



**Jennifer's Law: Its Impact on ROs, Divorces, and Family Law Cases  
(EWL220329)**

**Tuesday, March 29, 2022**

**5:00 p.m. – 7:00 p.m.**

**Webinar**

**CT Bar Institute, Inc.**

CT: 2.0 CLE Credits (General)

NY: 2.0 CLE Credits (AOP)

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## **LAWYERS' PRINCIPLES OF PROFESSIONALISM**

As a lawyer, I have dedicated myself to making our system of justice work fairly and efficiently for all. I am an officer of this Court and recognize the obligation I have to advance the rule of law and preserve and foster the integrity of the legal system. To this end, I commit myself not only to observe the Connecticut Rules of Professional Conduct, but also conduct myself in accordance with the following Principles of Professionalism when dealing with my clients, opposing parties, fellow counsel, self-represented parties, the Courts, and the general public.

### **Civility:**

Civility and courtesy are the hallmarks of professionalism. As such,

- I will be courteous, polite, respectful, and civil, both in oral and in written communications;
- I will refrain from using litigation or any other legal procedure to harass an opposing party;
- I will not impute improper motives to my adversary unless clearly justified by the facts and essential to resolution of the issue;
- I will treat the representation of a client as the client's transaction or dispute and not as a dispute with my adversary;
- I will respond to all communications timely and respectfully and allow my adversary a reasonable time to respond;
- I will avoid making groundless objections in the discovery process and work cooperatively to resolve those that are asserted with merit;
- I will agree to reasonable requests for extensions of time and for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;
- I will try to consult with my adversary before scheduling depositions, meetings, or hearings, and I will cooperate with her when schedule changes are requested;
- When scheduled meetings, hearings, or depositions have to be canceled, I will notify my adversary and, if appropriate, the Court (or other tribunal) as early as possible and enlist their involvement in rescheduling; and
- I will not serve motions and pleadings at such time or in such manner as will unfairly limit the other party's opportunity to respond.

### **Honesty:**

Honesty and truthfulness are critical to the integrity of the legal profession – they are core values that must be observed at all times and they go hand in hand with my fiduciary duty. As such,

- I will not knowingly make untrue statements of fact or of law to my client, adversary or the Court;
- I will honor my word;
- I will not maintain or assist in maintaining any cause of action or advancing any position that is false or unlawful;

- I will withdraw voluntarily claims, defenses, or arguments when it becomes apparent that they do not have merit or are superfluous;
- I will not file frivolous motions or advance frivolous positions;
- When engaged in a transaction, I will make sure all involved are aware of changes I make to documents and not conceal changes.

**Competency:**

Having the necessary ability, knowledge, and skill to effectively advise and advocate for a client's interests is critical to the lawyer's function in their community. As such,

- I will keep myself current in the areas in which I practice, and, will associate with, or refer my client to, counsel knowledgeable in another field of practice when necessary;
- I will maintain proficiency in those technological advances that are necessary for me to competently represent my clients.
- I will seek mentoring and guidance throughout my career in order to ensure that I act with diligence and competency.

**Responsibility:**

I recognize that my client's interests and the administration of justice in general are best served when I work responsibly, effectively, and cooperatively with those with whom I interact. As such,

- Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the Court (or other tribunal) and my adversary of any likely problem;
- I will make every effort to agree with my adversary, as early as possible, on a voluntary exchange of information and on a plan for discovery;
- I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;
- I will be punctual in attending Court hearings, conferences, meetings, and depositions;
- I will refrain from excessive and abusive discovery, and I will comply with all reasonable discovery requests;
- In civil matters, I will stipulate to facts as to which there is no genuine dispute;
- I will refrain from causing unreasonable delays;
- Where consistent with my client's interests, I will communicate with my adversary in an effort to avoid needless controversial litigation and to resolve litigation that has actually commenced;
- While I must consider my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation.

**Mentoring:**

I owe a duty to the legal profession to counsel less experienced lawyers on the practice of the law and these Principles, and to seek mentoring myself. As such:

- I will exemplify through my behavior and teach through my words the importance of collegiality and ethical and civil behavior;
- I will emphasize the importance of providing clients with a high standard of representation through competency and the exercise of sound judgment;
- I will stress the role of our profession as a public service, to building and fostering the rule of law;
- I will welcome requests for guidance and advice.

**Honor:**

I recognize the honor of the legal profession and will always act in a manner consistent with the respect, courtesy, and weight that it deserves. As such,

- I will be guided by what is best for my client and the interests of justice, not what advances my own financial interests;
- I will be a vigorous and zealous advocate on behalf of my client, but I recognize that, as an officer of the Court, excessive zeal may be detrimental to the interests of a properly functioning system of justice;
- I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;
- I will, as a member of a self-regulating profession, report violations of the Rules of Professional Conduct as required by those rules;
- I will protect the image of the legal profession in my daily activities and in the ways I communicate with the public;
- I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance; and
- I will support and advocate for fair and equal treatment under the law for all persons, regardless of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, gender identity, gender expression or marital status, sexual orientation, or creed and will always conduct myself in such a way as to promote equality and justice for all.

Nothing in these Principles shall supersede, supplement, or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which a lawyer's conduct might be judged, or become a basis for the imposition of any civil, criminal, or professional liability.

# Faculty Biographies

## Honorable Leo V. Diana

**Judge Diana** is currently the presiding judge of the Family Court for the Hartford Judicial District. He has sat in Middletown at GA 9, in Norwich Family Court and was presiding judge in Middletown at the Regional Family Trial Docket for four years.

As a member of the Access to Justice Commission, he is the co-chair of the Modest/Moderate Means Subcommittee. He was the president of the Connecticut Judges Association, Inc.

He is a volunteer for the "Judges in School" program and teacher at Hartford High School.

Judge Diana was the Mayor of Manchester and practiced family law in Hartford for twenty-six years before joining the bench.

## Campbell D. Barrett

**Campbell Barrett**, Pullman & Comley LLC, chairs the Family Law and Appellate Practice groups, both of which have been named "Department of the Year" by the *Connecticut Law Tribune*. He represents clients in complex, high-income, high-net worth cases across Connecticut and handles all aspects of family law, including asset division, alimony, child custody, child support, appeals, prenuptial agreements and postnuptial agreements. He has acted as lead counsel on more than sixty appeals to the Connecticut Supreme and Appellate Courts, including many important cases of first impression.

Campbell is a fellow of the American Academy of Matrimonial Lawyers and in 2019 served as the president of the Connecticut Chapter. He has been named a Top 50 Connecticut *Super Lawyer* and a Top 100 New England *Super Lawyer* multiple times. He was also named "Family Lawyer of the Year" by *Best Lawyers* for 2018, 2020 and 2022. In 2005, he received the Judge Maxwell Heiman Award by the Hartford County Bar Association.

He has lectured and written extensively on family and appellate practice, and has been a guest family law expert on National Public Radio. He is the co-author of the book, *Same Sex Marriage: The Legal and Psychological Evolution in America*, which in 2006 was awarded the American Psychological Association's "Most Distinguished Book in Lesbian, Gay, and Bisexual Psychology." He has also authored chapters in family law treatises on the definition of property and prenuptial agreements.

## Meghan Scanlon

**Meghan Scanlon** currently serves as the CEO of the Connecticut Coalition Against Domestic Violence (CCADV), the state's leading voice for victims of domestic violence and those organizations that serve them. Prior to her time at CCADV, Scanlon was the Executive Director of Women & Family Life Center, a regional nonprofit serving women and families in crisis. Additionally, Meghan has worked in several roles throughout the Connecticut nonprofit world and served as an aide to Senator Chris Murphy and Congresswoman Jahana Hayes. She is a graduate of the University of Connecticut.

## Linda Santos Smith, Ph.D.

**Linda Santos Smith, Ph.D.** is a Clinical and Forensic Psychologist who specializes in evaluating, treating, and consulting with families who are involved with the family court. She currently has a full-time private practice in Southport, where she typically serves as an individual therapist, family therapist and an expert/consultant to court-involved families. Her previous experience includes serving as Assistant Director at the Comprehensive Family Evaluation Center at Tufts Medical Center, Assistant Professor of Pediatrics at Tufts Medical Center, and Research Director/Instructor of Psychology at Cambridge Hospital/Harvard Medical School. She graduated from Columbia University with a Ph.D. in Clinical Psychology. She completed her Post-Doctoral training in Child and Family Forensic Psychology at Tufts University Medical Center. Dr. Smith is a frequent lecturer to family court judges, lawyers, and mental health professionals.

## Agenda

### Jennifer's Law: Its Impact on ROs, Divorces, and Family Law Cases (EWL220329)

March 29, 2022

5:00 p.m. to 7:00 p.m.

### Webinar

#### Presenters:

**Hon. Leo V. Diana**, Connecticut Superior Court, Hartford

**Campbell Barrett**, Pullman & Comley LLC, Hartford

**Meghan Scanlon**, Connecticut Coalition Against Domestic Violence, Weathersfield

**Dr. Linda Santos Smith**, Clinical & Forensic Psychologist, Southport

5:00 – 5:10 p.m.: Introductions – **Aidan Welch**

5:10 – 5:35 p.m.: What is Coercive Control/Jennifer's Law, amendments to the laws, overview of services CCADV provides, CCADV's processes and involvement with victims and custody issues and obtaining TROs - **Meghan Scanlon**

5:35 – 6:00 p.m.: The psychological effect on victims and families and how to identify and address coercive control - **Dr. Linda Santos Smith**

6:00 – 6:25 p.m.: Process of dealing with a coercive control case from the consult to trial. How to present a coercive control case to the Court, and other practical considerations – **Campbell Barrett**

6:25 – 6:50 p.m.: What is a judge looking for during a TRO hearing and/or trial, practical tips for practitioners – **Judge Diana**.

