

Legislative History for Connecticut Act

HB 7364 PA 272 1981

Judiciary 1208-1209, 1217-1218, 1261-1262,
1273-1279, 1297, 1299-1301, 1337-1338 19p

Senate 3894-3895, 3959-3960 4p

House 4346-4351 6p

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JOINT
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HEARINGS

JUDICIARY
PART 4
1119-1416

1981

State Capitol
 Judiciary Room
 March 24, 1981
 10:00 A.M.

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JUDICIARY

PRESIDING CHAIRMEN:

Senator Owens
 Representative Tulisano
 Representative Onorato

COMMITTEE MEMBERS PRESENT:

SENATORS:

Labriola, Curry, Santaniello,
 Serrani

REPRESENTATIVES:

Krawiecki, Steeves, Lerner,
 Garavel, A. Parker, Ritter,
 Smoko, Mosley, Schlesinger,
 Patton, Fox, Berman, Woodcock,
 Rybak, Broder

REP. TULISANO: May we have your attention please, so we can get started. We have a very long day. If you want to talk outside, please go outside in the hall and talk if it's important, but we want to get started.

I want you to know because of the timeframe here, because we have so many people and so many bills scheduled, we're going to hold you to the strict five minute limit on this so be very careful of your time because there's an awful lot of people and we don't want to keep them here until five or six o'clock at night.

Is Senator Gunther here? Flora Parisky?

SEN. OWENS: Good morning.

FLORA PARISKY: Good morning. I'm Flora Parisky, I'm the Chair Person of the Permanent Commission on the Status of Women. I'm here today to testify in behalf of the changes being made to the legislation affecting restraining orders in the case of abuse.

SEN. OWENS: Can I have the bill number if you have it there?

MS. PARISKY: I'm sorry, I don't. Do you have it, Representative Tulisano?

REP. TULISANO: 7364.

SEN. OWENS: Thank you.

MS. PARISKY: Thank you very much. The Commission wishes to support the changes that have been recommended by the Committee. We feel that the additional protection that is provided both to non-family members and the additional protection that's provided through the allowance of additional extensions are important modifications of the bill that will continue to improve the legislation that the General Assembly has passed in this regard.

SEN. OWENS: That's it?

MS. PARISKY: That's it.

REP. TULISANO: Thank you.

MS. PARISKY: We like the bill and are pleased with the changes you are recommending.

REP. TULISANO: Thank you. Any questions? Senator Daniels?

SEN. OWENS: Sorry Senator Gunther, we did look for you before.

REP. TULISANO: Shall we schedule you for 10:30 or 10:15.

SEN. OWENS: This isn't a barbershop, Senator Gunther.

SEN. DANIELS: Good morning gentlemen and members of the Committee. My name is John Daniels, I'm the Senator from the 10th Senatorial District, the city of New Haven and West Haven. I'm here to support proposed bill 304, An Act Concerning Paramilitary Camps in the State of Connecticut.

I may just simply briefly tell you that Connecticut is one of six states in the United States where such a facility has been established. Paramilitary Camps with the specific purpose of training armed races in military style and fashion to foment continue of racial hatred against both blacks and jews within our state.

What this Act attempts to do is to prohibit this type of activity within Connecticut. And I'm seriously hoping that this Committee will give this piece of legislation favorable consideration.

COMM. SHEALY: (continued)

The second problem involves the case where no one answers the phone or the door. The person has been reported as needing service, and we can't gain entry to find out if there is in fact even somebody in there, much less whether they need the help.

Assistance cannot be given in both of these cases because of the lack of access to the older person, and this bill would allow for access to the home by order of the Probate Court. I particularly want to emphasize that this use would only be used in cases where there was reasonable grounds to believe that the person needed protective services. And I draw your attention to the fact that it does not give our Department the right to access without going through the courts.

Okay, the second bill, Committee Bill 7364, An Act Concerning Temporary Restraining Orders for Abused Victims.

We support this bill as a tool to discourage person from committing physical abuse of older people. As all of you know, you've heard me testify many times, unfortunately, we are finding more and more physical abuse of the elderly in the communities in which they live. Originally this law came about through abuses in nursing homes, as well as in private homes. We are now running far in excess of -- the numbers are coming in to us from people requiring help in their own homes. I don't know whether it's a sign of our times, or what it is, but it is on the increase. So that we have found that physical abuse of an older person is often, most often committed by relatives. Although this person is sometimes the spouse, more often than not, it is a daughter, son, niece, nephew, or even friend.

