. Protected Persons
  - III. Authority and Jurisdiction to Grant Relief; Scope of Relief
  - IV. Actions, Trial, and Determination
  - V. Orders
  - VI. Review
  - VII. Violation of Order
- *Cause of Action for Modification of Child Custody or Visitation Arrangement Based on Abuse of Child*, 6 COA 2d 287 (1994).

### **TREATISES:**

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- *7 Connecticut Practice Series: Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin and Kathleen A. Hogan, 2010, Thomson West, with 2020-2021 supplement (also available on Westlaw).
  - § 22.2 Family violence and relief from abuse
  - § 22.3 Application for relief from abuse—Procedure
  - § 22.4 Application for relief from abuse—Form
  - § 22.5 Scope of relief available under C.G.S.A. §46b-15
  - § 22.6 Enforcement of orders under C.G.S.A. §46b-15
- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Addicus Books, 2014. Chapter 7. Emergency: When You Fear Your Spouse

### **PAMPHLETS:**

- [How to Ask for a Restraining Order](#) – CT Network for Legal Aid (includes information on extending a restraining order)
- [Domestic Violence and Temporary Family Assistance](#) – CT Network for Legal Aid

### **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

- Jessica Miles, *Straight Outta SCOTUS: Domestic Violence, True Threats, And Free Speech*, 74 U. Miami L. Rev. 711 (Spring 2020).
- Jane K. Stoeber, *Enjoining Abuse: the Case for Indefinite Domestic Violence Protection Orders*, 67 Vanderbilt Law Review 1015 (May 2014).
- Carol A. Bruch, [The Unmet Needs Of Domestic Violence Victims And Their Children In Hague Child Abduction Convention Cases](#), 38 Family Law Quarterly 529 (Fall 2004).

## Section 2: Family Violence Protective Order

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to family violence protective order under Conn. Gen. Stats. §§ 46b-38b and 46b-38c and standing criminal protective orders.

### **DEFINITION:**

- **Protective orders in a family violence situation:** “are criminal and are issued after the accused has been arrested for committing a family violence crime.” [OLR Bill Analysis substitute Senate Bill 334](#) (October 1, 2002).
- **Arrest:** (a) Except as provided in subsections (b) and (c) of this section, whenever a peace officer determines upon speedy information that a family violence crime has been committed within such officer's jurisdiction, such officer shall arrest the person suspected of its commission and charge such person with the appropriate crime. The decision to arrest and charge shall not (1) be dependent on the specific consent of the victim, (2) consider the relationship between persons suspected of committing a family violence crime, or (3) be based solely on a request by the victim. Conn. Gen. Stat. § [46b-38b](#)(a) (2021).
- **Dominant Aggressor:** “When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor. In determining which person is the dominant aggressor, the peace officer shall consider the need to protect victims of domestic violence, whether one person acted in defense of self or a third person, the relative degree of any injury, any threats creating fear of physical injury, and any history of family violence between such persons, if such history can reasonably be obtained by the peace officer. The peace officer shall arrest the person whom the officer believes to be the dominant aggressor.” Conn. Gen. Stat. § [46b-38b](#)(b) (2021).
- “Family or household member” means any of the following persons, regardless of the age of such person: (A) Spouses or former spouses; (B) parents or their children; (C) persons related by blood or marriage; (D) persons other than those persons described in subparagraph (C) of this subdivision presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or who have recently been in, a dating relationship. Conn. Gen. Stat. § [46b-38a](#)(2) (2021).

- **"Family violence" means 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, but not limited to, stalking or a pattern of threatening, between family or household members. Verbal abuse or argument does not constitute family violence unless there is present danger and the likelihood that physical violence will occur.** Conn. Gen. Stat. [§ 46b-38a](#)(1) (2021).
- **"Family violence crime" means a crime as defined in section 53a-24, other than a delinquent act, as defined in section 46b-120, which, in addition to its other elements, contains as an element thereof an act of family violence to a family or household member. "Family violence crime" does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse.** Conn. Gen. Stat. [§ 46b-38a](#)(3) (2021).
- **Firearm at scene of domestic violence:** Whenever a peace officer determines that a family violence crime has been committed, such officer may seize any firearm or electronic defense weapon, as defined in section 53a-3, or ammunition at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission or that is in plain view. Not later than seven days after any such seizure, the law enforcement agency shall return such firearm, electronic defense weapon or ammunition in its original condition to the rightful owner thereof unless such person is ineligible to possess such firearm, electronic defense weapon or ammunition or unless otherwise ordered by the court. Conn. Gen. Stat. [§ 46b-38b](#)(a) (2021).
- **"Institutions and services" means peace officers, service providers, mandated reporters of abuse, agencies and departments that provide services to victims and families and services designed to assist victims and families.** Conn. Gen. Stat. [§ 46b-38a](#)(4) (2021).
- **Nolle Prosequi:** "For any family violence case initiated on or after July 1, 2016, that is not referred to the local family violence intervention unit as provided in subsection (g) of section 46b-38c, the prosecuting authority shall not enter a nolle prosequi as to any charge of a family violence crime, as defined in section 46b-38a, unless the prosecuting authority states in open court his or her reasons for the nolle prosequi and, if the reasons include consideration of the defendant's participation in a counseling or treatment program, a representation that such counseling or treatment program complies with the program standards promulgated under section 46b-38l." Conn. Gen. Stat. [§ 54-56o](#) (2021).



- **Operational Guidelines for Arrest:** "Each law enforcement agency shall develop, in conjunction with the Division of Criminal Justice, and implement specific operational guidelines for arrest policies in family violence incidents. Such guidelines shall include, but need not be limited to: (A) Procedures for the conduct of a criminal investigation; (B) procedures for arrest and for victim assistance by peace officers; (C) education as to what constitutes speedy information in a family violence incident; (D) procedures with respect to the provision of services to victims; and (E) such other criteria or guidelines as may be applicable to carry out the purposes of sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, and 54-1g. Such procedures shall be duly promulgated by such law enforcement agency. On and after October 1, 2012, each law enforcement agency shall develop and implement specific operational guidelines for arrest policies in family violence incidents which, at a minimum, meet the standards set forth in the model law enforcement policy on family violence established in subdivision (2) of this subsection." Conn. Gen. Stats. § [46b-38b](#)(g)(1) (2021).

#### **PUBLIC ACT:**

- [P.A. 18-5](#), *An Act Concerning Dual Arrests and the Training Required of Law Enforcement Personnel with Respect to Domestic Violence*. ([OLR Summary](#))

#### **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021)
  - Chapter 815a – Orders of Protection and Relief
    - [§ 46b-15c](#). Powers of court in family relations matter re taking out-of-court testimony when one party is subject to a protective order, restraining order or standing criminal restraining order. Videoconference hearings permitted. Oaths. Cross-examination.
  - Chapter 815e- Marriage
    - [§ 46b-38a](#). Family violence prevention and response: Definitions.
    - [§ 46b-38b](#). Investigation of family violence crime by peace officer. Arrest. Assistance to victim. Guidelines. Compliance with model law enforcement policy on family violence. Education and training program. Assistance and protocols for victims whose immigration status is questionable. Exceptions.
    - [§ 46b-38c](#). Family violence response and intervention units. Local units. Duties and functions. Protective orders. Electronic monitoring pilot program. Pretrial family violence education program.
    - [§ 46b-38d](#). Family violence offense report by peace officer. Compilation of statistics by

Commissioner of Public Safety. Report to Governor and General Assembly.