6:50 – 7:00 p.m.: Questions - **Panel**

# Introduction to Public Act 21-78

# Public Act 21-78

# Public Act 21-78

Pursuant to the statutory language, coercive control is a ***pattern of behavior that in purpose or effect unreasonably interferes*** with a person's free will and personal liberty.

The statutory term "coercive control" includes, but is not limited to, unreasonably engaging in any of the following:

1. **Isolating** the family or household member from friends, relatives or other sources of support
2. **Depriving** the family or household member of basic necessities
3. **Controlling, regulating or monitoring** the family or household member's movements, communications, daily behavior, finances, economic resources or access to services

# Public Act 21-78

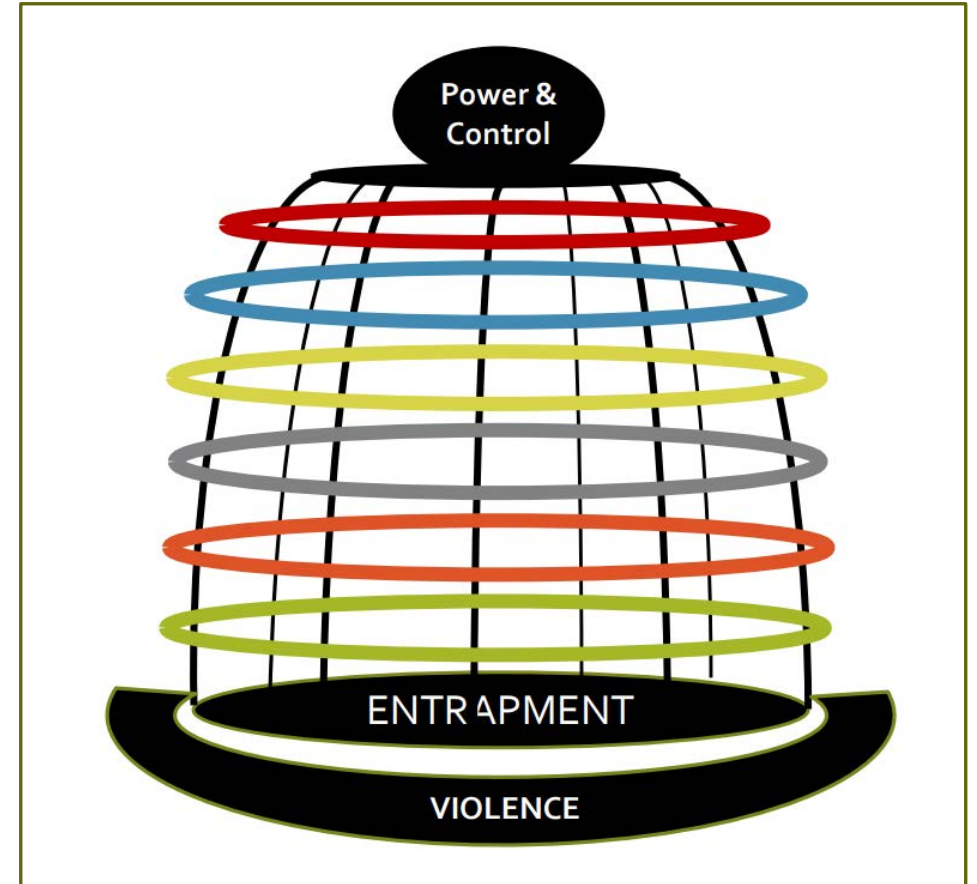
4. **Compelling** the family or household member **by force, threat or intimidation**, including, but not limited to, threats based on actual or suspected immigration status, to:
  - Engage in conduct from which such family or household member has a right to abstain or
  - Abstain from conduct that such family or household member has a right to pursue
5. **Committing or threatening to commit** cruelty to animals that intimidates the family or household member
6. **Forcing** sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person's sexuality or threats to release sexual images

Coercive Control  
CONCEPTUALLY

What is  
coercive  
control?

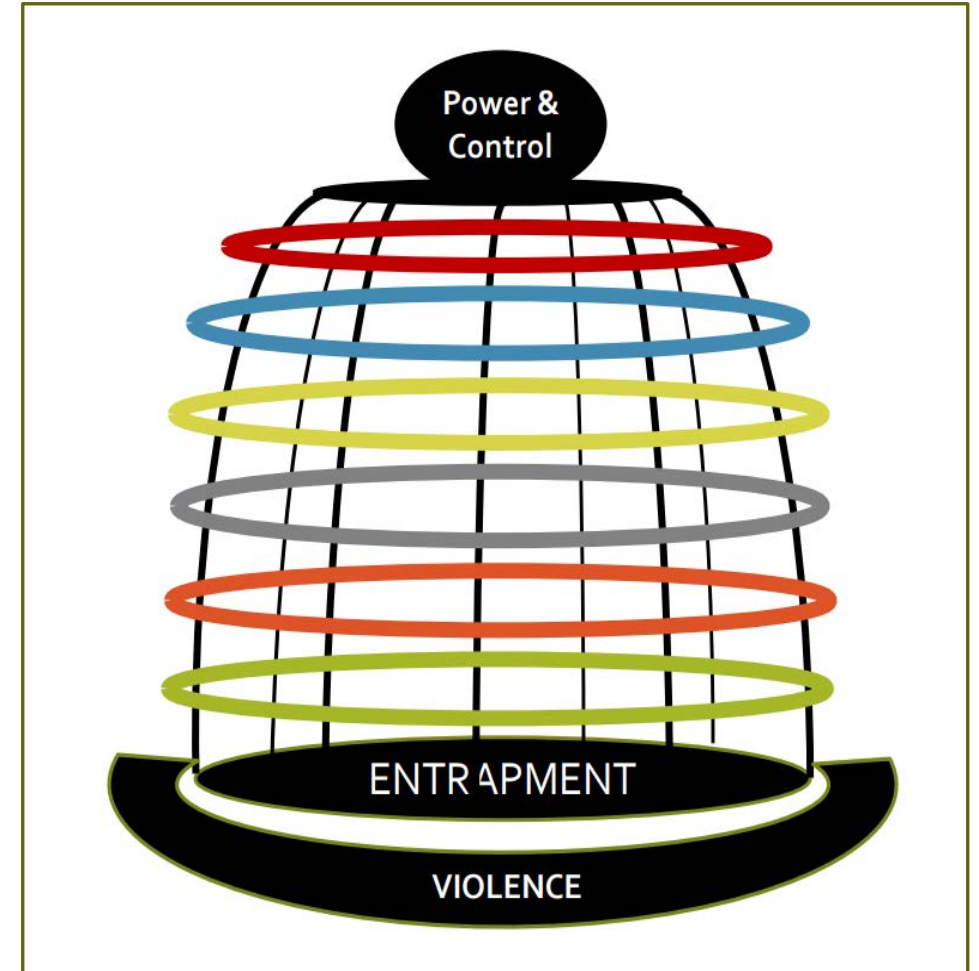
# The Concept of Coercive Control

- Coercive control is **not just psychological**, but structural
  - It's calculated
  - It's intentional
  - It's premeditated
- A distinguishing feature is that it places the victim in an objective state of entrapment.
- Coercive control **diminishes a survivor's ability to exercise agency and autonomy**—the very things that would enable them to leave the relationship—resulting in entrapment.



# The Concept of Coercive Control

- It is qualitatively **different than physical violence**, not just different in degree or severity.
  - Rational, instrumental behavior and not a loss of control
  - Based on multiple tactics like intimidation, degradation, isolation and control
- With physical violence, it can be a single incident. With coercive control it can be never ending, and is often intertwined into **every moment of every day**.



# Methods of Control

# Methods of Control

# Methods of Control

## Methods of Control

**Coercive control behaviors are often behaviors that are NOT criminal acts such as:**

### **FINANCIAL:**

- Withholding money
- Denying access to bank accounts/ATM and credit cards
- Ruining a victim's credit
- Taking the victim's paycheck
- Showing up or calling the victim's workplace incessantly
- Insisting that the victim be driven to work

# Methods of Control

# Red Flags

If there is no physical violence or threat of physical violence, are any of these behaviors present and ongoing?

# Coercive Control: Limited Information

## Other Elements of Public Act 21-78

# Remote Testimony

## REMOTE TESTIMONY

- Section 2F adds a notice provided to recipients of restraining orders to inform of their option to give testimony or appear in a family court proceeding remotely.
- Section 6E adds a notice provided to recipients of protective orders to inform of their option to give testimony or appear in a family court proceeding remotely.
- Section 7C(2) adds a notice provided to recipients of standing criminal protective orders to inform of their option to give testimony or appear in a family court proceeding remotely.

# SERVICE OF RESTRAINING ORDERS

## Service of Restraining Orders

Section 2H makes amends the language regarding the service of restraining orders.

A proper officer responsible for the service of restraining orders (marshals) shall accept all documents in electronic format, if presented to such officer in such format.

