

Task Force to Study Service of Restraining Orders

Findings & Recommendations



A Report to the Connecticut General Assembly

**Submitted to the Judiciary Committee pursuant to
Public Act 14-217 Sec. 121**

January 2015

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INTRODUCTION

I. Background

The Task Force to Study Service of Restraining Orders met from September 2014 through January 2015 to formally engage in meaningful dialogue and evaluation with an aim to ultimately offer a series of recommendations to improve Connecticut’s policy and practice related to the service of restraining orders.

According to the Connecticut Judicial Branch, the state has averaged nearly 9,000 restraining order applications annually over the past four years from 2010 through 2013. Of that number, approximately 5,000 orders are granted through an ex parte status with a mandate that they be served to the respondent in-hand or abode at least five days prior to the hearing. Such hearing is statutorily defined as occurring within 14 days of the issuance of the order.

CT Restraining Order Numbers

	Applications	Ex Parte	1 year Order
2013	8,906	5,026	2,636
2012	8,937	5,328	3,234
2011	8,862	4,975	3,024
2010	9,112	5,094	2,809

Source: CT Judicial Branch

A restraining order (also known as a relief from abuse order) is a civil order that protects the applicant from abuse by a current or former family or household member. An ex parte restraining order can be issued by the court upon an application for a civil restraining order in which the applicant alleges an “immediate and present physical danger.”¹ Such order may be issued by the court “granting such relief as it deems appropriate.”² As noted previously, with the ex parte order, the court also orders a hearing to be held within 14 days. The respondent is not present when the court initially grants an ex parte order.

An ex parte restraining order provides temporary relief to an applicant and may include an order for the respondent to stay away from the applicant or to vacate the family home. The purpose of this temporary relief is to protect the applicant during the two week period between the application for the restraining order and the court hearing. Enforceability of the order is dependent upon notice being provided to the respondent, which is currently done through the service of the order by a state marshal at no financial cost to the applicant.

¹ Connecticut General Statutes § 46b-15

² Ibid

Applications can be obtained through the Connecticut Judicial Branch website at www.jud.ct.gov/forms and at one of Connecticut's 15 Judicial District court locations to include; Restraining Order Application: (SMC – 1 Restraining Order Instructions Profile Form, JD-FM-137 "Application for Relief from Abuse, JD-FM-138 "Relief from Abuse," "JD-FM-164 "Affidavit Concerning Children," and the SMC -2 Restraining Order Service Respondent Profile Form. The Judicial Branch offers Court Service Centers in all but two courts (New London JD and Litchfield JD) and domestic violence civil court advocates exist in Hartford, Bridgeport, Meriden and Waterbury. The applicant must physically bring the completed application to the clerk themselves and an application and affidavit (s) must be signed in front of the clerk, notary public or lawyer. The court clerk brings completed applications to a judge – during court hours which are between 9 a.m. and 5 p.m., Monday through Friday - for review. The applicant must either wait in the court or come back to see if their application was granted.

The judge may issue an *ex parte* (temporary) restraining order (immediate but lasting only until the two-week hearing occurs) if the applicant alleges an *immediate and present danger* from the respondent. An *ex parte* restraining order lasts until the day of the hearing where both parties have an opportunity to be heard. At the hearing, the judge can extend the order for up to one year.

If the judge finds that there is no immediate and present danger to the victim, the judge may deny the application for an *ex parte* restraining order but may set a date (within two weeks) for the matter to be heard. In this case, the respondent may be served notice of that hearing by a State Marshal. At the hearing, after both parties having had the opportunity to be heard, the judge may issue a restraining order (a.k.a., Restraining Order After a Hearing).

A restraining order (both *ex parte* order and an order after hearing) can be issued to protect not only the applicant/victim, but also others, such as dependent children, as the court sees fit. The order may include temporary child custody or visitation rights and may include orders prohibiting the respondent from:

1. Imposing any restraint upon the person or liberty of the applicant;
2. Threatening, harassing, assaulting, molesting or sexually assaulting, or attacking the applicant; or
3. Entering the family dwelling or the dwelling of the applicant.

If an *ex parte* order is issued by the judge, the applicant is provided with two copies of an Order of Protection form (JD-CL-099) and all other relevant documentation. It is then incumbent upon the applicant to find a State Marshal to serve the order. A "Marshal of the Day" is available at eight courts from 12:30 p.m. to 1 p.m. and 4:30 p.m. to 5 p.m. In the remaining courts, a marshal call-in system exists. Applicants can also get a listing of State Marshal's from the clerk's office or the Judicial Branch website. A Restraining Order Service Respondent Profile form (SMC-1) and (SMC – 2) is needed to make arrangements for delivery of the paperwork and the clerk is tasked with providing that form to the applicant.

II. Task Force Charge

Public Act 14-217, *An Act Implementing Provisions of the State Budget For Fiscal Year Ending June 30, 2015*, Sec. 121 outlines that there is established a task force to study the service of

restraining orders issued pursuant to section 46b-15 of the general statutes. Such study shall include, but not be limited to, an examination of:

- (1) Policies, procedures and regulations relating to the service of such restraining orders by state marshals, including any policies, procedures or regulations relating to the methods by which a state marshal is initially notified of the need to effectuate service of a restraining order;
- (2) The length of time available to effectuate service of a restraining order,;
- (3) The permissible methods of service;
- (4) The effectiveness of the respondent profile information sheet and marshal access to databases containing identifiable respondent information;
- (5) Reimbursement rates for service of restraining orders, including an assessment of reimbursement rates used in other states;
- (6) Best practices established by other states, if any, with respect to service of restraining orders, and
- (7) The feasibility of expanding which persons shall be authorized to serve restraining order.

III. Task Force Membership

Appointee	Authority or Appointed by:
Karen Jarmoc, Chief Executive Officer (<i>co-chair</i>) CT Coalition Against Domestic Violence	President Pro Tempore of the Senate
James R. Turcotte, Esq. Supervisory Asst. State's Attorney, Meriden	President Pro Tempore of the Senate
Representative Michelle L. Cook (<i>co-chair</i>) Torrington	Speaker of the House of Representatives
Patricia Savo Shelton	Speaker of the House of Representatives
Joel Rudikoff, Esq. Deputy Chief Legal Counsel, Senate Democrats Member, State Marshal Commission	Majority Leader of the Senate
Barbara Bellucci Family Violence Victim Advocate Supervisor <i>The Umbrella</i> Center for Domestic Violence Services	Majority Leader of the Senate
Commissioner Dora Schriro Dept. of Emergency Services and Public Protection	Majority Leader of the House of Representatives
Lisa Stevenson State Marshal, Hartford County Ex-Officio Member of The State Marshal Commission	Majority Leader of the House of Representatives
Beau Thurnauer Deputy Chief of Police, East Hartford Police Dept.	Minority Leader of the Senate
Brian Carlow, Esq. Deputy Chief Public Defender, Hartford	Minority Leader of the Senate
Aaron Wenzloff, Esq. New Haven Legal Assistance	Minority Leader of the House of Representatives
Robert Gyle, III	Minority Leader of the House of

State Marshal, Litchfield County Chair, State Marshal Advisory Board	Representatives
Barbara O'Connor Chief of Police, UCONN	Governor
Hakima Bey-Coon, Esq. Office of the Victim Advocate	Governor
Judge Elizabeth Bozzuto Chief Admin. Judge, Family Division, Hartford	Chief Court Administrator
Johanna Greenfield, Esq. Deputy Director, Court Operations, Family Matters	Chief Court Administrator

FINDINGS & RECOMMENDATIONS

I. ACCESS

1. Trained, certified domestic violence civil court advocates are currently available in Hartford and Bridgeport courts. Effective January 2015 two additional advocates will be available in Meriden and Waterbury civil courts, which still leaves applicants without access to assistance through an advocate to enhance practice and safety planning. Connecticut's system could be strengthened in the areas of access, safety, and efficiency through civil court advocates who are certified domestic violence counselors in twelve remaining JD's.
2. There is opportunity to create better access to marshals for applicants for service through uniform policy to address current gaps whereby some courts have on-site marshal of the day while in other circumstances marshals are contacted by the clerk's office as needed.
3. Consistent policy is needed in regard to requiring service of orders when a marshal is contacted for service but is not "marshal of the day."
4. A lack of uniform policy around the use of SMC – 2 Restraining Order Service Respondent Profile Form causes difficulty with service due to ambiguous or incomplete addresses provided on the application. There is opportunity to create policy in regard to the Judicial Branch and the inclusion of the SMC – 2 Restraining Order Service Respondent Profile Form in the potential "Relief from Abuse" packet or through other consistent means which may include a revision to the marshal's commission policy manual that clearly speaks to marshal's not attempting to serve an order without the completed form.
5. Connecticut's civil courts currently lack a consistent allocated space for applicants to find marshals for service in an easily accessible and confidential manner. While Court Service Centers are often used for this purpose, this is not always the case, and can lead to confusion for the applicant. The Judicial Branch, where feasible, should work to allocate space in each court for applicants to consistently meet with marshal.
6. There is opportunity to offer uniform policy in the marshal policy manual to assist individuals with limited English proficiency, working with deaf applicants/respondents, or interpreters.
7. Service delivery could be strengthened through uniform training aimed at standards around service of orders and/or domestic violence for all parties involved in service of orders may include but not limited to; judges, clerks, marshals, and law enforcement.
8. Court centers exist in most JDs except New London and Litchfield which leaves applicants in those courts inconsistently served. It should be noted that most family matters in the New London Judicial District are heard in the Norwich J.D. courthouse, which does have a court service center. If an applicant files an application in the New London Judicial District courthouse in New London, he or she will be assisted by a

member of the clerk's office. Additionally, a new courthouse is being constructed in Torrington for the Litchfield Judicial District and the courthouse will have a court service center. Consistent hours and staffing offered at Court Service Centers would serve to strengthen access for applicants.