[§ 46b-38f](#). Statistical summary of family violence cases maintained by Family Division. Reports.

[§ 46b-38g](#). Programs for children impacted by domestic violence.

[§ 46b-38h](#). Designation of conviction of certain crimes as involving family violence for purposes of criminal history record information.

Chapter 882 – Superior Court

[§ 51-181e](#). Domestic violence dockets.

Chapter 952 – Penal Code: Offenses

[§ 53a-40d](#). Persistent offenders of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order, criminal violation of a standing criminal protective order or criminal violation of a restraining order. Authorized sentences.

[§ 53a-40e](#). Standing criminal protective orders.

[§ 53a-223](#). (Formerly Sec. 53a-110b). Criminal violation of a protective order: Class D or class C felony.

[§ 53a-223a](#). Criminal violation of a standing criminal protective order: Class D Felony.

[§ 53a-223b](#). Criminal violation of a restraining order: Class D Felony.

Chapter 959 – Court Jurisdiction and Power

[§ 54-1k](#). Issuance of protective orders in cases of stalking, harassment, sexual assault, risk of injury to or impairing morals of a child.

Chapter 960 – Information, Procedure and Bail

[§ 54-63c](#). Release by law enforcement officer.

[§ 54-63d](#). Release by bail commissioner. Information, files and reports held by Court Support Services Division.

## **Mashantucket Pequot Tribal Laws**

[Title 2](#). Criminal Law

Chapter 2. Restraining Orders

§ 1. Relief from Abuse by Family or Household Member

§ 2. Court Orders, Duration

§ 3. Extension of an Order

§ 4. Service

§ 5. Contempt and Violation

## **REGULATIONS:**

- Regulations of Connecticut State Agencies  
Department of Public Safety  
Duties of Peace Officers  
[§ 54-222a-1](#). Responsibilities of peace officers

You can visit your local law library or browse the [Connecticut eRegulations System](#) on the Secretary of the State website.

### **OLR REPORTS:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

[§ 54-222a-2](#). Victim suffering physical injury to receive victim assistance card

[§ 54-222a-3](#). Other victims shall receive a victim assistance card

- Katherine Dwyer, Associate Attorney, *Address Confidentiality Program*, Office of Legislative Research, Report No. [2018-R-0188](#) (August 3, 2018).
- Michelle Kirby, Senior Legislative Attorney, *Domestic Violence and Mental Health Provisions in Recent Laws*, Connecticut General Assembly, Office of Legislative Research Report No. [2016-R-0231](#) (October 5, 2016)
- Veronica Rose, Chief Analyst, *Firearm Possession and Domestic Violence Restraining or Protective Orders and Convictions*, Connecticut General Assembly, Office of Legislative Research Report No. [2014-R-0181](#) (July 31, 2014)
- Sandra Norman-Eady, Chief Attorney, *Summary of Family Violence Laws*, Connecticut General Assembly. Office of Legislative Research Report No. [2009-R-0349](#) (October 2, 2009)
- Sandra Norman-Eady, Chief Attorney, *Protective Orders*. Connecticut General Assembly, Office of Legislative Research Report No. [2007-R-0567](#) (2007). "None of the orders require crime victims to keep their distance from abusers or potential abusers."

### **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [State v. Cheryl J.](#), 203 Conn. App. 742, 743, \_ A.3d \_ (2021). "The defendant, Cheryl J., appeals from the judgment of the trial court finding her guilty of criminal violation of a protective order in violation of General Statutes § 53a-223. On appeal, the defendant claims that (1) the evidence before the trial court was insufficient to prove that she had the requisite intent to violate the protective order and (2) § 53a-223 is unconstitutionally vague as applied. We affirm the judgment of the trial court.
- [State v. Cody M.](#), SC 20213, CT Supreme Court Slip Opinion (Sept. 21, 2020). "The principal issue in this certified appeal is whether multiple convictions for violation of a standing criminal protective order, arising from a series of statements made during a court hearing by the defendant, Cody M., to the person protected by the order, violate the constitutional protection from double jeopardy. The Appellate Court affirmed the judgment, rendered after a jury trial, convicting the defendant of two counts of criminal violation of a standing criminal protective order in violation of General Statutes § 53a-223a, one count of threatening in the second degree in violation of General Statutes (Rev. to 2015) § 53a-62 (a) (2), and one count of threatening in the second

degree in violation of § 53a-62 (a) (3)....We conclude that the defendant's conviction of two counts of violating a standing criminal protective order did not violate his right against double jeopardy and that any possible instructional error in the **trial court's definition of 'harassing'** was harmless, and, accordingly, we affirm the judgment of the Appellate Court."

- [State v. Robert S.](#), 179 Conn.App. 831, 834, 181 A.3d 568 (2018). "The defendant first claims that the evidence at trial was insufficient to support his conviction of criminal violation of a protective order. The defendant does not challenge that he was subject to a valid protective order, or that a call was made from his cell phone to the landline at the home where the victim was living. Rather, the defendant argues that the jury reasonably could not have found beyond a reasonable doubt that he had the requisite intent to engage in conduct that violated the protective order's condition that prohibited him from contacting the victim because there was insufficient evidence that (1) the defendant made the phone call to the landline, or (2) if he did in fact make the call to the landline, he did so intentionally. We disagree."
- [State v. Hollander](#), Superior Court, Judicial District of New London, No. K21NCR120119114S (April 6, 2015) (60 Conn. L. Rptr. 85) (2015 WL 2028445) (2015 Conn. Super. LEXIS 721). **"While the court understands and is sympathetic to** Crichton's concerns, it has significant doubts regarding its authority to grant the relief requested. The Standing Criminal Protective Order arose out of violations of the June 6, 2012 order, which specifically involved Crichton. . . . Crichton's request in this case assumes, to some extent, that the protective orders are fungible, but they are not. A civil restraining order is premised on a finding of what is in the best interests of the victim given threatening or assaultive behavior of the defendant as established by a fair preponderance of the evidence. A criminal order, on the other hand, is based on a finding that, beyond a reasonable doubt, an order has been violated or that the defendant has engaged or is likely to engage in threatening or abusive behavior toward the victim or victims. These different standards of proof may help account for why the criminal order is of significantly longer duration than the customary civil restraining order. To incorporate the civil Restraining Order protecting the child into the existing criminal order protecting Crichton would, therefore, raise not just double jeopardy concerns arising from the ex post facto enlargement of the sentence, but also due process concerns arising from the assumption that a criminal order may be broadened and used to protect another victim based on the **terms of an existing civil restraining order.**" (p. 86)