And in many of these cases, there is an extreme reluctance on the part of the older person and the police to arrest the abuser. I know Rep. Tulisano, you pointed out to me that there already is on the books, I'm not an attorney, an arrest provision, but this seems to prevent any remedial action, and we would urge the support of this bill because we feel that a temporary restraining order might do 2 things. One, allow that person to seek relief, and perhaps, add as a deterrent to the abuser from continuing it. So we feel

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COMM. SHEALY: (continued)

very strongly that this bill should be supported.

Also, I would just briefly, I'm within my 5 minutes. I'll quickly hurry, support Senate Bill 1409, which allows elderly victims to be informed that a criminal case has been dismissed. I notice that the Justice Commission is supporting this and we joining with them.

We also support House Bill 7368, An Act Concerning Subrogation of Criminal Injuries Compensation Awards. This would encourage civil action against the perpetrator of a crime.

Quickly moving along, the Bar Association, we note is supporting House 6226. We join with them, An Act for Waiver of Costs, Fees, and Security in Payment of Necessary Expenses in Civil Cases.

In essence, it's to allow poor people to avoid these up front expenses in bringing cases to court.

We also support House Bill 7363, An Act Concerning Disclosure of Address and Telephone Number by Victims of Sexual Assault or injury, or Risk of Injury to a Minor.

We deplore the situation where a witness on a witness stand has to give out her address and telephone number, and they know they are subject to much harassment on the basis of this, and finally we support House Bill 6461, A Notice Requirement for Involuntary -- by the way you have commitment, and I understand from Judge it should be for Involuntary Conservatorship. In other words, there's an incorrect word that's on that title that says that Notice Requirements for Voluntary Commitment. It shouldn't be Commitment. It should be the other, and I know that Judge will speak on that. Thank you very much.

SEN. OWENS: Thank you, Commissioner Shealy. Any questions at all? Sen. Labriola.

SEN. LABRIOLA: Thank you, Mr. Chairman. Commissioner Shealy, as you know, I'm a child advocate, but I'm also an advocate of the elderly. With respect to Committee Bill 7367, what is the definition of the elderly, number 1, and 2, with respect to such an individual not answering a door for whatever

MS. FISHMAN: (continued)

is not a matter of debate or free speech. Those operating racist para-military camps would annihilate the Afro-American people, would drag us back in history and overturn the Thirteenth Amendment to our Constitution outlawing slavery. Permitting such activity flies in the face of Democracy and world commitment to abolish racism as personified by the universal Declaration of Human Rights, passed unanimously by the United Nations in 1948, condemning discriminatory practices and calling for teaching, education programs to eliminate racism, and the Resolution of the U.N. International Conference on Human Rights in 1968 condemning all ideologies based on racial superiority.

As we wear green ribbons to remember the children of Atlanta, let us think about the future of the children of Connecticut. History teaches us that racist promulgation is never limited to abstract discussion, but always is part of a sustained campaign for intensified racist practices. The time is now for the State Legislature to act to preserve the freedom of all people of Connecticut, to make a visible democratic and legal rejection of racist terror and genocide, the para-military camps openly represent. Thank you.

REP. TULISANO: Thank you Monica Floryen.

MS. MONICA FLORYEN: Mr. Chairman and members of the Committee. My name is Monica Floryen. I'm an attorney (inaudible) Legal Aid Society in Hartford. I'm here to speak in behalf of Raised Bill No. 7364 which is AN ACT CONCERNING TEMPORARY RESTRAINING ORDERS FOR VICTIMS OF ABUSE. First of all, I would like to take a moment to explain the effect of this bill. In 1978, Connecticut General Statutes 46B-38 was passed by the Legislature which provides protection for married persons who are abused by their spouse.

Section 1 of this bill amends that statute only insofar as it requires that language be contained in the order to notify the defendant of the fact that there is a penal codes provision 53a-107 provides that trespass and violation of restraining orders is a class A misdemeanor. The main thrust of this bill is to extend the protection of the restraining order to unmarried persons including family members who are abused by other family members, persons who are abused by members of their household who are not relatives, persons who are abused by a former spouse or a parent of an applicants' child who abuses the applicant.

MR. FLORYEN: (continued)

It is my feeling that domestic violence is no less a threat to an abused person who is married as to an unmarried person. My experience with persons who have called my office is that divorced women often are abused by former spouses. They seem -- abusers seem not to accept the fact that the wife has divorced the person and they continue to harrass her. Unmarried persons who have children by the abuser have a very difficult time freeing themselves of the abuse because the person tends to want to see the children or see the children as a reason to harrass the mother of the children.

I see no rational reason for denying this protection to unmarried persons when it is already recognized that domestic violence is a very serious problem with respect to married persons, and I would ask this Assembly to enact this bill.

REP. TULISANO: Roberta Kulloff.