9. Through current practice, temporary restraining order cases are dismissed by the court if service is not effectuated prior to the hearing. Thus, victims are forced to re-apply for a TRO if service is not made. This practice varies statewide by court and judge. There is strong opportunity to explore a change to Connecticut's restraining order statute to explicitly allow a 14-day hearing to be rescheduled and the ex parte order to be automatically extended until the rescheduled hearing if service is not effectuated prior to the hearing.
 - a. Twenty states allow extensions of TROs specifically because service has not been made successfully in time for the hearing. In these states, the hearing is rescheduled and the TRO is automatically extended until that hearing. Connecticut should examine these states' statutes as potential models.
 - b. Nine states allow extensions of TROs before the hearing for "good cause."
 - c. Five states allow extensions of TROs if the state deems it necessary.
 - d. Fifteen states have no statutory language regarding the process by which a TRO may be extended before a hearing, whether service is achieved or not. (See Appendix G).
10. Additionally, there is opportunity to revisit Connecticut's current language in regard to the timeline for service of order. Connecticut General Statute 46b-15(e) states "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 five days before the hearing." A shorter timeline of 2-3 days is recommended.

II. COMMUNICATION

1. The Connecticut Judicial Branch should create an applicant packet for consistent dissemination of forms and information. Such "Application For Abuse Prevention Order" should include items such as; Restraining Order Application: SMC – 1 Restraining Order Instructions Profile Form, JD-FM-137 "Application for Relief from Abuse, JD-FM-138 "Relief from Abuse," "JD-FM-164 "Affidavit Concerning Children," the Restraining Order Service SMC-2, victim rights notification, required affidavits, and information in regard to domestic violence and legal services.
2. Statistically, victims are at a heightened risk at the time of service. There is opportunity to increase victim participation and therefore access to CT SAVIN – the state's victim notification program through the Office of Victim Services - through greater/targeted outreach activity by the Judicial Branch. Additionally, there is no uniform policy around clerks and marshals entering return of service in the Protective Order Registry, which is necessary to keep the information supplied to a victim current. There is no policy/mandate to notify victims of service (yet listed in SMC – 2 that the victim will be notified by the marshal upon successful service of order). There is opportunity to create

policy amongst system partners to identify how notification of service will occur with the applicant.

3. There is currently no uniform policy or mandate for marshals around utilization of Connecticut's statewide judicial protective order registry system. There is strong opportunity to improve communication and timeliness of notification among systems and applicants through uniform policy and practice.
4. State Marshals would be much more strongly positioned to communicate successful service if provided access - either individually or through the State Marshal Commission - to information contained on judicial and public safety data bases concerning respondent location and records (i.e. outstanding criminal warrants, pistol permits, hunting licenses, etc.). All marshals are sworn peace officers with state issued credentials and badges and are allowed to be armed provided they are POST Certified, the same as law enforcement officers.
5. Litchfield and Tolland counties experiencing remote access issues to the statewide Judicial system due to cell phone tower limitations creates challenging and potentially dangerous circumstances for applicants and inconsistent information among system partners. There is a need to address this issue on a systems level. According to the CT Judicial Branch, the new Internet-based system for state marshals to report service of process information about ex parte restraining orders will be ready during the first quarter of 2015. (The project was supported with grant funds under the U.S. Department of Justice, National Criminal History Improvement Program.) The new system will address some of the concerns raised by cell phone tower limitations.
 - a. The new system will enable marshals to report service information from wherever they have access to the Internet. Although limitations to Internet service, wireless service, and personal devices may delay the instant reporting of service information, the online Internet functions should not be impeded by fragmented or unclear voice communications that may occur with some telephone transmissions from remote areas or from certain cell and cordless phones.
 - b. According to the CT Judicial Branch, marshals serving JD's in Litchfield (40%), Tolland (54%), and Windham (67%) successfully recorded service information in ex parte cases with at least twice the frequency of those serving JD's in Hartford (18%), New Haven (17%), and Stamford (22%).

III. PRACTICE

1. In regard to the task force charge to examine, (6) best practices established by other states, if any, with respect to service of restraining orders, and (7) the feasibility of expanding which persons shall be authorized to serve restraining orders; service of orders would be fortified in two ways -
 - a. Service of civil restraining orders in New England and surrounding states involve law enforcement, in some capacity, in the majority of states reviewed. Service in Connecticut would be strengthened by expanding those authorized and /or

mandated to serve restraining orders to law enforcement; most notably in the case of an ex parte where the presence of firearms or ammunition is noted on the application. In that regard, Connecticut's Restraining Order Application: (SMC – 1 Restraining Order Instructions Profile Form, Application for Relief from Abuse JD-FM-137 should be amended to more definitively capture information in regard to possession of firearms and/or ammunition to also be mandatory for the applicant.

- b. Service of civil restraining orders in New England and surrounding states also often involve the ability of an applicant to obtain an order not during regular hours of court operation. The task force recommends that a working group be convened to study the need and feasibility of creating a mechanism by which an applicant can apply for an ex parte restraining order when the court is not in session. The working group shall include representatives of the Connecticut Police Chiefs Association, the Department of Emergency Services and Public Protection, the State Marshal Commission, domestic violence advocacy organizations and the Judicial Branch, and any other members as deemed necessary.
 - c. Connecticut's system would be strengthened through law/practice similarly offered in the state of Massachusetts, where it is statutorily permissible for law enforcement to inform/notify a respondent *verbally* that they are the respondent to a temporary restraining order and this has a certain force of law, thus offering greater opportunity to effectuate service.
2. If Connecticut continues to use marshals for service of orders, there is a need to review current policy/practice around "marshal of the day" structure of 12:30 p.m. and 4:30 p.m. restraining order pick-up.
 3. Connecticut Marshals are only compensated for one attempt of service and one attempt for travel, despite the real circumstance where it often takes more than one attempt to successfully serve an ex parte order. Connecticut Statute §46b-15 is the primary statute governing restraining orders. The statute does not set forth a specific rate of payment for service, therefore Connecticut must look to statute generally amended by Public Act 14-87. This failure to set forth a fee is not uncommon. Many, if not most other state statutes providing for service of process by a proper officer do not set forth a fee schedule, yet this is offering service challenges to applicants in Connecticut. Connecticut General Statute §52-261 (a) providing that fees are payable "for each process served," creates language that does not allow for an attempted service to be compensated. Additionally, Marshals are not paid mileage for attempted service. An opinion of the Attorney General 2008-011 (June 16, 2008) ("Based on the language of Conn. Stat. §52-261 and §52-261a, concludes that the Connecticut General Assembly intended mileage fees to be paid only for those trips that result in the successful service.") Thus, Orders of Protection and Notices of Court Hearing are the equivalent of all other civil process under the law. This current statutory language and associated opinion presents significant challenges for successful service of order and Connecticut statute should be amended to offer a specific language to ex parte orders as a carve out.
 4. Connecticut General Statute § 52-57 states that service of a civil action upon individuals can be made either in-hand or abode, yet the task force heard testimony that most judges in practice require orders to be in-hand, and more importantly, prosecutors will not go

forward on a violation of restraining order case where there hasn't been in-hand service or proof of service. These problems and inconsistencies in the judicial system regarding the use of abode service versus in-hand service of restraining orders should be addressed. In-hand service is a preferred form of service because in-hand service ensures that the Respondent actually received information about the date of the hearing, the claims against him or her, and the details of the orders restricting his or her conduct. Thus, in-hand service protects the Respondent's rights to due process while also increasing compliance with the order. Currently, abode service is also permissible as a form of service pursuant to Connecticut General Statute § 52-57. However, in restraining order cases, abode service is often insufficient in protecting the Respondent's due process rights. Moreover, prosecutors typically will not pursue an alleged violation of a restraining order where the restraining order was only served by abode service, without other evidence that the Respondent received actual notice of the order. At the same time, in some cases where service is made by abode service, the Respondent receives actual notice of the hearing and comes to court to attend the hearing. This is a legally acceptable. To create greater consistency, but also to allow applicants to pursue legally valid cases where the Respondent has actual notice, Connecticut law should be made clearer to allow abode service or other forms of alternative service, but only so long as the court receives sufficient evidence that actual notice was provided to the Respondent regarding a) the factual basis for the restraining order application, b) the terms of any ex parte order against the Respondent, and c) specifying the date and time of the hearing.

5. The Judicial Department does not currently collect data – on the number of orders/hearings granted, the number of times the marshals attempt to effectuate service, the number of orders that do not get picked up by the applicant, the number of orders served in-hand vs. abode, and the number that are never given by applicants to marshals for service and/or the number of orders that are not served. The system could be strengthened with an understanding of under what circumstances an order was not served. This circumstance impacts the state's ability to assess and evaluate efficacy of service and must be addressed. Data collection would be enhanced by requiring the server to indicate on his or her return of service whether service was successful or unsuccessful, and, if successful, whether it was in hand or abode service.
6. In regard to methods of service, it is recommended that a policy which speaks to the process of serving orders and that they shall be served with the safety of the applicant as the paramount objective should be considered. Inclusion of the applicant's verbatim affidavit creates a more volatile, exacerbated and dangerous existence for the applicant. Omission of the applicant's affidavit from the respondent's copy of an order reduces the jeopardy to the applicant. Satisfaction of due process may be achieved through general terminology (i.e. "stalking," "harassment," "sexual abuse," "physical abuse," etc.) and judicial consent expressing the applicant's complaint, conjointly with the notice of hearing.
7. Marshal safety especially when serving an order that puts a respondent out of home or where there may be access to firearms is of concern.
8. Marshals in Litchfield/Tolland counties with limited cell service often drop paperwork after service off to law enforcement. Consistent policy and practice in regard to service notification is necessary. The new Internet-based system for state marshals to report

service of process information about ex parte restraining orders will be available during the first quarter of 2015. The new system will address some of the concerns raised by cell phone tower limitations and will allow marshals to report service information from wherever they have access to the Internet.

9. There is opportunity to review current policy or create statutory language around Inter-county and Intra-state service issues (getting to marshal in applicable county or state for service in time for notification of hearing.)
10. There is opportunity to review current policy, practice and/or create statutory language around reimbursement for mailing to another county, multiple attempts at service, and quicker turnaround of payment for service
11. There is opportunity review current policy or create statutory language round interstate service of orders.
12. The current marshal commission policy manual stipulates that service of orders must occur through an original order versus a faxed or scanned copy. This circumstance confines the process and impacts timeliness of service.
13. Information offered to the applicant in regard to Restraining Order Application: SMC – 1, SMC – 2 Restraining Order Service Respondent Profile Form, JD-FM-137 “Application for Relief from Abuse, JD-FM-138 “Relief from Abuse,” “JD-FM-164 “Affidavit Concerning Children,” should be amended and expanded to allow for;
 - a. Opportunity to remove antiquated information on the RO application such as; instructions which call for a use of a typewriter to be replaced with a supplemental one-page instructional “Help File.”
 - b. Opportunity to create a check list for Clerk/Court Service Centers/Victim Advocates to ensure relevant information is provided to victim to include marshal profile form, RO application & pertinent affidavits
 - c. Opportunity for policy to support completion of district, court location by court personnel
 - d. RO application and profile form does not include respondent’s place of employment and should include a request for this information.

