



Connecticut Coalition Against Domestic Violence

### Testimony in Support of

### HB 5593, AAC Domestic Violence & Sexual Assault

#### Member Organizations

#### Judiciary Committee March 31, 2014

- The Umbrella Center for Domestic Violence Services*  
Ansonia, CT
- The Center for Family Justice*  
Bridgeport, CT
- Women's Center*  
Danbury, CT
- Domestic Violence Program United Services*  
Dayville, CT
- Network Against Domestic Abuse*  
Enfield, CT
- Domestic Abuse Services*  
Greenwich YWCA  
Greenwich, CT
- Interval House*  
Hartford, CT
- Meriden/Wallingford Cheyenne*  
Meriden, CT
- Hope Horizons*  
Middletown, CT
- Prudence Crandall Center*  
New Britain, CT
- The Umbrella Center for Domestic Violence Services*  
New Haven, CT
- Safe Futures*  
New London, CT
- Domestic Violence Crisis Center*  
Norwalk, CT
- Women's Support Services*  
Sharon, CT
- Domestic Violence Crisis Center*  
Stamford, CT
- Ernest B. Anthony Project*  
Torrington, CT
- Safe Haven*  
Waterbury, CT
- Domestic Violence Program United Services*  
Willimantic, CT

Good morning Senator Coleman, Representative Fox and members of the committee. My name is Karen Jarmoc and I am the Executive Director of CT Coalition Against Domestic Violence (CCADV), the state's leading voice for victims of domestic violence and those agencies that serve them. Our members provide essential services to over 56,000 victims of domestic violence, which includes victims of teen dating violence. Services provided include 24-hour crisis response, emergency shelter, safety planning, counseling, support groups and court advocacy.

#### **We urge Support of HB 5593.**

#### **Section 1 – Financial Relief through the Restraining Order**

Section 1 of this bill would add language to the state's civil restraining order statute (§ 46b-15) giving judges the ability to grant financial orders as part of the restraining order process. In addition to existing restraints that a judge may order as part of a restraining order, including ordering the respondent not to restrain the victim, stalk or threaten the victim, enter the family dwelling, etc. it adds the possibility of a judge ordering the respondent to provide temporary financial assistance to the applicant for a period of up to 120 days. This would only be in cases where the respondent has the legal duty to support the applicant and the ability to pay, and if it is necessary for the safety or to maintain the basic needs of the applicant or the respondent's children.

This bill language will also give judge's the ability to prevent the respondent from disposing, encumbering or transferring specified personal property, such as a joint banking account. One of the first things that domestic violence offenders often do when they realize their partner is leaving them is to drain the joint bank account in an effort to continue to make the victim dependent on them and unable to leave. Termination of utility service will also be prohibited, something that many offenders do in retaliation.

According to the American Bar Association, **36 states have incorporated some form of temporary child and spousal support in the restraining order process.** This includes the surrounding states of **Maine, Massachusetts, New Hampshire, New Jersey, and Vermont.**

These additions to our restraining order statute are critical to fully provide for the safety of domestic violence victims and their children. While many people associate domestic violence with physical abuse, it is a pattern of controlling and coercive behavior that can take many forms, including emotional, psychological, physical, sexual, and financial.

According to the National Network to End Domestic Violence, research indicates that financial abuse is experienced in 98% of abusive relationships. The U.S. Department of Justice defines financial or economic abuse as "making or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or employment." The victim is made to be entirely dependent on their abuser with little or no ability to financially care for themselves or their children. They are often faced with

the agonizing decision of staying and dealing with the abuse or leaving and facing possible poverty and homelessness.

The immediate days following a victim's decision to leave are often the most difficult, especially when their decision to leave results in homelessness and/or poverty. By providing temporary but immediate financial relief through the civil restraining order process, victims will have access to resources that can help keep them safe and keep them away from their abuser. Furthermore, it will give them the time they need to begin the process of obtaining permanent orders of support through the available legal channels.

Eliminating what is perceived as the immediate threat of violence is only part of the equation. Ensuring that a victim is given financial protections is as critical a part of providing that person with safety as removing the physically abusive partner from the home. Without this protection, a victim is likely to face the continued threat of violence either as a result of homelessness or because s/he returns to the abuser due to financial constraints.

The language in the bill clearly states that the financial support provided in subdivision (3) of subsection (b) will not be available ex parte, but only at the time that a hearing is held on the restraining order application. Also, it is our intent that any violation of the financial order piece of the restraining order would be considered contempt of court and would not be deemed a criminal violation of a restraining order (C.G.S. § 53a-223b).

