

Legislative History for Connecticut Act

PA 14-147

HB5341

House	1716-1719	4
Senate	3467, 3474, 3480-3481	4
Judiciary	1318-1319, 1327-1329, <u>1509, 1695-1696</u>	8
		16

H – 1186

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
PART 6
1681 – 2023**

law/gbr
HOUSE OF REPRESENTATIVES

36
April 23, 2014

THE CLERK:

Mr. Speaker, on page 27, Calendar 359, a favorable report of the joint standing committee on judiciary, substitute House Bill 5341, AN ACT CONCERNING THE DESIGNATION OF A PERSON CONVICTED OF CRIMINAL -- A CRIMINAL VIOLATION WITH A STANDING CRIMINAL PROTECTIVE ORDER AS A PERSISTENT OFFENDER.

SPEAKER SHARKEY:

Representative Fox.

REP. G. FOX (146th):

Thank you, Mr. Speaker. I move for acceptance of the joint committee's favorable report and passage of the bill.

SPEAKER SHARKEY:

The question is on acceptance of the joint committee's favorable report and passage of the bill. Will you remark, Sir.

REP. G. FOX (146th):

Thank you, Mr. Speaker. What this bill addresses is the area where we -- several years ago we took a look at some of our domestic violence laws and one of the things that we did is we included an area where those who are convicted of certain crimes like stalking, harassment, trespassing could then also be

law/gbr
HOUSE OF REPRESENTATIVES

37
April 23, 2014

elevated to the category of persistent felon -- or persistent offender if they do -- commit this crime multiple times. And what we did not include and this was something that was pointed out by the Office of the Victim Advocate is those situations where there's standing criminal protective orders that are -- that are issued.

And those are the situations where a judge would order a -- as part of -- as a condition of a disposition of a case a protective order that would be ongoing for whatever period of time the judge determined. And I do believe there was back at the time the intention to include standing criminal protective orders as part of that category of potential crimes that could then be elevated to a persistent offender. I appreciate the Office of Victim Advocate pointing this out and making it one of their priorities for this session. And I would urge passage of the bill.

SPEAKER SHARKEY:

Thank you, Sir. Would you care to remark further on the bill that's before us? Representative Rebimbas.

law/gbr
HOUSE OF REPRESENTATIVES

38
April 23, 2014

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And I certainly concur with the representation made by the Chairman of the judiciary committee. I do rise in support of the bill that's before us and I also want to extend my thank you to the Victim Advocate Office as well as the Chief State's Attorney's Office for bringing this to our attention and advocating on behalf of this.

And it certainly was an omission that the intent was to be maintained so all of the standing criminal protective orders as of October 1, 2010 will be included in this so it is retroactive to include those. So I do stand in support of the legislation that's before us.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark? Would you care to remark further on the bill that's before us? If not, staff and guests to the well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.
The House of Representatives is voting by roll. Will members please take your seats immediately.

law/gbr
HOUSE OF REPRESENTATIVES

39
April 23, 2014

SPEAKER SHARKEY:

Have all members voted? Have all members voted?
Will the members please check the board to make sure
your vote is properly cast. If all the members have
voted the machine will be locked and the Clerk will
take a tally. Clerk, please announce the tally.

THE CLERK:

House Bill 5341	
Total Number Voting	142
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not voting	8

SPEAKER SHARKEY:

The bill passes. Will the Clerk please call
Calendar 255.

THE CLERK:

Calendar 255 on page 14, favorable report of the
joint standing committee on public health, substitute
House Bill 5328, AN ACT CONCERNING ADVISORY AND
PLANNING COUNCILS FOR STATE DEVELOPMENTAL SERVICES
REGIONS A CHANGE IN TERMINOLOGY AND THE AUTISM
SPECTRUM DISORDER ADVISORY COUNCIL.