APPENDICES

APPENDIX A**CURRENT CONNECTICUT GENERAL STATUTE****Relief from Abuse (civil restraining order)****Sec. 46b-15. Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies.**

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

(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 or possesses one or more firearms. 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. 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, 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.

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 order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.

(c) Every order of the court made in accordance with this section shall contain the following language: "This order may be extended by the court beyond one year. In accordance with section 53a-107, 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."

(d) 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.

(e) 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 five days before the hearing. The cost of such service shall be paid for by the Judicial Branch. 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 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. 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 is enrolled in a public or private elementary or secondary school, including a technical high 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 is enrolled and the special police force established pursuant to section 10a-142, if any, at the institution of higher education at which the victim is enrolled.

Sec. 46b-15b. Duties of Superior Court re applicants for restraining orders in domestic violence situations. The Superior Court shall provide any person who applies for a restraining order in a domestic violence situation with information on steps necessary to continue such order beyond the initial period and shall provide an applicant with information on how to contact domestic violence counselors and counseling organizations.

State Marshals

Sec. 6-32. Duties. Each state marshal shall receive each process directed to such marshal when tendered, execute it promptly and make true return thereof; and shall, without any fee, give receipts when demanded for all civil process delivered to such marshal to be served, specifying the names of the parties, the date of the writ, the time of delivery and the sum or thing in demand. If any state marshal does not duly and promptly execute and return any such process or makes a false or illegal return thereof, such marshal shall be liable to pay double the amount of all damages to the party aggrieved.

Sec. 6-38. Number of State Marshals. The number of state marshals to be appointed for Hartford County shall not exceed seventy-two; for New Haven County, sixty-two; for New London County, thirty-eight; for Fairfield County, fifty-five; for Windham County, eighteen; for Litchfield County, thirty; for Middlesex County, twenty-one; for Tolland County, twenty-two.

Sec. 6-38a. State Marshal. Authority to provide legal execution and service of process. (a) For the purposes of the general statutes, “state marshal” means a qualified deputy sheriff incumbent on June 30, 2000, under section 6-38 or appointed pursuant to section 6-38b who shall have authority to provide legal execution and service of process in the counties in this state pursuant to section 6-38 as an independent contractor compensated on a fee for service basis, determined, subject to any minimum rate promulgated by the state, by agreement with an attorney, court or public agency requiring execution or service of process.

(b) Any state marshal, shall, in the performance of execution or service of process functions, have the right of entry on private property and no such person shall be personally liable for damage or injury, not wanton, reckless or malicious, caused by the discharge of such functions.

Sec. 6-38b(g). State Marshal Commission. Members. Regulations. Duties. The commission shall be responsible for the equitable assignment of service of restraining orders to the state marshals in each county and ensure that such restraining orders are served expeditiously. Failure of any state marshal to accept for service any restraining order assigned by the commission or to serve such restraining order expeditiously without good cause shall be sufficient for the convening of a hearing for removal under subsection (j) of this section.

Sec. 52-50 Persons to whom process shall be directed. (a) All process shall be directed to a state marshal, a constable or other proper officer authorized by statute, or, subject to the provisions of subsection (b) of this section, to an indifferent person. A direction on the process "to any proper officer" shall be sufficient to direct the process to a state marshal, constable or other proper officer.

Sec. 52-57 Manner of service upon individuals, municipalities, corporations, partnerships and voluntary associations. (a) Except as otherwise provided, process in any civil action shall be served by leaving a true and attested copy of it, including the declaration or complaint, with the defendant, or at his usual place of abode, in this state.

APPENDIX B

**SERVICE OF CIVIL RESTRAINING ORDERS IN NEW ENGLAND
AND SURROUNDING STATES**

Prepared by Office of Legislative Research

For additional information, see the full report at <http://www.cga.ct.gov/2014/rpt/pdf/2014-R-0243.pdf>

	<i>Connecticut</i>	<i>Maine</i>	<i>Massachusetts</i>	<i>New Hampshire</i>	<i>New Jersey</i>	<i>New York</i>	<i>Rhode Island</i>	<i>Vermont</i>
<i>Statutory citation</i>	<i>CGS §§ 46b-15, et. seq.</i>	<i>ME. REV. STAT. Tit. 19A § 4001</i>	<i>MASS. GEN. LAWS ch. 208 § 34C & ch. 209A §§ 1, et. seq.</i>	<i>N.H. REV. STAT. § 173-B:1, et. seq.</i>	<i>N.J. STAT. §§ 5:7A & 2C:25-17, et. seq.</i>	<i>N.Y. FAM. CT. ACT §§ 826 & 828 and N.Y. EXEC. LAW § 221-a</i>	<i>R.I. GEN. LAWS §§ 15-15-1, et. seq. & 45-16-4.3</i>	<i>Vt. STAT. 15 §§ 1101, et. seq.</i>
<i>Authorized agent</i>	<ul style="list-style-type: none"> State marshals Constables Other proper officers authorized by statute 	<ul style="list-style-type: none"> Law enforcement agency (i.e., State Police, sheriff's department, or municipal police department) Court security officer, if defendant is present in the courthouse Department of corrections, if defendant is incarcerated 	Law enforcement agency – “law officers” (i.e. any officer authorized to serve criminal process)	<ul style="list-style-type: none"> Peace officer Sheriff's department 	<ul style="list-style-type: none"> Police Sheriff, if temporary restraining order is issued during regular court hours <p>(The plaintiff must never be required to serve an order on the defendant.)</p>	<ul style="list-style-type: none"> Sheriff's office Municipal police department Police department 	<ul style="list-style-type: none"> Sheriffs Constables Police officers, if temporary order was not served and/or after permanent order is entered 	Law enforcement officer
<i>Who provides the order to the authorized agent?</i>	The applicant must cause notice of the hearing, copy of the application, affidavit, and any ex parte order to be served on the respondent	Court	Register or clerk-magistrate	Not specified	Court	Court clerk	Court clerk	Not specified
<i>Method of service of process</i>	<ul style="list-style-type: none"> Not specified for service on initial application Service on a motion to extend an order may be made by first-class mail to the respondent's last-known 	In person	In person	<ul style="list-style-type: none"> Temporary orders must be served on the defendant Subsequent orders must be sent to defendant's address of record Temporary orders may be issued ex parte by telephone 	<ul style="list-style-type: none"> In person (see below for alternative methods if personal service fails) 	In person (see below for alternative methods if personal service fails)	In person (see below for alternative methods if personal service fails)	<ul style="list-style-type: none"> In person Orders must be served in a manner calculated to ensure the plaintiff's safety Methods that provide advance notification to the defendant are prohibited

	<i>Connecticut</i>	<i>Maine</i>	<i>Massachusetts</i>	<i>New Hampshire</i>	<i>New Jersey</i>	<i>New York</i>	<i>Rhode Island</i>	<i>Vermont</i>
	address, if the respondent does not appear upon the initial application			or fax by a circuit court judge to a law enforcement officer				
Form of notice (i.e., original, copy, fax, etc.)	<ul style="list-style-type: none"> • Notice of hearing – not specified • Application – copy • Affidavit – copy • Ex parte order - copy 	Printed copies of electronically transmitted orders	Copy	Form of notice to defendant is not specified	A copy of the complaint must be served on the defendant	A true copy	Not specified for in-person service (see below for alternative methods if personal service fails)	Not specified
Time allowed to serve process	<ul style="list-style-type: none"> • Notice must be served at least five days before the hearing • Hearing must be held within 14 days after the date of the ex parte order 	Authorized agent must make a good faith effort to serve process expeditiously	<ul style="list-style-type: none"> • Return of service must be sent to the court promptly • Hearing must be held within 10 court business days after temporary order is issued 	<ul style="list-style-type: none"> • Temporary orders must be served promptly • Hearing must be held within the later of 30 days after the application or 10 days after service of process (hearing date may be extended for an additional 10 days for good cause) • For non-telephonic ex parte orders, the hearing must be held between three and five business days after the defendant's request for a hearing is received by the court clerk 	<ul style="list-style-type: none"> • Process must be served on the defendant immediately • A hearing must be held within 10 days of the filing of a complaint 	<ul style="list-style-type: none"> • Service of a summons and petition must be made within 24 hours before the time stated for appearance • If the respondent requests it, the hearing cannot be held earlier than three days after service of process 	Return of service must be forwarded to the court clerk prior to the hearing date	<ul style="list-style-type: none"> • Process must be served at the earliest possible time before the scheduled hearing • Return of service must be filed with the court and state the date, time, and place at which the order was delivered to the defendant • Hearing must be held within 10 days after the temporary restraining order is issued
What happens if the authorized agent is unable to serve	Not specified	Not specified	Not specified	Not specified	If personal service cannot be made, the court may order other appropriate methods of	If in person service fails after reasonable effort, the court may order substituted service in a manner provided	<ul style="list-style-type: none"> • Agent must note attempts made and why service 	If service of a notice of hearing cannot be made before the scheduled hearing, the court must: <ul style="list-style-type: none"> • continue the

	<i>Connecticut</i>	<i>Maine</i>	<i>Massachusetts</i>	<i>New Hampshire</i>	<i>New Jersey</i>	<i>New York</i>	<i>Rhode Island</i>	<i>Vermont</i>
process?					service (alternative methods are not specified)	in civil process. The methods of substituted service include: <ul style="list-style-type: none"> • delivery in person to a person of suitable age and discretion at the place where the respondent works or lives and mailing another copy to his or her last known residence; • delivery to the respondent's agent; • physically affixing the summons to the respondent's business or residence and mailing another copy to his or her last known residence; or • any other reasonable method devised by the court 	failed on the summons <ul style="list-style-type: none"> • If in person service fails, alternative methods of service may be ordered, including (1) certified or regular mail to the defendant's last known address (other than the residence he or she was ordered to vacate) or place of employment, (2) leaving copies with person of suitable age at defendant's dwelling or usual place of abode, or (3) publication in a newspaper for two consecutive weeks • Court sets new date for hearing and extends any temporary order until that date 	hearing and extend the terms of the order, upon the plaintiff's request, for any additional time it deems necessary to achieve service on the defendant <ul style="list-style-type: none"> •
Use of short form notifications	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified
Tracking and monitoring service of process	<ul style="list-style-type: none"> • Not specified but immediately after process has been served, the agent must notify the appropriate 	Not specified but agent must return proof of service by electronic transmission to the court	Not specified	Not specified	Not specified but the Administrative Office of the Courts must establish and maintain a central registry of all persons who have had domestic	Not specified but a statewide computerized registry is used for warrants and orders of protection orders issued	Not specified but the agent must notify law enforcement and the applicant of return of service	Not specified but the court must transmit a copy of the order to the Department of Public Safety's Protection Order Database

