



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN SUPPORT OF:

**H.B. No. 6355 (RAISED) AN ACT CONCERNING RISK PROTECTION ORDERS OR
WARRANTS.**

JOINT COMMITTEE ON JUDICIARY

March 5, 2021

The Division of Criminal Justice is supportive of the intent behind H.B. 6355, An Act Concerning Risk Protection Orders or Warrants. However, the Division respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE Report for this bill, so as to be amended to separate civilian petitions for risk protection orders from the current risk warrant structure.

Current state law allows police and prosecutors, after investigating and determining probable cause, to get a court authorized warrant and seize guns from anyone posing an imminent risk of harming themselves or someone else. A judge must hold a hearing within 14 days after the seizure and order the police to hold the guns for up to one year or return them. Since this law when into effect in 1999, it has been utilized with great success. From 1999 – 2010, almost 450 executed warrants were filed with our courts. During the last ten years, that number has quadrupled to over 1,800.

When police or prosecutors file a complaint, they understand the legal system and are able to ensure that they meet the probable cause burden. The Division has concerns that allowing civilians to seek risk warrants would place these citizens in a precarious position. They may have the probable cause needed, but simply do not know how to express it to the judge. Indeed, a judge has no investigatory abilities on their own, and must rely solely upon the presentation of the civilian. This may result in courts denying complaints that otherwise would have been granted if presented by an officer or a prosecutor.

In addition, prosecutors and officers have the ability to get before a judge outside of courthouse hours, proving invaluable in emergency situations.

As such, it is the Division's recommendation that the newly created risk protection order be removed from § 29-38c and re-drafted as a civil mechanism, similar to current civil protective orders. A citizen would be able to petition the court for the civil risk protection order when there is a good faith belief that an individual named poses a risk of imminent personal injury to

themselves or others. Upon such a finding, the court would issue the risk protection order, which would be served by a state marshal upon the named individual and a copy provided to the law enforcement agency for the town in the which the person named in the order resides, the town in which the person goes to school or is employed, as well as to the Commissioner of Emergency Services and Public Protection.

Furthermore, the Division strongly supports revisions to subsection (d) of § 29-38c, requiring a hearing for an individual to have their firearms and/or ammunition returned. The Division has proposed such revisions in the past. However, the Division recommends the language in Lines 90-94 be amended to state: “ ... seized pursuant to the warrant issued under subsection (a) of this section continue to be held by the state for a definite period not to exceed one year, and indefinitely thereafter until such person petitions the court and proves by a preponderance of the evidence that the risk has abated, whereupon [otherwise] the court shall order the firearm or firearms and any ammunition seized to be returned to the person named in the warrant.”

This amended language removes the indefinite period of seizure at the onset, and places the onus on the person named in the warrant to petition the court for the return of their firearms. The current version of the bill does not appear to provide a specific mechanism for how the court would subsequently order the return of the firearms seized under a warrant without a mandatory link to a protection order.

The Division also recommends that, presuming the risk protection order be separated as a civil mechanism, that § 29-38c be amended to state that if the court finds that the named individual has a reasonable ability to obtain firearms, the court may issue an order prohibiting such person from acquiring or possessing firearms and/or ammunition. This would be a reasonable extension of the current statute in that, if a court finds there is an imminent risk of injury demanding the seizure of firearms, the court also should order the prohibition from obtaining any additional firearms until such time as the court finds that the risk has abated.

In conclusion, the Division respectfully recommends the Committee’s JOINT FAVORABLE SUBSTITUTE Report for H.B. 6355. We thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information the Committee might require or to answer any questions that you might have.