

PA 11-152

HB6629

House	6332-6361	30
Judiciary	5101-5149, 5154-5157, 5175-5182, 5248-5259, 5261-5266, 5281-5294, 5299-5305, 5309-5332, 5339-5347, 5354, 5357- 5361, 5477, 5479-5482, 5485, 5497-5551, 5553-5558	206
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2011**

**VOL.54
PART 19
6188 – 6541**

SPEAKER DONOVAN:

Have all the Members voted? Have all the Members voted? Please check the roll call board to make sure your vote's been properly cast.

If all the Members have voted, the machine will be locked. The Clerk will please take a tally. The Clerk please announce the tally.

THE CLERK:

House Bill Number 6564 as amended by House "A".

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	143
Those voting Nay	3
Those absent and not voting	5

SPEAKER DONOVAN:

The Bill as amended is passed.

Will the Clerk please call Calendar 438.

THE CLERK:

On Page 46, Calendar 438, Substitute for House Bill Number 6629 AN ACT CONCERNING DOMESTIC VIOLENCE. Favorable Report of the Committee on Government Administration and Elections.

SPEAKER DONOVAN:

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Representative Gerry Fox, you have the floor, sir.

REP. FOX (146th):

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

(Deputy Speaker Ryan in the Chair.)

DEPUTY SPEAKER RYAN:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the Bill.

REP. FOX (146th):

Thank you, Mr. Speaker. Mr. Speaker, this Bill is the culmination of the Domestic Violence Task Force that was first formed by you last year. As we all recall, there was some very significant and comprehensive legislation that became law during the course of our last Session.

The Task Force continued their work over the course of this past year, and in a bipartisan manner they came up with a number of recommendations.

Now, there were two primary Bills this year. One was in the Judiciary Committee and one was in Human Services, and what is about to be called as Amendment before us will be a combination of the work of those two Committees

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together with the other committees that the Bills were subsequently referred to.

Mr. Speaker, we all, the Bill have changed somewhat from the time that they were first introduced. Some of the changes were required due to some fiscal constraints. However, we do feel that we have a good product this year and we are looking at some areas that we can study and evaluate to continue our work to prevent crimes involving domestic violence.

Mr. Speaker, the Clerk has an Amendment, LCO Number 8039. I would ask that that be called and I be given leave of the Chamber to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 8039, which will be designated House Amendment Schedule "A".

THE CLERK:

LCO Number 8039, House "A", offered by Representative Fox, et al.

SPEAKER DONOVAN:

The Representative seeks leave of the Chamber to summarize. Any objection? Hearing none, Representative Fox, you may proceed with summarization.

REP. FOX (146th):

Thank you, Mr. Speaker. I think the weather is playing with our microphones this evening.

The Amendment before us becomes the Bill. It is sponsored by a number of Legislators, both Democrat and Republican, and I would move adoption.

SPEAKER DONOVAN:

The question is on adoption. Will you remark further?

REP. FOX (146th):

Thank you, Mr. Speaker. The Amendment before us addresses a number of different areas where we felt that there was room for improvement in our laws dealing with domestic violence.

I should especially point out that the work of the Chair of the Domestic Violence Task Force, Representative Mae Flexer, whose commitment to this issue has really driven a lot of these changes, and her work together with all of the members of the Task Force has really brought together a bipartisan awareness of how important this issue is.

The interested stakeholders who have appeared before the Task Force and presented their thoughts and ideas include victims' advocates, prosecutors, defense attorneys, judges, individuals who deal with counseling as well as those who deal with young people, because we've learned of

a, growing concern and awareness that also teen dating violence is an important area of concern that we need to address as we look forward.

Mr. Speaker, the Amendment itself, it expands the crimes associated with domestic violence for which one would be eligible to apply for a restraining order.

And for the Members of the Chamber if they will recall, last year we clarified the terminology, and when you refer to a restraining order, we're referring to the civil restraining orders.

And if we refer to a protective order, that is the criminal orders that are entered following arrest.

Also, Mr. Speaker, we heard from, as I stated, young people and what this legislation will do, it will enable them also to obtain a restraining order, particularly if they're involved, against somebody with whom they may have been in a dating relationship.

Also, it clarifies that those offenders who are part of dating relationships would be eligible to have a restraining order sought against them. There was a contradiction in our statute that this attempts to correct.

Mr. Speaker, also there is provisions regarding our three primary programs that are in our court system now dealing with domestic violence. That's the Family Violence

Education Program, the Evolve Program and the Explore Program.

And what we're doing with respect to those programs is, we're going to really seek to evaluate them and their effectiveness and determine, perhaps, how we should adjust our resources if we can do so in a manner that will make those programs more effective.

Another area, Mr. Speaker, we've all heard talk of in our court system, the domestic violence dockets. These are the dockets that are in our criminal courts that are designated specifically for crimes involving domestic violence. They make up a significant portion of our criminal court dockets. I believe it can be as high as 25 to 35 percent.

And what we want to do is determine, is there a model that we should be using as we go forward when we're looking to establish dockets on a statewide basis, and with an evaluation of these dockets and their effectiveness, what we can do is determine what is it that these dockets need to be successful, and we will be looking at the relationship between the court, the relationship between the prosecutors and the victims' advocates together with defense attorneys.

It is the hope of the individuals from the Task Force that if we can get a good look at this, that in the next Session we could come forward and really hopefully come up with a model docket that would be something that we could, you know, go through statewide.

Mr. Speaker, there is a section here that deals with espousal privilege. This was a request from the Chief State's Attorney's Office.

What it does is, it addresses the situations where individuals may be in a relationship and there may be violence toward another family member and if there was some sort of a confession between the married couple of the crime that had been committed, this would indicate that the spousal privilege would no longer apply.

And, Mr. Speaker, also last week, if the Members will recall, we passed legislation regarding bail bond reform. It was an Insurance Committee Bill brought out by Chairman Megna. It incorporated many of the recommendations that the Task Force had also looked to address.

The objective behind it was to look at those situations where an individual who has sought bond or received bond and their relationship between the bail bond, the bail bondsman and what types of arrangements that they may have.

And what it was designed to address, to do, was to look at those situations where individuals do have a bond and to make sure that they can, that they actually are posting a bond before they are released.

There is a section in this Bill that will override that Bill. It's only one section. It's been pretty well vetted by the Members of this Chamber, and it deals with those areas where bail bondsmen can and may solicit their clients, and that provision is, I believe it's Section 16 and 17.

Mr. Speaker, there's also a section dealing with the removal of guns from a home upon the, when one obtains a restraining order and a protective order.

The law as it stands may be unclear as to whether or not an individual can just simply hand that gun or hand this weapon to somebody in their own household, which would certainly not be the intention behind the law.

And what this does is, it makes it clear that the gun must be removed from the household. It does provide a provision where the individual may sell the gun if that was the appropriate step to take, but it does make it clear that the objective would be to get the gun out of the individual's place of residence.

Mr. Speaker, I believe that summarizes most of the aspects of this Bill. I certainly would be willing to entertain any questions, and I urge adoption of this Amendment.

SPEAKER DONOVAN:

Thank you. Would you care to remark further on the Amendment? Representative Wood.

REP. WOOD (141st):

Thank you, Mr. Speaker, I was lost in a bit of a fog. I stand in support of this Amendment and the underlying Bill.

The piece I like in particular about it is that empowers young people to recognize what domestic violence is, what violence in a relationship is, and it empowers them to seek a restraining order with the permission of their parents.

I also like the section where the police officers will be trained on how, uniformly across the state, on how to respond to domestic violence. I think the more we can train police officers on how to language these situations, the better off we're all going to be in improving the response and the time it takes to, just the education piece I think is very valuable. Anyway, thank you, Mr. Speaker,

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and thank you May and Gerry. Sorry, Representative Fox and Representative Flexer for their work on this.

SPEAKER DONOVAN:

Thank you, Representative. Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. A quick question, if I may to the proponent of the Bill.

SPEAKER DONOVAN:

Please proceed, sir.

REP. SHABAN (135th):

Thank you, sir. Through you, Mr. Speaker, following, my questions really follow up on some discussions the Representative and I had earlier. I just wanted to flush out some concerns or issues that I wanted to flag for the House.

In lines 633 through 639, and in particular Section 14b(1) of the Amendment, which I understand will become the Bill if passed, the testimony of a spouse may be compelled in the same manner as for any other witness in a criminal proceeding against the other spouse for one, the joint participation of the spouse in criminal conduct.

So, through you, Mr. Speaker, my question is whether or not that erasure of what appears to be the testimonial privilege between spouses is just focused on the domestic

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violence portion of our criminal statutes, or all criminal statutes? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. If I may, I'm sorry, as the Members know, the drafts moved around a little bit, so I'm dealing with a different marked-up version. Where is it?

Through you, Mr. Speaker, I believe it's any type of case. I believe it is. Thank you.

SPEAKER DONOVAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. And through you, again, more for legislative history than anything else. In Section b where it says in line 636, 637, may be compelled, comma, in the same manner as for any other witness, comma.

Through you, is it the gentleman's understanding that that same manner provision captures the spouse's Fifth Amendment right against self-incrimination? Through you.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, and actually, I found my place here. First of all, the witness would always have the Fifth Amendment right. Nothing that we do would trump that.

Also, this deals with those situations where there is, it references joint participation with the spouse, and there would be no privilege if the actor was a participant in this conduct.

SPEAKER DONOVAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker, and through you. So, again, more for legislative history than anything else, would the communication privilege, i.e., the privilege, which both spouses hold that prevents one spouse from being compelled to testify about what another, the other spouse told them.

Would that still be in place? Through you.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, with respect to this Bill, and as it was, the intention was described by the Chief State's Attorney's Office is that when an individual confesses to committing a crime against another to the

spouse, the spouse in that situation could be compelled to testify.

SPEAKER DONOVAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, and through you. Well, actually, I thank the gentleman for his responses. I just wanted to flag again, for the Chamber, that this Section, and I intend to support the Bill, which includes this Section, but this Section is broader than domestic violence and perhaps rightfully so.

But it's for any criminal act and it's somewhat of a concern. I guess what we're doing here is weighing the effort and the obligation we have as a Legislature and a Judiciary to prosecute crimes against what has been traditionally a spousal privilege against testifying.

And with the gentleman's answers, and through my conversation with the State Attorney earlier today, I understand that obviously, as the gentleman said, the Fifth Amendment privilege, we can't get rid of that even if we tried.

But if that spouse was granted immunity and thereby erased or took away any Fifth Amendment issue, that this

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just focuses on the ability of a court to compel testimony regarding the actions, as opposed to the communications.

And that's not a question. It's more of a statement for legislative intent, and I thank the Speaker for his time.

SPEAKER DONOVAN:

Thank you, Representative. Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the Amendment before us today. I'd also like to thank the Chair of the Task Force as well as the Chair of the Judiciary Committee, who really did make this work in progress as it made it through the Committee process, into something that I think we can all support and is deserving of support tonight.

I did have some questions, but I believe the previous speaker addressed those clearly.

So I would just encourage all of my colleagues to support the Amendment before us and hopefully once adopted, the Bill as amended. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative Labriola.

REP. LABRIOLA (131st):

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Thank you, Mr. Speaker, a few questions through you to the Chairman of Judiciary.

SPEAKER DONOVAN:

Please proceed, sir.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. Turning to Section 10, or actually Section 11 and 12 and 13, each one of those sections has a paragraph that begins, for example in line 614 through 620, no person listed as protected person in a restraining order may be criminally liable for soliciting, requesting, commanding, intentionally aiding in the violation of the restraining order, et cetera.

I'm just wondering what the purpose of that particular provision is. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. Through you, there was testimony before the Task Force that there are some instances where an individual who a protective order is intended to protect, would be arrested involving an incident with the individual who is the subject of the protective order.

I'm not sure that was the clearest way of answering that, but maybe an example. If a woman, if a man is the subject of a protective order, and there can be situations where a woman, if that is the person that he is ordered not to go near, for example, then if the woman were to say, invite the person over, there were situations where that person would then be charged, the woman, would be charged with violation of the protective order.

And the victims' groups who came forward objecting to this practice, and I should point out that it's not a very widespread practice.

But if the person's charged with violation of a protective order, yet the protective order is not entered against them, it seemed to not make sense that they could then be charged with violation of it. They're not the person who was in court when the court ordered the protective order. It was the defendant who is in the domestic violence case.

Now that doesn't mean that the individual could not be charged with something else. You know, perhaps it's disorderly conduct, breach of peace or whatever, depending upon the circumstances.

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But since they're not the individual against whom the protective order is entered, they should not be charged with violation of a protective order.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. Thank you for that answer, Chairman Fox. I certainly understand that they should not be charged with a crime. I just wouldn't want this provision to somehow promote the invitation to these people who have the protective order against them. I realize they couldn't be charged with a crime and that they could be charged with some other crime like breach of peace as you indicate.

But I suppose it wouldn't be a defense that the defendant could raise, but a judge in determining whether the protective order was violated would consider the fact that they were invited, typically you know, invited to the house that they're not supposed to go to.

I guess for legislative intent I'm concerned about whether this would have the reverse effect of what we're trying to prevent, and I'll phrase that in the form of a question.

Is there such a concern? Through you.

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SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I do understand the Representative's concern, and it certainly is not intended to increase opportunities for protective orders to be violated.

It's only for the limited reason that an individual who is not, who the protective order is not ordered against, should not be then the subject of violation of protective order.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. Following up on some of the questions from Representative Shaban earlier regarding that section of the spousal immunity and that line of questions, I am concerned.

I wanted to ask one more time. Is it the intention of this legislation to capture participation by the spouse in all criminal conduct, or just criminal conduct of domestic violence nature? Through you.

SPEAKER DONOVAN:

Representative Fox.

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REP. FOX (146th):

Through you, Mr. Speaker, it's limited to the sections or the types of crimes that are set out in that section. And if you look at the preceding section, it does state that except as provided in Subsection b of this section, in any criminal proceeding, a person may elect or refuse to testify against his or her then lawful spouse.

Through you.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker, and I appreciate that clarification, because that does make it much clearer that we're not getting rid of the entire, the entire defense, or immunity that a spouse would have, is the word I was looking for, but only with respect to the crimes as enumerated here. We're not getting rid of the spousal immunity in general in all criminal cases.

So my other question is a different subject area, which has to do with the solicitation by bail bondsmen and that is, what is the genesis of that? What is the problem, through you, Mr. Speaker, that we're trying to address there.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. And this is an area that, as I mentioned before, was in a Bill that did come out of the Insurance Committee, but it was the subject of testimony before the Task Force.

As I understand the solicitation provision, there are situations where an individual gets arrested and as, I know the Representative is aware, in domestic violence cases, you go to court the next day. Oftentimes you're locked up over night.

And the way it was described is that in some courthouses there can be competition, essentially, by the various bondsmen who can then make, attempt to reduce the required down payment to a point where an individual might get out at far less than was the original intention.

So that was the genesis behind the solicitation section, and I do believe there's been discussion with respect to whether the bondsmen can advertise. I think, for example wear t-shirts, and that is allowed under this Amendment.

Also, whether they may solicit at a police station, which as was described by a number of Members of the Chamber that that may often be done. It was hoped, however

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that we would be able to, at least in the courthouse would be able to prohibit or reduce the amount of solicitation.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. And through you, what would be the penalty for a violation of that section? Through you.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, because this is only amending one section of the Insurance Committee Bill that we passed last week, I believe that the penalty provision would be in that Bill, so I'm not sure exactly what the penalty is.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. I thank the gentleman for his answers. I appreciate the clarification and I believe it is a good Bill and I urge passage. Thank you.

SPEAKER DONOVAN:

Thank you, Representative. Representative Rebimbas.

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REP. REBIMBAS (70th):

Good evening, Mr. Speaker. Through you, Mr. Speaker, just some clarification questions to the Chair of the Judiciary Committee, please.

SPEAKER DONOVAN:

Please proceed.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Looking at Section 11, lines 580 through approximately 584, and I know that there's different versions of this, so I hope that's the correct lines.

Kind of picking up what Representative Labriola had highlighted a little while ago regarding the intent of the Bill and what these lines actually do.

What I see here, the intent of the Bill is certainly a good one, and I think it would be hard pressed for anyone to question that.

But when we look at this section, it actually says that a person is not able to be arrested in the aiding in the violation of a protection order. So the hypothetical that was provided by the Chairman earlier, if a protective order is in favor of the wife, who happened to be the victim, and the husband is the person who has the protective order that he has to abide by, what was going on

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that raised these situations is that the wife may have been contacting the husband, even though there was a protective order there.

And let's say for example, over the weekend, I mean certainly whether it's because with a malintention, or because truly she wants to get back together again and they can't go to a court to correct the protection order or to release it.

The issue I have here is, if you have the wife who's contacting the husband and the husband has no other recourse but to contact the authorities and say, this alleged victim, because if he hasn't been convicted of it, it's still pending, it's just charges.

This alleged victim is contacting me. It may not raise to the point of being harassing, so she wouldn't be possibly arrested for harassing. But what the arrest could possibly be or the charge, is aiding in the violation of the protective order.

Because if the wife is asking the husband to come over, come see me, whatever the case is, he would be in violation of it. The only way for him to stop her from contacting him, but it doesn't reach the point of harassing, would be to contact the authorities and possibly, if the authority so chooses at that time, to

arrest the person for aiding in the violation of a protective order.

I think this is very important, even for the husband in this hypothetical to create a record showing of what's going on. I don't believe that excluding this possible arrest on the hypothetical of the wife in this case, goes to the intent of the Bill.

So maybe again, a little bit more for clarification purposes, through you, Mr. Speaker, why is it that we're exempting an alleged victim from a possible arrest in the actual aiding of a violation of a protective order?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, the objective behind this and the testimony that came before the Committee is that situations were arising where, and it was, as I said, it's infrequent, where police would hear from both sides and essentially arrest both for violation of a protective order.

It was the testimony as I understand it, from the various victims' groups that this could be used against a victim and the objection would be to make it clear by

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statute, while you may arrest somebody for a crime should they commit a crime, it should not involve the violation of the protective order.

SPEAKER DONOVAN:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker, and I want to thank the Chairman for his response.

And I think this is just one example, again, of a good Bill that's going a little bit overreaching, overburdensome and we should be protecting the victims, not providing an ultimatum and limiting the right of the alleged perpetrator and an officer to do their due diligence at the time of a report, to then proceed with any charges they see fit.

Just one other question regarding the Bill. Through you, Mr. Speaker, to the Chairman of the Judiciary.

In Section 9, just for clarification purposes, I see that there's new language regarding what a person needs to do if they're found in violation of Section 53a-217.

Specifically, my question through you, Mr. Speaker, it indicates in line 523 that if a person is found convicted of 53a-217, they may only transfer a pistol,

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revolver or other firearm under this subsection to a federally licensed firearms dealer.

But then at the end of that new language in line 526, it says, or Section Number 2, which implies, I believe, that they also have the option to turn it in to the Commissioner of Public Safety, which obviously is current law.

My question just for legislative intent so that it's clear, under the new section it says may only. But following the new language it says or, which implies that Section 2 is also available as an option.

So for legislative intent, Mr. Speaker, if the Chairman can please tell me whether they would still have the option that lies under Section 2?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I believe so, yes.

SPEAKER DONOVAN:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And I want to thank the Chairman for his responses.

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SPEAKER DONOVAN:

Thank you, Representative. Representative Kupchick.

REP. KUPCHICK (132nd):

Thank you, Mr. Speaker. I just wanted to make some comments regarding the Bill.

I actually have some family members who have been victims of domestic violence and there are a lot of intricacies involved with this law, and many times while you're in court, or while you're going through protective orders, sometimes you scratch your head as a family member and wonder, how can this possibly be? Why is this happening like this? But it does happen, and it happens many, many times.

So I do, I am glad to see we are doing something to rectify some of the issues that happen during domestic violence cases. I think we need to do a little bit more, actually.

And I've been involved with the Department of Women and Family Domestic Violence Counseling Agency in my area, and I would like to see us do some more, because there are things that are happening with people who are victims of domestic violence that need to be addressed, such as cases where there is a person who has a restraining order against their spouse or a significant other, and the significant

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other calls and says that that person tried to violate the protective order when they didn't actually do that.

And it becomes all these games and things like that, and the courts are sort of removed from what's actually happening.

So I'm glad to see this Bill. I'd like to see a little bit more in the future, and I do rise in support of it. Thank you very much.

SPEAKER DONOVAN:

Thank you, Representative. Representative Flexer.

REP. FLEXER (44th):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the Amendment before us. I just wanted to take a moment to thank the Members of the Domestic Violence Task Force who have worked so diligently over the past year and a half on these issues, and most importantly to thank you, Mr. Speaker, for your leadership on this issue.

We've been able to do some tremendous things in the legislation before us, and in our efforts over the past couple of years and I'm proud of the work that we've done.

So thank you very much.

SPEAKER DONOVAN:

Thank you, Representative. Would you care to remark further on the Amendment? Care to remark further?

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If not, let me try your minds. All those in favor please indicate by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All opposed, Nay. The Ayes have it. The Amendment is adopted.

Do you care to remark further on the Bill as amended?
Do you care to remark further?

If not, staff and guests please come to the Well of the House. Members take their seats. The machine will be opened.

THE 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 DONOVAN:

Have all the Members? Have all the Members voted?
Please check the roll call board to make sure your votes are properly cast.

If all the Members have voted, the machine will be locked and the Clerk will please take a tally. The Clerk please announce the tally.

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THE CLERK:

House Bill 6629 as amended by House "A".

Total Number Voting 147

Necessary for Passage 74

Those voting Yea 147

Those voting Nay 0

Those absent and not voting 4

SPEAKER DONOVAN:

The Bill as amended is passed.

Will the Clerk please call Calendar 258.

THE CLERK:

On Page 39, Calendar 258, Substitute for House Bill
Number 6529 AN ACT PROMOTING ECONOMIC DEVELOPMENT IN THE
AREA SURROUNDING OXFORD AIRPORT. Favorable Report of the
Committee on Planning and Development.

SPEAKER DONOVAN:

The Chair of the Commerce Committee, Representative
Berger, you have the floor, sir.

REP. BERGER (73rd):

Thank you, Mr. Speaker. We are soon to call an
Amendment that's going to be a strike-all Amendment that
will now become the Bill. This is an extension of work
that we've done in the past for economic development around
airport zones, and this will directly affect Oxford

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Continuing calendar page 26, one additional
item: Calendar 598, House Bill Number 6629.

Move to place this item on the Consent
Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Moving now to calendar page 27, where we have
several items. First item, Madam President, is
Calendar 600, House Bill Number 6314.

Madam President, move to place this item on the
Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Continuing calendar page 27, Calendar 601,
House Bill Number 6529.

Madam President, move to place the item on the
Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

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Mr. Clerk.

THE CLERK:

Immediate roll call's been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call's been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CLERK:

Madam President, the items placed...

THE CHAIR:

I would ask the Chamber to be quiet please so we can hear the call of the Calendar for the Consent Calendar.

Thank you.

Please proceed, Mr. Clerk

THE CLERK:

Madam President, the items placed on the first Consent Calendar begin on calendar page 5, Calendar 336, House Bill 5697.

Calendar page 7, Calendar 421, Substitute for House Bill 6126.

Calendar page 8, Calendar 449, Senate Bill 1149.

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Calendar page 10, Calendar 470, Substitute for House Bill 5340. Calendar 474, Substitute for House Bill 6274. Calendar 476, House Bill 6635.

Calendar page 12, Calendar 499, Substitute for House Bill 6638. Calendar 500, House Bill 6614. Calendar 508, House Bill 6222.

Calendar page 13, Calendar 511, House Bill 6356. Calendar 512, Substitute for House Bill 6422. Calendar 514, House Bill 6590. Calendar 515, House Bill 6221. Calendar 516, House Bill 6455.

Calendar page 14, Calendar 517, House Bill 6350. Calendar 519, House Bill 5437. Calendar 522, House Bill 6303.

Calendar page 15, Calendar 523, Substitute for House Bill 6499. Calendar 524, House Bill 6490. Calendar 525, House Bill 5780. Calendar 526, House Bill 6513. Calendar 527, Substitute for House Bill 6532.

Calendar page 16, Calendar 528, House Bill 6561. Calendar 529, Substitute for House Bill 6312. Calendar 530, Substitute for House Bill 5032. Calendar 532, House Bill 6338.

Calendar page 17, Calendar 533, Substitute for House Bill 6325. Calendar 534, House Bill 6352.

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Calendar 536, House Bill 5300. Calendar 537, House
Bill 5482.

calendar page 18, Calendar 543, House Bill 6508.

Calendar 544, House Bill 6412. Calendar 546,
Substitute for House Bill 6538. Calendar 547,
Substitute for House Bill 6440. Calendar 548,
Substitute for House Bill 6471.

Calendar page 19, Calendar 550, Substitute for
House Bill 5802. Calendar 551, House Bill 6433.
Calendar 552, House Bill 6413. Calendar 553,
Substitute for House Bill 6227.

Calendar page 20, Calendar 554, Substitute for
House Bill 5415. Calendar 557, Substitute for House
Bill 6318. Calendar 558, Substitute for House Bill
6565.

Calendar page 21, Calendar 559, Substitute for
House Bill 6636.

Calendar page 22, Calendar 563, Substitute for
House Bill 6600. Calendar 564, Substitute for House
Bill 6598. Calendar 566, House Bill 5585.

Calendar page 23, Calendar 568, Substitute for
House Bill 6103. Calendar 570, Substitute for House
Bill 6336. Calendar 573, Substitute for House Bill
6434.

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Calendar page 24, Calendar 577, Substitute for
House Bill 5795.

Calendar page 25, Calendar 581, House Bill
6354.

Calendar page 26, Calendar 596, Substitute for
House Bill 6282. Calendar 598, Substitute for House
Bill 6629.

Calendar page 27, Calendar 600, House Bill
6314. Calendar 601, Substitute for House Bill 6529.
Calendar 602, Substitute for House Bill 6438.
Calendar 604, Substitute for House Bill 6639.

Calendar page 28, Calendar 605, Substitute for
House Bill 6526. Calendar 608, House Bill 6284.

Calendar page 30, Calendar number 615,
Substitute for House Bill 6485. Calendar 616,
Substitute for House Bill 6498.

Calendar page 31, Calendar 619, Substitute for
House Bill 6634. Calendar 627, Substitute for House
Bill 6596.

Calendar page 32, Calendar 629, House Bill
5634. Calendar 630, Substitute for House Bill 6631.
Calendar 631, Substitute for House Bill 6357.
Calendar 632, House Bill 6642.

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Calendar page 33, Calendar 634, Substitute for
House Bill 5431. Calendar 636, Substitute for
House, correction, House Bill 6100.

Page 34, Calendar 638, Substitute for House
Bill 6525.

Calendar page 48, Calendar 399, Substitute for
Senate Bill 1043.

Calendar page 49, Calendar 409, Substitute for
House Bill 6233. Calendar 412, House Bill 5178.
Calendar 422, Substitute for House Bill 6448.

Calendar page 52, Calendar 521, Substitute for
House Bill 6113.

Madam President, that completes the item placed
on the first Consent Calendar.

THE CHAIR:

Thank you, sir.

We call for another roll call vote. And the
machine will be open for Consent Calendar number 1.

THE CLERK:

The Senate is now voting by roll on the Consent
Calendar. Will all Senators please return to the
Chamber. The Senate is now voting by roll on the
Consent Calendar, will all Senators please return to
the Chamber.

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Senator Cassano, would you vote, please, sir.

Thank you.

Well, all members have voted. All members have voted. The machine will be closed, and Mr. Clerk, will you call the tally?

THE CLERK:

Motion is on option Consent Calendar Number 1.

Total Number Voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar Number 1 has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

We might stand at ease for just a moment as we prepare the next item..

THE CHAIR:

The Senate will stand at ease.

(Chamber at ease.)

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SENATOR LOONEY:

Madam President.

THE CHAIR:

Senate come back to order.

Senator Looney.

SENATOR LOONEY:

Yes, yes thank you.

Madam President, 2 items to mark.

THE CHAIR:

Sir.

SENATOR LOONEY:

We will take up as the first 2 go items. And the first is calendar page 5, Calendar 26, Senate Bill 1024. And the second is calendar page 44, Calendar 296, Senate Bill 1160.

If we might take up those 2 items.

Thank you, Madam President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Returning to Senate calendar page 5, Calendar number 260, File Number 448, Substitute for Senate Bill 1024; AN ACT MODERNIZING THE STATE'S

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 16
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2011

And there is a pretty good size number of people here, so we'd like to get started.

And first on our public officials' list is Speaker of the House, Chris Donovan.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Thank you, Representative Fox. Senator Coleman, nice to see you; members of the Judiciary Committee, it's always a pleasure to come down and see the good work you're doing.

I'm here to testify on a bill dealing with domestic violence, AN ACT CONCERNING DOMESTIC VIOLENCE; it's House Bill 6629.

And, first of all, I'd like to take this opportunity to express my thanks to yourself, our representative Chairmen, Representative Fox and the Chairwoman of the domestic-violence task force, Representative Flexer, for their hard work of putting this legislation together and working with all the advocates and prosecutors and all the various people who have added their input to providing proposals to deal with our -- the problem of domestic violence.

Also, before I start, I'd like to call your attention to testimony that was submitted by Mr. Alvin Notice. He lost his daughter, Tiana Notice, to domestic violence in 2009, and he's been a major advocate for victims and their families. And I got to know Mr. Notice. He's a -- a great guy. He wasn't able to be here today but he -- and we just want to make you -- make note of the testimony that he submitted.

Okay, now dealing with the bill today, we voted out of -- also, there was a bill voted out of Human Services, and that deals with the issues

that the task force on domestic violence put forward this year, for 2011.

And last year we passed a very good bill that dealt with a lot of issues on domestic violence, and this adds to that good work. And I'll just talk briefly about the various parts of this bill that was worked out. One, it creates a task force charged with developing a statewide law enforcement model policy. We found that there's a -- a not a standard enforcement model that the police officers are using in the towns, and we believe that there should be protocols that all police officers follow in dealing with domestic-violence enforcement.

We also -- this clarifies that people of any age, including teens, can request a restraining order, mainly dealing with teenage domestic violence, we're dealing with dating, et cetera. It'd also allow victims who've experienced a pattern of verbal intimidation and threatening or stalking to -- to request a restraining order. This provides restitution services for families, like those provided for other crimes. For some reason, domestic-violence victims cannot seek restitution.

This bill requires offenders, domestic-violence offenders to surrender their firearms to police, if they are barred from possessing firearms because they are subject to restraining or protective orders. Right now, the -- the law allows that if you have been barred from possessing a firearm, you can surrender that firearm to someone else, not necessarily the police. And you could actually -- you could surrender it to someone in your household. We don't believe that's what it was intended by -- by surrendering your firearms; we believe it should be surrendered to the

police department; then we know that they wouldn't have access to -- to that firearm.

Last year we -- we created additional domestic-violence dockets; this calls for doing that, as well, within the resources of the Judicial System. We also looked at the family violence education diversionary program to make sure it's effective. We're worried that in some cases people who have violence issues that -- that would not be addressed in a family violence education diversionary program are being sent there. We believe that may not be the appropriate place for those perpetrators to go, and we look at other -- other avenues for them.

And then, finally, I'd like to talk about the issue of bail bonds' agents and the practice of undercutting. There's been a -- a number of serious and fatal domestic-violence incidents, one including the murder of a Shengyl Rasim, in West Haven, where the person who was arrested and -- and was -- there was a bond placed on them. They -- the bond was undercut illegally by a bail bonds' person, and actually that person did not pay anything in bond and went out and tragically murdered Shengyl Rasim. So we believe that there needs to be some reform in -- in doing so, so that the bail bonds' agents do not undercut the Court's actions.

So those are the various proposals we have. Again, there's a lot of people coming together in a bipartisan nature to deal with the issue of domestic violence. And we think the product we have before you -- which, again, thank you, Mr. Chairman, your work on it -- is a -- a good -- it's full of good proposals that will help the State of Connecticut.

REP. FOX: Well, thank you, Mr. Speaker. And -- and

I would like to thank you for -- for forming the -- the task force on domestic violence. It -- it was in response to -- to several incidents.

And then during the work of the task force there were additional, terrible tragedies that occurred, that -- that certainly made it a timely issue for us to be addressing and to look at. And we were able, last year, to get some significant laws passed, I believe. And I think things that are actually -- I see them in the courts when I'm there, myself, and they're -- they're working, and people are -- are implementing them.

And then I share your recognition of Representative Flexer, who has done an absolutely fantastic job in -- in taking this issue on. And she has become a leader in the Legislature on -- on issues of domestic violence, and also your acknowledgment of Alvin Notice, who tragically lost his daughter and has really done everything he can. And he's not here today but he's here a lot of days, and we -- we do get to see him.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Right.

REP. FOX: And he's -- he's always working on ways that he can try to be of help to us to understand the issues and to -- and to do what we can to eliminate or reduce this terrible problem.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Yes.
Thank you, so much.

REP. FOX: Are there any questions of the Speaker?

Chairman Coleman.

SENATOR COLEMAN: One of the aspects of the bill that you mentioned was the practice of undercutting bail bonding.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN:
Uh-huh.

SENATOR COLEMAN: A subject -- bail bond reform has been a subject of interest to me over --

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Right.

SENATOR COLEMAN: -- the last few years.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: That's correct.

SENATOR COLEMAN: And I was just wondering whether or not you've had any discussion or consideration of trying to make the section of the statutes that permit preventive detention apply to the domestic-violence situation.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: You know, I think it's, you know, in dealing with bonds, you want to make sure that the bonds are fair and that we don't have people who because of lack of resources are unintentionally detained because they can't afford that. That's -- that's one issue. But the other one is to make sure that those people are, you know -- in this, in the case I had actually talked about, the person was undocumented and there was a flee factor that should have been, I think, taken into consideration as well.

So I -- I would like to work with you in making sure we have the language that you think makes sense for the safety of victims and -- and -- but also protects the rights of people who are charged to be treated with -- in a judicious manner.

SENATOR COLEMAN: Yeah. I see the request -- I think it was many years ago -- but there was some revision of the statute that permitted the judge to take into consideration the degree of threat that a defendant posed to the public at large or to a specific individual.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Okay.

SENATOR COLEMAN: And, you know, I think it's probably been an opportunity that's rarely used. I shouldn't say an opportunity, but it's probably a provision that's rarely used, but I do think that under certain circumstances --

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: I think. I think you're right.

SENATOR COLEMAN: -- where there is a repeated conduct that poses a threat of harm, physical harm to an individual, a judge may set no bail at all and just permit the person to be held.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Uh-huh.

SENATOR COLEMAN: And I'm just wondering whether or not -- I'm not asking you to answer the question but I'm wondering -- as Representative Flexer and Representative Fox approached me about the whole issue of bail bond reform and how it may apply to domestic-violence situations -- I'm wondering whether there may be some application of that section of the statutes to this particular situation.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: I think that's great advice. Thank you, Senator.

SENATOR COLEMAN: Thank you.

REP. FOX: Representative Fritz.

REP. FRITZ: Thank you, Mr. Chairman.

Speaker Donovan, I -- I noticed the case that you referenced and he -- didn't he -- he leave; didn't post any money, got out and went home and killed his wife?

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: That's my understanding, Representative.

REP. FRITZ: Yup.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: -- Fritz.

REP. FRITZ: And my thought on all of that is how about if there was a cash bond, that that would be the requirement so that that person -- which has happened over and over again -- who has been arrested for domestic violence doesn't get out and go back and do further damage. In my way of thinking, if a cash bond was required -- and all the lawyers will be all up in the air -- but at the end of the day, if it can prevent greater harm, I would think it should be a way to go.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: I thank you, Representative.

REP. FOX: Representative Flexer.

REP. FLEXER: Thank you, Mr. Chairman.

Thank you, Mr. Speaker for coming this afternoon. I just wanted to take a brief moment to thank you for your tremendous leadership in not only creating the task force, a year and a half ago, but in getting the sweeping reforms that we were able to

accomplish through the legislative process last year and for your leadership in moving the initiatives that we have before us today through the process in this legislative session.

And I also want to thank Chairman Fox for his great work on the task force, both last year and on the bills that we working on this year. Without Speaker Donovan's leadership and Representative Fox's leadership, I don't know that we would have been so successful. So thank you, both, very much.

And I also want to thank Representative Baram and Representative Fritz, who are two committee members in the room who also serve on the task force. So, thank you, so much.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN:

Thanks. Thanks, so much.

And that, you know, it's one of these issues where, you know, people are -- have been concerned about for many years. And last year, we -- by putting this task force together, we had advocates, survivors, judges, prosecutors, attorneys, law enforcement officers, support providers, staff agencies, and Legislators putting in the time to say what can we do. And we found out a lot, and we did -- the bill last year was -- was a really good piece of legislation.

And but as, Chairman Fox, you said, as we continue working on it, we find out there's still so much more needed. And this legislation will help that along, so, again, thanks, everybody for their -- their hard work in putting this together.

REP. FOX: Well, thank you.

Are there any other questions for Speaker Donovan?

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Thank you, so much. Have a --

REP. FOX: Thank you.

SPEAKER OF THE HOUSE CHRISTOPHER G. DONOVAN: Have a great afternoon.

REP. FOX: Thank you.

Next we have Chief State's Attorney, Kevin Kane.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Good afternoon, Senator Coleman, Representative Fox, Representative Holder-Winfield, and members of the committee. Thank you for inviting us here today.

My name is Kevin Kane, the Chief State's Attorney. With me is Kevin Dunn. Kevin Dunn is our resource prosecutor for domestic violence, and he has been in that job, I think, for three -- when I did appoint you, three years --

KEVIN DUNN: Four years.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Four years ago, down there. He was instrumental in the beginning of one of the first domestic-violence dockets; in fact, the first -- the first dedicated domestic-violence docket in the State of Connecticut that occurred in Bridgeport, where he worked with Judge Hauser where they -- right in the beginning when they began developing that docket. And it's a docket that's recognized around the country; the

SB1220
HB6629
HB6633
SB1163

principles and the concepts are good. And he's going to speak about quite a bit of these bills.

I just want to talk, generally, about a couple of things. I'm sure you'll have a lot of questions and -- and between the two of us, mostly Attorney Dunn, I think he with answer most of the details here, and that's why I brought him along.

With regard to the -- we -- I -- we've submitted written testimony on three bills today. In addition, we've submitted written testimony on another bill, dealing with assault on -- on teachers and school personnel. Bruce Tonokow, who is an assistant -- your Assistant State's Attorney and a juvenile prosecutor here in Hartford will talk about that later on, when -- when he's called.

SB1163

The commission that I want to talk about -- Attorney Dunn and I are -- are here to talk about Senate Bill 1220, House Bill 6629, and 6633. We've submitted written testimony on those bills, that I think is -- is explanatory and clear. We'll answer any questions.

With regard to the 6629, I'd like to address some remarks initially to three sections. This bill, first of all, is -- is an excellent. It came out of a product of -- of the speaker's task force or commission that did excellent work on it, Representative Flexer, other representatives worked very hard on this issue. We had participation from a variety of -- of -- had import from a variety of sources and it produced a very, very good bill. During the course of that, those meetings, they learned a great deal, focussed a lot of attention on it and have pointed out some very good problems, issues, and solutions to those issues.

And I would like to point out a couple of concerns about a couple of these sections, though, that -- that we do have concerns. Section 12(b), 13(b), and 14(b), in the bill, they have to do with charging victims with conspiracy or accessory to violate protective orders which were issued to protect them. These are situations where a victim may -- somebody is arrested, often on the result of a complaint from the victim, charged with a domestic-violence crime. A protective order is issued to protect that victim.