- [State v. Fernando A.](#), 294 Conn. 1, 4-8, 981 A.2d 427 (2009). **"In this public interest appeal, we consider the nature of the hearing that a defendant must receive prior to the issuance of a criminal protective order in a family violence case (criminal protective order) pursuant to General Statutes § 54-63c(b). The defendant, Fernando A., appeals, upon the grant of his application filed pursuant to General Statutes § 52-265a, from the trial court's denial of his request for an evidentiary hearing prior to the issuance of a criminal protective order. We conclude that § 54-63c(b), and the cross-referenced General Statutes § 46b-38c, permit the trial court to issue a criminal protective order at the defendant's arraignment after consideration of oral argument and the family violence intervention unit's report (family services report). We also conclude that the trial court is required to hold, at the defendant's request made at the initial hearing, a subsequent hearing within a reasonable period of time at which the state will be required to prove the continued necessity of that order by a fair preponderance of the evidence, which may include reliable hearsay. Because the defendant did not receive this subsequent hearing as requested, we reverse the decision of the trial court."**
- [State v. Calabrese](#), 279 Conn. 393, 398, 902 A.2d 1044 (2006). **"In connection with the defendant's arraignment, the court, *Alexander, J.*, issued a family violence protective order on January 7, 2002 (protective order). The protective order directed the defendant, inter alia, to refrain from threatening, harassing or assaulting the complainant, and from entering the family dwelling or dwelling occupied by the complainant. According to the testimony of Tracy Genues-Johnson, a court clerk, the defendant was given a copy of and advised of his rights under the protective order. The protective order remained in effect and was not modified while the case was pending."**
- [State v. Wright](#), 273 Conn. 418, 426, 820 A.2d 1039 (2005). **"Although *Cologne* involved a civil contempt proceeding, the collateral bar rule also applies when a defendant seeks to attack the validity of a court order in a criminal proceeding. See, e.g., *Walker v. Birmingham*, 388 U.S. 307, 312, 315, 87 S. Ct. 1824, 18 L. Ed. 2d 1210 (1967) (criminal contempt); *Jacko v. State*, 981 P.2d 1075, 1076-77 (Alaska App. 1999) (criminal violation of protective order). Our endorsement of that rule in *Cologne* leads us to conclude that the defendant in the present case should not be allowed to challenge the validity of the protective order that he was charged with violating under § 53a-110b (a). That order was issued by a court of competent jurisdiction as a condition of the defendant's release in connection with the assault and disorderly conduct charges stemming from his altercation with Malcolm. Thus, the defendant had no privilege to violate that order. If the defendant believed that the order did not**

comport with the statutory requirements of § 46b-38c (e), he had two lawful remedies available to him. He could have: (1) sought to have the order modified or vacated by a judge of the Superior Court pursuant to Practice Book § 38-13; or (2) appealed the terms of the order to the Appellate Court in accordance with General Statutes § 54-63g. Having failed to pursue either remedy, the defendant may not seek to avoid his conviction for violating that order by challenging the factual basis of its issuance."

- [State v. Charles](#), 78 Conn. App. 125, 138-39, 826 A.2d 1172 (2003). "We conclude that the terms of the family violence protective order issued in this instance were adequate to give the defendant fair warning that the act of leaving two expletive and posturing laden messages on the victim's telephone answering machine would constitute a violation of the order prohibiting him from harassing or threatening her. Under those circumstances, the consequence of the court's charge was not impermissibly to curtail the defendant's constitutional right to speech, and the charge that outlined in detail the elements of behavior proscribed by the protective order was neither impermissibly vague nor overbroad."
- [State v. Doe](#), 46 Conn. Supp. 598, 765 A.2d 518 (2000). "The defendant, John Doe, challenges the constitutionality of the laws and procedures used in Connecticut courts which provide for issuing protective orders that result in barring a person from their home as a result of an arrest for a family violence crime."
- [State v. Martino](#), 61 Conn. App. 118, 120-121, 762 A.2d 6 (2000). "In response, the victim called the police. Although the victim feared the defendant and did not want to press charges, the police arrested the defendant pursuant to the state's family violence law, General Statutes § 46b-38b. He was charged with disorderly conduct and interfering with a police officer, and was released on bail. Later that same day, the Superior Court issued a family violence protective order that prohibited the defendant from contacting the victim in any manner. The defendant received a copy of the protective order, and a police officer reviewed the terms of the order with him."

**WEST KEY  
NUMBERS:**

- Protection of Persons
  - # 45 Domestic abuse and violence
  - # 70-83 Protection orders in general
  - # 90-108 Violations, contempt, and conviction

**TEXTS &  
TREATISES:**

- 1 *Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 2020 (also available on Lexis).  
Chapter 6. Handling domestic violence cases  
§ 6.03. Other types of protection orders

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

[1]. Criminal protection orders

- ***Connecticut Criminal Procedure***, by Carl J. Schuman, 2019 edition, Connecticut Law Tribune.
  - Chapter 4. Arraignment
    - § 4-3:2 Place of Arraignment
    - § 4-3:9 Family Violence
    - § 4-4:5 Release by Law Enforcement Officials
    - § 4-4:6 Release by Bail Commissioner
    - § 4-4:7 Release by Court
    - § 4-4:9 Modifications of Conditions of Release
  - Chapter 8. Pretrial Diversionary Programs
    - § 8-4:8 Pretrial Family Violence Education Program
- ***Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect***, by Renee C. Bauer, Addicus Books, 2014.
  - Chapter 7. Emergency: When You Fear Your Spouse
- ***Domestic Violence Practice and Procedure***, by Nancy McKenna, 2020 edition, Thomson West (also available on Westlaw).
  - Chapter 8. Defending Criminal Domestic Violence Cases
    - II. Criminal protection orders
- ***Domestic Torts: Civil Lawsuits Arising From Criminal Conduct Within Family Relationships***, by R. Keith Perkins, 2020-2021 ed., Thomson West.
  - Part II. Domestic Tort Actions Against First Party Offenders
    - Chapter 3. Violent Domestic Torts
      - III. Statutory Causes of Action and Remedies
        - C. State Statutory Remedies
          - § 3:34 Domestic violence protective orders
          - § 3:35. Injunctions and temporary restraining orders
- ***Domestic Torts: Family Violence, Conflict and Sexual Abuse***, Revised Edition, by Leonard Karp and Cheryl Karp, 2005, Thomson West, with 2016 supplement.
  - Chapter 1. Spousal abuse
    - § 1.22. Special statutes concerning domestic violence protective orders

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

- Frank DeVito, ***Criminal Protective Orders in Connecticut: The Problem of a Hidden Right***, 37 Quinnipiac L. Rev. 343 (2019).
- Judith A. Smith, ***Battered Non-Wives and Unequal Protection-Order Coverage: A call for Reform***, 23 Yale L. & Pol'y Rev. 93 (2005).

- Carol A. Bruch, [\*The Unmet Needs Of Domestic Violence Victims And Their Children In Hague Child Abduction Convention Cases\*](#), 38 Family Law Quarterly 529 (Fall 2004).



