

FACT SHEET: TEMPORARY RESTRAINING ORDERS
Failures to Adequately Protect Domestic Abuse Victims

**THE SYSTEM FOR SERVICE OF TEMPORARY RESTRAINING ORDERS
BY MARSHALS IS BROKEN:**

➤ *Marshals fail to reliably serve temporary restraining orders (TROs) for domestic abuse victims, leaving such victims without the protection of the law*

The current system for obtaining TROs requires applicants to seek out state marshals to serve their abusers with the temporary restraining order. **If the TRO is not served, the police cannot enforce the orders against the respondent.** Research conducted by Yale Law School students and New Haven Legal Assistance Association reveals a **significant gap between restraining orders granted and those actually served:**

- **More than 40% of TROs granted were not served** in New Haven between October 2010 & September 2011. Additional data from 2013 reveals the same % of lack of service.
- **32.1 % of TROs granted were not served** in Bridgeport between 9/1/13-12/1/13

➤ *Marshals on call do not reliably show up for their shifts at court*

Currently, the only way that victims can obtain service of process is by using the marshal-of-the-day system provided by the court. Under this system, marshals are required to go to the courthouse only at specific times to assist in restraining order service. **However, marshals are consistently arriving late or failing to go to court entirely.** During the fall of 2013, Yale Law School students regularly visited New Haven family court and found that:

- In **23%** of shifts **no marshal was present**
- In **49%** of shifts, **the marshal present was not the marshal assigned to be on call**

➤ *Even when marshals are available, they might not be the best person to serve*

Even if an applicant is able to find a marshal to effectuate service, a marshal might not be the best option for serving a TRO. Service of a TRO often requires marshals to walk into dangerous situations, e.g. asking an abusive respondent to leave a household and surrender his firearms. In particularly difficult situations, marshals ask police officers to accompany them during service. In other cases, a respondent might be incarcerated or on probation, in which case marshals are not in the best position to serve such individuals.

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THE SOLUTION:

- *Empower all law enforcement, Department of Corrections, and Probation officers to serve TROs in addition to marshals*

Most states provide for service by law enforcement. **Connecticut is an outlier.** Forty-nine states and Washington, DC already allow law enforcement to serve civil orders of protection. Many states allow officers from the Department of Corrections or Probation to serve, as well, because those officers can effectuate service easily and efficiently.

Explicitly allowing law enforcement to serve TROs gives victims of domestic violence more options when deciding how best to serve their TROs. Expanding opportunities for service increases the likelihood that TROs will be successfully served. Law enforcement has greater investigative tools for finding respondents who are evading service and more experience dealing with respondents who pose a safety risk.

THE SOLUTION:

- *Allow domestic abuse victims to seek an extension of their TRO in court if they have made good faith efforts to present their TRO to officials who can serve them*

Currently, respondents must be served five days before the restraining order hearing date. If the respondent is not served within this time, the case is dismissed. What this means is the victim must start the restraining order application process again, which can be traumatizing and time consuming, especially for victims without reliable transportation or childcare. Connecticut should build flexibility into its system by allowing victims **who make good faith efforts to serve their TROs to obtain an extension of their TRO by the court.** 30 states explicitly allow for extensions of TROs, including six of the seven in New England and the Tristate Area.

SERVICE OF TEMPORARY RESTRAINING ORDERS BY STATE
(A look at state statutes authorizing service of TROs)

	Law Enforcement May or Must Serve TROs	Additional Persons Authorized to Serve TROs	Court Gives TRO Directly to Law Enforcement for Service?	Length of Ex Parte TRO (in days)	Extension of Ex Parte Order Possible?	Additional Notes
Alabama	Yes	Constable; Any non-party over 18 years old	Yes, usually	Within 10 days of perfection of service	Yes	
Alaska	Yes*	"Peace officers"	Yes	20 days, unless dissolved sooner	No	
Arizona	Yes*	Upon request by applicant: Constable; sheriff; peace officer or correctional officer in official capacity	No	Up to 1 year	Yes, for good cause	
Arkansas	Yes	No statutory restrictions on who may serve	No	30 days or next court date, whichever later	Yes, if service cannot be made	
California	Yes	Disinterested Adult; Process Server	Unclear	Approx. 3 weeks	Unclear	verbal notification by law enforcement can constitute effectuated service
Colorado	Yes	Any non-party over 18 years old	No	14 days	Yes	
Connecticut						
Delaware	Yes (sheriff/deputy)	Anyone authorized by statute or court rule to serve process	No	10 days	Yes, up to 30 days	
Florida	Yes* (law enforcement & sheriff)	N/A	Yes	15 days	Yes, for good cause including to obtain service	
Georgia	Unclear - but probably yes (sheriff)	Unclear	Yes - to sheriff	10-30 days	No	
Hawaii	Yes (court can order police to serve)	Any non-party over 18 years old	Unclear	180 days (but hearing held within 15 days)	Yes, up to 90 days	
Idaho	Yes (required unless petitioner chooses private server)	Any non-party over 18 years old	Yes, if service by peace officer	14 days or less	No, but TRO may be reissued	
Illinois	Yes* (sheriff or other law enforcement)	Specially appointed process servers; personnel assigned by Dept. of Corrections	Unclear	Up to 30 days	No, but some orders effective without service or w/ constructive service	short form notification
Indiana	Yes* (sheriff)	N/A	Yes	2 years; hearing within 30 days	No; but continuation of hearing possible	