	<i>Connecticut</i>	<i>Maine</i>	<i>Massachusetts</i>	<i>New Hampshire</i>	<i>New Jersey</i>	<i>New York</i>	<i>Rhode Island</i>	<i>Vermont</i>
	<p>e law enforcement agencies by fax or other means</p> <ul style="list-style-type: none"> An automated protective orders registry, which includes restraining orders, is maintained by the Chief Court Administrator 				<p>violence restraining orders entered against them</p>			
Fees for service (funding)	Judicial Branch pays service costs	Not specified	Not specified	Not specified	Not specified	Not specified	<ul style="list-style-type: none"> Funding not specified Sheriffs – no fees Constables – receive same fees allowed for family court summons 	Not specified
Notice to law enforcement and applicant of (1) service and (2) issued and vacated orders	<p><u>Law Enforcement</u></p> <ul style="list-style-type: none"> The agent must immediately notify (by fax or other means) the law enforcement agencies for the town in which the applicant and the respondent lives and the town where the applicant works, of the date and time that service was made The court clerk must notify (by fax or other means) the law 	<p><u>Law Enforcement</u></p> <p>The clerk must issue a copy of an order, agreement, amendment, or revocation to the law enforcement agencies the court determines most likely to enforce it</p>	<p><u>Law Enforcement</u></p> <p>The court notifies law enforcement agencies of orders issued</p>	<p><u>Law Enforcement</u></p> <ul style="list-style-type: none"> The court's administrative office must enter orders into the state database which must be available to police and sheriff departments statewide The Department of Safety must make available to police and sheriff departments statewide information on telephonically issued emergency orders Court-ordered changes or modifications must be (1) mailed or 	<p><u>Law Enforcement</u></p> <ul style="list-style-type: none"> The court must immediately forward an order granting emergency relief and the complaint to the (1) appropriate law enforcement agency, and (2) police of the municipality in which the plaintiff resides or is sheltered The clerk or other person designat 	<p><u>Law Enforcement</u></p> <ul style="list-style-type: none"> The agent who receives a copy of the order from the court clerk must promptly transmit the information on the order over the law enforcement communication system, including the date such order becomes effective, the date such order was served, and whether the defendant or respondent 	<p><u>Law Enforcement</u></p> <ul style="list-style-type: none"> The Sheriff or constable must notify law enforcement agencies of return of service Court clerk notifies law enforcement agencies of orders 	<p><u>Law Enforcement</u></p> <p>Not specified</p>

	<i>Connecticut</i>	<i>Maine</i>	<i>Massachusetts</i>	<i>New Hampshire</i>	<i>New Jersey</i>	<i>New York</i>	<i>Rhode Island</i>	<i>Vermont</i>
	<p>enforcement agencies for the town in which the applicant and the respondent lives and the town where the applicant works, of any order it issues (ex parte or after a hearing) within 48 hours after the order is issued</p> <ul style="list-style-type: none"> When an order is entered in the protective order registry, the registry automatically faxes it to the designated law enforcement agencies <p><u>Applicant</u> The court clerk must provide the applicant with copies of an order issued after a hearing</p> <p><u>Other</u></p> <ul style="list-style-type: none"> The court clerk must provide the respondent with copies of an order issued after a hearing If the victim is a 			<p>otherwise provided to the appropriate local law enforcement agency and (2) transmitted to the Department of Safety within 24 hours after entry of the change or modification</p> <p><u>Applicant</u> Not Specified</p> <p><u>Other</u> Not specified</p>	<p>ed by the court must also send notice of temporary and final orders to the (1) appropriate chiefs of police, (2) members of the state police, and (3) any other appropriate law enforcement agency or court</p> <p><u>Applicant</u> Not specified</p> <p><u>Other</u> Not specified</p>	<p>had actual knowledge of such order because he or she was present in court when the order was issued</p> <ul style="list-style-type: none"> When a peace officer or police officer receives a warrant issued by a family court, supreme court, or criminal court pertaining to an order of protection, the officer must promptly dispatch specific information on the warrant over the law enforcement communication system <p><u>Applicant</u> Not specified</p> <p><u>Other</u> Not specified</p>	<p><u>Applicant</u> Not specified</p> <ul style="list-style-type: none"> The sheriff or constable notifies the applicant of return of service The court clerk notifies the applicant of orders <p><u>Other</u> When a permanent order is entered, a police officer must give a certified copy of the order to the defendant</p>	<p><u>Applicant</u> Not specified</p> <p><u>Other</u> The court must transmit a copy of the order to the Department of Public Safety's Protection Order Database</p>

	<i>Connecticut</i>	<i>Maine</i>	<i>Massachusetts</i>	<i>New Hampshire</i>	<i>New Jersey</i>	<i>New York</i>	<i>Rhode Island</i>	<i>Vermont</i>
	student and he or she requests it, the court must notify his or her (1) school or (2) college or university, including its president and special police force							

APPENDIX C**Attorney General's Opinion****Attorney General, Richard Blumenthal
June 16, 2008**

Martin R. Libbin
State of Connecticut Judicial Branch
Court Operations Division
100 Washington Street
Hartford, CT 06115-0474

Dear Mr. Libbin:

You have requested a formal legal opinion concerning the calculation of mileage fees owed to state marshals and indifferent persons who serve process. Specifically, you have asked:

(1) whether mileage fees are owed for unsuccessful attempts at service of process, in addition to when service is successful; ¹

(2) whether the computation of mileage is “limited to ‘direct’ mileage to the place of service (i.e., the shortest possible driving distance from place of receipt to place of service) or, instead, allows for mileage resulting from a more circuitous route if it was incurred in connection with a bona fide effort to effectuate service or otherwise added value to the service (such as travel for legitimate investigative purposes relative to service);” and

(3) what mileage fees are owed when travel to serve process is started at a location other than where the process was sent. “For example, if a summons and complaint are sent to a state marshal at his or her office in Waterbury for service on a defendant that resides two miles from the marshal’s office, is the marshal entitled to be paid for mileage for service from New Haven to Waterbury if in fact after being in New Haven the marshal goes directly to the defendant’s home in Waterbury?”

The provisions of Conn. Gen Stat. § 52-261(a) and 52-261a compel the following conclusions: mileage fees are not owed for unsuccessful attempts to serve process, mileage should be calculated using the most direct route from the place of receiving the process to the place of service, and mileage fees should not be paid for travel that begins at a location further from the destination point than the place where process was received.

Section 52-261(a) of the Connecticut General Statutes sets forth the fees to be paid to individuals who serve process, summons or attachments, including mileage fees for the travel incurred in effecting such service. In pertinent part, section 52-261(a) states:

[E]ach officer or person who serves process, summons or attachments shall receive a fee of not more than thirty dollars for each process served and an additional fee of thirty dollars for the second and each subsequent service of such process, **Each such officer or person shall also receive the fee set by the Department of Administrative Services for state employees for each mile of travel, to be computed from the place**

where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return.

Conn. Gen. Stat. § 52-261(a)(emphasis added). Conn. Gen. Stat. § 52-261a, which pertains to individuals serving process for the Judicial Department or Division of Criminal Justice, contains similar language.²

In construing a statute, the “fundamental objective is to ascertain and give effect to the apparent intent of the legislature.” American Promotional Events, Inc. v. Blumenthal, 285 Conn. 192, 202 (2008). In searching for the legislative intent, a court looks “first to the text of the statute itself and its relationship to other statutes.” Id., citing Conn. Gen. Stat. § 1-2z. If the text of the statute is not clear and unambiguous, it is appropriate to look to the statute’s “legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter.” Jagger v. Mohawk Mountain Ski Area, Inc., 269 Conn. 672, 679 (2004).

Looking at the language of § 52-261(a), there is no express mention of whether the mileage fees apply to unsuccessful, as well as successful, attempts to serve process. The language implies, however, that mileage fees are payable only for successful service. This implication arises because the first sentence of § 52-261(a) states that “each officer or person **who serves process, summons or attachments shall receive a fee of not more than thirty dollars for each process served.**” Conn. Gen. Stat. § 52-261(a)(emphasis added). The phrase “each process served” describes a completed action. Thus, the service fee is payable to those officers and persons who successfully serve process. The second sentence of § 52-261(a), which pertains to mileage fees, begins with the words “[e]ach such officer or employee,” thereby referring back to the officers and persons in the first sentence who have successfully served process and implying that fees for mileage are payable specifically to those individuals who have completed the act of serving process.

The conclusion that mileage fees are payable when process is successfully served is supported by the second half of the sentence, which states that the mileage fee is computed “from the place where such officer or person received the process to the place of service.” Conn. Gen. Stat. § 52-261(a). The use of the past tense, coupled with the reference to “the place of service” implies that the mileage fee is payable for service that has been successfully effected.³

Although no Connecticut case law or legislative history was found that considered whether § 52-261(a) permits the payment of mileage fees for unsuccessful attempts at service, the court in Rioux v. State Ethics Commission, 45 Conn. Supp. 242 (1997), aff’d, 48 Conn. App. 214 (1998), interpreted the statute to permit only those fees explicitly enumerated. Specifically, the court found a sheriff’s \$15 “service fee” for advice and review of documents to be improper because § 52-261(a) makes no mention of such a fee. According to the court, “[u]nless there is evidence to the contrary, statutory itemization indicates that the legislature intended the list to be exclusive.” Rioux, 45 Conn. Supp. at 247. This conclusion is consistent with the view expressed in Corpus Juris Secundum that “[t]he right to mileage . . . is purely statutory; for services in connection with which no mileage is allowed by statute a sheriff or constable is entitled to none.” 80 Corpus Juris Secundum, Sheriffs and Constables § 498 (2000).

