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Testimony from Representative Michelle Cook in Support of

SB 651, AAC a Temporary Hold for Certain Family Violence Arrestees
HB 7004, AAC Implementation of the Recommendations of the Task Force
to Study Service of Restraining Orders

HB 7005, AAC Domestic Violence Offender Program Standards and Increased Protections for Victims of
Domestic Violence

Judiciary Committee Public Hearing
March 16, 2015

Good morning Senator Coleman, Representative Tong and members of the committee. CT Coalition Against Domestic Violence (CCADV) is the state's leading voice for victims of domestic violence and our 18 member organizations that serve them. Our members provide essential services to nearly 50,000 victims of domestic violence each year. Services provided include 24-hour crisis response, emergency shelter, safety planning, counseling, support groups and court advocacy.

We urge your support of SB 651, HB 7004 and HB 7005.

SB 651

Domestic violence is a pattern of control and coercion by one intimate partner over the other. Therefore, the period following the arrest of an abusive individual on charges related to domestic violence can be particularly volatile as the abuser experiences a time when he or she is not at all in control. Yet under current state law, an individual who has been arrested for family violence may post bail immediately. The results in some family violence arrestees only being held for an hour or two after an arrest – the amount of time it takes to be transported to the local police department, processed, and post the required percentage of the bond set by the police. Such a brief period of time is inadequate for victims to formulate a safety plan, gather important belongings, pick up children, or find a safe place to stay.

Domestic violence is a unique offense where perpetrators may immediately return to the scene of the crime – their home – following an arrest. While law enforcement may set conditions of release that prohibit them from returning to their home or going near the victim, that's not always enough to keep these offenders away. And because they have lost control, they may take extreme actions to regain control of the victim.

This bill proposes a temporary hold only for some family violence offenders when certain evidence-based risk factors are present that indicate an increased likelihood of fatal violence. The risk factors include:

- 1) The use or threatened use of a deadly weapon by the arrested person or a pattern of prior conduct involving the use or threatened use of violence with a firearm against the victim
- 2) Threats to seriously injure or kill the victim or a minor child by the arrested person
- 3) Threats to commit suicide by the arrested person
- 4) Serious physical injuries inflicted upon the victim or a minor child by the arrested person

The lethality risk factors included in this bill that would trigger the proposed 12 hour hold are based on years of research by Dr. Jacquelyn C. Campbell at Johns Hopkins University and they represent a critical tool for the criminal justice system to help prevent serious intimate partner violence or homicide. At least 6 other states allow for temporary hold of certain family violence offenders (Alabama, Indiana, Massachusetts, Mississippi, Nevada, Tennessee).

The implementation of a 12-hour holding period enhances a victim's safety in the aftermath of family violence. It provides a family violence victim with the critical time to make safety decisions for her or himself and her or his children, as well as the necessary time to act on those decisions. Please see Appendix A for a sample safety plan for a victim who needs to flee their home because of severe physical violence or threats of severe physical violence. Could you accomplish all of those tasks in just a few hours?

Recommended change:

We do recommend removing the third risk factor listed regarding threats of suicide. In speaking with our partners in law enforcement they indicated that most police departments have protocols for transporting any individual within their custody who threatens to harm themselves to a hospital for evaluation and treatment. It is not our intent to impede this existing protocol.

Additionally, we ask that any final language clarify that offenders who fall under the remaining three risk factors be held for 12 hours or until their arraignment, whichever is sooner. Next day arraignments are required in all family violence cases. Offenders should be transported for arraignment if it occurs less than 12 hours from their arrest.

HB 7004

This bill makes several proposals related to the service of temporary restraining orders recommended by the Task Force to Study Service of Restraining Orders established pursuant Public Act 14-217, which I co-chaired along with Karen Jarmoc. The task force, which met between September 2014 and January 2015, included a comprehensive set of stakeholders including domestic violence advocates, state marshals, law enforcement, attorneys (including a prosecutor, public defender and legal aid attorney), a family court judge and court operations personnel.