MS. ROBERTA KURLOFF. I'm here today to support Bill No. 7364. My name is Roberta Kurloff. I'm an attorney in private practice in New Haven. I have been handling family matters for the past four and a half years, particularly problems of battered women. I helped draft Connecticut General Statute 46B-38 concerning restraining orders for battered women, and I've also helped draft Bill No.7364. I will not address the need generally for this bill. I'm sure you have heard through radio and TV, read in the papers and listened to testimony of the grave need for protection of battered women and their children.

Also use of this statute daily in the courts proves its necessity. Let me just say that over the past three years, I have gotten at least two hundred restraining orders for battered women. I would like to speak specifically to the need for expanding 46B-38.

This statute presently allows any adult who is the victim of abuse committed by a spouse to seek temporary protection from the Family Relations Section of the Superior Court. The court may issue temporary restraining orders and vacate orders for a period of up to ninety days. This duration may be extended only if the person seeking relief initiates a divorce or legal separation proceeding within the ninety

MS. KURLOFF: (continued)

days. Also violation of the law is a criminal offense, trespass under 53a-107. The proposed act would make the following changes in the present law.

First, in reference to persons protected: The existing law only covers spousal abuse. The proposed act would expand this to children and persons who are not in a married situation. The unmarried, the formerly married and those related but not married to the abuser.

REP. TULISANO: Should we just include (inaudible) say anybody?

MS. KURLOFF: Anybody. Doesn't include anybody specifically --

REP. TULISANO: Why don't we just say anybody? Why shouldn't we say anybody? It included almost anybody, why not say anybody can get a restraining order?

MS. KURLOFF: Because we are lucky that not everybody is abused.

REP. TULISANO: But if somebody is, why shouldn't we give them the same protection? That's my note that I have here. There's somebody covered. Why not just cover everybody?

MS. KURLOFF: Everybody who should be covered is covered under the amendment.

REP. TULISANO; Don't you think that other people should be covered?

MS. KURLOFF: They're covered in different -- if you give me an example. I'm not clear what your question is.

REP. TULISANO: (inaudible)

MS. KURLOFF: O.K. Let me answer that. That's a bit different. Enforcement of the law has always been really good in reference to stranger to stranger acts. You and I, we're strangers. But when it comes to married people, anybody in a family situation, the police have not really paid attention. It's always been a private matter. It's always been a situation that they didn't want to deal with. That's why initially, the 46B-38 was passed, and I think there is quite a bit of difference between a stranger to stranger crime like a mugging and a family matter. And that's what we are talking about here, is family type situations which the law,

MS. KURLOFF: (continued)

even though there might be something on the books as to what can be done, in fact, the enforcement is negligible. If I may proceed --

REP. TULISANO: Sure.

MS. KURLOFF: The reasons for the changes: I see more and more unmarried people are living together without the protection that a married person has. Presently, a battered women in this type of situation or in the situation of being formerly married and the abuser being her ex-husband has only the criminal process to turn to. This is a long and ineffective answer. So the police response in these type of situations has been the same for unmarried people and for married people. The police don't want to get involved, and as I said just a moment ago, they consider it a family matter.

A battered woman in this type of situation definitely needs the same immediate protection as a married women, and my experience as a lawyer four years justifies that recommended change. Next, duration of the orders: The present law provides for orders lasting not more than ninety days unless the applicant starts a divorce action. The present bill would allow the court to issue orders beyond the ninety days for good cause showing. The reason for the change: For a married applicant, this would be helpful for those cases in which the person is trying to save the marriage but needs current protection and does not want to be forced into filing for divorce.

And I've seen this in many cases of married women who were trying to work out this situation. Also, for some married women, they may be able to afford getting a restraining order and maybe they could do it on their own, but they cannot afford to get a divorce, and this is particularly true in the circumstances of women on welfare or women who are on the legal aid waiting list when they are at the bottom of the two hundred person waiting list to get a divorce.

For the unmarried woman, the benefit is obvious. She well may need the additional protection if she is still bothered by the abuser. She may have filed criminal charges as usual. It may still be tied up in continuances or defense attorney delays. And the last aspect of the bill that is hopefully will be changed. The language with reference to the violation of the bill-- of the statute -- being a crime:

MS. KURLOFF: (continued)

Presently, Connecticut General Statute 53a-107 makes it a crime of criminal trespass to violate orders under 46b-38. Having specific language to that effect written in the court order itself under 46B-38 would have a two fold benefit. First of all, it would help the deterrent against further such acts by the abuser since he would have direct notice of the legal ramifications of this act.

Secondly, such language would make it clear to the police as to what the violation is and hence, what their responsibility is. You would be amazed at the number of police around the state who still are not familiar with the change in 53-107 and don't make arrests where there is a violation of the temporary restraining order. If you have any questions, I would gladly answer them now.