Table 1: Modification of Standing Criminal Protective Order

<p><u>State v. Swoverland</u>, Superior Court, Judicial District of New Britain, No. CR-070234372T (Aug. 31, 2011) (2011 WL 4582819) (2011 Conn. Super. LEXIS 2342)</p>	
Standard for Modification	<p>The standard established for the Court to modify or revoke a standing criminal restraining order is explicitly stated within § 53a-40e(a). <b>That standard is that “a standing criminal restraining order ... shall remain in effect until modified or revoked by the court for good cause shown.”</b></p>
Definition of “Good Cause”	<p>C.G.S. § 53a-40e does not define “good cause.” The term “good cause” is used in all areas of the law and the definition is usually left to its common understanding and usage. That common understanding and usage is articulated in Black’s Law Dictionary (9th Ed.2009) as “[a] legally sufficient reason.”</p>
Review of Evidence	<p>Therefore, it is with this understanding and standard that the Court reviews the evidence presented to determine whether <b>good cause, “a legally sufficient reason,” has been established</b> by the defendant to modify the standing criminal restraining order.</p>

**Note:** Public Act 10-144 substituted the term “standing criminal protective order” for “standing criminal restraining order.”

## Section 3: Civil Protection Order

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to a civil protection order issued under Conn. Gen. Stat. § [46b-16a](#) (2021).

### **DEFINITIONS:**

- **Civil Protection Order:** "Any person who has been the victim of sexual abuse, sexual assault or stalking may make an application to the Superior Court for relief under this section, provided such person has not obtained any other court order of protection arising out of such abuse, assault or stalking and does not qualify to seek relief under section 46b-15. **As used in this section, 'stalking' means two or more wilful acts, performed in a threatening, predatory or disturbing manner of: Harassing, following, lying in wait for, surveilling, monitoring or sending unwanted gifts or messages to another person directly, indirectly or through a third person, by any method, device or other means, that causes such person to reasonably fear for his or her physical safety.**" Conn. Gen. Stat. § [46b-16a](#)(a) (2021).
- **Eligibility:** "Any person who has been the victim of sexual abuse, sexual assault or stalking may make an application to the Superior Court for relief under this section, provided such person has not obtained any other court order of protection arising out of such abuse, assault or stalking and does not qualify to seek relief under section 46b-15." Conn. Gen. Stat. § [46b-16a](#)(a) (2021).
- **Stalking:** "As used in this section, 'stalking' means two or more wilful acts, performed in a threatening, predatory or disturbing manner of: Harassing, following, lying in wait for, surveilling, monitoring or sending unwanted gifts or messages to another person directly, indirectly or through a third person, by any method, device or other means, that causes such person to reasonably fear for his or her physical safety." Conn. Gen. Stat. § [46b-16a](#)(a) (2021).
- **See Also:** [Summary for Public Act 17-99](#), which states that the "act makes . . . changes related to civil protection orders. It . . . creates a specific definition of 'stalking' for the purpose of civil protection orders [see above] that expands their availability to additional stalking victims . . . To be eligible for a civil protection order **under prior law**, a stalking victim had to be a victim of 1st, 2nd, or 3rd degree stalking as defined in the penal code." (Emphasis added.)
- **Extension:** "No order of the court shall exceed one year, except that an order may be extended by the court upon proper motion of the applicant, provided a copy of the motion has been served by a proper officer on the respondent, no other order of protection based on the same facts and

circumstances is in place and the need for protection, consistent with subsection (a) **of this section, still exists.**" Conn. Gen. Stat. § [46b-16a](#)(c) (2021).

### **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).  
Chapter 815a. Orders of Protection and Relief  
§ [46b-16a](#). Issuance of civil protection order on behalf of person who has been victim of sexual abuse, sexual assault or stalking. Application. Hearing. Court orders. Duration. Notice. Other remedies.  
Chapter 952. Penal code: offenses  
§ [53a-181c](#). Stalking in the first degree: Class D felony.  
§ [53a-181d](#). Stalking in the second degree: Class A misdemeanor.  
§ [53a-181e](#). Stalking in the third degree: Class B misdemeanor.  
§ [53a-223c](#). Criminal violation of a civil protection order: Class D felony.

### **PUBLIC ACT HISTORY:**

- [2017 Conn. Acts 163](#), § 2 (Effective January 1, 2018)
- [2017 Conn. Acts 99](#), § 1 (Effective October 1, 2017)
- [2017 Conn. Acts 71](#), §§ 1-2 (Effective October 1, 2017)
- [2016 Conn. Acts 105](#), § 6 (Effective October 1, 2016)
- [2016 Conn. Acts 34](#), § 6 (Effective October 1, 2016)
- [2014 Conn. Acts 217](#), § 186 (Effective January 1, 2015.)

### **FORMS:**

- [Filing an Application for a Civil Protection Order](#)
- [JD-CV-143CO](#). Application for Civil Protection Order
- [JD-CV-144CO](#). Statement of Facts - Civil Protection Order
- [JD-CV-146CO](#). Motion for Extension of Civil Protection Order
- [JD-CV-148CO](#). Civil Protection Order Information Form

### **LEGISLATIVE**

### **OLR REPORTS:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- Michelle Kirby, Senior Legislative Attorney, *Civil Orders of Protection During the COVID-19 Pandemic*, Connecticut General Assembly, Office of Legislative Research Report No. [2020-R-0125](#) (June 9, 2020).
- Michelle Kirby, Senior Legislative Attorney, *Service of Civil Orders of Protection*, Connecticut General Assembly, Office of Legislative Research Report No. [2016-R-0332](#) (December 27, 2016).
- Michelle Kirby, Senior Legislative Attorney, *Domestic Violence and Mental Health Provisions in Recent Laws*, Connecticut General Assembly, Office of Legislative Research Report No. [2016-R-0231](#) (October 5, 2016).
- Michelle Kirby, Senior Legislative Attorney, *Civil Orders of Protection*, Connecticut General Assembly, Office of Legislative Research Report No. [2015-R-0172](#) (November 13, 2015).

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [C. A. v. G. L.](#), 201 Conn. App. 734, 738, 243 A.3d 807 (2020). "The defendant argues that the evidence was **insufficient to warrant the court's issuance of a civil order of protection** against him. The defendant claims that his statements and messages to the plaintiff did not constitute 'two or more wilful acts [performed] in a threatening, predatory, or disturbing manner that caused [the plaintiff] to reasonably **fear for her physical safety.**' For that reason, the defendant claims that the court abused its discretion in granting the order of protection. We do not agree."
- [State v. Bornstein](#), 196 Conn. App. 420, 428, 229 A.3d 1097 (2020). "We are not persuaded by the defendant's argument. The prior civil proceeding was not a prosecution. Our Supreme Court has defined prosecution as '[a] criminal proceeding in which **an accused person is tried....**' [McCoy v. Commissioner of Public Safety](#), 300 Conn. 144, 153, 12 A.3d 948 (2011) (citing Black's Law Dictionary (9th Ed. 2009) p. 1341); see also [State v. Kluttz](#), 9 Conn. App. 686, 718, 521 A.2d 178 (1987) ('in the context of a criminal prosecution, by definition, the accused is always charged with the **"violation of a law"**'). Criminal prosecutions are brought by district attorneys, 'public official[s] appointed or elected to represent the state in criminal cases in a particular judicial district; **prosecutor[s].**' Black's Law Dictionary (11th Ed. 2019) p. 598. Conversely, a civil protection order pursuant to General Statutes § 46b-16a(a) may be sought by **any** person 'who has been the victim of sexual abuse, sexual assault or stalking.' The state is simply not involved in the application for a civil protection order.

