



NATIONAL RIFLE ASSOCIATION OF AMERICA
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Date: March 14, 2016

To: Honorable Members of the Joint Committee on Judiciary

From: Christopher Kopacki, Ph.D., Connecticut State Liaison, NRA-ILA

RE: HB 5054, HB 5622, and HB 5623 – OPPOSE

On behalf of the National Rifle Association of America and firearm owners in Connecticut, I would like to express our opposition to House Bill 5054, which would require the subject of an *ex parte* restraining order to relinquish all of their firearms within 24 hours, House Bill 5622, which would allow erased records to become available for determining whether a person is suitable to carry a pistol or revolver, and House Bill 5623, which is similar to HB 5054 and would also require the subject of an *ex parte* restraining order to relinquish all of their firearms to local police or a federally licensed firearm dealer.

HB 5054 would require the subject of an *ex parte* restraining order to relinquish all of their firearms within 24 hours to local police or a federally licensed firearms dealer. The only evidence for this order would be a “brief statement of the conditions from which relief is sought” in a sworn affidavit by a single party, with no evidentiary standard apart from the court’s discretion.¹ The subject has no opportunity to defend themselves in court before the order is issued. This is a denial of Second Amendment rights that ordinarily occurs when there has been a conviction for a felony or misdemeanor crime of domestic violence following a guilty plea or being found guilty beyond a reasonable doubt. This bill would allow a civil court to do the same through an *ex parte* order based solely on a brief statement by the applicant and no burden of proof other than the court’s discretion. Ultimately, it allows a government seizure of personal property without due process of law, which goes directly against the Fourth and Fifth Amendments. This is unconstitutional and unjust.

HB 5023 uses the same language as HB 5054 and therefore raises the identical objections. HB 5054 and HB 5623 are not domestic violence protection bills, but rather gun control bills intended to remove firearms from people without due process of law. As seen in numerous bills proposed this session, the intent of these bills is to strip away Second Amendment, Fourth Amendment, and Fifth Amendment rights of the citizens of Connecticut. HB 5054 and HB 5623 are especially dangerous because they remove due process and the right to confront one’s accuser in court prior to the seizure of lawful items. This is a dangerous precedent that should not be set.

¹ CONN. GEN. STAT. ANN. § 46b-15(b).

Furthermore, HB 5054 and HB 5623 could be used as weapons to unjustly disarm law-abiding people. Under the proposed language, a spouse, significant other, cohabitant, or family member could obtain an *ex parte* restraining order for the intended purpose of disarming them, leaving them vulnerable, or affecting their livelihood. All this without an opportunity to defend themselves in court. Unscrupulous people could take advantage of this process, especially in divorce and child custody disputes, once the safeguards of due process are removed.

Besides the constitutional issues involved, HB 5054 and HB 5623 have significant procedural flaws. The requirement of relinquishing all firearms to local police or a federally licensed firearm dealer (FFL) is not reasonable. Local police departments, should they even be willing to store a subject's firearms, would likely find the significant amount of time necessary to receive, process, store, and then transfer firearms to be burdensome, especially for large collections of firearms. Departments could opt not to participate in the storage of these firearms because of space and liability concerns should a firearm be damaged or lost. FFL dealers are businesses and operate differently, but would have many of the same concerns regarding storage and liability. The FFL option, which would likely involve a transaction and/or storage fee, presents an additional financial burden to the subject. Local police departments and FFL dealers can also refuse to receive these firearms for storage. If an FFL dealer and local police department refuse to accept these firearms, the subject is caught in a dilemma where they cannot legally keep them but cannot legally transfer them. It is, therefore, clear that the language proposed was not adequately considered.

HB 5622 would allow making erased records available for determining whether a person is suitable to carry a pistol or revolver. Currently, Sec. 54-142a provides that all police and court records shall be erased, either upon the expiration of the time to file a writ of error or take an appeal when the charge was dismissed or the accused was found not guilty, or after thirteen months after a prosecutor has dropped a charge *nolle prosequi*. HB 5622 would now make these records available to the police and others for the purpose of determining whether a person is suitable to carry a pistol or revolver. This is a shameless attempt to expand the category of prohibited persons. A person is innocent until proven guilty, and an erased record is an erased record. Connecticut law requires the erasure of records where there has been no determination of guilt. Again, this is a blatant attempt to expand the category of prohibited persons and provide a vehicle to strip away the Second Amendment rights of the people of Connecticut.

It is for these many reasons that we oppose House Bills 5054, 5622, and 5623. We ask that you also oppose all three bills. As always, I am available at (703) 267-1192 should you wish to further discuss the NRA's position on these and other proposed legislation.

Sincerely,

Christopher G. Kopacki, Ph.D.
Connecticut State Liaison
National Rifle Association