



Connecticut Coalition Against Domestic Violence

Testimony regarding

HB 5054, AA Protecting Victims of Domestic Violence
HB 5597, AA Protecting Victims of Domestic Violence Seeking Restraining Orders
HB 5623, AAC Violence Against Women and Victims of Human Trafficking

Member Organizations

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

Chrysalis Domestic Violence
Services
Meriden, CT

New Horizons
Middletown, CT

Prudence Grandall 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

Susan B. Anthony Project
Torrington, CT

Safe Haven
Waterbury, CT

Domestic Violence Program
United Services
Willimantic, CT

Judiciary Committee
March 14, 2016

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 over 40,000 victims of domestic violence each year. Services provided include 24-hour crisis response, emergency shelter, safety planning, counseling, support groups and court advocacy.

HB 5054 & HB 5623

We urge your support of HB 5054 and HB 5623, which will provide the most comprehensive protection of victims of domestic violence at the most dangerous time and strengthen processes within a system designed to help them.

The goal of HB 5054 and sections 1-17 of HB 5623 is simple, to protect victims of domestic violence at the most dangerous time by temporarily removing firearms from their abuser when the abuser has received notice that he or she is the subject of a temporary, ex parte restraining order. The bill also addresses several recommendations of the Task Force to Study Service of Restraining Orders established pursuant Public Act 14-217.

The most dangerous time for a victim of domestic violence is when she or he takes steps to end the relationship.¹ Because domestic violence is all about power and control of one partner over the other, this can be a particularly difficult time for the abuser, who will begin to realize that he or she is losing control over the victim. This may result in the offender taking more extreme actions to regain control.

Evidence-based research has shown that domestic assaults that involve firearms are 12 times more likely to result in death than those involving other weapons or bodily force.² And women in an abusive relationship are 5 times more likely to be killed if their abuser has access to a firearm.³ Meanwhile, state laws prohibiting firearm possession by persons subject to restraining orders reduced rates of intimate partner homicide of women by 12-13%, decreasing overall intimate partner homicides by 10%.⁴ Finally, at least 20 other states have recognized that dangerous combination posed by domestic violence and firearms and have given their courts explicit authority to temporarily remove firearms from some or all individuals subject to ex parte restraining orders.⁵

Connecticut has seen an average of 14 intimate partner homicides annually since 2000 and firearms are the single most commonly used weapon in those homicides (39%).⁶ The state has a vested interest in protecting the lives of victims of domestic violence. Existing state law prohibits anyone who is the subject of a full, one year restraining order from possessing firearms. Not extending the same prohibition during the temporary order which covers the most dangerous period of time for a victim is a serious gap in our laws. If this measure saves just one life by requiring the temporary, two week removal of firearms during ex parte restraining orders, then we believe it deserves the full support of the General Assembly.

The following are answers to some of the frequently asked questions about this proposal...

What is a temporary, ex parte restraining order? *Temporary relief when faced with "immediate and present physical danger."*

Temporary restraining orders, also called ex parte restraining orders, can be issued by the court upon an application for a civil restraining order in which the victim alleges an "immediate and present physical danger" (CGS § 46b-15). Such order may be issued by the court "granting such relief as it deems appropriate." With the ex parte order, the court also orders a hearing to be held within 14 days, commonly referred to as the "two week hearing," at which time the respondent has an opportunity to be heard.

While the respondent is not present when the court initially grants an ex parte order, a judge weighs all of the evidence presented in the sworn affidavit submitted with the victim's application. The judge also has the option to interview the victim prior to granting the ex parte order.

An ex parte restraining order provides temporary relief to a victim and may include an order for the respondent to stay away from the victim and vacate the family home, as well as to provide temporary custody of children to the victim.

With the intent to protect victims of domestic violence at a vulnerable time, this General Assembly has established a process by which a judge may, for a two week period prior to a hearing, deny someone access to their home and children if they believe, based on a sworn statement to the court, that the individual poses "immediate and present physical danger" to the victim. We are asking, given the overwhelming research that demonstrates how unsafe victims of domestic violence are when firearms are accessible, that respondents also be denied access to firearms during this temporary period.