**S - 679
CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2014**

**VETO
SESSION**

**VOL. 57
PART 11
3246 – 3508**

pat/gbr
SENATE

282
May 7, 2014

SENATOR LOONEY:

Madam President, some additional items to add at this time, Madam President.

THE CHAIR:

Please proceed, Senator Looney.

SENATOR LOONEY:

Yes. Madam President, Calendar Page 14, Calendar 455, House Bill 5325, move to place that item on the Consent Calendar.

THE CHAIR:

So ordered, sir. That's already been on the Consent Calendar, sir.

SENATOR LOONEY:

It's already on there? Okay.

THE CHAIR:

Yes, sir.

SENATOR LOONEY:

And Calendar Page 15, Calendar 465, House Bill 5341, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President, and an additional item from Calendar Page 24, Madam President, at the top of Calendar Page 24, Calendar 551, Substitute for House Bill Number 5588, I move to place that item on the Consent Calendar.

THE CHAIR:

pat/gbr
SENATE

289
May 7, 2014

Calendar 334, House Bill 5339.
Calendar 336, House Bill 5056.
On Page 7, Calendar 345, House Bill 5443.
On Page 9, Calendar 417, House Bill 5410.
On Page 10, Calendar 420, House Bill 5258.
Calendar 421, House Bill 5263.
Calendar 424, House Bill 5439.
On Page 11, Calendar 429, House Bill 5581.
On Page 12, Calendar 445, House Bill 5418.
Calendar 438, House Bill 5336.
On Page 13, Calendar 453, House Bill 5133.
Calendar 446, House Bill 5150.
Calendar 452, House Bill 5531.
On Page 14, Calendar 457, House Bill 5516.
Calendar 455, House Bill 5325.
Calendar 456, House Bill 5440.
Calendar 459, House Bill 5321.
Calendar 461, House Bill 5140.
On Page 15, Calendar 468, House Bill 5450.
Calendar 465, House Bill 5341.
On Page 16, Calendar 474, House Bill 5337.
Calendar 469, 5538.
Calendar 473, House Bill 5328.
On Page 17, Calendar 496, House Bill 5115.

pat/gbr
SENATE

295
May 7, 2014

SENATOR LOONEY:

If we might pause for just a moment to verify a couple of additional items.

Madam President, to verify an additional item, I believe it was placed on the Consent Calendar and Calendar Page 30, on Calendar Page 30, Calendar 592, Substitute for House Bill 5476.

THE CHAIR:

It is, sir.

SENATOR LOONEY:

It is on? Okay. Thank you. Thank you, Madam President. If the Clerk would now, finally, Agenda Number 4, Madam President, Agenda Number 4 one additional item ask for suspension to place up on Agenda Number 4 and that is, ask for suspension to place on the Consent Calendar an item from Agenda Number 4.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President, and that item is Substitute House Bill Number 5566 from Senate Agenda Number 4.

Thank you, Madam President. If the Clerk would now, if we might call for a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk. Will you please call for a Roll Call Vote on the Consent Calendar. The machine will be opened.

THE CLERK:

An immediate Roll Call has been ordered in the Senate.

pat/gbr
SENATE

296
May 7, 2014

An immediate Roll Call on Consent Calendar Number 2 has been ordered in the Senate.

THE CHAIR:

If all members have voted, all members have voted, the machine will be closed. Mr. Clerk will you please call the tally.

THE CLERK:

Consent Calendar Number 2.

Total number voting	36
Necessary for adoption	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

The Consent Calendar passes. Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Two additional items to take up before the, our final vote on the implementer. If we might stand for just, for just a moment.

The first item to mark Go is, Calendar, to remove from the Consent Calendar, Calendar Page 22, Calendar 536, House Bill 5546. If that item might be marked Go.

And one additional item, Madam President, and that was from Calendar, or rather from Agenda Number 4, ask for suspension to take it up for purposes of marking it Go, that is House Bill, Substitute for House Bill 5417. Thank you, Madam President.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 3
886 – 1483**

2014

11
cip/gbr JUDICIARY COMMITTEE

March 3, 2014
1:00 P.M.

