



Domestic Violence Crisis Center
Serving the communities of
Stamford, Norwalk, Westport,
New Canaan, Darien, Wilton
and Weston

Written Testimony Submitted to the Judiciary Committee by Katie Pawlik & Andrea Dahms

Date: March 30, 2011

Re: **Raised Bill No. 6629, An Act Concerning Domestic Violence, Section 4(h)**
(Recommendation to Mandate Conditional Plea for the Family Violence Education Program)

The DVCC strongly supports the recommendation of the Speaker's Task Force on Domestic Violence to require any defendant seeking the benefit of the Family Violence Education Program to enter a conditional guilty plea that will be vacated upon successful completion, and encourages the Judiciary Committee to incorporate this recommendation into proposed legislation.

In 1994, the National Council of Juvenile and Family Court Judges adopted a Model Code on Domestic and Family Violence.¹ The Model Code was developed with the assistance of an advisory committee comprised of leaders in the domestic violence field, including judges, prosecutors, defense attorneys, family law attorneys, battered women's advocates, medical and health care professionals, law enforcement personnel, legislators and educators over the course of three years. It was intended to provide effective and innovative answers to those communities seeking to protect victims and help prevent future violence, and it expressly discourages the use of diversion in domestic violence cases. Instead, if a state believes it necessary to provide offenders with an opportunity to successfully complete a program and "earn" the dismissal of all charges, the Model Code recommends the use of deferred sentencing.

In relevant part, the deferred sentencing model, as outlined in the Model Code, is as follows: "A court shall not approve diversion for a perpetrator of domestic or family violence. The court may defer sentencing of a perpetrator of domestic or family violence if: (a) The perpetrator meets eligibility criteria ...; (b) Consent of the prosecutor is obtained, after consultation with the victim ...; (c) A hearing is held in which the perpetrator enters a plea or judicial admission to the crime; and (d) The court orders conditions of the deferred sentence that are necessary to protect the victim, prevent future violence and rehabilitate the perpetrator." Absent the consent of the prosecutor, no deferred sentencing is permissible. The offender's due process rights are satisfied, as the offender has a choice; if he or she does not elect to plead guilty, he or she can avoid participating in any deferred sentencing program and elect to proceed to an adjudication of the charges.

The Model Code also provides insightful commentary as to why this deferred sentencing model is more appropriate than the use of straight diversion. The struggles highlighted by this commentary so closely

¹ Family Violence: A Model State Code; Drafted by the Advisory Committee of the Conrad N. Hilton Foundation Model Code Project of the Family Violence Project. Approved by the Board of Trustees, National Council of Juvenile and Family Court Judges, January 13-15, 1994 (hereinafter Model Code).



Domestic Violence Crisis Center
Serving the communities of
Stamford, Norwalk, Westport,
New Canaan, Darien, Wilton
and Weston

resemble what we see playing out in our courthouses day after day that it could have been written by any one of Connecticut's own domestic violence prosecutors. It stresses the reality that domestic and family violence cases are incredibly difficult to prosecute successfully after failed diversion. Therefore, non-compliance often results in a nolle or dismissal of all charges. However, if an offender has already entered a conditional guilty plea and then fails to comply with the program requirements, the prosecutor can bring that offender back to court and immediately move forward to sentencing. The ability of the State to thus act serves as a powerful deterrent to non-compliance. We have seen this deferred sentencing method used effectively in the context of the Explore Program in many courthouses around the state. Additionally, the Model Code notes that professionals who offer these specialized batterer intervention programs often prefer that participants mandated to attend have acknowledged the use of violence toward the victim.

The ability for expedited disposition after non-compliance is a significant benefit of the deferred sentencing model. Victims are often more cooperative in the early stages of the criminal process, but begin to be less so as the case drags on and they begin to understand the inefficiencies of the criminal justice system and the limitations the criminal justice system has with respect to both effecting long term behavioral change of an offender and providing long term safety for them. With the deferred sentencing model, defendant accountability is increased without compromising victim safety.

Other states that have successfully implemented deferred sentencing models, such as the one outlined by the Model Code, include both Alabama² and Michigan³. These states have laws in place that would be particularly relevant for the Judiciary Committee to examine when considering incorporating this recommendation into pending legislation.

The current statutory framework for the Family Violence Education Program was created over 25 years ago, in 1986. Research with respect to best practice responses to domestic violence has developed rapidly within that time frame, and Connecticut's failure to re-examine this structure has left the state lagging behind many others in this area. The DVCC is greatly encouraged by the momentum for change on this issue that has been generated by the Speaker's Task Force on Domestic Violence. We thank the Task Force for their hard work on this issue, and enthusiastically support the advancement of their recommendation.

Thank you for your consideration. Please do not hesitate to contact us if we can be of any assistance as you further examine this issue.

² Ozark, Alabama, Code of Ordinances, Article II, Chapter 6 (Ord. No. 2007-3, §§ 1-12).

³ Mich. Comp. Laws §769.4a