- Frivolous Filings
- Best Interest Factors
- Restraining Order Grant Program
- Lock Change

Other  
Provisions  
of Public Act  
21-78

# FRIVOULOUS AND INTENTIONALLY FABRICATED PLEADINGS

Section 10 provides that in any family relations matter, if the court finds that a pattern of frivolous and intentionally fabricated pleadings or motions are filed by one party, the court shall sanction such party in an appropriate manner so as to allow such matter to proceed without undue delay or obstruction by the party filing such pleadings or motions.

Frivolous  
Filings

## Best Interests of the Child

### BEST INTERESTS OF THE CHILD

Section 8F adds an additional factor for a guardian ad litem to consider in determining the best interests of the child.

- Adds “the physical and emotional safety of the child” to the list of factors that a guardian ad litem may consider when determining the best interests of a child.

Section 9C adds an additional factor for a judge to consider in determining the best interests of the child.

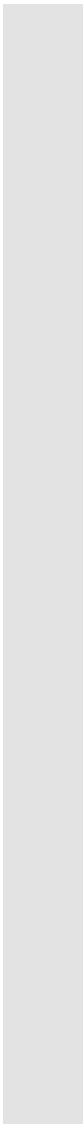
- Adds “the physical and emotional safety of the child” to the list of factors that a guardian ad litem may consider when determining the best interests of a child.

# RESTRAINING ORDER GRANT PROGRAM

Section 15 establishes a grant program to provide legal services at no cost for indigent individuals who express an interest in applying for a restraining order.

- Once established services will be provided in the judicial districts of Fairfield, Hartford, New Haven, Stamford-Norwalk or Waterbury

## Restraining Order Grant Program



# Lock Change

## A Note on Lock Change

### Leverage Point

- Abusive partner won't allow victim to leave the house, keeps keys to the house

### Coercive Intent

- Emotional abuse
- Isolation

### Court Remedy

- Require respondent to stay away and use lock change provision

# Lock Change

## LOCK CHANGE

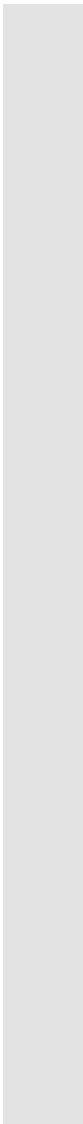
A victim must be a named protected person under a court order of protection issued by a Connecticut court or a foreign order of protection registered in Connecticut pursuant to §46b-15a that is in effect at the time of the request. Orders include, but are not limited to, the following:

- Family violence restraining order (including ex parte) issued pursuant to §46b-15
- Civil protection order issued pursuant to §46b-16a
- Criminal protective order issued pursuant to §46b-38c or §54-1k
- Standing criminal protective order issued pursuant to §53a-40e

***AND***

The court order of protection must require the respondent/defendant to do one of the following:

- Stay away from the home of the victim/protected party/tenant
- Stay a minimum distance (e.g. 100 yards) from the victim/protected party/tenant



# LOCK CHANGE - LIMITATIONS

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- PO, TRO/RO or CPO must include language that requires the respondent/defendant to:
  - Stay away from the home of the protected party OR
  - Stay away a minimum distance from the protected party
- If a foreign order of protection, must be registered in CT first
- Costs of lock change can be charged back to the protected party (*but* covered under victim compensation)

# PROTECTIONS – Restraining Orders and Lock Change

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## RO PROTECTIONS:

- Refrain from assaulting, threatening, harassing, following, interfering with or stalking
- Stay away from the home or where the protected person/persons reside
- No contact
- Stay away orders

## LOCK CHANGE PROTECTIONS:

- \* If statutory requirements met:
  - Lawful change of locks
  - Offender has no access to key or to keep keys or other documents located in the home
  - Can be utilized from ex-parte stage

# Orders of Maintenance

## Example: Transportation

## A Note on Orders of Maintenance

### Leverage Point

- Access to vehicle
- Insurance in abusive partner's name

### Coercive Intent

- Emotional abuse
- Financial abuse

### Court Remedy

- Require respondent to provide access to vehicle and/or keys
- Require respondent to not cancel car insurance

# Orders of Maintenance

## Example: Identification/Papers

### Leverage Point

- Abusive partner has forcibly taken and withheld state ID, green card, passport, etc.

### Coercive Intent















- Emotional abuse
- Immigration abuse
- Financial abuse

### Court Remedy

- Require respondent to return specified documents

## A Note on Orders of Maintenance

# PROTECTIONS: Request for Orders of Maintenance

	At ex parte stage	At time of hearing
No termination of necessary utility services		
No cancellation or change to health, automobile or homeowner's insurance coverage or beneficiary status		
Provide a specific family automobile, checkbook, documentation, documentation of identification, key, and/or personal effects		
Make rent/mortgage payments on family residence or residence where protected party resides with children in common		
Maintain utilities		
Maintain existing insurance policies without change in coverage or beneficiary status		
Financial support (i.e. child support)		

# ORDERS OF MAINTENANCE - LIMITATIONS

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- Requires respondent to be the *spouse* of the applicant or the respondent and applicant must reside together and have a child/children in common.
- Only temporary relief available – expires at most 120 days after order, may be sooner
- Requires disclosure of financial information for some protections

# PROTECTIONS: Request for Orders of Maintenance

## At Ex Parte Stage:

- No termination of necessary utility services
- No cancellation or change to health, automobile or homeowner's insurance coverage or beneficiary status
- Provide a specific family automobile, checkbook, documentation, documentation of identification, key, and/or personal effects

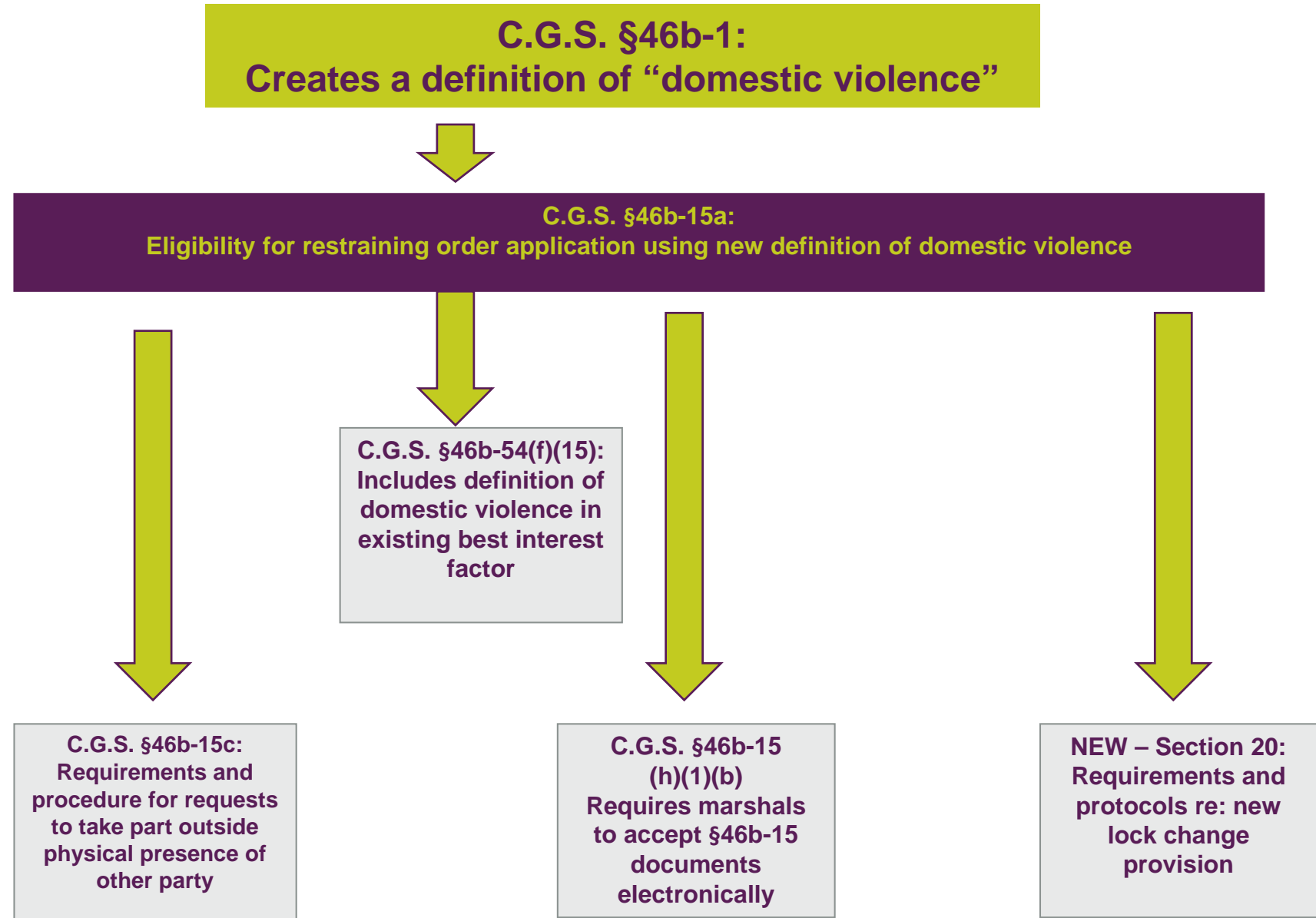
## At time of Hearing:

All of the above, plus:

- Make rent/mortgage payments on family residence or residence where protected party resides with children in common
- Maintain utilities
- Maintain existing insurance policies without change in coverage or beneficiary status
- Financial support (i.e. child support)

# Recap

# Recap



# References

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2. Development and Validation of a Coercive Control Measure, <https://www.ojp.gov/pdffiles1/nij/grants/214438.pdf>
3. Pitman, Torna. Living with Coercive Control: Trapped within a Complex Web of Double Standards, Double Binds and Boundary Violations. *The British Journal of Social Work*, Volume 47, Issue 1, January 2017, Pages 143–161, <https://doi.org/10.1093/bjsw/bcw002>
4. Aronson Fontes, L (2015). *Invisible Chains: Overcoming Coercive Control in Your Intimate Relationship*. The Guilford Press.
5. Stark, E. (2007). *Coercive Control: How Men Entrap Women in Personal Life*. Oxford University Press.
6. Frederick, Loretta, Martinez-Mullen, Ana, Shoberg, Tracy, Hampton, Scott. *Guardians d Litem: A Safer Approach to Enhancing Domestic Violence Practice*. The Battered Women’s Justice Project, 2020.

