

Firearms and Domestic Violence: Protecting Victims at the Most Dangerous Time

Connecticut averaged 14 intimate partner homicides annually between 2000 and 2014.¹ Firearms have been the most frequently used weapon in those homicides (39%).² Unfortunately, current Connecticut law leaves a significant gap in the protection of domestic violence victims from potential gun violence. Despite having some of the toughest gun laws in the nation, as well as progressive policies addressing domestic violence, nothing in Connecticut law prohibits respondents of temporary, ex parte restraining orders from possessing firearms and ammunition.

The days following a victim's application for a restraining order and attempts to end an abusive relationship are the most dangerous. This is a period of time when the abuser realizes that he or she is losing control of the victim and may resort to extreme measures to regain power. If, in applying for a civil restraining order, a judge determines that a temporary, ex parte order should be in place preceding a hearing for a full, one year restraining order, than that judge believes that the victim faces "immediate and present physical danger."³ This is precisely the time to remove firearms from the equation, as is recognized by at least 20 other states⁴ that give courts explicit authority to temporarily remove firearms from some or all individuals subject to ex parte restraining orders. Connecticut Coalition Against Domestic Violence (CCADV) and our 18 member organizations advocate for changes in our State's laws that will strengthen protections offered to victims during this critical time.

PROBLEM

Courts have no explicit authority to order respondents to surrender firearms for the duration of an ex parte restraining order.

While present Connecticut law permits a court to "[grant] such relief as it deems appropriate" in an ex parte restraining order, courts have not interpreted this language to extend to the ordering of respondents to surrender firearms.

Though present law requires individuals to surrender firearms within 2 business of being deemed ineligible to possess firearms, many respondents retain their firearms for several days.

Currently, once an individual becomes ineligible to possess firearms, he or she has 2 business days to surrender all firearms. Because this rule is based on "business days," some defendants' time frame to surrender is significantly extended because of holidays and weekends.

There is no criminal penalty for possessing a firearm while subject to an ex parte restraining order.

Even if a court interpreted current law to permit the ordering of a respondent to surrender firearms for the duration of an ex parte restraining order, there is no way to hold that individual criminally liable for failing to comply with such a court order. Current law only subjects an individual to criminal liability for possession of a firearm following the issuance of a full, one-year restraining order.

SOLUTION

Explicitly empower courts to order respondents to surrender firearms upon the issuance of certain ex parte restraining orders.

Include a provision in C.G.S. § 46b-15 requiring courts to order respondents subject to an ex parte restraining order to transfer, deliver, or surrender all firearms, ammunition, permits, and eligibility certificates upon a finding of one of the following four risk factors:

- The use or threatened use of a deadly weapon against the applicant or a pattern of prior conduct of using or threatening to use a deadly weapon against the applicant;
- Threats to seriously injure or kill the applicant or minor child by the respondent;
- Threats to commit suicide by the respondent; or
- Serious injuries inflicted upon the applicant or minor child by the respondent.

Require respondents to surrender firearms within 48 hours.

Amend C.G.S. § 29-36k to require the transfer, delivery, or surrender of firearms or ammunition within 48 hours of an individual becoming ineligible to possess firearms.

Make noncompliance with an ex parte order to surrender firearms a criminal offense.

Amend C.G.S. § 53a-217 and § 53a-217c to make it a crime to possess a firearm, pistol, or revolver while subject to an ex parte restraining order.

WHAT IS AN EX PARTE RESTRAINING ORDER?

An ex parte restraining order can be issued by the court upon an application for a civil restraining order in which the victim alleges an “immediate and present physical danger.”⁵ Such order may be issued by the court “granting such relief as it deems appropriate.”⁶ With the ex parte order, the court also orders a hearing to be held within 14 days. The respondent is not present when the court initially grants an ex parte order.

An ex parte restraining order provides temporary relief to a victim, and may include an order for the defendant to stay away from the victim or to vacate the family home. The purpose of this temporary relief is to protect the victim during the two week period between the application for the restraining order and the court hearing. Enforceability of the order is dependent upon notice being provided to the respondent, which is currently done through the service of the order by a state marshal.