Finally, § 46b-16a(e) provides that '[a]n action under this section shall not preclude the applicant from subsequently seeking any other civil or criminal relief based on the same **facts and circumstances.**' It is clear from the language of this subsection that the legislature intended a civil protection order proceeding not to preclude a criminal prosecution based on the same facts, and, as noted previously, Judge Shortall expressly and appropriately observed that his ruling would have no effect on potential future proceedings. See footnote 1 of this opinion.

We conclude that the defendant has not asserted a colorable claim of double jeopardy and, therefore, we lack jurisdiction over the appeal."

- [S.A. v. D.G.](#), 198 Conn. 170, 172, 232 A.3d 1110 (2020). "The defendant, D. G., appeals from the judgment of the trial court granting an application for a civil protection order filed pursuant to General Statutes § 46b-16a by the plaintiff, S. A., an executive assistant to the first selectman of a Connecticut town. In her application, the plaintiff alleged that the

defendant stalked her and caused her to fear for her safety at work and at home. On appeal, the defendant claims that the court improperly (1) excluded evidence on the ground of lack of relevance, (2) issued the protection order despite the fact that the defendant was not arrested for violating any of the statutory provisions set forth in General Statutes § 54-1k, (3) issued the protection order partly on the basis of the defendant's having videotaped the plaintiff performing her duties as a public employee, which did not constitute stalking, (4) issued the protection order on the basis of actions that implicated the defendant's exercise of free speech and his right to access public records, and (5) engaged in ex parte communications with the plaintiff. We disagree and affirm the judgment of the trial court."

Canfield v. Scholz, Superior Court, Judicial District of Litchfield at Torrington, No. LLI-CV-194017466-S, (December 8, 2020) (2020 WL 8261645) (2020 Conn. Super. LEXIS 1510) "The applicant...seeks a civil protection order based upon a claim of stalking....In order to grant an order of civil protection, the court must find, by a preponderance of the evidence, there are reasonable grounds to believe that: 1) the respondent has stalked the applicant, and 2) the respondent will continue to commit such act or acts designed to intimidate or retaliate against the applicant."

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"Absent either of such findings, with both elements being necessary for issuance of a civil protection order, the court is unable as a matter of law to issue such an order. Therefore, the application is denied. However, the court notes that should the respondent's behavior as found above be repeated, she is strongly cautioned that such behavior may constitute the accumulation of two or more willful acts which could support the basis for the submission of a new application by the applicant."

- Eterginio v. Cresser, Superior Court, Judicial District of Litchfield at Torrington, No. LLI-CV- 205013209-S, (December 9, 2019) (2019 WL 7498757) (2019 Conn. Super. LEXIS 3289) "This matter was heard by the court on December 9, 2019 at which time both parties appeared and presented testimony. The applicant seeks a civil protection order based upon a claim of stalking. Our Legislature has **defined stalking as 'two or more willful acts, performed in a threatening, predatory, or disturbing manner of harassing, following, lying in wait for, surveilling, monitoring, or sending unwanted gifts or messages to another person directly, indirectly, or through a third person, by any method, device, or other means, that causes such person to reasonably fear for his or her physical safety.'** General Statutes § 46b-16a(a). In order to grant an order of civil protection, the court must find, by a preponderance of the evidence, there are reasonable grounds to believe that: 1) the respondent has

stalked the applicant, and 2) the respondent will continue to commit such act or acts designed to intimidate or retaliate against the applicant.”

- [Florez v. Perraza](#), Superior Court, Judicial District of Litchfield at Torrington, No. LLI-CV-194017416-S (October 16, 2019) (2019 WL 5858042) (2019 Conn. Super. LEXIS 2760) “From the credible testimony presented by the parties, the court does find that while several acts referenced by the applicant took place months before the submission of the application, she has established by a preponderance of the evidence that there have been recent actions by the respondent that constitute stalking of the applicant. However, the court is unable to find under the same standard that the respondent will continue to commit such act or acts designed to intimidate or retaliate against the applicant. Absent such a finding, the court is unable, as a matter of law, to issue a civil protection order. The application is denied.”
- [Sabrina C. v. Fortin](#), 176 Conn. App. 730, 762, 170 A.3d 100, (2017). “**We conclude that the court could** not properly grant a one year extension on the grounds that the plaintiff had been a victim of sexual assault and that the statute was designed to protect such victims. If that were the case, civil protection orders could be continued ad infinitum regardless of the current situation between the parties. There is nothing in the relevant legislation to suggest such an intent or result. In order to obtain an extension, the plaintiff was required to present evidence that her need for protection against the defendant still existed, and she failed to do so. In the absence of any evidence to meet that statutory requirement, the court erred in extending the civil protection order to **November 24, 2017.**”
- [Rose B. v. Dawson](#), 175 Conn. App. 800, 806, 169 A.3d 346, (2017). “The defendant did not raise any issue with respect to a lack of specificity in the plaintiff's application prior to the date of the full hearing, during the presentation of evidence at the hearing, or after the court heard the evidence but prior to the time that it rendered its decision in this matter. Instead, only after the court announced its ruling, which was adverse to the defendant, did the defendant's counsel for the first time assert that the defendant was prejudiced by a lack of specificity in the plaintiff[']s application. In these circumstances, we are not persuaded that the court's decision reflects an abuse of discretion.”
- [Fiona C. v. Kevin L.](#), 166 Conn. App. 844, 852, 143 A.3d 604 (2016). “Section 53a-181d (a) defines the phrase ‘course of conduct’ as requiring ‘two or more acts.’ A person violates this statute, inter alia, when he or she engages a course of conduct directed at a specific person. See General Statutes § 53a-181d(b)(1). Reading these two parts of the stalking in

the second degree statute together, we conclude that the two or more acts must be directed at a specific person, in this case the plaintiff. The trial court employed a broader interpretation in its analysis. Specifically, it determined that **the 'course of conduct'** was met by the defendant's past threat to slit the plaintiff's throat and his later threats made toward other students.

**"The court's interpretation ignores the plain language of § 53a-181d(a)(1) that the course of conduct be directed at a specific person. We iterate that we are bound to interpret the statute as it is written and cannot ignore the words used by the legislature. 'It is a basic tenet of statutory construction that the legislature does not intend to enact meaningless provisions.... Every word and phrase [in a statute] is presumed to have meaning, and we do not construe statutes so as to render certain words and phrases surplusage.'** (Internal quotation marks omitted.) [State v. Pommer](#), 110 Conn. App. 608, 614, 955 A.2d 637, cert. denied, 289 Conn. 951, 961 A.2d 418 (2008)."