# cca | DV MEMBER ORGANIZATIONS

Connecticut Coalition Against Domestic Violence



**WOMEN'S SUPPORT SERVICES**



**SAFE HAVEN**  
OF GREATER WATERBURY, INC.



**WOMEN'S CENTER**  
since 1978



**DVCC**  
SHINING LIGHT ON DOMESTIC VIOLENCE

eliminating racism  
empowering women  
**ywca**  
greenwich



**The Center for Family Justice**  
Hope Starts Here.



**Susan B. Anthony Project**  
SAFETY • HEALING • GROWTH



**PRUDENCE CRANDALL CENTER**



**the network**  
working out for an violence free society



**The Umbrella Center for Domestic Violence Services**  
A program of BHcare



**CHRYSALIS**  
DOMESTIC VIOLENCE SERVICES



**new horizons**  
Domestic Violence Services  
a program of Common By Health Center, Inc.



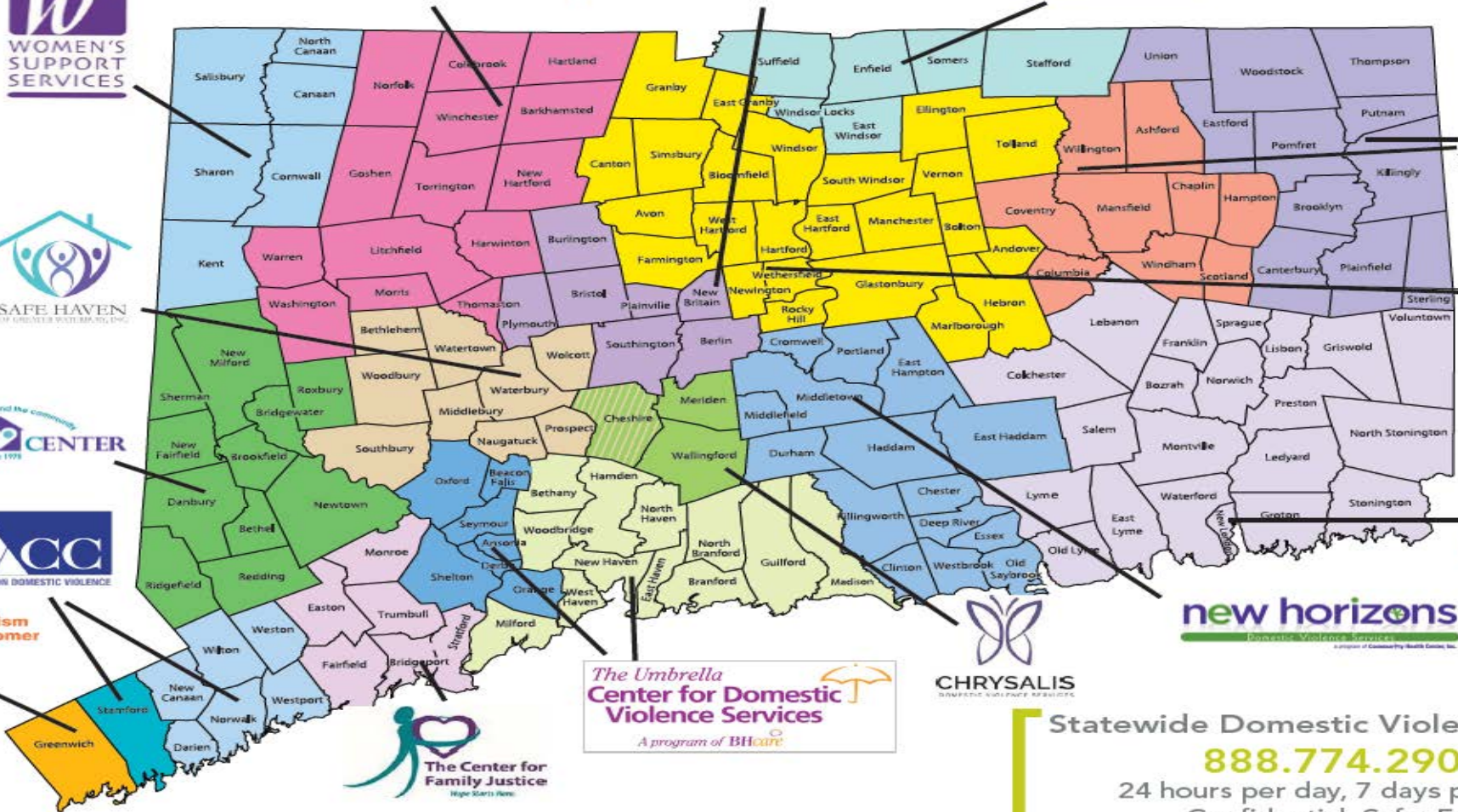
**United Services, Inc.**  
Creating healthy communities



**INTERVAL HOUSE**  
working to end domestic violence.



**Safe Futures**



**Statewide Domestic Violence Hotline**  
**888.774.2900**  
24 hours per day, 7 days per week  
Confidential. Safe. Free.

# Safe Connect

Safe Connect allows Connecticut to streamline the many access points that have existed for survivors seeking services into one comprehensive, statewide coordinated triage and response.



**CALL or TEXT us**

We listen because you matter.



**EMAIL us**

Tell us if it's safe to reply.



**LIVE CHAT in your language**

We chat back in yours.

[CTSafeConnect.org](https://CTSafeConnect.org) | (888) 774-2900 | 24/7/365

All services are CONFIDENTIAL, SAFE, FREE & VOLUNTARY.



CTSafeConnect

# The Numbers Tell the Need

- ❖ 126% DV shelter capacity in Connecticut throughout 2020
- ❖ 37,223 Domestic violence survivors served by CCADV member programs (FY 2020)
- ❖ 50% of all female homicide victims killed by current/former intimate partner (2017)
- ❖ Approximately 1 in 4 women and 1 in 7 men experience severe physical violence by an intimate partner
- ❖ 10 intimate partner violence fatalities in Connecticut (2020)
- ❖ An average of 14 intimate partner homicides each year from (2000-2019)
- ❖ 7,380 Temporary Restraining Order applications filed in Connecticut (2019)

# Trauma & DV

## IPV & DV Are About Power & Control

- ❖ Physical violence
- ❖ Sexual abuse
- ❖ Coercive control: Emotional abuse, verbal abuse, financial abuse
- ❖ Isolation
- ❖ Leaving and obtaining a restraining order can be particularly dangerous

## Trauma-Informed Representation

- ❖ Court and legal process intimidating and can trigger “trauma response”
- ❖ Active listening
- ❖ Understand client may be experiencing trauma
- ❖ Build trust



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SUPPLEMENTAL NOTES TO CBA PRESENTATION 3/29/22

**JENNIFER'S LAW: ITS IMPACT ON  
RESTRAINING ORDERS, DIVORCES  
AND FAMILY LAW CASES**

# Key Points

- 1** Domestic abuse is anchored in trauma. Alleged offenders and victims typically both have trauma histories. The victim will experience additional trauma from the domestic abuse. Their children will then experience trauma as well, due to the domestic abuse and traumatization in the current family system. This is how inter-generational trauma is transmitted from one generation to the next.
- 2** Victims of coercive control/domestic abuse are typically experiencing a high level of trauma when they separate from their abusive partners. It is critical that Courts and professionals view these victims and their cases through a trauma-sensitive lens. They need time to heal and recover. They are already at a disadvantage in the court process because of their trauma.
- 3** Trauma creates a deep divide between a victim's past experiences and their ability to narrate their trauma stories to others. Traumatic events, whether they are one time or chronic, are stored in the brain in a way that makes it difficult for victims to share. Part of the trauma recovery work is helping victims to be able to process their trauma (heal the physiological and psychological effects), and then be able to help themselves and their legal case through better integrated brain-based functioning.
- 4** The traumatic effect on victims often makes it difficult for lawyers who are trying to build their legal cases for these victims. Victims often have a difficult time recalling events, creating timelines, organizing their evidence, and telling their narrative in a way that can be presented to the Court. It is often very emotionally and cognitively draining for victims to work on their legal case. They can be avoidant and/or resistant because it brings up painful memories and emotions. This is all part of the trauma effect. This also can result in a legal disadvantage for the victim..
- 5** Many of the misconceptions about coercive control/domestic abuse is based on the natural biases that most people have about what the abuse process looks like. They visualize extreme domestic abuse and physical abuse cases that often can be found in juvenile or criminal court. However, most domestic abuse and coercive control cases are not in juvenile or criminal court. Most victims do not call the police or call DCF.
- 6** Coercive control is typically identified by putting together pieces of a puzzle. It is a case that is often built on indirect evidence, since direct evidence is quite rare and overall limited. It is important to look at characteristics and behaviors of the alleged offender, alleged victim, and children. There are red flags that can be identified throughout.

