

TESTIMONY OF CONSTANCE E. FRONTIS  
BEFORE THE JUDICIARY COMMITTEE  
IN SUPPORT OF S.B. 650, AN ACT CONCERNING  
TEMPORARY RESTRAINING ORDERS

MARCH 11, 2015

Thank you for the opportunity to appear before you as well as submit written testimony to support passage of S.B. 650 while also requesting that some enhancements to the bill be considered.

I have worked as an attorney at New Haven Legal Assistance for more than thirty years representing victims of domestic violence who are poor and qualify for our services. Unfortunately, we have far more victims who need our services than we can represent, and for the past thirty years we have paired with Yale Law School students to try to address the overwhelming unmet need. Through what is known as the Yale TRO project, the students staff the New Haven courthouse, under our supervision, and we provide ongoing training. In this way, most of the unrepresented applicants are able to get some help with the process. It was because of the Yale TRO project assisting victims without lawyers that we were first made aware of problems with service of restraining orders and were later able to confirm that as many as 43 percent of temporary restraining orders, hereafter referred to as “tros”, were never served. Some applicants reapply, creating additional work for the court, and some give up defeated.

Applicants who are represented by counsel have a very different experience. Their attorneys typically have marshals they regularly use and with whom they have long-standing relationships. Those marshals will therefore try very hard to successfully serve the respondents. In some cases, additional billing is submitted through counsel for service of process. The fact is however that the vast majority of tro applicants do not have counsel, don't have a relationship with a marshal and are instead forced to use the current marshal of the day system whereby a marshal is supposed to come from 12:30 to 1:00 and 4:30 to 5:00 each day to the courthouse to pick up papers for service. The marshals frequently don't come, there is little accountability, and they often refuse to tell the tro applicant their name. Because the marshals frequently depart from the coverage schedule, it is very difficult for the applicant to ascertain before the hearing date if service were made since the applicant doesn't know the marshal's name. I should note that since implementation of the marshal of the day system, domestic violence victims can no longer phone a marshal to arrange for service; instead the dv victim will be told to arrange service through the marshal at the court house. The marshals frequently demonstrate a remarkable lack of sensitivity, and are frequently dismissive of the applicants' concerns while also loudly complaining about the difficulty and dangerousness of serving restraining orders.

For a victim of domestic violence, taking the step of applying for a restraining order is both terrifying and fraught with danger. Decisions have to be made about whether to behave after obtaining the ex parte order as if nothing has happened while hiding the tro copies so that the batterer cannot find them, or whether to flee and hide until service has been made and the respondent has been vacated from the premises. I recently took on representation of a client who had gotten an ex parte order on her own. She was unable to wait until 4:30 for the marshal, having already spent hours at court, and was unable to return until two days later to give the papers to a marshal. The marshal explicitly refused to give her his name and when I took the case, she had no idea if the restraining order had been served or how to find out the status of service. With a fair amount of effort including calls to the Marshal Commission in Hartford, I was able to get an answer but the vast majority of the applicants don't have an attorney to assist them in getting the information they need to make those decisions which can seriously implicate their safety.

I strongly support this bill because it would allow the police to serve restraining orders. The method of service should not depend upon whether the victim has indicated on the application that the respondent has weapons. Not infrequently, a client will describe to me the arsenal that the batterer has at his/her disposal but will also tell me that we cannot include that fact in the tro application because such disclosure would result in very serious repercussions. We should assume that the victim, in many circumstances, will not disclose the presence of weapons because it is too dangerous to do so. It is critically important therefore that the victim be allowed to choose service by a police officer even where there is no explicit claim made that the respondent has weapons. The police are already asked by marshals to accompany them whenever there are safety concerns and with police making service, turnover of weapons could be effectuated at the same time as service. The police are best equipped to handle potentially volatile situations and their access to data bases would enhance the likelihood of locating the respondent and making successful service.

My colleague, Aaron Wenzloff, will be testifying regarding specific proposals that will allow the police to serve restraining orders and better protect domestic violence victims. We very much hope that you will pass S.B 650 with the suggested changes.