

Legislative History for Connecticut Act

HB6935 (PA193) 1995
Senate 4376-4293 (18)
House 2269-2270, 3647-3683, 5033-5037 (44)
Judiciary: 2161, 2164-2165, 2203, 2204,
2205-2206, 2333-2341, 2344-2353,
2403, 2407, 2410-2411, 2505-2524, (75)
3732-3735, 3792-3793, (3794-3819)
137p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

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S-382

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1995

VOL. 38
PART 12
4101-4504

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Senate

Thursday, June 1, 1995 004276

"nay", 0.

THE CHAIR:

The bill is passed.

THE CLERK:

Page 11, Calendar 520, Substitute for HB6935, An
Act Concerning Domestic Violence as amended by House
Amendment Schedules "A" and "B". Favorable Report of
the Committee on Judiciary and Insurance, File 566 and
841.

THE CHAIR:

Senator Upson.

SEN. UPSON:

Thank you, Madam President. I move the Joint
Committee's Favorable Report, passage of the bill in
concurrence with the House.

THE CHAIR:

The question is on passage and concurrence. Will
you remark?

SEN. UPSON:

Yes, Madam President. I move to reject House
Amendment "B".

THE CHAIR:

The motion before us is to reject House "B",
LCO6764. We'll have to call it.

THE CLERK:

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House Amendment "B", LCO6764.

THE CHAIR:

Senator Upson, the motion before us is to reject.

SEN. UPSON:

Yes, that's correct. This bill which has to do with domestic violence in concurrence with the Judiciary Committee talked about expanding the protective orders from 90 days to 120 days. In other words, it went from three months to six months.

The amendment that I want rejected moved that to a year. We did have an agreement in the Judiciary Committee for six months. One.

Two, anyone who does any extensive legislation on restraining, not legislation, but a practice on restraining orders, there should be a judicial hand in this and six months at this point in time we feel is sufficient. If it's a year, it's way out with no judicial restraint.

Two, on several occasions and this is not on every occasion, but it's easy to get a restraining order, especially in a normal divorce situation by way of ex parte where if someone fills out an application and alleges something and they're granted restraining orders, so that there is potential for abuse. Unfortunately.

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And unfortunately, when a restraining order is granted, the 90 days right now becomes the order of the day as does, as we will when this passes, six months. So that I ask that we reject this and stick to the agreement that we did have in the Judiciary Committee.

THE CHAIR:

The motion is to reject Senate, excuse me, House "B". Will you remark further? Will you remark further? Senator Peters.

SEN. PETERS:

Thank you, Madam President. Through you, to Senator Upson. Could you explain to me again what your hardship is, Senator, other than an agreement that came out of Judiciary with extending it to a year.

THE CHAIR:

Senator Upson.

SEN. UPSON:

Yes. Through you, Madam President. Restraining orders are, first of all, I'm not sure how long 90 days has been in effect, if it's been 20 or 30 years, I'm not sure.

What happens in the superior court is, that the far out, in other words, the actual 90 days becomes the order of the day. It becomes the length of time when restraining orders are given. It's never less. It's

never more. In all the years I've been practicing, for example, it's always been a straight 90 days. Never 45, never 30, never 60.

By expanding it to six months, we're now going to give the court twice the time, not the court but the applicant, twice the time that a restraining order will be in effect and that will become the order of the day. The norm will be six months.

By having it a year, you're spreading it out too far from the initial date. One, without any judicial check, so to speak. It's not easy to challenge a restraining order once it's in effect, including an ex parte order.

The, on several occasions, not in a domestic violence, but in, remember, we're talking about restraining orders for all forms, not just domestic violence. When you start a divorce action you can allege that someone pushed you down or alleged anything in an application for a restraining order. So there is potential, and there is potential for abuse.

There are several occasions when someone will go in, not in the domestic violence, now, I'm talking about in a normal divorce case, people go in, get a restraining order and they're back together two days later, so that unfortunately the 90 days, as I said has

become norm. You'll now have six months, a year is way out, because we're talking about the whole spectrum of restraining orders, not just restraining orders for one section or one problem we're trying to get. We're talking restraining orders for the whole gambit.

THE CHAIR:

Senator Peters.

SEN. PETERS:

Thank you, Madam President. Senator Kissel, I'm sorry, Senator Upson. I know I'm not the only one in this circle that's half in a fog today. Senator Upson, thank you for those comments.

Another question. If I had a restraining order for whatever reason and under what may be current, what will become new law, it's good for six months. If I wanted to extend that out, do I come back in as a client and request another six month restraining order?

THE CHAIR:

Senator Upson.

SEN. UPSON:

Through you, Madam President. That's correct. But you say as a client. This can be done by yourself. There are battered women's association. There are a whole host of groups now who will do this as a free service for battered women, although I'm not

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aying, I'm talking about the abuses not in the battered women part of it, I'm talking about there is an abuse for the normal dissolution or divorce.

Yes. You can come back in. When you say a client, you don't need a lawyer to ask for a restraining order or to get a restraining order, either ex parte or otherwise.

THE CHAIR:

Senator Peters.

SEN. PETERS:

Thank you, Madam President. So, is it safe to say then, Senator Upson, I'm not putting words into your mouth, that you believe that if somebody comes in and sort of rejuvenates the issue every six months that it also draws more attention to that particular case in the courts and it doesn't get lost, say, as if it would over a year's period of time?

THE CHAIR:

Senator Upson.

SEN. UPSON:

Well, if you want to characterize that, what I was saying was, that it's not just a case against loss, but it has the judicial, the idea about a restraining order is a judge orders a restraining order and to give a judge authority to do that for six months will yes, at

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least have a judicial check on whether or not the restraining order should continue or not, in my opinion, obviously.

SEN. PETERS:

Thank you, Madam President. Thank you, Senator Upson.

THE CHAIR:

Thank you, Senator Peters. Will you remark further on the rejection of House Amendment "B". Will you remark further? Senator Daily.

SEN. DAILY:

Thank you, Madam President. Through you, Madam President. I'm still very confused after your explanation.

SEN. UPSON:

Thank you.

SEN. DAILY:

There, it would be judicial oversight if the time were six months. There would be judicial oversight if the time were six months, but not if it's one year? Could you explain how it stops?

THE CHAIR:

Senator Upson.

SEN. UPSON:

There still would be judicial oversight,

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obviously, when anyone has to go in to have a restraining order renewed.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Renewed? Through you, Madam President. Renewed wasn't part of the question.

THE CHAIR:

One at a time, please. Senator Daily.

SEN. DAILY:

My question was, the difference in judicial oversight. If the restraining order maximum time were to be six months, as opposed to if the restraining order maximum time is to be a year. You said in the six month case there would be judicial oversight. In the one year there would not be? And I don't understand how that happens.

THE CHAIR:

Senator Upson.

SEN. UPSON:

Through you, Madam President. I did not say that.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. Then could

you explain the difference in judicial oversight in the six month and one year term?

THE CHAIR:

Senator Upson.

SEN. UPSON:

Through you, Madam President, the only difference is that the judge has a say in six months time versus a year's time.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. Through you, Madam President. The judge would have no say if the House Amendment stood and the time were one year. He would have no oversight from the day he issued that order until the day somebody applied for an extension or another order?

THE CHAIR:

Senator Upson.

SEN. UPSON:

Through you, Madam President, he or she, whoever the judge is, would have oversight throughout the year's time if in fact we went with the House Amendment.

The problem is though, that the time becomes the

norm. If it's 90 days, the restraining orders are for 90 days and my knowledge of the court system, the 90 days, it's never been anything less than 90 days. It's never been for 45 days, it becomes the norm. And that will be true now with the six months if we do reject the House Amendment.

And six months, Madam President, is doubling the time currently now we have for restraining orders, one.

Two, it does allow for earlier judicial intervention and will bring, and when I say intervention, the judge will have to be there to renew it and if there's a defendant who wrongfully felt that he or she had a restraining order against them, they'll be able to come back in at that time.

Most defendants do not appear. Most defendants do not challenge restraining orders.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much. Through you, Madam President. I more than understand your frustration if an agreement had been reached in Committee. I think that's always a frustration here. But I still don't understand how the six month to one year corrects the problem of people who reconcile in two days or judicial

oversight or intervention. But thank you very much for answering my questions.

SEN. UPSON:

Thank you.

THE CHAIR:

Will you remark further on the rejection of House Amendment "B"? Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. I rise in opposition to this amendment. Domestic violence is one of the worst problems we face in this state. It is the number one reason why women are admitted to emergency rooms. We have other legislation, the base bill and stalking legislation that attempts aggressively to deal with it. It's not the first time we visited this issue over the years.

It is an issue that demands aggressive action. Three months, even six months is too short a time. The judge does have discretion if appropriate to limit it. Many of the women who are seeking a protective order lack the financial means to come back into court on a regular basis and we all know how intimidating the legal system can be.

I think it's entirely appropriate for a judge in his discretion should he feel it appropriate, to seek a

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protective order for a full year. Thank you.

THE CHAIR:

Thank you. Will you remark further? Will you
remark further on the rejection of House Amendment "B"?
If not, I'll try your mind. All those in favor
indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Opposed?

ASSEMBLY:

No.

THE CHAIR:

We'll try that again.

SEN. JEPSEN:

A roll call vote, Madam President.

THE CHAIR:

A roll call vote will be ordered, Senator Jepsen.
Would the Clerk please announce a roll call vote.

THE CLERK:

An immediate roll call has been ordered in
the Senate. Will all Senators please return to the
Chamber.

An immediate roll call has been ordered in the
Senate. Will all Senators please return to the

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Chamber.

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted?

THE CLERK:

Final call for a roll call in the Senate. Will all Senators return to the Chamber.

An immediate roll call in the Senate. Will all Senators return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted -- if all members have voted, the machine will be locked. The Clerk please take a tally. The Clerk please announce the tally.

THE CLERK:

Total number voting, 34; necessary for passage, 18. Those voting "yea", 22; those voting "nay", 12.

THE CHAIR:

The motion to reject carries. Will you remark

further on the bill? Senator Upson.

SEN. UPSON:

Yes, on the bill itself concerning domestic violence. It's a good bill and ought to pass. I learned that from Doc Gunther.

It creates a new category of offenders called persistent offenders of crimes involving assault, stalking, trespassing, threatening, harassment and actually a criminal violation of the protective order which is not in effect now.

So this will give more tools to a prosecutor in this area to go after people who offend protective orders. It increases the penalties for crimes committed by them. It expands to six months the maximum period for which a protective order may be effective without a court ordered extension.

It expands the list of activities that constitutes unfair competition. Apparently, Madam president, certain insurance, it's been difficult for people who are involved in the area of domestic violence to get insurance and this prohibits discrimination against them, against family violence crime victims. There apparently has been discrimination against family violence crime victims.

So that House Amendment "A" makes discrimination

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against a family violence victim an unfair and deceptive insurance practice.

Madam President, we heard from many groups in Judiciary, from the very first day and I think this goes a long way, or a beginning, anyway on behalf of the State of Connecticut to go after those people who not only have domestic violence but also in certain family situations where behavior which may not be violent still is disruptive to family life.

If there's no objection, I'd place this on the Consent Calendar.

THE CLERK:

Senator Upson, you have two amendments.

SEN. UPSON:

Those amendments may be withdrawn.

THE CHAIR:

The motion before us is to refer this item to the Consent Calendar. Will you remark? Senator Penn?

Without objection, so ordered.

SEN. PENN:

Madam President. Madam President.

THE CLERK:

Senator Penn's got a question.

THE CHAIR:

Senator Penn.

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SEN. PENN:

Thank you, Madam President. I was out of the Chamber on legislative business when you called Calendar 493 on Substitute HB6939. I'd like the record to reflect I would have cast my vote in the affirmative if I was in the Chamber.

THE CHAIR:

The Journal will so note.

SEN. PENN:

Thank you.

THE CLERK:

An immediate roll call will be in the Senate on the Consent Calendar. All Senators return to the Chamber.

An immediate roll call will be taken on the Consent Calendar. Will all Senators return to the Chamber.

THE CLERK:

Page 1, Calendar 50, Substitute for SB822.

Page 2, Calendar 191, Substitute for HB6638.

Page 5, Calendar 390, HB6652.

Page 7, Calendar 445, HB6845.

Page 7, Calendar 453, HB5419.

Page 11, Calendar 520, Substitute for HB6935.

Page 11, Calendar 523, HB5032.

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Page 18, Calendar 33, Substitute for SB642.

Page 19, Calendar 107, SB442.

Page 20, Calendar 162, Substitute for SB42.

Page 26, Calendar 235, Substitute for SB449.

THE CHAIR:

Senator Gunther.

SEN. FLEMING:

Madam President.

THE CHAIR:

Senator Fleming.

SEN. FLEMING:

On Calendar Page 11, Calendar 523. I'd like to ask that that be removed from the Consent Calendar and marked Go.

HB5032

THE CHAIR:

That item is removed from the Consent Calendar. I would remind members we are voting on the Consent Calendar. Would the Clerk please announce a roll call vote. The machine will be open.

THE CLERK:

An immediate roll call on the Consent Calendar is taking place in the Senate. Will all Senators please return to the Chamber.

An immediate roll call is being taken on the Consent Calendar. Will all Senators please return to

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the Chamber.

THE CHAIR:

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

THE CLERK:

Total number voting, 35; necessary for
passage, 18. Those voting "yea", 18; those voting
"nay", 0.

THE CHAIR:

The Consent Calendar is adopted. At this time,
the Chair would like to announce that by virtue of
action taken in the House on HB7025, An Act Concerning
Juvenile Justice, I would appoint as members of the
Conference Committee, Senator Tom Upson, Senator John
Kissel and Senator Martin Looney. Would those members
please meet and conduct the business of their
Conference Committee.

THE CLERK:

Senator Nielsen, report to the Senate Chamber.
Senator Nielsen report to the Senate Chamber.

Calendar 523, HB5032, An Act Concerning
Communication Systems Authorized by the Office of
Emergency Medical Services Plan, as amended by House
Amendment Schedule "A"). Favorable Report of the

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House of Representatives

May 12, 1995

liberty and justice for all.

SPEAKER GODFREY:

We want to welcome the people from the Pondhill School who are visiting the House of Representatives today. And let's get on.

Madam Clerk, is there business on the Clerk's desk?

THE CLERK:

Yes, Mr. Speaker. The Clerk has list of referrals in accordance with House Rule 20 (e). A written expression of agreement between the Majority Leader and the Minority Leader is in possession of the Clerk.

SPEAKER GODFREY:

The Chair recognizes Representative Merrill.

REPRESENTATIVE MERRILL: (54th)

Thank you, Mr. Speaker. I have a list of bills to be referred to committee under House Rule 20 (e). I would move the following bills under House Rule 20 (e).

First to the Committee on Labor and Public Employees, H.B. No. 6783.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Insurance, H.B. No. 6935.

SPEAKER GODFREY:

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So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Energy and Technology, H.B.

No. 6999.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Planning and Development, H.B.

No. 6966.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Finance, Revenue and Bonding,

H.B. No. 7023.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Banks, H.B. No. 6988.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Public Safety, H.B. No. 5086.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

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3418-3804

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House of Representatives

Thursday, May 25, 1995

(RECESS BEGAN AT 1:14 o'clock p.m.)

(RECONVENED AT 2:17 o'clock p.m.)

SPEAKER RITTER:

At this time, I would call for an announcement from our esteemed Majority Leader, Representative Moira Lyons from the 146th.

REP. LYONS: (146th)

Thank you, sir. I have just gotten a lot of inquiries and I just wanted to give information to our entire Chamber that it would be the intent of both the Democrats and Republicans to caucus at a later time. We were simply waiting for documentation that we hadn't received. We felt it was inappropriate to keep you waiting, so we are going to resume business and we will be caucusing a little later today. Thank you, sir.

SPEAKER RITTER:

Thank you, Madam. Any other Points of Personal Privilege or announcements before we continue with the Call of the Calendar?

That being so, we will continue with the Calendar, and ask for Calendar 382.

CLERK:

On page 29, Calendar 382, Substitute for House Bill Number 6935, AN ACT CONCERNING DOMESTIC VIOLENCE.
Favorable Report of the Committee on Insurance.