- 7 There is a significant divide between domestic abuse specialists/advocates and the family court arena. There are often different languages, different directives/guidance, etc. This divide is hurting victims. There needs to be better integration, coordination, etc. There needs to be a better understanding of the family court sandbox that the victim is in, so they can be successful in protecting themselves and their children.
- 8 There are many misconceptions about coercive control, domestic abuse, and trauma. These misconceptions have to be corrected so that biases against victims are minimized.
- 9 Trauma-sensitive treatments and supports, and a trauma-sensitive approach to legal representation and the family court process is important in protecting victims and their children during the family court process.
- 10 The next steps with Jennifer's Law should include new and innovative ways to protect victims earlier in the family court process, so that victims are protected from legal and financial abuse.

## Red Flags in a Domestic Abuse/Coercive Control Case

- 1 The alleged offender often goes into the divorce and tries to get custody and/or substantial parenting time. They are typically very aggressive in their early 'asks' of the Court or they may ask for something that doesn't seem reasonable given the historical family context. When you look at the case file, you are likely to see a lot of aggressive attempts to take custody or significant parenting time, get the house, etc. early on. The typical mentality is: 'The best defense is a strong offense'.
- 2 There are typically a kitchen sink of allegations against the victim. The offenders typically move from one allegation to the next, looking for anything that can stick to the wall. Their story often feels vacant. It shifts around. The story doesn't make sense clinically. It doesn't fit a profile of what you typically hear. Earlier allegations that don't stick will later not be raised at all.

- 3 The alleged victim often struggles to narrate their story. They tend to be less linear and more circular in how they tell their narrative. They also may be distractible while telling their story. They may stare off into space. They may get emotional at times. Alternatively, they can present as numb. They often present dazed, like they don't know what has happened. They are confused. They may be making excuses for their partner early on. They don't know who they are anymore. They will present as a shell of who they used to be. They may even be willing to share custody or agree to parenting plans that don't make sense, because they are so desperate for calm and peace. They don't want to conflict with their ex. They don't believe it will go well for them.
- 4 Alleged offenders really struggle with accountability and responsibility for their actions. They deflect onto their ex-partner whenever there is a criticism, negative feedback or a presented concern. They typically blame everyone else. They make many excuses. Their words often don't match their actions. You need to pay attention to what they do, and how inconsistent it is from their words. Double standards, two sets of rules, and hypocritical behaviors are very common.
- 5 Boundary violations are an important area to look at when investigating/evaluating alleged offenders. These boundary violations may be minor, moderate or major. Abusive individuals violate boundaries regularly and persistently. They modify the rules for themselves. This is where you will see their self-centeredness, dismissiveness of others, and their reduced ability to experience another person's perspective.
- 6 Most alleged offenders have certain common childhood/family characteristics. It is very common for there to be a trauma of some sort. This is one of the most highly predictive factors for domestic abuse – unhealed trauma. Other common characteristics include: a) An abusive and/or father dominated family system; b) Domestic abuse in the alleged offender's parents' marriage; c) An absent father – this can be through physical absence (estrangement), excessive work/travel, addiction, physical health issues, mental health issues, death, etc. d) Related to the father's absence, alleged offenders often were used as emotional supports by their mothers, when they were children/teens. There may have been enmeshment in the mother-son relationship. There typically was an early adultification/parentification of the offender – where they had to care for their mother's needs and/or younger siblings; e) Growing up with child abuse, neglect, or harsh authoritarian parenting.
- 7 The children in these families may present as follows: a) Timid, passive, acquiescent – may be the target of 'bullies'; b) Controlling and aggressive in interactions with peers; c) Attention seeking – especially of adult attention or opposite gender; d) Sleep issues – nightmares, nighttime awakenings, sleeping with a parent; e) A lot of visits to the nurse, going home early, missing class.

- 8 There are certain factors that are commonplace in the relationship history when there is domestic abuse. Typically, the relationship moves very quickly through the stages of intimacy (i.e., moved in together quickly, got engaged quickly, etc.). Alternatively, you may see a long-distance relationship to start, and typically the victim makes the move towards their partner. The early signs of domestic abuse will start after they move in together, even if 5 years after the long-distance relationship started (i.e., whenever the physical/emotional intimacy increases, you then will see signs of emotional abuse/control). In some cases, there may have been a very busy partner who kept the relationship intimacy reduced to start. Signs of domestic abuse would then begin after an increase in physical/emotional intimacy. Often you will hear from the victims that it was Dr. Jekyll/Mr. Hyde. The partner presented in one way early on, and then there was a complete 180 shift. You may also hear that they present one way in the home, and then a completely different way out in the community.
- 9 Pregnancy and birth/delivery is another important part of the relationship timeline to pay attention to. Many victims will report a change in their partners during the pregnancy. But others may actually say that the pregnancies were good, but that the birth/delivery was difficult because the partner typically acts out in some way and makes the birth/delivery about him. Post-partum depression and/or post-partum anxiety is very common in domestic abuse cases. Ob-Gyn records and hospital delivery records can be very helpful in finding early signs of abuse.
- 10 Important high-risk flags for severe domestic abuse include: a) Any type of choking/hands on neck of a victim, even mild; b) Stalking and surveilling a partner, especially if done over time or multiple times; c) Any addiction or serious misuse/abuse of alcohol, drugs, etc.; d) Any type of discovery of a 'double life' of some sort – some big secret has been revealed or could be revealed; e) Police being called to the home – especially if the offender has called the police on the victim (typically happens when the alleged offender can sense that the victim may leave).
- 11 Common clinical concerns that you may see in domestic abuse cases include: a) A high level of alcohol and/or drug misuse/abuse in the victim – this is particularly true towards the end of the relationship and the first year post-separation; b) The victim likely may have been in prior therapy. Typical symptoms include depression, anxiety, chronic physical health issues, etc. c) The offender typically has not been in therapy OR if they have been in therapy, it was superficial, supportive, and often at the partner's request; d) There may have been an attempt at couples therapy. If there was, it is common to see a short term therapy. More importantly, what you typically see is that a couples therapist may have become over-aligned with the offender. Offenders typically try to manipulate professionals onto their side. They are very adept at triangulation. You will likely hear this from the victim or you will hear a non-neutral, biased, impassioned couples therapist defending the offender parent. e) The alleged victim may also be on medication support to address psychiatric symptoms.

- 12 An alleged victim often will quickly and easily leave the marital residence. This often happens because the alleged offender refuses to leave the home. Eventually, the victim will leave because they want peace, stability, and a regaining of their own power and control. So it is common to see victims leave the marital/family home in more severe coercive control cases.
- 13 A child being aligned with a father and rejecting/resisting a mother is typically a red flag for domestic abuse (except when there are serious mental health issues, substance abuse, etc. for the mother). Offender fathers often alienate their children from their mothers. These children are at risk for 'identification with the aggressor' phenomenon. The children then act abusively towards the mother.

## Differences between Family Court, Juvenile Court and Criminal Court Cases involving Domestic Abuse

- 1 In general, the cases that are in Juvenile Court and/or Criminal Court are more severe cases with more black and white evidence. There is typically physical abuse, threatening, stalking, and/or electronic surveilling. These cases often have more direct evidence. They are more obvious to see.
- 2 In family court cases, you are more likely to see cases where there is coercive control, psychological abuse and/or financial abuse. These are more covert abuse cases. There may only be mild physical aggressions or crossing of physical boundaries. The case is often built on circumstantial evidence/indirect evidence. Credibility is very important in these cases. You have to build out the story. These are often the 'death by a 1000 cuts' cases.
- 3 There is a wide range of domestic abuse in family court cases. They can be mild, moderate or severe. You can also have an individual engage in abusive behaviors for a short period of time, but not fit a 'domestic abuse offender'/coercive control classification.

- 4 In general, in family court cases the coercive control may only appear in one area or just a couple areas. You may not see the abuse/control in all major domains. In juvenile court and criminal court cases, you often will see the control in multiple areas. Again, it is typically more obvious to see. In family court cases, the offenders typically find 1-2 strategies that work, and they will use those strategies to emotionally abuse and control their partners. So you may see no signs of financial abuse at all. Instead, you may see a lot of emotional/verbal abuse and stalking/surveillance.
- 5 In family court cases, offenders typically continue their abuse and coercive control through legal and financial abuse. There are typically many filings, and many of them are frivolous. There may be gross exaggerations and distortions in the filings. Financially, the offender will try to punish their partner through excessive spending on litigation. If they deplete funds, they are more likely to get their way financially and in custody because they will force the victim to a settlement. Again, it is death by a 1000 cuts.