A variety of changes are proposed that will give state marshals, the currently authorized agent of service for restraining orders, access to information that can assist them in successfully effectuating service of restraining orders and ensuring that victims have timely access to the status of such service. This includes access to and the mandated use of the statewide Protective Order Registry. The Judicial Branch is also asked to provide space within each civil court for marshals to privately meet with victims to obtain information about the respondent of the order.

The bill will also requires the State Marshal Commission to make revisions to its policy manual for marshals that will enhance responsiveness to victims seeking their assistance with the service of restraining orders. This will include uniform policies for the provision of consistent and reliable access to a state marshal, as well as a study of existing policies governing access to marshals. Currently, marshals in some areas of the state utilize a "marshal of the day" service whereby a marshal is assigned to the court on a specific day and they physically go to the court twice to make themselves available to victims. In

other areas the court clerk will contact marshals as needed. And yet in other courts victims are handed a list of marshals and the victim must find one willing to make service.

As you can see, the existing system of serving restraining orders can be a significant burden on the applicant of the restraining order. Many victims apply without the assistance of an advocate or lawyer and finding a marshal to serve the order is not always easy, particularly for those individuals who have limited English proficiency. A review and revision of policies to enhance responsiveness to victims of domestic violence seeking to have restraining orders served will increase safety and victim confidence in the system set up to help protect them. Proposed policy manual revisions also call for standards for assisting victims with limited English proficiency or who are deaf or hearing impaired and the acceptance of faxed copies of orders to serve.

The bill also proposes that state marshals be reimbursed mileage costs for up to three round trips when serving restraining orders. The Federal Violence Against Women Act prohibits charging victims a fee for the service of restraining orders and in Connecticut that fee is paid by the Judicial Branch. Currently, marshals can only be reimbursed by the state for one round trip when serving orders regardless of whether successful service requires multiple trips. State marshals face many challenges when serving restraining orders, including dealing with respondents who are aware that their victim has applied for an order so they, the respondent, actively avoids service of said order. Despite existing policy, many marshals make however many trips are necessary to make successful service and they deserve to be reimbursed for those efforts.

Finally, the bill proposes that the methods by which respondents may be given legal notice of an ex parte restraining order be broadened. As previously discussed, service can be a challenge when respondents do not want to be found. In these instances an authorized service agent may opt to leave the order abode (at the place of residence but not in the hand of the respondent). When such an order is then violated, the state's attorney may not be able to prosecute for the violation because notice of the order may not be able to be proven.

In Massachusetts, law enforcement officers are permitted by statute to verbally inform/notify a respondent that they have an ex parte restraining order against them. The order then becomes enforceable. A Massachusetts state trooper who spoke to the Task Force to Study Service of Restraining Orders indicated that they have a great deal of success with this method and that it has also facilitated successful in-hand service because once respondents are on the phone and they know that they have been legally notified they are often willing to accept service of the order.

HB 7005

Sections 1 and 2 of this bill address domestic violence offender program standards. In 2013, due to the fact that Connecticut is 1 of only 6 states without established standards for domestic violence offender programs operating within the state, the Criminal Justice Policy Commission (CJPAC) formed a subcommittee to develop such standards. Following over a year of research and evaluation of program standards utilized by other states, the subcommittee presented a set of agreed upon standards in September 2014. The subcommittee that developed the standards was comprised of a comprehensive set of stakeholders including domestic violence advocates, community re-entry specialists and representatives of the Board of Pardon & Paroles, Chief State's Attorney, Chief Public Defender, Department of Children & Families, Department of Correction, Department of Public Health, State Victim Advocate and Judicial Branch Court Support Services Division.