REP. TULISANO: No questions (inaudible)

MS. KURLOFF: Also, if I may just add one thing. I also support Bill No. 7358, AN ACT CONCERNING CUSTODIAL INTERFERENCE. where it basically just adds language to clarify who can be arrested under that act and I would just put my support in for that.

REP. TULISANO: Thank you. Cecile Laurentis?

MS. CECILE LAURENITIS: I am Cecile Laurenitis, and I am on staff at Hartford Integral House, a shelter for battered women and their children. Based on my experience as an advocate for battered women, there is a great need for this Bill No. 7364, AN ACT CONCERNING TEMPORARY RESTRAINING ORDERS FOR ABUSED VICTIMS. Many of my clients are poor and are not married, although many have lived with the abuser for many years and have children by him. Whether or not we morally approve or legally recognize co-habiting, it is a fact of life for many people, and it is not limited to teen-agers and college kids who live together. These people should have just as much protection against physical violence as married people.

If the police are called in an instance of violence between co-habitators, the police view a live-in situation as a civil matter and they do not take the necessary action as they would in another type of situation. As a matter of fact, I met with some police officials last week, and they stated it is much easier for an officer to take action if there is a restraining order involved because probably cause has been

MS. DE LAURENITIS: (continued)

established. Also for many people, the criminal remedies may not be adequate to protect from further abuse. Even when there is probable cause to arrest the abuser, that person will usually be released after a few hours and then has a right to return to where the victim is living if it also is their home.

Bill No. 7364 will not only affect people who are co-habiting but will include family members, household members or spouses and a parent of the applicant's child. I want to give two cases in which there was not adequate protection. Recently we had a woman in her late fifties call our Hot Line. She was being abused by her son in his twenties. He would move himself into the house, harrass her and physically assault her. She called the police once and they did not arrest him. She almost got evicted for calling the police. She had the locks changed twice, but he always managed to get a key. In this case, she could have used a restraining order against her son.

Another example is a woman who was hospitalized because of the abuse she received by her ex-husband. She had a broken arm and wrist. She had injuries to her eye, which she had operated on, and facial injuries for which she needed plastic surgery. Prior to this incident, her ex-husband had gotten her evicted because he kept showing up at her place and making an commotion. He also got her fired for the same reason. The police were called but never did anything. Her ex-husband was arrested for this incident which put her into the hospital, but this might have been avoided if she had had a protection order. Thank you.

REP. TULISANO: Sherry Chase.

MS. SHERRY CHASE: My name is Sherry Chase, and I am the Coordinator of the Connecticut Task Force on Abused Women. The Task Force has asked me to speak in support of three bills today which would impact the lives of battered women, House Bill 7365, AN ACT CONCERNING WITNESSES, would permit a witness to obey a summons without running the risk of losing his or her job. In the case of abused women, risk of losing employment is yet one more obstacle in pursuing criminal charges against an abusive partner. House Bill 7364, AN ACT CONCERNING TEMPORARY RESTRAINING ORDERS FOR VICTIMS OF ABUSE, would extend the protection of the restraining order to those people abused by a family or household member, former spouse, parent of the

MS. CHASE: (continued)
applicant's child.

In these cases, as in the cases of spouse abuse, the victim can seek protection in the criminal courts by having the abuser arrested. However, as we have seen in the cases of spousal abuse, when the perpetrator of the crime is not a stranger -- when, in fact, that person may even be sharing the home with a victim, the victim is not adequately protected from occurrence of the violence by having the abuser arrested. The purpose of the restraining order has been to intervene in a situation where violence is likely to reoccur before the next outbreak of violence, and we support the extension of this protection.

And finally, Senate Bill 1409, AN ACT CONCERNING DISMISSAL OF CRIMINAL CASES, would permit the victim to learn that a case has been dismissed. We support the provision of such information to victims of crime. Thank you.

REP. TULISANO: Diana Jones.

MS. DIANA JONES: My name is Diana Jones, and I am here to -- in support of Bill 7363, AN ACT CONCERNING DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER BY VICTIMS OF SEXUAL ASSAULT. I, myself, was a recent victim of a sexual assault not more than two weeks ago. There are hundreds of us, many you'll never even hear their names because the silent majority of men, women and children remain very secluded and afraid. Most of us are afraid to testify. I soon as to testify, and I am very much threatened. The harm that can come to me or my family as a result of publicly announcing my address in a courtroom. I don't feel that I or anyone else should have to suffer in double jeopardy for a crime we did not commit and that we have a right to privacy and safety and to resume some form of normality in our lives and that as long as our address is on file with the court, that it should not be publicly announced in a courtroom, and I support the bill and ask that it be approved.

REP. TULISANO: Mike -- Mike Spolita? Not here. Jenny Carrea? Shirley Pristein.