ANDREW CLARK: All right. Thank you.

SARAH RUSSELL: Thanks very much.

SENATOR COLEMAN: Garvin Ambrose is next.

GARVIN AMBROSE: Good afternoon, Senator Coleman, Representative Fox and Distinguished Members of the Judiciary Committee. For the record, my name is Garvin Ambrose. I'm state victim advocate for the State of Connecticut.

I want to thank you for the opportunity to provide oral and written testimony in support of the OVA's three pieces of legislation, Senate Bill 261, which is AN ACT, AN ACT CONCERNING THE INHERITANCE RIGHTS OF A BENEFICIARY OR A SURVIVOR WHO'S FOUND NOT GUILTY OF MURDER OR MANSLAUGHTER OF THE DECEASED BY REASON OF MENTAL DISEASE OR DEFECT, Senate Bill 262, AN ACT CONCERNING APPLICATIONS FOR THE PRETRIAL ALCOHOL EDUCATION PROGRAM, House Bill 33 -- 5341, AN ACT CONCERNING THE DESIGNATION OF A PERSON CONVICTED OF CRIMINAL VIOLATION OF A STANDING CRIMINAL PROTECTIVE ORDER AS A PERSISTENT OFFENDER, and in opposition to the bill currently before you as House Bill 5221, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION AND JUVENILE SENTENCES.

The three pieces that my office submitted to you can easily be characterized as technical and necessary amendments to existing statutes that would close the loopholes, loopholes that unfortunately negatively impact the victims of crime. An in-depth discussion on each is provided in my testimony and currently provided online, and I would be happy to discuss further.

In the weeks since the OVA's bills were raised by this body, there have been discussions from different agencies on how to make the bills better. In my written testimonies, you will see slight amendments to proposal language of Senate Bill 262 and H.B. 5341.

Further discussions will continue with the Department of Mental Health and Addiction Services regarding Senate Bill 261 as it relates to a parent/child relationship and declare wishes of that parent. I believe that Commissioner Rehmer has also filed testimony to that effect.

That being said, I would like to quickly focus the remainder of my time before you by providing three main points in opposition of House Bill 5221. First, I would like to acknowledge the hard work of the Sentencing Commission -- Justice Borden as the chair -- and the thoughtful negotiations and discussions that we had towards the latter end of 2013, discussions that eventually materialized into a consensus agreement on several matters concerning the proposal.

Although the OVA didn't receive everything that we asked, we did -- we were able to minimize the negative impact that infinite numbers of parole hearings will have on victims by making the review process permissive rather than mandatory after denial by the board. As -- as important though, we were also able to negotiate a nose provision for the victims, as the original proposal did not include one. Justice Borden spoke to both of those provisions earlier in his testimony.

Unfortunately, the proposal before you today is contrary to the agreement that my office negotiated with the Sentencing Commission in

administration. My predecessor, I believe, voted as part of the consensus.

As you can imagine, with different eyes, different things are seen in -- in any type of legislation, so look -- re-looking at the legislation myself or the proposal, there are certain things that my office found were missing or could be enhanced to almost balance the scale a little bit more towards victims as well as defendants and not have it slanted towards where the initial language was.

So the -- in December -- in November at the public hearing, I spoke in opposition to this bill. Justice Borden and his active chair agreed to revisit the issue before the working group. And I came up with the original consensus, and through that -- through that discussion and negotiation, we were able to reach this new agreement that Justice Borden spoke about earlier.

SENATOR COLEMAN: Okay. I see. Thank you.

GARVIN AMBROSE: You're welcome.

SENATOR COLEMAN: Representative Dillon.

REP. DILLON: Thank you. On the Raised Bill 5341 --

GARVIN AMBROSE: Yes.

REP. DILLON: -- has your office looked at how many -- how frequently papers are served for protective orders, whether criminal or civil?

