



THE OFFICE OF THE VICTIM ADVOCATE

2017 LEGISLATIVE PRIORITIES

1. AN ACT CONCERNING A VICTIM'S RIGHT TO BE REASONABLY PROTECTED FROM THE ACCUSED

SECTION 1:

Purpose: Require the Commissioner of Emergency Services and Public Protection to provide written notification to a person, who is protected under an order of protection, that the respondent of the order has complied with the requirements to surrender, deliver or transfer any firearms as a result of the issuance of an order of protection.

Justification: Victims have a state constitutional right to be reasonably protected from the accused. The issuance of an order of protection can be a trigger to increased violence against the victim. Victims provide critical information to the court regarding a defendant's possession of firearms, especially when the firearms are long guns, that may not require registration, or other firearms that are not registered. However, victims do not receive any notification regarding a defendant's compliance with the requirement to surrender, deliver or transfer those firearms. This notification will provide victims with a small measure of safety knowing the defendant has complied with the firearm requirements.

Barrier: Currently, when victims contact law enforcement to determine compliance with the firearm requirements, they are told this information is confidential. Although the name and address of any individual holding a firearms permit or eligibility certificate is confidential, the confirmation of compliance with the firearm restrictions of an order of protection is not protected information by statute, and therefore, compliance information may be provided to victims.

SECTION 2:

Purpose: Require the defendant to surrender, deliver or transfer any firearms in the possession of the defendant when a defendant is granted entry into the Supervised Diversionary Program and the court determines there is a risk to the victim and the defendant possesses firearms.

Justification: Victims of crime have a state constitutional right to be reasonably protected from the accused. The Supervised Diversionary Program allows defendants who have psychiatric disabilities, or who are veterans with a mental health condition, the chance to get treatment rather than face prosecution. Eligibility is determined after an assessment of the defendant's treatment needs, supervision and services. If the defendant successfully completes the program, the charges against the defendant are dismissed. During this period of time, defendants should not have access to or possess any firearms.

Barrier: The surrender, delivery or transfer of firearms is limited to specific circumstances—the issuance of an order of protection; a person at risk to self or others, etc. As the program is specific to individuals with a psychiatric disability or other mental health condition, it is critical to ensure victim and public safety that those individuals, while participating in treatment, not access or possess any firearms.

SECTION 3:

Purpose: Require a designated party, other than the defendant, to provide notice to any victim of a crime when a defendant makes an application for the Accelerated Pretrial Rehabilitation Program.

Justification: Victims of crime have a state constitutional right to be reasonably protected from the accused. In many cases where a defendant makes an application for the accelerated pretrial rehabilitation program, the name and address of the victim are provided to the defendant in order for the defendant to provide the required notification of the defendant's application to the victim. This causes victims additional anxiety and fear because the defendant obtains the victim's address, especially in cases where the defendant and victim were not previously known to each other.

Barrier: None

SECTION 4:

Purpose: To provide employment protection to victims when any order of protection has been issued by the court.

Justification: Currently, an employer shall not deprive an employee of employment, penalize or threaten or otherwise coerce an employee with respect to employment because a restraining order or a protective order has been issued by the court on the employee's behalf. This protection should also be afforded to victims/employees who have had a standing criminal protective order or a civil order of protection issued on their behalf by the court.

Barrier: None

AN ACT CONCERNING A VICTIM'S RIGHT TO BE REASONABLY PROTECTED FROM THE ACCUSED

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

Section 1: Section 29-36n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) The Commissioner of Emergency Services and Public Protection, in conjunction with the Chief State's Attorney and the Connecticut Police Chiefs Association, shall develop a protocol to ensure that persons who become ineligible to possess a pistol or revolver or other firearm or ammunition have, in accordance with section 29-36k, transferred such pistol or revolver or other firearm or ammunition to a person eligible to possess such pistol or revolver or other firearm or ammunition or have delivered or surrendered such pistol or revolver or other firearm or ammunition to said commissioner. Such protocol shall include provisions to ensure that a person who becomes ineligible to possess a pistol or revolver or other firearm because such person is subject to a restraining or protective order or a foreign order of protection, as defined in section 29-36k, transfers such pistol or revolver or other firearm, or delivers or surrenders such pistol or revolver or other firearm, pursuant to arrangements made with an organized local police department or the Division of State Police in advance of such transfer, delivery or surrender.