It is important to note that the Judicial Branch recently surveyed other states that have this type of relief available as to whether there was a fiscal impact to the system. Of the 11 states (Alaska, California, Delaware, Georgia, Indiana, Louisiana, Minnesota, Ohio, Oregon, South Carolina, West Virginia) that responded, 45%-55% of the states indicated neither a fiscal impact, a change in the way cases are handled nor additional burdens on the system. A significant amount of the remaining responses indicated that financial relief had been available for so long that there was no way for the court to look back and determine whether or not there had been an impact when it was established.

It is never acceptable to ask victims to choose between their safety and economic survival. The two cannot be separated; they are intertwined. Immediate financial protection could mean the difference between staying and leaving. Just as 36 other states do, Connecticut's civil restraining order process can and should provide this level of protection.

### **Section 3 – Task Force to Study Service of Restraining Orders**

Section 3 of the bill calls for a task force to study the service of restraining orders issued pursuant to CGS § 46b-15 for victims of domestic violence. The current system of serving restraining orders is complicated and cumbersome for many victims, particularly those who do not have the benefit of working with a domestic violence advocate, legal aid attorney or private attorney. Issues raised in various locations have included the different jurisdictions and the systems in place for contacting marshals to serve orders. Differing processes in the jurisdictions and the lack of communication between them often creates additional barriers for victims to negotiate or can slow down the process of service especially if the order is issued in one jurisdiction and needs to be served in another.

There are also challenges for State Marshals who have the responsibility of effectuating service. Marshals may receive limited or even inaccurate information about the respondent that they need to locate and safely and successfully serve the order. This can slow down or even negate the ability of the marshal to effectuate service. The reimbursement structure for service is also poses challenges to the system.

Restraining orders are a critical piece of victim safety and when orders cannot be properly served, it puts a burden on the victim to go back to the court to file a new application. Not only does this result in an unacceptable gap in safety, but it also leaves many victims feeling as though the judicial system is not a viable source of protection.

The task force proposed in this bill will be able to provide a thoughtful and in-depth examination of the various strengths and challenges of our current service system and make recommendations for improvements that will benefit both victims and those who must serve and enforce these orders.

## **Section 2, 4-10 – Enhanced Penalties for Violation of Restraining & Protective Orders**

The remaining sections of this bill seek to strengthen penalties for individuals that choose to violate civil restraining orders and criminal protective orders. Violations of restraining and protective orders are serious offenses and should be penalized as such. If an abusive individual has become the respondent or subject of a restraining or protective order and is willing to violate the rules set by the court, then there is a very real possibility that their abusive or violent behavior will escalate.

Research has demonstrated several risk factors that, when present in an abusive relationship, often indicate a likelihood of increased violence that could turn fatal. These risk factors include using or threatening to use a weapon against the victim; threatening to kill the victim; strangulation or attempted strangulation; and an increase in frequency and severity of physical violence.

Increasing penalties for violations that include physical restraint, assault, threatening and harassment makes sense. Connecticut must send a strong message about the seriousness of this type of criminal behavior and that it will not be tolerated.

## **Sections 13-20 – Safe School Climate and Teen Dating Violence**

These sections add teen dating violence to the state's Safe School Climate statutes, as well as adds teen dating violence awareness and prevention to the list of topics to be covered under "health & safety" education in public schools. Established in 2011, the Safe School Climate was developed with the specific purpose of shifting cultures in schools from those that attempt to fix bullying after it has occurred, to a positive climate where bullying is not tolerated. "Climates of respect" are meant to not support any form of mean-spirited behaviors, either physically, emotionally, or intellectually. However, by only recognizing bullying, this policy fails to adequately address the serious problem of teen dating violence being experienced by students throughout Connecticut schools.

According to the 2011 Connecticut School Health Survey Youth Behavior Component Report, which is administered by the CT Department of Public Health, 16.7% of Connecticut students reported that they were emotionally abused by a boyfriend or girlfriend (e.g., called names, made fun of in front of others, ridiculed about their body or looks or told they were worthless). Additionally, 8.2% of high school students were hit, slapped, or physically hurt on purpose by a boyfriend or girlfriend. Nationwide, nearly 1.5 million high school students experience physical abuse from a dating partner in a single year.

