



CT Against Gun Violence

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Testimony to the Judiciary Committee
Ron Pinciaro, Executive Director, March 14, 2016

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

In Opposition To:

HB 5597 An Act Protecting Domestic Violence Victims Seeking Restraining Orders

CT Against Gun Violence (CAGV) Supports HB5054

We support HB 5054 because it helps to protect persons, especially women, who are victims of domestic abuse.

- Every day in the US, three or more women are killed by their husbands or boyfriends.
- The presence of guns in domestic disputes increases the risk of death to domestic violence victims by 500%.

HB 5054 would require subjects of temporary restraining orders to surrender their firearms within 24 hours of being served with the order, pending a court hearing to be held within fourteen days to sanction the merit of the measure.

- Requiring surrender of firearms upon service of the temporary restraining order is important because the period when the subject is being served is a very dangerous one for the abuse victim. According to CT Law Review opinion, "A law or policy that removes guns during periods of crises has the potential to

reduce the severity and immediacy of risk.”ⁱ

No court has ruled that an ex parte domestic violence order violates due process.ⁱⁱ

In *Blazel v Bradley*,ⁱⁱⁱ which is the leading case on this issue, the ruling establishes the requirements of due process when a court issues a domestic violence restraining order prior to having a full, noticed hearing. The four basic requirements are:

1) participation by a judicial officer, 2) a prompt post-deprivation hearing, 3) verified petitions or affidavits containing detailed allegations based on personal knowledge, and 4) risk of immediate and irreparable harm. If those requirements are met, then due process is likely satisfied, even in the context of a firearms seizure. We do not know of any case in which a court has struck down or expressed reservations about the permissibility of such an order or the suitability of the Blazel analysis for firearms restrictions that have been included in ex parte DVROs.

HB 5054 also makes clear provisions for return of firearms and reinstatement of permits upon expiration of the restraining order.

CAGV Supports SB 429 AN Act Concerning Service of Restraining Orders

The purpose of SB 429 is to afford the option to the applicant of a restraining order to request a police officer to make service of the order in situations where the subject of the order possesses a firearm or firearms and has threatened physical injury. The bill is similar to the proposed HB 5054 except that HB 5054 requires the marshal, the proper officer presently entrusted for making service, to advise law enforcement and request an officer be present when making service. Both proposals would improve the current process because service in these situations may be more dangerous and presence of police officers in the process may be expected to improve the success rate of orders served, and served in a timely manner. Though similar, the difference between the methods proposed in the two bills would seem to indicate that a reconciliation between the two would be advisable.

CAGV Opposes HB 5597 An Act Protecting Domestic Violence Victims Seeking Restraining Orders

HB 5597 would set in motion the “risk warrant” process when an applicant for a restraining order indicates that the subject of the order poses a risk of physical harm to the applicant. Under the risk warrant procedure, police are sent out to investigate complaints made. If the investigation determines that the complaint is valid, police can immediately obtain a warrant to remove firearms from the subject of the complaint.

This proposal therefore sets into motion a separate legal action in addition to the restraining order action proposed by HB 5054 that is already in progress - two legal actions that have the same objective...removal of firearms from persons considered to be a danger to persons seeking restraining orders. This is an illogical duplication of effort and resources.

While the risk warrant legislation has been a valuable tool in many situations since initiated, it does not suit the needs and concerns of many abuse victims. For many victims, contacting the police poses an additional risk of retribution by the abuser. In a recent survey, more than half of 600 women surveyed stated that “calling the police would make things worse, that the offender would only get a slap on the wrist, or calling the police would have negative consequences for them”^{iv}

CAGV SUPPORTS HB 5623 An Act Concerning Violence Against Women and Victims of Human Trafficking

We support HB 5623, which gives the same improved protections to victims of human trafficking and sexual assault as HB 5054 does to victims of domestic violence. Our reasons for supporting HB 5054 apply equally to our support of HB 5623.

ⁱ <http://connecticutlawreview.org/files/2014/10/11.NorkoBaranoski.pdf> p1626ⁱ

ⁱⁱ David H. Taylor et. al., *Ex Parte Domestic Violence Orders of Protection: How Easing Access to Judicial Process Has Eased the Possibility for Abuse of the Process*, Kan. J.L. & Pub. Pol'y, Fall 2008, at 94.

ⁱⁱⁱ *Blazel v. Bradley*, 698 F. Supp. 756 (W.D. Wis. 1988).

^{iv} National Domestic Violence Hotline, *Who Will Help Me? Domestic Violence Survivors Speak About Law Enforcement Responses*, Washington, DC (2015).