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Iowa	Yes (sheriff of the county/other law enforcement)	Any non-party over 18 years old, corrections officers	Unclear	No less than five and no more than 15 days after respondent is served	Yes	short form notification
Kansas	Yes (sheriff)	Any non-party over 18 years old	Unclear	21 days	Yes; as the court deems necessary	
Kentucky	Yes (peace officer)	court		14	Yes; until service is perfected (with 72 hours notice)	No TRO, only Emergency Protective Order (EPO), EPO may be served orally by peace officer.
Louisiana	Yes* (sheriff)		Yes	21	Yes	Respondent must have 24 hours notice
Maine	Yes*	*Correction & Court Security Officers	Yes	21	Yes	
Maryland	Yes* (unless interim order was issued previously)	TROs may be served in open court or by certified mail, if respondent has already been served w/ interim order	Unclear, but probably yes	7	Yes	Law enforcement must inform Department of Public Safety and Correctional Service that TRO has been filed within two hours of receiving TRO
Massachusetts	Yes*	N/A	Yes	10	Yes	TROs effective and enforceable immediately; Law enforcement may orally inform respondent of TRO and where to pick up true copy
Michigan* Responsibility on respondent to file for hearing	Yes	persons of "suitable age and discretion" who is not a party	No	14 following service	N/A	
Minnesota* Responsibility on respondent to file for hearing	Yes (county sheriff, other law enforcement)	corrections officers, peace officers private process server (when law enforcement is unavailable)		10 following service	N/A if respondent or petitioner not given adequate notice, hearing date may be extended max 5 days	Service by short form notification Service by publication when personal service cannot be made
Mississippi	Yes (sheriff)	Any non-party over 18 years old	Varies by county	30 max	Yes	

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Missouri	Yes* (sheriff or police)	N/A	Yes	Order remains in effect until hearing	N/A	Order is enforceable upon issuance; Law enforcement must prioritize service of TROs over other summonses
Montana	Yes	Constable, any non-party over 18 years old	Varies by county	20	If hearing is continued, TRO is continued	
Nebraska* responsibility of respondent to file for hearing)	Yes* (sheriff)		Yes - to sheriff	if respondent does not file for show cause hearing, TRO becomes permanent	N/A	
Nevada	Yes* (appropriate law enforcement agency)	Authorized employee of correctional facility		30	If application for extended order filed concurrently, TRO remains in place until hearing (max 45 days)	After two attempts at personal service, law enforcement may use other methods
New Hampshire	Yes*	N/A	Unclear	30/10 after service is effectuated	Yes	
New Jersey	Yes	Disinterested, competent adult	No	10	Unclear	
New Mexico	Yes (sheriff)	Any nonparty over 18	Unclear	10	Unclear	
New York	Yes	Disinterested, competent adult	No		Unclear	
North Carolina	Yes		Varies by county	10/7 after service is effectuated	Yes, 1, 10 day continuance	
North Dakota	Yes	Disinterested, competent adult	Unclear	14/5 after service is effectuated	Yes	
Ohio	Yes		Yes	7	Yes, until service is effectuated	
Oklahoma	Yes (sheriff)	Private process server, private investigator	Yes (in some instances)	14	At request of petitioner, in instances where services has not effectuated, renews in 14 day increments	
Oregon* responsibility of respondent to file for hearing)	Yes (county sheriff)	Private party, peace officer	Yes	10	If petitioner responds	

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Pennsylvania	Yes (sheriff and/or police department)	Adult individual	Unclear	10	Order remains in effect until modified or terminated	Law enforcement serves if petitioner avers that service cannot be perfect safely by private party
Rhode Island	Yes	Constable	No	21	Unclear	
South Carolina	Yes (sheriff or police department)		Unclear (but probably yes)	15/5 after service is effectuated		
South Dakota	Yes* (law enforcement)	N/A	Unclear	30	30 maximum	
Tennessee	Yes		Unclear	Hearing occurs within 15 days of service	Unclear	
Texas	Yes (sheriff or constable)	Private process server, disinterested adult	Unclear	20	On request of applicant or court 20 days	
Utah	Yes (law enforcement agency, sheriff's office, constable's office)	N/A	Yes	20	Yes, 180 day maximum	
Vermont	Yes	N/A	Unclear	10	Yes	
Virginia	Yes (primary law enforcement agency responsible for service and entry of protective orders)	N/A	Yes	Yes	Yes, 6 month max	Employ preliminary protective orders
Washington	Yes (sheriff of the county or peace officer of the municipality)	Private Party	Yes	14, 24 if service by publication	Yes	Only two attempts at personal service necessary, service may be effectuated by publication or mail
West Virginia	Yes (all law enforcement officers)	Disinterested adult	Unclear	10	Unclear	final orders on 90-180 days long
Wisconsin	Yes (sheriff)	Private server	Unclear	14	Yes	Service by published notice if with due diligence respondent cannot be served

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Wyoming	Yes (county sheriff)	N/A	Yes	3		
District of Columbia	Yes (US Marshal / deputy)	Any non-party over 18	No	14 days	Yes, in 14-day increments	

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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 for the following: (1) upon agreement of the parties; (2) where the applicant's good faith attempt to accomplish notice to the respondent has failed; or (3) 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. Service of an original, facsimile or true copy of the required documents may be effectuated, at the applicant's election, by law enforcement, a state marshal, a constable, or other proper officer authorized by statute, who shall make a good faith effort to serve the respondent. If the respondent is incarcerated within the State of Connecticut, the Department of Corrections shall be authorized to effectuate service. If the respondent is on probation, the Office of Adult Probation shall be authorized to effectuate service. If the applicant elects to have law enforcement effectuate service, the information contained in the applicant's application and/or affidavit shall not alone constitute grounds for arrest under C.G.S. § 46b-38b(a). 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.

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

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

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

(i) Any state or municipal agency or employee is immune from civil and criminal liability if the agency or employee makes a good faith attempt to effectuate service in a manner consistent with the provisions of this section.