Courts and Attorneys General in other jurisdictions have similarly concluded that mileage fees are purely statutory and, “[i]n the absence of a statute, a sheriff is not entitled to mileage for service of process.” Sears, Roebuck and Co. v. Braney, 627 A.2d 698, 699 (N.J. Superior Ct., 1992), aff’d in part, rev’d in part, 627 A.2d 662 (N.J. Superior Ct., Appellate Div. 1993).

Although out-of-state decisions have reached varying conclusions as to whether mileage fees must be paid for unsuccessful service, in each case the determination has turned on the legislative intent as evidenced, primarily, by the language of the relevant statutes.⁴ Based on the language of Conn. Gen. Stat. §§ 52-261(a) and 52-261a discussed above, I conclude that the Connecticut General Assembly intended mileage fees to be paid only for those trips that result in successful service.

Your second question asks whether the computation of mileage is “limited to ‘direct’ mileage to the place of service (i.e., the shortest possible driving distance from place of receipt to place of service) or, instead, allows for mileage resulting from a more circuitous route if it was incurred in connection with a bona fide effort to effectuate service or otherwise added value to the service (such as travel for legitimate investigative purposes relative to service).” Although neither Conn. Gen. Stat. § 52-261(a) nor § 52-261a addresses this issue explicitly, both statutes provide that mileage shall be “computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return,” thereby implying that payment applies to direct travel along this specific route and not to other destinations that could be reached along the way if the route were circuitous. Indeed, construing the statute to permit payment for a circuitous route would open the door to potential abuse of the statute by those seeking to augment their fees. Because courts may not “supply statutory language that the legislature may have chosen to omit,” Connecticut Light & Power Co. v. Dept. of Public Utility Control, 206 Conn. 108, 119 (2003), I conclude that Conn. Gen. Stat. §§ 52-261(a) and 52-261a should be construed to permit mileage payments only for the most direct route between the place of receiving process and the place of service.

The answer to your third question follows from the answer to your second question. Your third question asks what mileage fees are owed when travel to serve process begins at a location other than where the process was received. This is a problem, as you point out, when travel begins at a location that is further from the sheriff’s destination than the place where he received the process to be served. As noted above, Conn. Gen. Stat. §§ 52-261(a) and 52-261a state that mileage shall be “computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return.” There is no provision in either statute for payment for travel that begins at a location other than “the place where such officer or person received the process.” Because courts “are not permitted to supply statutory language that the legislature may have chosen to omit,” Connecticut Light & Power Co., 206 Conn. at 119, I conclude that mileage fees are not payable for travel from a location further from the destination point than the place where the process was received.

I trust that this opinion answers your questions.

Very truly yours,

RICHARD BLUMENTHAL
ATTORNEY GENERAL

¹ You note that the current practice of the State Marshal Commission is to encourage the allowance of mileage fees when a marshal has made a bona fide, but unsuccessful, effort to effectuate service. Recently, you have received several invoices for service of process that included claims for mileage for unsuccessful attempts at service.

² Conn. Gen. Stat. § 52-261a(2) states, in pertinent part, that “each officer or person who serves process shall receive, for each mile of travel, the same amount per mile as provided for state employees pursuant to section 5-141c, to be computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return.”

³ A similar analysis applies to Conn. Gen. Stat. § 52-261a(2), which states that “each officer or person who serves process shall receive, for each mile of travel, the same amount per mile as provided for state employees pursuant to section 5-141c, to be computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return.” As in section 52-261(a), the underlined language suggests that mileage fees apply when service has been successfully effected.

⁴ None of the decisions found analyzed statutory language identical to Connecticut’s. The following decisions disallowed mileage fees for unsuccessful service: Commonwealth v. Brown, 4 Pa. D. & C. 2d 42 (1955)(constable not entitled to mileage for eleven unsuccessful attempts to serve a warrant); Schneider v. Waukesha County, 79 N.W. 228 (Wis. 1899)(sheriff not entitled to mileage fees for travel in an honest but unsuccessful attempt to execute a criminal warrant); 1987 La. AG Lexis 257, La. Atty. Gen. Op. No. 1987-462 (Sept. 17, 1987)(state statute did not provide fees for unsuccessful service); 1984 Wisc. AG Lexis 10, 73 Op. Atty Gen. Wisc. 106 (Oct. 11, 1984)(statute allowing mileage fee for “each mile actually and necessarily traveled” in serving any summons, writ or other process did not entitle sheriff to payment for unsuccessful service); 1952 N.Y. AG Lexis 279, 1952 N.Y. Op (Inf.) Atty. Gen. 76 (Aug. 15, 1952)(statute providing payment for “miles necessarily traveled going and returning” only applied to the one round trip in which service was effected).

The following decisions allowed mileage fees for unsuccessful service: Sears, Roebuck and Co. v. Braney, 627 A.2d 698 (N.J. Superior Ct., 1992), aff’d in part, rev’d in part, 627 A.2d 662 (N.J. Superior Ct., Appellate Div. 1993)(statutory fee for “mileage actually traveled” “[f]or serving or executing process” applied to unsuccessful attempts); Garbenis v. Elrod, 454 N.E. 2d 719 (App. Ct. Ill. 1983)(statute allowing fee for each “mile each way necessarily traveled in making . . . service” permitted sheriff to retain mileage fee for unsuccessful service); 1978 Ky. AG Lexis 672 (Jan. 24, 1978)(mileage for unsuccessful service allowed where sheriff’s affidavit supported conclusion that specific trips were actually made and necessary); 1941 Ore. AG Lexis 209, 20 Op. Atty. Gen. Ore. 381 (Aug. 27, 1941).

APPENDIX D**State of Connecticut – Judicial Branch
C.G.S. § 46b-15 Cases with an Order for Hearing
From 12.1.13 Through 11.30.14**

Respondent's City	Cases	Corresponding Law Enforcement Agency
Amston	4	CSP Troop K - Colchester
Andover	6	CSP Troop K - Colchester
Ansonia	33	Ansonia PD
Ashford	9	CSP Troop C - Tolland
Avon	12	Avon PD
Baltic	17	CSP Troop E - Montville
Bantam	4	CSP Troop L - Litchfield
Barkhamsted	4	CSP Troop L - Litchfield
Beacon Falls	3	CSP Troop I - Bethany
Berlin	18	Berlin PD
Bethany	4	CSP Troop I - Bethany
Bethel	21	Bethel PD
Bloomfield	33	Bloomfield PD
Bolton	5	CSP Troop K - Colchester
Bozrah	3	CSP Troop K - Colchester
Branford	41	Branford PD
Bridgeport	287	Bridgeport PD
Bridgewater	3	CSP Troop A - Southbury
Bristol	114	Bristol PD
Broad Brook	10	East Windsor PD
Brookfield	10	Brookfield PD
Brooklyn	30	CSP Troop D - Danielson
Burlington	6	CSP Troop L - Litchfield
Canaan	8	CSP Troop L - Litchfield
Canterbury	8	CSP Troop D - Danielson
Canton	1	Canton PD
Centerbrook	2	CSP Troop F - Westbrook
Central Village	4	Plainfield PD
Chaplin	5	CSP Troop D - Danielson
Cheshire	33	Cheshire PD
Chester	3	CSP Troop F - Westbrook
Clinton	29	Clinton PD
Colchester	17	CSP Troop K - Colchester
Colebrook	3	CSP Troop L - Litchfield
Collinsville	1	Canton PD
Columbia	6	CSP Troop K - Colchester
Cornwall	1	CSP Troop L - Litchfield
Coventry	27	Coventry PD
Cromwell	19	Cromwell PD

Danbury	170	Danbury PD
Danielson	57	CSP Troop D - Danielson
Darien	4	Darien PD
Dayville	24	CSP Troop D - Danielson
Deep River	8	CSP Troop F - Westbrook
Derby	36	Derby PD
Durham	12	CSP Troop F - Westbrook
East Berlin	3	Berlin PD
East Granby	1	CSP Troop H - Hartford
East Haddam	7	CSP Troop K - Colchester
East Hampton	26	East Hampton PD
East Hartford	162	East Hartford PD
East Haven	78	East Haven PD
East Killingly	1	CSP Troop D - Danielson
East Lyme	7	CSP Troop E - Montville
East Windsor	12	East Windsor PD
Eastford	2	CSP Troop D - Danielson
Easton	3	Easton PD
Ellington	16	CSP Troop C - Tolland
Enfield	81	Enfield PD
Essex	2	CSP Troop F - Westbrook
Fabyan	2	CSP Troop D - Danielson
Fairfield	22	Fairfield PD
Farmington	11	Farmington PD
Gales Ferry	13	CSP Troop E - Montville
Gaylordsville	1	CSP Troop L - Litchfield
Georgetown	1	Redding PD
Glastonbury	17	Glastonbury PD
Goshen	3	CSP Troop L - Litchfield
Granby	5	Granby PD
Greenwich	22	Greenwich PD
Griswold	17	CSP Troop E - Montville
Groton	74	Groton City PD, Groton Town PD, Groton Long Poi
Guilford	22	Guilford PD
Haddam	7	CSP Troop F - Westbrook
Hamden	97	Hamden PD
Hampton	9	CSP Troop D - Danielson
Hanover	2	CSP Troop E - Montville
Hartford	656	Hartford PD
Harwinton	3	CSP Troop L - Litchfield
Hebron	6	CSP Troop K - Colchester
Higganum	13	CSP Troop F - Westbrook
Ivoryton	3	CSP Troop F - Westbrook
Jewett City	24	CSP Troop E - Montville
Kensington	3	Berlin PD
Kent	4	CSP Troop L - Litchfield

Killingworth	7	CSP Troop F - Westbrook
Lebanon	9	CSP Troop K - Colchester
Ledyard	11	CSP Troop E - Montville
Lisbon	8	CSP Troop E - Montville
Litchfield	5	CSP Troop L - Litchfield
Madison	5	Madison PD
Manchester	99	Manchester PD
Mansfield Center	7	CSP Troop C - Tolland
Marion	2	Southington PD
Marlborough	2	CSP Troop K - Colchester
Meriden	210	Meriden PD
Middlebury	2	Middlebury PD
Middletown	118	Middletown PD
Milford	74	Milford PD
Monroe	4	Monroe PD
Montville	4	CSP Troop E - Montville
Moodus	5	CSP Troop K - Colchester
Moosup	34	Plainfield PD
Morris	2	CSP Troop L - Litchfield
Mystic	12	Stonington PD
Naugatuck	50	Naugatuck PD
New Britain	285	New Britain PD
New Canaan	2	New Canaan PD
New Fairfield	8	CSP Troop A - Southbury
New Hartford	7	CSP Troop L - Litchfield
New Haven	456	New Haven PD
New London	117	New London PD
New Milford	60	New Milford PD
New Preston	2	CSP Troop L - Litchfield
Newington	22	Newington PD
Newtown	20	Newtown PD
Niantic	33	CSP Troop E - Montville
Norfolk	1	CSP Troop L - Litchfield
North Branford	9	North Branford PD
North Granby	2	Granby PD
North Grosvenordale	25	CSP Troop D - Danielson
North Haven	29	North Haven PD
North Stonington	4	CSP Troop E - Montville
North Windham	5	CSP Troop C - Tolland
Northford	11	North Branford PD
Norwalk	55	Norwalk PD
Norwich	172	Norwich PD
Oakdale	7	CSP Troop E - Montville
Oakville	14	Watertown PD
Old Greenwich	2	Greenwich PD
Old Lyme	8	CSP Troop F - Westbrook