MS. SHIRLEY PRIPSTEIN: Thank you, Rep. Tulisano. Rep. Tulisano, members of the Committee. I'm Attorney Shirley Pripstein from the Family Law Unit of the Legal Aid Society of Hartford, and I am speaking to SB 133 and HB 5087 regarding joint

MR. PODOLSKY: (Continued)

Bill 7364 deals with temporary restraining orders for abuse victims. I support the Bill. I think there's a couple of places where there are some drafting problems in the Bill. I have submitted to the Committee Chairmen some proposed rewordings of the Bill to address those problems and I will not take your time with that at the present time. I would then in one sentence, or two sentences each like to mention several other bills that I consider small bills.

Senate Bill 491 concerns the eviction of tenants. It would say that a notice to quite in an eviction action has to state the reason for the eviction. A number of people have expressed to me their surprise that now the notice to quit does not now have to state that. Many people presume that it does. It seems to me to be only reasonable that when somebody is being evicted that the notice warning of the eviction should at least state what the reason is.

Senate Bill 513, "An Act Concerning Informed Consent by Mentally Retarded Persons for Medical and Surgical Procedures," is a Bill that is unnecessary and probably undesirable and therefore I would oppose it. It would allow certain third party advocates to consent to surgery for a retarded person. This is already addressed in a bill concerning guardianship for the retarded which you gave a joint favorable report to last week. I would therefore suggest that Bill 513 is unnecessary and should therefore be dropped.

Bill number, Senate 931 which deals with the service of process. It would allow process to be served in any case by any person over the age of 18 as an indifferent person. I would suggest to you that this is not a good idea. There is difficulty enough in controlling service of process by sheriffs to make sure that they have adequately served the process. To use an indifferent person who does not necessarily know how to keep adequate records, who may or may not in fact be indifferent, or the indifferent person really doesn't want to go in and knock on the door. I think that although I certainly have had some difficulty with the effectiveness of service by sheriffs, I think that using a person that does not even have the professional level of the sheriff really invites a lot of problems and a lot of difficulties later when you try to evaluate whether or not the service was by an indifferent person and whether

MR. PODOLSKY: (Continued)

This Bill would remove that. In principle, that is a good idea since a part of the cause may also be relevant to custody determination. Not because it led to the breakdown of the marriage, but because there are factors in the custody resolution. For example, let us say that one of the parties frequently beat the other party. That pattern of conduct may well be relevant to proving that the marriage has broken down irretrievably. The fact that one of the parties behaved in that manner may also be relevant as to whether that party should have custody of the children even if the party did not beat the children. On the other hand, it should not be relevant because it led to the dissolution of the marriage, but it should be relevant because it affects judgment on who is the best custodian. My concern about removing this language, the language in Lines 25 to 25 of the Bill, is that a court may misinterpret the statute and think that any factor that is relevant to the breakdown of the marriage is, by virtue of this Bill, legally irrelevant to the determination of custody. I don't think that that is what the Committee would mean if it adopts the Bill. But, I am afraid that it opens it up to that misinterpretation, and that misinterpretation could cause a problem. So that, if the Committee does pursue this Bill, I suggest that it explore rewording it in a way that makes it clear that a matter is not precluded from consideration merely because it was a factor that led to the breakdown of the marriage.

I have no other bills to testify on today. Thank you.

REP. KRAWIECKI: Thank you very much.

Maryellen Kelleher to be followed by Albert Piker.

MARYELLEN KELLEHER: Good afternoon. My name is Maryellen Kelleher and I am the Acting Coordinator of the Shelter Services for Abused Women at the Y.W.C.A. in Bridgeport.

I am here today to talk about the temporary restraining order for victims of physical abuse. Committee Bill 7364.

I will try and be brief and some of my points have already been raised by previous speakers.

Under the present Connecticut statute 46b-38, once a

MS. KELLEHER: (Continued)

restraining order has been issued, it is effective for 90 days, unless dissolution or separation proceedings have begun. It is unclear as to whether the order can be extended beyond that 90 days, and I think that it is necessary, in view of the fact that often times the danger continues to exist beyond that 90 days, and because often times, people seeking legal counsel through public legal services will have a waiting list of three or four months. So, I feel that it is necessary to be clearly stated when a restraining order is issued that it is possible, when there is good cause for it to be extended beyond the 90 days.

The second point is that as of October 1, 1980, it's now a criminal offense to violate a restraining order by coming on property or entering a dwelling in violation of that and I believe that it is necessary that each restraining order issued bear a notice stating this fact and stating the criminal penalties. This would serve to alert all involved, the abuser, the victim, police, etc. as to the seriousness of the order and to create an awareness that violation of the order can become a criminal matter. It would hopefully also act as a deterrent to the abuser and insure the continued protection of the victim.