A couple of years ago, maybe three years ago now, the victim's advocate called our attention to some cases where she felt that that charge was inappropriate. There were a group of them in Litchfield J.D. and another group, a smaller group in -- in another J.D. We looked, the state's attorneys looked at all of those charges and found, indeed, that most of them were inappropriately charged and shouldn't have been. There were a couple -- and my recollection is it was about 20 cases out -- out in -- in Litchfield J.D. and another four or five in -- in another town, in a different J.D. We looked at all of those cases and found one or two that the charge was appropriate and -- and should have been. Most of them, they were, the -- the charge was not really appropriate; it would have been wiser not to charge that offense. And through a little bit of training with the prosecutors, the G.A. prosecutors and the police departments involved, that practice was stopped almost entirely.

There's widespread agreement among all of the domestic-violence prosecutors is that this charge is one that should not be used except in extraordinary circumstances, and very rarely

there may be one. There are victims occasionally who have obtained a protective order and then used that as a tool to -- to invite the defendant over there and -- and get them arrested for violation of the protective order. And there are cases where we had found that that was done intentionally with a plan, and it would be appropriate to prosecute in those cases. There are a small number of cases -- they are a very small number of cases where that has happened. It's something that we should be free to be able to prosecute those victims where it's done, and the inclusion of these three sections in the bill would prohibit that. I think it's a training matter and the training is -- the training that this bill contemplates -- assuming we have the ability to do it -- should eliminate that problem rather than having the solution be a statute that would prohibit the arrest in all cases.

I -- I've been -- we keep inquiring among the G.A. prosecutors and the state's attorneys about the practice of doing this. There have not been any widespread pattern or there have not -- not been any cases to any degree that at least have been called to my attention or the attention of the other state's attorneys, so it will be too bad to see -- to have this statute passed. I think we've dealt with the problem in an appropriate way.

Section 15, dealing with privileged, marital communications; this bill, initially the concept of this section was suggested by us. The wording has changed, though, in the drafting of the bill, and this is a complicated subject and it's very important. We have two kinds of privileges in this area. A privilege is something which enables a witness or in the case of communications, the party making the disclosure.

Well, let me explain it this way, in family -- in -- in criminal cases you get. There's a statute which provides that no spouse can be compelled to testify against her -- his or her spouse against their wishes. If we call a witness and the witness is to testify against a defendant and they're married, that witness can refuse to testify against his or her spouse, just flat out; it's a testimonial privilege, except in certain, limited cases. The statute provides for that. I think it's 50 -- I've forgotten the number there, but -- but it's in our written testimony -- except in certain, limited cases involving physical violence to that witness or sexual assault, be it -- it's a testimonial privilege. What this section of the bill does is a -- is repeals that.

The second kind of privilege we have is what's called a "communication privilege." That's a privilege that recognizes the relationship of marriage ought to be such as to encourage open communication between the -- the parties to the marriage with confidence that those -- that one party or the other won't reveal or be forced to reveal those communications. And where a witness is called to testify against his or her spouse and that witness is asked what the spouse said, the spouse, the defendant is allowed to object and say that's a confidential communication made during the course of the marriage and I object to -- to my husband or wife being able to testify about that communication. That's the communication privilege.

What this section did was it was -- repealed the testimonial privilege, and in language that is very confusing and hard to decipher and I think is going to a whole load of problems, merged it together with the communication

privilege in a manner that's hard for many of us to understand. And we're going to have lawyers and judges all with a different understanding of the wording of that, and -- and nobody will know what it means. Not only that, it would apply only to cases where there is physical -- where -- where the spouse has been a victim of physical violence or the sexual assaults' statutes apply.

But, for instance, if a husband tells his wife, I'm going to kill you, without beating her, no violence or other -- I'm going to kill you and then goes out later on and hires a hit man to kill her, and somehow the police find out about it and -- and the hit man gives a statement, we wouldn't be allowed to use the I'm-going-to-kill-you statement. Under this Section 15, we wouldn't be allowed to use the I'm-going-to-kill-you statement as evidence to corroborate whatever the hit man testified about. It can -- and this section will have unforeseen consequences.

Under the law of -- of marital communications right now, as it stands today, we probably could get that in. The communication privilege is something that's been developed by the Courts in Connecticut. There are some cases that deal with it. It's evolving common law and it's a careful thing, so I'd be concerned about Section 15.

The other section I'd like to talk about briefly is Section 23; that's to establish a task force to contain -- to create statewide protocol for the response to domestic-violence complaints. I think that task force would be a mistake; it will be much better to have it done by POST, which is very capable of doing this, and since suggestions along those lines. If it were amended to read that POST shall develop

the protocol in conjunction with the Division of Criminal Justice and that police departments are required to adapt a protocol once it is adopt -- once it is -- is adopted by POST or developed by POST, that would be a much better way to do it than have this cumbersome task force with all different influences be involved in setting a protocol, which is essentially an investigative and law enforcement responsibility.

Domestic-violence cases used to be, and still are to a degree, one of the most dangerous calls a police officer has to respond to. There were years when -- when there were -- that was the most dangerous situation a police officer was -- was put into. This is an area that falls peculiarly within the responsibilities of POST. We have had POST. Recently this legislation has required POST, in conjunction with the division, to develop domestic-violence protocols with regard to illegal immigrants. It did so and developed it.

The problem with some of those statutes is that police departments were not required to adapt and follow those protocols. Most of them did. Occasionally, some didn't, but it would be better to have POST do it and have police departments be required to do it.

That's my remarks. Now, Kevin Dunn has some remarks. And, as I've said, he's an experienced domestic-violence prosecutor. I did, when I -- when we appointed him, I was hoping he could spend time doing a lot of training and working with the staff. It turns out, because of our resources, he ends up taking a lot of cases in the G.A.s and rather than spending time training and developing staff's -- developing protocols and

-- and best practices, he spends the majority of his time handling cases in different G.A.s because they're so overburdened or because they're extremely complex. Mr. --

KEVIN DUNN: Well --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: -- Dunn.

KEVIN DUNN: -- thank you, Kevin.

Good afternoon, members of the committee. My name is Kevin Dunn, as Mr. Kane has pointed out. I've been a domestic-violence prosecutor now for over 15 years.

I was the first domestic-violence prosecutor appointed solely to prosecute domestic-violence cases in 1997. I've said this before; I had the great honor of being mentored, essentially, by Judge Hauser. And he was a renowned leader in domestic-violence philosophy and a doctrine in the country, not only Connecticut.

We established the first docket in Bridgeport, and over a period of time we -- we thought what we did there became best practices, not only for Connecticut but, to some extent, other states have called us up and asked about the principles of the docket in -- in Bridgeport.

I'm going to keep my remarks specifically to a couple sections in -- in the proposed legislation. By the way, some of the -- this legislation, I think, really goes right to the point of why we want to respond effectively to domestic violence, and that's for, essentially, one reason -- is that, and that is to make people who are victims of domestic violence safer. Part of making them safe, too, is holding defendants accountable for what they've done. Without the accountability function of

-- of any domestic-violence prosecution, ultimately the safety issue is going to be compromised.

I'm pleased to see that the Court -- the -- the committee has addressed in Section 4, and specifically Subsection (h), the idea of what the family violence education program was originally intended for. And there's some proposed legislation here that I think that -- I think is -- is important. And I think most of it is good legislation, and I would recommend that it is passed.

I will note that there is -- I -- I met with the domestic-violence prosecutors early this week, and one of the -- the -- the requirements now is that -- that the defendant has not been previously been convicted or arrested for a domestic-violence crime in order for him to be eligible. I think that language, "arrested for" probably should not be in the statute because, quite honestly, the mere arrest of a person probably should not prohibit him from getting something in the future because, one, we don't know the circumstances of that case. Many of these cases are factually based and may not have been that serious, so maybe the police officer felt compelled to make a mandatory arrest because that's what our statute does, in fact, require.

But I think, very important, the committee and with this proposed legislation is addressing an important issue. Is the family violence education program given out routinely, on a daily basis throughout the State of Connecticut when it shouldn't be? And I -- I have to say that I have seen it being given out when it shouldn't be. I think the next attempt of this statute is to make it impossible for a person to get the family violence education program

when this is a serious physical injury. I think this is a laudable addition to this statute. I think the seriousness of it can be by definition. One, is it something that can cause death; something that can disfigure a person; something that causes permanent bodily impairment or a dysfunction of a bodily organ?

Now, by saying that, there is probably a problem with our A.R. statute, because the A.R. statute, that family violence education programs is -- is given in lieu of the A.R. statute, because that's the way our statutes read. I think we have to address, well, if the person couldn't get the FEP -- FEP because it was a serious offense, well, then would they be able to then go and get the accelerated rehabilitation. I think there's some language issues here but I think it's laudable that we're addressing the fact that it is given out on cases that are too serious.

A third part of this section that I -- I find interesting, and I fully and -- and enthusiastically endorse, is the idea that a Court may -- may take a plea. Now, I understand that the original language was "shall take a plea" before it admits people into this program. I like the idea now that it's instead of "shall" be "may," because it gives, still, a discretion on the part of the judge to make that decision.

And permit me to just explain what this section really is dealing with. Since we started the docket in Bridgeport, we routinely got into a -- a sort of a practice of having defendants plea to the charges they were charged with or sometimes reduced charges, and then as a condition of that plea, put conditions on the plea; go to a longer program, rather than a 9-to-12 session family violence education

program; go to a 26-week program; obey the protective order; no new arrests; stay drug free. So this idea of a conditional plea, which is based on a concept of judicial oversight, then puts the burden on the defendant to comply.

The way the statute stands now is he's ordered into the family violence education program or on any diversionary program. Two years later, if he hasn't complied, you're stuck with a case, having to prove a case that your witnesses may not be available; that witnesses may have changed their mind. I'm not here just to say that there should be pleas in all of these cases, but the fact that now a judge may take the plea I think certainly does something to motivate a defendant to successfully complete the program, whereas before he just essentially could say, well, you know, what's going to happen to me? I might have to go back to court.

So I think that's a very, I think, good suggestion by the Court, not only for family violence education but in all the -- in a lot of domestic-violence cases and especially in domestic-violence courts, we do this type of conditional plea all of the time as a condition of -- and by your plea here today, you have to go to this program. You have to obey the protective order.

Well, that will lead me to a segue here. I -- I've segued into what -- something I feel very strongly about. I know a big part of this bill now talks about the expansion of the DV dockets, and I am -- for those of you have heard me testify before, I'm a very big proponent of the expansion of the DV dockets. I saw what it did in Bridgeport; it quadrupled, I think, the conviction rate, which was abysmal

before the docket was there. I saw that it held people more accountable and I -- dare I say, I think victims felt safer and they were more satisfied with the experience.

Domestic-violence dockets create more of a systematic way. They create more of an expertise, and the individuals that are in the dockets, I'm handling these cases on a daily basis. I'm not suggesting that prosecutors that don't handle these cases on a DV docket don't do their very best, but with a specialized docket, you develop an expertise that you wouldn't -- you wouldn't normally have. So I know there are financial constraints that this state is faced with. I know there are also some issues that can come up when establishing a new docket in terms of the personnel and -- and honestly, sometimes just the sheer inertia of people not wanting to change what they already have.

I will say this: Dockets can be tailored to the existing culture that is there. The existing DV dockets that we have now, there are about 11, are -- are tailored to the existing culture that are there. Not every docket is the same. Not every docket brings every, single domestic-violence case in and handles it. Some dockets only handle the -- the pretrial cases, the more serious cases that involve serious physical violence or a violation of protective orders. So cultures in my opinion, can adapt. I am cognizant of the fact that there are some concerns that Judicial and to some extent our own division has about available resources, but I would strongly suggest that this committee figures out a way that we can do it without trading, and, you know, turmoil within the existing areas, a way of expanding these dockets.

And I -- I know Mr. Kane has been committed to this. I appreciate the fact that he allows me to -- to go to these dockets; maybe based on some of his comments, maybe I have to focus more on policy in the future. But I do -- I do get a chance to see dockets and the different way that people handle DV cases throughout the state.

Finally, the other bill that's here, the -- the bill that addresses the idea of a training for prosecutors, I -- I firmly believe that prosecutors need more training. I, personally, am trying to get together the DV prosecutors on a more regular basis; we just met Monday, and I think meeting with the DV prosecutors quarterly is a good idea. I think it's something that maybe -- that I'm trying to do, even if there is a statute or not in terms of whether we can have all the prosecutors throughout the state meet quarterly. I don't know if that's a realistic goal to meet, but I think that certainly there should be a DV aspect to training for all prosecutors and that every prosecutor should be exposed to that at least once a year.

So I appreciate the fact that you allowed Mr. Kane and I to testify, and we're going to continue to do our best in the -- the Division of Criminal Justice in this area; I can assure you of that.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: May I just make one remark and then we'll have questions? And this will be short.

REP. FOX: Yeah.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: With regard to the dedicated DV dockets, we all recognize it's an ideal and it is a good thing to have,

and they function better; they protect victims. We also recognize that they are labor intensive, labor intensive both for the court, the domestic-violence advocates, the -- the family services, the judge, the prosecutors, and the defense attorneys. And only in about 60 percent of these is a private counsel involved, and there are pro ses involved in the DV docket. We are so stretched, so thin, resource-wise; that's one of the problems, as I said, why Kevin, Attorney Dunn is handling cases on -- on a daily basis almost, almost a daily basis rather than doing policy and that. That has an impact on how far we can go.

Judicial has worked, too, and with the public defenders and with the Division of Criminal Justice to establish three more dedicated DV dockets and two more court, you know, court locations. That's been good. We're on the -- on the verge of developing those. If we require these DV dockets, we are going to need more resources, because without the resources, all we'll be doing is tying up special dockets and turning cases and moving cases as fast as we can into these programs, because that's the only way to deal with them. And that will be -- have a negative impact instead of a positive impact.

Regarding the training, one of the problems -- and I've been asking for a training officer ever since I became Chief State's Attorney -- but it's not just a training officer. Just a matter of getting prosecutors out of the busy courts to go to training for -- on any given day is -- is extremely hard. We had a meeting of the -- just domestic-violence prosecutors, the other day. There were at least -- there was at least one court in Hartford that the prosecutors couldn't get free to get out of to come to the meeting, because there were so many

cases. And that's typical around the whole division. So if -- we're doing our best with training with the resources we have.

If you require it, we're going to have more cases coming into court without the ability or the staff to read those cases, to take the time to read the files to make the judgments that have to be made very fast with regarding to asking for appropriate bonds or protective orders. And those are things that go directly to the safety of the public and also to the fairness to the defendant. We need to be able to have the staff to do these things, and if the Legislature is going to impose these requirements without having the staff, something is going to pop in the wrong way, and the Legislature doesn't want that.

REP. FOX: Thank you, Attorney Kane, and Attorney Dunn.

Are there questions?

Representative O'Neill.

REP. O'NEILL: Your last comment was -- was prompting my question. You say, "Something is going to pop in the wrong way." That's poetic or it's symbolic, but could you give me a more concrete example --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Those words --

REP. O'NEILL: -- of what's the thinking?

CHIEF STATE'S ATTORNEY KEVIN T. KANE: -- were probably not well thought out, but that's exactly what I meant. When prosecutors are too busy and they're just moving files and they have three or four minutes to look at a file

and read it, they are going to miss signs that are important not to miss. They're going to miss signs that the case (a) might not be as -- as strong as it appears as a result of the charges, and as a result, it means they're going to miss details.

Just as importantly, they're going to miss signs if the defendant may be very dangerous and pose a real threat, and they're not going to be able to make wise and -- and thoughtful recommendations to the Court and about things like bonds. And that's where we see things happen that aren't good. That's when somebody is released inappropriately or an inappropriate charge is filed. The defendant is released and then injures or, worse, kills the victim, and that's what I mean. We need to have the ability to look and the time to look carefully at these cases and make proper decisions and make proper recommendations and not just be processing files.

REP. O'NEILL: Because you're talking about resources which are really the purview of the Appropriation's Committee more so than the Judiciary Committee, but one of the things that the way you deal with the -- if the resources are fixed at approximately where they are right now --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Uh-huh.

REP. O'NEILL: -- obviously we need to reprioritize what you're emphasizing, and in your judgment. And I would think that perhaps this committee might want to be involved to some extent in that discussion, since we're the ones that are supposed to be setting the overall policy as to which crimes are -- get the maximum penalties and the mandatory minimums. And those things should signify what we think are the ones you

should be going after the most.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: I agree with you, yes.

REP. O'NEILL: And so I think that it might be helpful, not today, obviously, but it might be helpful for us to find out, if you have to do the prioritization, what you understand, what -- what kinds of changes in the way things have handled in your office because of resources and what impact it -- what -- what you might need by way of changes in the statutes that this committee has primary cognizance over in order to facilitate an orderly, sensible, rational -- and there isn't or maybe things you can choose to not do that will save the money so that you can do what you think are most important. But it probably would be easier if we recognize what some of those things are.

For example, we just had a bill today about the home incarceration -- not incarceration but to the home-arrest kind of thing. So we're -- we're doing some changes there that's going to maybe help out the correction's department with some of their issues.

And it might even help on your end. If people figure they're not going to prison, they could stay home, maybe they won't fight as hard against a DWI charge, and that sort of thing. So maybe that will be of some assistance, but it -- as opposed to simply saying we're just not going to prosecute anything below a Class D misdemeanor, that will -- if it's a Class B or less than it, we just don't have the resources, and when those files come in, we're just going to nolle them, get rid of them. Well, I'm not suggesting you're going to do that, but, I mean, that's the kind of, you know, meat cleaver approach to trying to -- to shorten the

-- the lines, and so you can function effectively with what you've got to deal with.

And the second question -- and it's not really a question so much, but I -- I think we -- it would be helpful to me as a Legislator, that I think might be helpful to the Judiciary Committee, because most of all these policies say do this, do this, do this, and you don't have the resources to do what we've already told you to do, never mind all this extra stuff that we're -- we're dreaming up. We've got a couple hundred bills here that we have either heard or will hear and probably vote on a bunch. The second thing is you could -- and it's not directly related to your testimony but it is sort of indirectly -- in a -- in a domestic-violence situation, it seems like there's a propensity towards assuming that everybody, we're going to arrest everybody. And -- and that's what you were addressing in your earlier testimony. I'm -- I'm curious as to in the absence of that kind of a directive, that sort of assumption that everybody should get arrested, everybody should get prosecuted and then sort of let the judge sort of sort it out or something like that, what is the -- the more normal approach that you would take if, you know, a police officer shows up with a -- came from a domestic violence or any situation with a file and you need to apply for a warrant? How do -- what's that process? What's your involvement in that warrant-issuing process?

CHIEF STATE'S ATTORNEY KEVIN T. KANE: That's when the -- the police bring the warrant application to a prosecutor. The prosecutor reviews that warrant, first to determine whether or not there, in fact, is probable cause, but the prosecutor's role goes beyond that. The -- the prosecutor should look at it at that time and

say not only is there probable cause but can we prove the case if he's arrested? Is the evidence in the affidavit that may be admissible for probable cause, for instance, is that going to be admissible at a trial? And if not, do we have a case we can prove? The prosecutor has to look at that through the strengths of the case and advise the police to go back and -- and either get more evidence or do more -- more investigation or maybe correct some things in the affidavit. So the prosecutor doesn't just say fine, I'm going to apply for a warrant or I'm going to say no. The prosecutor is there to advise and instruct the police about further investigative steps that may be necessary and -- and to evaluate.

The prosecutor also looks, with regard to the dangerousness of the case or the violence and the threat of more criminal behavior or the -- the likelihood that the person may flee, to decide whether or not to recommend to the issuing judge that the judge put a bond on the case immediately, if the judge finds probable cause to. So a prosecutor has to do a lot more than just decide whether there's probable cause; he's got to advise the police about further investigation; he's got to make a -- the prosecutor has to make decisions about whether to expedite the case, whether to ask (inaudible) for a higher bond or a variety of things.

Also, the application may include in it information that may enable the defendant to identify the sole witness against the defendant in the crime that may subject the witness to -- to violence or worse. We have had situations where witnesses have been killed. A prosecutor has got to look at that and decide whether or not to have the police redact the name, and because you don't need to name everybody in the

application, but for the safety of individuals to make change. So the police -- the prosecutor's involvement in the dealing and arrest of an application is multilevel, multifunctioning, and very, very important.

REP. O'NEILL: Okay. Because the reason why I -- I think the context of which your testimony occurs is important to understand what the role of a prosecutor is, so to speak, in the normal kind of case as opposed to just what you were talking about with respect to the domestic-violence --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Yes.

REP. O'NEILL: -- case and sort of default position, as presumed, that -- that everybody gets arrested and then everybody gets sorted out later on.

KEVIN DUNN: Well, could I --

REP. O'NEILL: Thank you, Mr. Chairman.

KEVIN DUNN: Representative O'Neill, could I just respond to one of those remarks? And I'm -- I'm going to be brief.

I hope that police officers don't go into a domestic-violence situation and say everybody is going to get arrested plus the little dog, because that, a lot of times results in bad arrests. Advocates around the state, and rightfully so, don't want people being arrested that are essentially victims of the crime; that, we've made a concerted effort.

One of the things, after we were appointed, a police officer that I work with, who's now an inspector, has -- has gone to many, many departments in Connecticut, approximately 40 --

4500 police officers in the State of Connecticut. We've addressed this -- this problem that could come up, quote, the bad dual arrest where the -- a -- a victim gets arrested in -- in a case where they shouldn't have been arrested. We're cognizant of that and we -- and we certainly have addressed it aggressively. I don't know if that's what -- one of the things you were suggesting.

But the other thing you suggested and is also an issue, when a police officer goes to a scene and the defendant is gone on arrival and it's a serious case, there should be immediate action to address how and when that warrant is going to be, you know, signed or at least written up and then brought to a prosecutor. I know Mr. Kane has met with all the -- the state's attorneys throughout the state, and there are proceedings now in place that says, well, if you got a domestic-violence warrant on -- on your desk, that should not sit around for any protracted period of time. Your suit should be acted on quickly, whether you be rejected or sign it; hopefully it's a -- it's a good warrant and it's signed.

And where the domestic-violence dockets are, I can assure you, there is -- there are policies in place where that warrant is there in a day and it's out in a day and -- and it's being executed. So I -- I -- you've said a couple things there that are certainly issues that we're trying to address in the State of Connecticut.

But one issue -- and it's the last thing I say -- there are people now questioning the mandatory arrest policy in the State of Connecticut. We had that since 1986, in Connecticut. Whether the police should feel that they have to make an arrest when there's

probable cause, I think is obviously a policy decision. I know some advocates have questioned whether the -- is that a -- still good law.

I will say this about Connecticut: Contrary to what some people think, we are not in the worst in the country when it comes to responding to domestic violence. We've led the country in mandatory arrest legislation, since 1986. We established a number of bills that were pathfinding and in one sense for the rest of the country. We established a strangulation bill, a number of years ago that was -- we were the 17th state to do it. So in a lot of ways, we're out in front. But your question had a lot of issues within it that I think are policy questions that maybe in the future we have to address.

REP. FOX: Representative Verrengia.

REP. VERRENGIA: Good afternoon.

Attorney Dunn, early, earlier on you had -- you talked about prosecutors disposing of cases and giving defendants either A.R. or I think you said FEP.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Right.

KEVIN DUNN: Yeah. That -- that's the -- that -- that stands for the family violence education program; I should have explained that. That also --

REP. VERRENGIA: And to --

KEVIN DUNN: -- by the way, Representative, was established in 1986, with that landmark legislation that the family violence response was the benchmark.

REP. VERRENGIA: And you stated that some of those defendants probably should not, for the lack of better word, been worthy or -- or not eligible for -- for either one of those. I -- I don't put words in your mouth but --

KEVIN DUNN: Right.

REP. VERRENGIA: -- something along those lines. And -- and my question is what recommendation, if any, would you give this committee to address those concerns?

KEVIN DUNN: When I say that, that they -- they shouldn't get that program, I've done this for 15 years and I -- I know that a lot of times what we do to a defendant in a domestic-violence case has collateral consequences to the victim. So all of the domestic-violence prosecutors I know are aware what the victim wants, because you have a tremendous victim advocacy in the State of Connecticut. That's another thing we lead the country in. Our state, our HOPE-based advocates are across the board, extraordinarily.

So I -- I and the docket will -- will do this: If I think it's too serious, if you break someone's nose or you -- you -- hurt someone bad, you should not go to nine classes and then we all say, hey, it's going away. Now, if there's circumstances that the person doesn't deserve the criminal record, we can do these conditional pleas that I've mentioned before in my testimony. You plead guilty to the serious crime; you earn your way to not having a record. But not with nine classes; you do it in a 26-week event, the domestic-violence program known as the "EVOLVE" or the "EXPLORE" program. And this way, not only is -- are you hopefully rehabilitating but there's a lot more

accountability there.

You know, these programs are intensive. These program people, these facilitators mean business. They throw people out of these programs for, you know -- a college kid couldn't get through these tough courses because they -- they skip class more than these guys are allowed; they -- they're thrown out of the class after the third miss. So there are programs that are out there, the EVOLVE, the EXPLORE program that are much more appropriate for the FEP program in many circumstances where the FEP is granted. Now, hopefully -- and I don't want to say this is completely across the board endemic to the state where the FEP is granted on bad cases, because it's not. I hope wherever DV dockets are, it's not happening. But I have been to places where FEP is granted for bad assaults and multiple violations of a protective order. I don't think the intent of the statute was for that.

So what I would do, to answer your question, is produce a -- a stricter form of accountability in place and then figure out what the outcome should be in the end rather than the FEP. And that's why the suggestion -- and I've talked with Representative Fox about this -- that saying that there may be a plea put in place before this program was granted, I think is a good one. I think it allows more flexibility and it puts it out there into the subtle atmosphere that this is okay to do. There are some places that don't think it's okay to do that because they think you just get the FEP and then we're done with it. But that -- that's a good question on that, and, you know, but -- but it's factually based.

You know, to be honest, no program is appropriate if it's a bad case of an injury

that wants incarceration and the safety issues are there. That's it.

REP. FOX: Thank you.

Are there other questions?

Representative Flexer.

REP. FLEXER: Thank you, Mr. Chairman.

Thank you, Attorney Kane, and Attorney Dunn, for being here this afternoon, and I really appreciate the input, particularly that you've just given on the family violence education program. That's going to be really valuable for us going forward, as we continue to work on this legislation.

I had a couple of questions about two other areas, though. Could you, Attorney Dunn, perhaps tell us a little bit about the new dockets that are in the process of being developed as a result of the legislation that we did last year, how that process is going forward from your perspective?

KEVIN DUNN: Well, Attorney Flexer, you -- you know how I feel about dockets. These -- excuse me -- you're not an attorney; that's all right. That -- Representative Flexer, you know I'm a huge proponent of dockets, and the last session we had this, I -- I came before your task force the last time you were doing this. I know I spoke with Representative Fox. I -- I probably bug him too much. I speak to him on a fairly regular basis, and I'm always trying to -- to generate enthusiasm for these dockets.

I know Mr. Kane and I have gone to a -- a planning instruction meeting of these new dockets. I think in Danielson, your -- your

jurisdiction, a place that, to be quite honest, has always prosecuted their domestic-violence cases with the safety and accountability of the defendant -- ah, the safety of the victim and the accountability of the defendant and being a predominant, you know, part of their consciousness, up in Danielson.

I know Danielson is and on the verge of really putting that in place. There are some structural and architectural issues up there. There's only one courtroom; it's centered in place, but I think we're on the verge of getting that place.

The other -- the other places that we recommended, Middletown and -- and Danbury, I think where it's -- it's a little slower getting those -- those places coming. I have spoke to the -- some. Personally, I've gone to Middletown and spoke to a number of people there; I'm trying to see what are the issues they're developing. I am personally a little dissatisfied with the pace of things going -- are going on. Maybe I'm -- maybe that's just my personality. I'm aware what Mr. Kane has said about, you know, the, you know, the -- the structural aspects of this and the resources available. Middletown is another place where they only have one, one judge doing the criminal cases, day in and day out.

So I would hope we can move a little faster in -- in the future on some of these things, Representative Flexer. And you know -- you know how I feel about this. I think it's -- I personally think that rather than being one of the worst in the country, if we had domestic-violence dockets in every court, we could turn around to the rest of the country and say, Name me one state that every criminal court has a domestic-violence docket in it; there's not.

Some states do things well but it's generally -- it's located in one county or one city. Connecticut has this unique ability to say across the state, because we're, you know, a unified court system, this is the way we're going to do it. So I'm personally a little disappointed but I hope people are exercising good faith in trying to establish these dockets.

REP. FLEXER: Thank you. Thank you, very much.

And if I could just turn to another topic, Attorney Kane, in your testimony you talked about some -- if I'm describing it accurately -- some frustration and potential dissatisfaction with the bail bond reform component of the legislation that's before us in the public hearing today. And I know that you referenced in your testimony Attorney Lawlor, who I spoke with extensively this morning, regarding this issue. I was wondering if you could elaborate a little bit more on that topic.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: There are extensive problems with our bail bond's system in Connecticut. These are subject of another bill, and I'm not too sure; I've lost track right now -- whether they're in another committee and coming to this committee or -- or where they are. But we've had problems that -- severe problems with bail bondsmen undercutting.

Bail bondsmen are required by law to charge a certain percentage of the bond as fee; I forget the numbers, but it's a certain percentage the law requires them to cover. They do it -- they either don't do it at all or they take it in the form of a promissory note. They -- they post the bond, and then the defendant is

expected to pay them later so that the bond is almost meaningless; it's almost like Confederate dollars or -- or it's inflated and nobody knows what it means, with regard to our bond system today. It's the bondsmen are competing with each other. We have very -- difficulty.

The insurance commissioner, the last couple years has -- has had -- had been a great help in collecting these forfeited bonds; that's another issue. All of these issues are -- are -- and the concern about these issues, they're all very legitimate. I think we need to get one package. I think we need to focus on the right bill and deal all -- with those.

Kevin Lawlor has been up here testifying -- I'm not sure whether it was before this committee or another committee -- in detail about the problems, and we've attached his -- the testimony. And this isn't really his testimony, although it's on his letterhead. But this is testimony, the division -- that's the State's Attorneys; when I say the "division" I mean the 13 state's attorneys plus me -- agreed to.

REP. FLEXER: Thank you.

And I just have one additional question, specifically regarding that section of the bill. Section 21 talks about the issue of forfeiture and repayment of the bail bond. I was wondering if you could give us the opinion of your division on that particular section.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Do you have the lines? I don't have them.

REP. FLEXER: Line 890 to 896.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: It's a good idea. That's a good idea. Forfeited bonds, problems of collecting them; we've done a lot of work with the -- with what we have, trying to collect bonds. And it takes too long to collect and we end up -- we're -- I'm reviewing -- we're reviewing our compromise schedule, which was created back in, I think, 1994, to do that. But -- but finding some method of -- of collecting forfeited bonds fast would (a) make bonds more realistic, because bondsmen would hesitate to take people out who were a flight risk; and, (b) enable us to -- to have the bond be meaningful.

REP. FLEXER: That's great. Thank you.

Thank you, very much, Mr. Chairman.

REP. FOX: Thank you.

Are there any other questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman. Good afternoon --

REP. SMITH: Good afternoon.

REP. BARAM: -- Attorney Kane, Attorney Dunn.

I -- I have a couple of specific questions regarding your testimony. You refer to Sections, I think, 12(b), 13(b), and 14(b), which talks about a person who is the subject of a protective order can't be criminally liable. But I -- I missed the rationale as to why you're opposed to that section.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Here's the -- the protective orders and -- and uniformly, all

the domestic-violence prosecutors and now all the other prosecutors agree that it's a rare circumstance where a victim should be charged with violating a protective order which was issued to protect her. There are, however, circumstances where a domestic-violence arrest is made against the wishes of the victim, maybe, but because of facts observed by witness and by police officers, which recognize clearly that this is a very dangerous situation, and the victim, even though she doesn't want to be arrested needs to be an arrest not only to protect her or him but also any -- any maybe innocent bystanders.

And the victim not only doesn't want an arrest but doesn't want a protective order. The Court, nevertheless orders -- enters a protective order because the Court recognizes this is essential to do. And then the victim solicits the -- invites the as-ordered, a -- a -- if the defendant is ordered to stay away from her, the victim brings about situations where the defendant violates that -- that protective order. Most of the time that should be dealt with in manners other than an arrest; most of the times it would be inappropriate to make an arrest. But there are cases, a small number, where it is appropriate to do it.

There are other cases where a victim may cause somebody to be arrested based on the victim's statement, which the police officer may believe at the time or may think there's probable cause to believe it's truthful and make the arrest. And maybe the defendant is (a) not guilty or maybe the case is extremely weak. The victim, for one reason or another -- now has a protective order in place -- for one reason or another wants to -- to cause the other, the spouse or the other party to be arrested again and maybe a bond put on them and makes the --

and -- and invites the victim over, gets -- I mean invites the defendant over -- gets the defendant to come over, calls the police and say he's here in violation of the protective order. If that's done knowingly and intentionally, we ought to be -- and can be proven -- we ought to be able to charge the victim where that happens.

Now that's in a fairly small number of cases. In that pile of cases that we reviewed or -- or said; I referred to it, not with regard to the people involved but the pile of files we reviewed -- there were cases in which a victim had a protective order and together the victim and -- and the -- the spouse were doing burglaries together. Well, it didn't really matter there because they could be both prosecuted for the burglary. But there are cases and limited circumstances where a victim ought to be prosecuted for soliciting or -- or aiding and abetting the other person that violates the protective order.

REP. BARAM: My second question is regarding testimony of one spouse against another in a criminal prosecution. I -- I guess I gathered from what you were saying that you feel this has evidentiary problems or issues.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Yes.

REP. BARAM: I -- I wasn't quite sure if you were saying we just need to rework the language or whether the whole intent of allowing a spouse who's a victim to testify against the other spouse, if there's any way of accomplishing that to be able to assist in the prosecution of -- of that crime.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: I think we -- I think we might be able to draft language

that's -- that accomplishes what appears to be the intent of this language. What this language does, as I said, is it merging two, separate privileges together; that takes the -- the privilege that one spouse has not to testify at all against the other spouse. That's a privilege held by the witness, the person called to testify. It repeals that and then lumps it together with the separate privilege dealing with communications made when one spouse communicates to the other spouse something in confidence during the course of that marriage, and that other spouse is eager and willing and -- and attempts to testify about that communication. That allows the defendant who -- who was a speaker, and at the time, to object, saying that was a confidential communication; I object, even though my wife or husband wants to testify. This -- it merges those two privileges together in a way that (a) restricts what is our common law communication privilege in ways that I don't think the Court would restrict it if we -- we allowed the -- the Courts to -- to -- the Judge made common law rule to expand or contract --

REP. BARAM: You -- you --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: -- the way it should be.

REP. BARAM: You gave an example, I think, where one spouse said to the other, "I'm going" --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Yeah.

REP. BARAM: -- "to kill you." Would that as, let's say, a spontaneous utterance or -- or a, you know, a mindset, would that supersede the privilege against the spousal communication?

CHIEF STATE'S ATTORNEY KEVIN T. KANE: No, it

wouldn't. That's a rule of evidence in which the -- the rules of evidence would permit that, the listening spouse to testify about -- about that communication.

But the privilege as it's written in this statute would prohibit it. So a privilege is not really a rule of evidence, it's -- it's a law of privilege. They're mixed together, in a way. The -- the committee that the evidence goes to made a -- decided that -- that it was not going to deal directly with privileges. But they're two different concepts.

REP. BARAM: I just have two, quick questions.

You kept using the acronym POST in terms of the task force. For those of us who don't know, what does POST stand for?

CHIEF STATE'S ATTORNEY KEVIN T. KANE: I'm sorry. POST is the Police Officers Standard and Training Council.

REP. BARAM: Okay.

And then my last question, for the section that indicated a judge may, instead of shall, require a plea before entering into one of the diversionary programs, like the domestic-violence program, you said you were happy to see that. And my question is from a -- a legal perspective, is -- is that going to be, you know, constitutional held valid that judges can in some cases require a plea and in other cases may not; is that too discretionary or do you recommend that it go back to language using the word "shall?"

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Mr. Dunn maybe can answer that best. I'd -- I don't think there's a -- I'll address the

constitutional part. I don't think it's unconstitutional at all. I think that's appropriate and -- and it wouldn't be a problem at all. It can be required. The conditional plea is something recognized. Actually, Mr. Dunn was the one who started using it in Bridgeport; I never heard of it over in New London, years ago until all of a sudden they did. And it's a good idea and -- and the law permits it. And the fact that it's discretionary on the part of the Court wouldn't make it unconstitutional at all.

REP. BARAM: Thank you --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: It's a good device.

REP. BARAM: -- very much. Thank you.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: One of the problems there, our accelerated rehabilitate -- and this goes back to '76. I shouldn't talk and I know, but this is a concept. We have a program called "Accelerated Rehabilitation" and it doesn't require a defendant to admit his guilt. The defendant comes into court, pleads not guilty. I'm not guilty and I didn't do this but I want to be rehabilitated; put me in this program so I can be rehabilitated. Well, what's there to rehabilitate if he's not guilty? It doesn't make sense. But part of the reason we did that is the reality of having to move cases along in a practical fashion, that if a person does some things and -- and gets some training and gets whatever it is, anger -- anger management, restitution, we're not going to prosecute anyway. It allows prosecutorial discretion to be enacted in a fair fashion, even though it doesn't make it sense to say we're going to rehabilitate somebody who denies being guilty of anything

and -- and it's an oxymoron.

REP. FOX: Thank you.

Are there other questions from members of the committee?

Well, I also wanted to thank you -- you, both, for being here. Kevin Dunn; we have Kevin Kane, Kevin Dunn, and references to Kevin Lawlor, so there's a lot of Kevins in the Chief Justice's Office -- or excuse me, the State's Attorneys Office there.

Kevin Dunn, you've -- you've told me a number of times about your commitment and belief in the benefit of these domestic-violence dockets, and as far as all of the individuals that we've heard from during the course of the task force over the last several years, you have always been a strong proponent and a believer in -- in the benefits they can bring to our -- our criminal justice system.

And one of the questions I want to ask of not only the State's Attorneys Office but others is, you know, is everyone else on board in that we should at least be striving to reach a level where we have domestic-violence dockets, recognizing that there's potential fiscal considerations that we have to deal with? But it is something that we want, that we as a state would like as a goal?

And another question that I'm -- I'm interested in is are we defining -- and this is something that just recently came up with -- with me, but are we defining domestic violence too broadly and that it's overburdening the dockets? And when I say that I mean when we think of domestic violence, we're thinking of husband, wife, boyfriend, girlfriend, people who are

together who get into a -- an incidence where -- where there's domestic-violence crimes. But the definition that we have also includes situations like brothers and sisters fighting, mothers and daughters fighting. All of these fall under that definition which then would lead to the mandatory arrest, then leads to domestic-violence docket. And it -- and while it might be -- make sense that they fall into that docket, it also may be limiting the resources. And I don't have an opinion one way -- one way or the other just yet but I am interested in what those who practice here believe.