Restraining Orders in Connecticut

	Applications	Ex Parte (2 week order)	Full Order (1 year)
2015	8,370	4,417	2,788
2014	8,669	4,409	2,445
2013	8,906	5,026	2,636
2012	8,937	5,328	3,234
2011	8,862	4,975	3,024
2010	9,112	5,094	2,809

Source: CT Judicial Branch

CURRENT CONNECTICUT LAWS RELATED TO GUNS & DOMESTIC VIOLENCE

Regardless of whether or not the court issues an ex parte order, a hearing on the restraining order application must be held within 14 days to determine if a full civil restraining order will be granted for a one-year period. Either the ex parte order, when applicable, or a notice of hearing must be served on the respondent by a state marshal. The respondent may or may not choose to be present at the hearing. If at the hearing the court issues a full, one-year restraining order, then Connecticut’s existing firearm prohibitions take effect.

Connecticut General Statutes § 53a-217 and § 53a-217c prohibit an individual from possessing firearms, including pistols and revolvers, and ammunition if he or she is knowingly the subject of civil restraining order or criminal protective order in a case involving the use or threatened use of physical force against another person. Violation results in a Class C felony.

Because the language in these statutes includes “after notice and the opportunity to be heard,” law enforcement is currently unable to remove weapons during temporary, ex parte restraining orders since hearings are not held prior to issuance of such orders.

WHY WE SHOULD REMOVE FIREARMS DURING AN EX PARTE ORDER

Domestic violence is a pattern coercive, controlling behavior that can be comprised of several forms of abuse including physical, emotional, psychological, verbal, sexual, technological, and financial. Abusive behavior, including physical violence and control tactics, can escalate over time, often leaving victims feeling scared, confused, dependent and insecure about their ability to survive on their own. The majority of intimate partner homicides are preceded by years of abuse with situations involving the abuse of a woman preceding approximately 70% of intimate partner homicides.⁷

Research conducted by Dr. Jacquelyn C. Campbell at Johns Hopkins University demonstrates that the most dangerous time for a victim of domestic violence is when she or he begins to take steps to end the relationship.⁸ Because domestic violence is about power and control, this can be a particularly difficult time for the offender who will begin to realize that he or she is losing control over the victim. This may result in the offender taking more extreme actions to regain control over the victim.

The most dangerous time for a victim of domestic violence is when she or he leaves.

Connecticut averaged 14 intimate partner homicides annually between 2000 and 2014. Firearms were the most commonly used weapon in those homicides (39% of homicides).⁹ The murder of Lori Jackson on May 7, 2014 in Oxford sadly underscores the gap in existing policies. A judge had issued an ex parte restraining order against Lori’s estranged husband. The hearing on the full, one year order was scheduled for May 8, 2014, the day after her estranged husband shot Lori, killing her and injuring her mother while her two young children were in the home. While Lori’s estranged husband actively avoided service of the order, even if he had been served, nothing in current state or federal law would have prohibited him from possessing the gun he ultimately used to kill her.

This gap in protection only heightens a victim's risk of being seriously injured or killed as she or he attempts to leave an abusive relationship. Studies have shown that domestic assaults that involve firearms are 12 times more likely to result in death than those involving other weapons or bodily force.¹⁰ And women in an abusive relationship are 5 times more likely to be killed if their abuser has access to a firearm.¹¹ Meanwhile, state laws prohibiting firearm possession by persons subject to restraining orders reduced rates of intimate partner homicide of women by 12-13%, decreasing overall intimate partner homicides by 10%.¹²