The restraining order is an emergency measure that has been very necessary in order to protect people from physical abuse from a spouse. However, as the present statute states, it only applies in marriage relationships. The problem that's encountered by many people working with battered women, with the elderly, with Children's Protective Services and other agencies, is that there are many, many people who are being abused by other than spouses. There are hundreds of people being abused by people with whom they live, by family members, by the other parent of their children, even though that person may no longer be living with them and by ex-spouses. There are many elderly people being physically abused by their children or by people with whom they live. These people suffer physical abuse. These people are just as much in immediate physical danger as anyone married to the abuser, yet they cannot apply under the present statute for a temporary restraining order.

During January of this year which is our busiest month, 40% of the women who contacted our service for help were physically abused by other than spouses, and we believe that

MS. KELLEHER: (Continued)

this is representative of total figures for people contacting our service. For many people, criminal remedies may not be the most appropriate, even if there is probable cause to arrest, the abuser will be out of custody in a few hours and then has every right to return home which may often be the home of the victim as well. And, many times, when the abuser is a family or household member the police will respond in a similar way to which they respond to married people.

They will say that it is a family matter and ask the parties to work it out themselves. Unfortunately, in these cases, the parties do not have the same remedies as married people. Presently, protection orders may be obtained by other than spouses in 30 states (including the District of Columbia) and this is something that I feel must be done in Connecticut as well in order to provide more comprehensive protection to those suffering from physical abuse.

These people are just as abused as married people, just as much at the mercy of their abuser, just as frightened and just as much in danger as any person who is married to their abuser.

These people must be afforded the same protection under our laws and that is why I urge all of you to support this legislation.

REP. KRAWIECKI: Thank you.

Al, Albert Piker?

No, we have set a policy today that only the person who has signed up.

Dennis Kern to be followed by Mike Meotti.

DENNIS KERN: Good afternoon, members of the Committee. I am an attorney practicing in New Britain, Connecticut. My name is Dennis L. Kern and I represent Claire Gordon of 2325 Corbin Avenue, New Britain, Connecticut.

I come here today in support of Raised Committee Bill 7354, otherwise known as HB 7354.

Legal Service Training And Advocacy Project, Inc.

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The legislative advocacy office for legal services clients in Connecticut

JAN VAN TASSEL
Executive director
RAPHAEL L. PODOLSKY
Attorney at Law

March 23, 1981

To: Sen. Howard Owens and Rep. Richard Tulisano
From: Raphael L. Podolsky
Re: H.B. 7364 -- Domestic violence restraining orders

Dear Sen. Owens and Rep. Tulisano:

I believe that this bill, which I support, requires a relatively minor technical amendment. The amendment would make three changes:

(1) Section 1(d), which permits extension of the 90-day order, does not make sense as drafted. It therefore needs rewording. Section 2(d) requires equivalent change to keep it parallel.

(2) Sections 1(d) and 2(d) both permit the extension of orders against non-appearing defendants without notice. I believe that this is unconstitutional. Simple notice by first-class mail should, however, be sufficient.

(3) Sections 1(b)(2) and 2(b)(2) should both be written to prevent attacks against the applicant "or the applicant's minor children." I do not know whether the omission of this phrase is deliberate or accidental, but I think that an addition should be made.

I have attached a separate sheet containing the proposed amendment.

Sincerely,

Raphael L. Podolsky

PROPOSED AMENDMENT TO H.B. 7364 -- Domestic violence restraining orders

- (1) In lines 37 and 90, insert after "applicant" the phrase "OR THE APPLICANT'S MINOR CHILDREN".
- (2) Delete lines 51 through 61 and substitute:

No INITIAL order of the court shall exceed ninety days, BUT AN ORDER MAY BE EXTENDED BY THE COURT UPON MOTION OF THE APPLICANT FOR SUCH ADDITIONAL TIME AS THE COURT DEEMS NECESSARY TO PROTECT THE APPLICANT FROM ABUSE. IF [unless] an action for legal separation or dissolution has been commenced by either party [within the ninety-day period. If the action has commenced within the ninety-day period], such relief shall continue unless modified by the court or modified by the parties by a written agreement filed with the court. IF THE RESPONDENT HAS NOT APPEARED UPON THE INITIAL APPLICATION, SERVICE OF A MOTION TO EXTEND AN ORDER MAY BE MADE BY FIRST-CLASS MAIL DIRECTED TO THE RESPONDENT AT HIS OR HER LAST KNOWN ADDRESS.

- (3) Delete lines 105 through 110A and substitute:

No initial order of the court shall exceed ninety days, but an order may be extended by the court upon motion of the applicant for such additional time as the court deems necessary to protect the applicant from abuse. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by first-class mail directed to the respondent at his or her last known address.