KEVIN DUNN: Well, I -- I'm aware of what your question is implying. In response to the Representative's question about -- every -- when I responded about how every culture is different and how every place is different, there are some places, Bridgeport for example, that takes every single case, whether it brother and sister case, whether it be intimate partner, whether it be, you know, anything that falls under the domestic-violence umbrella, so to speak, that defines household member and family member, dating relationships. Just because you say we want a docket doesn't mean everyone has to do it the way Bridgeport does it. You might very well say, okay, because of the circumstances we have, say maybe in Stamford or Windham or Danielson or wherever, we may want to only focus on intimate partner domestic violence. And there is a rationale for that and I understand it. I know the advocates from Stamford have particularly been strong about voicing that. I know probably one of our best advocate -- advocates in the State of Connecticut, Barbara Bellucci, says the court is overburdened with brother and sisters fighting over a clicker. So there's a strong rationale.

On the other hand, I think because domestic-violence prosecutors have more expertise than other prosecutors did, to say, well, there's some cases that are just so -- so innocuous, we don't want to take them, I think opens up sort of a -- a danger that unless you have that expertise, it's hard to say which cases are important and which are not. But I think it could be up to the individual G.A. to decide what their docket is going to look like, what cases they're going to take, what they're not.

But I think your -- your questions beg another question. Do the domestic-violence dockets grow? Now, I know there are people that I heard testimony, essentially from members from the judiciary last year that there's no proof that they work. But they say, well, the other programs work like EVOLVE and EXPLORE. And I just find that sort of illogical to -- to approach it that way, because the domestic-violence dockets are the places that put those particular programs into place routinely. And when I travel around the state, they are not put into place routinely where the dockets aren't. So I would never be so impertinent to suggest that they do it exactly the same way as, say, Bridgeport does it. At the same time, I don't think it's too much to say that there is a way of establishing a docket within the financial -- finances and funds available to have a docket structured on what that particular G.A. can -- can handle.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: And we agree. There are cases that -- that we ought to say because of our resources we're not going to put them on a domestic violence, the domestic-violence docket. But there are other cases, maybe the same charges may be involved, the same nature of the relationship involved, that

there's something about the specific facts of those cases which lends itself to -- to do a domestic-violence docket. A brother and sister fighting over their remote TV unit; well, that might be a brother and sister fighting over their remote TV unit that I think has probably gone over at most of our homes. But -- but if it's a brother who hauls off and -- and breaks his sister's nose or -- or injures or does something, you know, you can see in this case there's some more violence here that ought to be paid attention to, that -- that there's a little bit over the top, that will be appropriate to find a way to put it on the domestic-violence docket. A lot of those decisions have to be made in a case-by-case basis, up front, early on, with people who have -- at the time, if somebody has got the attention and the experience to make that decision and make that judgment call. That's all.

REP. FOX: Thank you.

Representative Smith.

REP. SMITH: Thank you, Mr. Chair.

Just a couple questions. Just following up on what you said there, I'm just wondering how you get that standard down to the various courthouses throughout the state, because, you know, you go to one courthouse, maybe they have a certain procedure on how they handle things. And you go to a different courthouse and it's a whole new procedure. So is there training that is given to the various prosecutors throughout the state, and this is the policy and procedure rules that's coming down from the top; we'd like this enacted throughout the state? Is -- is there anything of that sort right now?

CHIEF STATE'S ATTORNEY, KEVIN T. KANE: We have training and we have general policy and general principles, which we've talked about. All the G.A.s, though, are different for a variety of reasons, partly because the communities that they serve are very different and have different problems. We can't set rigid standards that apply to every court and that apply all over the state. And we also have the issue -- some courts, as I said, are -- are understaffed or have new people without the experience, you know, to do -- there's -- there's -- I've been trying to wrestle with how to do this since I got this job, and I thought about it for the -- all the time I've been a prosecutor. How do we bring about uniformity but preserve the decisions?

Because, essentially, prosecution is an individual decision with regard to an individual case that -- that depends on a whole bunch of different factors. And we have to be careful setting guidelines and -- and procedures that don't limit discretion, that ought to be exercised wisely and also don't overimpose obligations that -- that different courts just can't meet.

REP. SMITH: And I hear what you're saying, and it's frustrated me over -- over the years, as well, having gone to various courthouses that -- you know, I may go into a courthouse in Bridgeport or New Haven or Stamford and get one reaction over a certain type of crime and go to a courthouse, like Danbury or Waterbury, and get a totally different reaction. So it's -- I -- I understand what you're saying but it would be nice to have a little bit more uniformity in terms of how these files are handled, whether it's domestic violence or a prosecution as a whole. But --

CHIEF STATE'S ATTORNEY KEVIN T. KANE: And certain things we've done a lot. With regard, for instance, to open files, we have, years ago, some state's attorneys offices let a defense attorney look at a file; others, no way, not in a million years. Other ways, a defense attorney would have to read it but couldn't copy it; others would let copies. We've done a -- gotten a little -- great deal of uniformity in that, sometimes, at some point, going too far, where the file is automatically released without a prosecutor even reading it first and -- and somebody may be in danger. So you try to correct one -- one thing one way and it goes a little too far sometimes.

But you're right. We've, in a lot of ways we have brought about, in the last few years, more uniformity and -- and more awareness. We've tried to get prosecutors together from different G.A.s because almost every G.A. does something great that no other G.A. is aware of doing. You get them together, talking, and you learn things from each other. We've done that with that (inaudible) question.

Bringing about real uniformity and -- and down -- we're making some progress. We can make more progress, but we have to be careful not to -- not to do it in a way that makes things worse instead of better.

REP. SMITH: Well, I'm thankful to hear of the efforts and that we do appreciate it; I'll tell you that.

One quick question; this may have been discussed already. I was -- I was out of the hearing; if it was, I apologize. But just quickly on the family violence program, the language has been changed from being convicted to arrested or convicted of a family violence.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Yeah, I -- I, while you -- Representative Smith, I did address that. I think it's our position just a mere arrest. We actually -- I spoke with all the DV prosecutors on Monday and, you know, I -- I know most people in this room know this, but prosecutors are not always just saying who can we convict. I mean some of them -- many of them in the room had problems with just an arrest being -- making the person ineligible. So I -- I think our division agrees with that language not being appropriate. So I don't know if that's your -- your position or not, but I -- I think we don't believe that just the, an arrest should make a person ineligible in the future for the family violence education program.

REP. SMITH: Yes, I agree with you, wholeheartedly. I don't think it should be either. So thank you.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Yeah.

REP. FOX: Thank you.

Any other questions?

Well, thank you, gentlemen. I -- I know you'll both be involved as -- as we go forward and bring this --

KEVIN DUNN: Thank you.

REP. FOX: -- for us.

CHIEF STATE'S ATTORNEY KEVIN T. KANE: Thank you, very much.

REP. FOX: We have gone through our first hour, so we'll now turn to members of the public.

So unlike the, you know, the out-of-wedlock where perhaps there's an issue of paternity and so on, I just -- to me there's a distinction I'm having trouble reconciling.

REP. FOX: Are there any other questions? No.

Thank you, very much.

DEPUTY COMMISSIONER CLAUDETTE J. BEAULIEU: Thank you.

REP. FOX: Next is John Szewczyk; he's the Durham First Selectman.

JOHN T. SZEWCZYK: First, the First Selectwoman.

Thank you, Chairman Fox, Chairman Coleman, and all members of the Judiciary Committee. Also, I would like to specifically thank Representative Flexer for your hard work as Chairman of the Speaker's task force on domestic violence.

My name is John Szewczyk. I'm a nine-year veteran of the Hartford Police Department and a Selectman of the Town of Durham. I'm also the chairman and founding member of the Connecticut Coalition of Police Officers to Prevent Domestic Violence.

I am here today to testify in support of House Bill 6629. The coalition believes this bill is a good starting point for the needed improvements to Connecticut's domestic-violence laws. Specifically, in regard to the bail bond system, Section 18, we are encouraged that this bill will require a minimum down payment of 35 percent of the premium rate that will now be required. We hope that this is only a starting point, however, and that soon the full premium will be required.

Under this bill, an individual with a \$10,000 bond can be bonded out for only \$297.50, the remainder to be paid in a payment plan. To reiterate, although this bill is an improvement from the current situation, we hope that eventually the full premium will be required. We also continue to recommend that a Connecticut bail commissioner examine the bond amount on every domestic arrest before an individual is allowed to post bond. And, lastly, we recommend that a mandatory minimum bond amount be established for all domestic arrests. We feel that these changes will allow for a cooling-off period that is often needed in many domestic arrests, thereby decreasing the chances for additional violence.

Lastly, we are strongly supportive that this bill calls for a task force to be established to help develop policy for law enforcement agencies when responding to domestic-violence incidents, Section 23. The coalition continues to push for increased training for new and existing officers in regard to domestic-violence situations. Specifically, we feel that an increased emphasis on training for police officers on how to recognize and act on instances of domestic violence within teen relationships should get a lot more time and energy and emphasis put toward it.

In closing, I urge the Judiciary Committee to support this bill as a good first step to improving Connecticut's domestic-violence laws.

Thank you for your time here today. I'm more than willing to answer any questions you may have.

REP. FOX: Thank you, and thank you for testifying.

Are there any questions?

Oh, Representative Smith.

REP. SMITH: Thank you for coming this afternoon and testifying.

I'm just wondering if the City of Hartford Police Department has any training programs already in effect for this type of process.

JOHN T. SZEWCZYK: In-service training is a requirement, and that is by POST-certified. Any officer has to create X number or has to have X number of hours every year of POST training, and domestic violence is a course that you continually take.

However, there really has not been much of an emphasis on -- on the teen relationship part of it, the teen dating relationship, and that's something we'd like to see the task force, that will hopefully be established, put into the curriculum.

REP. SMITH: And I'm just wondering. I mean, how effective do you feel the training actually is in terms of your ability and your fellow officers' ability to -- to handle these potentially volatile situations that you walk into?

JOHN T. SZEWCZYK: Honestly, it depends if you -- on who is teaching the class.

REP. SMITH: Well, that's probably always true, but --

JOHN T. SZEWCZYK: Yeah.

REP. SMITH: -- thank you.

JOHN T. SZEWCZYK: Overall, though, I will say, I mean, we -- you do learn a lot in a lot of the in-service training, and with a good instructor it's -- can be a good thing.

REP. FOX: Thank you.

Are there any other questions?

Thank you, very much, for your testimony.

JOHN T. SZEWCZYK: Thank you.

REP. FOX: Next is a Bruce Tonkonow.

BRUCE A. TONKONOW: You almost got that.

REP. FOX: Sorry. Yeah, there's some tricky names this afternoon.

BRUCE A. TONKONOW: Good afternoon, members of the committee.

My name is Bruce Tonkonow. I am the Supervisory Assistant State's Attorney at Hartford Juvenile. I've been a juvenile prosecutor for 25 years in Hartford, and I'm here to testify on Senate Bill No. 1163, AN ACT CONCERNING ASSAULT OF A SCHOOL EMPLOYEE.

The Division of Criminal Justice recommends the committee's joint, favorable report for this bill. This bill classifies the assault of a school employee in the same fashion as already provided for other professions, as listed in Section 53a-167c, and these include police officers; Department of Motor Vehicle Inspectors; firefighters; employees of an emergency medical service organization; emergency room physicians or nurses; employees of the Department of Corrections; members or employees of the Board of Pardons and Paroles;

me, as a prosecutor. It's a judge who hears all the information, the public defenders or -- or the defense attorneys over assent, why the child should not be -- or the district attorney and all those staff people be taking into consideration.

REP. VERRENGIA: So in -- in that vein, just as much as we're counting on the judge to use his or her discretion absent this language, if -- if we were to implement this language, the judge or the prosecutor would kind of have the same discretion in a kind of way, you know, is it really a Class D; do we really want to -- so it kind of seems to me like it's a balancing act.

BRUCE A. TONKONOW: You're absolutely right.

REP. VERRENGIA: Like, you know --

BRUCE A. TONKONOW: You're absolutely right.

REP. VERRENGIA: -- you have some form of discretion with what we have now. You have some discretion, what you're -- what you're seeking, and in a way, it comes down to good discretion whether it's -- it's applied or not.

BRUCE A. TONKONOW: Exactly, and that's what I would hope from any good prosecutor.

REP. VERRENGIA: Okay. Thank you.

BRUCE A. TONKONOW: Thank you.

SENATOR DOYLE: Thank you.

THOMAS E. FLAHERTY: Good afternoon, Senator, and members of the committee.

My name is Tom Flaherty. I'm the Executive Director of the Police Officer Standards and

HB 6299

Training Council of Meriden, and I'm here to speak in support of Raised Bill No. 6299, AN ACT CONCERNING DOMESTIC VIOLENCE.

From a training perspective, this proposed bill corrects a -- a conflict in the existing language in terms of dating relationships. It -- it also adds the conduct of verbal intimidation, threatening or stalking, as a category for which a family or household member has been subjected to that conduct in terms of an application for relief. And -- and finally in terms of law enforcement training, I understand there's a proposal to create a task force, and I would like to suggest to the -- this committee and the Legislature that if, in fact, that takes place, that you consider adding a chief of police as a representative of the Connecticut Police Chiefs Association to that task force.

I've submitted written comments, and I'd be happy to answer any questions you may have.

Before I -- I finish, I would like to acknowledge Representative Flexer. She's recently come down to the academy and -- and kind of sampled our recruit training in a domestic-violence area and, you know, I -- I thank her for her interest and for her support in this area in terms of our training mission.

Thank you.

SENATOR DOYLE: Thank you, Mister -- any questions for Mr. Flaherty?

Representative Flexer.

REP. FLEXER: Thank you, Mr. Chairman.

Good afternoon. Thank you for coming to

testify today.

I just wanted to give you the opportunity, perhaps, to expand a little bit and tell the committee about the training that you have for police officers from throughout our state; if you could expand a little bit about that.

THOMAS E. FLAHERTY: Yes. We -- my -- one of my training officers, Retired Lieutenant Stan Konesky, from the Branford Police Department, who is our expert in domestic violence, teaches that module to our recruits, which consists of in excess of 20 hours domestic-violence training.

But additionally, there is some practical experience, in terms of role playing, where the recruit classes are subjected to actors from the law enforcement field who simulate a -- an act of violent -- domestic-violence situation. And those practical exercises are -- are observed by experienced police officers and then critiqued, and they're tested on the -- on the contents of the policy in the -- in the current statute.

In addition to that, we have a certification officer who goes out to the satellite academies in the state and audits them to make sure that their lesson plans and their curriculum is up to our standards. And so within the last year, that certification officer is now inspecting domestic-violence lesson plans to make sure that they are current with the current state of the Connecticut statutes and -- and reflect state-of-the-art practices.

REP. FLEXER: Thank you, very much, for that information. And, again, thank you for coming today.

And we look forward to working with you, going forward, as we put together the task force and -- and look more closely at these model policies and protocols.

And thank you for the work you already do.

THOMAS E. FLAHERTY: Thank you.

SENATOR DOYLE: Thank you.

Any further comments or questions from committee members?

Seeing none, thank you very much.

THOMAS E. FLAHERTY: Thank you, very much, Senator.

SENATOR DOYLE: The next speaker is Katie Pawlik.
Is Katie here? Yes, she is. Okay.
Ms. Katie Pawlik.

After Katie is Jeanne Milstein.

CARRIE BERNIER: Good afternoon.

My name is Carrie Bernier. Katie Pawlik is one of my colleagues, and we're representing the same agency, so we're coming up together, if that's all right.

SENATOR DOYLE: Okay.

CARRIE BERNIER: Thank you.

My name is Carrie Bernier, and I'm a volunteer at the Domestic Violence Crisis Center of Stamford, Norwalk. I'm also a former assistant state's attorney for the domestic-violence docket at G.A. 1 in Stamford.

HB 6629

I'm here today to offer my support for House

Bill No. 6629, and in particular, Section 24, Subsection (b). The DVCC wholeheartedly supports Subsection (b), which would mandate the chief court administrator to assess the effectiveness of the family violence education program, especially as it pertains to the feasibility and costs of extending the program beyond the nine weeks of classes that it currently provides. We're excited that the Legislature is looking at this important issue and believe it's a step in the right direction, as it will overhaul an outdated system and attempt to reduce rates of recidivism for crimes of domestic violence across the state.

As a volunteer at the DVCC and a former assistant state's attorney, I have personal knowledge of the family violence education program and how it's utilized in docket courts. In my volunteer role, I've been researching national trends and best practices for batterer intervention programs across the country. I looked at 39 states to compare program standards and lengths of treatment programs for offenders. With our nine-week program, Connecticut stands alone with the unhappy distinction of having the shortest statutory program in the nation. The national trend for batterer intervention programs is to have a longer period of treatment. Research has shown that if a program is going to have an impact on the behavior of a batterer, the longer the term of intervention, the less likely it is that a batterer will re offend.

I've included a graphic in your materials showing the length of treatment for batterer intervention programs; it's a bar chart. You can see that Connecticut is at the bottom 3 percent of all the programs, with the only statutory program that's less than 12 weeks in the nation:

Interestingly, in 1995, a study of the family violence education program was commissioned by the family division of the Superior Court and the Office of Alternative Sanctions. This study explored the effectiveness of a 6-week model versus a 12-week model. One of the recommendations was that the length of the program as currently structured may be too short and that a longer treatment period of between 18 to 24 weeks should be considered. To quote directly from the report, The conclusion that 12 weeks is more effective than 6 weeks is robustly supported. As previously - - previously suggested, it may be the case that a critical number of sessions necessary to bring about change for most men has yet to be discovered. Clinical experience and anecdotal data suggests that the number may be in the range of 18 to 24 weeks. This question clearly merits further investigation.

Length of treatment is just one factor that affects rates of recidivism and behavior change for perpetrators of domestic-violence crimes. Importantly, this bill seeks an overall review of the effectiveness of the family violence education program. Factors such as victim contact, a coordinated community response, an individualized assessment, treatment, discharge, and after-care also deserve our attention and consideration. These are just some examples of modalities that the most effective batterer intervention programs across the country have implemented.

This bill, as currently proposed, will enable the chief court administrator, with the support and assistance of agencies such as the Domestic Violence Crisis Center to put some teeth into the family violence education program and give it a long overdue update. We applaud the

Legislature for taking this step towards improving the batterer intervention programs and, as a necessary consequence of this, improving the safety of victims of domestic violence statewide. We urge you to vote in favor of this proposal as currently drafted.

Thank you, again, for the opportunity to speak before you.

REP. FOX: Thank you. And it's good to see you.

CARRIE BERNIER: Thank you.

REP. FOX: I'm sorry --

CARRIE BERNIER: It's good to see you.

REP. FOX: -- I was -- I missed the beginning of your testimony. But I do remember your days as a prosecutor, and you covered the family violence, domestic-violence docket in Stamford.

I -- I -- the -- I don't even know if anyone else was going to speak. I think -- I don't know where I came in --

CARRIE BERNIER: Yeah.

REP. FOX: -- here.

CARRIE BERNIER: But I want to thank you for your --

REP. FOX: Sure.

CARRIE BERNIER: -- support for the --

REP. FOX: Sure.

CARRIE BERNIER: -- domestic-violence task force.

REP. FOX: And --

CARRIE BERNIER: And Representative --

REP. FOX: Okay.

CARRIE BERNIER: -- Representative Flexer, as well;
thank you.

REP. FOX: That's good.

KATIE PAWLIK: We did have some prepared comments as
well, if that's okay.

REP. FOX: Yes. Yeah, that's fine.

KATIE PAWLIK: All right.

Good afternoon. My name is Katie Pawlik and
I'm an advocate with the Domestic Violence
Crisis Center.

I wanted to thank the Chairs of the Judiciary
Committee, Representative Fox, and Senator
Coleman for giving us the opportunity to
testify and for their work on this bill. I
also wanted to thank the Speaker of the House
for convening the task force on domestic
violence and the Chair of that task force,
Representative Flexer for her hard work and
serious commitment to issues of domestic
violence, as well as all of the members of that
task force for their diligence and
contributions to the robust recommendations
issued by the task force this year.

We were very pleased to see so many important
issues addressed in Raised Bills No. 6629 and
1220, and we thank the Judiciary Committee for
its hard work putting them together. From a
victims' services' agency perspective, we are
confident that many of these changes will

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thank you for your testimony.

SENATOR LeBEAU: Thank you, Senator.

SENATOR COLEMAN: All right.

SENATOR LeBEAU: As Chairman, good to see you.

SENATOR COLEMAN: Barbara Quinn. Erika Tindill.
Oh, I'm sorry.

A VOICE: (Inaudible.)

SENATOR COLEMAN: I think it's Erika Tindill first;
I'm sorry.

Good afternoon.

ERIKA M. TINDILL: Good afternoon.

SENATOR COLEMAN: And congratulations to you.

ERIKA M. TINDILL: Thank you.

I didn't arrange for a phone book, so I hope
you can see me --

SENATOR COLEMAN: I can see --

ERIKA M. TINDILL: -- there.

SENATOR COLEMAN: -- you fine.

ERIKA M. TINDILL: Good afternoon, Senator Coleman,
and members of the Judiciary Committee.

My name is Erika Tindill. I'm the Executive
Director of the Connecticut Coalition Against
Domestic Violence, and I'll also refer to it as
CCADV.

I've here today to speak on Raised

HB6629
SB1220

Bill 6629, AN ACT CONCERNING DOMESTIC VIOLENCE,
and Raised Bill 1220, AN ACT CONCERNED FAMILY
VIOLENCE.

CCADV is a network of 18 domestic-violence agencies across the state, including the Domestic Violence Crisis Centers, that you've heard testimony from earlier, that provide a comprehensive range of services to victims and their families. In the last fiscal year, those agencies collectively served more than 70,000 men, women, and children, nearly half of which were referred by the family violence victim advocates from criminal courts.

Over all, CCADV is supportive of the proposals and language in Raised Bills 1220 and 6629. In Raised Bill 6629, there's a section I would like to highlight and three sections that we would like to recommend some changes to improve the bill.

Sections 16 through 22 outline legislative changes to improve accountability and oversight of surety bond agents and bond -- bail bondsmen. These changes reflect the measures that would enhance victim and public safety.

When offenders, particularly those accused of family violence crimes, are able to bond out by paying less than the premium rate, no amount of money at all or by arranging for future payment with a bail bond agent, victim safety is compromised because they believe that the offender would remain in custody.

In a recent survey of FEVAs throughout the state, 81 percent of respondents indicated that in their courts bail bond agents regularly enter into payment agreements with no down payment or are accepting less than 10 percent of the bond from a domestic-violence offender. They see these types of arrangements frequently

in their advocacy for victims.

I hope you agree that such a system is not a responsible or ethical solution to the financial concerns of bail bond agents. More importantly, this system has created enormous safety risk for victims.

FEVAs and other advocates working with victims ask victims about the impact of having their abuser released on bond. They reported the following: That they're afraid their abusers will come after them in retaliation for the arrest; that they are alarmed because they had a false sense of security and hope regarding their safety; they panic and are unprepared to deal with the reality that their abuser was released, even -- even when the judge set a high bond; they're shocked because they know that the offender did not have the funds to bond out; and they are dismayed at the system's inability to protect them and hold offenders accountable.

These same victims reported that when their abusers were released on bond, they had to make additional precautions such as staying with family or friends, having someone stay with them or relocating temporarily or seeking emergency shelter. Increased regulation of the bail bond industry is not going to stop the perpetration of violence. Such legislation, however, can play a part in addressing domestic-violence victim and public safety concerns.

CCADV would like to suggest the following language to the draft's language to improve the bill. Under Section 4, it's recommended that the -- the committee add the word "conditional" to conditional plea. This word is required because under federal immigration law,

conditional pleas are not a conviction for immigration purposes.

And under Section 9, I just want to point out that the current family violence victim advocates in three domestic dockets, domestic-violence dockets are not currently fully funded.

And under Section 23, Subsection (B), it's recommended that the word "statewide" be removed, because as it's written, the legislation would only refer to statewide legal services, which is not providing import, a representation of clients.

And I would like to thank Speaker Chris Donovan, Representative Mae Flexer, and members of the domestic task force for their leadership and commitment to this issue.

And on behalf of victims and survivors of domestic violence and those agencies that serve them, I ask that you support their recommendations for this new legislation.

Thank you.

SENATOR COLEMAN: Are there questions for Ms. Tindill?

Let me just ask on the whole issue of bail bonds for people accused of domestic violence, do you think that a system of preventative detention would be harmful to your objective or the objective of your organization?

ERIKA M. TINDILL: Preventative detention?

SENATOR COLEMAN: Where there -- yes. Where there's a demonstrated propensity for violence by the person who's accused.

ERIKA M. TINDILL: Well, we have to be concerned with the -- the civil and constitutional rights of all victims and defendants, so we're not proponents of -- of having special conditions. The system as it is can -- can work just fine in terms of how people are detained. Bail, as I'm sure you know, is to guarantee a return to court and --

SENATOR COLEMAN: Yes.

ERIKA M. TINDILL: -- we have certain regulations for that. And -- and what we're saying is that that is not being followed, and so we're trying to address that -- that particular issue.

But preventative detention is -- is not something that we've considered and in terms of domestic-violence offenders. They have the -- just as everyone else, have the same constitutional rights.

SENATOR COLEMAN: And -- and I thought in your comments you did express that there were some people who were concerned about the accused being released, regardless of how high the bond is sent --

ERIKA M. TINDILL: Yes.

SENATOR COLEMAN: -- was set.

ERIKA M. TINDILL: Yes.

SENATOR COLEMAN: And was that simply in the context of a discounted bail premium?

ERIKA M. TINDILL: Yes. Those cases that I referred to, we surveyed family violence victim advocates and other advocates working in courts to ask, you know, talk to victims about what

they are seeing. And actually one of the number one answers was that they, when told that their abusers had -- had met bail, they were shocked because they know they -- you know, that this was what was said and that they didn't possibly have the funds, and they had personal knowledge of that. And so it's a direct result of -- of this undercutting or this practice of payment arrangements where, you know, not a dime is put down.

And I -- I just want to make it clear that we are not at all suggesting that -- that this is sort of the magic bullet that will answer that, but in terms of having a role in the system working, so that victims can be safe, so that offenders are going through the system as they should, that's something that certainly can be addressed by this legislation.

SENATOR COLEMAN: And are you -- I think I also heard you say that you weren't interested in creating special conditions for people accused of domestic violence.

ERIKA M. TINDILL: Well, sir --

SENATOR COLEMAN: Did I hear that correctly or --

ERIKA M. TINDILL: Well, certainly that those accused of family violence crimes, the same consideration that goes into bail determinations should be used in -- in those cases. One of the reasons for specialized training, of course, would get those who are not up to speed on the complexities and dynamics of why family violence crimes are different; that could also play a part in -- in those bail decisions, because, again, it's about a reasonable bail being set in the case.

So, you know, some other parts of the bill will

-- will help address that issue of what are the considerations when setting this bail. How -- how is -- is this person likely to come back to court if you set bail at -- at this rate or -- or not?

SENATOR COLEMAN: Okay.

Are you in a position to suggest any other considerations that a judge should entertain in addition to -- I know constitutionally bail should not be set in any amount -- any greater amount than what is necessary in order to ensure that the accused returns to court? But I think there's some room for some other considerations, and I think unless I'm mistaken, certainly the -- the criminal history of the accused is a consideration. And I do believe that the propensity for violence and the likelihood that the public safety will not be adequately protected are other considerations that go into the determination of bail. And -- and I -- I know that bail, setting bail is not an exact --

ERIKA M. TINDILL: -- science.

SENATOR COLEMAN: -- science.

ERIKA M. TINDILL: Yeah. And -- and also one of the issues with domestic-violence offenders is often they do not have a criminal history.

SENATOR COLEMAN: Really?

ERIKA M. TINDILL: I don't know if you're aware of the Alice Morrin tragedy, but Alice Morrin's husband killed her and then killed himself three or so days before they were to divorce. He had actually had the family violence education program, for which he was eligible

because he didn't have a -- a record; and within two years she was dead and -- and so was he.

So one of the problems is, particularly with this type of a crime, is that there often isn't a rap sheet as long as my arm. It's -- it's -- that's one of -- that's one of the issues. Certainly you can look at the crime, the -- the charges and what the person is alleged to have done to sort of gauge dangerousness or lethality, but many times we are looking at people who may not -- who may not be able to look to their criminal history for those answers.

SENATOR COLEMAN: Okay. Well, thank you.

Are there other questions?

Appreciate your appearance here.

ERIKA M. TINDILL: Thank you.

SENATOR COLEMAN: Barbara Quinn.

THE HONORABLE BARBARA M. QUINN: Good afternoon, Senator Coleman, and distinguished members of the committee. And thank you for having me come to testify here today on two bills on the subject of domestic violence, House Bill 6629 and Senate Bill 1120.

And before I get into the details of that testimony, I would like to add my voice of thanks to Speaker Donovan and Representative Flexer for their leadership and for their hard work on the task force and working to convene serious discussions and now proposals, bills with respect to this issue.

House Bill 6629, and obviously as you know, is

the product of the domestic-violence task force, and we worked together with the task force to make some important changes to the domestic-violence laws, for example, increased information sharing for persons charged with domestic violence. That helps us in our assessment and referral process within the branch as well as help from other partners who work in this area.

Last year's legislation also imposed additional responsibilities on the Judicial Branch that were not funded ultimately in the state budget that was adopted, a pilot program on GPS monitoring for domestic-violence offenders and the identification of three additional sites for domestic-violence dockets. We discussed our concerns and I will discuss our current concerns later on, about the implications of these matters for our budgetary process and for carrying them out.

Fortunately, with the assistance of OPM, we were able to identify from federal funding for the GPS over our education pilot program. But I would add that no additional family servicing staffing was funding, and this program has added significant responsibilities to the workload of the staff.

Use of GPS equipment without the many people who are required to access -- and I -- in these three locations, thousands of alerts -- make the follow-up calls necessary, and to clean these screenings that need to take place would make the pilots meaningless. But really it's only the equipment that has been funded for a limited period of time. We have dedicated the people to do this, because we think it's important to see what the outcome of this program will be, and we have great hopes for it. But even though the funding has been

extended to the end of this year, without additional funding, unfortunately, we may not be able to continue up thereafter.

Last year's legislation also asked us to identify three Geographical Area sites that did not have domestic-violence dockets and to establish them within available resources. I can report to you today that we think we will have the Danielson docket up and running by June. Unfortunately, due to a lack of resources and our focus on the GPS pilots, we are unable to implement the other two dockets within the time specified.

We continue to review how we can move forward, both in Middletown and in Danbury, to try to make that work, and we're hopeful that we will be able to get something up and running at some point in time. But we can't give you specifics at this point, although we do owe you a report that will give you those specifics.

There are sections of the bill that you have put forward that are part of the request that we've submitted, the standard criminal protective order, protective order registry sections, and technical corrections we've asked for extending the provision of the -- of restitution services to families of victim of domestic violence and expanding the language passed in 2010, that allows information collected by family services to be shared.

There are two sections of the bill that we have great concern with. First is Section 9 which mandates the establishment within available resources of six additional Geographical Area court locations. We are opposed to this requirement. As I mentioned, last year's appropriations were not sufficient to allow us to easily set up the three domestic-violence

dockets that you asked of us then.

And I just want to reiterate that we take very seriously legislation that asks us to undertake certain actions, whether funded or no, but find ourselves contemplating the next fiscal year with fewer resources than the last, knowing that we cannot follow through on your wishes.

And I also want to just add is we don't need additional statutory authority to establish the special dockets. We have specific authority under that section of the statutes that makes me, the Chief Court Administrator responsible for the efficient operation of the department. And we've, because of that large and broad charge, consistently oppose the establishment of specific -- special courts and dockets. And at this time when there are significant budgetary concerns, we do need to maintain the flexibility to ensure that all the cases that come before us are handled expeditiously.

I would add one more thing. This Legislature has focussed on results-based accountability, and while our dockets have been studied in limited ways -- for example, the programs and people I refer to was mentioned earlier -- there's never been a comprehensive analysis of the whole program. And that's something that we believe should be done. And last year you asked us to look at the effectiveness of the dockets prior to implementing them. So it's something we're attempting to do at this point, although, again, there is no funding.

So those are basically our concerns. There is one other piece which also implicates funding, which is Section 24, to do an assessment of our training programs for judges and Judicial Branch staff related to family violence. We do have some very robust training programs. We

certainly can provide information. But even that assessment is not, itself, without costs.

I have some information to provide you on the family violence education program. I know we've heard a lot of testimony earlier today. And I'm not going to address individual cases but clear -- because clearly in certain instances, it may not be kept and used in the most effective way. Nonetheless, I will give you some statistics, which are quite compelling.

We have a total of 30,000, approximately, domestic-violence intakes in the last year. We had about 11,000 of those referred for further adjudication; 19,000 were referred to family services, and 4500, only 15 percent were referred to the family violence education program. We do a careful assessment of who should be in those programs.

And on the one-year recidivism rates, our latest data shows that it's approximately 13 percent, which is quite low and a good result, and the -- the successful completion rate is 77 percent. So we -- we think there is some data to support the usefulness of the program. We oppose adding a prior family violence arrest to those issues that we disqualify one from using it.

I will move now, quickly, to Senate Bill 1220, which requires the court to conduct quarterly training of all judges providing over family violence cases. I would say one-size-fits-all doesn't really help us. You can imagine Judge Hauser, who's a national authority on this topic, who does sit on a domestic-violence docket, really doesn't need any additional training. We do have training sessions, three times a

provided. They're not always on family violence, but certainly from time to time, that's -- those are electives that are made available.

I think the problem is quarterly for all, you know, as an imposition to do it that way when it's not always feasible. We do work hard on our education for judges. The staff has many hours of training, days of training around family violence and the many components that they need to be well aware of, in addition to the programatic requirements that exist.

SENATOR MEYER: Okay. Well, that's -- that's very helpful and, you know, we -- we like to honor your -- your separate branch of government and not put our nose in that camel's tent if it -- unless absolutely necessary.

THE HONORABLE BARBARA M. QUINN: Well --

SENATOR MEYER: I think your explanation is very helpful.

Thanks.

THE HONORABLE BARBARA M. QUINN: We'd be happy to provide more information.

Thank you.

SENATOR COLEMAN: Representative Flexer.

REP. FLEXER: Thank you, Mr. Chairman.

Good afternoon, Judge Quinn. Thank you so much for -- for being here.

HB 6299

And I want to thank the Judicial Branch for all of their work with the domestic-violence task force over the last year and a half. Every

step of the way, you guys have been there to give us various pieces of information and to work with us collaboratively, both on the legislation last year and the meetings we've had in the last several months. And I'm hopeful that that collaboration will continue as we continue to work on this piece of legislation.

I do have a -- a number of questions, though, from your testimony. First of all, you talked in your testimony about the continuation of federal revenues to continue the GPS pilot program. When did you as a branch learn about the continuation of that money?

THE HONORABLE BARBARA M. QUINN: Very recently. I -
- I first learned, maybe a month ago, that it would be continued to June or July. And then just days, I believe, ago, I received some more documentation which I had to sign that we would be (phonetic) this.

REP. FLEXER: Okay, great; thank you.

And then as far as the subject of the domestic-violence dedicated dockets, I'm pleased to hear that -- that you believe that the docket in Danielson will be up and running by the middle of the year.

I just -- I guess, in general, the thing I can't really wrap my head around it when we have this conversation about dockets is that these are cases that are going through court proceedings regardless. And I don't understand why there's so much trouble and difficulty with organizing them around this particular subject area. It's not as if new cases are going to be created because there are dockets.

THE HONORABLE BARBARA M. QUINN: I will try to

explain it to you because it doesn't make much sense to people who are outside the system. Despite the testimony, for example, that you heard from the Chief State's Attorney -- you haven't yet heard from the Chief Public Defender, but you will -- they would need to provide additional prosecutors and public defenders to run the special dockets. Because if we run a docket, typically in the morning, they are often, in the smaller courts, then going elsewhere to deal with another docket, in another G.A., in the afternoon. So they -- our partners are stretched.

We also require additional staff, because once you put in place a specialized docket, you actually deal with these cases differently. It's more time-intensive. You consider more options for them, and that's of course one of the reasons people find them so effective, that there are more resources dedicated to them. So it also requires additional judge time.

I realize that perception is those case are happening, you know, within the regular G.A., at five or ten minute intervals, or 20-minute intervals or whatever the -- the balance of the docket is. But when you segregate them out, you handle them in a different way, and that's true for all specialty dockets. And depending on where you're located, it implicates space. It implicates individuals to prosecute them, to defend them, and additional judges to hear them, with all those tools that you expect to be deployed on a domestic-violence docket.

So we would like to be able to do them, but we find our resources so stretched so thin, and we -- we really try very hard to implement everything that's sent our way. But we really find, as we look at it in the various places, we simply don't have our own staff or the

additional prosecutors and public defenders to staff such a special docket. Did that hopefully answer it?

REP. FLEXER: Yeah. I mean, that -- that certainly answers my question to a degree, but it's also -- many of the reasons that you -- that you gave also support why these dockets are effective and why expansion of dockets across the state should be a -- a priority for those of us interested in how the criminal justice system functions.

But I completely do understand your concern about resources, and I think the -- the Legislature has demonstrated an understanding and of the importance of the resources and the autonomy of the resources given to the Judicial Branch. And I'm hopeful that we can work together to try to find a compromise on this particular issue, because I do think it's of critical importance in making Connecticut a -- a -- continue to be a leader in this -- in this area.

And concerning the family violence education program, you had talked about recidivism rates --

THE HONORABLE BARBARA M. QUINN: Yes.

REP. FLEXER: -- for participants in the program, and those were numbers that we had thankfully heard before --

THE HONORABLE BARBARA M. QUINN: Yes, uh-huh.

REP. FLEXER: -- the domestic-violence task force. But I'm curious to see if the Judicial Branch tracks participants in that program beyond a one-year period. Do you have any sense of what the numbers are for recidivism past that one

year?

THE HONORABLE BARBARA M. QUINN: I don't have them with me. We have just implemented, in the last two years, tracking for two years. I don't know if they're available for this group, but I can get you what we have.

REP. FLEXER: Okay. Well that would -- that would be really, really helpful.

And -- and as I know you heard in earlier testimony, we had some facts given to us concerning similar programs in other states. And -- and those figures demonstrated that Connecticut had among the shortest family violence education or similar program in the country. And -- and that alone to me shows us, show me that we should be reviewing our program and figuring out if there's a way to make it more effective. And I -- I just can't really understand, other than the resource issue, why we shouldn't be doing a thorough evaluation of all of these programs.

THE HONORABLE BARBARA M. QUINN: Let me just give you a more nuanced answer. The family violence education program is the entry-level program. It's not a treatment program. It's a cognitive diversionary intervention, focussed on educating offenders. We then have the EXPLORE program or the EVOLVE program -- and the EVOLVE program, which are at higher levels. So each of the individuals that comes into the system is assessed for risk and appropriateness. So there are evidence-based, risk-assessment tools that in most cases have been clinically and experientially validated.

Among other things, we have been lately dealing with one that looks very closely at lethality factors so that we can really begin to focus --

never mind on the criminal record but what -- what are these risk factors. So I think if you see it as a tier of programs, depending on risk and need, then it begins to fit more appropriately into the national model. If you focus only on the family violence education program, you might well conclude it's too short compared to other states that don't have quite that array.

REP. FLEXER: And I -- I would agree with that statement, except that EXPLORE and EVOLVE unfortunately -- and this may largely be due to limited resources -- they -- those programs aren't available throughout the state. So the --

THE HONORABLE BARBARA M. QUINN: And I'm --

REP. FLEXER: -- only --

THE HONORABLE BARBARA M. QUINN: -- aware of it.

REP. FLEXER: -- standardized program available to a domestic-violence offender is the family violence education program. And so you can't -- we can't help but -- but want to focus on that.