Old Saybrook	11	Old Saybrook PD
Oneco	2	CSP Troop D - Danielson
Orange	15	Orange PD
Oxford	26	CSP Troop A - Southbury
Pawcatuck	14	Stonington PD
Plainfield	34	Plainfield PD
Plainville	28	Plainville PD
Plantsville	14	Southington PD
Plymouth	3	Plymouth PD
Pomfret Center	4	CSP Troop D - Danielson
Portland	9	Portland PD
Preston	6	CSP Troop E - Montville
Prospect	7	CSP Troop I - Bethany
Putnam	85	Putnam PD
Quaker Hill	9	Waterford PD
Quinebaug	2	CSP Troop D - Danielson
Redding	9	Redding PD
Redding Ridge	1	Redding PD
Ridgefield	6	Ridgefield PD
Ridgeway	5	Stamford PD
Riverside	1	Greenwich PD
Riverton	4	CSP Troop B - North Canaan
Rockfall	2	CSP Troop F - Westbrook
Rocky Hill	12	Rocky Hill PD
Salem	5	CSP Troop K - Colchester
Sandy Hook	16	Newtown PD
Scotland	1	CSP Troop D - Danielson
Seymour	28	Seymour PD
Sharon	3	CSP Troop B - North Canaan
Shelton	57	Shelton PD
Sherman	4	CSP Troop A - Southbury
Simsbury	13	Simsbury PD
Somers	36	CSP Troop C - Tolland
South Glastonbury	3	Glastonbury PD
South Windsor	13	South Windsor PD
Southbury	11	CSP Troop A - Southbury
Southington	37	Southington PD
Stafford Springs	24	CSP Troop C - Tolland
Stamford	65	Stamford PD
Sterling	17	CSP Troop D - Danielson
Stonington	6	Stonington PD
Storrs Mansfield	9	CSP Troop C - Tolland
Stratford	55	Stratford PD
Suffield	11	Suffield PD
Taftville	25	Norwich PD
Tariffville	2	Simsbury PD

Terryville	22	Plymouth PD
Thomaston	7	Thomaston PD
Thompson	20	CSP Troop D - Danielson
Tolland	19	CSP Troop C - Tolland
Torrington	76	Torrington PD
Trumbull	14	Trumbull PD
Uncasville	51	CSP Troop E - Montville
Unionville	7	Farmington PD
Vernon Rockville	77	Vernon PD
Voluntown	13	CSP Troop E - Montville
Wallingford	57	Wallingford PD
Washington Depot	1	CSP Troop L - Litchfield
Waterbury	385	Waterbury PD
Waterford	29	Waterford PD
Watertown	25	Watertown PD
Wauregan	7	Plainfield PD
Weatogue	1	Simsbury PD
West Granby	1	Granby PD
West Hartford	72	West Hartford PD
West Haven	148	West Haven PD
West Simsbury	1	Simsbury PD
West Suffield	5	Suffield PD
Westbrook	14	CSP Troop F - Westbrook
Weston	1	Weston PD
Westport	8	Westport PD
Wethersfield	23	Wethersfield PD
Willimantic	48	Willimantic PD
Willington	11	CSP Troop C - Tolland
Wilton	3	Wilton PD
Windham	5	CSP Troop K - Colchester
Windsor	50	Windsor PD
Windsor Locks	21	Windsor Locks PD
Winsted	18	Winchester PD
Wolcott	17	Wolcott PD
Woodbridge	5	Woodbridge PD
Woodbury	1	CSP Troop L - Litchfield
Woodstock	19	CSP Troop D - Danielson
Woodstock Valley	2	CSP Troop D - Danielson
Yalesville	1	Wallingford PD
Yantic	1	Norwich PD
SUM	6655	
Cities outside Connecticut	372	
No home address on file	842	

APPENDIX E**MEMORANDUM**

TO: Task Force on the Service of Temporary Restraining Orders

FROM: Aaron P. Wenzloff

DATE: 12/16/2014

RE: Other States' Laws re: Law Enforcement Authorization to Serve TROs

INTRODUCTION

I have researched other states' laws regarding whether law enforcement is required or permitted to effectuate service of temporary restraining orders (TROs) on the respondent.³ This memo contains excerpts of other states' laws regarding the authorization of law enforcement to serve TROs, organized by the type of authority granted.

In every state except for Connecticut and Tennessee, law enforcement officers may or must serve temporary restraining orders.

In thirty states, law enforcement, including county sheriffs, are explicitly authorized and required by statute to serve a TRO. These states include: Alabama, Alaska, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Vermont, Virginia, West Virginia, Wyoming.

Of these thirty states, twenty-one states specifically require "law enforcement" to either effectuate service in addition to a county sheriff or in place of a county sheriff. I am including this information because Connecticut does not have a county-based law enforcement system.

Beyond the thirty states that explicitly require service by law enforcement, an additional seven jurisdictions statutorily authorize law enforcement to serve TROS, but do not require it or leave it up to the applicant to request service by law enforcement. These states include: Arizona, Delaware, Hawaii, Michigan, Pennsylvania, South Carolina, Washington.

The rest of the states (excluding Connecticut and Tennessee) do not explicitly allow law enforcement to serve TROs but implicitly permit such service because their service of process statutes allow any indifferent person to effectuate service.⁴ Tennessee's statutes are unclear about

³Some states use different terminology to describe what we colloquially term in Connecticut a "temporary restraining order." For example, many states use the term "civil protective order" or "order of protection." Regardless of the term used by individual states, I will use the term "temporary restraining order" or "TRO" for simplicity.

⁴Some states without explicit statutory authority for law enforcement to serve TROs, seem to use such service as a matter of practice, according to court websites or court forms, e.g. STATE OF

who is authorized to serve a TRO, but the City of Knoxville website indicates that if personal service under traditional Tennessee service of process fails, a plaintiff may ask a police officer to serve process.⁵

TWENTY-ONE STATES THAT EXPLICITLY AUTHORIZE “LAW ENFORCEMENT” TO SERVE TROS

Below are excerpts from the twenty-one states that, by statute, specifically require “law enforcement” to serve TROs, either in addition to a county sheriff or without reference to a county sheriff. These states, therefore, are a reasonable comparison to Connecticut because Connecticut does not have a county sheriff/law enforcement system.

Alaska

ALASKA STAT. ANN. § 18.66.110 “ If a court issues an ex parte protective order, **the court shall have the order delivered to the appropriate local law enforcement agency for expedited service** and for entry into the central registry of protective orders . . .”

Florida

FLA. STAT. ANN. §741.30 “(8)(a) 1. **The clerk of the court shall furnish a copy of the petition, financial affidavit, Uniform Child Custody Jurisdiction and Enforcement Act affidavit, if any, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night.** . . . the clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent’s physical description and location. . . .”

Illinois

750 ILL. COMP. STAT. 60/210 “(c) Expedited service. **The summons shall be served by the sheriff or other law enforcement officer** at the earliest time and shall take precedence over other summonses except those of a similar emergency nature.”

Iowa

IOWA CODE ANN. §236.3 “b. The clerk of court, **the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process** without charge to the plaintiff.”

Maine

MONTANA, TEMPORARY ORDER OF PROTECTION, <https://dojmt.gov/wp-content/uploads/temporderofprotection1212.pdf> (court form); STATE OF COLORADO, INSTRUCTIONS FOR OBTAINING A CIVIL PROTECTION ORDER, <http://www.courts.state.co.us/Forms/PDF/JDF%20400%20Instructions%20for%20Obtaining%20a%20Civil%20Protection%20Order%20%28FINAL%29%20R6%2013.pdf>; STATE OF MISSISSIPPI, ORDER OF PROTECTION: EX PARTE EMERGENCY DOMESTIC ABUSE PROTECTION ORDER, www.ago.state.ms.us/wp-content/uploads/2013/06/DVepartefillable.pdf; LOUISIANA SUPREME COURT, INFORMATION FOR SERVICE OF PROCESS, http://www.lasc.org/court_managed_prog/lpor/Lpor%20H%20v7.pdf

⁵ CITY OF KNOXVILLE, DOMESTIC VIOLENCE, http://www.cityofknoxville.org/kpd/dvu_legal.asp.

Me. Rev. Stat. tit. 19-A, § 4006 “6. If the court issues a temporary order or orders emergency or interim relief, **the court shall order an appropriate law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons.** ... and the law enforcement agency, court security officer or chief administrative officer of a correctional facility or the chief administrative officer's designee shall make a good faith effort to serve process expeditiously.

Maryland

MD. CODE ANN., Fam. Law § 4-505 “(b)(1) Except as provided in paragraph (2) of this subsection, **a law enforcement officer shall: (i) immediately serve the temporary protective order** on the alleged abuser under this section...”

Massachusetts

MASS. GEN. LAWS ANN. ch. 209A, § 7 “... the register or clerk-magistrate shall transmit two certified copies of each such order and one copy of the complaint and summons forthwith to **the appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve one copy of each order upon the defendant,** together with a copy of the complaint, order and summons and notice of any suspension or surrender ordered pursuant to section three B of this chapter. The law enforcement agency shall promptly make its return of service to the court.”

Minnesota

MINN. STAT. ANN. § 518B.01 “Subd. 3a. ...The court administrator, **the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process** without charge to the petitioner.”

“Subd. 9a. Service by others. **Peace officers licensed by the state of Minnesota and corrections officers, including, but not limited to, probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve an order for protection.**”

Missouri

MO. ANN. STAT. § 455.040 “The court shall cause a copy of the petition and notice of the date set for the hearing on such petition and **any ex parte order of protection to be served** upon the respondent as provided by law or **by any sheriff or police officer** at least three days prior to such hearing.”