Of the 44 states with domestic violence offender program standards, 70% are statutory and include enforcement mechanisms. One third of all criminal court cases in Connecticut are related to family violence. And while many of those get referred to Family Services within CT Judicial Branch Court Support Services Division (CSSD) where offenders utilize CSSD-contracted services that adhere to the standards, according to CSSD, approximately 10,000 family violence cases do not get referred to Family Services. These offenders are accessing private, non-state funded counseling or anger management services that are neither subject to program standards nor have defined outcome measures. It is critical that comprehensive, consistent standards are used across all domestic violence offender programs.

These standards are intended to serve as a framework for new and existing program providers to develop and deliver services to people arrested for committing crimes of violence against an intimate partner or former intimate partner or people identified as needing services in order to prevent acts of domestic violence. The standards address program content ensuring that programs define and discuss all forms of domestic violence and associated dynamics, including attitudes and beliefs that support abusive behavior, while emphasizing the importance of taking responsibility for one's actions. Programs must also seek to change an individual's abusive behavior by teaching interpersonal strategies that support a nonviolent lifestyle and promote healthy relationships. The standards also call for prohibiting the use of anger management techniques that attribute anger or stress as the primary cause of abuse.

This bill also establishes a permanent domestic violence offender program standards subcommittee of CJPAC that will annually review and, as needed revise, the proposed program standards.

Sections 3 and 4 of the bill address confidentiality for victims of family violence. Since 1981 Connecticut law has allowed the names and addresses of sexual assault victims to be kept confidential throughout involvement with the criminal justice system (CGS § 54-86d and 54-86e). This bill proposes extending that same confidentiality to victims of family violence while still ensuring that the information is available to the accused in the same time and manner as such information is available to persons accused of other crimes.

Seeking assistance for family violence can be a very difficult step for a victim to take. They are often afraid about how they or their abuser, who they may still love, might be judged. Many victims do not find the decision to involve the police and criminal justice system in their relationship as an easy one to make. We have heard from many victims that some of the hesitation to take that step is based on the knowledge that their name in all likelihood will appear in the local media, either through a police blotter or local news reporting. It is critical that we extend to victims of family violence the same confidentiality protections available to victims of sexual assault. Victims should not have to make a decision to seek assistance from the police based on a fear that the dynamics of their relationship will be shared with everyone in their local community.

Thank you for your consideration. Please do not hesitate to contact me with questions or for additional information.



Rep. Michelle Cook

APPENDIX A

Take a look at a typical safety plan for a domestic violence victim who needs to flee her or his home because of an imminent risk of serious physical danger. Would you be able to complete all of these steps within just a few hours before your abuser is bailed out of jail? Please keep in mind that many victims going through these steps have just experienced a significant trauma and need to do all of this at a particularly volatile and frightening time.

- Pack a bag with everything that you will need to live for at least a week – clothes, personal items, medications, etc.
- Gather all of your personal identification documents – birth certificate, passport, social security card, work permits, green cards, driver's license and registration, health insurance card and related paperwork, etc.
- Gather personal finance documents – checkbook, ATM cards, information on bank accounts or other assets, mortgage or lease agreement if you are listed

- In the process of getting a divorce? Be sure to gather all of the related paperwork and don't forget the number for your attorney.
- Have an existing restraining or protective order? Be sure to gather that paperwork.
- Have kids? Be sure to gather their clothes, personal items, medications, birth certificate, social security card, passport, vaccination records, health insurance card, medical records, school records, etc. Make sure to take the names and phone numbers of their pediatricians and school/teachers. Don't forget their favorite toys, blankets, etc. They are going to be very scared so anything you can bring to comfort them will help. Also, if it's the middle of a weekday, go to school and get them because your abuser knows where they are and that may be the first place he or she goes upon making bail.
- Have pets? Gather them up including their food, medical records and name/phone number of the veterinarian. If you are going to a domestic violence shelter, they can't go with you, but the shelter will assist with attempting to secure a temporary foster home.
- In all likelihood you will not have time to gather up additional sentimental or valuable items, but try since those will be the first things that your abuser will look to destroy.
- Call a trusted family member or friend to let them know where you are going.