THE HONORABLE BARBARA M. QUINN: But we can certainly provide you with what information we have on their evaluation and assessment on the family violence educational program, because I know those efforts are always ongoing in courts today, so it's just an issue.

REP. FLEXER: Great. Thank you, very much.

And I just have one more question, if that's okay, Mr. Chairman?

SENATOR COLEMAN: That's fine.

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mhr/lxe

JUDICIARY COMMITTEE

March 30, 2011
1:00 P.M.

SHIRLEY PRIPSTEIN: Yes.

SENATOR COLEMAN: -- from the initial year? Or at the current income of the putative father?

SHIRLEY PRIPSTEIN: It's supposed to be based on the income of the putative father during the retroactive period. Something else happens sometimes when they -- when the mother has been on State assistance, the State has a tendency to want the entire amount of assistance paid to be charged as an arrearage, which it shouldn't be. But the law is that it's supposed to be based on the income of the -- of the noncustodial parent during that period of time.

SENATOR COLEMAN: Okay. If putative father earned say \$10,000 in 19 -- oh, let's say 2008, and \$50,000 in 2011 I guess, as unrealistic as that might have been -- as that example might be. How would the -- on what income would the arrearage be calculated?

SHIRLEY PRIPSTEIN: It should be calculated on the \$10,000 up until the time that the -- that the income increased to \$50,000, and then it should be calculated on the 50.

SENATOR COLEMAN: Okay, thank you.

Are there other questions?

If not, thank you very much for your information.

SHIRLEY PRIPSTEIN: Thank you.

SENATOR COLEMAN: Michelle Cruz?

MICHELLE CRUZ: Good evening, Senator Coleman, and distinguished members of the Judiciary Committee.

HB 6629
SB 1220

My name is Michelle Cruz, and I am the State Victim Advocate for the Office of Victim Advocate. I have provided extensive testimony, written, on House Bill 6629, and also Raised Senate Bill 1220.

Realizing that it's late and many people are still here to testify, I'm going to try really hard to reduce what I'm saying so that I can just hit the key points. And I'm only going to be testifying verbally on Raised House Bill No. 6629.

The Office of Victim Advocate would like to thank, first of all, the Speaker's task force for all their work. Although I have a lot of comments today, and a suggestion for amendment, I don't want that to be interpreted as not appreciating and valuing the work they've done. By the -- just the -- the mere breadth of the proposed legislation, as well as the issues that we're trying to resolve, it's clear that we're going to have to continue to come back to this issue several times over.

With regards to diversion, Section 4 of the bill, in 1986 the General Assembly established a Family Violence Response and Intervention union -- Unit. As evidenced in the testimony from that time, the premise was for the first time domestic violence offenders to -- to have an opportunity to avail themselves of a diversionary program named FVEP in exchange for dismissal of the charges. The intent was -- for this to be only for first-time domestic violence offenders who were not charged with serious crimes.

Sadly, this is not what's happening in our courts today. In fact, domestic violence offenders are routinely participating in the

diversionary programs a number of times over. In almost every domestic violence case, the offenders have been arrested numerous times and participated in numerous -- informal diversionary programs before being required to utilize the formal Family Violence Intervention Program. The -- problem lies within the procedures and practices of Court Support Services Division of the Judicial branch.

First and foremost, all criminal cases involving family violence are referred to CSSD for an initial assessment, with the exception of cases of murder and the like. Due to the nature and complexities of domestic violence, as well as a number of domestic violence cases occupying the criminal dockets, CSSD simply does not have the training or legal experience to triage these cases and further make a determination whether prosecution should be sought.

The triage of a domestic violence case at arraignment by a trained -- prosecutor is invaluable and can make the difference between life and death, for we know this is a most dangerous time for the victim. This particular stage of a domestic violence case is the lynchpin for protecting victim safety, and also ensuring that the proper charges are brought forward. One simply has to look at the murder in West Haven to see what happens when the prosecutor's absent in his or her role of triaging a domestic violence case.

This is the responsibility of the prosecutor and to date has, for all intents and purposes, been delegated to a family relations officers who should be assessing the cases after a prosecutor has determined which cases are appropriate for referral to family violence

intervention -- units, not the other way around.

Currently, after an arrest, domestic violence offender is brought to court on the next available court date, and this has been going on for a number of years, decades. Arguably, the next available court date is utilized to bring the case before a prosecutor to screen for safety issues, orders of protection, conditions of release, as well as to identify violations of orders of protections, or probation, and or conditions of release, and respond -- respond accordingly. However, in reality, the domestic violence offender appears in court and is directed to, again, CSSD for assessment, and often time the file is not even reviewed by the trained prosecutor.

The OVA has seen this pattern in every court, every day, across the state. The problem with this practice is that the domestic violence offender walks away emboldened with the message that domestic violence cases are not taken seriously. The domestic violence victim walks away with the same dangerous message, only the victim is stifled and muted.

The courage and strength required for the domestic violence victim to break free from abuse and contact the authorities is met with a slap on the wrist, an -- a nolle, or a dismissal. I cannot begin you the number of -- cannot begin to tell you the number of times domestic violence victims, in speaking with the Office of Victim Advocate staff, either myself or one of our staff members, referencing this maddening practice has stated, I would have rather returned to the abuse than continue to - - participate in the court process. This is a heartbreaking statement at best.

This was not the intent of the General Assembly envisioned in 1986. Section 4 of the proposal seemingly seeks to limit the eligibility of -- requirements for the Family Violence Intervention Program. However, to successfully do so, we must address the continued practice of the informal diversion process. Domestic violence offenders who are amenable to changing their behavior are more likely to benefit from Family Violence -- Education Program upon a first arrest for domestic violence, not the third or fourth arrest.

As you heard today, this program is not a treatment program, but more as an educational program. The proposal should require strict adherence to the intended purpose of the -- and benefits of the Family Violence Education Program.

You may be asking yourself, how pervasive is this problem? In a report entitled The State of Connecticut Family Flowchart, from 1990 -- from 2006 -- it was reported in 2006 that there were 29,050 domestic violence arrests in the year. Of those, 25,450 cases were either nollied or dismissed. Unfortunately, the statistics do not depict how the remaining cases were prosecuted, as the report then breaks down the statistics to focus on charges not cases. But what we know is, out of the gate, 25,450 offenders are in some sort of diversionary program.

Further, this -- report indicates that the prosecutors at times will quote, be inclined to nolle the family violence crimes and proceed with the non-domestic felony charge, a practice that will inevitably protect the domestic violence offender from the negative ramifications of a conviction involving domestic violence, such as a loss of one's

ability to purchase a firearm under the federal laws. In the end, the lack of prosecution of domestic violence cases is pervasive across the state, and threatens the safety of all victims of domestic violence.

You also heard today some statistics from Judge Quinn. She stated that -- that -- I believe it was the 2010 statistics, there were 30,000 arrests for domestic violence. She also stated that 19,000 of those cases were referred to Family Violence Education -- the Family Violence Unit, and then of those, 4,500 received the formal program. What those statistics say to you is that the 15,000 cases were then informally diverted, meaning that they're later be available for the -- formal Family Violence Education Program.

The proposal should be reviewed and amended to prohibit all informal diversion programs involving family violence cases. On line 379 of the proposed bill, the new language, or arrested for, should be removed. Rather the language should state, an offender is eligible for the -- if he or she has -- I'm sorry. The offender is eligible if he or she has been -- is ineligible if he or she has been before the court on a family violence crime and participated in a diversionary treatment of that particular charge. The diversion should attach to the -- to the actual charge that's processed through, and not the arrest.

I am cognizant that what I say here today regarding the criminal justice system is not popular or welcomed in certain circles, but when we speak of domestic violence, I'm not willing to hide the truth for the benefit of the feelings of a few. Domestic violence is about life and death. The question is, are we

going to get serious about domestic violence or are we just going to continue to talk about it?

The next section I'd like to talk about is Sections 12, 13 and 14, with charging the victims of domestic violence with violating their own orders of protection. The OVA, as you heard earlier this morning, has been working diligently to end this practice of domestic violence victims being charged with violating their own orders of protection since we first learned of it over two years ago. The court has -- when a victim obtains an order of protection, whether it's from the criminal court or the civil -- the Family Court, the court has made a determination that there is an identifiable, immediate threat to the named protected person of the order. There is a hearing so that the offender can challenge the issuance of the order, and then after the hearing the -- the offender's behavior is then limited by State intervention to protect the protected party. When the -- when the State decides to charge the victim, the issue is that the victim has not been provided a due process mechanism to challenge that -- that restriction on their freedom.

It also violates the State constitutional right, which is to be reasonably protected from one's offender. Additionally, the State cannot prove one essential element, which is that the victim was on notice that his or her behavior was being limited by the State. This is akin to arresting someone for violating probation. For instance, under this kind of scheme, if I was a probationer and ordered not to drink alcohol, and then another individual egged me on, told me to go ahead, have a drink, drink some alcohol. I drank the alcohol, I violated my probation. At that point, I would be the

one violating the probation, not the person encouraged me to do so.

That's essentially what we're saying today, and that is really troubling because we know that victims may return, victims can be manipulated into returning to offenders, and that the response should be focused on the offender and the offender who has the onus of abiding by the order, not the victim.

This morning you also -- you heard from Kevin Kane, who said that the charge is appropriate in -- certain circumstances. I would actually correct that statement and say the charge can be explained or argued by a State's attorney. However, the charge of charging a victim of a protective order with violating that same order is actually illegal, and that the State, if it continues to practice this, may result in seeing a class action suit against the State for violating the victims' due process and State constitutional rights.

And there was some talk also about education of prosecutors. There needs to be education as to the legality of charging victims under this -- this particular system. There's also, as I stated before, how pervasive is this problem. Part of the problem is that we erased the -- the file after diversion's been participated in and the case has been dismissed, so the records for how pervasive this is will not be available in the future.

With regard to the bond issue, I'll just comment that there has to be an overhaul of the bond. The undercutting you've heard about, and the processes where an individual can be released on a payment plan, not following the steps that have been so far provided is very important and it will protect the safety of

victims. The one (inaudible) the Office of Victim Advocate would like to point out is, there needs to be a section detailing how that bail bondsperson should be responding when -- when the bail's not paid. So far what we have is a civil process. There also needs to be a mechanism to capture the offender who has reneged on that payment to bring them before the court. And that is missing from the particular language that I see here today.

I'm wrapping up, so there is a light at the end of the tunnel here.

On Section 23, the OVA supports the establishment of a task force to develop and implement a statewide model policy for law enforcement to respond to incidents of domestic violence. The OVA's concerned with the membership of the task force as proposed. The OVA first presented its proposal as a recommendation after the murder of -- investigation of Tiana Notice on February 14, 2009. And this was one of the gaps we had identified at that time.

The OVA has reviewed many of the State's law enforcement and departmental policies and found that many of the policies are outdated or inadequate. Specifically, not one policy in the state provides step by step what should happen when a -- when a order of protection has been violated. For the most part, most of those policies just talk about the -- authentication of the order, but not the process for capturing the offender who has violated the order.

An important component of the recommendation as proposed by the OVA is a creation of a committee to first conduct the evaluation of the current policies and procedures for law --

enforcement departments handling domestic violence incidents and violations of orders of protection. The committee membership should include representatives of law enforcement, POST -- the OVA, CCADV, and also the office -- the Office of the Chief State's Attorney as well.

The idea was that the -- committee would develop the mandatory statewide policies and (inaudible) remain intact so that they can review if those policies are meeting a need that we have desired. It would also look at whether those policies and procedures across the nation are being implemented and see if our state can also replicate some of those procedures.

I strongly urge the committee to support Section 23 of the proposal and consider some of the OVA's recommendations. And then lastly, I just want to thank -- thank you for the opportunity to testify, and I'll answer any questions that you may have. Thank you.

REP. FOX: Thank you. We just did a little switch while you were going through that.

Are there any questions for Attorney Cruz?

Representative Shaban.

REP. SHABAN: Thank you, Mr. Chair.

I wonder -- I wanted to understand your testimony. I was following some other testimony on the TV when I was in my office. There was some talk about this.

Are you -- are you -- is your position that if -- if a defendant has already gone through diversion, then they can't participate in the

program? Is that kind of what -- is that what you're -- I want to make sure I heard you right.

MICHELLE CRUZ: Is it my --

REP. SHABAN: If diversion, then no program?

MICHELLE CRUZ: Yes.

REP. SHABAN: Okay.

MICHELLE CRUZ: Yes. I mean the -- the idea is that we're one of the few states in the nation that still allows an individual to provide diversion for a domestic violence offense. If we're going to use diversion, then it should be really focused on the first-time offender in allowing them to seek treatment when it's appropriate, not a -- not a charge that's, you know, physically violent, not a restraining order violation, because obviously there's been another -- there's -- there's an issue there.

But that if we're going to do diversion, it really should be a first-time offender program. Just like the alcohol and -- Alcohol Education Program for drunk driving. If we're going to do it, we should just do it for one -- one particular event.

REP. SHABAN: So if there's a diversion, and the defendant, or the accused, or whatever the stage is, it -- comes back on a similar count, are you saying then there's no program? I mean because I'm trying to figure out whether -- if you say, if diversion then no program, then you're kind of -- you're either going to do one or the other. You're throwing -- essentially you're going to say, well, throw out diversion, we'll just go straight to the program.

MICHELLE CRUZ: Well I -- I think that what should happen is in -- I used to prosecute these cases in Massachusetts. I know that's sometimes nauseating for me to say all the time, but what we do is when the case came in for arraignment, we -- we would triage the case, look at safety, what the person's record looked like, how many protective orders, restraining orders, so forth, and then at that point you're looking at what track should this case be on.

In Connecticut, because we have diversion, when that person comes in at arraignment the case should be triaged and looked at. Is this -- is this someone who needs a diversionary program, first-time offender of domestic violence? If that diversion includes alcohol and substance abuse counseling and the family violence program, to get that person set up so there's not a returning person in the court, then by all means they should do that.

But it's a dangerous thing for us to -- to say the first time you come in, let's focus on your alcohol issue. Well, that didn't work, now you're back in. Let's focus now on counseling. And then after three or four times, let's focus on this program that's not going to change behavior -- we heard that today -- and have you do a nine-week program educating you. That doesn't make any sense. We're -- we're piecemealing what should be -- what could be a robust diversionary program.

If there's a need for alcohol and it -- alcohol or substance abuse training or education, then let's put that as part of -- of the Family Violence Program. Otherwise, what are we -- what are we saying?

REP. SHABAN: Yeah. And -- okay. I'm just trying to -- I'm trying to understand your testimony.

Would -- would you agree or support a -- only one diversion and then, assuming nothing crazy, you know, like really a murder or something happened, you know, diversion, program, three strikes you're out? I mean then you're not eligible for anything. Is that something that you would get behind? Because it's -- I mean, because what I'm hearing is it's you're either going to do a diversion, or you're going to do the program, but you're not going to do both.

MICHELLE CRUZ: Well, I -- that's my --

REP. SHABAN: And I may be misunderstanding you. That's why I'm asking.

MICHELLE CRUZ: When you're convicted -- when you're -- when you're brought in on an arrest for a family violence crime, which includes, you know, by definition there is a physical or a threat of a physical assault, you should get one opportunity to have a quote, unquote, a pass through diversion. After that, it just seems that, you know, what -- what is our goal? Is our goal to allow for people to continue to abuse and harm their -- their victim? Whether it's, you know, the girlfriend one day, their wife -- or whoever.

REP. SHABAN: Right. Right.

MICHELLE CRUZ: And the -- the issue is that we also have to hold that in our minds, alongside the fact that it is very difficult in many cases for victims of domestic violence to get the courage to leave. If every time they come in, they call the police, there's an arrest, there's an arraignment, we're going to have this person do alcohol treatment. The next time, victim is, you know, calling the police, now the offender's knocking on their door.

Maybe there's not -- maybe there wasn't a protective order, there's another diversion.

At some point that victim's going to give up, and that's what we're hearing, is that victims are giving up. The offenders are just kind of circling through the system. We also hear of cases where someone is on diversion, an informal diversion, they violate the conditions of that, that new case is brought in and folded into the diversion. Now we're -- we're sending a message when these -- these individuals -- the first time anybody's in court, I would hedge my bets that they are -- they're amenable to treatment because they're scared of what's going to happen. The fourth time, not so much. Then we're doing a nine-week program when we heard that that's not ideal?

REP. SHABAN: Yeah, right.

MICHELLE CRUZ: And so I mean --

REP. SHABAN: I think we're agreeing on that. I'm just curious if you'd agree with a diversion -- you'd give somebody the opportunity, if appropriate, one diversion, one program, that's it.

MICHELLE CRUZ: I think it should be the -- either you do the Family Violence Program, or you do diversion, but I mean --

REP. SHABAN: Not both.

MICHELLE CRUZ: -- but not both. Yeah.

REP. SHABAN: Okay, I just wanted to make sure I understood your position. Thank you.

MICHELLE CRUZ: Okay.

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REP. FOX: Okay. Okay, so you -- all of what you're doing then is in the criminal court, not the -- it's not the civil restraining -- restraining orders that we have.

JENNIFER WENDEROTH: Correct.

REP. FOX: Okay. And -- I don't want to -- obviously it's a pending case --

JENNIFER WENDEROTH: Uh-huh.

REP. FOX: -- so I don't want to get too involved. But are you in a court that has a domestic violence docket?

JENNIFER WENDEROTH: I'm working with Office of the Victim Advocacy, so -- I'm in New Haven. That's where it's being held.

REP. FOX: Okay. Yeah, and I think they have -- they have a docket and they have an Office of Victim -- the Office of Victim Advocate is everywhere, but they -- you certainly would deal with them there as well, so. Okay.

Any questions?

Thank you.

JENNIFER WENDEROTH: Thank you. Have a good night.

REP. FOX: Thanks for waiting so long.

Susan Storey?

SUSAN STOREY: Good evening, Representative Fox, and members of the Judiciary Committee. With your permission I'd like to introduce -- I think you've seen Senior Assistant, Mike Alevy before. He is on the ground running in GA 23, and has a really good working knowledge of the

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family violence dockets in their court. So has some really good information should you have questions, how things actually work in some of the really busy courts.

I do -- I do want to compliment Representative Flexer and also the Speaker Donovan for the comprehensive work on Raised Bill 6629, and I'm here to testify on that bill. I think it reflects a lot of very, very good work on very, very important issue in Connecticut which is domestic violence.

I think we find that about 33 percent of the incoming cases that we have in the -- in the GA courts are domestic violence cases, and we do need some very real answers, and I think, you know, to trying to reduce the violence, and I think this is a very good effort that everybody made in order to -- to try to initiate some change.

I do want to tell you about a -- a couple of recommendations I have. I think it's been discussed before by State's Attorney Kane, also by Kevin Dunn, and a number of other people. Just going to Section 4, we do agree with some of the folks that have testified tonight that the fact of an arrest should not -- a prior arrest should not -- preclude someone for qualifying for the Family Violence Education Project.

The other thing I want to talk about is something that hasn't been brought up about the diversionary programs, that sometimes occur out -- before somebody actually enters the Family Violence Education Program, and Attorney Alevy's been discussing that with me that especially in -- in his experience in New Haven, sometimes the informal diversionary programs are more rigorous and tailored to the

needs of the defendant and the victim, and are -- and are developed actually in conjunction with family relation, the prosecutor, the court, and the Victim Advocate because the Family Violence Education Program might not meet the needs of that particular situation.

And sometimes what there -- what they really think is necessary are substance abuse, parenting, anger management, couples counseling. And a lot of times those initial programs -- that -- that seem to be sort of -- sort of, maybe an afterthought, are more rigorous than the Family Violence Education Program.

I think, under current law, there's really a lot of limitation on the use of the Family Violence Education Program for persons who can actually be admitted to it. Precludes serious felony cases and even with a D felony, that is you -- you had to show good cause for entrance into that program. So there are some very good safeguards, I think, for -- for who actually gets into that program.

And the other thing is, is that the Family Violence Program is offered throughout Connecticut. EVOLVE and EXPLORE are not currently up and running in all the courts, so I think it's important to have that program accessible to as many people as possible. I think Representative Shaban you were -- concerned that if -- if -- I think about the guilty plea, the entering the guilty plea to get into the program. That's also a concern of ours that people who had to plead guilty for a diversionary program might not actually want to get into that program and might then go on to put the case on the trial list or whatever. Then they don't get any services at all, and I think that may be self-defeating.

The other issue on the -- requiring a guilty plea, even if it's a conditional guilty plea for this particular program, has immigration -- it's our understanding that it does have immigration consequences so that would be something that we would have to counsel our clients regarding that.

So we would prefer to see the way it is, a true diversionary program, both EXPLORE and EVOLVE, require a guilty plea. Those programs do not end in a dismissal. They're not a diversion program. They may end up in a -- a lighter sentence rather than -- than jail, but they're not a diversion program. They do not end in a -- in a dismissal.

The other -- the other thing I want to mention is that sometimes when -- on the -- on the guilty plea, sometimes you have folks who can't complete programs and it's beyond their control. So there's not a provision if it's beyond their control. Sometimes there's loss of employment, transportation, illness, those types of issues that come to play, and people not completing a program. And this is why sometimes the alternatives are fashioned outside that program that better meet the needs of -- of certain complications that families have with Family Violence Education Program.

The -- with the Section 9, I -- I just want to address resources. I know this has been brought up by Judicial and by Criminal Justice. We also have some issues with resources. I know that in the last session there was legislation of three additional domestic violence dockets. If you add six more, that would be approximately nine.

I just want to -- to talk about -- and I think we've talked about this before -- the -- the resources that go into domestic violence dockets are much more intensive than our other dockets, and often, especially in a busy court where you have multiple dockets going on at the same time, you have to shift your resources to other dockets while other dockets are going on, and that creates problems because judges may want the same attorneys covering domestic violence in the pretrial docket, or the YO docket, or the -- motor vehicle docket.

So it's not just a matter of -- of -- I think Representative Flexer, you -- you asked, well, we're going to get these cases anyway, so, you know, how does that figure? I think in -- in courts that have one courtroom, it's in a way easier to do than in courts that have multiple courtrooms where you have to shift available resources from courtroom to courtroom, splitting up your staff. And we've found with the domestic violence dockets in New Haven and Bridgeport that we have to devote a large number of public defenders because of the numbers of people that come in on the dockets because it's a large part of our caseload.

So if you have 20 to 30 clients each for each public defender, it sometimes takes six public defender to -- five public defenders to cover those dockets. And New Haven actually has two different types of domestic violence dockets. And -- and Mike can talk to those if you have questions on -- on the differences of those dockets. We have -- we have talked to Office of Fiscal Analysis about what our resources -- what resources we might need to effectuate completion of all those dockets. It would be considerable.

On Sections 12, 13, and 14, we do not have an issue with -- of immunizing a party from prosecution for aiding and abetting. We do think though there should be some language added that it (inaudible) the defense from us to raise a defense that the contact for violation of a protective order was actually initiated by the protected party. I think -- we think this is rare case where a victim would be prosecuted for violation the protective order. I think Kevin Kane raised that as well. But we -- we would ask that we should have some type of defense if -- immunization does occur.

And this is a very common type of violation of protective order, when victims do contact defendants and, you know, at times they -- they want to initiate contact and then our -- our client is -- is rearrested for the contact. So those are just important considerations that we'd ask you to look at when -- when going over this legislation. It is very important, and we hope it does serve to reduce domestic violence in the state.

REP. FOX: Thank you. Thank you for your testimony. As you see, the public officials sometimes are supposed to reserve the first hour, but sometimes it can take a while.

SUSAN STOREY: That's okay. I learned a lot while I was sitting there.

REP. FOX: Yeah. Yeah, it actually that -- that you get to hear -- hear a lot.

Are there any questions?

Representative Flexer.

REP. FLEXER: Thank you, Mr. Chairman.

Good evening. Thank you so much for your testimony and -- and your feedback on -- on this bill in particular.

I'm just curious, has your office, to the best of your knowledge, ever represented a victim who's been charged with violating an order of protection?

SUSAN STOREY: No, I think there was one case, and (inaudible) Kevin Dunn was speaking about cases out of Litchfield and then Bantam. I think -- I -- but I can't recall those circumstances. But it's very rare. I think it was once -- particular case. I -- if you would like more feedback on that, I can -- but I think it's very rare.

REP. FLEXER: That would be great. Thank you very much.

Thank you, Mr. Chairman.

REP. FOX: Senator Gomes.

SENATOR GOMES: Good afternoon, Mister.

A little while ago we were discussing Bill 1163. Do you have an opinion on that bill whatsoever? That concern assault of a school employee, about the degree of -- degree of charges on, I think on, they say Class D felony as opposed to a Class 3 assault misdemeanor.

SUSAN STOREY: Yes.

SENATOR GOMES: Is that when -- it's a -- I think that's what I was -- I wasn't arguing over (inaudible) views with my friend, Gary LeBeau.

Do you have an opinion of that at all?

less than the age of -- age where requirement, and I'm talking about, you know, 18 or above. I'm talking about what we were talking about earlier, raise the age.

And the reason why we wanted to raise the age is there was too many young people being -- tacked with -- with being attacked with felonies before you're even old enough to enlist in the service. You got a felony on your record and you're prevented from even going in the service because of that felony. You're prevented from ever working in a federal institution, such as a post office or anybody because you have that felony on your record. And if he deserves a felony, that's something different. Hey, you attacked somebody with a knife and you tried to kill a teacher, or you tried to even bruise her, or you just cut her, you know, that's -- that's something that's different than a fight that might occur and, you know, somebody get shoved around or something like that.

So I'm not entirely against the -- the law itself, or the bill itself. I'm against the bill being enacted that would result in a law that -- that worked -- that's working going backwards when we're talking about raising the age and -- going backwards and tagging a -- tagging a kid with -- with a Class D felony. So that's why I wanted to know your opinion on it. Thank you.

REP. FOX: Thank you.

Are there other questions?

I have a -- a couple. The first deals with the question of conditional pleas, and as I understand it, at least in some courts, when you come -- when you -- when you deal with

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those EXPLORE and EVOLVE programs, it is being done. I don't know if you see that at all.

SUSAN STOREY: I'll let Mike answer that*.

MIKE ALEVY: I think that's correct. In -- in the non-diversionary family violence programs, like EXPLORE and EVOLVE, those clients or defendants who are on that track, are generally people who have prior arrest or convictions, and so they're undergoing the longer programs. And they are entering conditional pleas, but there is no provision for them to, generally speaking, to have that plea withdrawn. So there's a distinction to be made with a diversionary program.

REP. FOX: Yeah.

MIKE ALEVY: They're not intended to be diversionary and conditional pleas are entered as they are in many cases, both family and nonfamily.

REP. FOX: Yeah, and -- I can see the reason why a prosecutor would want to do a conditional plea. I can also see the concerns that you might have in that I don't know what impact it has on -- you mentioned immigration. I don't know how you explain that if it comes up or does not come up.

I also, you know, certain people -- there's background checks that go into jobs or licenses, and I don't know what you say if a conditional plea pops up, you know, as guilty.

Is there -- I don't know if there's an explanation for that. What -- you may not know either, but there -- I could see how that could become a problem, so I -- I understand both sides of it, and I just don't -- I'd be interested to know if you've seen that.

MIKE ALEVY: Well, one of the things that -- I know that when cases are pending, whether or not pleas have been entered, that can show up and affect people in different ways, just the fact that a case is pending. And I don't know that the information on whether a conditional plea has entered or not is always apparent to who's ever looking at that information. It may not always show that a plea was entered, and it may not be significant, depending on who's looking at that information.

What I think is significant about the entry of a conditional plea in a diversionary context is that once a plea is entered, conditional or otherwise, there are -- due process rights that attach. There is some case law out there, some in Connecticut that discusses conditional pleas in general, but also I think in Idaho there was a case in 2007 that discussed conditional pleas in the context of diversionary programs where once that plea was entered, any kind of consequence of that, there was a liberty interest now involved, and a due process right to what was going to happen of somebody was terminated from that program.

So if someone enters a conditional plea, and for a variety of reasons the program comes back and says this person didn't comply with the rules or regulations, or hasn't -- shown up, whatever it may -- terminating, now we have -- due process rights, evidentiary hearings that would have to go on to determine whether or not the termination in that program was warranted, and what would result from that.

So we would probably see an increase in hearings, evidentiary hearings and litigation in the diversionary context, when -- when some (inaudible) has entered a conditional plea.

When somebody doesn't enter a conditional plea and they go into a program and they get terminated from that program for failure to comply, there is no liberty interest or interest in -- in being able to complete that program. And also they're still exposed to a full prosecution on the charges that are standing, you know, before they went into -- before the program was granted. So that's some of the considerations I think the committee should think about.

REP. FOX: So, okay. So when you see a conditional plea then is it just something that goes into a file but doesn't go anywhere else? Is that essentially how it works?

MIKE ALEVY: Well, the plea is entered on the record --

REP. FOX: Yeah.

MIKE ALEVY: -- and it goes into the Clerk's file --

REP. FOX: And then it stays there until -- it's not -- I guess -- because, you know, like we all look -- I don't mean to interrupt you. But we all can go -- we go online and we can see pending criminal cases, and we can see, you know, prior conviction records if you wanted to check that. And I guess my question would be if someone enters a conditional plea tomorrow and then they go into a program for six months, you know, with the understanding that if they successfully complete that program that conditional plea will be vacated. Where's that conditional plea registered? Or how -- how do you find that it's been registered? And maybe I -- we can ask this of Judicial as well. I just --

MIKE ALEVY: I'm not sure --

REP. FOX: Okay.

MIKE ALEVY: -- whether you went on the Judicial Website if you would see some notation about a plea being entered or not. You -- may, because I think in the Judicial Information System, even though the case isn't disposed and a plea's been entered, it may show under one of the fields that you see on the screen, as a guilty -- plea being entered.

But, you know, we could -- I could check that. We could check that --

REP. FOX: Okay.

MIKE ALEVY: -- very easily and come back with that -- that information. Where it's reflected, how.

REP. FOX: Okay.

MIKE ALEVY: It certainly is in the Clerk's file.

REP. FOX: Yeah, and then I think -- I was -- assume that they could just pull it out if the person fails to successfully complete the program and say we have a guilty plea here, now we're --

MIKE ALEVY: Right, now we're moving to sentencing -
-

REP. FOX: Yeah.

MIKE ALEVY: -- in some fashion, right.

REP. FOX: Yeah.

MIKE ALEVY: And that's where the due process --

REP. FOX: Okay.

MIKE ALEVY: -- piece of this would -- would come into play (inaudible).

REP. FOX: Yeah. Okay.

SUSAN STOREY: With the diversion programs, when you go on Judicial docket site, you see that it's a -- you see that you can't get the information. You know it's a diversion program. But I'd be very surprised -- when somebody enters a conditional guilty plea, it's still a guilty plea until it's vacated.

REP. FOX: Yeah.

SUSAN STOREY: So I'd be very -- and we will -- we will check.

REP. FOX: Okay.

SUSAN STOREY: But I would be surprised if it is not registered on the Website.

REP. FOX: Because -- part of my thought is once it's registered on the Website as a guilty plea, even if it's subsequently vacated, is it -- does it come off? Does it come up somehow somewhere? I don't know. I'm just, you know -- five years down the road, does it come up? I don't know.

SUSAN STOREY: Well, we'll have to --

REP. FOX: Okay.

SUSAN STOREY: -- we'll look at that and we'll get you the answer.

REP. FOX: I know, you know, Assistant State's Attorney Kevin Dunn was here, and I know that he's done this in these types of cases a number

of times. And I can ask him as well. I just -
- but I'm interested to know what the
ramifications are of a conditional guilty plea.

SUSAN STOREY: We can easily, I think, look on -- on
the -- on the docket for GA 23, for that
particular docket, and we'd be able to tell.

REP. FOX: Okay. And then another question I've
got, because I do understand the concern about
requiring a guilty plea before you get into a -
- program, and -- or -- excuse me -- like only
being able to use a program upon a first
arrest. Whereas -- because sometimes I -- I
think everyone would have to acknowledge that
there are some arrests that should not have
happened, and that should not be something that
precludes you from potentially using a program
in the future.

But if I play devil's advocate, and I look at
the other side as well, there are situations
where you do have three, four, five times where
a defendant appears on a domestic violence
docket, and they've gone through alcohol
classes, or anger management classes, or other
alternatives to incarceration that don't
involve one of the programs. And -- I have to
assume you've seen these cases as well. And
then, you know, on the fourth or fifth arrest,
at that point they are applying for the Family
Violence Education Program which is
theoretically for first offenders, but that's
sometimes just how it -- how it works.

And so -- so I understand what the victims'
advocates are saying when they say that there -
- there can be a problem with that. I just --
I'd be interested -- do you have a position on
that? Or how -- how you find that working?

SUSAN STOREY: Well, I -- I think of course it's discretionary with the court whether they're actually going to grant that program. But I was talking with Mike before we came up, and we were discussing the -- the players that are involved in scrutinizing the facts of the case before any decision is -- is actually made on this.

Do you want to (inaudible)?

MIKE ALEVY: I think there's a couple of issues that you raise in your question. One of them is this idea of diversion versus informal diversion. And I think that's an important kind of thing to discuss because, as Attorney Storey indicated at the outset, very often, I believe, informal diversion is much more rigorous than diversion, especially when we're talking about the Family Violence Education Program and I think it's been beneficial to sit here during the course of the day and hear people talk as well. I've learned a lot from listening to other people speak, and I think that clearly there may be some areas in the Family Violence Education Program being an education program and maybe not a therapeutic program, that do limit its effectiveness in some cases.

What I think you see happening is I think that you have very savvy victims' advocates and Family Relations Officers who get a hold of these cases in the very beginning, have victim contact, talk to defendants, talk to defense attorneys, talk to prosecutors, and really are able to fashion what is being termed informal diversion in a way that addresses, you know, the issues present in -- that specific case in a much more realistic and thorough way.

So where Family Violence Education Program might be on the table in lieu of traditional Family Violence Education Program classes, they may be going to parenting classes, they may be in couples counseling at a place like Southern Connecticut at their family plan. They could be going to the VA for alcohol treatment. So there are, as -- as members of this committee know, a variety of other resources in the community that we look to in a lot of different occasions or different contexts to get people into. And these are utilized in this, kind of in lieu of FVEP.

Now that doesn't answer the question as, okay, what happens to that case when they come back? Do they receive a nolle or something like that for completing that informal diversion? Very often they do. But I think that Family Relations is very good at keeping track of -- of -- in my experience certainly, of who has done what and when and how many times they've been through.

I think there are cases that I've heard other people talk about that do happen, but I also know that there are cases when somebody will come back with a report from Family Relations and then say, well, they've been through this (inaudible) informal diversion and people -- judges will say, you know, I'm not going to get you -- grant you the Family Violence Education Program, that you have had enough bites at the apple.

So I think it's very varied. I think there are a lot of different ways to approach some of these things. And I don't think that somebody who has gone through this -- informal diversion always gets the program just because they technically haven't used it. And sometimes people will even agree to use the informal

diversion in lieu of the Family Violence Education Program and then no longer be eligible (inaudible). So there are a variety of ways I think that the issue is addressed and -- with the recommendations, and with everybody being on board, Family Relations, attorneys, judges, prosecutors, are all involved in this.

REP. FOX: And -- because I would think that as defense attorneys, if you're offered an informal diversionary program as opposed to the Family Violence Education Program you would -- in almost every time, go for the informal program because that's -- that would keep open the option of Family Violence Education Program in the future.

MIKE ALEVY: On one hand, that's true. I think on the other hand, I may be running into somebody who is going to adamantly object if I don't -- if I apply for the Family Violence Education Program and insist on doing a more rigorous informal diversion.

REP. FOX: Uh-huh.

MIKE ALEVY: I mean that's the other side of that as well, and that that happens with great regularity I would say.

REP. FOX: An example of that would be the Family Violence Education -- it would -- a victim or the victim's advocate, or the prosecutor would say Family Violence Education Program is not strong enough --

MIKE ALEVY: (Inaudible).

REP. FOX: -- we want a six-month, you know, more --

MIKE ALEVY: Right.

REP. FOX: -- serious --

MIKE ALEVY: The Family Violence Education Program is not going to address this particular person's alcohol issue, or an anger issue, or a parenting problem, or a mental health issue. And there are other resources in the -- in the community that can be -- you know, to address those needs, and those are done, like I say, they're very smart, experienced Family Relations Officers and victims' advocates, as well as judges, who have a lot of experience on these dockets, who know where these resources are and can put conditions of people's release that create conditions that require people to do these things.

REP. FOX: So if -- in those situations, do you think it would make more sense then for those defendants, if they are -- perhaps -- if whatever they're charged with, whatever the circumstances are, require something stronger than the Family Violence Education Program, should they then, if they didn't go through this informal program as it's laid out, you know, by the court, should they then be precluded from the Family Violence Education Program?

If -- I mean that's -- I think that's the argument that some people -- the -- actually the argument that I thought people were making was more on the other side -- excuse me -- where it was essentially something where, as opposed to doing the Family Violence Education Program, you try to do something lesser. You know, anger -- a couple of anger management classes, or maybe some alcohol counseling, and -- and then, you know, the case is monitored for several months and then everything seems okay so the case is nollied. I mean, I see that fairly frequently.

MIKE ALEVY: My view is that's the whole tone of the discussion today that I've heard is that, yes, informal diversion is like diversion-light, that it doesn't rise to the level of what's offered by Family Violence. And I think that's incorrect in a lot of cases. In -- in the vast majority of cases, it's -- it's -- informal diversion is used because prosecutors may say, or judges may say, you know, FVP is not enough. We know what FVP is. It's appropriate in certain circumstances for certain cases. But Family Relations is telling us that this person has, you know, these issues, so it's not enough. We want you to do more and we're going to offer this informal process.

Whether that should preclude somebody at another time, that's the question, from using it, I would say don't make a blanket prohibition that that is so, and let people who are kind of on the front lines assessing these things on a case-by-case basis, with input also from victims in a lot of cases, in many cases, kind of make these decisions about what's appropriate.

I think the -- the underlying principle behind this should be that we give people, judges and all these folks on the front lines, some discretion to use the resources that are out there and -- and not take things away -- resources from them. And if FVP is a resource, that probably shouldn't be taken away from them in some kind of blanket way.

REP. FOX: And then my last question would be, is it your experience then, when an individual applies for the Family Violence Education Program and then they are -- there's an application process, then they do the background check, you go back to court eight

weeks later, four weeks later, whatever it is. Is it your experience that the prosecutor and victims' advocates would have the defendant's history, meaning that if a defendant had been through several informal diversionary programs, those would be read off for the judge to take part of in his -- his or her consideration?

MIKE ALEVY: Absolutely.

REP. FOX: Yeah.

MIKE ALEVY: I think Family Relations is very aware of how many times an individual has been referred to Family Relations and gone through the -- the system. I mean it's -- very -- family violence cases are one of the most, kind of scrutinized and monitored types of cases that come through the system, from the arraignment and the initial reports that -- and investigations that Family Relations does, all the way through. So they clearly have that information.

REP. FOX: Okay, well -- well thank you. And as you know, we're -- trying to put this together, and I'm sure we'll have opportunities to talk further as we go forward. So thank you. Thanks for your testimony.

Any other questions?

. Thank you.

MIKE ALEVY: Thank you.

SUSAN STOREY: Thank you.

REP. FOX: Next is Jennifer Zito.

JENNIFER ZITO: (Inaudible) Judiciary Committee. My name is Jennifer Zito and I'm the President of

the Connecticut Criminal Defense Lawyer's Association. And I am here to testify in opposition to Raised Bill No. 6629, AN ACT CONCERNING DOMESTIC VIOLENCE.