What about the Risk Warrant? *A valuable tool, but not one that can fully protect a victim of domestic violence, thereby resulting in duplicative processes in both civil and criminal court.*

Connecticut General Statutes § 29-38c provides for seizure of firearms and ammunition from persons posing risk of imminent personal injury to themselves or others. Commonly referred to as a "risk warrant," this law allows police officers or prosecutors to apply for a warrant to seize firearms when an individual poses a risk to themselves or others. A judge determines whether or not to sign the warrant based on the evidence presented without any input from the individual whose firearms will be seized (ex parte similar to the restraining order process). If the warrant is issued, firearms are seized following a full search of the individual's home. A hearing is then held within two weeks at which time that individual has a chance to be heard and the court determines if the firearms should be returned.

This law provides a valuable tool for victims of domestic violence, but it should not be the only tool. It is one that we train our advocates on, but with all of the safety concerns that come along with it. The risk warrant requires the involvement of law enforcement. It is not always safe or in the best interest of the victim to contact the police about the abuse. It may be that police involvement, especially a full search of the abuser's home while looking for firearms, will be perceived by the abuser as more threatening than a civil court order requiring them to temporarily surrender their firearms until the hearing. Victims may be fearful that the police will arrest their abuser and that action could impact their abuser's employment, or victims may have a cultural background with a deep distrust of law enforcement. Connecticut also has a 20% dual arrest rate (higher in some individual communities) compared to the U.S. average of approximately 7% in 2010⁷, so victims may fear that calling the police will result in their own arrest.

Battered Women's Justice Project (BWJP), which is funded by the federal Office on Violence Against Women, Department of Justice and Department of Health and Human Services to provide technical assistance related to the civil and criminal justice responses to intimate partner violence, recently examined Connecticut's options for protecting victims. Reviewing both the civil restraining order and criminal risk warrant, BWJP concluded that, "Victims need options. Going to law enforcement presents safety risks for many victims and, at the end of the day, victims still do not have the civil restraining order that offers them significant protections during the critical departure period. Connecticut's Risk Warrant statute fails to provide a safe and tenable option for victims of domestic violence and should not be the only route available to victims who believe their abusers access to firearms is a safety risk to them. As

such, the Battered Women's Justice Project advocates that giving explicit authority to courts to order the surrender of firearms in an ex parte or temporary restraining order addresses the complex relationship between gun control and protecting victims of domestic violence in the nuanced way it requires."⁸

The Connecticut General Assembly established a civil restraining order process in 1981 because there was some level of understanding that police involvement is not always in the best interest of victims. The risk warrant was established in 1999 following a tragic incident involving mental illness and workplace violence, entirely separate issues from the characteristics of power and control that contribute to domestic violence. It should not be a given that because both incidents involve gun violence that the response can or should be same.

If the only avenue to immediately remove guns was through the risk warrant statute but a victim still needed their abuser to be removed from the home, then a victim would have to contact the police and ask them to apply for a risk warrant to get the gun removed and then go to the civil court to apply for a restraining order to get their abuser removed from the home. Now there will be a two week hearing in on the risk warrant and a two week hearing on the restraining order. It is an unnecessary increased burden on both victims and the judicial system, as well as an increased cost for the judicial system. The civil restraining order is an important option for victims and should be a viable, comprehensive measure that addresses all safety issues.

What about "disarming victims"? As the coalition of entities funded by federal and state government to serve victims of domestic violence, we recommend that victims fearing for their lives remove all firearms from the home, including their own.

Some individuals have suggested that an unintended consequence of this bill will be disarming victims of domestic violence who become the respondent of a temporary restraining order under false pretenses by their abuser. The unintended consequences of this scenario are not the problem that they have been framed to be. As the coalition of organizations funded by government to provide safety planning to victims, we would never recommend to a victim fearful for her or his life that she or he arm themselves for protection.

The Violence Policy Center cited unpublished Federal Bureau of Investigation data on firearm deaths, noting that in 1998, for every time a woman used a handgun to kill an intimate acquaintance in self-defense, 83 women were murdered by an intimate acquaintance with a handgun.⁹ Another study found that women in California "who died from violence were more likely, not less, to have purchased a handgun within the three years before death."¹⁰ Meanwhile, research on the Danger Assessment developed by Dr. Jacquelyn Campbell at Johns Hopkins University found that, "In safety planning, an abuser's threats with a weapon or threats to kill should be rated as particularly serious, as should a possible murderer's access to a gun. Thus, the researchers suggest that the legal prohibition of those convicted of domestic violence is especially important to enforce, and any protection order should include firearms search-and-seizure provisions."¹¹ Evidence-based research has consistently shown the dangerous combination of domestic violence and firearms and that research informs our safety planning with victims.