(b) The Commissioner of Emergency Services and Public Protection, in conjunction with the Chief State's Attorney and the Connecticut Police Chiefs Association, shall update the protocol developed pursuant to subsection (a) of this section to reflect the provisions of sections 29-7h, 29-28, 29-28a, 29-29, 29-30, 29-32 and 29-35, subsections (b) and (g) of section 46b-15, subsections (c) and (d) of section 46b-38c and sections 53-202a, 53-202l, 53-202m and 53a-217 and shall include in such protocol specific instructions for the transfer, delivery or surrender of pistols and revolvers and other firearms and ammunition when the assistance of more than one law enforcement agency is necessary to effect the requirements of section 29-36k.

NEW (c) The Commissioner of Emergency Services and Public Protection shall send written notification of compliance with the provisions of section 29-36k to the protected person on a restraining or protective order or a foreign order of protection. Such notice shall be provided within one week of the issuance of any such order of protection.

Section 2: Subsection (g) of section 54-56l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(g) Any person who enters the program shall agree: (1) To the tolling of the statute of limitations with respect to such crime or violation; (2) to a waiver of such person's right to a speedy trial; [and](3) **to immediately surrender, deliver or transfer any firearms in such**

person's possession; and (4) to any conditions that may be established by the division concerning participation in the supervised diversionary program including conditions concerning participation in meetings or sessions of the program.

Section 3: Subsection (b) of section 54-56e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(b) The court may, in its discretion, invoke such program on motion of the defendant or on motion of a state's attorney or prosecuting attorney with respect to a defendant (1) who, the court believes, will probably not offend in the future, (2) who has no previous record of conviction of a crime or of a violation of section 14-196, subsection (c) of section 14-215, section 14-222a, subsection (a) or subdivision (1) of subsection (b) of section 14-224 or section 14-227a, and (3) who states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury, (A) that the defendant has never had such program invoked on the defendant's behalf or that the defendant was charged with a misdemeanor or a motor vehicle violation for which a term of imprisonment of one year or less may be imposed and ten or more years have passed since the date that any charge or charges for which the program was invoked on the defendant's behalf were dismissed by the court, or (B) with respect to a defendant who is a veteran, that the defendant has not had such program invoked in the defendant's behalf more than once previously, provided the defendant shall agree thereto and provided notice has been given by the defendant,] **The court shall designate a party, other than the defendant, to provide notice of the defendant's application,** on a form approved by rule of court, to the victim or victims of such crime or motor vehicle violation, if any, by registered or certified mail and such victim or victims have an opportunity to be heard thereon. Any defendant who makes application for participation in such program shall pay to the court an application fee of thirty-five dollars. No defendant shall be allowed to participate in the pretrial program for accelerated rehabilitation more than two times. For the purposes of this section, "veteran" means any person who was discharged or released under conditions other than dishonorable from active service in the armed forces as defined in section 27-103.

Section 4: Subsection (a) of section 54-85b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) An employer shall not deprive an employee of employment, penalize or threaten or otherwise coerce an employee with respect to employment, because (1) the employee obeys a legal subpoena to appear before any court of this state as a witness in any criminal proceeding, (2) the employee attends a court proceeding or participates in a police investigation related to a criminal case in which the employee is a crime victim, or attends or participates in a court proceeding related to a civil case in which the employee is a victim of family violence, as defined in section 46b-38a, (3) a restraining order has been issued on the employee's behalf pursuant to section 46b-15, (4) a protective order has been issued on the employee's behalf by a court of this state, **pursuant to section 46b-38c, (5) a foreign order of protection has been**

issued [or] by a court of another state, **pursuant to section 46b-15a** [provided if issued by a court of another state, the protective order shall be registered in this state pursuant to section 46b-15a], **(6) a standing criminal protective order has been issued on the employee's behalf, pursuant to section 53a-40e, (7) a civil protection order has been issued on the employee's behalf, pursuant to section 46b-16a** or [(5)] **(8)** the employee is a victim of family violence, as defined in section 46b-38a. For the purposes of this section, "crime victim" means an employee who suffers direct or threatened physical, emotional or financial harm as a result of a crime or an employee who is an immediate family member or guardian of (A) a person who suffers such harm and is a minor, physically disabled, as defined in section 46a-51, or incompetent, or (B) a homicide victim.

(b) Any employer who violates subdivision (1) of subsection (a) of this section shall be guilty of criminal contempt and shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(c) If an employer discharges, penalizes or threatens or otherwise coerces an employee in violation of subsection (a) of this section, the employee, not later than one hundred eighty days from the occurrence of such action, may bring a civil action for damages and for an order requiring the employee's reinstatement or otherwise rescinding such action. If the employee prevails, the employee shall be allowed a reasonable attorney's fee to be fixed by the court.