With me is Elisa Villa, she is the Supervisory Assistant Public Defender for the GA Court in Bristol, and a member of the Executive Committee of CCDLA, and will be testifying as well in opposition to this bill.

I believe that much of the testimony you heard from the Public Defender's Office is consistent with our position on this bill, but I would just like to add a few points.

With respect to the bill precluding eligibility for the Family Violence Education Program on the basis of a prior arrest, I'd like to address Representative Fox question. One of the problems with it is the bill makes no distinction between people who have previously been arrested and gone through an informal diversion program, and people who have been previously arrested and the charges were dismissed because they were unsubstantiated, or who even went to trial and were acquitted on the charges. So you can see that's a major problem, and I think Mr. Alevy makes a very good point that we really need to leave it to the discretion of the court, and in most instances, in my experience, if the court sees that somebody's been there several times and been through informal diversion unsuccessfully or on -- on several occasions has worked with Family -- Relations and presents again before the court, the court will use its discretion to deny them the Family Violence Education Program. But the mere fact that somebody had previously been arrested is a very bad, I think, standard for denying people eligibility to this necessary program.

Secondly, when we talk about precluding all defendants charged with a felony from eligibility to this program, I'm going to bring up a few points which I think we need to address.

First of all, that may then make them eligible for the Accelerated Rehabilitation Program which still includes D felonies and C felonies for good cause shown. In those situations, the court would have discretion to grant AR, but then -- the accused would be monitored by Probation rather than Family Relations. I think it makes more sense to keep these -- cases before Family Relations and to be -- to be addressed by Family Relations, who has more experience with these types of charges.

Secondly, I think that we need to take note that the distinction between, for instance -- an assault in the third degree, which is an A misdemeanor, and assault in the second degree, which is a D felony, is -- is very subjective. The question is intent, did you intend to cause serious injury or did you recklessly cause serious injury? And in a lot of these family violence cases where there are parallel divorce proceedings, custody proceedings, you know, of course the victim may perceive that the action was intentional. So there's a fine line I think between the D felony and the A misdemeanor, and I think by precluding the D felony for good cause shown as the statute now reads, we could run into a situation of overcharging to keep people from being eligible.

Or we can run into a situation where the prosecutor feels that the defendant should actually benefit from the program and files a substituted information down to the A

misdemeanor, and then if the accused does not successfully complete the program, when they come back before the court they are -- stand charged with a misdemeanor rather than the original felony. So I think there are risks there and I think that we should allow the court to continue to exercise its -- discretion for good cause shown for D felonies.

Lastly, on my part, I would like to bring to the committee's attention our opposition to Sections -- the section in 12, 13 and 14, affording criminal immunity to protect -- to a protected class of citizens.

First of all, I know of no other situation where an -- a whole class of adults is afforded criminal immunity, and in this situation, I would say this is very rife for -- abuse and not only do we object to doing this, but the State objects to it also. And that is because in these situations where you have protective orders and restraining orders, there are instances where the victim incites the defendant to come over and talk, let's try to work it out, and then things go awry and -- and the -- and the defendant ends up getting violated on the protective order which is a felony.

And there are situations where the protected person should be held accountable, and I think we need to leave that to the prosecutors and to law enforcement to decide whether or not they should be prosecuted. I think giving -- an entire class of adults immunity suggests to them that their actions -- there will be no repercussions for their actions and I think that's a very dangerous path to take.

I'm going to allow -- I'm going to ask Lisa, if you will give us the time, to address the

conditional guilty plea issue which I think is important. And lastly, before I do that I just wanted to say that I think it's notable that both Judicial branch and the State's Attorney's Office object to denying eligibility as well as the Defense Bar, private and public, premised on arrests alone.

ELISA VILLA: Thank you. I'll be brief.

I'm addressing the conditional guilty plea provision which is Section 4, Subsection 8. CCDLA's position is that that would thwart the original intention and purpose of the program as a diversionary program.

Currently, a court has the authority to order the Family Violence Education Program as a post-conviction condition of probation, and frequently the court will do that. If you add the conditional guilty plea provision, it would severely restrict the availability of the program for a large number of people. People with parallel divorce or custody, child custody proceedings, wouldn't be in a position to enter a conditional guilty plea or -- or do anything that would amount to admission of wrongdoing.

Likewise, noncitizens would not be in a position to use the program as well because conditional guilty pleas do have quite significant immigration consequences, including removal, denial of citizenship, and inadmissibility. So for those reasons we would support a total deletion of that particular section.

One final thing -- item I'd like to suggest -- a staff member attorney of mine suggested this actually, that under the definition in Section 2, Subsection 2 of the bill, which is the definition of family or household members, we

would suggest that there be a caveat of some sort to exclude disabled individuals who reside in group homes, particularly people who have -- cognitive disabilities or mental health situations. This would allow such individuals -- a caveat would allow such individuals to access the supervised diversionary program in lieu of the Family Violence Education Program where it's more appropriate, because these people -- in the group homes obviously tend not to be related or involved in any sort of romantic relationship, they're just thrown -- together by virtue of their status as disabled individuals. Thank you.

REP. FOX: Thank you both.

Are there any questions?

I -- I have one, dealing with the question of conditional pleas. And on the one hand I see it as something that might be overused if we put it in the statute. And I'm talking about, not necessarily conditional pleas with Family Violence Education Program, I'm just talking conditional pleas in general, and how they -- especially how they work in a domestic violence situation, because as I understand it, they do exist now.

Or they're at least being used now. And I've heard that some courts will allow them and some courts will not allow them. And some courts -- aren't sure that we can do them, and some say we can. And from a defense perspective, I would think there are some times when you would welcome that as a potential disposition if it gives your client a chance to -- to ultimately get a -- nolle or a dismissal. I'm just wondering what your thoughts are on that.

ELISA VILLA: I -- I agree with what your concern is. I think the -- the problem would be that if this provision is enacted, I think courts may generally -- revert to it automatically, sort of as a safety valve to cover themselves, because -- they would see if it exists, why not use it.

And I do think it would restrict, no matter what, it would restrict the numbers, the demographic of people who are able to use the program. And just having that as a provision, I think it would -- it would increase the number of courts using that conditional plea as a prerequisite. I think -- it would be a fallback position that would be used whether it's appropriate or not.

JENNIFER ZITO: I also think that those are typically used in situations where you have repeat offenders, or violations of probation, or someone has been before the court on multiple occasions, as opposed to a first-offender, hypothetically, or supposedly, that we're talking about with the Family Violence Education Program. And the reason for that is, you enter the plea. The plea is generally not withdrawn. I mean in some instances it can be, but generally what happens is the plea enters, and then the sentence will be a cap of something very punitive if you violate the conditions that you're making the plea under, or a suspended sentence.

You know, for instance in violation of probation cases this often happens where you enter, you know, an admission on the record, and then if you do certain things over a period of time and comply with the conditions of the court, you may be placed back on probation rather than having to serve the sentence that's hanging over your head. That also happens, as

I heard Mike testify earlier, in the EXPLORE, EVOLVE problems -- EVOLVE programs, with people who've been before the court multiple times and they're more serious offenders.

But to require someone in a pretrial diversionary program to enter a conditional plea, it sort of takes away the whole essence of what the diversionary program is supposed to do which is divert prosecution. So I think it would result in, in instances where the conditional plea is required, it would result in a lot more trials in cases because people would not want to make an admission, often to contested charges, just to get the benefit of this program, even with the possibility of the nolle.

REP. FOX: Okay, well let's just look at what's being done now if we could, because as I understand it, not with the Family Violence Education Program, but with the EXPLORE and EVOLVE, there's a required guilty plea, and in some instances, at least in some courts, they're allowing for a conditional plea that would be vacated upon successful completion of that program and other -- maybe other conditions could be imposed as well, I guess. And what are your thoughts on that? I mean I assume that if your client's -- if you find out your client's going to have to go into -- the longer programs, EXPLORE or EVOLVE, and have given an opportunity that a plea could be conditional rather than just a straight guilty plea, you would take it if you --

JENNIFER ZITO: Well, I think that's appropriate --

REP. FOX: Yeah.

JENNIFER ZITO: -- in people who are not before the court for the first time --

REP. FOX: Okay.

JENNIFER ZITO: -- as a, you know, a first-time offender.

REP. FOX: But if it's -- if -- but if we say it's only eligible for multiple offenders, then that would mean first-time offenders don't have the opportunity to get a conditional guilty plea if they could potentially -- if they would -- if the facts potentially warranted.

I'm just -- I'm just trying -- because I'm looking at what's being done now, and if right now some courts are saying we can do a conditional guilty plea, some courts are saying we can't. I don't know, do -- is that your experience, or have you seen that?

JENNIFER ZITO: I haven't personally experienced that. Have you?

ELISA VILLA: Yes, I -- but it's with the EXPLORE -- the more intensive program, and that's usually because there's some other significant problem. The -- it's not the first-offender type of situation that the Family Violence Education Program is designed for. So it -- I understand what you're -- you're suggesting that it might not then be available if you can't do the -- if you don't have a discretionary conditional plea.

And I suppose that is -- that's a valid idea or issue, but I do think that -- that the conditional pleas that are used for the explorer programs right now, it's usually for people who are not in the same category as those who are trying to apply for Family Violence Education Program, right?

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REP. FOX: I agree with you. I think I -- you're right.

ELISA VILLA: And I -- and so generally speaking, I agree with my -- my colleague, Jen here, that the Family Violence Education Program is -- it's a diversionary program, it's like Accelerated Rehabilitation where you're not admitting any wrongdoing. You're going into the program for the benefit of the educational component to that program.

And as has been testified by a number of people prior to our testimony, the Family Relations Officers and all the other participants in the courthouse -- triage these cases very comprehensively already. So very frequently, in fact probably more often than not, people are going to substance counseling, family counseling, all kinds -- following (inaudible)
--

REP. FOX: I think we're -- actually we're talking about different things. I'm not -- I understand what you're saying about the Family Violence Education Program. And I'm -- what I'm just asking you is about the concept of conditional pleas.

JENNIFER ZITO: And we often do them, and there --

REP. FOX: Okay.

JENNIFER ZITO: -- that is absolutely something clients are interested in because it gives them a chance to --

REP. FOX: An opportunity.

JENNIFER ZITO: -- prove themselves, and an opportunity to avoid a conviction.

REP. FOX: Yeah. Because it's my understanding that some courts feel that we -- either they won't do them or they can't do them.

JENNIFER ZITO: I think they're done oftentimes in Community Court. They're done frequently in violation of probation situations. They're done frequently -- I guess there is a lack of consistency on where they're being done in general.

REP. FOX: And so -- so without getting into the -- the policy argument of the -- because I'm not -- I'm not disagreeing with you so much on the Family Violence Education Program. We -- I haven't made up my mind yet as to what we have to really finalize there, but would you agree that -- that we should at least be clear as to whether or not you can do them, conditional pleas?

JENNIFER ZITO: I've seen them done and I think they are useful in certain situations.

REP. FOX: But -- so I -- and if that's the case, shouldn't it at least be clear to all the GA's that yeah, you can do them? Because some think they can't do it from what I understand.

JENNIFER ZITO: That would be -- welcome
(inaudible).

REP. FOX: Yeah, I mean so -- that's all I'm -- I'm just thinking it should be consistent that -- you know, and I'm not saying they have to offer it, and that's something that has to be worked out through the -- you know, as part of the negotiation with the prosecutor and with the defense counsel. But at least the fact as to whether or not you can even do it should be something that's clear I would hold.

JENNIFER ZITO: Right. And I think as long as, you know, clients are aware there still can be adverse immigration consequences as a result. But certainly I've seen creative judges use that tool to -- to get compliance to avoid trials on the merits, to hopefully, you know, move the docket in a way that is useful for everyone.

REP. FOX: Okay, so -- we'll be around, and I know you'll be around, so we'll get chances to talk some more on this, but thank you for that.

Any other questions?

Thank you very much.

JENNIFER ZITO: Thank you.

ELISA VILLA: Thank you.

REP. FOX: Is Senator Fasano here?

Is Russ Morin here? Okay.

REP. MORIN: Good evening, Chairman Fox, and Coleman, esteemed members of the Judiciary Committee. Russ Morin, representing the 28th District of Wethersfield, and before I begin, I just want to thank you stalwarts for -- for the work you're putting in, and taking the time, and still being here to listen to me.

HB 6556

I did submit written testimony, which I'm sure you all are eager to read, and I won't bore you by reading it to you right now, but I hung around here because I feel very strongly about this particular issue that was brought forth to me after one of my constituents saw a letter to the editor and then following subsequent action taken by Representative Dargan.

defend themselves or to -- to get what's rightfully theirs, but at some point, my perspective -- the -- the folks that are being affected by this, I feel the victims have -- have a right and I would appreciate the opportunity and -- and again, I'm not living this. I'm speaking for them. I wish they -- they could have come with me, but they have fear of retribution. Maybe another lawsuit. So it's very difficult. I'm trying to give you their words unfortunately without them sitting right next to me.

REP. O'NEILL: Thank you, Representative.

REP. FOX: Thank you.

And thank you, Representative Morin, for -- for waiting this long to be here so --

REP. MORIN: It was well worth it.

REP. FOX: Thank you.

Next is Patrick Moynihan. And Mary Casey. Okay. Okay.

Good evening.

MARY ANNE CASEY: (Inaudible). Oh, thank you.

My name is Mary Anne Casey. I'm President of the Connecticut State Surety Association, and Vice President of the Professional Bail Agents of the United States.

HB6629
SB28

I've been a licensed bail agent for the past 30 years, and I carry both a surety bail license and a professional license issued by the Department of Public Safety. I'm here today to testify and comment on a particular issue in

Raised Bill 6629, AN ACT CONCERNING DOMESTIC VIOLENCE, in particular, Section 19.

As many of you are aware, members of our association for years have been testifying and asking for bail reform. We were interviewed extensively by the investigator representing the Legislative Program Review and Investigations Committee back in 2003, and we were optimistic after that report was made public, bail reform would occur. To date, nothing has been passed.

Many negative occurrences predicted in the Program Review Report have come to fruition, the most appalling is the fatalities that have occurred while defendants have been released on discounted bail premiums, or in the matter of the West Haven tragedy, no money was paid at all. If Section 19 was taken from Senate Bill 28 and placed in this proposed bill as a way of achieving bail reform, as authored it will do little, and here are my reasons.

First, there are no criminal penalties listed for bail agent offenders. The lack of any criminal penalties for violators is mystifying. What it succeeds in doing is to allow the rogue agents to continue operating the way they have for the past 15 years. Furthermore, without criminal statute in place, it makes regulating near impossible. Criminal penalties for violators are imperative.

Second, to allow for only 35 percent of the file premium rate to be given as a down payment, if you will, for a surety bond, with a balance due in 15 months, only serves to legitimize the practice of rebating, not to mention the risk that would continue for victims of domestic violence.

To understand the financial component of this bill, I will use the example of the West Haven tragedy. The bail was set at \$25,000. Under this proposed -- under this proposed bill, the defendant would only have to come up with a mere \$665, with a balance due in 15 months, clearly not an adequate amount to protect the victim. As I'm stating now, and previous speakers in -- including Speaker Donovan, and State's Attorney Kevin Kane, the victims will not be protected.

I do realize that the intent as written is that the balance will be paid in 15 months' time, but the reality is that more often than not, this will not occur. Furthermore, to allow for up to 15 months to pay the balance when the average case is disposed of in about six months, will prove to be meaningless. Nor, based on this legislation, would a bail agent be found in violation if they are unable to collect the balance due if the defendant is presently incarcerated. We are then back to the issue of rebating, only now, if this legislation were to pass, the bail agent has done nothing illegal.

The file rates were originated many years ago for indemnification purposes. Allowing 35 percent to be paid upfront does not accomplish that. I would ask for a compromise of at least 50 percent with only six months to pay the -- the balance.

Finally, I readily admit to being confused. I testified at an Insurance Committee public hearing a month ago pertaining to Senate Bill 28, AN ACT CONCERNING BAIL AGENTS AND PROFESSIONAL BONDSMEN. As I stated earlier, Section 19 of Raised Bill 6629 has inserted some of the language regarding surety bail reform. One very important piece has been left

out, and that's regarding solicitation by a licensed bail agent. Raised Bill 6629 would prohibit the soliciting of bail bonds by an unlicensed person, but Senate Bill would prohibit a licensed agent from soliciting in places like courthouses, jails, and police departments.

Throughout the country, solicitation has been banned in these places, and with very good reason. Time and again, families are accosted, badgered, and sometimes threatened by bail agents in their quest to secure the bond. It also provides for a -- a breeding ground for the -- feeding frenzy to continue. There are some courts in Connecticut where the administrative judges have posted notice prohibiting solicitation due to the negative impact it has on the general public. If the language in this bill is to be in lieu of Senate Bill 28, I urge this committee to insert the no solicitation language.

I closing, I would like to thank this committee, in particular Representative Flexer, for bringing the issue of domestic violence to the forefront. I recognize that surety bail is a very small piece of this legislation. Please keep in mind that by keeping the premium requirement level at 35 percent, this enables violent domestic offenders ease of a quick release, therefore eliminating a much needed cooling off period necessary to protect their victims. If you have any questions, I'd be happy to answer them.

REP. FOX: Thank you very much for your testimony.

Are there any questions?

Representative Flexer?

REP. FLEXER: Thank you, Mr. Chairman.

Good evening.

MARY ANNE CASEY: Good evening.

REP. FLEXER: Thank you very much for your testimony. I understand your constructive criticism and your frustration, but I do want to say to you that we'd love to have your -- your input going forward on this issue, and we appreciate your expertise in this area, so.

MARY ANNE CASEY: Thank you.

REP. FOX: Senator Coleman.

SENATOR COLEMAN: Good evening.

MARY ANNE CASEY: Good evening.

SENATOR COLEMAN: I very much appreciate your testimony. I have some -- a couple of questions actually that I hope your answers will help me to better understand.

First of all, can you explain to me what acts constitutes solicitation?

MARY ANNE CASEY: Approaching people with business cards, advertising in courthouses and in jails, that sort of thing. It's more the approaching that seems to create the -- the problem. We have had family members call and -- and say, you know, we're going through enough. I don't understand why they can be allowed to do this. They're chasing us out to the car, they're handing us their business card. They're somehow getting a hold of their phone numbers and calling them at home.

I've also had police officers' wives say to me, I can't even bring my husband dinner at night because they swarm around me thinking that I'm -- I'm coming to bail someone out. So that to me -- is the biggest offense and the most disturbing to the general public.

SENATOR COLEMAN: When you say advertising in courthouses, you're not -- you couldn't be talking about posting posters, advertising their services in courthouses, right? That's -- that's not what you're talking about.

MARY ANNE CASEY: Actually there have been some that have tried to do that, or parking big vans right outside the courthouse doors. Most states throughout the United States do not allow that sort of activity for x-amount of feet from a building, and it -- it has proved to be beneficial in trying to curtail the -- the feeding frenzy, if you will, by -- by stopping that. It's not prohibiting a bail agent from going into a courthouse every day and -- and sitting there, you know, and if anyone needs your help, certainly you're available to do it. But to actively go into a courthouse or a jail and just pass out business cards left and right, no that -- that would -- our -- our proposal would prohibit that.

SENATOR COLEMAN: Okay, and I've seen some of the very colorful vans parked in the vicinity of courthouses.

MARY ANNE CASEY: They are colorful.

SENATOR COLEMAN: And as colorful as they are, they don't seem to be causing any disruption, at least in the instances that I've seen.

MARY ANNE CASEY: Then you've been very fortunate --

SENATOR COLEMAN: Okay.

MARY ANNE CASEY: -- because my understanding is different.

SENATOR COLEMAN: Okay, well, on to another subject.

The 35 percent. I'm one of those that firmly believes that bail is a constitutional right, and that bail should not be set in any amount greater than to ensure the defendant's return to court. And if a defendant pays 35 percent of whatever the bail is, and enters into a payment plan with an agent, and comes to court on every date that he's supposed to be in court, sees his case through to disposition, then isn't -- wasn't that the proper amount of bail to have been set?

MARY ANNE CASEY: You mean without paying the balance?

SENATOR COLEMAN: I'm putting aside the -- putting aside the very unfortunate West Haven situation. But in -- in other cases, if the defendant sees his case through to resolution, and has paid the 35 percent, and the -- has negotiated the payment plan, what would be wrong with that?

MARY ANNE CASEY: Well, I just feel that more than 35 percent should be put up in order to secure that bond because, more often than not, the -- the balances, you are unable to collect.

SENATOR COLEMAN: I haven't seen any statistics on that. As a matter of fact, I've asked consistently for the last four or more years whether or not anybody has any correlation, or any information or data, that correlate the frequency of failures to appear to discounted bonds and payment plans.

MARY ANNE CASEY: Oh, that's not what I'm saying. You're -- I don't have any statistics for that, and I don't know what the correlation is. I'm just saying, strictly from Insurance Department regulations, if you put up 35 percent and fail to pay the balance, what you have done then is given a rebated bail bond, which is against statute.

SENATOR COLEMAN: Okay, and it -- I guess it's your suggestion that there should be some -- I should -- first say that I have some difficulty with the equating of a bail bond to an insurance policy. But be that as it may, if you're saying that there should be some punishment for an agent who engages in rebates in violation of Insurance Department policy, I would agree with you. As well as I would agree with you that if a -- a bail agent enters into a payment plan or discounted bond with the defendant, and that defendant fails to appear in court, then that bail agent should be subject to, I think, 100 percent of the obligation to pay the amount of the bond to the state.

MARY ANNE CASEY: Senator Coleman, I agree with you. We're the only state in the country that -- that allows for a 50-percent compromise. I would wholeheartedly agree with you, providing we have the right to -- to -- and actually we do right now by statute. If we were to bring them back within a year, and it was our efforts that -- that brought the defendant back, or remanded them to custody, we do have the right to file a motion and try to get some of our money back.

But I wholeheartedly agree with you because I think if we were paying 100 percent of -- of the face value of the bond when someone --

fails to appear, we have not returned them in the six months, I don't see -- I don't think you would see people charging what they're charging.

SENATOR COLEMAN: And that's my point as well.

MARY ANNE CASEY: I agree.

SENATOR COLEMAN: And I think -- I think Chief State's Attorney Kane made the similar point.

MARY ANNE CASEY: I -- I believe he did this morning, and I would support that, just like I did when Program Review suggested the very same thing.

SENATOR COLEMAN: In any event, thank you for your responses to my questions. I look forward to talking to you more.

MARY ANNE CASEY: Thank you so much. I appreciate your attention. I know it's very late.

REP. FOX: Thank -- thank you.

Are there other questions?

Thank you very much.

MARY ANNE CASEY: Thank you.

REP. FOX: Next is Carolyn Signorelli.

CAROLYN SIGNORELLI: Good evening --

REP. FOX: Good evening.

CAROLYN SIGNORELLI: -- Senator Coleman, Representative Fox. As you know, my name is Carolyn Signorelli, and I'm the Chief Child Protection Attorney for the State of

SB1093
SB1179
SB1222

through the process and -- and that would defeat the cost-saving measures if they go ahead and appoint the attorneys in any event, just because of some far away future date if -- if the program fails, they may end up being found in contempt.

And the third bill that I've submitted testimony on is 6629. I support the efforts to address these domestic violence issues. I wanted to just talk about one section that specifically affects my agency and my attorneys, which is Section 8. And that is an effort to provide statutory immunity for the attorneys that provide representation in juvenile court through my office, and I wholeheartedly support that effort.

But what I would submit is that the language in here only refers to GAL's for children, and my office provides independent contract attorneys, very similar to the special public defenders provided by the Public Defender's Office in criminal cases, for parents and children, and provides attorneys. So that section of the statute should simply say attorneys and GAL's provided by the Commission on Child Protection are afforded this immunity. And I provided, you know, detailed reasoning in my -- in my written testimony, so I won't go into details about that, and turn it over for questions. Thank you.

REP. FOX: Thank you very much. Thank you for your patience today.

Are there any questions?

Senator Coleman.

SENATOR COLEMAN: I'm very interested in your comments regarding AN ACT CONCERNING PARENTS

SB1222

REP. FOX: Next we have Robin Shapiro.

ROBIN SHAPIRO: I guess I have to change my good morning to good evening, Senator Coleman, Representative Fox, and members of the Judiciary Committee. Thank you for the opportunity to provide testimony on Bill 6629 from the victim's perspective.

In 2007, our world abruptly changed and the violence that we lived in escalated and we needed help. While my 10-year-old screamed for my husband to stop, my oldest daughter, 18, all 100 pounds of her, tried to protect me. My husband, more than twice her size, hit her, kicked her, and sent her flying across the room. And I'd taken the abuse for years, but now it struck my child and it stopped there.

Although we didn't realize it then, we were another family caught up in the cycle of domestic violence and a court system that doesn't have a clear understanding of domestic violence or what is needed to keep us safe.

In my case, my husband assaulted his sister, stepdaughter, wife, and another girlfriend. In April of 2004, he was given anger management. After the first arrest with us, he was arrested five times between the original incident and April 2008 and police reports were filed in two other incidents. He was given anger management again, which he had in 2004. He was given and withdrawn from Family Violence due to the continued arrests and sent to the EVOLVE program. He was issued a protective order which required him to be 100 yards away and have no contact. Each time he was arrested he was violating the previous order. He appeared before the same judge for both my cases and the girlfriend at the same time, and was given the same classes and the same orders in both cases

while violating the orders that were already in place with both women.

All victims are invited to come forward and speak and I did. He would show up for court, start taking classes, violate the order. I would try to tell the judge about the different cases and the violations, not just in my case, but in all the cases to kind of tie everything in together, but I was told that none of this would be admissible until trial. He was even issued a DUI while in the classes which required monitoring for substance abuse, but it was another district so it didn't carry over to the one we were in.

He was sentenced and served 90 days, and I was given a standing criminal restraining order. While all this went on, he continued to go after another girlfriend. All the statements were almost the same. There were four women, and as long as we kept showing up for the court dates, the judge would let them back out. Ultimately he cornered me exactly where he said he would leave me dead, in my front lawn with my child. He took off and hid for three weeks and eventually turned himself in. The cases were all combined and he was sentenced on a cap at the end of May and finally served six months for violating conditions of release, not even the charges with which he was charged originally.

I'm speaking out today supporting limiting diversion for family violence to one time. Offenders don't deserve multiple get-out-of-jail-frees. This puts victims at risk and doesn't send a clear message of zero tolerance for abuse. We don't parent our children without consequences because they never learn not to repeat the same things. How can we expect these offenders to learn that we, the

victims, the police, the courts, mean business? The system has a duty to protect us and not keep sending these offenders back out to continue to commit these acts of violence.

I also strongly support making offenders enter into a conditional -- plea and holding the court system responsible for following through on them. Each time he violated meant waiting for another arraignment and another pretrial. At one point, I believe we had approximately six pretrials waiting from the initial assault and the violations of the protective orders with myself and the other women in the same court before the same judge, plus the DUI -- pretrial while in a program which required -- which required monitoring for substance abuse.

We need to be proactive, not reactive. We need to send a strong message that this will no longer be tolerated on any level, and we need to follow through with punishments that reinforce that message. To break the cycle of abuse, we need to change the mindsets of the people and it starts here with you, the judicial system. You are a resource and we need your help.

REP. FOX: I --

ROBIN SHAPIRO: Hi.

REP. FOX: Oh, hi -- no keep going. I thought you were finished.

ROBIN SHAPIRO: No, that's it.

REP. FOX: Okay.

ROBIN SHAPIRO: Thank you.

REP. FOX: First, thank you for being here and it's -- it's important, and I know it's difficult to -- to relate your own personal story, but it's those types of stories that really resonate with -- with us. Even if the committee members may not all be here at the moment, there are those who are watching and there are those -- we will review the testimony as well. So thank you for taking the time to -- to be here all day.

Any questions or comments?

Senator Gomes.

SENATOR GOMES: Thank you.

Thank you for staying so late to give your testimony, and very interesting testimony, and the reason why I'm concerned is domestic violence -- we're just glad that you're here.

ROBIN SHAPIRO: So am I.

SENATOR GOMES: Because this sounds like you could have not been here, you know, and I realize that sort of thing goes on because I -- a cousin of mine had a child that looked so beautiful you'd think she could have been a movie star. And she had this boyfriend who consistently beat up on her until he was arrested. Then he beat her up with a tire iron and they gave a protective order and (inaudible) jail, within a couple of hours of - - of that, he took a shotgun and killed her.

So that's why I said I'm glad you're still here, and your testimony is very valuable, and these things, they -- they escalate from just a beating up person until they -- these guys get really out of control and then they go and off somebody. So -- I sympathize with you, and I

hope they're taking care of him now where --
you won't have to worry about him. Thank you.

ROBIN SHAPIRO: Thank you.

REP. FOX: Any other questions?

Thank you very much.

ROBIN SHAPIRO: Thank you.

REP. FOX: Next is Christina Emmanuel.

CHRISTINA EMMANUEL: Good evening.

REP. FOX: Good evening.

CHRISTINA EMMANUEL: My name is Christina. I am speaking on behalf of Diane Boran and reading her testimony since she was unable to attend today. She's ill.

My name is Diane Boran. I was a special education teacher at Kennedy High School in Waterbury. For the sake of -- expediency, I would ask that you reference the February and March CEA Advisor as I am the cover story.

SB1163

In short, I was assaulted in my classroom in February of 2007. To date, I've had five surgeries and numerous procedures that encompassed my head, cervical spine, and shoulder. I have yet to return to work. My life is forever changed, physically, emotionally, and financially.

It is said, all is fair in love and war, yet there is nothing fair about our -- teaching staff being terrorized by students as we attempt to provide our youth with an optimum set of skills and knowledge. Ironically, the



TESTIMONY
of the
CONNECTICUT CONFERENCE OF MUNICIPALITIES
to the
JUDICIARY COMMITTEE

March 30, 2011

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 90% of Connecticut's population. We appreciate the opportunity to testify on the following bill of interest to towns and cities:

S.B. 1220, "An Act Concerning Family Violence"

While CCM appreciates the intent behind this proposal, S.B. 1220 would create an unfunded state mandate by requiring police departments to comply with "uniform protocols for investigating incidents of family violence" – protocols yet to be established by the Police Officer Standards and Training Council.

The bill mandates police departments to comply without knowing what POST may require.

S.B. 1220 could be costly to towns and cities. *We urge the Committee to obtain a fiscal note prior to taking any action on this bill.*

H.B. 6629, "An Act Concerning Domestic Violence"

SB1193

This proposal would, among other things, require that police departments "duly" promulgate new guidelines regarding "arrest polices in family violence incidents" due to changes contained in the H.B. 6629.

This will require updating procedures and manuals.

-Over-



**State of Connecticut
DIVISION OF CRIMINAL JUSTICE**

TESTIMONY

JOINT COMMITTEE ON JUDICIARY

**S.B. No. 1220 (RAISED):
An Act Concerning Family Violence**

**H.B. No. 6629 (RAISED):
An Act Concerning Domestic Violence**

**H.B. No. 6633 (RAISED):
An Act Concerning Stalking**

March 30, 2011

The Division of Criminal Justice wishes to thank the Committee for this opportunity to comment on the following bills on the agenda for today's public hearing:

The Division recommends the Committee's Joint Favorable report for H.B. No. 6633, An Act Concerning Stalking. The Division would extend its appreciation to the Speaker's Task Force on Domestic Violence and Connecticut Sexual Assault Crisis Services (CONNSACS) for the work and effort that resulted in the drafting of this legislation. The bill strengthens our statutes to protect against stalking.

The Division also supports the underlying concept of S.B. No. 1220, An Act Concerning Family Violence, and H.B. No. 6629, An Act Concerning Domestic Violence. Again, we commend Representative Flexer and the Speaker's Task Force on Domestic Violence for the tremendous amount of effort that went into the development of these proposals. While generally in support of the overall concepts, we would raise the following reservations and offer the following recommendations which we believe would improve these bills:

Section 2 (b) of S.B. No. 1220 would require the Chief State's Attorney to establish a formal program to provide training on a quarterly basis for all prosecutors assigned to family violence matters. The Division of Criminal Justice is strongly committed to an aggressive training program for all of our employees, including those assigned to family violence matters. Family violence and domestic violence training is a regular component of our current training initiatives. The Division currently has a Senior Assistant State's Attorney and an Inspector assigned to the Violent Crimes Bureau in the Office of the Chief State's Attorney who deal exclusively with domestic violence matters. Through these employees the Division has taken a

leadership role in training law enforcement professionals in the investigation and prosecution of domestic violence matters. Our Inspector conducts extensive training for police departments throughout Connecticut. He supervised a grant funded initiative that provided special kits to municipal police departments containing equipment and materials for the investigation of domestic violence cases.

As laudable as we find the proposal to require a quarterly training program, we must note that the overriding concern with the prosecution of family violence matters lies in our ability to continue to have staff specifically dedicated to these matters. There are currently five prosecutor positions dedicated to the prosecution of domestic violence matters in the Hartford, Bridgeport, Windham, and Milford judicial districts that are funded entirely with federal funds. As we have noted in submissions to the Office of Policy and Management and the Joint Committee on Appropriations on several occasions, this federal funding has been shrinking in recent years while the costs of the positions has grown. We estimate that, over the upcoming biennium, federal funding will be adequate to fund only three of these positions. The Division has again asked the Appropriations Committee to approve the general fund pickup of two of these positions. The inability to transfer these positions would undermine our efforts to carry out the clear directive of the General Assembly for greater emphasis on the prosecution of domestic violence. We are already finding it difficult for prosecutors and other employees to simply find the time for training given the workload; further staff reductions will only leave less time for training. The training requirement envisioned in S.B. No. 1220 would be meaningless if there is no one to train or no one who can get away from the courthouse to attend training. Similarly, while the Division wholeheartedly supports the concept of section 9 (c) of the bill to establish additional dedicated court dockets for domestic violence matters, such an initiative would require substantial additional resources over and above those required to maintain the status quo. Absent any infusion of resources it would not be possible to establish additional special dockets let alone maintain the existing ones.

With regard to H.B. No. 6629, An Act Concerning Domestic Violence, the Division supports the overall concept of the bill. We would, however, respectfully recommend the Committee's Joint Favorable Substitute report deleting sections 12, 13 and 14 in their entirety. Several years ago the State's Attorneys reviewed cases where individuals who had obtained protective orders were charged with conspiring or accessory to violating those orders. In most cases it was determined that the charges were not appropriate. The police departments involved were so notified and the charges were dismissed or nolle. There is a clear consensus among prosecutors that such a charge should rarely, if ever, be brought, but neither should the law preclude such action in the very rare cases where the evidence clearly establishes that the charge is appropriate. For example, an individual could obtain a protective order and then solicit the subject of that order to meet in violation of the order and then have the subject arrested for violating the order.

The Division is concerned with the wording of section 4 of the bill, and specifically lines 385-387, which would make an individual charged with any felony ineligible for the family violence education program (FVEP). We would note that such individuals would still be eligible for the pretrial accelerated rehabilitation program (AR), but that in being approved for the AR program would not receive the same specialized treatment they would receive under the FVEP. Which is more appropriate - having someone charged with a family violence crime go to

counseling or anger management classes or perform completely unrelated community service under the AR program?

The Division would respectfully request the Committee's indulgence to amend section 15 of the bill to provide for a spousal abuse and child abuse exception to the confidential marital communications privilege in criminal prosecutions. The Division seeks to work with the Committee and other interested parties to develop appropriate language for such an exception. As presently drafted the language of section 15 would repeal section 54-84a of the general statutes which creates a testimonial privilege enabling a spouse to refuse to testify against his or her spouse except in certain circumstances, and replaces it with language that confuses the present statutory language and merges it with another separate privilege dealing solely with marital communications in a manner that confuses both privileges and renders inadmissible in evidence statements that should not be inadmissible. Take the example of the husband who tells his spouse, "I am going to kill you," and then goes out and hires someone to carry out crime. When he is arrested for conspiring to commit murder he can object to his words being admitted and under the language of section 15 the spouse's testimony would be inadmissible. The Division would respectfully ask the Committee to allow for further discussions to refine the language and if that is not possible to delete section 15 in its entirety.

The Division welcomes section 1 (h) of S.B. No. 1220, which directs the Police Officer Standards and Training Council (POST) to establish uniform protocols for investigating family violence. POST has worked in conjunction with the Division in the past to develop similar protocols and policies and we stand ready to assist in this endeavor as well. The Division believes this section renders unnecessary the task force proposed in Section 23 of H.B. No. 6629, and would respectfully recommend that the Committee delete Section 23 from H.B. No. 6629. The approach taken in section 1 (h) of S.B. No. 1220 is consistent with that found in existing law at Section 46b-38b (e) (1), which requires each law enforcement agency to develop in conjunction with the Division of Criminal Justice specific operational guidelines for arrest policies in family violence incidents. Section 46b-38b (f) further requires POST, in conjunction with the Division, to establish an education and training program for law enforcement officers on the handling of family violence incidents. There is a great potential danger to the public safety and to the police officers who respond to incidents of family/domestic violence. The policies and protocols governing the response to such an emergency situation should be determined by law enforcement and not by a task force comprised of those who despite the best of intentions have no role or responsibility for responding to immediate emergency situations where the risk of serious injury and/or death exists.

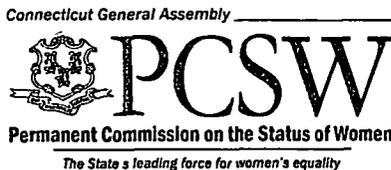
Finally, the Division has serious concerns and reservations about the revisions to the bail bond system proposed in sections 16-22 of H.B. No. 6629. We have attached separate testimony prepared by Kevin D. Lawlor, State's Attorney for the Judicial District of Ansonia-Milford, detailing our concerns with these sections of the bill. State's Attorney Lawlor conducted an intensive review of the bail bond system as it specifically relates to domestic violence incidents. The Division emphatically reiterates our longstanding belief that significant reform of the bail bond system is in order, and in fact long overdue. It is our understanding, however, that these issues are the subject of ongoing discussions with members of the General Assembly, the administration, the bail bond industry and the various agencies involved in the administration of the bail bond system. In the interests of moving the remaining sections of H.B. No. 6629

forward, the Committee may wish to defer action on the bail bond components of H.B. No. 6629 pending the outcome of these ongoing discussions and allow that issue to be addressed through another vehicle.

In conclusion, the Division of Criminal Justice reiterates its gratitude and appreciation to the General Assembly for your careful consideration of legislative initiatives to strengthen our laws to protect against domestic and family violence. The Division through its own initiatives and in response to the actions of the Legislature has sought to be a strong partner in the successful implementation of policies and practices to combat domestic violence and provide for effective prosecution. We look forward to continuing to work with the legislative and judicial branches in this important endeavor. We would be happy to provide any additional information the Committee might require or to answer any questions you might have.

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Testimony of
 The Permanent Commission on the Status of Women
 Before the
 Judiciary Committee
 March 30, 2011

Re: S.B. 1220, AAC Family Violence
H.B. 6629, AAC Domestic Violence
H.B. 6633, AAC Stalking

Senators Coleman and Kissel, Representative Fox and Hetherington, and members of the committee, thank you for this opportunity to provide testimony on behalf of the Permanent Commission on the Status of Women (PCSW) in response to the introduction of the above referenced bills.