Are other weapons used more often in intimate partner violence? No, not when considering fatal incidents of intimate partner violence.

While some individuals may make the argument that other weapons are used more often in domestic violence, it is important to point out that those are statistics for overall incidents of domestic violence. It is true that in incidents of non-fatal domestic violence in Connecticut, hands/feet/fists are the most frequently used "weapon" to commit domestic assault.¹² And that fact only serves to further highlight the urgency of our request to remove firearms during temporary restraining orders. Because, according to the CT State Police Crimes Analysis Unit annual Family Violence Homicide Report, firearms are the single most frequently used weapon in cases of fatal intimate partner violence in Connecticut (used in 39% of intimate partner homicides).¹³

Firearms have also been nationally demonstrated as the most commonly used weapon in murder-suicides, with a 2014 study showing 72% of murder-suicides nationwide in a 6 month period involving an

intimate partner and 94% of those murder-suicides involving a gun.¹⁴ In Connecticut, of the 58 murder-suicides involving intimate partners, 78% have involved firearms.¹⁵ The study, conducted by the Violence Policy Center, points to the ease of offenders to act impulsively when using a firearm because of its “unmatched combination of high lethality and easy availability.” Noting that “the presence of a gun allows the offender to act quickly,” the report theorizes that some of the deaths reviewed may have simply been injuries if firearms were not readily available.¹⁶

As we noted earlier, domestic assaults that involve firearms are 12 times more likely to result in death than those involving other weapons or bodily force.¹⁷ If a victim is assaulted by someone using their fists, or a hockey stick, or a bat, or even a knife, she or he is more likely to survive the assault than if it is committed with a gun. That is why firearms, as a weapon in the context of domestic violence, deserve the utmost scrutiny by the General Assembly.

What happens to firearms and ammunition while the order is in effect?

Individuals who are the subject of civil restraining order have two options when surrendering firearms and ammunition – they can store them with the police or sell them to a federally licensed firearms dealer. This bill proposes those same two options for subjects of temporary restrictions. The bill also calls for a 24 hour surrender timeframe following notice of the order (down from two business days) and clarifies existing practice that local police departments can accept storage of firearms and ammunition.

In terms of local police accepting storage of firearms and ammunition and any burden that may appear to present, it is important to note that, according to the Judicial Branch, in FY13, there were 628 ex parte orders issued statewide that included allegations of firearm possession. There were only 573 such instances statewide in FY14 and 530 in FY15. Even large cities would not be overburdened. Below are the seven municipalities with the highest numbers of ex parte orders with allegations of firearms in FY13 and FY14 (and the only municipalities with 20 or more such orders):

City	FY13 total ex parte w/ allegations of firearms	FY14 total ex parte w/ allegations of firearms	FY15 total ex parte w/ allegations of firearms
Bridgeport	23	21	23
Hartford	42	32	31
Meriden	14	22	7
New Britain	20	13	13
New Haven	35	39	40
Waterbury	23	22	27
West Haven	25	8	5

(source: CT Judicial Branch)

How quickly will gun permits/eligibility certificates be reinstated if the temporary order expires? Language has been included in this year's bill to clarify that everything will be reinstated following police verification via the protective order registry that the temporary order has expired and that no other disqualifications exist.

For those individuals who are respondents of temporary restraining orders that are not extended to full, one year orders following a hearing, language has been included to clarify that police shall reinstate carry permits/eligibility certificates upon confirmation via the protective order registry that the temporary restraining order has expired and that no other permit disqualifications exist. (See sections 11 – 14)

What if the respondent of a temporary order needs to carry a firearm as part of his or her employment? The court will have the option to schedule the hearing sooner for those individuals who are employed in a position for which carrying a firearm is essential.

This bill proposes that courts be given the ability to order a hearing sooner than 14 days from the date of the application if the respondent is employed in a position for which an essential element is the ability to carry a firearms. (See section 3)

Recommendations of the 2014 Task Force to Study Service of Restraining Orders

This bill also addresses several recommendations of the *Task Force to Study Service of Restraining Orders* established pursuant Public Act 14-217, which I co-chaired with Representative Michelle Cook. 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.

Section 2 of the bill will 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. 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.