## The Divide Between Domestic Abuse Advocacy /Specialists and Family Court Specialists

- 1 In domestic abuse advocacy, the assumption is typically that the victim is generally telling the truth and has been victimized. In family court, the assumption often is that the allegation could be false/malicious and/or that the allegation is exaggerated in some way. The three competing hypotheses are generally considered equal in prevalence, which is not accurate (malicious/intentional; exaggerated/distorted/misunderstood; true domestic abuse).
- 2 With domestic abuse recovery, trauma treatment and domestic abuse support is generally recommended to help the alleged victim heal. However, in family court, a victim can be criticized for participating in a trauma-based treatment or having a domestic abuse sensitive treatment. There may be an attempt to change the victim's provider.
- 3 Treatment of trauma for the children is generally recommended. Yet in many family court cases, there may be a bias to not have the child engage in a trauma-based treatment until /unless the DV allegations are verified. Even then, there may be resistance to have the child in a trauma-based treatment or to discuss the domestic abuse in the family.

- 4 Victims are often advised at the time of separation to come up with an excuse/cover and to separate themselves and their children from the alleged offender when they inform their partner of the separation/divorce (or any other notable family change that they believe the partner can negatively react to). Later, this protective action can be used against the victim parent. The victim may be accused of being manipulative or over-reactive, rather than being seen as protective and cautious.
- 5 Relatedly, victims are often screened for risk of lethality and risk for harm. These victims may have been informed to seek out protective orders, contact the police, etc. They may have been warned that they or their children could be harmed or killed. Family court professionals need to understand that this is a typical domestic abuse protocol, and victims may be understandably over-cautious at the beginning – since this is the highest risk period. Think of it as: There will likely be many false positives, but that is okay. They are trying to avoid being a true positive. So a higher level of false positives in a lethality or harm screen is reasonable because of the high stakes.
- 6 Domestic abuse advocates understand that healing is a process that takes time, and that all victims do not respond the same to victimization. In family court, there is often an implicit expectation that victims ‘appear’ a certain way. However, depending on where you are in the timeline of the victim’s recovery – victims can look very different. It typically takes at least a year for victims to show meaningful clinical progress. Their emotional and behavioral reactions will likely vary over time. Initially, they may present as more victimized, sad, and despondent. Then they may become more paranoid and anxious. Later, they may present as angry, aggressive, and hostile. They may again return to paranoid and anxious reactions, especially if they are repeatedly traumatized through the court process. It is important to see the victim’s functioning and presentation through the healing/recovery lens and timeline. Evaluate the individual over time. Do not judge them for how they may be presenting over a period of a few months. Look at long term patterns. It is also important to consider how the family court process may be slowing down the victim’s healing, and/or exacerbating their anger. Some victims may get stuck in a victimized stance. Do not start the family’s story at the time of separation. This is what the offender will try to do. They will try to gaslight the victim throughout the separation/divorce process, when the victim is already very vulnerable. Look at the entire family history and determine how these parents functioned in the household over time.

# Common Misconceptions in the Family Court Arena

MISCONCEPTION	CORRECTION
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An offender who abuses their partner is likely still a good parent to their children.	Abusive partners are at very high risk of emotionally and/or physically abusing their children, engaging in harsh/hostile parenting, and/or authoritarian or permissive parenting. The assumption should actually be that poor parenting is very likely present.
The domestic abuse will end now that they are separated. Thus, these problems will go away.	The abuse will likely continue. But it will more likely show up through co-parenting, undermining the victim's parenting, and legal and financial abuse. Abusive offenders do not relinquish control easily. They want to continue to harm their ex-partner.
The victim clearly is not scared of the alleged offender, so it must not be coercive control.	Victims of coercive control often don't present as consistently fearful of their partner. They more often present with significant confusion, shock, and despondency. Fear and anxiety will ebb and flow. Victims will typically fear what their former partner may do psychologically or legally. Control of the victim is through this fear. It does not need to be fear of physical violence or aggression.

## MISCONCEPTION

## CORRECTION

Most cases of domestic abuse are false allegations and a manipulative tactic by the partner/spouse to gain leverage in the court case.

These intentional, malicious cases are actually quite rare - likely about 5% of the time. In "not valid" cases, it is more common that there have been some type of abusive behaviors, but that a 'domestic abuse offender' profile is not present. In other words, it may not reach a clinical or legal threshold of serious concern.

If the alleged offender was truly abusive, there would be other signs (employment issues, arrests, etc.)

This statement is often more true in Juvenile Court/Criminal Court cases. In family court cases, the abuse is often more covert. These offenders have complete control over where and when they act out. They are more likely to present as Dr. Jekyll/Mr. Hyde.

Now that there is a separation, the victim needs to move on, allow access, co-parent (i.e., Get over it and move on)

Domestic abuse recovery, for both the offender and victim, can be likened to addiction recovery. It takes a long time to recover from the physiological and psychological effects of domestic abuse. This takes time. Trauma takes a lot of time to heal.

The supervised visitation reports report no significant parenting concerns so there are no parenting issues

Offender parents often perform quite well in supervised contact. Again, they know when they can misbehave, be harsh, and be abusive. Individuals who engage in coercive control/covert abuse can and will turn it on/off. This does not mean that they will be effective in parenting in an unsupervised setting. These children still often will need protections.

## MISCONCEPTION

## CORRECTION

It was the alcohol or drugs that caused the abuse.

Alcohol and drugs do not make a non-abusive individual – abusive. Instead, it is more likely that the individual was abusive or has abusive tendencies, and the alcohol/drugs disinhibited the individual to become more abusive. So it is reasonable to say that perhaps an individual wouldn't be physically violent if sober. But it doesn't mean that they are not abusive when sober. Abuse instead should be seen as a profile that moves with the individual, and can vary in severity depending on use of alcohol, drugs, etc.

'Well, she is just as bad he is' phenomenon

Domestic abuse is intentional and malicious. It is a phenomenon where its primary intent is to cause serious emotional, mental and/or physical harm to another human. Specifically, it is to cause harm to a loved one, a family member. It is rare that a victim similarly is intentionally trying to cause pain and harm to an innocent person. Therefore, this is generally not an equitable comparison and any existing pathologies or vulnerabilities should not be equated. It is important to look at intentionality and harm to others when looking at both the alleged victim and offender.

## MISCONCEPTION

## CORRECTION

Parental alienation and restrictive gatekeeping are just as bad as domestic abuse. The equating of the reaction to the original event – The chicken/egg phenomenon

If there has been domestic abuse in a family, then gatekeeping and/or alienating behaviors needs to be seen through that lens. Typically the victims would not have engaged in these types of behaviors if they had not experienced abuse (or seen the offending parent harm their children). The gatekeeping and alienating behaviors are a reaction to the abuse and should be seen accordingly.

The victim has trauma in their own childhood that is making it seem like the alleged offender was abusive.

The victim likely does have trauma in their history, and this may be contributing to their experience of their partner. But this doesn't make the abuse allegations false. It is just part of the complex story of trauma within the family system.

The domestic abuse group or therapist is making things worse by having the alleged victim believe they have been abused

Abuse victims need support and treatment. Groups are highly effective at keeping victims strong and connected during an incredibly difficult, vulnerable time. They have been trained to be a victim within their relationship. The group then provides strength to the victim – guides them again to regain their strength and identity. Again, if we look at abuse recovery through an addiction recovery model, it is the same premise. The social support received through the support group can help the victim to heal.

# Practical Tips

- 1 With domestic abuse cases in family court, an individual assessment of just the offender or just the victim are often not helpful. Domestic abuse cases are best assessed as a family assessment or family-informed assessment. Alternatively, an individual assessment of the offender should include interview information and evidence by the alleged victim.
- 2 Help the victims to get into recovery. Encourage trauma-based treatment in particular (EMDR, Somatic Experiencing). Domestic abuse groups can be very helpful. Reading books, watching videos and shows on domestic abuse are also helpful. Victims often don't understand what has happened. So when they receive knowledge and hear other women share their experiences, it can help them heal.
- 3 Attorneys should consider bringing in mental health professional coaches/experts to assist with the litigation process. It is helpful to have a trauma specialist helping to guide the client and legal team who are trying to represent the victim. These professionals can generally assist in gathering the client's narrative and helping to organize evidence, timelines, etc. They can bring a more trauma-sensitive approach and understanding to the litigation process.
- 4 Alleged offenders benefit from being in treatment with a skilled offender treatment provider, and they typically can benefit from group treatment. Unfortunately the DV Offender Education Programs are typically not helpful. Ideally, a trauma specialization/focus in treatment is very important – but the timing of this needs to be considered.
- 5 Children can typically benefit from a trauma-based treatment. Family based therapy with a provider who is domestic abuse specialized can also assist, if needed.
- 6 With alleged offenders, it is important to ask multiple investigative questions where you seek out detailed information. They typically lie, misrepresent and distort. Do not just take their word. They often present as credible. They can sound good. They are masters at knowing what to say to whom. Thus, always ask many follow up questions which will help you flesh out whether the alleged offender is credible or not.