S.B. 1220, AAC Family Violence
H.B. 6629, AAC Domestic Violence

H.B. 1220 would establish a uniform protocol for investigation family violence cases, provide training to judges and prosecutors, and allocate criminal fines in family violence cases to programs that benefit victims of family violence. H.B. 6629 would assist victims of domestic violence in several ways, including: 1) expanding protections to those who have experienced a pattern of verbal intimidation, threatening or stalking; 2) allowing persons with a protective order to keep personal indentifying information confidential; and 3) establishing more domestic violence dockets.

Domestic violence is an on-going problem – we cannot predict when or where it will occur. It is also a problem that disproportionately affects women. Of those victimized by an intimate partner, 85% are women and 15% are men. In other words, women are 5 to 8 times more likely than men to be victimized by an intimate partner.¹ PCSW applauds efforts aimed at supporting and protecting victims of domestic violence.

H.B. 6633, AAC Stalking

¹ Lawrence A. Greenfeld et al. (1998). Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends. Bureau of Justice Statistics Factbook. Washington DC: U.S. Department of Justice. NCJ # 167237.

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LINE 18

Testimony for Mary Anne Casey

Raised Bill 6629

An Act Concerning Domestic Violence

March 30, 2011

Sen. Coleman, Rep. Fox and members of the Judiciary Committee:

My name is Mary Anne Casey and I am President of the CT State Surety Association and Vice President of the Professional Bail Agents of the United States. I have been a licensed bail agent for 30 years and I carry both a surety bail license and a professional license issued by the Dept. of Public Safety. I am here today to testify and comment on a particular issue in Raised Bill 6629, An Act Concerning Domestic Violence, Sec. 19(b) in particular.

As many of you are aware, members of our Association for years have been testifying and asking for bail reform. We were interviewed extensively by the investigator representing the legislative program review and investigations committee back in 2003 and were optimistic after that report was made public, bail reform would occur. To date, nothing has been passed. Many negative occurrences predicted in the Program Review report have come to fruition; the most appalling is the fatalities that have occurred while defendants have been released on discounted bail premiums or in the matter of the West Haven tragedy, no money was paid at all.

If Sec. 19 was taken from Sen. Bill 28 and placed in this proposed Bill as a way of achieving bail reform, as authored, it will do little and here are my reasons:

First, there are no criminal penalties listed for bail agent offenders. The lack of any criminal penalties for violators is mystifying. What it succeeds in doing is to allow rogue agents to continue operating the way they have for the past 15 years. Furthermore, without criminal statute in place, it makes regulating near impossible. Criminal penalties for violators are imperative.

Second: To allow for only 35% of the filed premium rate to be given as a "down payment" for a surety bond with the balance due in 15 months only serves to legitimize the practice of rebating not to mention the risk that would continue for victims of domestic violence. To understand the financial component of this Bill I will use the example of the West Haven tragedy. The bail was set at \$25,000. Under this Bill the defendant would only have to come up with a mere \$665.00 with the balance due in 15 months. Clearly not an adequate amount to protect the victim. I do realize that the intent as written is that the balance will be paid in 15 months time but the reality is that more often than not this will not occur. Furthermore, to allow for up to 15 months to pay the balance when the average case is disposed of in about 3-6 months will prove to be meaningless. Nor, based on this legislation, would a bail agent be found in violation if they are unable to collect the balance based on the defendant being incarcerated. We are then back to the issue of rebating only now, if this legislation were to pass, the bail agent has done so legally. The filed rates were originated many years ago for indemnification purposes.

Allowing 35% to be paid up front does not accomplish that. I would ask for a compromise of at least 75% down with only 6 months to pay.

Finally, I readily admit to being confused. I testified at an Insurance Committee public hearing a month ago pertaining to Sen. Bill 28 An Act Concerning Bail Agents and Professional Bondsman. As I stated earlier, Sec. 19 of Raised Bill 6629 has inserted some of the language regarding surety bail reform in it's language. One very important piece was left out and that was regarding solicitation by a licensed bail agent. Raised Bill 6629 would prohibit the soliciting of bail bonds by an unlicensed person but Sen. Bill 28 would prohibit a licensed agent from soliciting in places like court houses, jails and police departments. Throughout the country solicitation has been banned in these places and with good reason. Time and again families are accosted, badgered and sometimes threatened by bail agents in their quest to secure the bond. It also provides for a breeding ground for the illegal practice of bail bond premiums. There are some courts in Connecticut where the Administrative Judge has posted notice prohibiting solicitation due to the negative impact it has on the general public. If the language in this Bill is to be in lieu of SB28 I urge this Committee to insert the no solicitation language.

In closing, I would like to thank this Committee, and Rep. Flexer for bringing the issue of Domestic Violence to the forefront . I recognize that surety bail is a very small piece of this legislation. Please keep in mind that by keeping the premium requirement level at 35% this enables violent domestic offenders the ease of a quick release therefore eliminating a much needed cooling off period necessary to protect domestic violence victims.



"BREAK THE SILENCE / STOP DOMESTIC VIOLENCE"

THE TIANA ANGELIQUE NOTICE MEMORIAL FOUNDATION

March 29, 2011

To: The Judiciary Committee,

In reference to HB 6629: AAC Domestic Violence

I am please that the Task Force continues to work on improving the Laws on behalf Domestic Violence Victims in the State of Connecticut. I am now pleading with law makers to consider the task force new recommendations, voting on behalf of passing and funding these essential programs. These programs are now showing that they will work with proper implementation and funding. Again, I am pleading with law makers to keep HB 6629 alive, along with the existing recommendations as you consider your votes during this session.

As the father of Tiana Angelique Notice who was brutally murdered, I am please to say that the three bills, (5246, 5315 & 5497) including the GPS program and the other programs has proving to be worthy of funding.

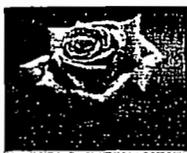
I would also like to stress the need for Law makers to take a look at offenders that are allowed to bail themselves out on a low cost bond. The "Bail Bonds System" needs to be change **A.S.A.P.** so as to prevent innocent lives from being lost. Domestic Violence victims need to have the added protection. It is absurd when abusers can bail themselves out by not putting up a dime, then walks out of lock up/Jail and killing their wives and shoot themselves.

There is no reason for this to continue happen in the state of Connecticut. The bonds should not be lower that the state requirements. I would ask that you repeal these laws to benefit public safety. **Victims need be given a peace of mind.**

I applaud the leadership to shine the light on the unspoken challenges facing victims by designating legislators such as your selves to take a hard look at these recommendations. During last year session the Legislators listened to survivors and advocates like me and came up with real solutions and I would ask that you do the same with these recommendations...

P.O. BOX 735 | GARDNER, MA 01440 | 978-257-1144

HONORTIANAANGELIQUENOTICE@GMAIL.COM | WWW.TIANANOTICEFOUNDATION.ORG



"BREAK THE SILENCE / STOP DOMESTIC VIOLENCE"

THE TIANA ANGELIQUE NOTICE MEMORIAL FOUNDATION

Because of the hard work done by the task force, additional domestic violence dockets, a successful GPS pilot program to monitor offenders is up and running; all of Connecticut's emergency domestic violence shelters are being staffed 24/7; and the courts now have new access to **Criminal Histories**, so they can make more appropriate decisions when it comes to repeat offenders.

Again, I ask that you accept HB 6629 in its entirety for the 2011 session. I also want to thank the Task Force along with other Victims and Advocates for working together to make a difference for so many families safety, the safety they so deserved.

Sincerely,

Alvin Notice

314 Leo Drive

Gardner, MA 01440

978-257-1144

Email: aanotice@hotmail.com

P.O. BOX 735 | GARDNER, MA 01440 | 978-257-1144

HONORTIANAANGELIQUENOTICE@GMAIL.COM | WWW.TIANANOTICEFOUNDATION.ORG



STATE OF CONNECTICUT
INSURANCE DEPARTMENT

Testimony of
The Connecticut Insurance Department
Before the
Judiciary Committee
March 30th, 2011

H. 6629—An Act Concerning Domestic Violence

The Connecticut Insurance Department submits written testimony in support of sections 16 through 21 of S. 6629—An Act Concerning Domestic Violence. The Department appreciates that the Speaker's Task Force on Domestic Violence has recognized the need for bail bond reform and has included these important provisions within this legislation.

Many are surprised to learn that the Insurance Department regulates a large contingent of bail bond agents. Currently, there are 459 bail bond agents and 133 bail bond agencies in Connecticut. Insurance Department staff spends a considerable amount of time and effort to regulate these agents, sometimes without clear authority to address a number of issues related to the bail bond industry and the manner in which surety bail bond agents conduct business.

The Department lacks the requisite statutory authority to regulate them effectively and repeated attempts seeking appropriate legislation have failed in the past. Here are just a few examples of cases—some quite tragic—that we have little to no authority to remedy:

- *A domestic violence case where the bondsman did not collect any monies up front and bonded a defendant out based on his oral promise to pay at a later date. After being bonded out, the defendant killed his estranged wife and himself.*
- *A high-profile murder case in which the bondsman accepted only a portion of the mandatory premium due from the defendant, and made no attempt to follow up to collect the remaining premium owed. The bondsman then submitted a false document to the Department during the investigation.*
- *Several cases of alleged violence between bondsmen, some of whom are currently facing criminal charges due to this alleged violence.*

The provisions of H. 6629 related to bail bond reform will go a long way toward giving the Insurance Department additional tools needed to regulate this industry.

Specifically:

Section 17 imposes a \$450 annual fee on bail bond agents that will be used to cover the costs of examinations to ensure that agents are charging the appropriate bond and maintaining accurate books and records.

Section 18 requires that agents charge the full bond premium approved by the Insurance Department; that bail bond agents swear under oath that they have charged the filed rate;

requires surety companies to conduct semiannual audits of bail bond agents to ensure compliance; and allows for the use of premium financing.

Section 19 allows for the use of payment plans with a minimum of 35 percent down with the requirement that a promissory note be executed for the remainder of the bond.

Section 20 requires the establishment of Trust Accounts to ensure that the bail bond agent account for and pay funds to the surety company; requires bail bond agents to make available and retain for three years books and records that will allow the Department to ensure compliance with these requirements.

Section 21 prohibits a bail bond agent from executing any bonds when a previous bond is forfeited and remains unpaid for 60 days after the due date.

These provisions will address a practice known as "undercutting", which occurs when bail bond agents compete for business by discounting the premium due on a bond and do not charge their clients the statutorily required amount. This unlawful behavior allows defendants to post bond at rates lower than what the state requires.

Second, this proposal establishes standards for record retention and accounting for premiums that allow for additional oversight by the Insurance Department. These requirements will provide much needed transparency in an industry that currently has none. Such transparency will be enhanced by posting the results of market conduct examinations on the Department's Web site for public inspection.

To guarantee that the Department has adequate resources to conduct market conduct examinations of the bail bond industry, this proposal includes a funding mechanism that will enable the Department to cover the costs of examinations. These funds will be deposited in a Surety Bail Bond Agent Exam Account within the Insurance Fund to be used to pay the costs associated with examinations aimed at ensuring that surety bail bond agents are maintaining the proper records, are managing collateral from defendants in a legal manner and are adhering to all applicable provisions of the law.

In the end, if these reforms are enacted, the Insurance Department will have additional tools and resources needed to regulate bail bond agents in a manner that protects the public from potentially dangerous criminals. The current system lacks adequate safeguards to prevent bail bond agents from discounting the premium on bonds and compromises the integrity of the bail bond system in Connecticut.

Reform of the bail bond industry is needed and long overdue. The Connecticut Insurance Department urges you to support this important initiative and pass these long sought after reforms and we look forward to working with members of this committee to gain passage of meaningful bail bond reform.

CCDLA
"Ready in the Defense of Liberty"
Founded 1988

**Connecticut Criminal Defense
Lawyers Association**
P.O. Box 1766
Waterbury, CT 07621-1776
(860) 283-5070 Phone/Fax
www.ccdla.com

Judiciary Committee Public Hearing

RAISED BILL NO. 6629
AN ACT CONCERNING DOMESTIC VIOLENCE
March 30, 2011

TESTIMONY OF JENNIFER L. ZITO, PRESIDENT OF THE
CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION,
IN OPPOSITION TO RAISED BILL NO. 6629

Chairman Coleman, Chairman Fox, and Distinguished Members
of the Judiciary Committee:

CCDLA opposes the passage of Raised Bill 6629 on several grounds, the most important of which relate to Section 4(h) altering the eligibility requirements of the Pretrial Family Violence Education Program (FVEP) for persons charged with family violence crimes so as to preclude a large class of applicants from eligibility for this necessary early intervention program.

Specifically, the bill seeks to preclude persons from eligibility who have previously been **ARRESTED** for a family violence crime, but not convicted, and who have not previously used this program. Mere arrests should not preclude eligibility on the basic fundamental tenet of the presumption of innocence. In most of these situations, the previous charges were

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dismissed or nolle because the State did not believe the charge could be substantiated or proved. This disqualifier is even more egregious if the accused had been acquitted of the previous charge(s), and therefore legally found not guilty. The bill makes no distinction. Prior arrests should never disqualify individuals especially in family violence cases where allegations are often found to be fabricated for the benefit of divorce or custody proceedings.

Secondly, the bill seeks to preclude all defendants charged with a felony ineligible, rather than maintaining the current standard of eligibility of those charged with a Class D felony for good cause shown. This provision inspires overcharging and denies defendants and their families the educational and beneficial components of the early intervention program based merely on a charge. By doing so, the Legislature seeks to minimize the role of the Judiciary in exercising its discretion.

Moreover, the bill seeks to preclude those charged with ANY OFFENSE, misdemeanor or otherwise, from eligibility if the offense charged involves the infliction of serious physical injury. As this is a pretrial diversionary program it is unknown if the accused actually caused the serious physical injury; it is better if the Court decides if the accused should benefit from the program in light of the facts of the case, taking into consideration the serious injuries.

In addition, the bill as proposed allows the court to require the defendant to enter a plea on the family violence charges as a condition for entrance into the FVEP with the right to

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ostensibly withdraw the plea and dismiss the charge upon successful completion. While conditional guilty pleas are appropriate in violation of probation situations or repeat offender circumstances, they thwart the intent and usefulness of a pretrial diversionary program, and have adverse collateral consequences. The purpose of pretrial diversionary programs is to resolve matters productively without a hearing on the merits of the case. If the accused is successful in the program, the charges are dismissed. If not, the charges stand and the defendant has burned the program forever. As it stands, the Court has the authority to order the FVEP as a post-conviction condition of probation; forcing a plea to gain admission to the program will make participation in the program unfeasible for many people, particularly those involved in parallel divorce or custody cases who can't risk the admission of wrong-doing.

Conditional guilty pleas for entrance into the FVEP will also trigger immigration issues for non-citizens regardless of the later dismissal. In fact, forcing a conditional plea for entry into the program will make the program unavailable to non-citizens since the conditional plea will be construed as a conviction or an admission of the facts by immigration authorities resulting in removal, inadmissibility and denial of citizenship.

In Section 4(i), the bill raises the entrance fee from \$200 to \$400. While CCDLA appreciates the necessity of raising fines and fees in the State to set off budget cuts and rising costs, we submit that the drastic rate increase for this unique and necessary program will result in a significant increase in

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waiver requests and a greater inability to pay by Connecticut families who can most benefit from such a program.

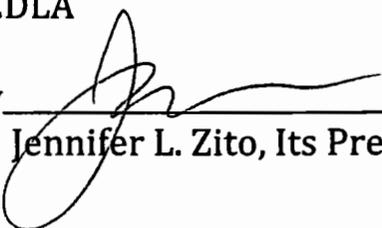
Finally, CCDLA opposes the requirements of Section 12, subsection (b), Section 13, subsection (b), and Section 14, subsection (b) affording criminal immunity to protected persons under protective and restraining orders without adding as an affirmative defense to the subsections (a) of Sections 12-14 the assertion that the violations or prohibited conduct was initiated or inspired by the protected person. Immunizing an entire class of adults from prosecution is novel and ripe for abuse by the protected class particularly when protective and restraining orders are often sought in the context of divorce or custody proceedings.

Domestic violence is a very real and dangerous problem in our State. This program, however, is a very useful tool to formulate an education/treatment plan for up to two years for first time wrongdoers of less serious family violence offenses thereby preventing recidivism and risk to victims. The intent is to prevent the violence from repetition and escalation by INTERVENTION at an early stage. Bill 6629 undermines the program's original purpose by (1) precluding a larger class of offenders from eligibility, particularly those with merely a prior ARREST, (2) affording the court discretion to mandate a plea in exchange for admission, and (3) doubling the entry fee. This bill will have the effect of burdening the system further by forcing trials on the merits of these cases, increasing the numbers of convicted felons in the State, and by depriving first time offenders and their families of the education and

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counseling they need under the supervision of Family Relations to avoid future violence.

Respectfully submitted,
CCDLA

By  _____
Jennifer L. Zito, Its President

**Center for Youth Leadership
Stamford Youth Services Bureau**

**Judiciary Committee
Testimony, March 30, 2011**

HB 6629: An Act Concerning Domestic Violence

Good afternoon Senator Coleman and Representative Fox. We have special greetings for Representatives Morris and Tong, who represent us in Norwalk and Stamford, and Representative Flexer, who we know from her leadership of the Speaker's Task Force on Domestic Violence.

My name is Rebecca Porter and I am a member of the Center for Youth Leadership at Brien McMahon High School in Norwalk. With me is Melisa Cardona from the Stamford Youth Services Bureau and Stamford High School. On behalf of the 226 student activists at our schools, we urge you to support HB 6629, An Act Concerning Domestic Violence, especially those sections that address teens' access to restraining orders against their abusive teen dating partners.

We have been working on teen dating violence issues since 2004. We lead two public awareness activities a month in our schools and communities. We volunteer twice a week at two domestic violence shelters in Fairfield County. And we work with legislators and members of our boards of education on policy issues.

Teen dating violence is important to us because it is one of Connecticut's more stubborn public health issues, with demonstrated connections to bullying, school failure, birth control sabotage, drug use, suicide, and adult domestic violence. In fact, according to the Connecticut Department of Public Health, of those Connecticut students who reported verbal and physical dating violence last year, 30 percent considered suicide; 25 percent made a suicide plan; and 20 percent attempted suicide.

The recommendation we made to the Speaker's Task Force on Domestic Violence is consistent with our mission to increase access to information, services and justice for teens, and is based on research we conducted. We met with two judges who oversee juvenile matters at Stamford Superior Court. We talked to staff from national and local domestic violence prevention and advocacy organizations. We talked to the policy committees of our boards of education. We researched laws in other states, including Rhode Island and Massachusetts, both of which have laws on the books about teens and restraining orders.¹ And we talked to people

¹ In Rhode Island and Massachusetts, minors can obtain Protective Orders (POs), courts can issue POs against minor abusers, and people in dating relationships may seek POs against their abusers. Please see R.I. GEN. LAWS §§ 15-15-1(2) (2009) and 8-8.1-1(3), as well as 1 MASS. GEN. LAWS ANN. Ch. 209A, § 8 (West 2009). 2 *Id.* § 3. 3 *Id.* § 1. Source: *Break the Cycle* at <http://www.breakthecycle.org/content/teen-dating-violence-state-law-report-cards>

our age who have been in physically and emotionally abusive dating relationships. We firmly believe that access to restraining orders should be included in a comprehensive safety plan for teens who are struggling to remove themselves from abusive dating relationships.

We want to highlight one area of concern regarding the legislation - the potential impact on schools. We know that the law entitles everyone to an education, including those students who have been accused of abusing a dating partner. That's why we are working with our school districts in Norwalk and Stamford on a teen dating violence policy and a protocol.

The protocol is key because it will allow school administrators to respond to teen dating violence incidents on campus in a *consistent* way and an *efficient* way. This is important in cases that require accommodations for the victim and/or his/her abuser; accommodations that can range from a change in class schedule to placement in an alternative educational setting.

We know school administrators are asked to do a lot to support our academic, physical and emotional health. They usually know how to respond to student behavior on campus that violates the school district's code of conduct, but teen dating violence cases present administrators with a unique set of circumstances, especially if things have escalated to the point where a restraining order has been secured against an abuser who attends the same school as his/her victim. That's why a consistent and a uniform response is key, which is where the protocol comes in.

We hope things never reach the point where someone my age has to secure a restraining order against his/her teen abuser. There are organizations in Stamford and Norwalk dedicated to preventing teen dating violence and reconciling relationships that have played themselves out.

However, in the event that the abuse *defines* the relationship and has become so violent that it compromises a teen's ability to function emotionally, socially and academically, then people our age should have access to a restraining order as part of a comprehensive safety plan. Therefore, we ask you to support HB 6629.

Thank you.

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Center for Youth Leadership
300 Highland Avenue
Norwalk, Connecticut 06854
203.852.9488

Stamford Youth Services Bureau
888 Washington Boulevard
Stamford, Connecticut 06901
203.977.5674



*Office of Chief Public Defender
State of Connecticut*

30 TRINITY STREET, 4TH FLOOR
HARTFORD, CONNECTICUT 06106
TEL (860)509-6429
FAX (860-509-6499
susan.storey@jud.ct.us

ATTORNEY SUSAN O. STOREY
CHIEF PUBLIC DEFENDER

**Testimony of Susan O. Storey, Chief Public Defender
Office of Chief Public Defender**

**Raised Bill No. 6629
*An Act Concerning Domestic Violence***

**Judiciary Committee Public Hearing
March 30, 2011**

Raised Bill 6629, An Act Concerning Domestic Violence, represents an attempt to implement many of the recommendations contained in the ***Speaker's Task Force on Domestic Violence Report of February 2011 (Report)***. The Report reflects a comprehensive effort to "improve Connecticut's response to incidents of domestic violence." The Office of Chief Public Defender acknowledges the substantial efforts of the *Task Force* and the significant substantive legislative changes embodied in this raised bill. Nevertheless, this Office has serious concerns with the implementation and impact of several sections of this bill.

SECTION 4:

Section 4 of the raised bill makes significant changes to *C.G.S. §46b-38c*, the **Family Violence Education Program (FVEP)**. The overall impact of the changes proposed by the new statutory scheme will serve to restrict the number of persons eligible to participate and receive benefit from the FVEP. The raised bill first proposes to disqualify any person who has merely been previously **arrested** and charged with a family violence crime even if no conviction resulted. This new limitation totally ignores the significance of the presumption of innocence afforded an accused person. The rationale offered to support this new restriction consists of a claim that some undetermined number of offenders "may have had multiple arrests and have been granted a number of informal diversion opportunities before they are required by the court to complete a formal diversionary program like the FVEP."

There is no question that a number of minor family violence cases are resolved by a defendant's participation in "an informal diversionary program" other than the FVEP. However, it is important to realize that when such "informal diversion opportunities" are afforded a defendant such an opportunity is generally the result of an agreement between the state's attorney, defense attorney and most significantly, the court, which can only be based upon the recommendation of a Family Relations officer. The supporting rationale offered for this proposed provision also ignores other critical reasons why an arrest in family violence cases may not lead to a conviction. Such reasons include whether (1) subsequent investigation reveals that a person was falsely accused; (2) a complainant has recanted the allegations; or, (3) a complainant cannot be located.

Under current law, participation in the FVEP is limited at the court's discretion to: (1) persons who have not been previously convicted of a family violence crime; (2) have not previously used the FVEP; (3) have not used accelerated rehabilitation under C.G.S. §54-56e for a family violence crime and; (4) those that are not charged with class A, B, C felonies or unclassified felonies carrying a term of imprisonment of more than ten years or any unclassified offense carrying a term of more than five years. Admission to FVEP for persons charged with a class D felony is contingent upon a showing by the defendant of good cause.

It is the position of this Office that the statutory scheme now in place sufficiently protects the integrity and efficacy of the FVEP. The current law provides that the ultimate decision to admit a person into the FVEP who is charged within the applicable range of offenses, remains appropriately, within the discretion of the court. Adoption of the raised bill would impinge upon the discretion of the court and hinder its ability to fashion rational dispositions that: (1) appropriately reflect the facts and circumstances of a particular case; (2) take into consideration the needs of the parties; and, (3) take into the account the input and needs of the victim.

The raised bill also proposes to eliminate the discretion of the court to consider whether good cause exists to allow for a person to participate in the FVEP if charged with a D felony. This Office is opposed to this elimination of the court's discretion. Current law already disqualifies those charged with A, B and C felonies from participation in the FVEP.

Finally, **Section 4** adds language that would permit the court to **require a defendant to plead guilty** in exchange for participation in the FVEP. Pursuant to the proposed language, such a guilty plea would be withdrawn by the court and the charges dismissed only upon the defendant's successful completion of the program. This Office strenuously opposes a requirement that a plea of guilty be entered first. The notion of requiring a plea to participate in a diversionary program is totally at odds with the concept underlying such programs. Diversionary programs such as accelerated rehabilitation, alcohol education, drug education, community service labor and the FVEP are by their very nature intended to offer a non-adversarial alternative to traditional criminal prosecutions. Participation requires the tolling of the statute of limitations and the right to a speedy trial. The policy supporting such diversionary programs is to offer first offenders an opportunity for rehabilitation and education to achieve the goal of reduced recidivism.

Of great concern to this Office is the lack of any provision to protect a defendant who might enter into such an agreement (i.e. a person pleads guilty and enters the program) but then, due to

unforeseen circumstances or circumstances beyond their control, is unable to complete the program. Such circumstances that might interfere with successful program completion include loss of employment, loss of transportation, illness, conflicts with employment and educational obligations as well as responsibilities regarding family and child care.

Finally, the argument that a guilty plea creates an incentive for active program participation and accountability with respect to alleged criminal conduct is specious. Defendants who are admitted to the FVEP are keenly aware that failure to complete the program successfully will result in the case being returned to the regular criminal docket for traditional prosecution on the pending charges. The possibility of such further prosecution serves adequately to incentivize compliance with the program rules and regulations.

SECTION 9:

Section 9 of the raised bill amends *C.G.S. §51-181e, Domestic Violence Dockets* and requires the Chief Court Administrator to identify and establish new domestic violence dockets in six geographical area courts. While generally supportive of such dockets, the Office of Chief Public Defender lacks the resources within its current budget to support and staff additional specialty courts. Three additional domestic violence courts were established in the last session without additional funding. An additional six dockets would result in a total of nine (9) new domestic violence dockets throughout the court system.

Domestic violence dockets intensify workloads for public defender staff. They require additional staff and resources to effectively represent the numbers of defendants referred to these dockets for frequent court appearances and participation in lengthy domestic violence programs such as Evolve and Explore. Currently in Bridgeport GA#2, six full time public defenders are assigned to the DV Docket, and GA#23 New Haven has two separate DV Dockets with similar staffing. It has been necessary for this Office to assign additional per diem attorneys and support staff to those courts with DV dockets such as GA#2 Bridgeport, GA#23 New Haven, GA#14 Hartford, and GA#10 New London to provide adequate coverage of DV and other court cases.

The Office of Chief Public Defender has estimated and requested that eighteen additional positions (8 attorneys, six investigators, and 4 support staff) be added to this Agency's permanent position count to be assigned as necessary among public defender offices most needing assistance with DV Docket caseloads.

SECTIONS 12, 13 and 14:

Sections 12, 13 and 14 of the raised bill each seek to achieve a similar result by immunizing a party from prosecution for aiding and abetting or conspiring to violate a protective or restraining order when he/she is protected by such pursuant to *C.G.S. §53a-223, Criminal Violation of a Protective Order, §53a-223a, Criminal Violation of a Standing Protective Order; or, §53a-223b, Criminal Violation of a Restraining Order*. The Office of Chief Public Defender contemplates that any such prosecution of a protected party would indeed be a rare event. This Office does, however, recognize that such orders often draw a fine line with respect to conduct of both

protected parties and the defendants subject to the orders. This Office is not opposed to the proposed language contained in Sections 12, 13 and 14. However, this Office requests that additional language be incorporated into each section to provide a defendant with a defense in those cases where the protected party initiated the contact with the defendant who is subject to the order.

In conclusion, this Office has serious concerns in regard to certain proposed sections of this Raised Bill and the impact upon the financial resources of the Division of Public Defender Services. Thank you for consideration.

**Testimony of Attorney Elizabeth Dineen,
Judiciary Committee
Wednesday, March 30, 2011**

Good afternoon Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Attorney Elizabeth Dineen. Thank you for the opportunity to provide testimony concerning:

Proposed House Bill No. 6629, An Act concerning Domestic Violence (Support)

My name is Elizabeth Dineen and I currently serve as the Chair of the Criminal Justice Department at Bay Path College located in Longmeadow Massachusetts. Previous to this role, I was an Assistant District Attorney in Hampden County, Massachusetts, for over 25 years. As a trial prosecutor, I prosecuted many crimes including murder, rape, domestic violence, child abuse, armed robbery, home invasion, mayhem, burglary, arson, and firearms offenses. I have experience writing and arguing briefs before the Massachusetts Supreme Judicial Court and the Massachusetts Appeals Court and have authored and instructed for the Massachusetts Continuing Education on topics such as interviewing child witnesses, special problems with privileged information, domestic violence, and difficult and complex forensic evidence. Also, I am an instructor with the National Institute for Trial Advocacy—the nation's top trial advocacy training body for lawyers. As a prosecutor, I served as an instructor for numerous criminal justice-related organizations, including the Massachusetts State Police Training Academy, the Hampden County Criminal Justice Training Center, and Baystate Medical Center.

I tell you this for two reasons. First, I am committed to the just treatment of victims of domestic violence, as well as to the accountability of the Criminal Justice System to protect domestic violence victims. Second, I am familiar with and knowledgeable about the proposed legislative initiatives before you today--the Model Policy for Law Enforcement's response to domestic violence incidents; the limitations for diversionary opportunities for domestic violence offenders; and the need to end the practice of charging domestic violence victims with violating their own orders of protection.

Model Policy for Law Enforcement's Response to Domestic Violence Incidents: I have experience working in a state which enacted model policies for law enforcement's response to crimes involving domestic violence. The benefits of such a policy outweigh the initial front end work that goes into the creation of such a policy. The model policy allows for a consistent response to domestic violence across the state and enhances the collaborative efforts of law enforcement officials, working in separate jurisdictions, to immobilize an offender. The model policy essentially serves as a plan of action. It informs all law enforcement officials who come into contact with an offender, outlines their role(s) as well as the expectations for all law enforcement agencies involved. The second component of the proposal allows for the creation of a Committee, who is knowledgeable about this area of law, to ensure the state's laws and policies are the "best practices", and to update them yearly, to reflect new laws and/or new information

pertaining to the best mechanisms to handling domestic violence incidents, which is a necessary component to ending domestic violence.

Ending the Practice of Arresting Domestic Violence Victims: This proposal outlaws the practice of arresting and prosecuting a victim of domestic violence for violating their own order of protection and is overdue. This current practice in Connecticut is a step backwards – in the wrong direction. First, there are the obvious due process issues – when the state restrains an individual’s liberty without providing a process to challenge that state’s infringement. Second, as I understand it, the state of Connecticut has codified certain rights for crime victims within the state Constitution, including the right to be reasonably protected from ones’ offender. The practice of arresting the named protected person of an order of protection is a violation of that victims’ right to be reasonably protected from the offender. Additionally, as someone who is familiar with the dynamics of domestic violence, including the manipulation and disempowerment of the victim at the hands of the offender, it is deeply concerning that the state would be choosing to arrest the victim. For instance, a victim of domestic violence will, more times than not, return to the abusive offender for reasons that are too many to identify during this short time period. Therefore, penalizing a domestic violence victim, who has been abused and emotionally tormented by an offender for returning to the offender, is an unsettling practice. I’m sure that you have all heard of the Stockholm’s syndrome. Well, for many victims of domestic violence, the “choice” to return to an offender, is less of a choice and more of a matter of life and death. When, and if, the state arrests a victim of domestic violence in these scenarios, the message to the victim is clear. The state will not protect the victim and cannot be trusted. As an Assistant District Attorney, I have witnessed many domestic violence victims initially return to the offender only to be again victimized at the hands of the offender. Then, one day, they are broken and afraid, finally capable of leaving and participating in prosecution. This would never occur if, as is the current practice in some parts of Connecticut, the victim is charged with the “offense” of returning to the offender. I strongly encourage you to outlaw this practice.

Lastly, the first time domestic violence offender is a much different person than the repeat domestic violence offender. The first time offender is amendable to treatment and has a healthy level of susceptibility to rehabilitation. The opportunity to change behavior with the first time offender is abundant. However, when the system becomes bogged down with repeated offenders, repeatedly participating in the same diversionary programs, the impact of these programs is watered down and diminished. Additionally, the domestic violence victim, who finds the courage to contact the police and report the abuse, is expecting the state to take steps to prosecute the offender as well as to protect her. However, if the offender routinely receives diversion, the message to the victim is clear – these crimes are not taken serious by the state. Consequently, the victim will simply halt contacting the police in the future – with dangerous consequences for the victim, the offender, and the public. I strongly encourage you to limit all diversionary opportunities to first time offenders; you will save lives.

Thank you again for this opportunity to testify and I will answer any questions you may have.



STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE
505 HUDSON STREET, HARTFORD, CONNECTICUT 06106

Michelle S. Cruz, Esq.
State Victim Advocate

**Testimony of Michelle Cruz, Esq., State Victim Advocate
Submitted to the Judiciary Committee
Wednesday, March 30, 2011**

Good afternoon Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Raised House Bill No. 6629, An Act Concerning Domestic Violence

The Office of the Victim Advocate (OVA) would like to thank the Speaker's Task Force on Domestic Violence for their dedication and commitment to improving our state's response to domestic violence and further, for their support to improve the delivery of services to both victim and offenders. This certainly is not and has not been an easy task; the mere size and content of the proposal before you today is indicative of their hard work and perseverance to promulgate changes. Although the OVA is recommending some changes to the proposal, we stand ready to work with the Task Force, and others, to improve our state's response to domestic violence.

Connecticut became known over two and a half decades ago for the tragic assault on Tracey Thurman, or rather, the lawsuit against the Torrington Police Department, which forever changed how the nation responds to domestic violence. Since that time, as a state and a nation, we have been making strides to improve the response to domestic violence. Domestic violence is complex, complicated and pervasive. Domestic violence knows no boundaries, affecting all of us equally regardless of race, class, ethnicity and/or sexual orientation. Domestic violence cannot be defined by one simple act viewed from a sterile vacuum. There are many aspects and levels of domestic violence. Unfortunately we, as a state, have had to painfully learn that when domestic violence offenders' behaviors go unchecked, escalation of their violent behaviors usually follows. In order to effectively combat domestic violence, we must immobilize the violent offenders and respond swiftly to the escalating behavior, essentially creating a wall of protection between the victim and the violence. Although this is something we have failed to do thus far, I am confident through the bills here today, with some respectfully suggested amendments, we can and will stop domestic violence.

Sections 1, 2 & 3 (Support)

Section 1 of Raised House Bill No. 6629 addresses a current gap in protecting domestic violence victims through expanding the restraining order availability to cover emotional abuse and intimidation. By adding the language: "a pattern of verbal intimidation, threatening or stalking" a domestic violence victim will be able to pursue protection and seek

safety through the restraining order process and bring our screening process for restraining orders to parallel what we know about domestic violence, which is that often the homicidal offender will not be physical prior to turning murderous. It will allow victims to take precautionary measures, instead of waiting for the offender to physically attack them. This language will increase the protection of domestic violence victims, since we know in many cases, that escalation is evident through these known physical abusive patterns. The OVA is in strong support of this inclusion as most domestic violence offenders will begin their pattern of abusive behavior with verbal threats and intimidation. Additionally, those offenders who are amenable to changing their behavior will more than likely to take that step upon the issuance of a restraining order, rather than waiting until there is criminal court intervention. Those that are not willing are more prone to escalate and require further attention and programming.

As stated about, since we know domestic violence is not limited to a specific age, race, gender, ethnicity or relationship, we must craft our laws to include all populations who may and have become victims of domestic violence. Sadly this population includes our teens and pre-teens and our state's protections must reflect safety measures for this population. The response to incidents of domestic violence cannot be managed according to definition of a relationship or age of the victim and offender. The focus must be immobilizing the abusive behavior of the domestic violent offender. The proposal removes the age barriers and the relationship confusions for victims seeking assistance, while at the same time, resolving those barriers for law enforcement officials responding to incidents of domestic violence. The OVA urges support of Section 1, 2 & 3 of the proposal.

Section 4 (Proposed amendment)

In 1986, the General Assembly established the family violence response and intervention units. As evidenced in testimony, the premise was for first time domestic violence offenders to have an opportunity to avail themselves of domestic violence programming, namely the FVEP, in exchange for a dismissal of the charges. Similar to that of the accelerated rehabilitation program (A/R) and the alcohol education program (AEP), the offender would apply for eligibility and, if granted, would be required to fulfill certain program requirements successfully. Akin to A/R and AEP, the FVEP would be available ONE TIME and for FIRST TIME DOMESTIC VIOLENCE OFFENDERS ONLY AND WHO WERE NOT CHARGED WITH SERIOUS OFFENSES. Sadly, that is not what is happening in our courts today.

In fact, domestic violence offenders are routinely participating in diversionary programs numerous times over. The OVA, in processing complaints from crime victims, often reviews the criminal history of an offender. In cases of domestic violence offenders, in almost every case, the offenders have been arrested numerous times and participate in numerous "informal" diversionary programs before being required to utilize the FVEP. Technically, as the law stands today, many of those offenders who have had previous arrests and resolved those charges through some form of "informal" diversionary program are eligible for the FVEP, since there are no convictions. The problem lies within the procedures and practices of the Court Support Services Division (CSSD) of the Judicial Department.

First and foremost, all criminal cases involving family violence are referred to CSSD for an initial assessment, with the exception of the most serious cases of murder and alike. Due to the nature and complexities of domestic violence, as well as the number of domestic violence cases occupying the criminal dockets, CSSD simply does not have the training or legal experience to triage these cases, and further, make a determination whether prosecution should be sought. The triage of a domestic violence case at arraignment by a trained prosecutor is invaluable and can be the difference between life and death, for we know this is the most dangerous time for the victim. One simply has to look at the murder in West Haven to see what happens when the prosecutor is absent in his or her role of triaging the domestic violence arrest. This is the responsibility of the prosecutor, and to date, has for all intents and purposes, been delegated to Family Relations Officers. CSSD should be assessing cases AFTER a prosecutor has determined those cases are appropriate for referral to the family violence intervention unit, not the other way around. By placing the triage responsibility back on the shoulders of the state's attorney, CSSD staff will be freed up to concentrate their efforts on the cases that have been referred to their unit and properly supervise offenders that have already been accepted for referral.

Currently, after an arrest, the domestic violence offender is brought to Court on next available court date, arguably to bring the case before a prosecutor to screen for safety issues, orders of protections, conditions of release as well as to identify violations of orders of protections or probation and/or conditions of release and respond accordingly. However, in reality, the domestic violence offender appears in court, is directed to CSSD for assessment, and often times the file is not even reviewed by the trained prosecutor. Depending on the case, CSSD may recommend a form of "informal" diversion rather than the FVEP. Informal diversion may include requirements such as substance abuse evaluation and treatment; anger management; and/or individual counseling. The criminal case is continued for a period of time (typically three months) for compliance and review. If after successful completion of the requirements by CSSD, the offender's criminal case will be nolle or dismissed. Unlike the FVEP, there are no limits to "informal diversion." The OVA has seen this pattern in every court, every day, across the state. The problem with this practice is that a domestic violence offender walks away emboldened, realizing that domestic violence cases are not taken seriously; the domestic violence victim walks away with the same dangerous message, only the victim is stifled and muted. The courage and strength required for the domestic violence victim to break free from the abuse and contact the authorities is met with a slap on the wrist and a nolle or dismissal. I cannot begin to tell you the numerous times a domestic violence victim, referencing this maddening practice, has stated, "I would rather return to the abuse then continue to participate in the court process". A heart breaking statement at best. In addition to that, domestic violence offenders permitted to "informally divert" a case will later maintain eligibility for the FVEP, should a new arrest occur. This was not and is not what the General Assembly envisioned in 1986.