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House of Representatives

Thursday, May 25, 1995

SPEAKER RITTER:

The Honorable Representative from the 114th district, Representative Ellen Scalettar. You have the floor, Madam.

REP. SCALETTAR: (114th)

Thank you. Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER RITTER:

The motion is on acceptance and passage. Please proceed, Madam.

REP. SCALETTAR: (114th)

Thank you. Mr. Speaker, this bill takes three important steps to strengthen our laws on domestic violence. The bill extends the maximum time for protective orders which are issued in family violence cases. It also provided enhanced penalties for persons who are convicted of crimes frequently related to domestic violence if they are subsequently convicted of the same crime and it prohibits the denial of health insurance to victims of domestic violence.

Mr. Speaker, over the last twenty-five or thirty years, we have made a great deal of progress in recognizing the problem of domestic violence and I think in large part, the work of the womens groups have

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really made us all aware of the lack of attention and the lack of seriousness with which these crimes were taken in the past.

And although we have made many improvements, there is still a long way to go and I think it is very important that we take the steps that are outlined in this bill so that we provide additional protection to victims of domestic violence so that we hopefully will deter problems with domestic violence in the future.

Mr. Speaker, the Clerk has LCO 7415. Will he call and I be permitted to summarize?

SPEAKER RITTER:

The Clerk has Amendment LCO 7415. If the Clerk may call and Representative Scalettar would like to summarize.

CLERK:

LCO 7415, House "A" offered by Representative Scalettar.

REP. SCALETTAR: (114TH)

Thank you. Mr. Speaker, this amendment clarifies that the persistent offender section of the statute which involves assault, stalking, trespass, threatening, harassment and criminal violation of a protective order will apply in situations where the person currently convicted, convicted within the past

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five years of certain felonies and misdemeanors listed in the bill, but in addition, if the person was convicted of any of those same misdemeanors, within the past five years.

The amendment also places the insurance aspect of the bill within the Connecticut Unfair Insurance Practices Act. I move adoption of the amendment, Mr. Speaker.

SPEAKER RITTER:

The question is on adoption of Amendment House "A". Will you remark further on the adoption of House "A"? Representative Radcliffe of the 123rd.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. In just looking at LCO 7415, a question to the proponent. The changes after line 115, are they the same changes that were contained in earlier LCO 7538? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. I wasn't clear what lines the Representative was referring to.

SPEAKER RITTER:

Would you repeat that, please sir?

REP. RADCLIFFE: (123rd)

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Yes, Mr. Speaker. I am referring to the changes after lines 115 where essentially, the misdemeanors, which are referred to earlier in the bill, are added to those crimes for which there has been a prior conviction and I had tracked that on LCO 7538. So for purposes of this amendment, is that the same as LCO 7415? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. I am sorry, I was confused because I thought the Representative was referring to the line in the LCO, 115. But the reference at line 16 of the LCO and what this does is it adds the same misdemeanor offenses which constitute the current conviction to the conviction that had to have taken place within the past five years.

REP. RADCLIFFE: (123rd)

So, through you, Mr. Speaker, in other words, if an individual were convicted here of assault in violation of Section 53a-61 which is a Class A Felony, and had a prior conviction of assault, that could be counted with respect to the enhanced penalties or the persistent offender section of the statute. Is that correct? Through you, Mr. Speaker.

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SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. That's correct provided the conviction was within the past five years.

REP. RADCLIFFE: (123rd)

And I notice that in the amendment that Section 53a-181(d) which is stalking in the second degree is included and that is a Class A Misdemeanor. Is there any reason why Section 53a-181(c) is mentioned nowhere in the amendment or in the file copy, which is Stalking in the First Degree? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar. Why don't we stand at ease for a moment while Representative Scalettar checks the statutes, the laws that we make? Some legislators surely made those laws.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker.

SPEAKER RITTER:

The Chamber will come back to order. You have the floor, Madam.

REP. SCALETTAR: (114th)

Mr. Speaker, the offenses which are listed here are all misdemeanor offenses and the purpose was to be

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sure that these offenses which sometimes do not carry as heavy penalty as they might in a situation, will receive the increased penalties. But since Stalking in the First Degree is already a felony, it was not included here.

SPEAKER RITTER:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I am referring both to the amendment and the file copy as it would read after the amendment. And the reason for that is that in the File Copy, if an individual -- and again, taking the File Copy together with this amendment, if an individual were convicted of let's say threatening on violation of 53a-62, which is a Class C Misdemeanor and that individual had previously been convicted of any of the statutes that are enumerated in the bill, that individual would be subject to the enhanced penalties of raising that one degree.

There are several Class D felonies and Stalking in the First Degree is a Class D Felony that are listed in that section, including 53a-60; 53a-63(c); on line 113 and several other Class D felonies. I notice that Stalking in the First Degree, Section 53a-181(c) was not included in the amendment as a misdemeanor as it

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should not have been, and is not included in the File Copy and I am asking if there is any reason for the omission of that section in light of the other Class D felonies that are included in the File Copy.

Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. In looking at the language, it was not included in the previous conviction. I believe it probably should have been and it is something that we might want to do in the future. Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I raise this because I think we have a problem in terms of the File Copy and the amendment under these circumstances. Stalking in the First Degree in violation of 53a-181(c), as I read it, involves one who had a previous conviction of Stalking in the Second Degree, which is included in the list of misdemeanors, could be one who violated a protective order or could be one who engaged in that conduct for a person under sixteen years of age.

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Now, someone with a prior conviction as this amendment would read for harassment, which is a Class C Misdemeanor or for Stalking in the Second Degree which is a Class A Misdemeanor, would be subject to the enhanced penalties. But am I reading this correctly, one who had previously been convicted of Stalking in the First Degree within five years would not be subject to the enhanced penalty? Is that correct? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Mr. Speaker, I believe my answer to the previous question applies here also. It seems to me that a conviction of Stalking in the First Degree within the past five years should be something that bumps up the penalty on the current conviction and is something that we should look to add to the statute at a later time - - to the bill, at a later time. Hopefully, to the statute. Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. But just so that I understand it -- if this amendment is adopted, along

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with the File Copy in its present form, that would not be the case under the law as we would adopt it. An individual accused of a Class C Misdemeanor, if that case was harassment and had a prior conviction, would be subject to the penalty, but that would not be the case regarding this felony conviction for Stalking in the First Degree, if in fact, this File Copy is adopted as is. Is that correct? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. It is clear that Stalking in the First Degree is not within the list of convictions within the past five years that will cause the increased penalty.

REP. RADCLIFFE: (123rd)

Thank you. Mr. Speaker, I would suggest then that we -- and this was a bill that I didn't think would occasion a great deal of debate. It was passed out of the Judiciary Committee thirty-seven to nothing and there are portions of this amendment, which certainly are meritorious, particularly the portion involving insurance companies refusing to insure someone solely because that person is a victim of domestic violence. I think the amendment certainly is an improvement over

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the File Copy in that regard. But with this amendment, if this amendment is adopted now, we will have a situation where threatening, which is a minor crime, it is a Class C Misdemeanor -- it can be a traumatic experience for a victim, but it is a Class C Misdemeanor. One is accused of threatening. One is convicted of threatening again during a five year period and you have the enhanced penalties. But a far more serious crime and a crime associated almost exclusively with domestic violence, Stalking in the First Degree, that individual would not be subject to the enhanced penalties.

So we actually have an incentive for an individual to plead for the higher offense which is Stalking in the First Degree as opposed to Stalking in the Second Degree or threatening and therefore, avoid the enhanced penalties that are contained in this File Copy.

Without the amendment, the File Copy simply leaves in tact, certain offenses, most of them Class A or Class B felonies which wouldn't be included. With the amendment, we are adding certain misdemeanors to the prior conviction stage, but we are not including certain felonies that have a direct bearing on the title of the bill.

If that is the intention to do that, then I

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suggest that there are other offenses for which a prior conviction should immediately incur the higher penalties. There is nothing wrong with portions of this amendment, but I think that is an anomaly here. Maybe it can be fixed at a later time. Maybe it can be fixed on this bill, but since we seem to have time and this bill has been on the Calendar for quite some time, I wonder if I might ask if the Majority Leader would consider PT'ing this bill so that we can draft that and simply add that one section to an amendment that otherwise seems to be very meritorious.

SPEAKER RITTER:

Representative, are you asking a question?

REP. RADCLIFFE: (123rd)

I will ask that question, through you, to the Majority Leader.

SPEAKER RITTER:

Madam Majority Leader, the Representative from the 123rd would like to ask you a question.

Please proceed, sir.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. The question is, for want of really one citation in this amendment, a crime that is specifically associate with domestic violence would be excluded from the enhanced penalties. I think that

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if we are going to do something here, we ought to do it right. So, through you, Mr. Speaker, I would ask if the Majority Leader would be amenable to a motion to pass this bill temporarily so that that one very minor and very technical, but unfortunately, significant change could be made in the amendment that is before us.

Through you, Mr. Speaker.

SPEAKER RITTER:

Will the distinguished Majority Leader respond?

REP. LYONS: (146th)

Thank you, sir. Sir, as I listened to the argument and just having discussed it with the Representative bringing out the bill, I think that she is indeed correct and as the amendment stands, it is a good amendment. And thus sir, at this time, I believe we should continue with the debate on this particular amendment.

SPEAKER RITTER:

Thank you, Madam. You still have the floor, sir.

REP. RADCLIFFE: (123rd)

Thank you. Thank you. Obviously, it has been decided. Whether or not we pass good legislation is somewhat irrelevant. I am going to move that this bill be passed temporarily, Mr. Speaker so that it can be

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put in proper form. I didn't suggest that it wasn't a good amendment, but it certainly does need clarification. It does need a change in that one very minor area.

SPEAKER RITTER:

There is a motion before us on the floor, sir.

REP. RADCLIFFE: (123rd)

I have not moved it, but I will move at this time that the bill be passed temporarily.

SPEAKER RITTER:

There is a motion made by Representative Radcliffe to pass this bill temporarily. All in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RITTER:

All opposed, say no.

REPRESENTATIVES:

No.

SPEAKER RITTER:

The no's clearly have it. You have the floor, sir.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. Are there any other Class D felonies, through you, to the proponent of the bill,

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which are not included among those that are listed here in lines 112 through line 17 of the File Copy? Through you, Mr. Speaker.

SPEAKER RITTER:

I am assuming this is to Representative Scalettar?

REP. RADCLIFFE: (123rd)

To the proponent of the bill, sir.

SPEAKER RITTER:

You have the floor, Madam. Can you respond?

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. In the amendment, -- if the question is to Class B felonies, it is all Class B felonies except a conviction of 53a-86, which is promoting prostitution in the first degree and 53a-122 which is Larceny in the First Degree.

REP. RADCLIFFE: (123rd)

The question, through you, Mr. Speaker, was Class D felonies. With this amendment, we seek to include various misdemeanors. The misdemeanors being -- I had them here a moment ago -- assault, stalking, threatening, harassment, and criminal trespass. We seek to add certain misdemeanors. Are there any felonies? Any Class D felonies that are not included and what is the reason for including these misdemeanors and excluding other Class D felonies which are by

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definition, more serious crimes? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. The reason the misdemeanors are included is because these are the same misdemeanors which are the subject of the current conviction which would result in the bumping up of the penalty. That is, if a person is convicted today of Assault in the Third Degree and within the past five years was convicted of the same thing, that would result in the increased penalty because that is something that is associated with domestic violence. Likewise with Stalking in the Second Degree, Threatening, Harassment in the Second Degree, Criminal Violation of a Protective Order, Criminal Trespass in the First Degree, and Criminal Trespass in the Second Degree.

Since all of those are the subsequent conviction which is the basis of this bill, and the section of the bill, those same convictions should be included in the prior convictions.

With respect to the Class D felonies, we have included felonies which would cause a reasonable person

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who is the subject of domestic violence in the second instance to have greater fear and to reasonably believe that the person is capable of inflicting greater harm. So they are generally violent Class D felonies. They include Assault in the Second Degree; Assault in the Second Degree with a Firearm; Assault of a Victim 60 Years or Older in the Second Degree; Assault of a Victim 60 years or older with a Firearm; and others, as listed in the amendment.

Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I notice that since we are now including Class A misdemeanors, for some reason, there was a decision made not to include Sexual Assault in the Fourth Degree, Section 53a-73(a) which is a Class A misdemeanor. Can the proponent enlighten the chamber as to why that particular offense which would seem to be conducive to domestic violence was not included in this amendment? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Mr. Speaker, the only misdemeanors that were

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included are the misdemeanors which are the subject of the subsequent conviction. That was the limitation in the selection of the misdemeanors included in the previous conviction list.

REP. RADCLIFFE: (123rd)

Right. Mr. Speaker, I am trying to understand what the rational basis for including these are. We have now included Threatening a Class C misdemeanor. In a bill dealing with domestic violence, but for some reason, have not included Sexual Assault in the First Degree in violation of 53a-73(a). Perhaps I am missing something. What is the public policy reason why the latter offense has been excluded and the former was included? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. There may indeed be other crimes that we might wish to add in the future to this bill. At this time, we believe that the proper way to do it was to be sure that the misdemeanors, which constitute the core of the increased penalty were included in the prior convictions.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I am looking here at the

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Class D felonies that are included or that are included for purposes of the enhanced penalty and I see Section 53a-72(a) or 53a-72(b), Sexual Assault in the Third Degree with a Firearm which is a Class D felony. It simply would have required that we go to the same section to include the misdemeanor, but evidently, that wasn't included.

I think the bill, as I indicated before, is meritorious. The bill certainly had wide ranging support. The amendment, however, does raise some additional questions, questions that were not contemplated at the public hearing. Questions, to which I don't believe we received satisfactory answers, particularly regarding the gaping loophole that will have to be plugged at some future time on some future bill that's yet to be identified. So I think the amendment, while certainly well intentioned, does create some problems with that regard.

But there is one other part of the amendment as I read this and that is section 18, or the new section 18 of the Unfair Insurance Practices Act. Through you, Mr. Speaker, the File Copy prevented the denial of insurance benefits solely because an individual had been the victim of domestic violence. Through you, Mr. Speaker, beginning on line 294 of the amendment, why

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has that particular standard solely been relaxed in this amendment so that it now is simply one factor to be considered? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. The standard is essentially the same although the word "solely" is not here, but the standard is whether the person has been the victim of family violence and the language here parallels other language in the Quipa Statute. Through you, Mr. Speaker.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. Then the language on lines 145 and 146 of the File Copy, which says "solely because the individual has been a victim of domestic violence" has been replaced with language that says, "because such individual". What inferences should the Chamber draw from the elimination of the word "solely"? Does that elimination have any significance whatever for purposes of legislative intent? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

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Through you, Mr. Speaker. No, the removal of the word was just to keep it in concert with other provisions of the Quipa statute.

REP. RADCLIFFE: (123rd)

So then if an insurance carrier were to deny coverage, were to refuse to renew coverage, on the basis of many factors and one of those happened to be a propensity for domestic violence, under the File Copy, would that be permitted? Through you, Mr. Speaker.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. Under neither version would a person be able to be denied insurance because he or she was a victim of family violence.

In the File Copy, it uses the word "solely". In the amended copy, it does not use the word "solely" because that is not used in other provisions of Quipa. Nevertheless, a person could not be denied insurance on that ground. If there were other grounds that were legal to deny insurance and the insurance company might have contemplated denying insurance because the person was a victim of family violence, but the insurance company had other legitimate grounds, I believe the insurance company could do so. But they certainly could not do so because the person was the victim of family violence.

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REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I appreciate that answer. I don't think the amendment does any harm. I just wish we could do things right the first time.

SPEAKER RITTER:

Will you remark further on House "A"? If not, I will try your minds. All in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RITTER:

Opposed, no. House "A" is adopted. Will you remark further on this bill, as amended? If not -- Representative Mazzoccoli.

REP. MAZZOCOLI: (27th)

Thank you, Mr. Speaker. The Clerk has LCO 6764. Would he please call and I be allowed to summarize?

SPEAKER RITTER:

The Clerk does have LCO 6764. If he may call it and Representative Mazzoccoli would like to summarize.

