

March 14, 2016

Testimony to Judiciary Committee

In support of:

HB 5054 An Act Protecting Victims of Domestic Violence

SB 429 An Act Concerning Service of Restraining Orders

HB 5623 An Act Concerning Violence Against Women And Victims Of Human Trafficking

Opposed to:

HB 5597 An Act Protecting Domestic Violence Victims Seeking Restraining Orders

Mr. Chairmen and members of the Judiciary Committee,

Hello. My name is Jonathan Perloe. I live in the 151st District in Cos Cob. I am a leader of the *Greenwich Council Against Gun Violence*, a grassroots organization founded in the aftermath of the Sandy Hook School shooting. I am also the president of the Southwestern CT Chapter of the Brady Campaign to Prevent Gun Violence and serve on the board of CT Against Gun Violence.

Thank you for the opportunity to provide testimony explaining why I support the three bills HB5054, SB 429 and HB 5263 that will improve the state's protection of domestic abuse victims by prohibiting subjects of temporary restraining orders from possessing firearms.

I'm here today because even in CT, with the fourth lowest gun death rate in the country, nearly 75 women were shot to death by domestic abusers from 2000 to 2012. Firearms are the most commonly used weapon to commit intimate partner homicide in CT.

Like me, I'm sure you're shocked by the level of domestic violence against women in our country today, and how much more deadly it becomes when firearms are involved.

- On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. That's more than 10 million victims every year.¹
- The presence of a gun in a domestic violence situation increases the risk of homicide by 500%.¹⁰
- Domestic assaults involving firearms are 12 times more likely to result in fatalities than those involving other weapons.
- In Connecticut, one-third of all criminal court cases involve family violence.
- In my hometown of Greenwich, reports of domestic abuse have increased 40% over the past four years.

Clearly the state recognizes the danger of letting domestic abusers have firearms, for it is prohibited for subjects of restraining orders and protective orders. So it's only logical that subjects of temporary restraining orders similarly be prohibited from having guns in their

possession. Ex-parte orders have withstood constitutional challenges.

I testified last year in favor of SB 650, a substantially similar bill that was voted out of Committee. For the remainder of my testimony, I would like to respond to the key issues raised by those opposed to the bill.

The most significant complaint last year is that the bill violates due process of law, and therefore unconstitutionally deprives the subjects of their Second Amendment rights.

I don't believe the objection is valid:

- First, CT law already allows law enforcement to seize firearms in a domestic violence situation without the abuser going before a judge. The same is true of the Risk Warrant statute. I'm not aware of any successful constitutional challenges to these laws.
- Research conducted by the *Law Center to Prevent Gun Violence* concludes "it appears that no court has ruled that an ex parte domestic violence order violates due process." This is relevant because TROs deprive subjects of fundamental liberties such as freedom to live in your home and to go where you want—which to me is as important as Second Amendment rights.

According to the *Law Center to Prevent Gun Violence* *Blazel v. Bradley* provides the most complete constitutional analysis of whether an ex parte DVRO violates due process. In that case the Court wrote that due process requires a minimum of four procedural safeguards: 1) participation by a judicial officer, 2) a prompt post-deprivation hearing, 3) verified petitions or affidavits and 4) risk of immediate and irreparable harm. The bills before you, HB5054, SB 429, HB 5623 explicitly meet these requirements.

The second complaint is that the Risk Warrant statute, our gun violence restraining order, already affords victims of domestic violence the necessary protection. Experts on domestic violence disagree, as outlined in the report by the Battered Women's Justice Project commissioned by the CT Coalition Against Gun Violence. The report concludes:

"CT's Risk Warrant statute...does not fully address the needs and concerns of domestic violence victims... Rather, the Battered Women's Justice Project deems giving judges the discretion and authority to order the surrender of firearms in an ex parte or temporary civil restraining order to be a substantially sounder policy because the responsibility and burden shifts from the victim to the state and courts, and it does not add an extra hurdle for victims."

This is the reason I oppose HB 5597.

Another complaint was the bill puts gun owners at risk because there are allegedly cases where the partner petitions for a restraining order as a means of disarming the true victims. In some cases, men could be left defenseless because the true abuser falsely filed for a restraining order and the victim's guns were removed.

Those opposing the bill did not present any evidence of this hypothetical situation where relieving gun owners of firearms was followed by violent attacks by their false accusers. Applicants must sign a sworn affidavit that the information is true and there are legal penalties for false testimony.

A domestic abuse victims' advocate with more than 10 years experience told me, "In all my years as a victims' advocate I have NEVER had a victim of domestic abuse who was applying for a TRO do so in order to harass their abuser. You cannot imagine the fear that rules their daily lives. Just coming to court to make the application takes a tremendous amount of courage. Believe me, harassment is the last thing in their minds."

Public policy needs to be driven by fact, not hypotheticals.

The final criticism of the bill from the gun lobby was that in cases where firearms were confiscated and the TRO was not made permanent the provision would unfairly and unconstitutionally violate Second Amendment rights because it could take months to return the firearms due to backlogs with the Board of Firearm Permit Examiners. That was a fair complaint and the language in last year's bill was modified and language appears in this year's bill requiring the DESPP to reinstate the certificate and return the firearms in such cases.

The statistics on intimate partner homicide prove that the presence of firearms substantially increases the risk of death in domestic abuse situations. This is not a theoretical discussion. The opponents of this legislation complain about it infringing on their Second Amendment right. As part of our Constitution, I respect the Second Amendment. But I ask you to balance it with the inalienable right to "Life, Liberty and the pursuit of Happiness" enshrined in the Declaration of Independence.

Thank you for your time and your thoughtful consideration of these bills.

Respectfully,

Jonathan Perloe

Cos Cob, CT