Section 4 of the proposal seemingly seeks to limit the eligibility requirements for the FVEP. However, as stated above, it is the practice of this "informal diversion" that is problematic. At present, a domestic violence offender may have had two or three prior criminal cases informally diverted and upon the third or fourth arrest, may finally be required to apply for the FVEP. Domestic violence offenders who are amenable to changing their

behavior are more likely to benefit from the FVEP upon a first arrest for domestic violence, not after a third or fourth arrest. Conversely, these offenders are demonstrating a pattern of behavior and have actually escalated beyond the benefits of the FVEP. The proposal should require strict adherence to the intended purpose and benefits of the FVEP and that is catching domestic violence offenders early on with a program that changes behaviors. How pervasive is the problem?

In a report entitled, "The State of Connecticut, Family Flow Chart" it was reported in 2006, there were 29,050 domestic violence arrests. Of those, 25,450 cases were nolle or dismissed. Unfortunately the statistics do not depict how many of the remaining arrests were prosecuted as the report breaks the statistics down to focus on "charges" not cases. What we know is, out of the gate 25,450 offenders are in some sort of diversionary program, or rather, avoiding prosecution. Further, this report indicates that prosecutors at times will "be inclined to nolle the family violence crimes" and "proceed with the non-domestic felony charge", a practice that will inevitably protect the domestic violence offender from the negative ramifications of a conviction involving domestic violence, such as loss of one's ability to purchase a firearm under the Federal laws. In the end, the lack of prosecutions of domestic violence cases is pervasive across the state and threatens the safety of all victims of domestic violence. This has been the pattern in Connecticut for decades. According to statistics prepared by Kevin Dunn at a presentation for the legislature in 2008, in 1996 only 10.5% of domestic violence cases were prosecuted or rather 89.5% cases were nolle or dismissed. Over ten years later, nothing has changed. I would argue, if we conduct this same study today, we will find the same troubling results. It is time for Connecticut to take a stand.

As a side note, upon reading the above mentioned report, it is reflected that the Family Relations Officers, not the state's attorneys, decide whether to take a case to full assessment, and/or for a pre-trial supervision within the Family Services or be returned on the criminal docket for further prosecution. This document further states it is the Family Relations Officer who decides what orders and safety measures should be pursued, including the level of treatment the defendant should be assigned. Arguably the state of Connecticut is allowing the Family Relations Officers to practice law and make prosecutorial decisions regarding the treatment of domestic violence cases.

The proposal should be reviewed and amended to prohibit all "informal diversion" in criminal cases involving family violence. On line 379, the new language, "or arrested for" should be removed. The OVA is in support of the new language contained in lines 397 through 401, which calls for the entry of a plea as a condition for assignment to the FVEP. This requirement will serve to ensure that the offender is aware of the seriousness of the charges as well as the consequences for failure to successfully complete the FVEP and prevent the practice of failure to prosecute domestic violence cases in this state. I am cognizant that what I say here today is not popular nor welcome in some circles; but when we speak of domestic violence I am not willing to continue to hide the truth for the benefit of the feelings of a few. Domestic violence is about life and death. The question is, "Are we going to get serious about domestic violence or are we just going to continue to talk about it?"

Section 5 (Proposed amendment)

The OVA is concerned with the changes reflected in subsection (c) of Section 5. The protected person listed on an order of protection has asked a court, whether civil/family or criminal, for relief from the abusive behavior of an identified person. In some circumstances, the protected person files for additional protection by way of a request to limit the availability of their identifying information. In most cases, this additional protection sought by the applicant or victim is so that the defendant or respondent does not have access to the information, the public being secondary. Frankly, I am at a loss in understanding the rationale of this section of the proposal. Why in the world would the identifying information, specifically the name and address of the protected person, at minimum, *"be available to the defendant or respondent at the same time and in the same manner as such information is available in other proceedings."* Why would any protected person bother to file a confidential request if the information is readily available to the very person the victim is seeking protection from. Rather, the OVA suggests that the defendant or respondent be permitted to petition the court for release of the identifying information of the protected person if, and only if, good cause is established.

Section 8 (Proposed amendment)

The Commission on Child Protection assigns attorneys as attorneys and/or guardian ad litem to represent children and attorneys to represent indigent parents. The reasoning behind providing statutory immunity for attorneys assigned as guardian ad litem for children applies equally to attorneys assigned to represent children and attorneys assigned to represent indigent parents. The OVA suggests that the language be amended to include immunity for all attorneys assigned by the Commission on Child Protection to represent children or indigent parties in child protection matters.

Section 9 (Support)

The OVA supports the effort to establish domestic violence dockets within the geographical area courts across the state. As with other specialized docket systems, such as drug dockets, there is typically a better result not only for the offender but also for the victim. It goes without saying that along with the establishment of domestic violence dockets, there needs to be specifically trained prosecutors and judges to handle those dockets. Domestic violence is an epidemic; we can have an influence in our state and stop domestic violence. However, if we simply move cases from the "regular docket" to a "domestic violence" docket, and then to "the diversionary bucket", not changing the current practices and procedures, we have really done nothing at all. The reasoning behind domestic violence dockets is that domestic violence has unique dynamics and complexities. These types of cases often involve a parallel family case in the Family Courts and the Department of Children and Families. We have recognized that domestic violence cases require more attention, further investigation and significantly more services to both the offenders and victims. The idea behind domestic violence dockets is born from the idea that the prosecutor has fewer cases and can focus on a full court press to immobilize the offender, while simultaneously surrounding the victim with support and protection. Domestic violence

dockets, if utilized appropriately, can reduce the number of incidents of domestic violence, dual arrests and domestic violence fatalities by identifying high risk offenders and immobilizing them. The potential benefits far outweigh the financial burden.

Sections 10 & 11 (Support)

Too often, the OVA has heard from victims of domestic violence who, after obtaining an order of protection, is informed that the offender has simply turned their firearms over to their family member, such as a father or brother. From the victim's perspective, possession of a firearm by a family member, such as the father or brother, is equivalent to the offender possessing the firearms him or herself. I applaud the Committee for including this provision in the domestic violence proposal. This is a common sense solution for an identified gap to improve the safety of victims of domestic violence. I strongly urge the Committee's support of this proposal.

Sections 12, 13 & 14 (Proposed amendment)

The OVA has been working diligently to end this practice of domestic violence victims being charged with violating their own orders of protection since we first learned of it over two years ago. In an effort to further understand the reasons behind this problem, the OVA requested statistical information from the Judicial Department. From that information, the OVA learned that this problem existed, for the most part, in one corridor of the state. After meeting with the State's Attorney in this corridor, the domestic violence prosecutor and the Chief State's Attorney, the OVA thought that this problem had been resolved. Despite promises from state's attorney and the Chief State's Attorney that this practice would be halted, we are sad to report this practice continues.

An order of protection is issued against a respondent after a court has found that the respondent poses an imminent risk of harm to the named protected person. The respondent in both the Family and Criminal Court is afforded an opportunity to challenge the order, albeit through different procedures. The named protected party on an order of protection does not have any limitations on their liberty; only the respondent or defendant of the order is restricted from certain movements or behaviors. The onus is squarely on the defendant or respondent of the order. It is important to understand that the defendant or respondent of the order has been afforded his or her due process in the state's infringement of his or her liberty, as the respondent or defendant has been provided notice and an opportunity to challenge the state's restrictions on his or her movements. Thus when the state pursues prosecution of a protected person for violation of the order issued to protect that same person, the state is violating both the protected party's due process and state Constitutional rights for at no time has the protected person been provided notice or opportunity to challenge the infringement of his or her movements—an obvious violation of due process rights.

Further, a victim charged with violation of their own order of protection will be at greater risk of harm, either by the abuser or the system. Once a victim is charged and now is a defendant, the victim is unable to seek any protection regardless of whether an order of protection has been issued. The victim will fear arrest and never call the police. The abuser

then uses the arrest of the victim to continue to control the victim with threats of more arrests if the victim does not comply. Further compounding this problem, is that the victim who is now also a defendant, cannot testify (incriminate his or herself) against the offender, less she or he will face certain prosecution of a felony. This practice is not only legally impossible to prove but places victims of domestic violence in greater jeopardy.

The argument often made for arresting a protected person is that the protected person coerced or manipulated the defendant or respondent to violate the order. Again, we must go back to what we know about domestic violence and the complexities associated with domestic violence. In the event that there are occasions as described above, the system can appropriately respond in a number of ways. There may be other crimes that the protected person is committing, such as harassment or falsely reporting an incident for which the protected person can be arrested. Further, the prosecutor and/or the court can review the conditions set forth in the order of protection and modify the order if needed.

In my twenty-five plus years of working in the field of domestic violence, I can confidently state that domestic violence offenders are well versed in manipulation and coercion. Many victims of domestic violence are unable to even recognize this manipulation and often defend their abuser. This is a source of frustration for law enforcement, prosecutors and judges. However, the answer is never found in prosecuting the victim. The frustration is really a symptom of a grave lack of understanding of domestic violence. If we are still asking questions like, "Why doesn't he/she just leave?" and "Why does he/she keep going back?", then we have a lot more work to do.

The OVA suggests that the new language contained in Sections 12, 13 and 14 include and add the following: (sec. 12; line 700, after "for") (sec. 13; line 712, after "for") (sec. 14; line 734, after "for")

"violating said order, including but not limited to:"

I strongly urge the Committee's support of Sections 12, 13 & 14 with the inclusion of the above language.

Sections 16 – 22 (Support)

While determining the amount of bond to place on an accused person to assure their appearance in court, a bail commissioner and/or a judicial authority will consider the nature and circumstances of the alleged offense, among other factors. Typically, the more severe the offense is, the higher the bond. Likewise, consideration of a defendant's previous conviction history and record of appearance in court may affect the amount of bond recommended by the bail commissioner and set by the court. Connecticut is unique in that when determining bond amounts, our state Courts are permitted to look at the safety concerns of a named victim(s) and/or the community. This is not the case in many of our neighboring states, and shows our legislators' keen sense of insightfulness in allowing bonds to be utilized in this manner. In cases of violent crime, including domestic violence, sexual assault, home invasion, robbery, and the like, the Court and community have a vested interest in setting a bond that will serve

to ensure safety. However, when a violent offender's bond is undermined by the minority of bond persons who choose to ignore the standards set by our state, and are protected by the lack of enforcement through our continued failure as a state to address these gaps in our bond system, everyone suffers- crime victims whose offenders are set free to continue to terrorize them and, in the most egregious cases, harm the victims; the integrity of the Courts suffers; and bond persons who adhere to these standards, struggle to maintain their businesses.

Sections 16 through 22 will improve the accountability and oversight of bail bond agents providing services to the accused persons seeking release on bond. Unfortunately, a lack of attention and supervision over the bail/bond system has created a system whereby certain bonds agents have undertaken questionable business practices to gain a competitive edge. Accused persons are striking side deals (without paying the statutory required percentage) with bail bond agents to gain release. In some cases, there have been reports that bail bonds agents have paid for the release of an offender, without first meeting the offender and obtaining agreement to the terms of the contracted bond. These practices are having a negative impact on the judicial authority, as well as compromising the safety of crime victims.

I strongly urge the committee to support Sections 16 – 22 and put an end to the long history of bad business practices by bail bond agents.

Section 23 (Proposed amendment)

The OVA supports the establishment of a task force to develop and implement a statewide model policy for law enforcement's response to incidents of domestic violence. However, the OVA is concerned with the membership of the task force, as proposed. The OVA first presented this proposal, as a recommendation, after an investigation of the murder of Tiana Notice on February 14, 2009. One major gap identified during the investigation and highlighted in the report was the lack of responsiveness and enforcement of Tiana's active restraining order by law enforcement officials. It can be argued that Tiana may be with us today had law enforcement appropriately responded to her complaints that the offender was violating the restraining order. Yes, hindsight is 20/20; however, the lack of adequate policies to address the step-by-step process in responding to incidents of domestic violence, compounded by the failure to enforce the restraining order by law enforcement, is still present today.

The OVA has reviewed many of the state's law enforcement's departmental policies and found that many of the policies are outdated and inadequate. Specifically, not one policy reviewed by the OVA addressed law enforcement's response to a violation of an order of protection aside from commentary on how to authenticate an order, including the model policy adopted by the Police Officers Standards and Training Council (POST), the Office of the Chief State's Attorney (OCSA) and the CT Coalition Against Domestic Violence (CCADV). Although, admittedly, the issue of authentication of an order of protection is important, the policies must spell out the steps to be taken when an offender violates a valid order of protection and to date, most are silent regarding the enforcement of an order of protection.

An important component of the recommendation, as proposed by the OVA, is the creation of a Committee to first conduct an evaluation of the current policies and procedures for law enforcement departments' handling of domestic violence incidents and violations of orders of protection. The Committee membership should include representatives of law enforcement, POST, OVA, CCADV and the OCSA. The Committee would then develop a mandatory statewide model policy based on best practices and standards to be implemented by all law enforcement departments and the Department of Public Safety, including a step-by-step procedure to respond to violations of orders of protection. The Committee would also be required to meet annually to review new legislation and/or best practice models from across the nation, to ensure new laws are implemented as intended and to ensure that the nationwide best practices are continually implemented to best protect victims of domestic violence in Connecticut. The establishment and continuation of this Committee will ensure that Connecticut stays at the forefront in the effort to end domestic violence and enhance the safety of domestic violence victims and their families.

The OVA strongly urges the Committee to support Section 23 of the proposal and consider the OVA's recommended amendments. Specifically, the change in membership outlined in subsection (b) and the termination of the task force outlined in subsection (g).

Section 24 (Support)

The OVA is in strong support of an assessment of training programs and an assessment of the effectiveness of the FVEP. There is a heavy reliance on these programs and yet we do not know whether the programs are worthy of that reliance. As domestic violence plagues our communities, it is our responsibility to ensure that the programs utilized are meeting our expectations for offenders, victim safety and public safety.

Thank you for consideration of my testimony.

Respectfully submitted,

Michelle A. Cruz

Michelle Cruz, Esq.
State Victim Advocate

TESTIMONY OF JEANNE MILSTEIN, CHILD ADVOCATE
IN SUPPORT OF RAISED BILL 6629,
AN ACT CONCERNING DOMESTIC VIOLENCE
MARCH 30, 2011

Good afternoon, Senator Coleman, Representative Fox, and members of the Judiciary Committee. Thank you for the opportunity to testify in support of Raised Bill No. 6629, An Act Concerning Domestic Violence.

I strongly support Raised Bill No. 6629, as it modifies the definition of a "family or household member" who may seek judicial relief from domestic violence to include youth under the age of 18 who are, or have been, involved in teen dating relationships that are characterized by violence - including threats, intimidation, or stalking.

Though there are intensive efforts to heighten awareness of teen dating violence in Connecticut, several sources estimate that as many as 1 in 5 girls under age 18 in our state have been physically or sexually abused by a dating partner; this rate is even higher than that of abuse among adult couples. It is crucial to note that teen dating violence is not confined to heterosexual couples, nor are males always the aggressors. In general, boys and girls abuse their partners in different ways: Girls are more likely to exert emotional control over their partners by yelling, threatening to hurt themselves, pinching, slapping, scratching, or kicking,; boys are more likely to use degrading or sexually coercive language and more severe physical aggression.¹

Half of all reported date rape occurs among teenagers, and a survey reveals that 46% of 10th graders have submitted to pressure or coercion to engage in sexual behaviors because they were afraid to say no.² In adolescents, violence in dating relationships is correlated with increased risk for substance abuse, eating disorders, risky sexual behaviors, pregnancy, and suicidal ideation and attempts.³

Solutions to the problems presented by teen dating violence are elusive for many reasons, including reluctance of youth to confide in their parents. Three-quarters of parents are unaware that teen dating violence is a significant issue for adolescents, and more than half of parents have never discussed the topic with their teens. 83% of 10th graders surveyed reported that they would sooner turn to a friend for help with dating violence than to a teacher, counselor, or parents; only 7% said that they would make a report to police.⁴

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Additionally, many teens have witnessed domestic violence in their homes. Almost half of men who abuse their wives also abuse their children, and a significant majority of women and girls who are abused by their husbands or boyfriends remain in those relationships even after the onset of violence. Adolescents who have committed or been

victims of dating violence frequently continue those patterns into adult relationships, with the degree of violence becoming increasingly severe.

It is therefore of utmost importance that Connecticut explicitly allow minors to seek protective orders and other judicial relief on their own behalf when they have experienced physical or sexual violence, threatening, intimidation, or stalking in dating relationships, as described in Raised Bill No. 6629. I also contend that it is vitally important for education on teen dating violence to be conducted in all middle and high schools. School personnel should be trained in recognizing the indicators and risk factors associated with dating violence, and assisting teens who may be at risk in their relationships.

To that end, I would be remiss if I failed to mention my enthusiastic **support for Committee Bill No. 6053, An Act Concerning Domestic Violence and Child Trauma**. This bill requires that school systems address acts of dating violence involving their students, within and in some circumstances, outside the school setting, in their policies regarding bullying. Schools would be required to develop and implement strategies for prevention and intervention of a wide range of behaviors that negatively impact students' safety or performance in school. Dissemination and implementation of school policies that explicitly describe and prohibit violent, threatening, or coercive behaviors will increase awareness among students and their parents, as well as reassure teens that school employees are available and empowered to assist those who disclose experiencing violence in their relationships.

In closing, I urge the Committee to support Raised Bill No. 6629 and Committee Bill No. 6053, and I thank you for the opportunity to testify. I welcome your questions.

¹ "Teen Victim Project," National Center for Victims of Crime, www.ncvc.org, 2004.

² The Northern Westchester Shelter with Pace Women's Justice Center, April 2003

³ Jay G. Silverman, PhD, et al, "Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality." *Journal of the American Medical Association*, (2001).

⁴ Tiffany J. Zwicker, Education Policy Brief, "The Imperative of Developing Teen Dating Violence Prevention and Intervention Programs in Secondary Schools." *12 Southern California Review of Law and Womens Studies*, 131, (2002).



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Written Testimony Submitted to the Judiciary Committee by Katie Pawlik & Andrea Dahms

Date: March 30, 2011

Re: **Raised Bill No. 6629, An Act Concerning Domestic Violence, Section 4(h)**
 (Recommendation to Mandate Conditional Plea for the Family Violence Education Program)

The DVCC strongly supports the recommendation of the Speaker's Task Force on Domestic Violence to require any defendant seeking the benefit of the Family Violence Education Program to enter a conditional guilty plea that will be vacated upon successful completion, and encourages the Judiciary Committee to incorporate this recommendation into proposed legislation.

In 1994, the National Council of Juvenile and Family Court Judges adopted a Model Code on Domestic and Family Violence.¹ The Model Code was developed with the assistance of an advisory committee comprised of leaders in the domestic violence field, including judges, prosecutors, defense attorneys, family law attorneys, battered women's advocates, medical and health care professionals, law enforcement personnel, legislators and educators over the course of three years. It was intended to provide effective and innovative answers to those communities seeking to protect victims and help prevent future violence, and it expressly discourages the use of diversion in domestic violence cases. Instead, if a state believes it necessary to provide offenders with an opportunity to successfully complete a program and "earn" the dismissal of all charges, the Model Code recommends the use of deferred sentencing.

In relevant part, the deferred sentencing model, as outlined in the Model Code, is as follows: "A court shall not approve diversion for a perpetrator of domestic or family violence. The court may defer sentencing of a perpetrator of domestic or family violence if: (a) The perpetrator meets eligibility criteria ...; (b) Consent of the prosecutor is obtained, after consultation with the victim ...; (c) A hearing is held in which the perpetrator enters a plea or judicial admission to the crime; and (d) The court orders conditions of the deferred sentence that are necessary to protect the victim, prevent future violence and rehabilitate the perpetrator." Absent the consent of the prosecutor, no deferred sentencing is permissible. The offender's due process rights are satisfied, as the offender has a choice; if he or she does not elect to plead guilty, he or she can avoid participating in any deferred sentencing program and elect to proceed to an adjudication of the charges.

The Model Code also provides insightful commentary as to why this deferred sentencing model is more appropriate than the use of straight diversion. The struggles highlighted by this commentary so closely

¹ Family Violence: A Model State Code; Drafted by the Advisory Committee of the Conrad N. Hilton Foundation Model Code Project of the Family Violence Project. Approved by the Board of Trustees, National Council of Juvenile and Family Court Judges, January 13-15, 1994 (hereinafter Model Code).



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resemble what we see playing out in our courthouses day after day that it could have been written by any one of Connecticut's own domestic violence prosecutors. It stresses the reality that domestic and family violence cases are incredibly difficult to prosecute successfully after failed diversion. Therefore, non-compliance often results in a nolle or dismissal of all charges. However, if an offender has already entered a conditional guilty plea and then fails to comply with the program requirements, the prosecutor can bring that offender back to court and immediately move forward to sentencing. The ability of the State to thus act serves as a powerful deterrent to non-compliance. We have seen this deferred sentencing method used effectively in the context of the Explore Program in many courthouses around the state. Additionally, the Model Code notes that professionals who offer these specialized batterer intervention programs often prefer that participants mandated to attend have acknowledged the use of violence toward the victim.

The ability for expedited disposition after non-compliance is a significant benefit of the deferred sentencing model. Victims are often more cooperative in the early stages of the criminal process, but begin to be less so as the case drags on and they begin to understand the inefficiencies of the criminal justice system and the limitations the criminal justice system has with respect to both effecting long term behavioral change of an offender and providing long term safety for them. With the deferred sentencing model, defendant accountability is increased without compromising victim safety.

Other states that have successfully implemented deferred sentencing models, such as the one outlined by the Model Code, include both Alabama² and Michigan³. These states have laws in place that would be particularly relevant for the Judiciary Committee to examine when considering incorporating this recommendation into pending legislation.

The current statutory framework for the Family Violence Education Program was created over 25 years ago, in 1986. Research with respect to best practice responses to domestic violence has developed rapidly within that time frame, and Connecticut's failure to re-examine this structure has left the state lagging behind many others in this area. The DVCC is greatly encouraged by the momentum for change on this issue that has been generated by the Speaker's Task Force on Domestic Violence. We thank the Task Force for their hard work on this issue, and enthusiastically support the advancement of their recommendation.

Thank you for your consideration. Please do not hesitate to contact us if we can be of any assistance as you further examine this issue.

² Ozark, Alabama, Code of Ordinances, Article II, Chapter 6 (Ord. No. 2007-3, §§ 1-12).

³ Mich. Comp. Laws §769.4a

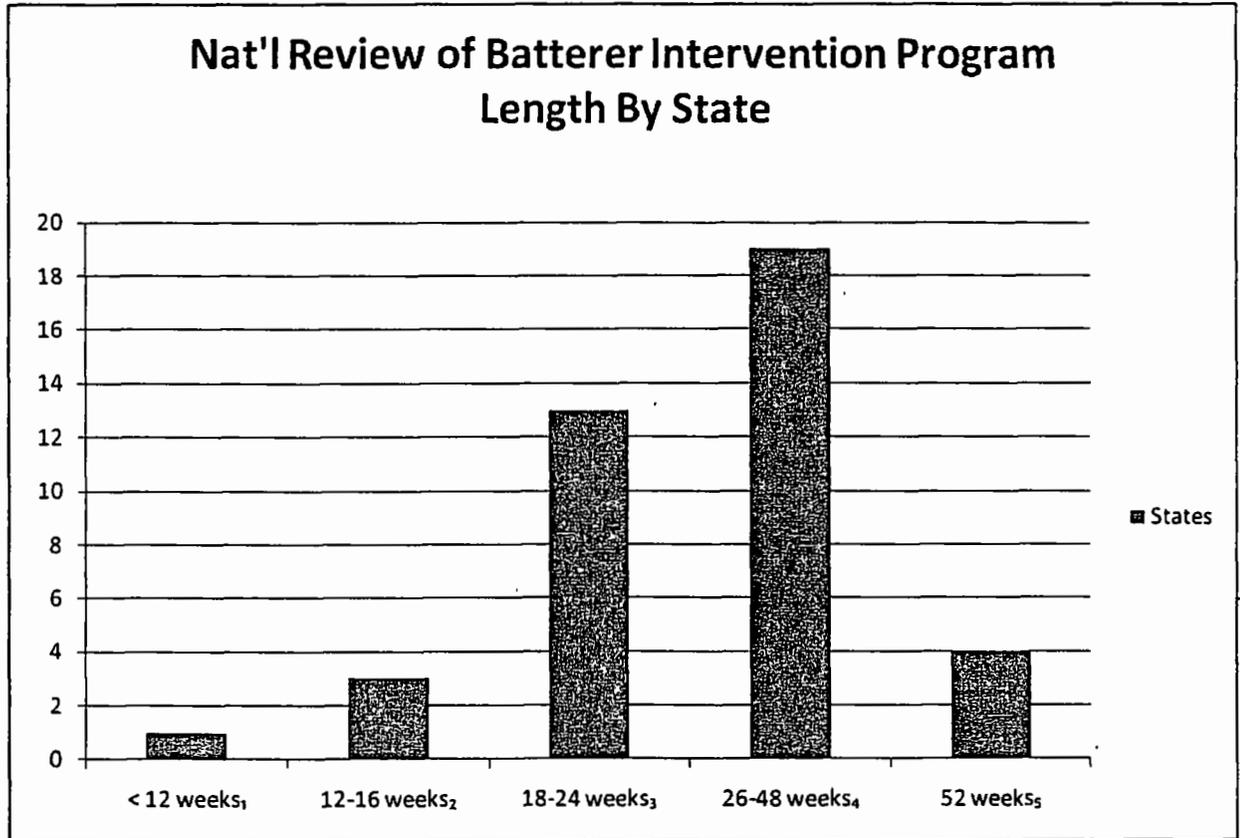
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Attachment for Carrie Bernier Testimony
 Re: Support for Raised Bill No. 6629, Section 24, Subsection (b)

Judiciary Committee Hearing
 March 30, 2011



(1) Connecticut

(2) Alabama, Ohio, Utah

(3) Delaware, Florida, Hawaii, Illinois, Iowa, Kansas, Maryland, Minnesota, Montana, Nebraska, Tennessee, Texas and Virginia

(4) Arizona, Colorado, Georgia, Indiana, Kentucky, Maine, Massachusetts, Michigan, Missouri, New Hampshire, Nevada, New Jersey, North Carolina, Oregon, South Carolina, Washington**, Washington, D.C., W. Virginia, Vermont*

(5) California, Idaho, Rhode Island, Vermont*

** In Washington State, after completion of 26 weekly sessions, an additional 6 months of sessions, at one meeting per month, is required for a total of 12 months of treatment.

* Vermont's community-based batterer intervention program is 26 weeks and the corrections-based program is 52 weeks.

» This information is based on a study of 39 states and their Batterer Intervention Program Standards, as compiled by the Batterer Intervention Services Coalition of Michigan (www.biscmi.org/other_resources/state_standards.html) (2002). The following states were not included in this analysis, as they either have no standards or their standards were unavailable through this compilation: Alaska, Arkansas, Louisiana, Mississippi, Nebraska, New Mexico, New York, North Dakota, Oklahoma, Pennsylvania, South Dakota, Wisconsin, and Wyoming.



State of Connecticut
Police Officer Standards and Training Council
Connecticut Police Academy



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 LINE 8

Testimony Submitted to the Judiciary Committee

March 30, 2011

Thomas E. Flaherty

Executive Director

Police Officer Standards and Training Council

Raised Bill No. 6629

AN ACT CONCERNING DOMESTIC VIOLENCE

As Executive Director of the Police Officer Standards and Training Council, I am here to speak in favor of this Raised Bill. In terms of Law Enforcement Training, this Raised Bill eliminates a conflict that exists in current legislation.

Sec. 46b-38a (2) of the General Statutes of Connecticut defines "Family or household member" among other definitions as "(F) persons in, or have recently been in, a dating relationship."

Sec. 46b-38a (3) in part defines a "Family violence crime" as "a crime as defined in section 53a-24 which, in addition to its other elements, contains as an element thereof an act of family violence to a family member" etc.

The current language of Sec. 3. Section 46b-38b (a) however, suggests an exception for family violence crimes involving a dating relationship from mandatory arrest. They language contained in Raised Bill No. 6629 corrects this conflict.

Additionally, this Raised Bill includes "a pattern of verbal intimidation, threatening or stalking" as a category for which a family or household member who has been subjected to such conduct may make an application to the Superior Court for relief. These are common tactics employed by a perpetrator of domestic violence.

Finally, in terms of Law Enforcement response and Law Enforcement training, the Police Officer Standards and Training Council already has developed a Statewide Policy and is updated as statutory changes evolve or as new issues arise. Perhaps a Task Force would not be necessary.

If a Task Force is organized under the provisions of this raised bill, then I would suggest that a member of the Connecticut Police Chiefs Association be included as a member.



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Testimony of Toni DeCoster
Raised Bill 6629: An Act Concerning Domestic Violence
March 30, 2011

Good afternoon, Senator Coleman, Representative Fox and members of the Judiciary Committee.

I would like to thank the committee for giving me the opportunity to testify today in reference to changes to the Bail Bond System as identified in Raised Bill 6629: An Act Concerning Domestic Violence. My name is Toni DeCoster and I am the mother of a victim of violent crimes.

This is a true story about my daughter, Sara and Eric Stiggle. My daughter Sara is a very accomplished woman. At 18 she bought her first new car on her own, by 20 she was a manager of a business and by 28 she renovated a house and sold it for a profit. She then relocated to California and used her earnings to enhance her education.

Stiggle and my daughter began a relationship in June 2009. He heard about her through a friend of a friend. He told her that he held a masters degree in theology, was a part time minister and donated his time to drug counseling. He also said that he was a business owner and worked for the state full time. Six months later, Sara returned to Connecticut to marry him. Unbeknown to us, Stiggle had been recently released from prison after serving a 10 year sentence for a committing a violent crime against a woman and a police officer.

Within a few days of marriage, the truth started to surface and with that the violence began. Sara was able to escape the abuse and came to stay with me in my home when Stiggle was

arrested in January 2010. Within a few months Stiggle was able to get bonded out without putting down one dime.

On April 15, 2010 in New London, Stiggle found Sara, violently attacked her by choking her and cutting her hand. He then stole her car and led the police on a chase into Rhode Island. The chase ended with a police officer injured and my daughter's car totaled. Stiggle was arrested and a protective order was issued. Stiggle bonded out a few days later, once again without putting down any money.

On May 30, 2010 Stiggle began a horrendous violent attack on my daughter. He forced his way into my home, strangled and stabbed Sara approximately 40 times. He then stole my neighbor's car and kidnapped Sara by forcing her at knife point into the back seat of the car. Sara prevented Stiggle from stabbing a neighbor who tried to stop him, by grabbing the knife with her bare hand slicing her hand open. When the police arrived they treated my home as a murder scene. Sara's blood was everywhere. So much so that once repairs began on my home it took over 3 weeks to complete.

Sara was missing for 30 hours when a witness in Holyoke, Massachusetts spotted the car. A police chase ensued and ended about two hours later near Albany, New York with my neighbor's car being totaled. As Sara was being rescued from the back seat of the car and in front of 12 police officers, Stiggle threatened that "when he gets out he is going to finish killing her!"

Stiggle was extradited to Connecticut and on September 7, 2010, in front of Judge Thim in the

Fairfield JD High Court, a \$1,000,000 bond was placed on the him for the kidnapping and related charges and a protective order was issued. Stiggle threatened that when he got bonded out he would come to my home, that no one could stop him, and that he didn't care about the protective order.

On September 13, 2010, less than one week later, Wilson's Bail Bonds of Bridgeport bonded Stiggle out on a \$1,375,000 bond. Once again, Stiggle was able to get bonded out without putting down one dime. The State's Attorney contacted Wilson's, while they were in the process, telling them that most likely Stiggle was a scam and asked them to verify whatever he was providing them as collateral. Stiggle had provided Wilson's with 2 fraudulent documents, a letter from an attorney stating there was \$378,000 held in escrow for bond and a cashier's check for \$750,000. A few hours later it was discovered that the attorney who had allegedly written the letter had been deceased for four years and that the check was fraudulent. When the bail bondsmen took him to a nearby restaurant to finish filling out the paperwork for his release, he took the letter and the check and escaped through the bathroom window.

I was immediately placed in Witness Protection and was briefed on the steps that may be need to make it permanent. I would have to change my name, give up my home, my business and my family and friends. Sara left the state and was staying with family for her own protection.

Stiggle was arrested a few days later and on September 21, 2010 he once again faced Judge Thim who changed his bond to a cash only bond. Stiggle tried to attack the judge and threatened to kill the judge and the state's attorney. The judge gave him a 6 month sentence for contempt of

court which ended 1 week ago on March 20, 2011.

In December 2010 during my daughter's divorce hearing, Stiggle continued to threatened that when his sentence was up he would come to my house. He stated again that no one can stop him. He had previously threatened to kill me and to burn my house down. He also knew that my neighbors were all witnesses and were going to be testifying against him.

He has stated that the bond system is a joke. That he has always gotten out without putting up any money. That all you need is one bondsman to fall for your story. He claims he will get out this way again, cash bond or not. Today, he is in custody for the attempted murder charge though he could at any moment get bonded out for \$1,375,000. The New London court is working on an agreement for a sentence of 3 years for all the charges combined and a lifetime protective order for Sara and myself.

In summary, Stiggle was bonded out 3 times in 2010 alone. All without putting up any collateral. We continue to fear for our safety and based on the evidence, we feel that when he gets out again he will follow through on his threats. I do not want to be a mother of a murdered child. We have been devastated both physically, emotionally and financially from this man. Please do not let this happen again. I beg of you to please change the law to better protect us and others from this violent offender.

Thank you so much again for the opportunity to testify today.

Connecticut Coalition of Police Officers to Prevent Domestic Violence

Testimony in support of House Bill 6629

03/30/2011

John Szewczyk, Chairman of the CT Coalition of Police Officers to Prevent Domestic Violence

860 803 7085

Thank you Chairman Fox, Chairman Coleman and all members of the Judiciary Committee. Also, I would like to specifically thank Representative Flexer for her hard work as Chairwoman of the Speaker's Task for on Domestic Violence. My name is John Szewczyk. I am a nine year veteran of the Hartford Police Department and a Selectman in the Town of Durham, Connecticut. I am also the Chairman and a founding member of the Connecticut Coalition of Police Officers to Prevent Domestic Violence. I am here today to testify in support of House Bill 6629.

The Coalition believes this bill is a good starting point for needed improvements to Connecticut's Domestic Violence Laws. Specifically, in regard to the bail bond system (Section 18), we are encouraged by this bill's requirement that a minimum down payment of 35% of the premium rate will now be required. We hope this is a starting point and that soon the full premium will be required. Under this bill, an individual with a \$10,000 bond can be bonded out from with only \$297.50, the remainder to be paid in a payment plan. To reiterate, although this bill is an improvement from the current situation, we hope that eventually the full premium will be required. We also continue to recommend that a Connecticut Bail Commissioner examine the bond amount on every domestic arrest before an individual is allowed to post bond. Lastly, we recommend that a mandatory minimum bond amount be established for all domestic arrests. We feel these changes will allow for a cooling off period that is often needed in many domestic arrests, thereby decreasing the chances for additional violence.

Lastly, we are strongly supportive that this bill calls for a task force to be established to help develop policy for law enforcement agencies when responding to domestic violence incidents (Section 23). The coalition continues to push for increased training for new and existing officers in regard to domestic violence situations. We feel there should be increased emphasis on training for police officers on how to recognize and act on instances of domestic violence within teen relationships.

In closing, I urge the Judiciary Committee to support this bill as a first step to improving Connecticut's Domestic Violence Laws. Thank you for your time here today. I am more than willing to answer any questions that you may have.



To: Members of the Judiciary Committee
From: Barbara Bellucci
Date: March 30, 2011
Re: Raised Bill 6629: An Act Concerning Domestic Violence

Good afternoon, Senator Coleman, Representative Fox and members of the Judiciary Committee. My name is Barbara Bellucci and I've been employed as a Court Based Family Violence Victim Advocate with Domestic Violence Services of Greater New Haven for 22 years. I am here today to ask for your support of Raised Bill 6629: An Act Concerning Domestic Violence, in particular the section concerning surety bail bond agents and professional bondsmen.

Our office provides advocacy, support and safety planning to the nearly 4,000 victims of family violence referred to us each year in GA23 alone. This is a particularly challenging task, especially at arraignment when we are often providing services within hours of the violent incident.

The Court makes two very important decisions during the arraignment process that have a direct impact on victim safety. The first is the issuance of a protective order. These orders contain specific conditions that address the individual safety concerns of each victim. These orders are issued as a condition of the defendant's release.

The second, equally important decision has to do with the Judge setting a bond. Day after day, case after case, the process is the same. The defendant is brought before the court, and the Judge gives thoughtful consideration to the recommendations made by the State's Attorney, the Bail Commissioner and the Defense Attorney. The Judge carefully reviews the defendant's criminal history, paying special attention to any convictions for "failure to appear" as well as the nature of the charges before him/her. The bond is set by the Judge after determining the likelihood that this defendant will appear for future court dates AND the safety concerns of the victim and the community at large.

Once the bond is set, friends and family members of the defendant often leave the courtroom and retreat into the lobby, to be confronted by several bondsmen willing to "make a deal" and accept much less than the customary 10% set by the Judge. This scenario is repeated day after day – in every court in the State. In essence, despite the authority and careful consideration of the Judge, the bail bondsmen are now setting the price for the defendant's freedom. Victims who were initially comforted by the belief that their abuser would be financially unable to post bond and therefore held in jail, must now face the reality that freedom can be bought at a rate far less than the Judge intended. When an advocate informs a victim of the amount of bond set at arraignment, the advocate must also explain that the court cannot control the financial arrangements often made between the defendant and a bondsman, therefore the victim should prepare accordingly. Our victims typically lose confidence in the system that is designed to protect them. Essentially, the bond set by the Judge becomes meaningless, and the defendant's ability to negotiate a deal with his local bondsman controls the outcome.

Safety planning with victims of domestic violence is often difficult - it is especially challenging when we are faced with inconsistencies within the very systems designed to provide protection and accountability. The Court's authority should not be undermined by a loosely governed business where deals are negotiated in the hallways and on the steps of the institution responsible for dispensing justice.



KEVIN D. LAWLOR
STATE'S ATTORNEY

State of Connecticut
DIVISION OF CRIMINAL JUSTICE

OFFICE OF THE STATE'S ATTORNEY
JUDICIAL DISTRICT OF ANSONIA/MILFORD

14 WEST RIVER STREET
P.O. BOX 210
MILFORD, CT 06460
TELEPHONE (203) 874-3361
FACSIMILE : (203) 283-8268

**PREPARED REMARKS OF STATE'S ATTORNEY KEVIN D. LAWLOR
TO THE JUDICIARY COMMITTEE**

**H.B. NO. 6629 (RAISED): AN ACT CONCERNING DOMESTIC VIOLENCE
SECTIONS 16-22**

March 30, 2011

First of all I want to thank the members of the committee for the invitation to write to you on this important topic. I am the State's Attorney for the Judicial District of Ansonia-Milford and my testimony today is on behalf of the Division of Criminal Justice. My written remarks will focus on some of the shortcomings in our criminal justice system which my office uncovered as we investigated the murder of Shengyl Rasim on January 17, 2010. This testimony concerns one area of HB 6629, AAC Domestic Violence.