[**Note:** See new definition of stalking in Conn. Gen. Stat. § [46b-16a](#)(a)]

- [Stacy B. v. Robert S.](#), 165 Conn. App. 374, 388, 140 A.3d (2016). "The defendant argues regarding § 53a-181d (b)(1) that the court lacked sufficient evidence that the plaintiff had been placed in fear of his safety or that of a third person. The defendant asserts that the only finding related to this element was that the defendant complained to school board members of the district in which the plaintiff's son attends school that the plaintiff was a danger to children. To the contrary, after specifically describing the school board incident, the court found that '[t]his incident, and other alarming and irrational conduct detailed herein, engaged in by [the defendant], has reasonably caused [the plaintiff] to fear that he was being **"hunted"** by [the defendant] and to take certain precautions, including obtaining a post office box, registering his new car in his wife's premarital name, and hiring an Internet company to delete any derogatory information about him that was **electronically posted.**' The defendant contends that there was 'not a scintilla of evidence presented to the court that the defendant is or ever has been physically dangerous to anyone.' Despite this assertion, we find the trial court possessed sufficient evidence, after listening to two days of testimony and examining a variety of exhibits, to conclude that a reasonable person in the plaintiff's position would have cause to fear for his own or a third person's physical safety, even if the plaintiff did not produce evidence of past physical violence committed by the defendant. See [State v. Russell](#), 101 Conn. App. 298, 321, 922 A.2d 191 (reasonable for obsessive behaviors to cause victim to fear for safety), cert. denied, 284 Conn. 910, 931 A.2d 934 (2007). [**Note:** See new definition of stalking in Conn. Gen. Stat. § [46b-16a](#)(a)]

**ENCYCLOPEDIAS:**

- 42 [Am. Jur. 2d](#) Injunctions, Thomson West, 2010 (Also available on Westlaw).
  - § 86. Harassment
  - § 95. Assault, battery, insult, or molestations

**TEXTS & TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *Domestic Violence Practice and Procedure*, by Nancy McKenna, 2020 edition, Thomson West (also available on Westlaw).
  - Chapter 4. Civil Protection Orders
- 1 *Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 2020 (also available on Lexis).
  - Chapter 6. Handling domestic violence cases
    - § 6.02. Civil protection orders
      - [1]. Overview
      - [2]. When to seek a civil protection order
      - [3]. Obtaining a civil protection order; Procedural considerations
      - [4]. Obtaining emergency relief
      - [5]. Contested hearings
      - [6]. Enforcement of protective orders

**PAMPHLETS:**

- [Civil Protection Order](#) – Office of the Victim Advocate



# Section 4: Legal Protections for Victims of Family Violence

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to additional legal protections for victims of domestic violence.

## **DEFINITION:**

- **Address Confidentiality Program:** "There shall be an address confidentiality program established in the office of the Secretary of the State to provide a substitute mailing address for any person who has been a victim of family violence, injury or risk of injury to a child, sexual assault or stalking, and who wishes to keep such person's residential address confidential because of safety concerns." Conn. Gen. Stat. [§ 54-240a](#)(a) (2021).
- **Leave from employment for victims of family violence:** "If an employee is a victim of family violence, an employer shall permit the employee to take paid or unpaid leave during any calendar year in which such leave is reasonably necessary (1) to seek medical care or psychological or other counseling for physical or psychological injury or disability for the victim, (2) to obtain services from a victim services organization on behalf of the victim, (3) to relocate due to such family violence, or (4) to participate in any civil or criminal proceeding related to or resulting from such family violence. An employer may limit unpaid leave under this section to twelve days during any calendar year. Leave under this section shall not affect any other leave provided under state or federal law." Conn. Gen. Stat. [§ 31-51ss](#)(b) (2021).
- **Protection of animals:** "Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal....As used in this subsection, "violent crime" includes: ...(D) cruelty to animals as set forth in section 53-247." Conn. Gen. Stat. [§ 46b-15](#)(b) (2021).
- **Termination of rental agreement by tenant who is a victim of family violence or sexual assault.** "(a) Notwithstanding the provisions of this chapter and chapter 831, for rental agreements entered into or renewed on or after January 1, 2011, any tenant who (1) is a victim of family violence, as defined in section 46b-38a, and (2) reasonably believes it is necessary to vacate the dwelling unit due to fear of imminent harm to the tenant or a dependent of the tenant because of family violence, may terminate his or her rental agreement with the landlord for the dwelling unit that the tenant occupies without penalty or

liability for the remaining term of the rental agreement by giving written notice to the landlord at least thirty days prior to the date the tenant intends to terminate the rental agreement. Notwithstanding the provisions of this chapter and chapter 831, for rental agreements entered into or renewed on or after January 1, 2014, any tenant who (A) is a victim of sexual assault under any provision of section 53a-70b of the general statutes, revision of 1958, revised to January 1, 2019, or section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, or is the parent or guardian with physical custody of a dependent who is the victim of sexual assault under section 53a-70c, and (B) reasonably believes it is necessary to vacate the dwelling unit due to fear of imminent harm to the tenant or a dependent of the tenant because of such sexual assault, may terminate his or her rental agreement with the landlord for the dwelling unit that the tenant occupies without penalty or liability for the remaining term of the rental agreement by giving written notice to the landlord at least thirty days prior to the date the tenant intends to terminate the rental agreement. Conn. Gen. Stat. § [47a-11e](#) (2021)

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).
  - [§ 17b-112a](#). Definitions. Notification of referrals to applicants and recipients of temporary family assistance who are victims of domestic violence. Domestic violence training program. Regulations.
  - [§ 17b-112b](#). Exemptions and extensions for applicants and recipients of temporary family assistance who are victims of domestic violence. Standards and procedures. Regulations.
  - [§ 17b-808](#)(a)(2). Special needs benefit for emergency housing. Limitation.
  - [§ 31-51ss](#). Leave from employment for victims of family violence. Action for damages and reinstatement.
  - [§ 31-236](#)(a)(2)(A)(iv). Disqualifications. Exceptions.
  - [§ 38a-816](#)(18). Unfair practices defined.
  - [§ 46b-15](#). Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Service of application, affidavit, any ex parte order and notice of hearing. Copies. Expedited hearing for violation of order. Other remedies.
  - [§ 46b-15](#)(b)(1). [Includes protection for animals]
  - [§ 46b-38g](#). Programs for children impacted by domestic violence.
  - [§ 47a-11e](#). Termination of rental agreement by tenant who is a victim of family violence or sexual assault.
  - [§ 54-85b](#). Employment protection for witnesses and victims of crime. Penalty. Action for damages and reinstatement.

[§ 54-86d](#). Nondisclosure of address and telephone number by victims of certain crimes.

[§ 54-86e](#). Confidentiality of identifying information pertaining to victim of sexual assault...

#### [Chapter 968a](#) - Address Confidentiality Program

[§ 54-240](#). Definitions.

[§ 54-240a](#). Program Purpose. Regulations.

[§ 54-240b](#). Application for program participation.  
Application assistants.

[§ 54-240c](#). Certification as program participant.  
Application requirements.

[§ 54-240d](#). Certification card.

[§ 54-240e](#). Program address. Forwarding of mail.

[§ 54-240f](#). Confidentiality of marriage records.

[§ 54-240g](#). Listing on voter registry list.

[§ 54-240h](#). Agency use of program address.

[§ 54-240i](#). Exemption from use of program address by agency.

[§ 54-240j](#). Renewal of program certification.

[§ 54-240k](#). Cancellation of program certification. Notice.  
Reapplication to program. Withdrawal from program.

[§ 54-240l](#). Secretary of the State as agent for program participant. Service on program participant.

[§ 54-240m](#). Confidentiality of records re program participant. Exceptions. Notice of disclosure.

[§ 54-240n](#). Nondisclosure of confidential address in criminal or civil proceeding.