Last year, CCADV released Connecticut's first-ever statewide plan for the prevention of intimate partner violence. *From Planning to Practice – Preventing Intimate Partner Violence in Connecticut* is the result of an intensive, two-year planning process by a multi-disciplinary group of experienced domestic violence and prevention practitioners. This strategic initiative calls for increasing healthy relationship content in schools and doing so with a standard, evidence-based curriculum across the state. As part of the plan, CCADV is gathering existing evidence-based curricula which will be made available to interested stakeholders at no cost.

Education is the key to prevention. **According to the National Conference of State Legislatures (NCSL), at least 19 states have laws that urge or require school boards to develop curricula on teen dating violence.** Fewer adults will find themselves in abusive relationships and significant costs can be averted down the road if kids are taught the value of healthy relationships when they are young. Just as with bullying, teen dating violence has negative, long-term consequences on victims, perpetrators and the community at large and, therefore, it deserves the same level of attention.

It is important to note that the fiscal note on Public Act 11-232, which established the Safe School Climate and related requirements of the State Department of Education (SDE) and local school boards, projected a cost to SDE in the first year of \$110,000, which included approximately \$50,000 in one-time costs, and \$50,000 in the second year. It projected costs of less than \$20,000 per year to local school boards for implementation. We do not anticipate a significant cost for adding teen dating violence and, as noted in Section 16, CCADV will be available as part of the Safe School Climate Resource Network to provide information, training and resource materials related to teen dating violence.

## **Section 28 – Premium Financing Arrangements for Professional Bondsmen**

Section 28 of the bill establishes premium financing guidelines for professional bondsmen, similar to that in place for surety bondsmen under C.G.S. § 38a-660c, which requires a 35% down payment for premium financing arrangements. Bail bonds are an important piece of a system set up to protect the safety of the public and victims of criminal behavior. However, many domestic violence offenders bond out within hours of an arrest because some bondsmen set up payment plans with no requirement of any money up front.

In 2011, recognizing the inherent danger of such a practice, the Legislature established premium financing guidelines for surety bondsmen licensed by the CT Insurance Department, but failed to establish any such guidelines for professional bondsmen licensed by the CT Department of Emergency Services and Public Protection. There is a distinction between these two types of bondsmen based on where liability falls if the bond is forfeited. Surety bondsmen write bonds backed by an insurance agency and professional bondsmen write bonds collateralized by their own funds or property deed.

We are asking that the state apply the same premium financing arrangements for bail bonds regardless of the type of bail bond agent involved. Many victims feel overwhelming fear and hopelessness when their abuser is out of jail just hours after an arrest, despite a bond being in place. The lack of time to establish an appropriate safety plan puts victims right back in a dangerous situation. Putting some financial onus on the offender to get him or herself out of jail following an arrest and establishment of a bond will have a positive impact on public safety, particularly for those arrested for family violence who may immediately return to the scene of the crime upon release.

## **Section 30 – Sexual Assault in Spousal or Cohabiting Relationships**

This section establishes a 2 year mandatory minimum for rape in a spousal or cohabiting relationship, similar to the mandatory minimum applied to 1<sup>st</sup> degree sexual assault. Sexual assault committed by a spouse or someone you live with is no less serious than sexual assault committed by someone else and, therefore, the penalty should be no less severe.

## **Section 32 – Family Violence Victim Advocates in Civil Court**

This section establishes a pilot program for Civil Family Violence Victim Advocates (FVVAs) who will assist victims of domestic violence dealing with family matters in the civil court. These advocates, which would be certified domestic violence counselors contracted through CCADV, will be available at the court to meet with victims seeking a restraining orders pursuant to C.G.S. § 46b-15, assist them with completing the application and provide critical safety planning for the victim and her/his children. Connecticut averages approximately 8,900 restraining order applications per year with an average of 33% of those applications resulting in full, one year restraining orders.

Currently, CCADV and our 18 member organizations receive federal funding for FVVAs that provide specialized support and advocacy to domestic violence victims involved in the criminal court system. While these advocates cannot provide legal advice, they can provide information on the court process, explain what options are available and how each option might impact the victim's safety, and assist the victim with developing an individualized safety plan.

Making these advocates available in civil court will not only fill a critical gap in safety that currently exists for many victims who seek restraining orders without the support of their local domestic violence agency or an attorney, but can also play an important role in the function of the court. The Judicial Branch estimates that 80% of litigants in family court are pro se. While restraining orders are only one type of relief provided in family court, we know that many victims go through this process alone. FVVAs located in civil courts could assist with many concerns raised by various stakeholders about the restraining order process, including assisting applicants with completing the required affidavit, ensuring that the person who caused the abuse meets the definition of family/household member and that the applicant is therefore eligible for a restraining order, working collaboratively with Family Relations to obtain necessary information from the victim, and helping the victim to find a State Marshal to serve the restraining order while providing the information necessary for the Marshal to successfully effectuate service.