CLERK:

LCO Number 6764, offered by Representatives
Mazzoccoli and Garcia.

SPEAKER RITTER:

You have the floor, sir.

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REP. MAZZOCOLI: (27th)

Mr. Speaker, this bill changes some dates for which protective orders can be extended. I move adoption.

SPEAKER RITTER:

The question is on adoption. Will you remark further?

REP. MAZZOCOLI: (127th)

Yes, Mr. Speaker. During the debate on this issue of domestic violence, it has come to the attention of the Judiciary that the period of time for which protective orders should be granted should be longer than what was finally agreed to. As a compromise, the File Copy included an extension for three months to six months. There were many of us who felt that the testimony given to the Judiciary Committee indicated that we should allow protective orders up to a period of twelve months.

The simple fact of the matter is there are situations in family relations where domestic violence occurs that a separate of spouses is warranted. To limit the term to six months is not enough in the sense that there are court costs incurred, there is time away from work and the disruption to the family. What this amendment does is try to reach a compromise to exclude

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those cases where there are minor children involved.

As I recall during the discussion of this bill there was concern that when motions are filed of this nature, many times they are used to separate the kids from one of the spouses. Our intention here is not to allow that to occur in any frivolous manner, but to separate those issues for which protective orders can be extended to twelve months when there are no minor children involved.

At this time, Mr. Speaker, I would like to yield the floor to Representative Garcia.

SPEAKER RITTER:

Representative Garcia from the 128th, do you accept the yield, Madam?

REP. GARCIA: (128th)

Thank you, Mr. Speaker. I do. Mr. Speaker, protective orders provide an opportunity to change the balance of power in a violent relationship. But they only work if they are enforced and when they allow the victim sufficient time to pick up the pieces and start all over again.

This healing process takes a long time. For those of you who are not familiar with the issue, once a court issues a protective order, that's when the woman is in the greatest danger. The reason for this is

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because that is when the abuser feels he is losing control of his victim and he will try to test the order as well as the will of the person he is threatening. He will try -- he will begin by calling at all hours, stalking her, threatening family and friends, kids and intimidating everyone that is around his victim. His object is usually accomplished by isolating his victim and making her think that if she seeks help that he will harm the person who helps her and that it will be her fault.

Once the abuser succeeds in isolating his victim, he will try to manipulate her by promising things and turning the blame on her making her believe that if she changes her attitude, so will he. If the woman has some support and she does not fall for the abuser's tactics, that is when he will resort to physical violence.

Mr. Speaker, many states have different definitions of who is eligible for protective orders and in an attempt to deal with the issue, different remedies and different directions for protective orders have been established. Twenty-four states allow protective orders to be issued for a period of one year. It is the court who decides the duration of the order after a hearing is heard, based on the particular

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facts of each case. Two states, the State of Illinois and the State of Wisconsin, allow orders up to two years. While California and Hawaii allow the courts to issue them up to three years. So ladies and gentlemen, I am asking you here for your support today.

Connecticut only allows protective orders for ninety days. That is not enough time for a person who is fearing for their life to go to counselling and seek the necessary services that they need. This is also a very scary period for someone who has never dealt with our court system and for someone who lacks the ability to verbalize what the problem is.

Ladies and gentlemen, I ask for your support of this amendment. Thank you, Mr. Speaker.

SPEAKER RITTER:

Thank you, Madam. Representative Scalettar.

REP. SCALETTAR: (114th)

Mr. Speaker, I rise in support of this amendment and I did want to point out that changing -- we are simply changing the maximum time of a protective order. There is no requirement that any protective order be issued for the twelve month period. And during discussion in the committee, there was a concern that judges currently routinely give a ninety day protective order because that is the period of time in the

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statute. But in speaking with different people, they believe that the ninety day period is used because it is so short and if the time period is extended to one year, the judges will use their discretion to issue an order of an appropriate amount of time and I am supportive of the amendment. Thank you, Mr. Speaker.

SPEAKER RITTER:

Thank you, Madam. Will you remark further?

Representative Jarjura from the 74th.

REP. JARJURA: (74th)

Thank you, Mr. Speaker. Mr. Speaker, I rise in opposition to the amendment. I remember and unfortunately, Representative John Wayne Fox isn't here and I am sure he would want to personally speak on this amendment because I remember we had a lengthy discussion when this amendment was offered in the Judiciary Committee and I will do my best to respond to the discussions that ensued in the Judiciary Committee.

As I understand, in the current law, the ninety days relates to injunctions, temporary injunctions, and while I don't disagree with what Representative Garcia had to say, and in many cases there should be a more lengthy injunction issued, there is a process in place currently that allows an individual, during that ninety day period, if they are successful in getting an

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injunction, to go get a lengthy, a more permanent injunction.

Unfortunately though, individuals can go into court ex parte, without the other side, against who this injunction is going to be issued, in dissolution of marriage cases, and get an injunction and right now, there is a maximum of ninety days. And quite frankly, ladies and gentlemen, that is a an expensive period of time and we are talking about keeping an individual away from his books, away from his clothing, away from any other items in the household that that individual may need to conduct business. I think the ninety day period which is -- the agreement was we decided to go from ninety days to six months. What the amendment does is go from six months to one year.

So I think we had settled on an agreement of six months. I see Representative Mazzoccoli smiling and there was a great apprehension about doing that. For the reasons I outlined, I think that this can be --- there are the few situations regarding with what Representative Garcia talked about -- individuals being afraid to go into court, by buy in large, the majority of the cases are that you don't have that type of violence or the need for this legislation and I would ask the ladies and gentlemen of the chamber to turn

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down this amendment because it is not needed.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Mazzoccoli.

REP. MAZZOCOLI: (27th)

Thank you, Mr. Speaker. I would just like to clarify some of the issues that have been developed, the comments on the floor this afternoon regarding this amendment.

It was pretty much brought up during the discussion of this issue during the Judiciary Committee that for the most part, judges will take into consideration the special circumstances of each and every case. If a person, for instance, needs to gain access to books or the household for a particular reason, those arrangements are generally made.

What we specifically did here is we addressed the major concern where there were children involved because spouses use this to keep the other spouse away from the children and that's why the wording was added where there are minority children involved.

It was my clear understanding that in these cases, arrangements are made for -- in the case of children, for instance, visitation rights, but in other cases as was used by Representative Jarjura, for instance if a

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person needs a book or something out of the household, that judges make those arrangements. They are within their discretion to do that and generally, they do.

You've got to understand that what happens with these protective orders is that the person who is subject to this behavior, has to continue to go back to court to request, at least the second time, for an extension of the protective order. That takes away from work, it costs money and it has a psychological effect on the person. And you've got to understand, in the extreme cases, spouses use this as a tool to get back at the other spouse. I will get you back in court, I will drain you financially, I will ruin you. And this is what we are trying to provide here is that it is going to be within the judge's discretion to measure each and every individual instance under which a request for this has been made and weigh it accordingly.

It doesn't require the judge to grant the one year. It says may grant up to one year, Mr. Speaker. So, I think what we try to do is delay the concerns of those that have felt that this may be too restrictive. It is not too restrictive. It provides for much discretion and protects the parties.

Thank you, Mr. Speaker.

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DEPUTY SPEAKER HYSLOP:

Will you remark further on House "B"?

Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the debate on this has dealt with how to best protect people and not to be redundant, but there is some historical perspective of how we should look at this whole issue. You will understand that section 46b-15 deals with certain household members under a very narrow set of circumstances. When first written, this was designed to give people, initially, temporary relief prior to going in and getting some kind of other court order, such as a divorce, legal separation or otherwise, when under that case, before that case could be brought, you could get as long or as definitive an order as you want.

Effectively, what this kind of amendment and even the File Copy says, you may postpone because you have your immediate relief, taking action to in fact, terminate this bad relationship you may be in. There was an attempt in the original General Assembly's legislation, under these narrow areas, to really encourage people to take some action permanent in nature. This is a temporary response to an emergency situation. If you need help six months, you ought to

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have a regular court case going, either through divorce, legal separation or even an attempt at a permanent injunction by which you may go out and get protection. Those remedies already exist. You don't need a statute. You go to the Superior Court, there is no adequate remedy of law, you ask the court for a remedy. I have seen it done. It is in fact done.

I don't think this amendment is necessary or needed. It really does not aid or encourage people to take action to help themselves which is necessary.

Remember, if it is under the criminal jurisdiction, this is on the civil side, you also have those ex parte orders that people can take and get as part of court orders on the criminal side, should there in fact have been, some kind of criminal activity or something. This bill doesn't require a touching. It requires a threat, a continued harassment of somebody. So that was designed for women in particular, in a certain situation until they had the where with all or the ability to go out and get a permanent solution and effectively, you are making this into a permanent solution, which I think is nebulous and specious in nature.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

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Will you remark further on House "B"? If not, we will try your minds. All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER HYSLOP:

The Chair is in doubt. The Chair will order a roll call vote. Staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER HYSLOP:

Have all members voted? Have all members voted? If all members have voted, please check the machine to make sure your vote is properly recorded. The machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

House Amendment Schedule "B" to House Bill 6935

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Total Number Voting	149
Necessary for Adoption	75
Those voting Yea	91
Those voting Nay	58
Those absent and not voting	2

DEPUTY SPEAKER HYSLOP:

Amendment "B" passes and is ruled technical.

Will you remark further on the bill, as amended?

Representative Newton.

REP. NEWTON: (124th)

Thank you, Mr. Speaker. A question to the proponent of the bill. I can't hear, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will the House come to order please?

Representative Scalettar, prepare yourself for a question, please.

REP. NEWTON: (124th)

Mr. Speaker, I have understood about domestic violence and about men who abuse their wives, how many cases we have. Representative Scalettar, I am curious, how many women abuse their husbands? Do we have any figures on that?

DEPUTY SPEAKER HYSLOP:

Representative Scalettar.

REP. SCALETTAR: (114th)

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Through you, Mr. Speaker. I don't have those figures with me.

DEPUTY SPEAKER HYSLOP:

Excuse me, Representative Scalettar. I could not hear your response to that.

REP. NEWTON: (124th)

Mr. Speaker. Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

If you would wait just a moment until the Chamber dies down from their laughter. If we could have the Chamber come back to order, please. Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. I don't have those figures with me, but I would like to point out to the Representative that this bill actually deals with family violence which is defined in section 46b-38(a) and it is not limited in any way as to which family member abuses which other family member. So it would apply to men abusing women, women abusing children and women abusing men and either abusing children.

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Newton.

REP. NEWTON: (124th)

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So I assume it is a fifty-fifty proposition. It is equal. It just does not protect women, it protects men who are abused by their spouses also, Madam Chairman?

DEPUTY SPEAKER HYSLOP:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. It is incidents between family or household members. Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Newton.

REP. NEWTON: (124th)

Well I don't understand what that means. I want you to at least let me know does that mean if a wife jumps on her husband, does he have the same protection?

DEPUTY SPEAKER HYSLOP:

Representative Scalettar.

REP. SCALETTAR: (114th)

Through you, Mr. Speaker. Yes. This is gender neutral.

REP. NEWTON: (124th)

Thank you, Madam Speaker. Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

You are welcome, Representative Newton. Will you remark further on the bill, as amended? Will you

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remark further on the bill, as amended? If not, staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber.

DEPUTY SPEAKER HYSLOP:

Have all members voted? Have all members voted? If all members have voted, please check the machine to make sure that your vote is properly recorded. The machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

House Bill 6935, as amended by House Schedules "A" and "B"

Total Number Voting	149
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	1
Those absent and not voting	2

DEPUTY SPEAKER HYSLOP:

The bill, as amended is passed.

Clerk, please call Calendar 368.

CLERK:

H-733

CONNECTICUT
GEN. ASSEMBLY
HOUSE

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take a tally.

The Clerk will please announce the tally.

CLERK:

House Bill 6545

Total Number Voting 136

Necessary for Passage 69

Those voting Yea 136

Those voting Nay 0

Those absent and not voting 15

SPEAKER RITTER:

The bill passes. Clerk, please call Calendar 382.

CLERK:

On page 37, Calendar Number 382. Substitute for
House Bill Number 6935, AN ACT CONCERNING DOMESTIC
VIOLENCE, as amended by House Amendment Schedules "A"
and "B". The Senate rejected House Amendment Schedule
"B" on June 1, 1995. Favorable Report of the Committee
on Insurance.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Thank you, Mr. Speaker. I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill in concurrence with the Senate.

SPEAKER RITTER:

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The motion is on acceptance and passage in concurrence with our friends upstairs. You have the floor, Madam.

REP. SCALETTAR: (114th)

Thank you, Mr. Speaker. The Clerk has LCO 6764, House Amendment "B". Would he call and I be permitted to summarize?

SPEAKER RITTER:

The Clerk has amendment LCO 6764. If he may call it and Representative Scalettar would like to summarize.

Why don't we stand at ease for a moment? The amendments are downstairs. They are on their way up.

(CHAMBER AT EASE)

SPEAKER RITTER:

Representative Godfrey.

REP. GODFREY: (110th)

Thank you, Mr. Speaker. Mr. Speaker --

SPEAKER RITTER:

Here it comes. I was going to ask for a motion to PT and here comes the amendments. Thank you anyway, sir.

REP. GODFREY: (110th)

Alright. Nice talking to you.

SPEAKER RITTER:

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Yes. Always a pleasure.

The Clerk does have LCO 6764. If she may call it and Representative Scalettar would like to summarize.

CLERK:

LCO Number 6764, designated House "B" offered by Representatives Mazzoccoli and Garcia.

SPEAKER RITTER:

You have the floor, Madam.

REP. SCALETTAR: (114th)

Thank you, Mr. Speaker. House Amendment "B" extended the maximum time for protective orders from six months to one year, in certain situations. This amendment has been rejected by the Senate and I would urge rejection in this house. It would retain the language to the language that came out of the Judiciary Committee and would allow this very important bill to go forward in a timely fashion.

I therefore urge rejection. Thank you, Mr. Speaker.

SPEAKER RITTER:

The motion is on rejection of House "B". Will you remark further? If not, I will try your minds. All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

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SPEAKER RITTER:

Opposed, no. House "B" is rejected. Will you remark further on this bill? If not, staff and guests, please come to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

SPEAKER RITTER:

Have all members voted? Have all the members voted? Please check the roll call machine to make sure your vote is properly cast. If it has, the machine will be locked and -- as soon as Representative Farr votes, the machine will be locked.

Clerk, please take the tally.

Clerk, please announce the tally.

CLERK:

House Bill 6935, as amended by House "A"

Total Number Voting	136
Necessary for Passage	69
Those voting Yea	136
Those voting Nay	0
Those absent and not voting	15

SPEAKER RITTER:

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The bill passes. Clerk, please call Calendar 443.

CLERK:

On page 11, Calendar Number 443. Substitute for House Bill Number 6774, AN ACT CONCERNING THE PERSONAL CARE ASSISTANCE PROGRAM. Favorable Report of the Committee on Appropriations.

SPEAKER RITTER:

The Honorable Representative from the 56th, Representative Thomasina Clemmons. You have the floor, Madam.

REP. CLEMMONS: (56th)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER RITTER:

The motion is on acceptance and passage. Please proceed, Madam.

REP. CLEMONS: (56th)

Thank you. The purpose of this legislation would be to allow persons with severe disabilities more choice in the selection of personal care assistance. This is an outgrowth of a study performed under the direction of a task force convened by the Department of Social Services which was instructed by the General Assembly in 1994 to study the issue as it related to

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PART 6
1857-2202

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March 17, 1995
11:00 a.m.

PRESIDING CHAIRMEN: Senator Upson
Representative Lawlor

COMMITTEE MEMBERS PRESENT:

SENATORS: Looney, Coleman, Jepsen,
Kissel

REPRESENTATIVES: Radcliffe, Amann,
Cappiello, Doyle, Eberle,
Fonfara, Fuchs, Garcia,
Giordano, Graziani,
Hoffman, Jarjura, Knierim,
Landino, Martinez,
Mazzoccoli, McCavanagh,
Michele, Nystrom, O'Neill,
Roraback, Scalettar,
Varese, Winkler

SENATOR UPSON: Do you want to agree with me on the
time? So Debbie, you have one minute to speak.