[§ 54-240o](#). Custody or visitation order in effect prior to or during participation in program.

#### **PUBLIC ACT HISTORY:**

- [2015 Conn. Acts 211](#) §§23-24 (Effective July 1, 2015)
- [2014 Conn. Acts 217](#), §120 (Effective January 1, 2015)
- [2011 Conn. Acts 52](#) (Effective January 1, 2012)
- [2010 Conn. Acts 137](#) (Effective October 1, 2010 and July 1, 2010)

#### **REGULATIONS:**

- Regulations of Connecticut State Agencies
  - [§ 54-240a-1](#). Definitions
  - [§ 54-240a-2](#). Application for program participation
  - [§ 54-240a-3](#). Certification of program participants
  - [§ 54-240a-4](#). Certification renewal
  - [§ 54-240a-5](#). Forwarding of program participant's mail
  - [§ 54-240a-6](#). Program certification withdrawal, cancellation and appeal from cancellation
  - [§ 54-240a-7](#). Agency use of program addresses
  - [§ 54-240a-8](#). Confidentiality of marriage records
  - [§ 54-240a-9](#). Voting by program participants
  - [§ 54-240a-10](#). Agency exemption requests
  - [§ 54-240a-11](#). Service of process

[§ 54-240a-12](#). Records requests to the Secretary of the State

Department of Public Safety

Duties of Peace Officers

[§ 54-222a-1](#). Responsibilities of peace officers

[§ 54-222a-2](#). Victim suffering physical injury to receive victim assistance card

[§ 54-222a-3](#). Other victims shall receive a victim assistance card

**OLR REPORTS:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- Katherine Dwyer, Associate Attorney, *Address Confidentiality Program*, Office of Legislative Research, Report No. [2018-R-0188](#) (August 3, 2018).
- Michelle Kirby, Associate Analyst, *Confidentiality of Information of Safe Houses*, Connecticut General Assembly, Office of Legislative Research Report No. [2014-R-0011](#) (January 3, 2014).
- Soncia Coleman, Associate Legislative Attorney, *Housing and Employment Protections for Domestic Violence Victims*, Connecticut General Assembly, Office of Legislative Research Report No. [2009-R-0443](#) (December 11, 2009).
- Laura Jordan, *Domestic Abuse Victims' Ability to Collect Unemployment Compensation and Explanation of Non-Chargeable Claims*, Connecticut General Assembly. Office of Legislative Research Report No. [99-R-0756](#) (July 27, 1999).

**CONGRESSIONAL RESEARCH SERVICE:**

- Adrienne L. Fernandes-Alcantara, Libby Perl & Lisa N. Sacco, Cong. Research. Serv., IF11592, [Federal Support for Providing Housing to Individuals Experiencing Domestic Violence](#) (July 6, 2020).

**ENCYCLOPEDIAS:**

- 9 *A.L.R. 7th* Art. 7, Employment Rights of Domestic Violence Victims (2016). Also available on Westlaw.
- 69 *COA 2d* 763, Cause of Action Against Employer for Violation of Employment Rights of Victim of Domestic Violence (2015). Also available on Westlaw.
- 74 *COA 2d* 107, Cause of Action Under Fair Housing Act (42 U.S.C.A. §§ 3601 et seq.) for Discrimination Against Victim of Domestic Violence (2016). Also available on Westlaw.
- 41 *COA 2d* 407, Cause of Action in Tort for Spousal Abuse (2009). Also available on Westlaw.

**TEXTS & TREATISES:**

- Pamela J. Moore, *Connecticut Employment Law*, 4th ed., Connecticut Law Tribune, 2018.  
Chapter 7. Connecticut Leave Laws  
7-8: 1 Leave for Victims of Family Violence
- 7 *Connecticut Practice Series: Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin and Kathleen A. Hogan,

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

2010, Thomson West, with 2020-2021 supplement (also available on Westlaw).

- ***Labor and Employment in Connecticut***, 2nd ed., by Jeffrey L. Hirsch, Matthew Bender, 2020.  
     Chapter 16. Termination of Employment  
         16-5 Unemployment Compensation  
             (a) –Eligibility
- 14 ***Connecticut Practice Series: Connecticut Employment Law***, by Stephen B. Harris, 2005, Thomson West, with 2020 supplement (also available on Westlaw).  
     Chapter 6. Leaves of Absence/Time Off  
         6:5 Witnesses and victims of crime
- ***Encyclopedia of Connecticut Causes of Action***, by Daniel J. Krisch, et al., 2020 ed., Connecticut Law Tribune.  
     Part 3. Miscellaneous Statutory Proceedings, Quasi-Actions, Civil Petitions and Applications  
         3A-19. Action by Employee against Employer for Penalizing Employee as Witness or Victim of Crime (Conn. Gen. Stat. §54-85b)
- ***Domestic Violence Practice and Procedure***, by Nancy McKenna, 2020 edition, Thomson West (also available on Westlaw).  
     Chapter 5. Federal Law  
         5:20 Low-income housing  
         5:21 Confidentiality of postal addresses  
         5:25-29 Immigrant protections  
     Chapter 6. State Laws  
         6:42 Landlord-tenant issues related to domestic violence  
     Chapter 10. Domestic Violence and the Workplace  
         10:11 Tort claims against employers-Wrongful Discharge-Public policy theory  
         10:31 Family and medical leave  
         10:45 Unpaid leave for victims of domestic violence

## Section 5: Firearms and Domestic Violence

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to firearms and domestic violence.

### **DEFINITIONS:**

- **Firearm at scene of domestic violence:** Whenever a peace officer determines that a family violence crime has been committed, such officer may seize any firearm or electronic defense weapon, as defined in section 53a-3, or ammunition at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission or that is in plain view. Not later than seven days after any such seizure, the law enforcement agency shall return such firearm, electronic defense weapon or ammunition in its original condition to the rightful owner thereof unless such person is ineligible to possess such firearm, electronic defense weapon or ammunition or unless otherwise ordered by the court. Conn. Gen. Stat. § [46b-38b](#)(a) (2021).
- **“Machine gun” means a weapon of any description,** irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a submachine gun; Conn. Gen. Stat. § [53a-3](#)(15) (2021)
- **“Rifle” means a weapon** designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger; Conn. Gen. Stat. § [53a-3](#)(16) (2021)
- **“Shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger;** Conn. Gen. Stat. § [53a-3](#)(17) (2021)
- **“Pistol” or “revolver” means any firearm having a barrel** less than twelve inches; Conn. Gen. Stat. § [53a-3](#)(18) (2021)
- **“Firearm” means any** sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether

loaded or unloaded from which a shot may be discharged;  
Conn. Gen. Stat. § [53a-3](#)(19) (2021)

- **“Electronic defense weapon” means a weapon which by** electronic impulse or current is capable of immobilizing a person temporarily, but is not capable of inflicting death or serious physical injury, including a stun gun or other conductive energy device; Conn. Gen. Stat. § [53a-3](#)(20) (2021)

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Stat. (2021)

### Chapter 815a. Orders of Protection and Relief

[§ 46b-15](#). Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Service of application, affidavit, any ex parte order and notice of hearing. Copies. Expedited hearing for violation of order. Other remedies.