# Future Considerations/Questions

- 1 Can the Court and Family Court professionals limit contact between parents when there are allegations of abuse. Even if there is no restraining order or protective order, can we limit contact so that the alleged victim can more expediently heal?
  - 2 What protections can be put in place early on in the case to protect against legal abuse and financial abuse – which are common strategies of the offending parent? How do we better protect victims up front? How do we try to deter the negative, high conflict trajectory?
  - 3 Does it help victims if the domestic abuse allegation is litigated early on? In other words, should lawyers try to get the finding early so that it protects against the likely false allegations to come? Can this potentially protect against the upcoming noise and smoke and mirrors?
  - 4 What type of contact should an alleged offender have with their children when it is mild, moderate or severe?
  - 5 What types of treatments, supports, and court orders will benefit the family?
- 

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§ 46b-1. [Effective 1/1/2022] (Formerly Sec. 51-330). Family relations matters defined

(a) Matters within the jurisdiction of the Superior Court deemed to be family relations matters shall be matters affecting or involving:

- (1) Dissolution of marriage, contested and uncontested, except dissolution upon conviction of crime as provided in section 46b-48;
- (2) legal separation;
- (3) annulment of marriage;
- (4) alimony, support, custody and change of name incident to dissolution of marriage, legal separation and annulment;
- (5) actions brought under section 46b-15;
- (6) complaints for change of name;
- (7) civil support obligations;
- (8) habeas corpus and other proceedings to determine the custody and visitation of children;
- (9) habeas corpus brought by or on behalf of any mentally ill person except a person charged with a criminal offense;
- (10) appointment of a commission to inquire whether a person is wrongfully confined as provided by section 17a-523;
- (11) juvenile matters as provided in section 46b-121;
- (12) all rights and remedies provided for in chapter 815j;
- (13) the establishing of parentage;
- (14) appeals from probate concerning:
  - (A) Adoption or termination of parental rights;
  - (B) appointment and removal of guardians;
  - (C) custody of a minor child;
  - (D) appointment and removal of conservators;
  - (E) orders for custody of any child; and

(F) orders of commitment of persons to public and private institutions and to other appropriate facilities as provided by statute;

(15) actions related to prenuptial and separation agreements and to matrimonial and civil union decrees of a foreign jurisdiction;

(16) dissolution, legal separation or annulment of a civil union performed in a foreign jurisdiction;

(17) custody proceedings brought under the provisions of chapter 815p; and

(18) all such other matters within the jurisdiction of the Superior Court concerning children or family relations as may be determined by the judges of said court.

(b) As used in this title, "domestic violence" means:

(1) A continuous threat of present physical pain or physical injury against a family or household member, as defined in section 46b-38a;

(2) stalking, including but not limited to, stalking as described in section 53a-181d, of such family or household member;

(3) a pattern of threatening, including but not limited to, a pattern of threatening as described in section 53a-62, of such family or household member or a third party that intimidates such family or household member; or

(4) coercive control of such family or household member, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty. "Coercive control" includes, but is not limited to, unreasonably engaging in any of the following:

(A) Isolating the family or household member from friends, relatives or other sources of support;

(B) Depriving the family or household member of basic necessities;

(C) Controlling, regulating or monitoring the family or household member's movements, communications, daily behavior, finances, economic resources or access to services;

(D) Compelling the family or household member by force, threat or intimidation, including, but not limited to, threats based on actual or suspected immigration status, to (i) engage in conduct from which such

family or household member has a right to abstain, or (ii) abstain from conduct that such family or household member has a right to pursue;

(E) Committing or threatening to commit cruelty to animals that intimidates the family or household member; or

(F) Forced sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person's sexuality or threats to release sexual images.

Source:

(1959, P.A. 531, S. 3; 1967, P.A. 183, S. 3; P.A. 73-373, S. 36; P.A. 76-436, S. 89, 681; P.A. 77-336, S. 2; 77-452, S. 15, 72; 77-576, S. 37, 65; P.A. 78-318, S. 26; 78-379, S. 13, 27; P.A. 86-337, S. 9; P.A. 03-19, S. 101; P.A. 12-133, S. 32; P.A. 13-194, S. 1.)

History:

Amended by P.A. 21-0015, S. 109 of the Connecticut Acts of the 2021 Regular Session, eff. 1/1/2022. Amended by P.A. 21-0104, S. 16 of the Connecticut Acts of the 2021 Regular Session, eff. 6/28/2021. Amended by P.A. 21-0078, S. 1 of the Connecticut Acts of the 2021 Regular Session, eff. 6/28/2021.

SSOT:

This section is set out more than once. See also 46b-11, effective until 1/1/2022.

Case Note:

Cited. 185 C. 502; 234 C. 51; 247 C. 724.

Cited. 5 CA 95; 8 CA 30; 17 CA 627; 41 CA 163. Subdiv. (17): Cannot be used as basis for granting jurisdiction to Superior Court on matters involving foreign civil unions because the text itself requires that children be involved, there is no rule of court that would define foreign civil unions as a family matter, the legislative history of section indicates that its intent was to provide for a court merger, and legislature, by enacting Secs. 45a-727b and 46a-81r, has expressly stated that state does not endorse or authorize civil unions or any other relationship between unmarried persons. 71 CA 372.

Cited. 39 CS 66. Subdiv. (8): Does not confer parents, acting as grandparents, whose son's parental rights have been terminated, the authorization to bring a habeas corpus petition to seek custody of a

grandchild. 47 CS 273. Superior Court does have jurisdiction to hear an appeal from a Probate Court change of name proceeding; when the question presented is whether name of a minor child should be changed, the court, in line with its universal duty to protect the interests of minors, must take into consideration whether the change of name will promote the child's best welfare. 48 CS 647.

Cross Reference Note:

See Sec. 45a-99 re concurrent jurisdiction of Probate Court in matters concerning change of name.

See Secs. 45a-736, 45a-737 re change of name of adopted persons.

See Sec. 46b-41 re definition of "complaint".

See Sec. 46b-63 re jurisdiction of Superior Court to restore former spouse's birth name or former name following decree dissolving marriage.

See Sec. 52-11 re jurisdiction of Superior Court concerning complaints for change of name.

Conn. Gen. Stat. 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  
(General Statutes of Connecticut (2022 Edition))

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§ 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

(a) Any family or household member, as defined in section 46b-38a, who is the victim of domestic violence, as defined in section 46b-1, by another family or household member may make an application to the Superior Court for relief under this section. The court shall provide any person who applies for relief under this section with the information set forth in section 46b-15b.

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the respondent holds a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver, a long gun eligibility certificate or an ammunition certificate or possesses one or more firearms or ammunition. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than fourteen days from the date of the order except that, if the application indicates that the respondent holds a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver, a long gun eligibility certificate or an ammunition certificate or possesses one or more firearms or ammunition, and the court orders an ex parte order, the court shall order that a hearing be held on the application not later than seven days from the date on which the ex parte order is issued. 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. In making such orders ex parte, the court, in its discretion, may consider relevant court records if the records are available to the public from a clerk of the Superior Court or on the Judicial Branch's Internet web site. In addition, at the time of the hearing, the court, in its discretion, may also consider a report prepared by the family services unit of the Judicial Branch that may include, as available: Any existing or prior orders of protection obtained from the protection order registry; information on any pending criminal case or past criminal case in which the respondent was convicted of a violent crime; any outstanding arrest warrant for the respondent; and the respondent's level of risk based on a risk assessment tool utilized by the Court Support Services Division. The report may also include information pertaining to any pending or disposed family matters case involving the applicant and respondent. Any

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report provided by the Court Support Services Division to the court shall also be provided to the applicant and respondent. 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. 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. If a postponement of a hearing on the application is requested by either party and granted, the ex parte order shall not be continued except upon agreement of the parties or by order of the court for good cause shown. If a hearing on the application is scheduled or an ex parte order is granted and the court is closed on the scheduled hearing date, the hearing shall be held on the next day the court is open and any such ex parte order shall remain in effect until the date of such hearing. If the applicant is under eighteen years of age, a parent, guardian or responsible adult who brings the application as next friend of the applicant may not speak on the applicant's behalf at such hearing unless there is good cause shown as to why the applicant is unable to speak on his or her own behalf, except that nothing in this subsection shall preclude such parent, guardian or responsible adult from testifying as a witness at such hearing. As used in this subsection, "violent crime" includes:

(A) An incident resulting in physical harm, bodily injury or assault;

(B) 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;

(C) verbal abuse or argument if there is a present danger and likelihood that physical violence will occur; and

(D) cruelty to animals as set forth in section 53-247.

(c) If the court issues an ex parte order pursuant to subsection (b) of this section and service has not been made on the respondent in conformance with subsection (h) of this section, upon request of the applicant, the court shall, based on the information contained in the original application, extend

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any ex parte order for an additional period not to exceed fourteen days from the originally scheduled hearing date. The clerk shall prepare a new order of hearing and notice containing the new hearing date, which shall be served upon the respondent in accordance with the provisions of subsection (h) of this section.

(d) Any ex parte restraining order entered under subsection (b) of this section in which the applicant and respondent are spouses, or persons who have a dependent child or children in common and who live together, may include, if no order exists, and if necessary to maintain the safety and basic needs of the applicant or the dependent child or children in common of the applicant and respondent, in addition to any orders authorized under subsection (b) of this section, any of the following:

(1) An order prohibiting the respondent from (A) taking any action that could result in the termination of any necessary utility services or necessary services related to the family dwelling or the dwelling of the applicant, (B) taking any action that could result in the cancellation, change of coverage or change of beneficiary of any health, automobile or homeowners insurance policy to the detriment of the applicant or the dependent child or children in common of the applicant and respondent, or (C) transferring, encumbering, concealing or disposing of specified property owned or leased by the applicant; or

(2) an order providing the applicant with temporary possession of an automobile, checkbook, documentation of health, automobile or homeowners insurance, a document needed for purposes of proving identity, a key or other necessary specified personal effects.

