

**Testimony to CT Judiciary Committee
March 13, 2016**

**Bob Ferguson
Weston, CT
HB 5054
HB 5597**

Dear Ladies and Gentlemen of the Committee:

I am Bob Ferguson from Weston, CT.

The state of Connecticut is now well known as one of the most restrictive states in the country when it comes to gun laws. You will hear from people today that will talk about guns, domestic violence and the 2nd Amendment. The FACT is that this bill isn't about ANY of those things. These bills are primarily about the Due Process clauses that are clearly stated in the 5th and the 14th Amendments.

HB 5054 is a bill that represents a solution in search of a problem. Now, by no means am I suggesting that domestic violence isn't a problem. It is something that should be eradicated wherever it occurs. However, CURRENT Connecticut law (Sec 29-38c) already confiscates firearms from those that pose a risk of injury to themselves or others. HB 5597 is an improvement over the drastic eradication of due process that is brought on by HB 5054 but still does not totally limit the due process concerns: Our current restraining order process also already confiscates firearms from an individual under a permanent restraining order, which is not being disputed.

The way the current ex-parte restraining order process works is that an individual fills out a form with checked boxes on an unverified complaint and a judge decides to grant an ex-parte restraining order. (The definition of ex-parte is literally by ONE party) Within 14 days, the State mandates that a hearing be held to listen to BOTH parties and determine if a permanent restraining order should be put into place. Invoking Sec. 29-38c actually provides far more protection for a sufferer of domestic abuse. In order to invoke 29-38c, an individual only needs to go to the police with a complaint, which are available 24-7. By relying on the TRO process, a victim must wait for the courts to be open during business hours.

The **PROPOSED** bill, HB 5054 does **ONE** thing and **ONE** thing only....it **REMOVES** the **14-day window** which **IS** the due process **MANDATED** by the constitution. Until the 14-day hearing takes place, the other party has **ZERO** opportunity to respond to any unsubstantiated allegations. I would be amenable to a proposal that shortens the timeframe for the hearing, which would offer more protection, **BUT** the key takeaway is that you cannot simply eliminate due process from the restraining order system. The fact is that **48%** of TRO's are not granted permanent status. It is **HIGHLY** likely that these unsubstantiated TRO's would never be filed if the complainant had to give the false complaint to the police, thereby invoking sec. 29-38c.

Now, you will hear from those today that argue that "this is no big deal" or "it's all for safety" or that "guns can easily be returned after 14 days." But, do you have any idea just how many people this will affect each year? How many people's constitutional right to due process will be stripped away and then reinstated at a later date?

Based on the attached statistics from the CT Justice Dept. Since 2008...**ONLY 52% OF TEMPORARY RESTRAINING ORDERS ARE EVER GRANTED PERMANENT STATUS!** In other words...**48%** of those "temporary" orders are **FALSE** or don't pass muster to be granted permanent status. That means that roughly **2500 CT residents each year would be DEPRIVED** of their right to due process. If a permanent order is ordered after the 14 day waiting period, then guns and permits are confiscated from the home. Each CT resident deserves the right to defend false allegations, which happen half the time with temporary restraining orders.

Some will still argue that suspending due process temporarily isn't a big deal. They couldn't be more wrong. For those of you that think this law is about guns, you also couldn't be more wrong but I seriously doubt that you can see that. Therefore, I want you to imagine that **YOU** are in the following situation:

Your neighbor hears you yelling at your kids in the front yard for misbehaving. He calls Child Protective Services and reports you. CPS shows up

at your door in 24 hours to remove your children from your home! This is only based on your neighbor's unsubstantiated statements that were given to a judge who made the order to take your children from your care. Now, CPS tells you not to worry, you will have a hearing in 14 days and if everything turns up ok your children will be returned to you, no harm, no foul. After all, this is only to protect the children in case you actually turned out to abuse them. However, they will be taken from you "just in case" your neighbor's story is accurate.

Let's be clear...THIS IS EXACTLY WHAT THIS PROPOSED BILL DOES!!! These actions very clearly violate the 5th and 14th Amendments...The 14th Amendment makes it abundantly clear that the **"NO STATE (you legislators) SHALL MAKE OR ENFORCE ANY LAW... THAT DEPRIVES LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW."**

The example that I gave simply would remove LIBERTY temporarily whereas the proposed bill removes PROPERTY. If you are in favor of this proposed bill and don't think my example is relevant, please explain how you could ignore ONE word in the 14th amendment (PROPERTY) but not ignore the word the *immediately* proceeds it (LIBERTY.)

ANYTIME THAT A GOVERNMENT CAN TAKE AWAY A RIGHT ONE MINUTE, AND THEN DECIDE TO GIVE IT BACK THE NEXT...THAT IS A "RIGHT" THAT NEVER EXISTED IN THE FIRST PLACE!!!

Fifth Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law;** nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

CT Ex-parte restraining orders

<u>Date</u>	<u>Ex Parte 46b-15</u>	<u>Permanent 46b-15</u>	<u>% permanent orders</u>	<u>REFUSED permanent orders</u>
7/8/2009	7741	3939	51%	3802
2010	5138	2744	53%	2394
2011	4858	2523	52%	2335
2012	5257	2738	52%	2519
2013	5026	2636	52%	2390
2014	4409	2445	55%	1964
Total				15404

Total number of CT citizens whose due process rights were suspended

Source: CT.gov Judicial
branch

According to CT Coalition Against Domestic Violence, 14 domestic homicides every year

Guns are used in 40% of those homicides, which equates to 5.6 per year.

How many happen during the 14-day waiting period before the hearing?

Simple math estimates that 0.2 homicides occur in that 14-day window each year.
That amounts to ONE ever FIVE years!

This bill would deprive 11,600 people of their right to due process over FIVE years
in order to force ONE determined criminal to use another weapon during the same period.