However, we would like to reiterate that the most pressing reason to establish a program of FVVA's in civil court is to ensure that all domestic violence victims seeking restraining orders are provided individualized safety planning by a certified domestic violence counselor. Restraining orders are an important piece of victim safety, but their effectiveness is enhanced immensely when accompanied by a comprehensive safety plan. There is currently no mechanism in the civil court to ensure that domestic violence victims are connected to the local domestic violence organization for this planning. Having an FVVA on site at the courthouse to meet with domestic violence victims when they first arrive to apply for a restraining order will make a positive difference in the lives of many victims.

### **Section 33 – Judicial Branch Training Related to Family Violence**

This section proposes that the Judicial Branch work in consultation with CCADV on its established training program for judges, Court Support Services Division personnel, guardian ad litem's, and clerks related to family violence. It also calls for judges' training to include the unique social and emotional characteristics of family violence crimes.

One third of the cases before Connecticut's criminal courts relate to family violence and, as previously stated, Connecticut averages 8,900 restraining order applications in civil court each year. Judges in both criminal and civil court play a significant role in the lives of many victims and it is critical that they be fully informed about the dynamics of domestic violence. The manner in which judges and court personnel approach family violence cases has a significant impact not only on the victim's safety and how the victim copes with the violence, but also on the impression that the offender gets as to the seriousness of the crime and level of his or her accountability.

CCADV continually seeks opportunities to work with the Judicial Branch for purposes of training and education. In 2012, we provided one hour of training for civil court judges at no cost as a means to strengthen the judicial system's understanding of this complex issue. Ongoing training related to family violence will allow judges to recognize typical offender conduct and tactics, understand the numerous barriers that victims face when trying to end an abusive relationship, and identify misinformation and common stereotypes about victims and domestic violence in general.

While we cannot stress enough that there are many judges and court personnel in Connecticut who go above and beyond to keep domestic violence victims safe and hold offenders accountable, there is always a benefit to maintaining an open and cooperative dialogue between advocates and the Judicial Branch. We are confident that collaborating on training and education will only strengthen the state's response to domestic violence.

### **Section 34 – Public Disclosure of Domestic Violence Shelter Locations**

This section proposes a Class A Misdemeanor for any person who knowingly publishes, disseminates or otherwise discloses the confidential location of a domestic violence shelter without the written authorization of the domestic violence agency that operates that shelter.

This proposal seeks to address situations in recent years where proposed shelters in various areas of the state were exposed by neighbors who did not want to see the shelters opened in their neighborhood. Allowing members of the public to purposely and knowingly disclose these addresses publically so that the shelter cannot be opened at that location is a serious problem that could conceivably result in the exposure of all shelters statewide. This would mean there would be no safe and confidential location for victims of domestic violence.

It is our understanding that residents in these areas knew that confidentiality is key to the location of a domestic violence shelter and if that location were to be exposed, then the shelter wouldn't be able to open. Proposed shelter addresses were subsequently shared on the internet via social media.

Nineteen (19) states currently have laws pertaining to the confidentiality of domestic violence shelter locations, including Connecticut, which explicitly exempts these locations from disclosure under our Freedom of Information statutes. However, unlike Connecticut, 8 of those states impose some form of criminal or civil penalty for the illegal disclosure of that location. This includes California, Georgia, South Carolina and Washington, which impose misdemeanor charges.

Domestic violence shelters in Connecticut continue to run at or above capacity. There is a real need for more shelter beds which may necessitate new shelters or the relocation of some to larger buildings. Establishing some form of a criminal or civil penalty for purposeful and malicious disclosure of shelter locations will be a critical piece of dissuading future disclosures.

**Remaining Sections**

CCADV supports HB 5593 in its entirety, including several technical changes covered in various sections of the bill and we are happy to answer any questions about those sections.

Additionally, we offer our support to our sister association, CT Sexual Assault Crisis Services, and their leadership to establish civil protection orders for victims of stalking and sexual assault by someone that does not meet the definition of family or household members (section 22 of the bill). While CCADV would only come into contact with victims of stalking and sexual assault committed by a family or household member, we believe that all victims of these crimes deserve the fullest protection of the law.

Please do not hesitate to contact me with any questions or concerns.

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