(e) At the hearing on any application under this section, if the court grants relief pursuant to subsection (b) of this section and the applicant and respondent are spouses, or persons who have a dependent child or children in common and who live together, and if necessary to maintain the safety and basic needs of the applicant or the dependent child or children in common of the applicant and respondent, any orders entered by the court may include, in addition to the orders authorized under subsection (b) of this section, any of the following:

(1) An order prohibiting the respondent from (A) taking any action that could result in the termination of any necessary utility services or services related to the family dwelling or the dwelling of the applicant, (B) taking any action that could result in the cancellation, change of coverage or change of

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beneficiary of any health, automobile or homeowners insurance policy to the detriment of the applicant or the dependent child or children in common of the applicant and respondent, or (C) transferring, encumbering, concealing or disposing of specified property owned or leased by the applicant;

(2) an order providing the applicant with temporary possession of an automobile, checkbook, documentation of health, automobile or homeowners insurance, a document needed for purposes of proving identity, a key or other necessary specified personal effects; or

(3) an order that the respondent:

(A) Make rent or mortgage payments on the family dwelling or the dwelling of the applicant and the dependent child or children in common of the applicant and respondent,

(B) maintain utility services or other necessary services related to the family dwelling or the dwelling of the applicant and the dependent child or children in common of the applicant and respondent,

(C) maintain all existing health, automobile or homeowners insurance coverage without change in coverage or beneficiary designation, or

(D) provide financial support for the benefit of any dependent child or children in common of the applicant and the respondent, provided the respondent has a legal duty to support such child or children and the ability to pay. The court shall not enter any order of financial support without sufficient evidence as to the ability to pay, including, but not limited to, financial affidavits. If at the hearing no order is entered under this subsection or subsection (d) of this section, no such order may be entered thereafter pursuant to this section. Any order entered pursuant to this subsection shall not be subject to modification and shall expire one hundred twenty days after the date of issuance or upon issuance of a superseding order, whichever occurs first. Any amounts not paid or collected under this subsection or subsection (d) of this section may be preserved and collectible in an action for dissolution of marriage, custody, paternity or support.

(f)

(1) Every order of the court made in accordance with this section shall contain the following language:

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(A) "This order may be extended by the court beyond one year. In accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree. This is a criminal offense punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars or both."; and

(B) "In accordance with section 53a-223b of the Connecticut general statutes, any violation of subparagraph (A) or (B) of subdivision (2) of subsection (a) of section 53a-223b constitutes criminal violation of a restraining order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, any violation of subparagraph (C) or (D) of subdivision (2) of subsection (a) of section 53a-223b constitutes criminal violation of a restraining order which is punishable by a term of imprisonment of not more than ten years, a fine of not more than ten thousand dollars, or both."

(2) Each applicant who receives an order of the court in accordance with this section shall be given a notice that contains the following language: "If a restraining order has been issued on your behalf or on behalf of your child, you may elect to give testimony or appear in a family court proceeding remotely, pursuant to section 46b-15c. Please notify the court in writing at least two days in advance of a proceeding if you choose to give testimony or appear remotely, and your physical presence in the courthouse will not be required in order to participate in the court proceeding."

(g) 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. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by first-class mail directed to the respondent at the respondent's last-known address.

(h)

(1) The applicant shall cause notice of the hearing pursuant to subsection (b) of this section and a copy of the application and the applicant's affidavit and of any ex parte order issued pursuant to subsection (b) of this section to be served on the respondent not less than three days before the hearing. A proper officer responsible for executing such service shall accept all documents in an electronic format, if presented to such officer in such format. The cost of such service shall be paid for by the Judicial Branch.

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(2) When (A) an application indicates that a respondent holds a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver, a long gun eligibility certificate or an ammunition certificate or possesses one or more firearms or ammunition, and (B) the court has issued an ex parte order pursuant to this section, the proper officer responsible for executing service shall, whenever possible, provide in-hand service and, prior to serving such order, shall (i) provide notice to the law enforcement agency for the town in which the respondent will be served concerning when and where the service will take place, and (ii) send, or cause to be sent by facsimile or other means, a copy of the application, the applicant's affidavit, the ex parte order and the notice of hearing to such law enforcement agency, and (iii) request that a police officer from the law enforcement agency for the town in which the respondent will be served be present when service is executed by the proper officer. Upon receiving a request from a proper officer under the provisions of this subdivision, the law enforcement agency for the town in which the respondent will be served may designate a police officer to be present when service is executed by the proper officer.

(3) Upon the granting of an ex parte order, the clerk of the court shall provide two copies of the order to the applicant. Upon the granting of an order after notice and hearing, the clerk of the court shall provide two copies of the order to the applicant and a copy to the respondent. Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265 (a), as amended from time to time. Immediately after making service on the respondent, the proper officer shall (A) send or cause to be sent, by facsimile or other means, a copy of the application, or the information contained in such application, stating the date and time the respondent was served, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, and (B) as soon as possible, but not later than two hours after the time that service is executed, input into the Judicial Branch's Internet-based service tracking system the date, time and method of service. If, prior to the date of the scheduled hearing, service has not been executed, the proper officer shall input into such service tracking system that service was unsuccessful. The clerk of the court shall send, by facsimile or other means, a copy of any ex parte order and of any order after notice and hearing, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, within forty-eight hours of the issuance of such order. If the victim, or victim's minor child

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protected by such order, is enrolled in a public or private elementary or secondary school, including a technical education and career school, or an institution of higher education, as defined in section 10a-55, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such ex parte order or of any order after notice and hearing, or the information contained in any such order, to such school or institution of higher education, the president of any institution of higher education at which the victim, or victim's minor child protected by such order, is enrolled and the special police force established pursuant to section 10a-156b, if any, at the institution of higher education at which the victim, or victim's minor child protected by such order, is enrolled, if the victim provides the clerk with the name and address of such school or institution of higher education.

(i) A caretaker who is providing shelter in his or her residence to a person sixty years or older shall not be enjoined from the full use and enjoyment of his or her home and property. The Superior Court may make any other appropriate order under the provisions of this section.

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

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

(l) For purposes of this section, "police officer" means a state police officer or a sworn member of a municipal police department and "law enforcement agency" means the Division of State Police within the Department of Emergency Services and Public Protection or any municipal police department.

Source:

(P.A. 81-272, S. 2; P.A. 86-337, S. 7; P.A. 87-567, S. 4, 7; P.A. 91-6, S. 1, 3; 91-381, S. 3, 7; P.A. 95-193, S. 1; P.A. 96-180, S. 158, 166; P.A. 97-126, S. 1; P.A. 99-186, S. 4; P.A. 00-196, S. 24; P.A. 01-130, S. 11, 12; P.A. 02-127, S. 7; 02-132, S. 54; May 9 Sp. Sess. P.A. 02-7, S. 77; P.A. 03-202, S. 4; P.A. 05-152, S. 3; P.A. 06-152, S. 2; P.A. 07-78, S. 1; P.A. 10-36, S. 4; 10-144, S. 1, 2; P.A. 11-152, S. 1; P.A. 12-114, S. 1; June 12 Sp. Sess. P.A. 12-2, S. 97; P.A. 13-

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3, S. 36; 13-194, S. 2; P.A. 14-217, S. 120; P.A. 16-34, S. 3; 16-105, S. 4; P.A. 17-163, S. 1; 17-237, S. 112.)

#### History:

Amended by P.A. 21-0078, S. 2 of the Connecticut Acts of the 2021 Regular Session, eff. 10/1/2021. Amended by P.A. 17-0163, S. 1 of the Connecticut Acts of the 2017 Regular Session, eff. 1/1/2018. Amended by P.A. 17-0237, S. 112 of the Connecticut Acts of the 2017 Regular Session, eff. 7/1/2017. Amended by P.A. 16-0105, S. 4 of the Connecticut Acts of the 2016 Regular Session, eff. 10/1/2016. Amended by P.A. 16-0034, S. 3 of the Connecticut Acts of the 2016 Regular Session, eff. 10/1/2016. Amended by P.A. 14-0217, S. 120 of the Connecticut Acts of the 2014 Regular Session, eff. 1/1/2015.

#### Case Note:

Section requires a continuous threat of present physical pain or physical injury. 104 CA 20; *Id.*, 26. Trial court did not exceed its statutory authority when it ordered alcohol abuse counseling since it could reasonably have concluded that such counseling was necessary for the protection of the family, and did not exceed its statutory authority by extending restraining order to protect adult daughter since section allows orders appropriate for the protection of other persons as the court sees fit. 127 CA 586. Provision that "the court may impose such sanctions as the court deems appropriate" is ambiguous, and incarceration was not an appropriate sanction in a civil contempt proceeding for violation of a domestic restraining order where incarceration would not allow a contemnor to avoid or lessen the sentence of incarceration by purging himself of the contempt. 143 CA 1. The word "stalking" is to be construed according to its commonly approved usage, as opposed to the narrower definitions of stalking found in the Penal Code; trial court did not abuse its discretion in concluding in the context of all of the evidence that defendant's conduct in driving past plaintiff's home, turning around, and driving past the home a second time constituted an act of stalking. 150 CA 105.

Cited. 44 CS 235.

#### Cross Reference Note:

See Sec. 51-5c re automated registry of protective orders.