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Testimony presented to the Judiciary Committee

Oppose H.B. No. 5054 AN ACT PROTECTING VICTIMS OF DOMESTIC VIOLENCE. (PS,JUD)

The Coalition opposes most of the proposed legislation here today related to ex parte restraining orders, firearms and veterans. Much of the proposed language removes constitutional protections guaranteed by the CT and US Constitutions. There are certainly grounds for questioning their constitutionality. Provisions of the United States Constitution and the CT constitution require that all citizens be given equal recognition under the law and that no group of citizens be shown special consideration. The proposed language also denies recipients due process, a constitutional privilege guaranteed by the Fifth, Sixth, and Fourteenth Amendments. In addition, the proposed language enables the state to remove an individual's 2nd rights, for a period over 29 months based solely on hearsay. In addition, the language removes protections provided by the 2nd amendment for those who are victims of domestic violence.

A restraining order under Section 46b-15 is issued ex parte, based on a brief statement (hearsay) made under oath by any family or household member and signed by a judge. There is no investigation, no evidence or documentation presented, and the case is not reviewed by anyone prior to being signed by a single judge. All due process rights to a hearing prior to gun confiscation are removed from the existing statute. A respondent who gets served with a restraining order, and happens to be a legal firearms owner, must then relinquish his or her pistol permit, all guns and all ammunition immediately. Where is the presumption of innocence? Also note that no applicant for a restraining order has ever, to anyone's knowledge, been prosecuted for perjury for making false accusations in their affidavit. The proposed legislation is punitive in nature and against all principles of due process. Unsupported accusations resulting in depriving lawful citizens of their rights and property have no place in American jurisprudence.

As with other statutes seeking prevention, there are problems inherent to balancing the social and political pressure to control individual behavior in a legal system arranged to maximize individual liberty. We propose that any legislation include that the application for such ex parte order contain a statement that false statements are punishable by law, and if the applicant fails to appear at the required hearing in support of the application, the applicant may be held in contempt. In addition, we also suggest that, in no case will a respondent's firearms permit be revoked or firearms surrendered until after the hearing if the judge finds there is a clear, articulable danger. Upon vacating the order, the judge shall order the commissioner of the Department of Emergency Services and Public Protection to automatically and immediately

reinstate such permit if it has been revoked and to return all firearms, including those registered as so-called "assault weapons" or "large capacity magazines". Also, we would suggest that the time limit from the issuance of the restraining order to the hearing is shortened from fourteen (14) to three (3) to five (5) days because of the alleged dangers to the applicant. Most importantly, for the safety of those suffering from domestic violence, we urge you to accept these changes and effect the new legislation immediately after passage.

These suggestions would improve protections under current law and will also grant some semblance of equal protection. In addition, it will also protect victims of domestic violence who choose not to involve law enforcement.

We urge rejection of the proposed legislation.

Thank you