GARVIN AMBROSE: We have not, but we can get that -- those numbers for you if necessary.

REP. DILLON: I'm hearing anecdotal information, which is very troubling. As you know, our --

21
cip/gbr JUDICIARY COMMITTEE

March 3, 2014
1:00 P.M.

system is a bit different in Connecticut, I think, from 49 other states --

GARVIN AMBROSE: Uh-huh.

REP. DILLON: -- in that I believe only one type of server is allowed to issue those, and I believe regular sworn police officers cannot. And I'm hearing from advocates that the -- the numbers are quite low or surprisingly and in -- in those that are actually served. And I don't know -- I know that there were some folks looking at it.

I don't know if they completed any of the work they were doing before we got into session. Obviously, a lot of the things that we do here we need to know with working on the ground. And I wonder if you could look into that. I think it would be very helpful for the policies we're making.

GARVIN AMBROSE: And that would be the amount of the actual service of process for these restraining orders or orders of protection?

REP. DILLON: Yeah, and I'm thinking both civil and criminal, actually.

GARVIN AMBROSE: Okay.

REP. DILLON: But -- but how many of them are actually served? You know, I think there's sometimes almost a magical belief in that -- what we used to call a piece of paper.

GARVIN AMBROSE: (Inaudible).

REP. DILLON: I'm not quite sure what we would call it now. And I'm not sure how -- what percentage of them are even served.

GARVIN AMBROSE: Yeah, I understand that there was discussion earlier just prior to session regarding that -- that issue. Unfortunately, our office was not part of those discussions. However, we do know some of the individuals and can try and get those information for you.

REP. DILLON: That would be great. Thanks a lot.

GARVIN AMBROSE: You're welcome.

SENATOR COLEMAN: Are there others with questions? Seeing none, thank you very much for your testimony.

GARVIN AMBROSE: Thank you.

SENATOR COLEMAN: Kevin Kane, Chief States Attorney, is next.

KEVIN KANE: Thank you, Senator Coleman, and Members of the Committee. I'm here to testify on Raised Bill Number 5221, which is a product of the Sentencing Commission, and I'm testifying in support of the bill. And I'm also recommending the two changes that Justice Borden and -- and Attorney Ambrose mentioned that were -- were agreed upon by the Sentencing Commission last December 19th.

This bill was a compromise -- was -- was the result of -- of long and lengthy discussions and --- and arguments and -- and a -- a process in the Sentencing Commission, and I'm in support of it. One of the things that concerns me and that -- that I think is very important language in this bill -- it was hardly mentioned last year and hasn't been mentioned yet -- appears in section four -- I forget what the subsections are -- beginning at line 149 in the bill.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 4
1484 – 1903**

2014



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

JOINT COMMITTEE ON JUDICIARY
March 3, 2014

The Division of Criminal Justice respectfully submits the following testimony on bills on the agenda for the public hearing of March 3, 2014:

S.B. NO. 261, AN ACT CONCERNING THE INHERITANCE RIGHTS OF A BENEFICIARY OR SURVIVOR WHO IS FOUND NOT GUILTY OF MURDER OR MANSLAUGHTER OF THE DECEASED BY REASON OF MENTAL DISEASE OR DEFECT. The Division of Criminal Justice supports this bill, which would further advance the rights of victims of crime.

S.B. NO. 262, AN ACT CONCERNING APPLICATIONS FOR THE PRETRIAL ALCOHOL EDUCATION PROGRAM. The Division of Criminal Justice supports the intention of this bill, which is to provide notice to victims who have suffered serious physical injury when the person responsible for such injury applies for the Alcohol Education Program.

H.B. NO. 5341. AN ACT CONCERNING THE DESIGNATION OF A PERSON CONVICTED OF CRIMINAL VIOLATION OF A STANDING CRIMINAL PROTECTIVE ORDER AS A PERSISTENT OFFENDER. The Division of Criminal Justice supports this bill, which would strengthen the persistent offender statutes by adding criminal violations of a standing criminal protective order to the offenses for which the provisions of the persistent offender statute can be applied.