DEBORAH FULLER: One minute? I need just a little more
than that.

SB925 HB6935 HB6934 HB5625 HB6113 HB6929
Good morning. My name is Deborah Fuller. I am HB6936
here on behalf of the Judicial Branch to testify on
eight bills. I have -- I will talk about the four
that I need to go into the most detail on first and
then summarize the last four.

The first bill that I would like to address is
SB348, AN ACT CONCERNING ENFORCEMENT OF VISITATION
RIGHTS. This bill provides for mediation of
visitation disputes and the program establishes --

SENATOR UPSON: Of all the agendas we have passed around
for the public hearing, I don't have one.

DEBORAH FULLER: I've got one.

SENATOR UPSON: As interested as I am in your testimony.
I don't think we have them. Am I the only one that
doesn't have one? Alright.

DEBORAH FULLER: Shall I continue?

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DEBORAH FULLER: The Rules Committee meet about once a month. I don't know the next time they are going to --

SEN. UPSON: Alright. I am going to be invited to one of them, is that right?

DEBORAH FULLER: Yes. And that is in a couple of weeks, I think.

SEN. UPSON: I don't know.

DEBORAH FULLER: Maybe. I can check on the date if you would like.

SEN. UPSON: Thank you. I would be interested.

DEBORAH FULLER: The next bill that I would like to testify on is HB6935, AN ACT CONCERNING DOMESTIC VIOLENCE. In reviewing this bill we have noticed several ambiguities as well as some implementation issues that I would like to summarize.

First, the language in section one on lines 29 to 33 prohibiting mutual restraining orders unless certain conditions are met, raises issues as to under what conditions and at what phases in the process mutual restraining orders maybe issued.

Additionally, does this language intend to prohibit judges from entering mutual restraining orders even where the circumstances might warrant?

The second issue that we have with this bill is subsection c of Section 1, lines 59 through 61 would mandate that every court order regarding an application for relief from abuse contain language stating that violation of the order would constitute -- would violate -- violation of the order would constitute a condition of violation of bail or release. We would just like to point out to the committee that this language, which is currently on protective orders maybe inapplicable to restraining orders which are not criminal matters and do not involve bail or release.

Third, subsection (i) of section 1 mandates the

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establishment of a 24-hour registry of restraining orders on the collect system as is the current practice for protective orders. However, there are implementation problems in making the collect system include restraining orders. What they boil down to is that we do not have as much information on the subject of the restraining order as we do of the subject of protective orders since those are criminal actions and in those cases, the person who is subject of the restraining order is in court. But we do have information on them like name, date of birth, maybe social security number. We do not have that information for restraining orders and more information would be needed to be put into the collect system.

Significant programming changes which would require substantial time and resources would be necessary in order to develop an effect registry of restraining orders.

We also have pointed out in our written testimony a question about venue and the last thing I would like to point out about this bill is that it assigns additional responsibilities to victim advocates and we have concerns that these additional responsibilities would be difficult for the 12 victim advocates who are currently assigned to absorb. It could be -- we believe that this would constitute an additional workload that couldn't be handled by the -- that exist within our current resources.

The next bill is HB6934, AN ACT CONCERNING CHILD SUPPORT AND CUSTODY. There are two provisions of this bill that we would oppose. The first would remove the authority to serve motions for modification from support service investigators and require that these motions be served only by support enforcement officers.

We believe that the current system provides the flexibility that we need to promote efficiency in the process and that the new language is too limited. In addition, we would oppose the provisions of the bill, section 4 of the bill, which requires the filing of an affidavit as to

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REP. WINKLER: But -- and I appreciate what you are saying and I would like to see standards developed that we could look at and award contracts to the superior group. But we will take what you said. Thank you.

REP. LAWLOR: Thank you. Are there other questions? If not, thanks very much. Next is Sarah Wilson.

SARAH WILSON: Good morning, Representative Lawlor, Senator Looney, members of the committee. My name is Sarah Wilson. I am the Director of the Connecticut Chapter of the National Organization for Women.

~~HB 5488~~ ~~HB 6935~~ ~~SB 807~~

I am here today to testify on several bills, specifically relating to the issue of child support, child custody, domestic violence and sexual abuse. I have submitted a packet of testimony and refer you to that, but I will summarize in the interest of your time.

You have heard the Commissioner of the Department of Social Services discuss the grave concerns, the grave problems and the dollars that haven't been paid that are owed to children in Connecticut and outstanding court order child support. We support the several pieces of legislation before you having to do with increasing enforcement of child support. As she suggested, there are many technical issues that need to be addressed, specifically, the due process issue and some of the nuts and bolts on how this is going to be followed through. I refer you to my testimony and offer any assistance that we can be of in order to insure that this legislation moves through the process.

I would also like to testify in support of HB6934. Just specifically to let you know that we have always opposed linking child support and child custody. Those issues should never be linked in our position or in our perspective. This bill implies that they are, but in reality, the bill doesn't. But just so you are not confused on our previous position we have had and our current position, we do support that bill, but we do not support, as the title implies, linking child

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support and child custody.

There is also one piece in that bill that we would suggest additional language. In section 13, there is a provision of a study of shared residential custody which the other bill, HB5488 is also before you. We oppose the bill HB5488, but support the study of this issue and would encourage you to include in this legislation, representatives of battered womens projects or rape crisis services or both. We understand that the Permanent Commission on the Status of Women is involved as other state agencies, but we believe that there should be advocates who are from the non-profit sector in parallel with the divorced fathers group which is included in that.

HB6935, AN ACT CONCERNING DOMESTIC VIOLENCE. You have also heard a little bit of testimony and you will hear additional testimony about the pros and cons of that and also some of the technical issues that need addressing. We share the position that Connecticut Coalition Against Domestic Violence takes on this bill and they will be testifying in a moment.

We would encourage you, however, to be sure that appropriate training or briefing is done for police officers around the issue of reasonable self defense. As you know, there is a problem of dual arrests. I am sure the Coalition will bring that up.

Codifying the confiscation of pistols or revolvers would insure that there is consistency in this practice. We would also encourage you to include other firearms, any knives or other lethal weapons that are used in the commission or in the threatening of any of these family violence crimes.

Down to SB807, AN ACT CONCERNING ENHANCED PENALTIES FOR PERSONS WHO ENGAGE IN A PATTERN OF VIOLENCE OR INTIMIDATION. You have heard our testimony on February 10th before this committee on stalking. We are extremely concerned about the issue of stalking and the enforcement of that. We feel that this legislation would address some of those issues. It

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wouldn't address the enforcement issue, but it would address some of the issues of retaliation or crimes of retaliation and we would also encourage you to include the violation of temporary restraining orders or protective orders as crimes to be included in that bill.

With that, I will finish my testimony and leave the rest to my written testimony.

REP. LAWLOR: Thank you. You made mention of the codification of the confiscation of handguns. What was that about?

SARAH WILSON: That was in the act concerning domestic violence. In Section -- that is HB6935. It is section -- I am not sure. There is a provision that insures that police officers at the scene of a crime would confiscate firearms that were used or threaten to be used in the commission of a crime.

REP. LAWLOR: Okay.

SARAH WILSON: We would encourage you to extend that to other firearms, rifles and shotguns as well as knives or other lethal weapons. Often baseball bats and even cleavers or household knives are used in the commission of these crimes or are threatened.

REP. LAWLOR: Are there other questions? If not, thank you.

SARAH WILSON: Thank you.

REP. LAWLOR: Next is Bill Sweeney. Is Bill here? If not, Linda Cimino.

LINDA CIMINO: Good afternoon Representative Lawlor and members of the Judiciary Committee. My name is Linda Cimino and I am the new Executive Director of the Connecticut Coalition Against Domestic Violence, which is the statewide network of Connecticut's 18 domestic violence programs.

I am here today to briefly discuss HB6935, AN ACT CONCERNING DOMESTIC VIOLENCE and HB5625, AN ACT

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CONCERNING WORK RELEASE PROGRAMS FOR PERSONS
CONVICTED OF SPOUSAL ABUSE.

I submitted a written testimony for both of these bills as well as comments on two additional bills. It should go without saying that the safety of battered women and their children should always be at our top priority when reviewing any proposed legislation. Therefore, I am here today to support both of these bills, but each bill has pieces that are of concern.

In HB6935, the extension of the restraining order to one year reflects an ongoing need of victims of domestic violence throughout the state. The question that is raised with the extensions are two fold. Will the woman be able to or the victim of domestic violence be able to voice the need for her perceived length of time and the current system of obtaining restraining order information is very complicated and will that be able to be eased in any way?

I am also very supportive of the inclusion of the insurance language which would prohibit a victim of domestic violence from being denied insurance. My main concern with HB6935 focuses on section 6 which outlines additional duties to be performed by the victim advocates. This section is problematic for many reasons, which I have outlined in my written testimony, but there are two points that I would like to address.

One, currently there is no centralized data collection for which this information can be gathered and therefore, there is no way to access the information that is called upon us to access. And if we can't access it, we can't give it to the victims and therefore, my question is towards the liability of the victim advocate is someone is hurt because they haven't been able to get this information because we simply have not been able to access it.

The second bill, HB5625, I think also is very good and I am here to support it. We have often heard in court on day of arraignments that the victims of

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pornographic material and the committing of sexual abuse or violence. Given the (INAUDIBLE) of child pornography, its production and its use, it is our duty to limit to child pornography to the fullest extent of the law for the protection of our state's children and morality.

Thank you.

SEN. UPSON: Thank you very much.

PATRICK DANFORD: I have a petition here of over 4,000 signatures that I would like to give to you, Senator, if you don't mind.

SEN. UPSON: No. That's fine.

PATRICK DANFORD: Thank you.

SEN. UPSON: Any questions? I appreciate both of you coming. Lonnie -- is it Frantis or -- Who are you bringing with you?

CONNIE FRANTIS: Gail Strosberg.

SEN. UPSON: Okay. Fine.

CONNIE FRANTIS: She is the next person signed up.

SEN. UPSON: No, she can sit down together. I assume you are talking about the same thing. Yes.
HB6935.

CONNIE FRANTIS: Good afternoon. I have been working as an attorney at New Haven Legal Assistance for eleven years doing solely family matters, representing domestic violence victims, primarily and I am also a member of a task force that we have for Greater New Haven that has developed some legislative proposals. We strongly support HB6935 and there are a few particular parts that I wanted to briefly speak to.

There are some language changes we have communicated with a couple of members of the committee about some of the changes and the task force will be submitting some additional proposed

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substitute language to clarify a couple of the provisions.

We are very supportive of the provision that would increase the duration of restraining orders. The ninety day period is practically much too short. Ninety days is not long enough for a dissolution action to commence at the same time as the restraining order and resolved.

Secondly, sometimes when simply a restraining order is attained, the matter will be referred to Family Relations and it is infrequently that the Family Relations investigation study will be continuing and a restraining order would have lapsed.

There is the possibility of continuing a restraining order by motion. Under the law now, practically for most people who are pro se, it is a very difficult process to do in a timely fashion to get the order continued. What that means is for most domestic violence victims who feel the need to have the order continued, they then go and get yet another order which increases the burden on the court.

As I indicated in my written testimony, in 31 states, restraining orders last for a year or a longer period of time. There is nothing -- there is a comment made by Linda Cimino from the Connecticut Coalition Against Domestic Violence and to clarify, there is nothing in here that precludes someone from getting a shorter order if he or she wishes. It simply gives judges the permission to make it up to a year if that is what the victim is seeking and the court deems it appropriate.

The second issue I wanted to speak to you is the importance of no mutual restraining orders. That's on lines 29 to 32 of the bill. And I think with three words added, it could perhaps clarify. A comment was made earlier and that would be there would be no mutual restraining order unless an application for each order was made. And I think that clarifies the point that what should be the case is that there would be an application by each of the two parties, there would be timely notice

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and opportunity to appear and to defend given to the other party by each person. There would then be a decision as to each person's application.

SEN. UPSON: Don't agree.

CONNIE FRANTIS: Huh?

SEN. UPSON: We do that all the time. Just did one the other day. Where both parties -- one brings the application and then they agree to have mutual restraining orders.

CONNIE FRANTIS: I think that it is not appropriate that it be granted unless each person applies, give timely notice and the other person has notice and the judge may in fact, after hearing this, decide that it is appropriate.

SEN. UPSON: I don't think it make any difference. I think a judge can make a decision just like a judge can make a decision if I agree with you on ninety days or 100 or six months. Same reasoning.

CONNIE FRANTIS: The difference is that when one person has not made timely application and not given notice to the other person, that person is not therefore prepared to address the allegations made and contest or not contest.

SEN. UPSON: Don't agree.

CONNIE FRANTIS: It is a real due process problem.

SEN. UPSON: Don't agree.

CONNIE FRANTIS: Why wouldn't there be a due process problem?

SEN. UPSON: Both sides know their problems. If they have mutual restraining orders, we usually work that out.

CONNIE FRANTIS: Well, I respectfully disagree.

SEN. UPSON: I know you do. I disagree also. Your three minutes is up though. Do you want to ask any

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questions? Alright. Go ahead. But stay with us here.

GAIL STROSBURG: I am an attorney. I am a member of the Legislative and Steering Committee of the Greater New Haven Domestic Violence Task Force. I am also a Ph.D. candidate at Yale doing my dissertation research on domestic violence within the United States and Britain.

I am here on behalf of the task force in support of HB6935. The provisions that we support are listed in my written testimony. I am not going to go through them. They are essentially all of the provisions that speak to strengthening restraining orders and to enhance criminal penalties for persistent offenders.

Similar restraining orders that are issued after notice of hearing must be both accessible and an effective response to family violence. During our task force meetings, we have discussed the difficulties applicants experience when obtaining and extending restraining orders. The impediments police encounter in obtaining information about the status of restraining orders and the problem that these court orders are not properly enforced.

The modifications contained in HB6935 will remove some of these obstacles and make restraining orders and effective tool of protection to applicants and their children.

I discussed a couple of these issues. First, the restraining order registry in Section 1. Since December, 1993, our task force has discussed the problems caused the absence of a statewide registry of restraining orders which is available to police on a 24-hour basis. Law enforcement officers currently have no means for obtaining information on restraining orders. Particularly, those issued outside of their jurisdiction. The restraining order applicant is therefore left unprotected if he or she ventures outside of the jurisdiction without a copy of the restraining order.

Having this restraining order is crucial to make

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effective laws that are currently on the books. The task force strongly supports this registry which would be an addition to the collect system which is already a computer data base maintaining information about criminal protective orders available to police on a 24-hour basis.

The representative for the judicial branch, family division, stated earlier today, that funding would be required and we agree. There would be additional funding that would be required for the programming and whatever support that would be necessary to broaden the system, to make it accessible for restraining orders. We feel that this money is necessary again to support laws that are currently on the books and that it is crucial and that all the other states in the country are doing the same thing.

Secondly, our criminalization of violation of restraining orders. Under current law, violation of restraining orders are not automatically sanctioned against violation constitutes criminal trespass. The applicant may make a legal motion for civil contempt asking the court to punish the violation, but there are no guidelines for this process. The courts are given unlimited discretion of whether to hold a violator in contempt and there is no uniformity in treatment across the state.

In any case, it is a rarely made motion and out of proportion to the number of violations. The sanction is in any case, delayed if it is in fact imposed. If the applicant is called, contacted or followed, in violation of the order, the police can do nothing unless and until the behavior amounts to another criminal offense.

Such incidents -- let me just finish this sentence. Such incidents discourage the applicant from seeking further assistance from the State and made to feel that she is or he is in fact, given no protection by the court's order.

SEN. UPSON: If you want to add something, go ahead.

GAIL STROSBURG: On the issue of the mutual orders. It

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is the opinion of the National Council of Juvenile and Family Court Judges that an application and notice served is required by the due process protections of the constitution.

SEN. UPSON: What happens when most of the applications are ex-parte?

GAIL STROSBURG: Well mutual orders are not issued in an ex-parte basis. The fact is that if you are an applicant for an order, you do not expect that an order will be issued against you. Particularly if you are an applicant who is not represented by a lawyer and we are purging applicants by giving them this easier process to make an application to come in and do just that.

