



Greater Hartford Legal Aid

Judiciary Committee, March 30, 2011  
Testimony submitted by Kara A. Hart, Attorney  
Greater Hartford Legal Aid

**Raised Bill No. 6629, AN ACT CONCERNING DOMESTIC VIOLENCE**, support in part,  
oppose Section 4, lines 397-401

I am an attorney at Greater Hartford Legal and represent survivors of domestic violence and sexual assault in immigration matters. In 2008, I served as a member of the Speaker's Task Force on Domestic Violence in Immigrant Communities.

Although I support many of the goals of Raised Bill 6629, I am writing to oppose the portion of Section 4 amending Connecticut General Statutes Section 46b-38c(h) so that a court may "require a defendant to enter a plea on the family violence charges as a condition for assignment to the family violence education program."

**1. This amendment could undermine the interests of victims by dissuading eligible defendants from participating in the Family Violence Education Program.**

The Family Violence Education Program [FVEP] was created in 1986 as part of the comprehensive Family Violence Prevention and Response Act. The FVEP was purposely created as a pretrial diversion program for certain offenders who could benefit from learning about the dynamics and legal consequences of family violence.

Currently, a defendant is not required to plead guilty to any charges in order to participate in the FVEP. Requiring a guilty plea is contrary to the diversionary nature of the program and could prevent defendants from obtaining valuable information that might otherwise be unavailable to them.

In my practice, survivors of domestic violence frequently tell me that when they call the police, they are not necessarily looking for their partners to be convicted of crimes. Rather, survivors want the violence to stop and they want their abusive partners to get help. Many survivors hope that their partner's participation in the FVEP will lead to positive change. Section 4 of RB 6629 could have a chilling effect on a defendant's willingness to apply for the FVEP.

**2. A guilty plea to a crime of domestic violence can have far-reaching, negative consequences, particularly for immigrants.**

It is widely acknowledged that victims of domestic violence are sometimes arrested for family violence crimes. A victim may be arrested along with the abusive partner in a "dual arrest," or sometimes alone. Requiring a victim to plead guilty to a crime in order to participate in a

Greater Hartford Legal Aid, Inc.

999 Asylum Avenue, 3Fl. Hartford, CT 06105-2465 • Tel: 860. 541. 5000 • Fax: 860. 541.5050 • TTY: 860. 541.5069 •

[www.ghla.org](http://www.ghla.org)



pretrial diversionary program would reinforce the message that the victim is at fault for the violence in the relationship.

This amendment may also have unintended, but very serious consequences for immigrant survivors of domestic violence because the definition of the term "conviction" under immigration law can also include situations in which a defendant enters a plea of guilty, *even if the charges are ultimately nolleed or dismissed*. An immigrant who is deemed to be "convicted" of a domestic violence offense may be removed or deported from the United States. It would be counterproductive to require applicants for the FVEP to subject themselves to possible deportation as a condition of acceptance into the program.

Our criminal justice system is based on the principle that a defendant is presumed innocent until proven guilty beyond a reasonable doubt. The FVEP was carefully designed to balance the interests of victims and defendants by giving *eligible* defendants the opportunity to participate in a meaningful diversionary program without requiring them to give up their constitutionally protected presumption of innocence. The proposed amendment in Section 4 of this Bill could require defendants to forego their constitutional rights without providing any demonstrable benefit to victims of family violence crimes.