In conclusion, the Division wishes to thank the Committee for providing this opportunity to provide our input on these matters.



GARVIN G. AMBROSE, ESQ.
State Victim Advocate

Testimony of Garvin G. Ambrose, Esq., State Victim Advocate
 Submitted to the Judiciary Committee
 Monday, March 3, 2014

Good day Senator Coleman, Representative Fox, and distinguished members of the Judiciary Committee. For the record, my name is Garvin Ambrose and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Raised House Bill No. 5341, *An Act Concerning the Designation of a Person Convicted of Criminal Violation of a Standing Criminal Protective Order as a Persistent Offender.*

The Office of the Victim Advocate (OVA) introduces and supports today's proposal to correct an oversight in the language of Connecticut's Persistent Offender Statute (C.G.S. § 53a-40d).

Connecticut General Statutes § 53a-40d relates to persistent offenders of stalking, threatening, and harassment-related crimes. Additionally, under C.G.S. § 53a-40d, a persistent offender of crimes involving criminal violation of a protective order or criminal violation of a restraining order must be sentenced pursuant to the "next-more serious-degree of misdemeanor or felony." This section does not extend to persistent offenders of crimes involving criminal violations of a standing criminal protective order – an error that today's proposal seeks to rectify.

To understand the significance of this omission, it is important to understand the differences between a protective order, restraining order, and standing criminal protective order. A protective order is issued by the criminal court to protect a victim from threats, harassment, or injury. It can be issued when a defendant has been arrested for family violence, stalking, harassment, risk of injury, or sexual assault offenses and may order the defendant to refrain from threatening, harassing, restraining, assaulting, molesting, or sexually assaulting the victim. It can also prohibit the defendant from entering the family dwelling or victim's dwelling. A protective order can be issued at any time during the pending criminal proceeding, but it is typically issued at arraignment. It may remain in effect until the disposition of the criminal case.

A restraining order is similar to a protective order except that it is issued in civil court. A family or household member alleging a continuous threat of present physical pain or physical

injury, stalking, or a pattern of threatening by a family or household member may petition the civil court for a restraining order. The judge may impose the same protections as a criminal protective order, and the order can remain in effect for up to one year.

A standing criminal protective order is similar to a protective order except that it is **issued by the criminal court** after considering the history and nature of the circumstances of the defendant's criminal conduct **when the defendant has been convicted** of certain offenses against a household or family member. The standing criminal protective order is usually issued at the time of sentence but it can be issued following the sentencing hearing. A standing criminal protective order is sometimes referred to as a "lifetime order" as it typically is issued for a lengthy duration of time in severe cases.

A defendant can be charged with violating a protective order, restraining order, or standing protective pursuant to C.G.S. §§ 53a-223, 53a-223b, and 53a-223a respectively, which are class D felonies.

As the persistent offender statute for stalking, threatening, and harassment-related offenders is intended to protect victims and hold accountable offenders who demonstrate non-compliance with court orders, it makes sense to include the offense of criminal violation of a standing criminal protective order to the list of offenses under C.G.S. § 53a-40d. Raised House Bill No. 5341 would offer such protection.

Finally, Public Act 10-144 substituted the language of "standing criminal restraining order" to "standing criminal protective order" effective October 1, 2012. To ensure that offenders are eligible for persistent offender status for violation of standing criminal restraining orders, the OVA respectfully requests that the proposal be amended as follows:

On line 24, before the word "criminal" insert the following language: "criminal violation of a standing criminal restraining order under the provisions of section 53a-223a in effect prior to October 1, 2012,"

For these reasons, the OVA introduces and supports Raised House Bill No. 5341, with an amendment, and urges this Committee's approval. Thank you again for your time and consideration of my testimony.

With gratitude,



Garvin G. Ambrose, Esq.
State Victim Advocate