Nevada

NEV. REV. STAT. ANN. §33.060 “2. **The court shall order the appropriate law enforcement agency to serve, without charge, the adverse party personally** with the temporary order and to file with or mail to the clerk of the court proof of service by the end of the next business day after service is made.”

New Jersey

N.J. STAT. ANN. §2C:25-28 “1. An order granting emergency relief, together with the complaint or complaints, **shall immediately be forwarded to the appropriate law enforcement agency for service on the defendant,** and to the police of the municipality in which the plaintiff resides

or is sheltered, and **shall immediately be served upon the defendant by the police**, except that an order issued during regular court hours may be forwarded to the sheriff for immediate service upon the defendant in accordance with the Rules of Court.”

New Mexico

N.M. STAT. ANN. §40-13-6A. “An order of protection granted under the Family Violence Protection Act shall be filed with the clerk of the court, **and a copy shall be sent by the clerk to the local law enforcement agency. The order shall be personally served** upon the restrained party, unless the restrained party or the restrained party's attorney was present at the time the order was issued.”

NEW MEXICO DOMESTIC VIOLENCE BENCHBOOK 2-26 (New Mexico Judicial Education Center, Institute Of Public Law, Unm School Of Law, 2005). “If an order of protection is entered by the court, **then the clerk sends it to the local law enforcement agency for personal service** on the respondent (unless the respondent or attorney was in court when the order was issued) at no cost to the petitioner.

New York

N.Y. FAM. CT. ACT § 153-B “Whenever a petitioner requests an order of protection or temporary order of protection ... (a) the summons and the petition and, if one has been issued, the temporary order of protection, order of protection issued upon a default, or a copy or copies thereof, may be served on any day of the week, and at any hour of the day or night;

(b) **a peace officer, acting pursuant to his or her special duties, or a police officer shall, upon receipt, serve or provide for the service of the summons and the petition ...**

(c) if a temporary order of protection has been issued, or an order of protection has been issued upon a default, unless the party requesting the order states on the record that she or he will arrange for other means for service or deliver the order to a peace or police officer directly for service, **the court shall immediately deliver a copy of the temporary order of protection or order of protection together with any associated papers that may be served simultaneously including the summons and petition, to a peace officer, acting pursuant to his or her special duties and designated by the court, or to a police officer as defined in paragraph (b) or (d) of subdivision thirty-four of section 1.20 of the criminal procedure law, or to any other county or municipal officer who may be directed to effect service under section two hundred fifty-five of this act, or, in the city of New York, to a designated representative of the police department of the city of New York. Any peace or police officer or designated person receiving a temporary order of protection or an order of protection as provided in this section shall serve or provide for the service thereof** together with any associated papers that may be served simultaneously, at any address designated therewith, including the summons and petition if not previously served.

North Carolina

N.C. GEN. STAT. ANN. §50B-2 “(7) Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and **shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency** where the defendant is to be served.”

North Dakota

N.D. CENT. CODE ANN. § 14-07.1-04 “When an order is issued upon request of the applicant under section 14-07.1-02 or 14-07.1-03, **the court shall order the sheriff or other appropriate law enforcement officer** to accompany the applicant and assist in placing the applicant in possession of the dwelling or residence, or **otherwise assist in execution or service of the protection order**, which may include assistance in referral to a domestic violence shelter care facility.”

Oklahoma

OKLA. STAT. ANN. tit. 22, §60.4 “A. 1. **A copy of a petition for a protective order, notice of hearing and a copy of any emergency ex parte order issued by the court shall be served upon the defendant in the same manner as a bench warrant. ...**⁶”

“2... **When service cannot be made upon the defendant by the sheriff, the sheriff may contact another law enforcement officer or a private investigator or private process server to serve the defendant.**”

South Dakota

S.D. CODIFIED LAWS § 25-10-7 “**The law enforcement agency serving the order** shall notify the petitioner by telephone or written correspondence when the order is served if the petitioner has provided to the law enforcement agency either a telephone number or address, or both, where the petitioner may be contacted.”

Utah

UTAH CODE ANN. §78B-7-107(8) “(a) **The county sheriff that receives the order from the court, pursuant to Subsection (5)(a), shall provide expedited service for orders for protection** issued in accordance with this chapter, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113. (b) **This section does not prohibit any law enforcement agency from providing service of process** if that law enforcement agency: (i) has contact with the respondent and service by that law enforcement agency is possible; or (ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.”

Vermont

VT. STAT. ANN. tit. 15, §1105 “a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the rules of civil procedure **and may be served by any law enforcement officer.**”

Virginia

Va. Code Ann. § 16.1-253.1B “...A copy of a preliminary protective order containing any such identifying information **shall be forwarded forthwith to the primary law-enforcement agency responsible for service** and entry of protective orders.”

⁶ In Oklahoma, “All warrants, except those issued for violation of city ordinances, may be served in any county in the state; and may be served by any peace officer to whom they may be directed or delivered.” 22 Okl. St. Ann. § 175

West Virginia

W. VA. CODE ANN. §§ 48-27-311, §48-27-701 “Notwithstanding any other provision of this code to the contrary, **all law-enforcement officers are hereby authorized to serve all pleadings and orders filed or entered pursuant to this article on Sundays and legal holidays. No law-enforcement officer shall refuse to serve any pleadings or orders entered pursuant to this article. Law enforcement shall attempt to serve all protective orders without delay: Provided, That service of process shall be attempted within seventy-two hours of law enforcement's receipt of the order to every address provided by petitioner. ...**”

**SEVEN STATES THAT PERMIT “LAW ENFORCEMENT”
TO SERVE TROS BUT DO NOT REQUIRE IT
OR LEAVE THE DECISION TO THE APPLICANT**

In **seven** other jurisdictions, law enforcement are authorized to serve TROS, but either service by law enforcement is not required or it is left to the applicant to request service by law enforcement.

Arizona

ARIZ. REV. STAT. ANN. § 13-3602 “**On request of the plaintiff, each order of protection that is issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city.** If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order.”

Delaware

DEL. CODE ANN. tit. 10 §1046 “ (a) **The Court may direct that pleadings and orders filed or issued under this part be served upon the respondent by the Sheriff or the Sheriff's deputy or by any person authorized by statute or court rule to serve process.**”

Hawaii

Haw. Rev. Stat. §586-7 “When [a temporary restraining] order is issued under this chapter upon request of the petitioner, **the court may order the police department to serve the order** and related documents upon respondent and to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence.”

Michigan

MICH. COMP. LAWS ANN. §600.2950 “**If the individual restrained or enjoined has not been served, a law enforcement officer or clerk of the court who knows that a personal protection order exists may, at any time, serve the individual restrained or enjoined** with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order.”

Pennsylvania

23 PA. CONS. STAT. ANN. § 6106 “**The court shall adopt a means of prompt and effective service in those instances where the plaintiff avers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.**”

South Carolina

S.C. CODE ANN. § 20-4-50 “The court must cause a copy of the petition to be served upon the respondent at least five days prior to the hearing”) and §20-4-9 (“When any order is issued pursuant to this chapter, upon request of the petitioner, **the court may, as part of the order, require the sheriff’s department or the police department pursuant to duties described under Section 20-4-100 to . . . otherwise assist in execution of service of the order.**

Washington

WASH. REV. CODE ANN. §26.50.090 “**The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.**”

APPENDIX FState of Connecticut - Judicial Branch
Protection Order Registry Cases with a Restraining Order and Allegations
Concerning Firearms* December 16, 2014

Court	July 1, 2012 through June 30, 2013			July 1, 2013 through June 30, 2014		
	Firearms	Permits	Ammo	Firearms	Permits	Ammo
Danbury J.D.	19	6	0	27	18	15
Fairfield J.D.	31	17	0	27	10	15
Hartford J.D.	100	47	0	98	39	58
Litchfield J.D.	39	22	0	28	14	14
Meriden J.D.	34	11	0	28	13	15
Middlesex J.D.	49	22	0	61	30	34
Milford J.D.	59	25	0	35	16	16
New Britain J.D.	56	23	0	35	21	16
New Haven J.D.	98	35	0	84	44	44
New London J.D.	29	14	0	34	16	18
Norwich J.D.	37	24	0	44	20	21
Putnam J.D.	53	10	0	45	15	33
Stamford J.D.	15	7	[1]	12	9	2
Tolland J.D.	37	22	0	36	16	23
Waterbury J.D.	37	14	0	35	18	16
Sum	693	299	[1]	629	299	340

*Allegations concerning firearms. In general, this registry information is collected from optional questions on the Application for Relief from Abuse, form JD-FM-137; an applicant may choose from three options for the questions specified below: yes, no, or unknown. So the cases that were used for the counts above should correspond to "yes" entries on the corresponding applications for the questions specified below.

Firearms Does the respondent possess one or more firearms?

Permits Does the respondent hold a permit to carry a pistol or revolver?

Ammo Does the respondent possess ammunition?
[This question was added to the application on October 1, 2013.]

APPENDIX G**MEMORANDUM**

TO: Task Force on the Service of Temporary Restraining Orders

FROM: Aaron P. Wenzloff

DATE: 12/10/2014

RE: Laws Permitting the Extension of TROs to Give More Time for Service

Introduction

You asked me to research other states' laws regarding the extension or continuation of ex parte orders pursuant to a temporary restraining order ("TRO") to provide more time to accomplish service of the order on the respondent. This memo contains excerpts of other states' laws regarding extension of TROs, grouped by type of extension permitted, etc.

- Twenty states allow extensions of TROs specifically because service has not been made successfully in time for the hearing. In these states, the hearing is rescheduled and the TRO is automatically extended until that hearing.
- Nine states allow extensions of TROs before the hearing for "good cause."
- Five states allow extensions of TROs if the state deems it necessary.
- Fifteen states have no statutory language regarding the process by which a TRO may be extended before a hearing, whether service is achieved or not.⁷

STATES WITH EXPRESS SERVICE EXTENSION PROVISIONS (20 STATES)**Alabama****Ala. Code § 30-5-6**

(a) The court shall hold a hearing after the filing of a petition under this chapter upon the request of the defendant or within 10 days of the perfection of service. A final hearing shall be set at which the standard of proof shall be a preponderance of the evidence. If the defendant has not been served, a final hearing may be continued to allow for service to be perfected.