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HOUSE

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House of Representatives

Wednesday, May 6, 1981

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Bill No. 7364. AN ACT CONCERNING TEMPORARY RESTRAINING ORDERS
FOR ABUSE VICTIMS.

Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER FRANKEL:

The question is on acceptance of the Joint Committee's favorable report and passage of this bill. Will you remark, sir.

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO 6684. Would he please call.

DEPUTY SPEAKER FRANKEL:

Would the gentleman please repeat the LCO number.

REP. TULISANO: (29th)

LCO 6684.

DEPUTY SPEAKER FRANKEL:

The Clerk has an amendment, LCO No. 6684 designated House Amendment Schedule "A". Would the Clerk please call the amendment.

CLERK:

LCO No. 6684 designated House Amendment Schedule "A" offered by Rep. Tulisano of the 29th District.

DEPUTY SPEAKER FRANKEL:

Does the gentleman seek leave of the Chamber to summarize.

REP. TULISANO: (29th)

Permission to summarize.

DEPUTY SPEAKER FRANKEL:

The gentleman seeks leave of this Chamber to summarize in lieu of Clerk's reading. Is there objection. Is there objection. Please proceed, sir.

REP. TULISANO: (29th)

Mr. Speaker, the amendment makes two basic changes. In two sections of the bill it indicates that in an extension of a temporary restraining order that they may be extended without notice to not appearing respondent. That language being removed because the new language also added we sent out how notice could be given. That is old language being repeated and we're correcting the file copy and rather than in line 54 in the application we just changed the word and to or to show that either alternative would make it possible to get a temporary restraining order not both are required. I move adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of House Amendment Schedule "A". Will you remark on its adoption. Will you remark on its adoption. If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed nay.

The ayes have it. The amendment is adopted and ruled technical.

House Amendment Schedule "A":

In line 40, delete "WITHOUT NOTICE TO"

In line 41, delete "A NONAPPEARING RESPONDENT"

In line 49, after "No" delete "INITIAL"

In line 54, delete "AND" and insert "OR" in lieu thereof

In line 109, delete "without notice to"

In line 110, delete "a nonappearing respondent"

In line 118, delete "initial"

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended by

House "A".

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REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the legislation before us does two things.

One, on the temporary restraining order which now deals only with spousal abuse is extended to apply to any adult person who has been subject to continuous threat of present or physical pain or physical injury by a family member, household member or former spouse or parent. So what this does it enables all these individuals to also seek temporary restraining orders to stop abuse.

The second section which is all new is similar to the old law dealing with spousal abuse except that it requires a continuous threat so as to make sure that these people who may not be living together are not just going into court for just a one time only incident when they could be using the criminal courts. It also requires that notice to the defendant or individual who is being issued against indicating what the order means and that any violation thereof could be trespass. It also makes this particular provision for the elderly since this does now extend protection to the elderly from what is known in England as nanny bashing, etc. which would stop -- allow elderly

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people to get redress from the courts; however, there is a special provision that a caretaker who does provide shelter could not be restrained from going into their own home and it leaves it up to the judge to find the remedy that will be particularly available in those particular situations. I move passage of the bill.

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended. Will you remark further. If not, would the staff and guests please come to the well. Would the members please take their seats. The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber. There is a roll call vote in progress in the hall of the House. Would the members return to the Chamber immediately.

Have all the members voted? Have all the members voted. If so, the machine will be locked. The Clerk will take a tally.

Would the Clerk please announce the tally.

CLERK:

House Bill 7364 as amended by House Amendment Schedule "A".

Total number voting	149
Necessary for passage	75
Those voting yea	149
Those voting nay	0
Those absent and not voting	2

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DEPUTY SPEAKER FRANKEL:

The bill as amended is passed,

CLERK:

Calendar No. 486, Substitute for House Bill No. 5274,

AN ACT CONCERNING THE SELECTION AND QUALIFICATIONS OF JURORS,

Favorable Report of the Committee on Judiciary,

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint Committee's

Favorable Report and passage of the bill.

DEPUTY SPEAKER FRANKEL:

The question is on acceptance of the Joint Committee's

Favorable Report and passage of this bill. Will you remark,

sir?

REP. TULISANO:

Mr. Speaker, the Clerk has an amendment, LCO No. 6689,

DEPUTY SPEAKER FRANKEL:

The Clerk has an amendment, LCO N. 6689, designated

House Amendment Schedule "A". Will the Clerk please call the

amendment.

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highly regulated industry and it would permit security dealers to buy and sell gold and silver without having to hold that gold and silver for a period of seven days. I would move adoption of the amendment.

THE CHAIR:

Will you remark further on Senate Amendment Schedule "C"? Senator Mustone.