[§ 46b-16a](#). Issuance of civil protection order on behalf of person who has been victim of sexual abuse, sexual assault or stalking. Application. Hearing. Court orders. Duration. Notice. Other remedies.

### Chapter 815e. Marriage

[§ 46b-38b](#). Investigation of family violence crime by peace officer. Arrest. Assistance to victim. Guidelines. Compliance with model law enforcement policy on family violence. Education and training program. Assistance and protocols for victims whose immigration status is questionable. Exceptions.

### Chapter 952. Penal Code - Offenses.

[§ 53a-40e](#). Standing criminal protective orders.

[§ 53a-217](#). Criminal possession of a firearm, ammunition or an electronic defense weapon: Class C felony.

[§ 53a-217c](#). Criminal possession of a pistol or revolver: Class C felony.

### Chapter 529. Division of State Police

[§ 29-36k](#) Transfer, delivery or surrender of firearms or ammunition by persons ineligible to possess firearms or ammunition. Request for return of firearms or ammunition. Destruction of firearms or ammunition. Penalty.

[§ 29-37j](#). Purchase of firearm with intent to transfer to person prohibited from purchasing or receiving a firearm. Assistance from person prohibited from purchasing or receiving a firearm. Penalties.

[§ 29-38c](#). Seizure of firearms and ammunition from person posing risk of imminent personal injury to self or others.

## **OLR REPORTS:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- OLR Summary [An Act Protecting Victims of Domestic Violence](#), Conn. Public Act 16-34 (Effective October 1, 2016)
- OLR Staff, *Summary of State Gun Laws*, Connecticut General Assembly, Office of Legislative Research Report No. [2020-R-0025](#) (January 31, 2020).
- Michelle Kirby, Senior Legislative Attorney, *Restraining Orders and Gun Possession*, Connecticut General Assembly, Office of Legislative Research Report No. [2017-R-0072](#) (February 24, 2017).
- Veronica Rose, Chief Analyst, *Firearm Possession and Domestic Violence Restraining or Protective Orders and Convictions*, Connecticut General Assembly, Office of Legislative Research Report No. [2014-R-0181](#) (July 31, 2014).

## **FORMS:**

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- [JDP-CL-140](#). Firearm Safety Warrants  
  
*Your Guide to Firearms and Permits in Connecticut:*  
<https://portal.ct.gov/-/media/DESPP/files/FirearmsBrochure06716pdf.pdf>
- [Connecticut State Police, Special Licensing and Firearms Unit](#).

## **CASES:**

Once you have identified useful cases, it is important to update them to ensure they are still good law. You can [contact your local law librarian](#) to learn about updating cases.

- [State v. Louis D.](#), 180 Conn.App. 527, 184 A.3d 321 (2018). "The defendant, Louis D., appeals from the judgments of conviction, rendered after a jury trial, of three counts of criminal violation of a protective order in violation of General Statutes § 53a-223(a) and one count of criminal possession of a firearm in violation of General Statutes (Supp. 2014) § 53a-217 (a) (4) (A) arising out of three separate informations.[1] On appeal, the defendant claims that the trial court improperly (1) consolidated the three informations for trial, and (2) denied his motion for a judgment of acquittal. We disagree and, accordingly, affirm the judgments of the trial court."
- [State v. Bernacki](#), 307 Conn. 1, 52, A.3d 605 (2012). "The sole issue in this certified appeal is whether the defendant's conviction of, and punishment for, both criminal possession of a firearm in violation of General Statutes § 53a-217 (a)(3)(A) and criminal violation of a protective order in violation of General Statutes § 53a-223 (a), violate his federal and state constitutional protections against double jeopardy. The defendant, Gary C. Bernacki, Sr., appeals,



upon our grant of his petition for certification, from the judgment of the Appellate Court affirming the judgment of the trial court convicting him of violating both §§ 53a-217 (a)(3)(A) and 53a-223 (a). See [State v. Bernacki](#), 122 Conn.App. 399, 998 A.2d 262 (2010). On appeal, the defendant contends that the Appellate Court improperly concluded that the legislature clearly intended to permit multiple punishments for the same offense and, therefore, that his two convictions are not a double jeopardy violation. Because we agree with the state's contentions that §§ 53a-217 (a)(3)(A) and 53a-223 (a) are not the "same offense" under [Blockburger v. United States](#), 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932), as applied by Chief Justice Rehnquist in his concurring opinion in [United States v. Dixon](#), 509 U.S. 688, 713, 113 S.Ct. 2849, 125 L.Ed.2d 556 (1993), and there is no evidence that the legislature clearly intended to preclude defendants from being convicted of, and punished for, committing both offenses, we affirm the judgment of the Appellate Court.

#### **ENCYCLOPEDIAS:**

- 25 Am. Jur. 2d *Domestic Abuse and Violence*, Thomson West, 2014. (Also available on Westlaw).
  - IV. Scope of Relief
    - § 18 Prohibition Against Possession of Firearms or Dangerous Weapons
- 79 Am. Jur. 2d *Weapons and Firearms*, Thomson West, 2013 (Also available on Westlaw).
  - II. Power to Regulate
    - B. State Regulation
  - III. Public Regulation
    - A. Carrying or Possessing Weapons
      - 3. Possession by Particular Classes of Persons
        - § 26. Generally
        - § 28.—Person Convicted of Misdemeanor Domestic Violence or Subject to Domestic Violence Restraining Order
- 28 C.J.S. *Domestic Abuse and Violence*, Thomson West, 2019 (Also available on Westlaw).
  - III. Authority and Jurisdiction to Grant Relief, Scope of Relief
    - C. Nature and Scope of Relief
      - § 21. Prohibition Against Carrying Firearms in Protection Order
- 94 C.J.S. *Weapons*, Thomson West, 2013 (Also available on Westlaw).
  - II. Constitutional Right to Keep and Bear Arms
    - C. Regulation of Right to Keep and Bear Arms
      - 2. Carrying, Possession, or Ownership of Arms
        - § 16. **Person's Behavior, Crimes, Mental Illness, Minority, and Citizenship**

E. Seizure and Forfeiture of Weapon for Offense  
§ 71. State Seizure and Forfeiture of Weapon

**TEXTS &  
TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

- *Firearms Law Deskbook*, by Stephen Halbrook, Thomson West, 2019-2020 ed.  
Chapter 2. Gun Control Act: Federal Regulation  
Chapter 4. **Forfeitures, Attorney's Fees, Regulations, and Preemption**  
§ 4:1 General rule  
§ 4:7 Preemption of State Law
- *Collateral Consequences of Criminal Conviction: Law, Policy and Practice*, Margaret Colgate Love, et. al., 2018-2019 ed. (2018).  
Chapter 2. Types of Collateral Consequences  
§ 2:29 Firearms restrictions—Overview  
§ 2:34 State firearms restrictions  
§ 2:35 Restoration of firearms privileges: relationship between state and federal dispossession laws
- David Nielsen, *Mental Health-Related Restrictions on the Lawful ownership of firearms: How Connecticut's Red Flag Law Saves Lives Without Jeopardizing Constitutional Protections*, 23 *Quinnipiac Health L.J.* 253 (2020).