CONNIE FRANTIS: This provision doesn't preclude the granting of mutual orders. It is simply said that they should be done in appropriate fashion.

SEN. UPSON: I understand. You have to have a second hearing.

CONNIE FRANTIS: Right. Exactly right.

SEN. UPSON: Who has time for that?

CONNIE FRANTIS: It can be done in a fourteen-day hearing unless in fact it was presented and the other party --

SEN. UPSON: Then everybody has to come back. You are talking about not clogging up the courts. You are doing it right there.

GAIL STROSBURG: An order is a statement that the restrained person has engaged in family violence. That is what the section says. And in -- and one should have notice and an opportunity to be heard on the issue of whether or not that person has in fact, engaged in family violence.

Otherwise they are stigmatized. There maybe confusion later on when there is an attempt to try to determine who later has engaged in family violence, etc. The record is not clear.

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SEN. UPSON: I guess I am talking about many cases are not really family violence, but they get the ex-parte and then they agree not to bother each other through a mutual restraining order. I am not talking about the extreme, the actual cases where there is physical violence. Many times people allege that and there isn't. And you know that happens.

CONNIE FRANTIS: If they agree that the orders were issued, that's fine.

SEN. UPSON: But of course. That is what I am talking about. But down here they can't unless they file one. The way you have it written here, they have to file -- they both agreed.

CONNIE FRANTIS: I am not sure. Why were they in court?

SEN. UPSON: Just to both stay away from each other, that's all.

Her attorney suggested it. One that brought the motion.

CONNIE FRANTIS: The important distinction would be that in that case, the restraining order that would have gone to the police, that the police would be required to enforce, would have been the petition from the woman asking for protection and then if that order were continued to 14 days, the updated petition would say, the updated order would say, that she was the victim and that the parties had agreed that they would stay away from each other and that's what the police would get.

What we are addressing is in fact, where in fact, you end up with one application from one person, one application from another and the police are called to the scene and in fact, there are two separate applications and it is very unclear what the affect should be in that effect.

SEN. UPSON: Okay.

GAIL STROSBURG: On that issue, if there is an agreement and one party is served, then if there is an

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agreement, then that party can serve the application on the other party since there is an agreement. Once would assume that that would be the --

SEN. UPSON: Why is there a need if they agree to it? But anyway. I understand you may be right on the extreme -- I shouldn't say the extreme case, the actual cases where there is really domestic violence.

CONNIE FRANTIS: And that is what the order is intended to do. Whether attorneys use it for other purposes is another thing, under current law.

SEN. UPSON: But most times the person has been served, they are served, they are not served five days, there is no requirement that in an ex-parte, they have been served five days before they have to be to court, is there?

CONNIE FRANTIS: Yes, there is.

GAIL STROSBURG: Yes.

SEN. UPSON: There is?

CONNIE FRANTIS: Yes. That's what Section --

SEN. UPSON: Then no fewer than five days. So if someone is actually served, an ex-parte, how are they going to have time, if in fact they need one, a mutual restraining order?

CONNIE FRANTIS: Well presumably, if in fact this person were not simply reacting and responding and tried to get into to retaliate, but if in the fact this person truly had --

SEN. UPSON: Forget about what --

CONNIE FRANTIS: --the need for the court's protection then he or she would file a petition and seek an ex-parte ---

SEN. UPSON: But it wouldn't be heard at the same time.

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CONNIE FRANTIS: Well you are right.

SEN. UPSON: I am not saying you are not right on some of these cases, but they are all not that way.

CONNIE FRANTIS: No.

SEN. UPSON: So I respect that. Any questions? I appreciate it. Thank you very much. Judy Taylor and Mary Ellen Rodrigues.

JUDY TAYLOR: Good afternoon, Representative Lawlor and Senator Upson, members of the Judiciary Committee.

My name is Judy Taylor and I am addressing HB5486, AN ACT CONCERNING ADOPTION. I have been active in the adoption reform movement since 1987. I am director of AASK, Adoption, Answers, Support, Kinship, an educational and support group for people who have been separated by adoption.

I am Director at Large of the American Adoption Congress, a national Umbrella Group, a member of the CCA and an active member of the Search Committee that drafted the bill, HB5486.

But first, I am a birth mother. I surrendered my son to a closed, sealed system of adoption in 1963 and I have been in reunion since 1988. I am married and we have two sons. I would like to make it quite clear that I never signed a contract asking for anonymity. If it was given to me, I never wanted it. I merely signed a paper giving someone else the right to parent my son. So I only gave up my right to parent, not my right to love him, not my right to be there for him, and not my right to be contacted.

As a committee member, I specifically would ask for all your support for HB5486 providing the language includes consent of the person being searched for only. And not both parties. But on behalf of myself and on behalf of all the members in the adoption reform movement, I would ask that you support any legislation that would move toward openness in adoption.

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PAM KERENISKY: Hi. I am here as a former victim of domestic violence and I would like to speak in support of HB6935.

One of the areas that I support and I find that is particularly needed to be added to the legislation is Section 1(i). This deals with establishment of a registry for civil restraining orders.

In my experience with domestic violence, I had to relocate two times within the State of Connecticut. My employment also took me through at least six different cities and towns during any course of a particular day or week. It was very difficult for me to get to every police station in every town that I went through or I was residing in to handle deliver copies of my restraining orders so that I know the help that I needed would be there.

The proposal to establish a 24-hour registry is absolutely essential. I know that I would have felt a lot safer knowing that when I was at work and he was out there waiting for me which on many occasions he was, that the police already had a record of the order. A computer registry is much more effective and available than a hand delivered copy of a restraining order by a victim. Whereas it cannot be lost, misplaced or forgotten.

A second address is for Section 1(c) which I believes help bring about power on the restraining order was designed to have. As in my own case, it was until criminal charges were brought against my abuser that the civil restraining order that I filed for was respected. At the time of the criminal charges, I was also issued a protective order and as you know, violation of a protective order is a criminal offense.

Abusers don't want to go to jail and therefore they respect a protective order because of its criminal punishments. By making the violation of a civil restraining order a criminal violation, it will save many women from having to wait until the abuse is so severe that they need to get a protective order.

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I will therefore, be looking for ways for possible deterrence that this alone may be the key issue. A civil restraining order is granted for the same reasons a protective order is granted, for the protection of the victim. They should carry the same weight.

As it stands now, many men realize that they can get away with violating a civil restraining order with little more or nothing more than a slap on the wrist. There is no respect for the law that this order is intended to represent. Not until criminal sanctions are felt will the message become clear that they can no longer do business as usual.

The other part that I feel is really important is the extension from or a discontinuation of a ninety-day restraining order to what I believe should be a mandatory one year restraining order with provisions as listed in the bill. My first restraining order was filed for in September of 1991 after having left the abusive relationship in June of that same year. The restraining order was filled out due to constant harassment and abuse. That not only extended to my home, but my employment. This first order was what was considered in the gray area of whether it was actually served or not. And therefore, my life was in eminent danger and I was forced into leaving the state. After already having relocated twice.

SEN. UPSON: Pam, can you summarize your testimony?

PAM KERENISKY: It is very -- there is not much more. Would you like me to go even shorter?

SEN. UPSON: Beg your pardon?

PAM KERENISKY: Do you want me to even go shorter?

SEN. UPSON: Yeah.

PAM KERENISKY: Okay. Basically, I have had to file several restraining orders. I have had six restraining orders in two years. Unfortunately, my continuances, I had let one lapse due to he was quiet. There was no abuse. There was no contact.

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After letting my restraining order lapse, at that point, within two weeks, I was assaulted in a motor vehicle and had to continue and go to file at another point in time.

Whereas, I continued to go back and at this point, I was lucky enough to get a restraining order with the special consideration until further order of the court. I think a ninety-day restraining order is a very, very temporary solution.

SEN. UPSON: Do you have a restraining order right now?

PAM KERENISKY: Yes, I do.

SEN. UPSON: Ninety days is ridiculous to go through.

PAM KERENISKY: It is crazy. Because they don't understand stop. And it doesn't work.

SEN. UPSON: To me that is one of the most important things we have to do. Any questions? Thank you very much.

We are now on the third page and Evan Stark, Barbara Glenn, all written by the and then Maureen Wholen.

EVAN STARK: I don't think Barbara Glenn is here. My name is Evan Stark. I am the Director of the Domestic Violence Training Project in New Haven. And I am speaking today on behalf of the Greater New Haven Task Force.

I would say for the record that the Greater New Haven Task Force which helped and worked for over a year to put together portions of this bill, HB6935, which I am here to testify in favor of this afternoon, is a task force consisting of about 100 members, 35 different agencies including eleven police departments, superior court judges, the prosecutor's office, all the hospitals in the New Haven area and a number of other agencies.

So this is quite serious business. I should also say, for the record, that on Tuesday, the President will be announcing the new director of the Crimes

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Against Women Act and he will also be announcing the terms of funding for that Act and we expect and included in those terms will be funding specified for registries of restraining orders such as the one proposed in this bill.

It will also be privileging states which have model codes in place or have those provisions under consideration. So I think there will be funding available for this sort of provision.

I want to speak specifically to Section 7 of HB6937 which pertains to enhanced penalties for persistent domestic violence offenders. And I want to preface my remarks in favor of this provision by giving some facts about the enforcement and the nature of domestic violence laws in Connecticut.

A decade ago, about 10% of domestic violence complaints resulted in arrest. We estimate today, under the mandatory arrest laws, that about 50% of the complaints result in arrest and possibly slightly more in certain sections of the state. This is an enormous improvement, but obviously there is still a great deal of ground to cover.

Although an estimated 70% of domestic violence arrests involve levels of assault, that would constitute felonies, if they were committed against strangers, as you probably know, only a tiny percentage of these arrests result in felony charges.

Although our arrests in domestic violence situations have multiplied many times, as you probably know, very few perpetrators are actually going to jail. Indeed, statewide, 80% of all the arrests in domestic violence cases are either nolleed or dismissed.

SEN. UPSON: Why is that?

EVAN STARK: Well, in part, it is because some of these perpetrators go into treatment programs and part because prosecutors don't have vigorous enforcement of the law or assignment to special units in part because police have not enhanced the cases

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appropriately. And in part because judges don't take the cases as seriously as --

SEN. UPSON: They get back together again.

EVAN STARK: As far as I know in most of the cases and I have been involved, probably in 300 or 400 cases, the predominant reasons for these dismissals and nolles because in Connecticut we pursue the case, regardless in many jurisdictions. Regardless of whether the victim --

SEN. UPSON: Domestic violence is not just husband and wife. It is children. Children do that against their parents.

EVAN STARK: Right.

SEN. UPSON: Just for spite.

EVAN STARK: Right. But the cases that we are talking about being nolled and dismissed are primarily cases in which women have been victims and males have been the perpetrators. And those are the cases. They are even being nolled in our community where we have a highly trained police force and aggressive prosecution.

The other thing that I think it important to understand and really the basis of this bill is that even though we have extended the equal protection to partners or family members, that we used to extend to strangers who were assaulted on the streets, we call that now, " a domestic violence crime" the fact is we don't have a crime which specifies the nature of partner violence. And what I want you to understand is that partner violence is essentially different than violence by strangers.

SEN. UPSON: In fact, the domestic violence sort of -- oh, it's one of them.

EVAN STARK: Right. And what is different about partner violence essentially two things. First of all, that it is ongoing. It is a course of conduct and it typically includes in addition to physical assault,

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a pattern of intimidation, isolation, threats, control over a variety of aspects of everyday life, harassment, and as you know, it is exacerbated after the separation rather than ended after the separation. So it is a very special kind of crime.

As you also know, the most serious domestic violence episodes do not necessarily come to the attention of the police. Calling the police is often an act of opportunity when the victim can get access to a phone or to the police. So, when the police get a case, it is a kind of window of opportunity.

The other thing that I think is important to realize is that many of the acts that are included in what goes on in domestic violence situations are not currently criminalized. The withholding of food, restricting someone's access to a car, a telephone, the kinds of restraints on liberties which are almost always part of the pattern of domestic violence are not as such illegal, but only as part of the pattern.

Another important aspect of this is the consequence of domestic violence. It is very different than the consequence of other assaults and they are different because they lead to a variety of psychosocial problems, behavioral problems. We have done a great deal of research on that ourselves.

SEN. UPSON: Could you summarize, Mr. Stark?

EVAN STARK: Yes. The underlying point here that I want to make is that we believe that arrest is the single most effective intervention. And that this bill which provides that after a second arrest has been made, is a strong intervention and is absolutely essential to increase the effectiveness of our intervention system.

There are certain modifications that we would suggest in the bill as it is presently drafted. One is that and I think that this maybe just a fault in the writing.

SEN. UPSON: Do we have the wording? Have you

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submitted in writing?

EVAN STARK: Yes, I have. In writing .

SEN. UPSON: Alright.

EVAN STARK: One of these is as the bill is written, as I understand it, it suggest that it would only be a more severe penalty. If following an assault there was a conviction on a trespasser stalking. Now of course, --

SEN. UPSON: You are summarizing now, right?

EVAN STARK: Yes. I am sorry. Okay. I will finish up even more quickly. We think that any second domestic violence crime should be with enhanced penalties.

SEN. UPSON: I think it is a good point.

EVAN STARK: Secondly, we think that the range of domestic violence crime should be included not just assault, stalking.

SEN. UPSON: Alright. Any questions you may have. Good.

REP. LAWLOR: I think the way it is written. I am not sure by the way that I am looking at it, but it looks like any of the (INAUDIBLE - MICROPHONE NOT TURNED ON) --times previously convicted --

EVAN STARK: And the copy I had was very specifically it assault followed by within one year of stalking and trespass. I don't have that copy in front of me, but that says out of court. The amount of code also suggests five years as a period that should be covered rather than one.

SEN. UPSON: Thank you very much. As I said, lawyers over there if you want to get in -- alright those two.

EVAN STARK: Well I submitted the written of my testimony which has the corrections. We will submit them in more detail.

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SEN. UPSON: Okay. Barbara Glenn is not here. Maureen Whalen. No. Don't worry. Maureen Whalen is not here. Now you are next. Right. On HB6935 that is Myra Cohen and SB807 to be followed by Alan Hawthorne. Is Alan here? Alright. Then to be followed by Cathy Osten, is it? Alright. To be followed by Jean Stanis. Alright.

MYRA COHEN: Good afternoon. I am Myra Cohen and I am pleased you are addressing the issue of violence against women and the need for additional protection. I am in favor of proposed SB807 and HB6935. Knowing that there are stiff penalties for violations of a protection order will result in respect for it and the courts and reduce the number of violations. The 48-hour prison sentence is an excellent idea.

Our Connecticut should recognize protective orders issued by other states. I believe this part of the federal Violence Against Women Act of 1994, but it should be incorporated in our state statute.

The abused should not have to bear the cost to protect herself through the courts. There should be mandatory restitution to include lost income, attorney fees for cases in family court as well as criminal court plus any costs incurred in addition any civil or criminal penalty authorized by law.

Family violence shall include any action to defame a person or cause harm or injury to her reputation and to her employment. And any actions to threaten a person's job security. You are proposing to increase the time limit of a protective order from 90 days to one year. Why should a term limit, no matter how long, be placed under protective order, requiring the victim to return to court to get it extended, losing time from work and incurring additional legal bills. If the abuser has not bothered the victim while the protective order has been in effect, that is not an indication that he is reformed and it is not needed. What it means is that in this case, it is working and should be continued.

One year, two years, three years, that is not

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enough. These men are obsessed. They never give up. The statute should specifically grant the court the authority to issue a permanent protective order. For violators of protective orders, sentencing should include the option of requiring psychological testing and/or counselling for a specified duration. These bills should become effective immediately on signing.

I also agree that reasonable acts of self defense shall not constitute family violence. After she had filed for divorce, my daughter's husband almost ran her down with his car as she walked to her parked car. Then he chased her on foot and when he got frightening close she sprayed him with mace. This was in self defense, but they were both arrested. On another occasion, he almost --

SEN. UPSON: Ms. Cohen you told us that on -- I am glad you are here. You told us that two weeks ago.

MYRA COHEN: That's right.