...

(c) If a final hearing under subsection (a) is continued, the court may make or extend temporary ex parte protection orders under subsection (b) as it deems reasonably necessary.

Arkansas**Ark. Code Ann. § 9-15-204**

(2) If service cannot be made on the respondent, the court may set a new date for the hearing.

⁷ It is important to note that in five of those states, it seems extensions are unnecessary for reasons that are positive for the applicant/plaintiff.

Colorado**Colo. Rev. Stat. § 13-14-104.5 (10)**

The return date of the citation must be set not more than fourteen days after the issuance of the temporary civil protection order and citation. If the petitioner is unable to serve the respondent in that period, the court shall extend the temporary protection order previously issued, continue the show of cause hearing, and issue an alias citation stating the date and time to which the hearing is continued. The petitioner may thereafter request, and the court may grant, additional continuances as needed if the petitioner has still been unable to serve the respondent.

Delaware**Del. Code Ann. tit. 10, § 1043**

(d) In any case in which an ex parte protective order has been issued, a full hearing shall be held within 10 days. The Court may extend an ex parte order as needed, but not to exceed 30 days, to effectuate service of the order or where necessary to continue protection.

Florida:**Fla. Stat. Ann. § 741.30 (West)**

(c) Any such ex parte temporary injunction shall be effective for a fixed period not to exceed 15 days. A full hearing, as provided by this section, shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the hearing before or during a hearing for good cause shown by any party, which shall include a continuance to obtain service of process. Any injunction shall be extended if necessary to remain in full force and effect during any period of continuance.

Hawaii**Haw. Rev. Stat. § 586-5**

(b) In the event that service has not been effected, the court may set a new date for the hearing; provided that the date shall not exceed ninety days from the date the temporary restraining order was granted. All parties shall be present at the hearing and may be represented by counsel.

Kentucky**Ky. Rev. Stat. Ann. § 403.740**

(4) If, at the hearing, the adverse party is not present and has not been served, the emergency protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party prior to seventy-two (72) hours before that hearing or a subsequent hearing, the emergency protective order shall remain in place and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing.

Maryland**Md. Code Ann., Fam. Law § 4-505**

(2) The judge may extend the temporary protective order as needed, but not to exceed 6 months, to effectuate service of the order where necessary to provide protection or for other good cause.

New Mexico

N.M. Stat. Ann. § 40-13-4 (West)

provided if notice of hearing cannot be served within seventy-two hours, the temporary order of protection shall be automatically extended for ten days.

North Dakota

N.D. Cent. Code Ann. § 14-07.1-02

Service must be made upon the respondent at least five days prior to the hearing. If service cannot be made, the court may set a new date.

Ohio

Ohio Rev. Code Ann. § 3113.31 (West)

Under any of the following circumstances or for any of the following reasons, the court may grant a continuance of the full hearing to a reasonable time determined by the court:

- (i) Prior to the date scheduled for the full hearing under this division, the respondent has not been served with the petition filed pursuant to this section and notice of the full hearing.
 - (ii) The parties consent to the continuance.
 - (iii) The continuance is needed to allow a party to obtain counsel.
 - (iv) The continuance is needed for other good cause.
- (b) An ex parte order issued under this section does not expire because of a failure to serve notice of the full hearing upon the respondent before the date set for the full hearing under division (D)(2)(a) of this section or because the court grants a continuance under that division.

Oklahoma

Okla. Stat. Ann. tit. 22, § 60.4

3. If service has not been made on the defendant at the time of the hearing, the court shall, at the request of the petitioner, issue a new emergency order reflecting a new hearing date and direct service to issue.

4. A petition for a protective order shall, upon the request of the petitioner, renew every fourteen (14) days with a new hearing date assigned until the defendant is served. A petition for a protective order shall not expire unless the petitioner fails to appear at the hearing or fails to request a new order. A petitioner may move to dismiss the petition and emergency or final order at any time, however, a protective order must be dismissed by court order.

5. Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order unless the victim requests dismissal or fails to appear for the hearing thereon.

Rhode Island

R.I. Gen. Laws Ann. § 15-15-4.1 (West)

(d) If, at the time of the hearing on the complaint, the court determines that after diligent effort the deputy sheriff or constable has been unable to serve the defendant personally, the judge may order an alternate method of service designed to give reasonable notice of the action to the defendant and taking into consideration the plaintiff's ability to afford the means of service ordered. Alternative service shall include, but not be limited to: service by certified and regular mail at defendant's last known address (excluding the residence which he or she has been ordered to vacate) or place of employment, leaving copies at the defendant's dwelling or usual place of abode with a person of suitable age and discretion residing at the defendant's dwelling or usual

place of abode, or by publication in a newspaper for two (2) consecutive weeks. The court shall set a new date for the hearing on the complaint and shall extend the temporary order until that date.

Texas

Tex. Fam. Code Ann. § 83.002

(b) On the request of an applicant or on the court's own motion, a temporary ex parte order may be extended for additional 20-day periods.

Tex. Fam. Code Ann. § 84.003

(a) If a hearing set under this chapter is not held because of the failure of a respondent to receive service of notice of an application for a protective order, the applicant may request the court to reschedule the hearing.

Utah

Utah Code Ann. § 78B-7-107

(1)(a) When a court issues an ex parte protective order the court shall set a date for a hearing on the petition within 20 days after the ex parte order is issued.

(b) If at that hearing the court does not issue a protective order, the ex parte protective order shall expire, unless it is otherwise extended by the court. Extensions beyond the 20-day period may not be granted unless:

- (i) the petitioner is unable to be present at the hearing;
- (ii) the respondent has not been served;
- (iii) the respondent has had the opportunity to present a defense at the hearing;
- (iv) the respondent requests that the ex parte order be extended; or
- (v) exigent circumstances exist.

Vermont

Vt. Stat. Ann. tit. 15, § 1105

(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Virginia

Va. Code Ann. § 16.1-253.1

. The hearing shall be held within 15 days of the issuance of the preliminary order. If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months.

Washington

Wash. Rev. Code Ann. § 26.50.050

If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. The court shall not require more than two attempts at obtaining personal service and shall permit service by

publication or by mail unless the petitioner requests additional time to attempt personal service. If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070, 26.50.085, and 26.50.123.

West Virginia

W. Va. Code Ann. § 48-27-311

. If the respondent has not been served with notice of the emergency protective order, the hearing may be continued to permit service to be effected. The failure to obtain service upon the respondent does not constitute a basis to dismiss the petition.

Wisconsin

Wis. Stat. Ann. § 813.12

(3) . . . A judge or circuit court commissioner shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence.

STATES WITH “GOOD CAUSE” EXTENSIONS (9 STATES)

Arizona:

Ariz. Rev. Stat. Ann. § 13-3602

A hearing that is requested by a party who is under an order of protection or who is restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing.

Indiana

Ind. Code Ann. § 34-26-5-10

The hearing must be held not more than thirty (30) days after the request for a hearing is filed unless continued by the court for good cause shown.

Louisiana

La. Rev. Stat. Ann. 46:2135

E. If the hearing pursuant to Subsection B or D of this Section is continued, the court shall make or extend such temporary restraining orders as it deems necessary. Any continuance of a hearing ordered pursuant to Subsection B or D of this Section shall not exceed fifteen days, unless good cause is shown for further continuance.

Minnesota (Note: Minnesota allows short order and alternative service- including by publication - and requires that respondents request a hearing, and if so requested, serve the *petitioner* as well.)

Minn. Stat. Ann. § 518B.01

(e) If for good cause shown either party is unable to proceed at the initial hearing and requests a continuance and the court finds that a continuance is appropriate, the hearing may be continued.

Unless otherwise agreed by the parties and approved by the court, the continuance shall be for no more than five days.

Missouri

Mo. Ann. Stat. § 455.040 (West)

Not later than fifteen days after the filing of a petition that meets the requirements of section 455.020, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted.

Montana

Mont. Code Ann. § 40-15-202

(1) A hearing must be conducted within 20 days from the date that the court issues a temporary order of protection. The hearing date may be continued at the request of either party for good cause or by the court.

New Hampshire

N.H. Rev. Stat. Ann. § 173-B:3

The time frame established in this paragraph may be extended for an additional 10 days upon motion by either party for good cause shown.

North Carolina

N.C. Gen. Stat. Ann. § 50B-2

A continuance shall be limited to one extension of no more than 10 days unless all parties consent or good cause is shown.

South Dakota

S.D. Codified Laws § 25-10-7

An ex parte temporary protection order is effective for a period of thirty days except as provided in § 25-10-7.1 unless for good cause the court grants a continuance. **No continuance may exceed thirty days.** If a continuance is granted, the court by order shall extend the ex parte temporary protection order until the rescheduled hearing date.

STATES WITH AMBIGUOUS/UNEXPLAINED/ “DEEMED NECESSARY” EXTENSIONS (5 STATES)

Idaho

Idaho Code Ann. § 39-6308

5) An ex parte temporary protection order shall be effective for a fixed period not to exceed fourteen (14) days, but may be reissued.

Iowa

Iowa Code Ann. § 236.4

4. If a hearing is continued, the court may make or extend any temporary order under subsection 2 or 3 that it deems necessary.

Kansas

Kan. Stat. Ann. § 60-3106

(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

Maine

Me. Rev. Stat. tit. 19-A, § 4006

8. Extension. If a hearing under subsection 1 is continued, the court may make or extend temporary orders it considers necessary.

Mississippi

Miss. Code. Ann. § 93-21-13

If a hearing under this subsection (1) is continued, the court may grant or extend the emergency order as it deems necessary for the protection of the abused person

STATES WITHOUT STATUTORY EXTENSION LANGUAGE (15 STATES)

- Alaska
- California
- Georgia
- Illinois (have emergency, 30 day interim, plenary, and must have notice/hearing before non-emergency issues)
- Massachusetts (if Respondent does not show, TRO auto extended though)
- Michigan (seems like b/c TROS are immediately effective and can be served by LE on the spot, and Respondents have to request hearing, no need for extension.)
- Nebraska (Respondent must request hearing)
- Nevada
- New Jersey
- New York (If service is not made, then court may order alternate service. Respondent may request extension of hearing.)
- Oregon (Sheriff must inform Plaintiff of lack of service w/in 10 days; Respondent must request hearing. Also, ex parte order is valid for one year automatically.)
- Pennsylvania
- South Carolina
- Tennessee
- Wyoming