As background, on January 17, 2010, Selami Ozdemir brutally shot his young wife, Shengyl Rasim, as she held her crying infant in her arms and their young son slept in the next room. During the prior 4 months, Mr. Ozdemir was arrested by the West Haven Police Department on two separate occasions for domestic violence offenses involving his wife. On both occasions, Mr. Ozdemir was bonded out by a bail bondsman. Shortly after his release on his second arrest, Ozdemir returned to the home and armed with a friend's semi-automatic handgun, shot her multiple times. He then turned the gun on himself. Mr. Ozdemir died from a self-inflicted gunshot wound to the head.

My office's investigation focused on determining the exact chain of events leading up to the murder and also to identify gaps in the system that might have prevented the tragedy. My office identified several issues in this case. The one I will focus on this morning is the bail bondsman's ability to bond out Mr. Ozdemir without obtaining any monetary compensation from the accused.

A troubling factual allegation in this matter involves the ability of Mr. Ozdemir's bail bondsman to obtain his release without receiving any payment whatsoever. Normally, a professional bondsman obtains a premium of between 7% and 10% of the bond posted in exchange for a suspect's release. Under the United States Constitution, bail must be reasonable and is designed to assure a defendant's future appearance in court. Police and the courts are required by statute to take a number of factors into consideration when determining the amount of bond to be set in any particular case including reasonably assuring the safety of other persons involved in the case, see C.G.S. §54-64a(2). Currently, Connecticut state law, C.G.S. §29-151 does not prevent a professional bondsman from posting a bond for an arrestee and not taking any fee. This statute merely provides a maximum allowable percentage fee but not a minimum required fee. Theoretically, an arrestee could obtain his release on a one million dollar bond without providing any money to anyone if a bondsman is willing to post the bond for free. This is currently a business decision made by a private party who has no responsibility to weigh the significant public safety risks associated with his decision. The bondsman is also not

currently required to immediately fill out any paperwork outlining the contractual relationship between the parties.

In the Ozdemir case, police set a \$25,000.00 bond based on the seriousness of the charges, the repeated activity against the victim, the defendant's current criminal record and other factors. Under normal circumstances, the defendant would have had to raise \$2500.00 to pay the bondsman prior to his release or provide \$25,000 cash himself to the police. His ability to immediately be released prevented any cooling off period and allowed him to immediately leave the police department and obtain the handgun used in this homicide.

An area of major concern in HB 6629 is the legalization of "premium finance arrangements" which will allow bail bondsmen to accept only a portion of the percentage required by law and accept a promissory note for the remainder of the fee in exchange for the accused release. As currently written, section 19 (b) of the bill will allow the bondsmen to accept only 35% of their fee upfront and enter into a civil promissory note for the other 65% of the fee. This is simply legalized undercutting which is the main problem uncovered in our investigation of the Rasim murder-suicide. Under this scheme, a person with a \$25,000 bond as set in the Rasim case will have to post only \$875.00 (35% of the 10% total fee required by law) to obtain his release.

Furthermore, this portion of the bill as written is for all intents and purposes unenforceable. Section 19 (b) of the bill lists many prohibited activities by bail bondsmen but does not specify any penalties for non-compliance. Also, how is the Insurance Department supposed to enforce the requirement that the entire fee be collected within 17 months? The bail bondsmen are supposed to make "diligent efforts" to collect the debt yet there is no definition for what "diligent efforts" means. Are they allowed to settle the civil suit for less than the full amount owed? What are they to do with the civil suit if the defendant is in jail as a result of a conviction for the offense? Civil cases can take two to three years to resolve, who is watching the end result? The simple answer is no one will be able to keep track of these arrangements and they will simply be another way for undercutting to occur.

Our current system, where an individual can post only a nominal amount and be released on bond has had an unexpected consequence: bail inflation. This problem has created a system where no one knows how much a person needs to post to be released from pre-trial incarceration. Prosecutors, Judges and Bail Commissioners increase the recommended amounts in some cases to attempt to guard against this problem. Simply put, right now the numbers are not real, it's like monopoly money. Just this past February, in my court, an individual failed to appear on a serious armed robbery. At his arraignment, it was pointed out it was a dangerous offense and he was a serious risk of flight because he was a Polish born legal alien. The Judge set a \$200,000 bond. One month later, when he failed to appear for court we found out that his family only had to post \$2000 or 1% of his bond to secure his release. These types of "premium finance arrangements" will only exacerbate this problem. The rule should be simple: the defendant should have to pay a flat percentage of the bond upfront to the bail bondsman to obtain his release.

Thank you for allowing me to write to you on this important topic. I would be happy to answer any questions that committee members may have.

JUDICIARY COMMITTEE
PUBLIC HEARING
March 30, 2011

HB 6629
SUPPORT Section 8 w/
suggested additional language

Testimony of Carolyn Signorelli
Chief Child Protection Attorney



Commission on Child Protection
State of Connecticut

Office of the Chief Child Protection Attorney
330 Main Street, 2nd Floor
Hartford, CT 06106
860/566-1341

Senator Coleman, Representative Fox and esteemed Committee Members, for the record, my name is Carolyn Signorelli, Chief Child Protection Attorney for the State of Connecticut.

I respectfully submit the following testimony concerning HB 6629, AN ACT CONCERNING DOMESTIC VIOLENCE.

As many of you are aware the Commission on Child Protection and my office are responsible for the system of legal representation for children and parents in cases of abuse, neglect and termination of parental rights brought by the Department of Children and Families in Juvenile Court. It is my responsibility to ensure that children and parents receive quality legal representation consistent with the Standards of Practice that the Commission on Child Protection has established pursuant to its enabling legislation.

I wholeheartedly support the concept of Section 8 which adds to those entitled to qualified, statutory immunity pursuant to C.G.S. § 4-165, guardians ad litem appointed for children subject to juvenile court proceedings. In addition, I propose that language be added to include the attorneys appointed by the court or through the Commission on Child Protection to represent parents and children in these same proceedings.

This representation is essential to the State's ability to perform certain functions. Specifically, these attorneys and guardians ad litem assist the judicial system in fulfilling the court's role as arbiter of matters between the Department of Children and Families as the petitioner, the parents as the respondents brought before the court by the State, and the children who are the subject of the

State's petitions. These attorneys provide representation to indigent parents whose constitutional rights are at stake in these proceedings and in the case of children, by federal and state statute, entitled to representation; these attorneys and GAL's protect the constitutional right of the parents and children to family integrity. Attorneys under contract with the Commission on Child Protection are analogous to Special Public Defenders and should be afforded the same protection that C.G.S. § 4-165 provides to them.

Although a case arising out of family court, the Connecticut Supreme Court's holding in Carrubba v. Moskowitz, 274 Conn. 533 (2005) is relevant to this discussion. The Court opined that "attorneys appointed by the court pursuant to § 46b-54 are entitled to absolute, quasi-judicial immunity for actions taken during or, activities necessary to, the performance of functions that are integral to the judicial process."

In making this determination, our Supreme Court adopted a three prong test that the United States Supreme Court applied to determining whether officials sued under 42 U.S.C. § 1983 should be given absolute judicial immunity. In applying the analysis, our Connecticut Supreme Court stated concerning the second and third of these considerations:

First, a substantial likelihood exists that subjecting such attorneys to personal liability will expose them to sufficient harassment or intimidation to interfere with the performance of their duties. In fact, the threat of litigation from a disgruntled parent, unhappy with the position advocated by the attorney for the minor child in a custody action, would be likely not only to interfere with the independent decision making required by this position, but may very well deter qualified individuals from accepting the appointment in the first instance. Second, there exist sufficient procedural safeguards in the system to protect against improper conduct by an attorney for the minor child. Because the attorney is appointed by the court, she is subject to the court's discretion and may be removed by the court at any time. Additionally, the attorney for the minor child, just as any other attorney, is subject to discipline for violations of the Code of Professional Conduct.

Given the determination made by our Supreme Court in the family court context, I believe it is important to children and families in Connecticut that analogous protections be enacted for attorneys and guardians ad litem in juvenile court proceedings.

Specifically, I propose that subdivision (G) of subsection (b) of Section (8) read as follows:

(G) representation by an individual appointed by the Commission on Child Protection, or by the court, as guardian ad litem or attorney for parties in neglect, abuse, termination of parental rights, delinquency or Family with Service Needs proceedings."

Thank you for this opportunity to be heard. If you have any questions, I would be happy to answer them.

Respectfully Submitted,

Carolyn Signorelli

Raised House Bill No. 6629, An Act Concerning Domestic Violence

Written Testimony by Robin Shapiro

Good morning Senator Coleman, Representative Fox and members of the Judiciary Committee. Thank you for the opportunity to provide testimony once again.

On a Sunday night in October of 2007, our world abruptly changed and the violence with which we had lived escalated and we needed help. While my 10 year old screamed for him to stop, my oldest daughter, 18, *all 100 lbs of her* tried to protect me. My husband, more than twice her size, hit her and kicked her and sent her flying across the room. I had taken his abuse for years but now he had struck my child. The abuse stopped here.

Although we did not realize it then, we were another family caught up in the cycle of Domestic Violence. And worse, in a court system that just doesn't have a clear understanding of domestic violence or what is needed to truly keep us safe.

In my case, my husband assaulted his sister, his step-daughter and his wife. His first arrest was in April, 2004 and he was given anger management. He was arrested 5 times between that original incident and April 2008 and police reports were filed in 2 other incidents. He was given anger management again, was given and then withdrawn from family violence due to the continued arrests and sent to the Evolve Program. Each time he was issued a Protective Order which required him to be 100 yards away and have no contact. Each time he was arrested, he was violating a protective order. He appeared before the same judge for both women at the same time. And was given the SAME classes and orders in BOTH cases while violating the orders that were already in place.

All victims are invited to come forward and speak. I did. He would show up for court and start taking his classes. He was still violating the orders. I would try to inform the judge about all the different cases and violations not just in my case, but in all cases...trying to tie it all in for her. He was even issued a DUI while in classes which require monitoring of substance abuse but it was in another district and did not show. None of that was admissible until trial. I was afraid we would never get to trial...at least not without myself, my children or one of the other women being severely hurt...or worse. I had police officers, lieutenants, victim advocates and prosecutors all asking the court for protection for us. The system wasn't protecting us.

He was sentenced and served 90 days. And I was given a Standing Criminal Restraining Order. While all this went on, he went after his new girlfriend. The statements were almost the same. 4 women. And as long as he showed for his next court date, the judge would let him back out.

Ultimately, he cornered me exactly where he said he would leave me dead...in my front lawn. My husband took off for 3 weeks and eventually turned himself in. His cases were combined and he was sentenced, on a cap, at the end of May and served 6 months violating the conditions of release by coming to my house.

I am speaking out today supporting limiting diversion for family violence to one time. Offenders do not deserve multiple "get out of jail frees". This puts victims at risk and does not send a clear message of ZERO TOLERANCE for abuse. We do not parent our children without consequences because they never learn not to repeat the same mistakes. How can we expect these offenders to learn that we... the victims, the police, the courts...mean business?

The system has a duty to protect us and not keep sending these offenders back out to continue to commit these acts of violence.

I also strongly support making offenders enter into a conditional plea...and **holding the court system responsible with following through.**

Each time he violated meant waiting for another arraignment and another pre-trial. At one point, I believe we had approximately 6 pre-trials waiting for the initial assaults and violations of the protective orders with myself and 2 with the other woman. Plus the DUI pretrial while in a program, which has a requirement for substance abuse monitoring, for the domestic violence and violation of protective order charges.

We need to be pro-active not re-active.

We need to send a strong message that this will no longer be tolerated on any level and we must follow through with punishments that reinforce that message.

To break the cycle of abuse we need to change the mindsets of the people and it starts with YOU. The judicial system.

You are our resource and we need your help.

Thank you.

PAGE 1
LINE 2

State of Connecticut
OFFICE OF THE SPEAKER
LEGISLATIVE OFFICE BUILDING, ROOM 4100
HARTFORD, CONNECTICUT 06106-1591

Testimony of Speaker of the House Christopher G. Donovan
To the Judiciary Committee in support of:
HB 6629, AAC Domestic Violence
March 30, 2011

Good afternoon Representative Fox, Senator Coleman, and members of the Judiciary Committee. Thank you for this opportunity to speak on one of the important proposals before your committee today.

This legislation, along with a bill that was voted out of the Human Services Committee last week, comprise the 2011 legislative recommendations of the Speaker's Task Force on Domestic Violence. The bipartisan task force has met with dozens of advocates, survivors, judges, prosecutors, attorneys, law enforcement officers, support service providers, and state agency staff. In 2010, this input helped shape the most sweeping changes to our domestic violence statutes since the Tracey Thurman Law passed in 1986. We have seen a lot of progress in the intervening years, but tragically, domestic violence continues to plague families in each one of our communities.

One of the priorities of the task force this year is to strengthen the response of law enforcement to domestic violence. Policies and protocols vary widely from community to community and are influenced by leadership, culture and of course, resources. Some of our large cities, like Hartford and Stamford have been able to create specialized units to respond to domestic violence, while some of our small towns have police forces made up of only one or two officers. This bill creates a task force charged with developing a statewide law enforcement model policy that articulates best practices, for example, for responding to violations of restraining and protective orders. By implementing the model policy, police departments across the state can provide a consistent response to incidents of domestic violence.

According to a recent survey conducted by the Department of Public Health, 10% of Connecticut teens were involved in a physically abusive relationship this past year, and 17% reported being in an emotionally or verbally abusive relationship. This bill takes steps to protect teen victims by clarifying that people of any age, can request a restraining order to protect them from a partner who has subjected them to abuse.

This bill also makes many commonsense changes, including amending the restraining order statute to permit victims who have experienced a pattern of verbal intimidation, threatening or stalking to request a restraining order; providing restitution services to the families of victims like those provided for other crimes; and requiring offenders to surrender their firearms to police. Under current statute, certain offenders are barred from possessing firearms because they are subject to restraining or protective orders. Currently, they are permitted to surrender their firearms to a friend or relative, even a person in the same household. Allowing an offender access to a firearm can expose the victims to serious danger. This bill ensures that the firearm is safely held by police.

This legislation requires the Judicial Branch to develop additional domestic violence dockets within available appropriations. Domestic violence dockets have been very successful in implementing a multidisciplinary team approach, utilizing specialized staff to make appropriate recommendations on effective penalties. Dedicated domestic violence dockets are operating in many criminal court locations across the state.

The proposal makes several changes to the Family Violence Education Program (FVEP), a diversionary program. The FVEP is most effective when offered to low-level offenders. A defendant may only use the FVEP and have his or her case dismissed once, but some offenders sent to the program have had multiple arrests and have been granted a number of informal diversion opportunities before they are required by the court to complete a formal diversionary program like the FVEP. Currently, the FVEP may also be offered to offenders who commit serious assaults. The program may not be appropriate to meet more intensive service needs of repeat offenders. This bill excludes those charged with a felony from participating in the program and restricts participation to those who are on their first arrest.

Finally, this bill makes changes to the bail bonds system to strengthen the Insurance Department's regulatory authority over surety bail bond agents and address the practice of "undercutting." There have been a number of serious and fatal domestic violence incidents—including the tragic murder of Shengyl Rasim last year in West Haven—where the practice of bail bond undercutting played a role. In these instances, bail bond agents illegally discounted the premium due on the defendants' bonds and failed to charge the statutorily required amount. As a result, the defendants posted bond at rates lower than what the state requires and were released back into our communities, sometimes without any "cooling off" period.

In 2010, Selami Ozdemir shot his wife, Shengyl Rasim shortly after being released on bond following his second arrest for a domestic violence offense in a four month period. Ozdemir, despite having his bail set at \$25,000, was bailed out immediately by a bail bondsman without Ozdemir giving any monetary compensation to the bail bondsman. The practice of undercutting means that bond levels are essentially being determined by business decisions made by some bail bond agents, rather than the court, whose responsibility it is to weigh the public safety risk associated with release. Unfortunately, this case is one of many tragedies that have resulted from these dysfunctional and dangerous practices within our bail bond system.

I would like to take this opportunity to express my appreciation to Representative Gerald Fox for his work on these issues over the last several years, Representative Mae Flexer, Chair of the task force, and the many members who are working to prevent and address domestic violence in our communities. I urge your support for these critical proposals.

**STATE OF CONNECTICUT
JUDICIAL BRANCH****EXTERNAL AFFAIRS DIVISION**

231 Capitol Avenue
Hartford, Connecticut 06106
(860) 757-2270 Fax (860) 757-2215

**Judiciary Committee Public Hearing
March 30, 2011
Testimony of the Honorable Barbara M. Quinn,
Chief Court Administrator**

House Bill 6629, An Act Concerning Domestic Violence

Senate Bill 1220, AAC Family Violence

Good morning, Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, and members of the Judiciary Committee, thank you for the opportunity to testify on two bills concerning the subject of domestic violence -- **House Bill 6629, An Act Concerning Domestic Violence**, and **Senate Bill 1220, AAC Family Violence**. The Judicial Branch has concerns with some of the provisions of these bills. I will address House Bill 6629 first.

House Bill 6629, An Act Concerning Domestic Violence

As you know, this bill is the product of the Domestic Violence Task Force. The Judicial Branch worked with the Task Force last year to make some important changes to Connecticut's domestic violence laws -- for example, allowing increased sharing of information regarding persons charged with domestic violence crime. Last year's legislation also imposed additional responsibilities on the Judicial Branch that were not funded in the state budget that was adopted -- a pilot program for GPS monitoring of domestic violence offenders and the identification of three additional sites for domestic violence dockets. We had discussed our concern about the resource implications of both of these items with the members of the task force and worked to address them prior to passage of the bill. Fortunately, with the assistance of OPM we were able to identify federal funding for the GPS/Alert Notification pilot program. Unfortunately, however, no additional family services staffing was funded and this program has added significant responsibilities to the workload of our family services staff. Use of GPS equipment

without the many people who must assess the thousands of alerts, make follow-up calls and screenings would make the pilots meaningless, but only the equipment has been funded for a limited period of time.

I have attached to my testimony an interim report on the status of the GPS/Alert Notification pilot program. With the federal funding that was made available and with a high degree of system-wide collaboration, we have implemented this pilot program in Bridgeport, Hartford and Danielson. The pilot has been able to meet the objectives of enhanced defendant monitoring and increased safety for victims. However, the relatively short (six-month) timeframe associated with this initiative led to a small sample size. As a result, there is not sufficient data to draw definitive conclusions regarding long-term program effectiveness. Currently, a total of 56 offenders are being monitored. To date, there have not been any arrests for acts of violence.

We have recently learned that there will be an extension of the federal funding until December 31st of 2011. This will afford the opportunity to measure the effectiveness of the GPS technology over a longer timeframe and with a larger statistical sample. The Judicial Branch will prepare a final report in the late fall of 2011. Nonetheless, I would be remiss if I did not point out that when the federal funding for these pilots end at the close of the calendar year, no funding will exist to continue them.

Last year's legislation also included language that required the Chief Court Administrator to identify the Geographical Area sites that did not have a domestic violence docket, and allowed the Chief Court Administrator to establish additional domestic violence dockets, within available resources, in three of those sites. I can report to you today that we are in the process of implementing a domestic violence docket in Danielson by June 30th. Due to a lack of resources, including those who must staff and operate them, we are unable to implement the other two dockets within the time specified.

This year, the Judicial Branch has continued to work with the Domestic Violence Task Force. We have given presentations at Task Force meetings and, at the request of the Task Force, submitted legislative proposals for its consideration. Sections 4, 5, 6 and 7 of this bill include our proposals, which would accomplish the following:

- Standing Criminal Protective Order: Add three offenses (injury or risk of injury to, or impairing morals of children; aggravated sexual assault of a minor; and sexual assault 4th degree) to those for which the courts can issue a standing criminal protective order in a case where a pre-trial protective order was issued;

- Protective Order Registry: Amend § 51-5(c) to provide any person protected by an order in the protective order registry with the same confidentiality currently provided to victims of sexual assault, provided they request such confidentiality;
- Technical Correction -- Full faith and credit language: Make sec. 46b-38c(e) consistent with language passed in 2010;
- Extend the provision of restitution services to the families of victims of domestic violence; and
- Expand language passed in 2010 that allows information collected by Family Services in family violence cases to be shared.

Regarding the last bullet, last year's legislation expanded the ability of the Judicial Branch's Family Services unit to share information collected during the intake process regarding persons arrested for domestic violence crimes with other family services personnel, bail commissioners supervising defendants on pretrial release in domestic violence cases, and probation officers supervising defendants who have been convicted of a family violence crime and placed on probation. In implementing this change, we identified an area that the legislation did not address, but that we think makes sense to include – probation officers who are conducting presentence investigations regarding convicted defendants. The proposal referenced in the last bullet, above, would allow that. However, in order to ensure that the information is used only for that limited purpose, we would respectfully request an amendment to the language of the bill, which I have attached for your consideration.

Turning to the sections of this bill that are of concern to the Judicial Branch, I will begin with those of greatest concern. These are section 9, which mandates the establishment of additional domestic violence dockets, and section 24, which requires the Chief Court Administrator to assess and report on domestic violence training programs for our judges and staff.

Section 9 of the bill would require the Judicial Branch to establish, within available resources, a separate family violence docket in 6 additional Geographical Area court locations. We are strongly opposed to this requirement. As I mentioned before, last year's appropriations have not allowed us to set up all three domestic violence dockets you had previously asked of us. Asking us to establish 6 more when there are no resources, not to mention no additional assistant state's attorneys or public defenders to operate in them, raises expectations that we simply cannot meet. We take very seriously legislation that asks us to undertake certain actions, whether funded or not, but find ourselves contemplating the next fiscal year with fewer resources than

last and knowing that we cannot follow through on your wishes. That said, you may know, the Judicial Branch does not need additional statutory authority to establish specialized dockets – the statutory powers and duties of the Chief Justice and the Chief Court Administrator provide sufficient authority. Indeed, C.G.S. section 51-5a specifies that the Chief Court Administrator is “responsible for the efficient operation of the department, the prompt disposition of cases and the prompt and proper administration of judicial business.” In light of this broad charge, the Judicial Branch has consistently opposed legislation that would require the creation of special courts or dockets. Such courts may benefit the cases they handle, but they also require additional resources and dilute or stretch those resources we do have, since they take away from the resources available to handle all our other cases. The Chief Court Administrator needs to maintain maximum flexibility in order to ensure that all cases are handled as expeditiously as possible. Also, during this time of significant budgetary austerity and uncertainty, it is more important than ever to put our scarce resources into programs that have been proven to produce positive results. Our domestic violence dockets have not been scientifically evaluated to determine whether they produce the results that everyone hopes for. There have been some limited studies and there is anecdotal evidence that indicates positive results, but there has never been a comprehensive analysis. Last year’s legislation did recognize the need, as it required the Chief Court Administrator to examine the effectiveness of the dockets prior to implementing new dockets. However, it did not provide funding or sufficient time for such an analysis.

As you know, the Legislature, and particularly the Appropriations Committee, has adopted Results Based Accountability (RBA) as a guiding principle. Following that lead, the Judicial Branch has engaged in this model of analysis to guide our expenditures. We do not believe that the use of domestic violence dockets should be expanded unless and until a comprehensive RBA analysis has been done. An RBA analysis would allow all stakeholders to articulate the goals of these dockets, to measure whether those goals are being met, and to identify the key elements that allow those goals to be met. I would suggest that this analysis is long overdue. It would enable us to know in detail and to acknowledge what is required for successful specialty dockets, such as domestic violence dockets, in terms of programming, resources and expenses in the Judicial Branch and the required partner agencies.

The Judicial Branch has long recognized the unique nature of domestic violence cases, and I believe our work in this area attests to our commitment in this area. We simply do not believe that the best way to accomplish this is by mandating additional domestic violence

dockets, which are very resource-intensive and would in fact require significant additional resources, during a fiscal crisis. We urge the Committee to delete section 9 from this bill.

We are also opposed to section 24 of the bill, which would require my office to conduct an assessment of our training programs for judges and Judicial Branch staff related to family violence, and to assess the effectiveness of the pretrial family violence education program. It further requires that these assessments include, at a minimum, a comparison to the training programs of other northeastern states. Such assessment is in itself not without cost.

In addition, we have concerns about section 4(h), which restricts eligibility for the pretrial family violence education program (FVEP). The family violence education program is not over-used – quite the contrary. Family violence defendants are not admitted to the FVEP unless they are screened by Family Services, using a validated risk assessment tool, and recommended for the program. In addition, we do not believe that a prior family violence arrest that does not result in a conviction should disqualify a person from participating in the program, and we anticipate that the requirement that a guilty plea be entered and then vacated will have a significant impact on our courts. Finally, we are concerned that doubling the fee to \$400.00 will result in more fee waivers – our experience shows that people are struggling to pay the current \$200.00 fee.

Senate Bill 1220, AAC Family Violence

The Judicial Branch has concerns about section 3 and 4 of this proposal. Section 3 would require that the Chief Court Administrator conduct quarterly training for all judges presiding over family violence cases. The Judicial Branch has consistently opposed legislative mandates for training of judges and staff. Determination about what topics should be covered in training, how often training should occur, and who should be trained, should remain within the discretion of the Judicial Branch. We recognize that domestic violence is an important and serious issue and have shown our recognition of this fact by conducting quality training on this topic. We provide significant training on family violence to all newly-appointed judges, and three times a year there is additional training, at our spring seminars, our yearly summer Judges Institute and our fall divisional seminars. This is not a neglected area in which training is not conducted regularly. In addition, this has resource implications for the Branch.

In addition, section 4, which would require that revenue received from criminal penalties assessed for family violence crimes and violation of orders of protection be transferred to the pretrial family violence education program or any other program provided by the Judicial Branch



STATE OF CONNECTICUT
JUDICIAL BRANCH

EXTERNAL AFFAIRS DIVISION

231 Capitol Avenue
Hartford, Connecticut 06106
(860) 757-2270 Fax (860) 757-2215

Proposed Amendment to
House Bill 6629, An Act Concerning Domestic Violence

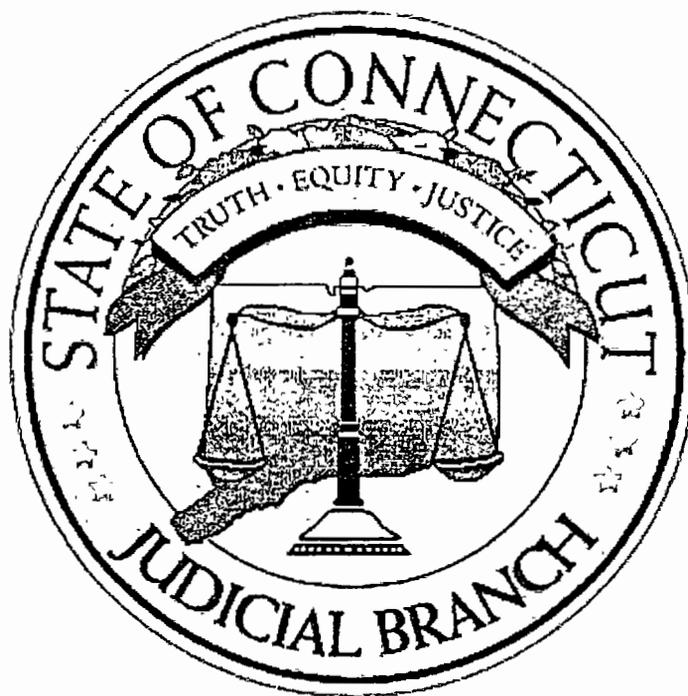
Strike lines 270 - 282 and insert the following in lieu thereof:

(F) May disclose, after disposition of a family violence case, [(i)] to a probation officer or a juvenile probation officer, for purposes of determining service needs and supervision levels, information regarding a defendant who has been convicted and sentenced to a period of probation in the family violence case[, and (ii) to organizations under contract with the Judicial Branch to provide family violence programs and services, for purposes of determining program and service needs, information regarding defendants who are their clients].

(G) May disclose, after a conviction in a family violence case, to a probation officer, for purposes of the preparation of a pre-sentence investigation report, any information regarding the defendant that has been provided to a family relations counselor, family relations counselor trainee or family services supervisor in this case or any other case that resulted in a conviction of the defendant; and

(H) May disclose, to organizations under contract with the Judicial Branch to provide family violence programs and services, for purposes of determining program and service needs, information regarding defendants who are their clients.

JUDICIAL BRANCH
COURT SUPPORT SERVICES DIVISION



Interim Report to the Speaker of the House of
Representatives' Task Force on Domestic Violence
Alert Notification/GPS Pilot Program

April 1, 2011

IMPLEMENTATION:

Beginning in March 2010, the Judicial Branch-Court Support Services Division, along with other entities within the adult criminal justice system, designed, planned, and implemented an Alert Notification/GPS program. This initiative was the result of Public Act 10-144- AN ACT CONCERNING THE RECOMMENDATIONS OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES' TASK FORCE ON DOMESTIC VIOLENCE, a law that went into effect October 1, 2010. The goal of the Alert Notification/GPS pilot was to enhance the monitoring of high-risk family violence cases in Connecticut. A significant number of endeavors were undertaken to prepare for the pilot program. The Chief and Deputy Chief Court Administrators provided initial and on-going guidance regarding this project. In addition, the Administrative and Presiding Judges in Bridgeport, Danielson, and Hartford were consulted about the Alert Notification/GPS process and assisted in its development. The judges were the foundation for the local implementation teams that included State's Attorneys, Victim Advocates, law enforcement, Judicial Marshals, Public Defenders, Clerk's office staff, and CSSD-Family Services and Bail Services. The local implementation teams were vital as this was the forum in which court procedure was finalized, required collaborations were discussed, and issues were raised with potential solutions.

Judicial Branch-CSSD Administration worked to establish protocol that covered all aspects of this program. The first step was to draw on the experience of other court-connected agencies that administer similar programs. The Circuit Court of Cooke County (Chicago area), Illinois was helpful in assisting with the pilot. The agency provided a blueprint for the Alert Notification/GPS process, and the Judicial Branch adopted many aspects of their program. Another component was working with the current contracted service provider, G4S, to determine how the technology could be applied in Connecticut. Each decision regarding the type of alerts and the corresponding notification was made with victim safety as the primary consideration. This included the rate of offender tracking, the size of the zones around the victim, and the alerts received by local law enforcement.

Another major endeavor was creating formal Court Protocol and the CSSD-Family Services Alert Notification/GPS policy. These documents outlined the roles and responsibilities regarding the identification of defendants meeting the criteria for Alert Notification/GPS, communication necessary between the system components, and other duties required to ensure compliance with the program. The CSSD-Family Services policy covers the arraignment process, installation of the device for both defendant and victim, completion of required forms for installation, collaboration with the Family Violence Victim Advocate, review of alert violations, on-going meetings with the defendant and victim, reporting of offender progress, and requesting court dates for defendants who are found to be in non-compliance.

Prior to the October 1, 2010 implementation, a comprehensive training was conducted by Judicial Branch-CSSD Administration. Several trainings were provided to the members of the local implementation teams. In addition, training was offered to local law enforcement via POST (Police Officer Standards and Training Council) and State Police 911 Telecommunications. Informational sessions were also provided when requested to several police departments.

PILOT EXPERIENCE:

The Alert Notification/GPS program was successfully implemented in the three designated locations. All established protocols were followed, and defendants who met the criteria for the program were processed without delay. The court process was by far the most coordinated aspect based on the level of communication between agencies. The contracted service provider, G4S, was diligent in scheduling the installation of defendant devices within requested timeframes. During the pilot, a total of 84 defendants were court-ordered to the Alert Notification/GPS program. Fifty-six defendants have been actively placed in Alert Notification /GPS (37 Hartford, 11 Danielson, and 8 Bridgeport). Stationary zones were established for all 56 victims, with 13 electing to enhance their safety plan by carrying a device allowing for mobile zones. An additional 26 defendants have been referred to the program, however they are incarcerated with Alert Notification/GPS device installation as a condition of bond.

High-risk family violence offenders were closely monitored, and violations were immediately addressed by law enforcement and the Court. The response protocol, designed in collaboration with G4S, was effective. The G4S Monitoring Center tracked the defendants on a 24/7 basis, alerts were reported to law enforcement for immediate response, and CSSD-Family Services was notified of each infraction. Defendant non-compliance was reported by Family Services to the State's Attorney and the Court for a determination of sanctions. This is an offender population that, prior to this initiative, would not have received formal case management or increased accountability. During the pilot, ten defendants had a bond increase or were ordered re-arrested after program non-compliance. The majority of violations were for non-family violence arrests, zone alerts, and other infractions. No additional violence to the victims was reported as a result of a defendant violating established zones.

The impact of this pilot program on the staffing resources of CSSD-Family Services was significant. The design of the Alert Notification/GPS process included increased responsibilities for the Family Relations Counselors (FRC) assigned to these court-ordered cases both at arraignment and for case management/monitoring. The original strategy was for one FRC in each of the three pilot sites to assume the duties associated with this initiative on a part-time basis. It quickly became evident that Alert Notification/GPS was a labor and time intensive service that required a minimum of one fully dedicated staff person. Family Services staff designated to the pilot were no longer available to carry non-Alert Notification/GPS caseloads. The offices struggled to provide adequate coverage for other family violence matters and Family Civil Court cases. In addition, a CSSD Program Manager was re-directed from other responsibilities and provided on-going oversight, interfaced with G4S to address problems, conducted trainings, and facilitated the local implementation team meetings.

The pilot experience also revealed several unforeseen developments. The intent of the Legislature was for the defendants to pay all fees associated with program participation. However, many were indigent, unemployed, and represented by a Public Defender. This resulted in the need to use federal grant funds for the payment of these contracted services. A second issue was the number of mobile exclusion zone alerts that were non-emergency situations but still required local law enforcement response. This usually occurred because the victim did not heed the buffer zone alerts and continued to move toward the defendant. During the pilot, significant CSSD-Family Services and Family Violence Victim Advocate staff resources were utilized to limit these events through increased communication with victims. Further, it was anticipated that victims would be more willing to fully participate with mobile zones providing additional protection. Many of the victims in the pilot elected to have stationary zones only around selected addresses with violations triggering a local law enforcement response.

FOCUS GROUPS:

Focus groups were held with implementation team members to identify the strengths of the program and highlight the challenges uncovered during the pilot. The majority of the comments were encouraging, especially as it related to the court process and the overall coordination. The **Judges** input provided validation regarding the effective implementation and procedures established for court. Common themes included the deterrent effect on offender behavior and increased offender accountability. Overall, the **State's Attorneys** believed that Alert Notification/GPS was a beneficial tool. Specifically, the information received regarding defendant compliance assisted with the case process and ultimate disposition. The **Family Violence Victim Advocates (FVVA)** found that the Alert Notification/GPS program was valuable for victims. The advocates indicated that without the pilot there would have been additional violations to protective orders and that the monitoring of defendants led to behavior change in some dangerous situations. In terms of the overall limited victim participation, the FVVA stated that there is a subset of victims who are unwilling to be part of the criminal justice process despite available interventions. **CSSD-Family Services** staff acknowledged the benefit of holding the high-risk defendant accountable to the program tenants, including alerting the Court regarding any non-compliance. Family Services indicated that the vast majority of violations occurred shortly after the defendant was ordered into the program. Additional meetings were required to re-educate the defendant regarding Alert Notification/GPS parameters. This served to lessen the alerts for both the victim and law enforcement while reinforcing to the defendant that all

breaches would immediately be addressed by the system. **Law enforcement** felt that the Alert Notification/GPS pilot program led to increased collaboration with the court system regarding high-risk defendants. One concern was the volume of responses for alerts/violations that did not rise to the level of an emergency. The other issue raised was the need for on-going Alert Notification/GPS training within all levels of law enforcement. **Public Defenders** expressed concern with Alert Notification/GPS relating to the added exposure for subsequent arrests and higher bonds. The Public Defenders viewed the program as placing a significant burden on the defendants, including charging the device and restricting movement within the community. The **Clerk's Office and Judicial Marshals** did not have any significant concerns regarding the program. They indicated that the overall process was well organized, with excellent communication as the cornerstone of court implementation.

SUMMARY/CONCLUSIONS:

With significant effort from the adult criminal justice system, the Alert Notification/GPS pilot program met the objective regarding enhanced monitoring of high-risk family violence offenders and increased victim safety. The high-risk defendants who were court-ordered to this program would not have received the level or intensity of surveillance without this initiative. This population is well beyond the scope of diversionary programming and is typically fast-tracked to prosecution without any pre-trial supervision. One of the most significant aspects was that violations/non-compliance were immediately addressed by local law enforcement and the Court. Defendants were aware that their movements in the community were constantly tracked and there would be accountability for program infractions.

Overall, there was an increase in victim safety as a result of the process. This included the 24/7 monitoring of the defendant, increased case management services offered by CSSD-Family Services, and enhanced response regarding violations of court-ordered conditions. As a result, the pilot reinforced the orders of protection and led to apparent behavior change for defendants. Although this was a positive outcome for many victims, there appears to be some who do not wish to interact with the criminal justice system. As part of their personal safety plan, some victims seek to remain in a relationship with the defendant and request favorable case dispositions. This should not be a barrier to on-going program availability, as many victims benefited from the upgrade in overall supervision. In terms of the Alert Notification/GPS, the victim's choice should continue to be the primary consideration when determining the level of enhanced protection.

One potential modification for consideration is to broaden the current criteria to include other serious charges. During the pilot period, CSSD-Family Services expanded the criteria to include, on a case by case basis, Assault 1 and Assault 2 charges and arrests involving strangulation. There are other cases with a high level of danger (i.e., stalking or use of a weapon) that involve offenses without protective/restraining order violations, which may be appropriate for this program.

The foundation of this successful pilot was the time and resources committed to the pre-implementation phase. This included the formation of the local implementation teams, holding system-wide organizational meetings, establishing the collaboration and communication required as part of the program, determining location specific court protocol, providing comprehensive training and on-going support, and addressing the potential complexities in a given area. The ability to set the stage, define responsibilities, and prepare each court location for Alert Notification/GPS was vital to the overall process. Future expansion should follow this model and allow for significant lead time prior to program commencement. Statewide expansion of the pilot would require a gradual roll-out strategy based on the significant planning efforts needed prior to initiation.

Several themes emerged from this experience that would potentially impact statewide program expansion. A clear pilot outcome was that the majority of defendants could not pay for the services associated with Alert Notification/GPS. Most individuals were found to be indigent, without the capacity to offer any funds toward the obligation. State of Connecticut funding for contracted services will be necessary with pilot site or statewide expansion. There are also significant staffing implications for CSSD-Family Services. Alert Notification/GPS is a

labor intensive process with many required duties as part of the process. The program removed Family Relations Counselors and Supervisors from established active caseloads and responsibilities. Implementing this program statewide would be difficult without additional CSSD-Family Services staff to address the volume and intensity of work inherent in Alert Notification/GPS. In addition, this does not take into account the role of CSSD Administration in providing program oversight, troubleshooting, and training. The impact on staff has also been reported by the Family Violence Victim Advocate and some police departments.

In conclusion, the Alert Notification/GPS program is a promising practice that enhanced the overall court, law enforcement, and community response to high-risk family violence cases. If there is future expansion, on-going assessments will be undertaken to examine new GPS technological advancements and other potential program modifications. With the necessary funding, resources, and phased implementation, the Alert Notification/GPS pilot can be effectively replicated on a statewide basis.