SEN. UPSON: You and your husband. We remember that.

MYRA COHEN: On another occasion, he almost forced her into a stone wall and I told you that too into a stone wall with his truck. Now he is using the legal system to harass her. After she filed for divorce he threatened to file motion after motion after motion to cause her lost time from work and high legal bills. He has been doing just that, using the legal system, he has tried to ruin her financially. During the divorce, there were seven court visits which cost my daughter \$2,656 for criminal proceedings and \$9,003 for the divorce.

Since the divorce there have been an additional seven court dates. Since my daughter spent all her savings getting the divorce, now mom and dad are paying her legal bill which since the divorce so far has come to \$11,782.50 and we are still no through. I doubt that you will ever be able to pay us back.

Initially, my daughter had a 90 protective order. It was extended to stay in effect until "further

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order of the court". But this has given her ex-spouse the opportunity to file a motion to terminate it. My daughter should not have to continue living in fear of this man. They were divorced in June, 1993, but he has not gotten on with a new life.

SEN. UPSON: Ms. Cohen, could you summarize?

MYRA COHEN: Yes. Yes. The only thing that has kept him away has been the protective order. It should be permanent and not require additional court appearances and costs to keep it that way. Thank you.

SEN. UPSON: Any questions? You have a lot of guts to come here and tell us all that and I appreciate that.

MYRA COHEN: Well, this is only a piece of the story.

SEN. UPSON: I am sure we are going to hear more.

MYRA COHEN: Believe me, there is a lot more.

SEN. UPSON: No seriously, I am glad you are here. Alright. Thank you very much. Cathy Osten. Is it O-S-T-E-N?

CATHY OSTEN: Yes it is.

SEN. UPSON: To be followed by Jean Stanis, to be followed by Sally Biggs to be followed by the Saint Patrick's Day Party.

CATHY OSTEN: No, I have to work third shift tonight. And I worked third last night and first today.

SEN. UPSON: Where in the hospital or what?

CATHY OSTEN: No. I work at a correctional facility. I am shift supervisor in a correctional facility for the State of Connecticut.

SEN. UPSON: Which one?

CATHY OSTEN: Brooklyn.

Myra Cohen
42 Jeffrey Lane, Newington

3/17/95
Public Hearing
Proposed Bills 807 and 6935

002403

To the Judiciary Committee:

I am pleased you are addressing the issue of violence against women and the need for additional protection. I am in favor of proposed bills 807 and 6935.

1. Knowing that there are very stiff penalties for violation of a protective order will result in respect for it and the courts, and reduce the number of violations. The 48 hour prison sentence is an excellent idea.
2. Connecticut should recognize protective orders issued by other states. I believe this is part of the federal "Violence Against Women Act of 1994" but it should be incorporated in our state statute.
3. The abused should not have to bear the cost to protect herself through the courts. There should be mandatory restitution to include lost income, attorney fees for cases in family court as well as criminal court, plus any costs incurred, in addition to any civil or criminal penalties authorized by law.
4. Family violence should include any action to defame a person or cause harm or injury to her reputation in her employment and any actions to threaten a person's job security.
5. You are proposing to increase the time limit of a protective order from 90 days to one year. Why should a term limit, no matter how long, be placed on a protective order, requiring the victim to return to court to get it extended, losing time from work and incurring additional legal bills? If the abuser has not bothered the victim while the protective order has been in effect, that is not an indication that he has reformed and it is not needed. What it means is that in this case it is working and should be continued. One year, two years, three years. That is not enough. These men are obsessed. They never give up. The statutes should specifically grant the court the authority to issue a permanent protective order.
6. For violators of protective orders sentencing should include the option of requiring psychological testing and/or counseling for a specified duration.
7. These bills should become effective immediately on signing.

002407



National Organization for Women
Connecticut NOW

135 Broad Street • Hartford, CT 06105 • (203) 524-5978

TO: Senator Upson, Representative Lawlor
Members of the Judiciary Committee
FROM: Sarah G. Wilson, Director CT NOW *Sarah*
DATE: March 17, 1995
RE:

Support SB 925 "AAC the denial or revocation of licenses of delinquent child support obligors."
Support HB 6936 "ACC the uniform interstate family support act."
Support SB 343 "AAC reporting of child support obligations on state tax forms."
Support HB 6934 "AAC child support and custody."
Support HB 6935 "AAC domestic violence."
Support SB 807 "AAC enhanced penalties for persons who engage in a pattern of violence or intimidation toward another person."
Oppose HB 5488 "AAC shared residential custody."
Support HB 5490 "AAC ritualistic child abuse."
Oppose SB 338 "AAC runaway children"

Good afternoon, my name is Sarah G. Wilson. As the Director of the nearly 6,000 members of the Connecticut Chapter of the National Organization for Women I come before you today to express our support and/or opposition to the above mentioned bills.

Support SB 925 "AAC the denial or revocation of licenses of delinquent child support obligors." CT NOW has been working for many years to increase the collection of court ordered child support. We are pleased to support this bill, ideas that we have been pushing for many years.

According to the Department of Social Services there are over \$1.5 billion of court ordered child support owed to the children of Connecticut. As of Jan. 27, 1995 there were 11,049 parents owing more than \$10,000 in AFDC cases and 6,222 parents owing more than \$10,000 in non-AFDC cases. Included in these numbers are 1,080 parents in AFDC cases and 172 parents in non-AFDC cases owing more than \$50,000. In fiscal year 1993-94 the Department of Social Services collected a record breaking \$125.6 million. These numbers are a good start but, 51% of female-headed households with children under five years of age are still living below poverty. Clearly something needs to be done to help lift children and their mothers out of poverty. That something is increasing the collection of child support, and getting the children of Connecticut the money that they are owed.

The bill before you would take many important steps towards ensuring the full enforcement of all court ordered child support.

In Sections 1 through 11 the bill would ensure that the Department of Social Services (DSS) would notify all state licensing agencies to revoke or prohibit the granting of any license to an obligor who is out of compliance with his/her court ordered child support payments or health

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CT NOW Testimony, page 4
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that in over 98% of the cases the judges decide on the terms set forward by the officers and that the current process is only an extra layer of bureaucracy and may not be needed. We urge you to watch this carefully and ensure that this new power is not misused and that the business of collecting child support is only increased and expedited. These provisions should increase efficiency of enforcing orders which can only help the custodial parent get the resources owed to him/her to help support the child.

In Section 3 (12) we question who will be responsible for paying the new \$150 fee for having a sheriff serve a capias mittimus and why is it such a high fee?

In the interest of your time I will not write to the whole bill as sections 4 through 12 of this bill are so similar to SB 925 and you have our position on that bill (see above).

In section 13 there is the provision of a study of shared residential custody. Since HB 5488 (see testimony below) is so vague and unclear we would rather support this section and allow the study group to look into the matter more closely. We also strongly encourage you to include a representative from domestic violence services to ensure that the issues of violence in families is addressed.

Support HB 6935 "AAC domestic violence." CT has been a leader in legislation dealing with ending violence against women. The bill before you extends some of the protections that we have offered battered women and closes some of the loopholes in the system.

Extending the time that a Temporary Restraining Order could be of critical importance to a women who is seeking protection from an abusive partner. We would encourage you to be sure that the judge grants the length of the order in consultation with the person seeking the order. In addition to the length of time an order can be issued for it is critical to hold those who violate these orders accountable for their crime. Tying these violation into their bail or release may prove to be a powerful tool in ensuring that protective order is respected. Mandating that violators be jailed for 48 consecutive hours may also ensure greater compliance with the law. Establishing a registry of restraining orders will give law enforcement the information that they need immediately as to the status of a restraining order and enable them to act accordingly.

Ensuring that reasonable acts of self-defense are not defined as family violence will reduce the number of unnecessary dual arrests and allow the police on the scene to determine if an act of minimal violence in self-defense is reason for arrest or not. We would encourage the necessary training or at least briefing of these definitions with specific examples in order for police to know when an arrest is appropriate and when it isn't. Clearly we want to ensure that there is consistency in the use of this aspect.

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CT NOW Testimony, page 5
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Confiscating any pistol or revolver that is used or threatened to be used in a family violence altercation will reduce the weapons available for misuse should the abuser be released on bail and return to the home. We would encourage you to include all other firearms, any knives or other lethal weapons. Certainly there are weapons other than handguns used in the commission of family violence and they should be recognized as equally dangerous.

As a point of caution HB 6835 before the Program Review and Investigation Committee would repeal Sec. 3 (f) of this bill. That is that bill suggests that there will be no need for domestic violence or rape crisis issues to be included in training for police officers.

Finally the provision prohibiting insurance companies from refusing to insure, raising the rates or limiting the amount of insurance of victims of domestic violence is good public policy. Domestic violence is a crime and the victim of a crime should not automatically be punished for something out of his/her control. Domestic violence is an epidemic not a pre-existing condition. Victims of violence against and it needs to be stopped. We should be helping to end the violence not punishing the victim for the offenders behavior. We applaud the committee for addressing these important issues and encourage your support.

Support SB 807 "AAC enhanced penalties for persons who engage in a pattern of violence or intimidation toward another person." As we testified before this committee on February 10th of this year we need to ensure that those who suffer from stalking or other repeated harassing behavior should have better remedies available to them. Unfortunately many women are assaulted again as an act of retaliation by the same assailant after s/he has been released from custody. This bill before you today would offer an important protective tool for those who have been the victims of violent crime. We would encourage you to include the violation of a Temporary Restraining Order or a Protective Order into line 20 where it lists the crimes that must be committed to get the elevated penalty. We urge you to support this legislation and ensure that the victims of crime are better protected when the assailants are released from incarceration.

We oppose HB 5488 "AAC shared residential custody" for the same reasons that we opposed the legislation last year. There is no definition provided for what shared residential custody means. Does it mean that the parents although divorced have to share a residence? Does it mean that they have to have the child or children live with each of them equally? and does this mean that the parents have to live in the same school district? or the same neighborhood to ensure that the child can still have his/her paper route and friends in the neighborhood? This bill is terribly unclear. Although we assume that the intention of the legislation is that both parents have equal time with the child and that the child should be dividing his/her time between the two parents homes and not just spending a little time with

002505

JUDICIARY HEARING/HOUSE BILL 6935

March 17, 1995

TESTIMONY OF KATE PARANTEAU

PROJECT DIRECTOR
DOMESTIC VIOLENCE TRAINING PROJECT
A PROGRAM FOR HEALTH PROFESSIONALS
900 STATE STREET
NEW HAVEN, CT 06511

CHAIR
STEERING COMMITTEE
GREATER NEW HAVEN DOMESTIC VIOLENCE TASK FORCE

My name is Kate Paranteau.

I serve as Special Projects Director of the Domestic Violence Training Project. This is a program of the University of Connecticut Health Center. We are a statewide training organization focused on providing an improved health care response to domestic violence.

I also chair the steering committee of the Greater New Haven Domestic Violence Task Force. This is a multidisciplinary coalition of service providers addressing the multi-faceted issue of domestic violence.

Most importantly, I have been an advocate for battered women and their children for over a decade.

I present here today to address House Bill 6935, in particular, the need to strengthen civil orders of protection.

Connecticut has been a leader in developing laws that respond to domestic violence. Connecticut's 1986 Family Violence Prevention and Response Act created a coordinated and collaborative legal system. It has come to be considered a national model.

In drafting legislation on domestic violence, we must keep in mind what partner abuse\domestic violence is about. We certainly understand the obvious injury. But, it is often the unseen control, profound fear and terrifying entrapment that is the larger part of many abused women's stories.

002506

A comprehensive approach to protecting victims of domestic violence and preventing further violence includes civil remedies. A "broad brush" approach supported by research and commentary which suggests that the most effective protective orders are those which are comprehensive and crafted to meet the specific safety and autonomy requirement of the individual petitioner (Gondolf et al 1994, Chadhuri and Daly, 1991).

With this in mind, it's time to revisit our statutes and strengthen those civil orders that are so critical to many abused women and children. I will address these specific items.

1. Mutual Restraining Orders.

When a woman seeks a restraining order and the order is contested by the respondent, the judge will often issue "mutual" restraining orders. That is, two orders, one against the applicant and one against the respondent.

Judges do this even though the man had not applied in advance for an order. Even though the woman had no notice that the order was a possibility. And, even though the woman did not have an opportunity to prepare for the hearing to show that she has done nothing to entitle him to an order.

Mutual orders undermine the safeguards contemplated by civil protection order statutes (Orloff, 1992).

Mutual orders minimize a perpetrator's exposure to sanctions for violation of an order. Mutual orders rarely provide comprehensive relief to safeguard the victim. The diluted and mixed messages of mutual orders result in unpredictable police response.

Courts across the country have recognized the danger of mutual orders and have severely restricted their use.

House Bill 6935 will prohibit mutual orders unless the man had filed an application in advance so that the woman can prepare to defend herself.

Obviously, mutual orders punish women who seek to use the court to protect themselves from domestic violence. And, these orders do not give a clear message about who is in fact responsible for violence.

002507

2. Duration of Civil Protective Orders

A growing number of states have issued civil protection orders lasting several years or indefinitely. Over half the states issue protective orders for one year.

In Connecticut, Civil Protective Orders are now issued for up to ninety days. Research supports the need for increasing the duration of civil protective orders. More importantly, women in Connecticut regularly voice the need for longer orders of protection.

Battered women who leave their abusers are often harassed and followed at home, work and school for weeks, months and often years.

Courts cannot presume that a batterer's attempts to control, injure and harass the abuse victim will end in weeks, months or years. A larger time frame would provide the time, space and potential protection the victim needs to make critical life decisions including safety, divorce and other important issues.

Ninety days isn't much time for anyone to make strategic life plans. The process of returning to court again and again is certainly not something we want battered women to do if we expect her to act to improve her life and have hope for a safe future.

3. Criminal Penalty for Violation of Protective Orders

Currently, in the State of Connecticut, if a restraining order is violated and a victim calls the police and there is no criminal trespass the police can do nothing. Now, all she can do is make a legal motion in court to hold the guy in contempt of court. In practice, this is almost never done.

So, the order appears to the woman as not worth the paper it is printed on.

We are asking to make violations of restraining orders Class A misdemeanors, treating them just like violations of criminal protective orders. If she calls the police because he calls her or contacts her in violation of the order, she can have him arrested.

002508

Keep in mind, that contact like phone calls or following her to work, etc. is intimidating, and the woman will be made, by such behavior, to feel in danger of harm.

No contact should mean No contact.

Women surviving domestic violence often need a good deal of support. Safety is at the heart of most of their issues. Safety for themselves, and for their children.

Women want to believe that police may be able to protect her and her children from batterers. That restraining orders will be quickly and meaningfully enforced.

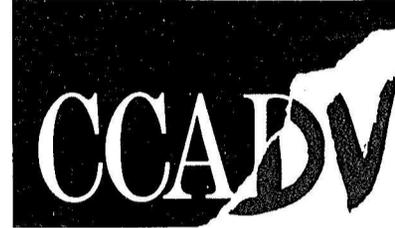
Women are always asked why they didn't leave or protect themselves. The system needs to be ready to assist them, in real terms, with safety at the hub of the response.

Civil orders can be powerful.

002509

To: Members of the Judiciary Committee

Senator Thomas F. Upson
Representative Michael P. Lawlor
Co-Chairs



From: Linda Cimino
Executive Director

Date: March 17, 1995

RE: HOUSE BILL 6935, AN ACT CONCERNING
DOMESTIC VIOLENCE

CONNECTICUT
COALITION
AGAINST
DOMESTIC
VIOLENCE

POSITION: SUPPORT

My name is Linda J. Cimino and I am the new Executive Director of the Connecticut Coalition Against Domestic Violence, which is the state-wide network of Connecticut's 18 community based domestic violence programs.

135 Broad Street
Hartford, CT 06105
(203) 524-5890
(203) 249-1408 FAX
1-800-281-1481 (CT only)

I am here today to speak in favor of House Bill 6935. Although there are many proposed changes in this legislation, the extension of the restraining order from 90 days to one year (Section 1, sub-section d, line 62-63) would address an expressed need of victims of domestic violence. The extension of the restraining order period to one year will allow victims of domestic violence the time, often necessary, to develop and implement a safety plan. The court order is always an important component of a plan.