Section 3 of the bill proposes that the court be allowed to extend temporary, ex parte orders if the applicant is present at the two week hearing but the order has not yet been served. It also proposes that marshals be given additional time to serve ex parte orders and notices of hearing by decreasing the number of days (from 5 days to 3 days) prior to a hearing on a restraining order by which the order or notice of hearing must be served.

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 respondents) actively avoid service of said order. Currently, if service cannot be successfully made 5 days prior to the hearing and the respondent does not show up to the hearing, the ex parte order may be dropped and the victim may have to reapply for the restraining order, often leaving her or him with the feeling that the system simply cannot help.

Allowing the court to extend the temporary protection so that service can be reattempted is a commonsense fix to assisting victims and ensuring that the system is responsive to them at a time when they are experiencing significant trauma. Twenty (20) states allow for the extensions of temporary restraining orders if service is not made prior to the hearing.¹⁸ In these states, the hearing is rescheduled and the order automatically extended until the hearing.

Section 3 of the bill also proposes that marshals be required to input notification of successful service into the Judicial Branch internet-based tracking system within two hours of service. Victims rely on the CT SAVIN system, which is an automated system that notifies them of changes in their case. If notification of service is not input in a timely manner, then victims are left not knowing whether or not they are protected.

Section 3 of the bill also proposes that marshals take the following steps when serving ex parte restraining orders with allegations of firearms: 1) provide notice to law enforcement in the town where the order will be served, 2) send a copy of the order to law enforcement in that town, and 3) request that a police officer be present when they serve the order. During the task force, some state marshals testified

regarding safety concerns related to service of restraining order and firearms. Increased communication and partnership between marshals and law enforcement will only serve to keep victims safer.

The bill also proposes a few other changes designed to strengthen court processes related to restraining orders: 1) Section 4 allows the Chief Court Administrator, where feasible, to provide space with the courthouse to permit meetings between restraining order applications and state marshals, and 2) Section 5 requires the Chief Court Administrator to revise and simplify the process for filing for a restraining order and to provide a plain language explanation of how to apply, as well as to collect data related to service of restraining orders.

We thank Governor Malloy, Senate President Looney and Speaker Sharkey for their continued leadership on protecting victims of domestic violence.

HB 5597

We urge your rejection of HB 5597, which, though well-intentioned, poses an unnecessary risk to victims of domestic violence.

House Bill 5597 seeks to protect victims of domestic violence from gun violence by requiring the use of a risk warrant (discussed above on page 2) when a victim applying for a civil restraining order elects to state that she or he believes that a family or household member poses a risk of imminent personal injury to them. While we appreciate the intent of the proponents of HB 5597, we firmly believe that comprehensive protection through the state's civil restraining order, similar to the policies of 20 other states, remains the most commonsense mechanism for protecting victims of domestic violence through the very process established by this body to protect them. While we have already outlined our concerns regarding the risk warrant and reasons why we believe that the risk warrant should not be the exclusive means to remove firearms from subjects of temporary restraining orders, we also want to highlight the potential risk posed by this specific language.

As the bill is written, once the victim chooses to state that she or he believes the respondent "poses a risk of imminent personal injury" to them, the court must automatically begin the risk warrant process. Unfortunately, since the state only provides funding for Family Violence Victim Advocates in 4 civil courts throughout the state, it is not clear that there will be anyone to explain to the victim what a risk warrant is or process that it entails. The victim will have sought a civil order with the expectation that the police will not be involved and it is unlikely that any victim completing an application for a restraining order would not answer in the affirmative this question about "imminent risk," the very standard for a temporary restraining order. So now, in every instance, these victims may unknowingly trigger police involvement, including a full search of the respondent's home. Such a process may easily incense their abuser and increase the possibility for retaliation. We cannot overstate the risk associated with this well-intentioned proposal. We urge rejection of this measure.

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

Karen Jarmoc
CEO
kjarmoc@ctcadv.org

¹ Campbell, JC, et al. 2003. "Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study." *American Journal of Public Health*. 93(7): 1092.

² Center for Gun Policy and Research. "Intimate Partner Violence and Firearms." Johns Hopkins Bloomberg School of Public Health, citing Saltzman LE, et al, 1992. "Weapon Involvement and Injury Outcomes in Family and Intimate Assaults." *Journal of the American Medical Association*. 41(2): 281-83.

³ Supra note 3