SENATOR MUSTONE:

Speaking to the bill, if there's no objection, I move ...

THE CHAIR:

Senator, we've got Senate "C".

SENATOR MUSTONE:

Oh! All right.

THE CHAIR:

Will you remark further? If not, all those in favor of Senate Amendment Schedule "C" will signify by saying aye, those opposed, nay, the ayes have it. Senator Mustone, will you remark on the bill as amended by Schedules "A", "B" and "C".

SENATOR MUSTONE:

Yes, Sir. If there's no objection, I move it be placed on the consent calendar.

THE CHAIR:

Is there any objection to moving the bill as amended to consent?

Hearing none, it's so ordered.

THE CLERK:

Calendar No. 578, File No. 608, 815, Substitute for House Bill No. 7364.

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This is on page 10, Senators. AN ACT CONCERNING TEMPORARY RESTRAINING ORDERS FOR ABUSE VICTIMS. (As amended by House Amendment Schedule "A"), with a Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens.

THE CLERK:

Bottom of page 10, Senator Owens, calendar No. 578.

SENATOR OWENS:

Mr. President, I move acceptance of the joint committee's favorable report as amended by House Amendment "A".

THE CHAIR:

Will you remark, Senator?

SENATOR OWENS:

Yes. Very briefly, Mr. President. The amendment, Mr. President, that was offered by Representative Tulisano in the House is technical in nature only. The bill in and of itself would refuse - would afford adult victims of physical abuse or continued threat of abuse the possibility of obtaining a temporary restraining order against the abuser. The procedure for obtaining it is set forth in the new statute. It would also permit the extension of restraining orders beyond their ninety day limit for cause shown and it would require that the restraining orders in abuse cases contain notification of the fact that violation may amount to a crime and that the order may be extended without notice. I'd ask if there's no objection that it be placed on consent.

THE CHAIR:

Any objection to placing the matter on consent? Hearing none, so ordered.

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Senator Skelley.

SENATOR SKELLEY:

Thank you Mr. President. Yes, on calendar No. 579, Substitute for House Bill 5274 that was placed on the consent calendar, I would ask that that bill be removed from the consent calendar and be passed retained.

THE CHAIR:

The matter will be removed from the consent calendar. Is there any objection to pass retaining? If not, the - Clerk I believe is ready for the consent calendar.

THE CLERK:

The Clerk is prepared to call the consent calendar.

THE CHAIR:

Clerk will call the consent calendar.

THE CLERK:

On page 2 of the consent calendar, calendar No. 173. On page 5, calendar 473, 478, 480. On page 6, calendar 510. On page 7, calendar 536, 539 and 540. On page 8, calendar 544 and 549. On page 9, calendars 555, 569, 570 and 572. On page 10, calendar 575, 576, 577 and 578. On page 11, calendars 580 and 581. On page 12, calendar 584, 585. Page 13, calendar 588 and 591. On page 14, calendar 593, 595 and 602. On page 19, calendar 93. On page 20, calendar 164, 195, 213 and 218. On page 21, calendar 220, and 253. On page 22, calendar 291, 295, 339. On page 23, calendar 497. On page 25, calendar 316 and that concludes the call of today's consent calendar.

SB1316,
HB5559, SB43
SB1084,
HB7381,, SB1
SB388, SB393
SB1436, SB14
HB7183,
HB7358, HB73
HB5795, HB71
HB7135, HB66
HB7364, HB59
HB7350, HB72
HB7362, HB72
HB6865, HB72
HB6789, SB90
SB1051, SB83
SB476, SB142
SB1396, SB92
SB325, HB602
HB5186, HB65
HB6329, HB722

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THE CHAIR: (The President in the Chair)

Are there any changes, omissions. Clerk please make an announcement for immediate roll call on the consent calendar.

THE CLERK:

An immediate roll call has been called for on the consent calendar in the Senate. Will all Senators please take their seats. An immediate roll call has been called for on today's consent calendar.

THE CHAIR:

Machine is open. Please record your vote. Machine is closed. Clerk please tally the vote. Result of the vote, 35 yea, zero nay, the consent calendar is adopted. Senator Schneller. You might announce, Senator, that we are going to have the Senate picture taken at noon tomorrow. Please dress up in your best apparel and be prompt.

SENATOR SCHNELLER:

Mr. President, I was going to announce that, but in view of the fact that you've taken care of it, I (inaudible).

THE CHAIR:

I thought you take care of more formal announcements.

SENATOR SCHNELLER:

I do want to remind everyone that the Senate picture will be taken in the Chamber tomorrow at twelve noon and as the President said, please wear a dark suit. Ladies, wear a dark dress.

THE CHAIR:

You're being very presumptuous, Senator. Any other announcements?