The one year time period, as already stated, will benefit many battered women. However, as the proposed language is very general, I must ask to what extent will a victim of domestic violence have a voice in the length or duration of the restraining order? Sub-section d, lines 62-65, states that the order may be extended by the court upon motion of the applicant for such additional time as the court deems necessary. Will a victim of domestic violence be able to obtain an order for a longer or shorter duration than the court deems necessary?

If an initial order is issued for a time period which far exceeds the needs of a battered woman, what will be the ramifications if the restraining order is not followed?

Also, if the restraining orders are still ordered in ninety day time periods, how assessable is the extension process. The process that is currently in place, is difficult at best. A possible solution to this issue is to modify the restraining order forms, and allow the individual who is applying for the restraining order to specify how long they feel that the initial order should be in force.

In Section 2, sub-section 1, lines 113-114, the new sentence states that "Reasonable act of self-defense shall not constitute family violence". A definition of reasonable acts is necessary, as something this broad may still be misinterpreted and work against battered women.

We do not subscribe to Caller ID.

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I strongly support the Section 3, sub-section f, lines 185-199, as it maintains the Municipal Police Training Council's mandate to provide law enforcement officers, supervisors and state's attorneys with education and training on the issues of family violence, as this section has been proposed to be repealed in House Bill 6835.

The other concern is Section 6, lines 234-250, which outlines additional duties to be performed by the Victim Advocates, which I am interpreting to mean Family Violence Victim Advocates (FVVA). The additional responsibilities are problematic for several reasons:

- there is nothing in the current law that requires courts to give the FVVA's the information as outlined in this section;
- there is no centralized data base that collects this type of necessary information, therefore there is no way for this information to be obtained;
- although we receive a telephone number and address for each case referred to the FVVA's, the telephone numbers and street addresses are often incorrect, which makes contact almost impossible;
- based on the fact that Connecticut does not have the systems in place for the timely collection and release of this information, would a FVVA be placed in a legally liable position, if something happened to a victim of domestic violence as a result of not knowing this information?

The inclusion of Section 8, sub-section 18, lines 544-548, should be commended. This broad language is a proactive move on behalf of victims of domestic violence.

In closing, I believe that House Bill 6935 will positively effect victims of domestic violence. As outlined however there are several technical issues that need to be addressed and I hope that we can move forward on a consensus basis. I am very willing be of assistance in the review of the language and the development of the solutions.

Thank you.

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GREATER NEW HAVEN TASK FORCE ON DOMESTIC VIOLENCE

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Judiciary Committee Hearing on H.B. 6935: An Act Concerning Domestic Violence
Testimony of Gail E. Strosberg
March 17, 1995

I am an attorney, a member of the Legislative and Steering Committees of the Greater New Haven Domestic Violence Task Force, and a Ph.d candidate at Yale. My academic research is of domestic violence law in the United States and Britain.

The Task Force

The Greater New Haven Domestic Violence Task Force includes among its active membership domestic violence survivors, judges, prosecutors, police, sheriffs, legal assistance attorneys, court personnel, Family Division representatives, shelter and domestic violence service providers, victim advocates, domestic violence trainers, treatment organizations, health care providers, hospitals, and academics. It is a coordinating council and provides a forum for communication and discussion in the Greater New Haven region.

The Task Force strongly supports the following portions of Bill 6935:

- *The prohibition on mutual restraining orders issued without notice (page 1);
- *The notice to the restrained person of legal obligations (page 2);
- *The extended maximum duration of restraining orders (page 2);
- *The restraining order registry (page 3);
- *The exclusion of self-defense from the definition of family violence (page 4);
- *The seizure of weapons used or threatened in family violence crimes (page 5);
- *Criminal penalties for violations of a restraining order (page 6);
- *Prompt presentment to the court for violations of restraining orders (page 7);
- *The notice to the victim when protective orders terminate (page 7);
- *Enhanced penalties for persistent offenders (page 8).

We have suggestions for changes in the language of some of these provisions. We will be submitting written testimony after the hearing which will specify these modifications and which will respond to comments made about the bill today.

Strengthening Restraining Order Protection and Enforcement

Civil restraining orders issued after notice and hearing must be both an accessible and effective response to family violence.¹ During our Task Force meetings we have discussed the difficulties applicants experience when obtaining and extending restraining orders, the impediments police encounter in obtaining information about the status of restraining orders, and the problem that these

court orders are not properly enforced. The modifications contained in House Bill 6935 will remove some of these obstacles and make restraining orders an effective tool of protection to applicants and their children. I discuss three of these issues below:

1. Mutual Restraining Orders. Currently "mutual" restraining orders are issued without service of an application by the respondent, and sometimes in the absence of counter-allegations of family violence. Members of the Task Force, such as judges, attorneys, survivors, and police agree that such orders harm the original applicant, raise constitutional due process issues, and create problems for law enforcement. The National Council of Juvenile and Family Court Judges state these problems succinctly:

"Thus, both parties are labeled as abusers and are treated as equally blameworthy. The message to the batterer is that such behavior is excusable, was perhaps provoked, and he or she will not be held accountable for the violence. Victims who have not engaged in violent behavior are confused, humiliated, and stigmatized when such orders are issued against them.

"Mutual restraining orders create due process problems as they are issued without prior notice, written application, or finding of good cause. The petitioner of the original request for restraining order now finds himself or herself a subject of the order of protection, having had no opportunity to prepare a response or consult with an attorney.

"Mutual restraining orders create significant problems of enforcement which render them ineffective in preventing further abuse. They are confusing to law enforcement and unenforceable. When an order is violated, police have no way of determining who needs to be arrested. Often, they will arrest both parties further victimizing the real victim."²

The Bill should remedy these problems by prohibiting the court from issuing "mutual" orders in the absence of separate notice and application for each order, and family violence shown by each party. The bill's exclusion of self-defense from the definition of family violence will also clarify the intent of the law. Furthermore, the prohibition will satisfy the federal crime bill's Violence Against Women Act provisions that condition awards of grants to states with policies against mutual orders.

2. Criminal Violation of Restraining Orders. Under current law, violations of restraining orders are not automatically sanctioned unless the violation constitutes criminal trespass. The applicant may make a legal motion for civil contempt asking the court to punish the violation but there are no guidelines for this process, the courts are given unlimited discretion whether to hold the violator in contempt, and there is no uniformity in treatment across the state. The legal motion is difficult for an applicant who does not have a lawyer and it delays the sanction, if any is in fact imposed. If the applicant is called, contacted, or followed in violation of the order, the police can do nothing unless and until the behavior amounts to another criminal offense. Such incidents discourage the applicant from seeking further assistance from the state. The applicant is made to feel that despite having suffered through the burdensome process of obtaining a restraining order, he or she is in fact not given any protection by the court's order.

Our Task Force discussions support the suggestion of researchers that where

there is no strong response to order violations and without the risk of arrest some batterers do "flout civil protection orders with impunity."³ The drafters of the Model Code for Family Violence of the National Council for Juvenile and Family Court Judges "determined that there were problems with enforcement of penalties for violations of restraining orders in those states that only authorize enforcement of the orders through the court's contempt power."⁴ Their Model Code thus makes violation of civil orders a misdemeanor.⁵ A majority of states penalize violations of the restraining order as a misdemeanor. It should be noted that many of these states also provide the remedy of civil contempt, as Connecticut now does.⁶

The Bill addresses these problems by making violation of the restraining order a Class A Misdemeanor criminal offense. It should be noted that this is the same penalty imposed under current law for violations of a criminal protective order. Importantly, both restraining and protective orders are issued only after incidents of family violence as defined in Section 46b-38a(1).

The Task Force supports the idea of a criminal penalty for violation of a restraining order. We believe, however, that violation of custody and visitation provisions in the order should be excluded from additional criminal penalty. The intent of the reform is to protect the applicant, it would not be helpful to involve criminal judges in minor custody and visitation disputes, and there are other statutes which provide remedies for custody and visitation violations. We would strongly support this section as long as it contains such an exclusion.

3. The Restraining Order Registry. Since December 1993 our Task Force has discussed the problems caused by the absence of a statewide registry of restraining orders available to the police on a 24 hour basis. Law enforcement officers currently have no means for obtaining information on restraining orders, particularly those issued outside of their jurisdiction. The restraining order applicant is therefore left unprotected if he or she ventures outside of the jurisdiction without a copy of the restraining order. Also, orders are often modified or extended without proper notification of law enforcement agencies. The police from our region have identified this as a major obstacle to the effectiveness of restraining orders.

The Task Force strongly supports the addition of the registry to the COLECT system, a computer database which already maintains information about criminal protective orders available to police on a 24 hour basis. The registry should be properly funded, however, and we urge that funding for the registry be added to the Bill.

Endnotes

1. The arguments in this section are summarized in the National Council of Juvenile and Family Court Judges, "Family Violence: Improving Court Practice", pp. 22-25, 1990.
2. *Ibid.*, p. 25.
3. Peter Finn and Sarah Colson, "Civil Protection Orders: Legislation, Current Court Practice and Enforcement", U.S. Department of Justice, March 1990, p. 49.

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4 National Council of Juvenile and Family Court Judges, Family Violence: A Model State Code, p. 4, 1994.

5 Ibid., p. 3.

6 Barbara J. Hart, Esq., State Codes on Domestic Violence: Analysis, Commentary, and Recommendations, pp. 19-24, 1992.

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Testimony of Deborah J. Fuller
Judiciary Committee Public Hearing
March 17, 1995

H.B. 6935, An Act Concerning Domestic Violence

I would like to take this opportunity to address H.B. 6935, An Act Concerning Domestic Violence. In reviewing this bill, we noted several ambiguities as well as some implementation issues that we would like to raise for your consideration, which are noted below:

- First, the language in subsection (b) of section 1 (lines 29-33) prohibiting mutual restraining orders unless certain conditions are met raises issues as to under what conditions and at what phases in the process may mutual restraining orders be issued. Additionally, does this language intend to prohibit judges from entering mutual restraining orders even where the circumstances might support such court action?
- Second, subsection (c) of section 1 (lines 59-61) is amended to mandate that every court order regarding an application for relief from abuse contain the following language, "Violation of this order also violates a condition of your bail or release, and may result in raising the amount of bail or revoking release." However, the order being referred to in subsection (c) is a civil restraining order and does not

involve bail or release. Therefore, we are unsure as to the applicability of this new language to restraining orders; such language is appropriate when addressing protective orders.

- Third, subsection (i) of section 1 (lines 99-103) mandates the establishment of a 24-hour registry of restraining orders on the COLLECT system, as is the current practice for protective orders. However, there are implementation problems in making the COLLECT system include restraining orders. There are many times when the court does not have knowledge as to whether or not the ex parte temporary restraining order was ever served because the applicant does not appear at the hearing to extend the ex parte order. Since orders become effective upon service, the court often does not know when the restraining order became effective. Additionally, restraining orders contain very little information on the respondent -- only the name. This is not sufficient information for the COLLECT system to identify the person involved. Significant programming changes, which would require substantial time and resources, would be necessary in order to develop an effective registry.
- Fourth, subsection (b) of section 5 (lines 220-233) adds restraining orders to the section governing venue for protective orders. However, restraining orders are usually issued in Judicial District courts, some of which encompass several geographical areas. Therefore, this section is ambiguous as to which geographical area would be the proper venue for violations of restraining orders.
- Fifth, section 6 adds additional responsibilities to the victim advocates. We have concerns that these additional responsibilities will generate significant workload for

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the 12 victim advocates who are currently assigned to the courts. This additional workload could not be handled within existing resources.

In addition, I have noted one technical error in the bill. On line 164, the "Commission on Victim Services" should be changed to "Office of Victim Services."

Thank you for your consideration of this testimony.

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RE: AN ACT CONCERNING DOMESTIC VIOLENCE (#6935)
SECTION 7 (Also Committee Bill No. 807)

Summary of Testimony

1. I am the Co-Director of the Domestic Violence Training Project in New Haven, a founder of the one of the state's first shelters for battered women, a researcher who lectures widely on domestic violence and frequently appears as an expert witness in cases involving woman battering.

2. I am here this morning as a member of the Legislative Subcommittee of the Greater New Haven Task Force on Domestic Violence to support and suggest certain modifications in Section 7 of the ACT (6935) also known as Committee Bill no. 807 and pertaining to enhanced penalties for persistent domestic violence offenders.

3. In the last decade, we have made enormous progress in extending the same legal protections to persons assaulted by family members or partners that we extended to persons assaulted by strangers. We still have a long way to go, however:

a. A decade ago, about 10% of domestic violence complaints resulted in arrest. Today, the figure is around 50% and probably higher in certain sections of the state. This is an enormous improvement but leaves much ground to cover.

b. Although an estimated 70% of the domestic violence arrests involve levels of assault that would constitute felonies if committed against strangers, very few are so charged.

c. Although our arrests in domestic violence situations have multiplied many times, few perpetrators actually go to jail. Indeed, statewide, 80% of all cases classified as domestic violence offenses are nolleed or dismissed.

4. Domestic violence is not like other types of assault.

(a) In almost half of all domestic violence cases, the victim--usually a woman-- is assaulted several times a week or more, so-called serial assault. These assaults often extend over a person's life-time. I see numerous cases which involve hundreds of assaults. Only a tiny fraction--certainly fewer than 1 in 20-- of these assaults ever come to the attention of police. Since calling the police is often not an option for a victim, the assaults which come to police attention are not necessarily the most severe.

(b) In addition, to repeated acts of assault, domestic violence typically includes threats and intimidation, threats to children and family members, destruction and/or invasion of her property, stalking and attempts to isolate the victim from help (including police and medical care) and to control her access to such vital resources as money, food, transportation and telephone.

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7. Because of these realities, evidence that an offender is involved in a course of criminal conduct involving repeated acts of domestic violence should be treated more seriously by the courts than evidence of a single, isolated act. This what this section of the Bill proposes. Other states, including New Jersey on whose statutes we have based many of our domestic violence laws, have already implemented similar provisions.

8. Since, in Connecticut, first offenders--and often second and third offenders-- are almost never convicted but are instead nolleed and diverted to the Domestic Violence Education Program, a second conviction is quite meaningful.

While we wholeheartedly support Section 7, we suggest certain modifications. These include:

- As written, the bill appears to define persistent offenders only as those who are first convicted of assault, the of either stalking or trespass. We believe the intention of the bill was to punish more harshly those offenders who had in the past committed assault, stalking or trespass and who within a year commit any of these acts again.

- We believe the bill should be expanded to cover, in addition to assault, stalking and trespass, all scenarios of repeated domestic or family violence, i.e. threatening (53a-62), harassment (563a-182b; 53a-183) and violations of criminal family violence protective orders (53a-110b), as well as our newly proposed criminal violation of civil restraining orders (see Bill No. 6935)

- We believe there should either be no time limit between offenses--note: there is none under the other persistent offender statutes presently in effect--or there should be a five year period as recommended by the National Council on Juvenile and Family Court Judges' Model Code.

Despite these reservations, I want to underline our strong support for enhanced penalties and our firm belief that this is yet another step towards the zero tolerance for domestic violence in our state that is our goal.

Thank you.

Evan Stark, Ph.D, MSW
Domestic Violence Training Project
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Some of these acts are not crimes under Connecticut statute and others may appear to be relatively minor crimes.

BUT FROM THE VICTIM'S STANDPOINT, BATTERING IS COMPRISED OF THESE ACTS AS PART OF A ON GOING PATTERN OF CRIMINAL CONDUCT. THE FEAR AND DANGER ENGENDERED BY A THREAT MAY BE AS GREAT OR GREATER THAN THE FEAR ENGENDERED BY AN ACTUAL PHYSICAL ASSAULT.

(c) Domestic violence does not cease when the victim and perpetrator separate. In fact, most research suggests this is the most dangerous time and the time when she is at highest risk or assault, threats and stalking.

(d) Because domestic violence typically involves a course of criminal conduct rather than a single act, its consequences are far more severe than other types of assault. Our research shows that domestic violence may account for:

1. almost a third of all female suicide attempts in the state (and half of those by black women)

2. a third to a half of female alcoholism and drug use

3. more injuries to women than auto accidents, rapes and muggings combined

4. 45% of all child abuse

5. Perpetrators of domestic violence come from all social classes, races and ethnic backgrounds. But, those who are arrested and come before the court more than once tend to be:

(a) young men

(b) multiple offenders, usually with a history of violent crime against the individual as well as against others

(c) involved with alcohol or drugs

(d) unremorseful.

Date from Quincey, MA. indicates that domestic violence offenders have an average of 13 prior violent offenses.

This is the profile of the most serious offender population in our system.

6. Intervention by the criminal justice system has been repeatedly shown to be more effective in reducing domestic violence than any other intervention currently utilized. This effectiveness will be enhanced if--as this Section of the Bill proposes-- we increase sentences for domestic violence offenders who engage in a pattern of violence and intimidation. The judges, prosecutors and police in our Task Force wholeheartedly support such an enhancement.

TESTIMONY OF CONSTANCE E. FRONTIS

I have been working as an attorney at New Haven Legal Assistance for 11 years, representing victims of domestic violence. I am also the chair of the legislative committee of the Greater New Haven Task Force on Domestic Violence. I strongly support House Bill 6935, an Act Concerning Domestic Violence. Passage of the bill is necessary to address a variety of problems for victims of domestic violence.

RESTRAINING ORDERS OF ONE YEAR DURATION

The bill proposes that restraining orders last for a period up to one year (line 50). This is crucial to protect domestic violence victims. The present ninety days is far too short. If a domestic violence victim files a dissolution action at the same time as the restraining order is initiated, the divorce cannot go to judgment within that ninety day period so the order will lapse unless it is extended. If the restraining order case is referred to Family Relations for mediation and/or study regarding attendant issues, that work is usually not finished within the ninety day period. Again, there will either be no underlying action or the restraining order must be extended.

Most victims don't understand that the necessary steps to get the restraining order continued beyond ninety days must be initiated approximately thirty days before the ninety day expiration date. Instead, victims tend to return to court after ninety days and get a new restraining order, if there is still a need. Obtaining consecutive restraining orders to maintain one in effect places an incredible burden on the court system. It also places a substantial burden on the victim.

In at least 31 states, a restraining order lasts between one year and three years; in the majority, it lasts for one year.

NO MUTUAL RESTRAINING ORDERS

This bill will prohibit the issuance of mutual restraining orders (lines 29 to 32) unless each petitioner makes application, serves the other party, and provides proof to the court that the application should be granted. Not infrequently, when a victim returns to court for the fourteen day hearing, the batterer comes to court and claims that he/she also wants a restraining order. The judge sometimes grants the order to "keep the peace".

As the Model Code of the National Council of Juvenile and Family Court Judges asserts, "mutual orders create due process problems as they are issued without prior notice, written application, or finding of good cause". The issuance of mutual orders without proper application on the part of each party, and notice to the other party serves to deter domestic violence victims from seeking such orders. It makes them vulnerable, as

the batterer's temporary restraining order can be used against the victim. Absent the filing of an application by each party, timely notice and opportunity to appear and defend, and a decision by the court as to each party's application, that each applicant has subjected the other to family violence as required within the statute and that both are in need of protection, mutual orders should not be granted.

I will be submitting to this Committee some suggested changes in the text of the bill, and regarding this provision, would ask that it be clarified that an application for each order must be properly submitted to court.

VIOLATION OF A RESTRAINING ORDER IS A CRIMINAL OFFENSE

I strongly support the provision in the bill that makes violation of a restraining order a criminal offense (line 204). At present violation of a restraining order is a criminal offense only if what the batterer did falls within the definition of criminal trespass. If, for instance, the batterer repeatedly calls the victim - which can be terrifying - there is no violation of the law. All studies show that a victim is at greatest risk of danger once the victim attempts to leave the batterer.

In Connecticut, at present, a victim's only recourse for violation of a restraining order is a contempt action. The expedited contempt provision is, realistically, only available to the minority of domestic violence victims who have counsel.

When a batterer violates a restraining order, it is essential that he/she quickly and clearly get the message that flaunting the restraining order is unacceptable and it will have unpleasant consequences. To make a violation of a restraining order a criminal offense and provide for next day arraignment will give that message loud and clear. Too often I see a pattern of violations by a batterer where each violation is a bit more serious than the last. I believe if the first violation has criminal consequences, there may be no further violations.

In more than 35 states, violation of a civil protective order is a criminal offense, a misdemeanor while also subjecting the violator to civil contempt. I would prefer that non-compliance with a restraining order have criminal consequences where the non-compliance relates to the victim's safety. The text change I am submitting provides that custody and visitation orders which are frequently part of the restraining order be **excluded** from criminal sanctions. I believe that it is difficult for the criminal court to assess culpability for violations related to visitation and custody.

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It is extremely important that we make criminal consequences attach for batterers who fail to comply with the restraining order after they have received notice. These women are at particular risk who have taken all the available steps to protect themselves. I think it is crucial that we give them one more tool.

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STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES

Statement of Testimony

March 17, 1995

Bill No. 6935

AN ACT CONCERNING DOMESTIC VIOLENCE

Testimony of Delores Franks, Deputy Commissioner, Department of Public Health and Addiction Services (DPHAS).

The DPHAS supports Raised Bill No. 6935, An Act Concerning Domestic Violence. Domestic violence represents a critical public health issue, affecting women's health in multiple ways. Battering represents the single most common source of serious injury to women, accounting for more injuries than auto accidents, muggings and rapes combined. In addition, it is a major source of unwanted pregnancy, alcohol and drug abuse, attempted suicide and homelessness (Stark & Flitcraft, 1988). An estimated 250,000 to 300,000 women are beaten by male partners in Connecticut each year (based upon national figures that estimate a 20 - 25% rate of physical abuse by male partners for women). During the past two years, the DPHAS has sought to address this critical public health problem by training health care providers to identify, assess, treat and refer victims of domestic violence, as well as working with other agencies to improve integration around current and future prevention and response efforts.

Bill No. 6935 includes numerous provisions to strengthen the current Family Violence law, a past success which, under its original passage in 1986, was one of the most comprehensive in the country. The proposed provisions will enhance this law and facilitate DPHAS' commitment to reducing domestic violence by:

- Extending the maximum duration of Restraining Orders to one year (from the original three months);
- Establishing a 24-hour registry of Restraining Orders on the Law Enforcement Communications Teleprocessing System;
- Equalizing provisions for Protective Orders and Restraining Orders;
- Increasing penalties for offenders with a pattern of engaging in violence or intimidation; and
- Discouraging unfair insurance practices that refuse to cover, limit the extent or kind of coverage, or charge an individual a different rate for the same coverage because the individual has been a victim of domestic violence.

These provisions will significantly increase safety and health care access for victims, reduce recidivism by increasing penalties for repeat offenders and violators of Restraining Orders, and communicate the message to victims and offenders that crimes of domestic violence will not be tolerated.

Research indicating that most victims of abuse are single, separated or divorced, and that the risk of battering actually increases with separation or divorce (Gentemann, 1980; Stark et al., 1981) is a striking response to the frequently asked question "why doesn't she leave?" We are hopeful that the provisions contained in Bill No. 6935 will begin to reverse this irony by reducing the incidence of domestic violence and the myriad of associated health problems.

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April 7, 1995

They also are involved in some recreational activities and get experience the cultural activities as well. Another is from a young gal I'll call Natalie, and she's also a member of the JCMC program in Bridgeport, and she said: This is a good program because it helps the teens and young kids like me stay out of the streets and trouble. I like this program because it has done me a lot of good.

Now I go to school and I'm doing very good. And it's also getting me out of trouble. With their help, meaning the program, I got accepted to Platt Tech. Without their help I probably would not have gotten accepted. The kids both urge the continuation of support of the JCMC programs as I do as well.

We realize that HB7025, AN ACT CONCERNING JUVENILE JUSTICE acknowledges the importance of programs such as this throughout the state, and so I urge your support of that.

REP. LAWLOR: Thank you, and I've met with some of the three agencies involved in this and we're hoping to continue the funding, figure out a way in the budget process as well as in the juvenile justice bill.

ROSEMARIE CORATOLA: Right.

REP. LAWLOR: We'll try and do it. Thanks. Tom Carusello, who I don't see around, Myra Cohen. Miss Cohen I think this is your third appearance for our committee this year, is that right?

MYRA COHEN: This is what?

REP. LAWLOR: Third appearance before our committee this year, I'm keeping track

MYRA COHEN: This is my third, right, you're keeping track okay. Yes, Myra Cohen of Newington. I'm speaking today on stalking and harassment. SB963 should include "repeatedly means on two or more occasions." And should include in the middle of line 41 the language that appears in HB6935, lines

HB 6883

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April 7, 1995

223 to 233 regarding transferring to the court where the protective order was issued.

And from HB6883 I would delete the reference to: with the intent. And include harassment causing economic injury. Statute section 46b-15a requires the continuous threat of present physical pain or physical injury to obtain a protective order. It should also include emotional and financial injury from stalking and harassment.

My daughter moved after her divorce. And only a few close relatives and friends knew her new address. She had a Post Office Box in a neighboring town and one in New York City where she works. The IRS, her doctors, insurance, bank and employer had a post office box for an address. Even here lawyer did not know where she lives. None of them have her home phone number which is unlisted and unpublished.

Her mail to her former address was forwarded to us her parents and we remailed it to her. She got a new license plate for her vehicle, she did not register to vote, her driver's license had a Post Office Box address. In July 1993, her ex-husband sent her a letter to her former address to be signed by addressee only with identification required and with sender notified where it was delivered.

It was forwarded to her parents in Newington, refused and returned to him. Now he has used the legal system to learn her address, obtained by his lawyer to serve her with an order to appear in court. My daughter was in court this week losing two days from work, as her ex-husband wants to terminate the protective order. Since her divorce her legal bills paid by my husband out of his retirement savings, total \$11,807.50 excluding this week which will be an additional \$3,000.00.

Her ex-husband's attorney says they are not obliged to pay her bills since the protective order as currently written puts the burden on him to terminate it. The court order has protecting her from her ex-husband reads quote: "until further

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order of the court."

His lawyer claims the statute saying an order may be extended for such additional time as the court deems necessary means it calls for a definite time period and the person requesting extending the protective order has to show evidence of existing danger. But if the protective order has been working the only evidence will be the same evidence that required the protective order in the first place.

A protective order should require him to stay away and avoid all contact with the victim, the victim's family, co-workers and employer. This does not restrict his liberty or lifestyle. Without the protective order the victim has to hide. Why should her liberty and life be restricted? She should be free to live a long normal life and earn a living and not have to return to court over and over again to extend the protective order.

The court should be allowed to decide on the duration of the protective order and be specifically allowed to order a permanent protective order. How do you get an expiring protective order extended? Hopefully an existing protective order is working and there is no current threat of injury, harassment or stalking (break in testimony - change tape). wait for the protective order to expire and expose herself to new harm in order to renew a protective order.

And if she is clever enough and lucky enough to avoid the offender she cannot get a new protective order and has to constantly be looking over her shoulder and living in fear until the day he catches her, and then she can get another protective order.

Isn't the law supposed to protect the victim before the crime is convicted? I urge your support to pass these bills into law including permitting permanent protective orders. Every day's delay could mean another woman is physically, emotionally or financially injured or worse. I have submitted transcripts of threatening telephone calls that my

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daughter's ex-husband had made with her. I submitted one copy the first time I was here, I didn't know, this time I submitted 50.

REP. LAWLOR: Thank you Mrs. Cohen. Any questions? Dorothy Shugrue, Dosolina Fiore, Bob Paulino, is that right?

BOB PAULINO: Good evening, my name is Bob Paulino.

REP. LAWLOR: I'm sorry.

BOB PAULINO: That's okay. I'm here in support of HB7023 and HB7025. I'm a resident of the town of Groton, Connecticut and I am also a mental health professional and since 1988 I have been specializing in the treatment of sex offenders, particularly juvenile sex offenders. I also held a position of the Director of Treatment Services for Juvenile Residential Treatment Facility in East Haddam, Connecticut.

One of the things that we know, working with sex offenders particularly with the adult, is that most offenders, the majority begin the offending behavior between the ages of 12 and 15. The average adult is caught on their first offense at around age 32. I compare sex offending to alcoholism, in the sense that a person who is in recovery can stay in recovery as long as they do the things necessary to keep themselves sober.

However, they always have the potential to go back to drinking. The same is true of a sex offender, once a sex offender, always a sex offender. Meaning that the potential is always there to re-offend. However, while the alcoholic has support groups such as AA, the sex offender doesn't. So I think it's important that we have some legal deterrents in place.

So that the person who has been adjudicated and incarcerated and released from prison, that there is something that deters him, hopefully, from recidivism, re-offending. If this person needs to keep registering for a number of years, this is a conscious pattern for him or her, that people know

Myra Cohen
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4/7/95
Public Hearing
Proposed Bills S.B. 963, S.B. 807, H.B. 6935

003792

To the Judiciary Committee:

On February 10th I came here and spoke in favor of H.B. 5631 and on March 17th I spoke in favor of S.B. 807 and H.B. 6935 and am pleased to have the opportunity to come before you again in support of S.B. 963, S.B. 807 and H.B. 6935.

S.B. 963 is probably an improvement over H.B. 5631, but should include "repeatedly means on two or more occasions" and should include in the middle of line 41 the language that appears in H.B. 6935 lines 223 to 233 regarding transferring to the court where the protective order was issued. I would hate to lose the other language in H.B. 5631 and perhaps it would be more appropriate in the statute on harassment.

H.B. 6935 statute section 46b-15 (a) requires a continuous threat of present physical pain or physical injury to obtain a protective order. This should also include emotional and financial injury. But how do you get an expiring protective order extended? Hopefully an existing protective order is working and there is no current threat of injury. Must the victim wait for a protective order to expire and expose herself to new harm in order to renew a protective order? And if she is clever enough and lucky enough to avoid the offender, she cannot get a new protective order and has to constantly be looking over her shoulder and living in fear until the day he catches her, and then she can get another protective order. Isn't the law supposed to protect the victim before the crime is committed? The court order my daughter has protecting her from her ex-husband was extended "until further order of the court." His lawyer claims the statute stating an order may be extended "for such additional time as the court deems necessary" means that it calls for a definite time period and that the person requesting extending the protective order has to show evidence of existing danger. But if the protective order has been working, the only evidence will be the same evidence that required the protective order in the first place. A protective order should require him to stay away and avoid all contact with the victim, the victim's family, co-workers and employer, This does not restrict his liberty

or life style. Without the protective order the victim has to hide. His lawyer claims that a protective order extended "until further order of the court" puts the burden on him to terminate it rather than her to extend it. But why should her liberty and life be restricted? She should be free to live a normal life and earn a living and not have to return to court over and over again to extend the protective order. The court should be allowed to decide on the duration of a protective order and be specifically allowed to order a permanent protective order.

My daughter was in court this week, losing two days from work, as her ex-husband wants to terminate the protective order. Since her divorce her legal bills paid by my husband out of his retirement money total \$11,807.50 excluding this week, which will be an additional \$3,000.00. Her ex-husband's attorney says they are not obliged to pay her bills since the protective order as currently written puts the burden on him to terminate it.

My daughter moved after the divorce and only her close relatives and friends knew her new address. She had a post office box in another town and one in New York City where she works. The IRS, her doctors, insurance, bank and employer had her post office box for an address. Even her lawyer did not know where she lives. None of them have her home phone number which is unlisted and unpublished. Her mail to her former address was forwarded to us, her parents, and we remailed it to her. She got a new license plate for her vehicle. She did not register to vote. Her driver's license had a post office box address. In July 1993 her ex-husband sent her a letter to her former address, to be signed by addressee only, with identification required, and with sender notified where it was delivered. It was forwarded to her parents in Newington, refused and returned to him. But now he has used the legal system to learn her address, obtained by his lawyer to serve her with an order to appear in court.

I urge your by-partisan support to pass these bills into law. Every day's delay could mean another woman is physically, emotionally or financially injured, or worse.

Attached are transcripts of phone messages left by her ex-husband.