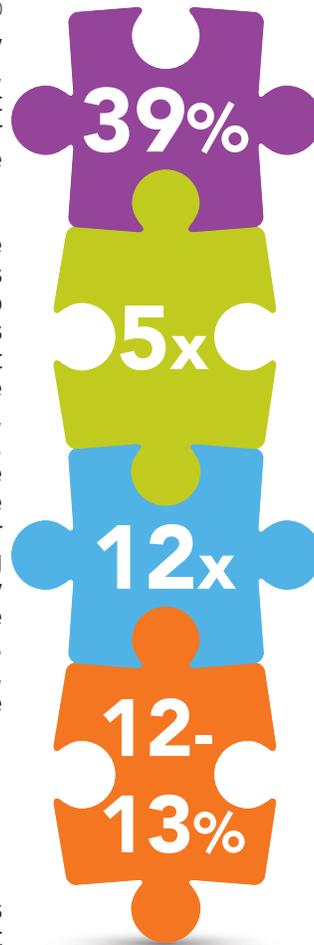
While C.G.S. § 46b-15 allows courts that issue ex parte orders to grant "such relief as it deems appropriate," courts have not traditionally interpreted this language to extend to ordering respondents to surrender firearms. Connecticut's restraining order application (JD-FM-137) asks the applicant three optional questions regarding whether or not the respondent holds a permit to carry a pistol or revolver, possesses one or more firearms or possesses ammunition. This clearly demonstrates an acknowledgement of the role that firearms play in abusive relationships and yet at a time when those victims arguably in the most immediate danger seek protection from the court via an ex parte restraining order, their answers to those questions do not result in any action for two weeks. Explicit language allowing for the surrender of firearms at the time an ex parte order is issued, coupled with criminal liability of firearms are not surrendered, will ensure that every victim has an equal opportunity to be protected.

THE SECOND AMENDMENT AND DUE PROCESS

CCADV understands and appreciates that there are concerns regarding how this proposal, if implemented, would affect individuals' rights to possess firearms. First, it is important to note that the United States Supreme Court, in challenges related to the Second Amendment of the Constitution, has stated that the core protection offered is the "right of law-abiding, responsible citizens" to possess firearms, and that this right is "not unlimited" and should not be understood to confer the "right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose."¹³ As noted earlier, at least 20 other states have successfully implemented and upheld strong laws prohibiting possession of firearms during ex parte orders based on the state's interest to protect victims of domestic violence.

Our proposal to remove firearms during temporary, ex parte restraining orders would only impact an individual's right to possess firearms for a period not to exceed two weeks, as an ex parte restraining order is only in effect from the time a respondent is served until a hearing is held, which by statute

KEEPING VICTIMS SAFE...



FIREARMS ARE THE MOST COMMONLY USED WEAPON

in Connecticut to commit intimate partner homicides. Guns were used in 39% of the 215 intimate partner homicides that occurred between 2000 to 2014.

A woman in an abusive relationship is **5X MORE LIKELY TO BE KILLED** if her abuser has access to a firearm.

Domestic assaults that involve firearms are **12X MORE LIKELY TO RESULT IN DEATH** than those involving other weapons or bodily force.

States with laws prohibiting firearm possession by persons subject to restraining orders saw **12-13% REDUCTIONS IN INTIMATE PARTNER HOMICIDE OF WOMEN.**

must occur within 14 days. Second, these provisions will only apply to cases in which certain risk factors are present, such as the use or threatened use of a deadly weapon, or threats of serious injury or death. Third, this proposal is akin to existing Connecticut law that gives prosecutors and police officers the ability to apply for a warrant to seize firearms from a person who poses a risk of imminent personal injury to himself or others. If the warrant is issued, a hearing is held within two weeks to determine if the seized weapons should be returned.¹⁴ Finally, while CCADV recognizes the importance of individuals' rights to possess firearms, we contend that the lives and safety of victims, their children and their family members, including the government's interest to protect them and the larger community, is of paramount importance.

DECREASING THE TIMEFRAME FOR SURRENDER

An important policy related to removing firearms during an ex parte order is the timeliness of firearm surrender. Current Connecticut law requires surrender or transfer of firearms for individuals subject to a civil restraining order or criminal protective order within 2 business days.¹⁵ These individuals can only transfer their firearms to a federally licensed firearm dealer pursuant to the sale of said firearms, or surrender the firearms to the Commissioner of Emergency Services and Public Protection. Because this rule is based on "business days," some timeframes to surrender are significantly extended because of holidays and weekends. For example, an order issued on a Thursday means that the individual ineligible to possess a firearm can legally keep that firearm until Monday, four days later. And if it is a holiday weekend and state offices are closed on Monday, they get to keep their gun for five days. We propose that the firearm transfer/surrender time be decreased to 48 hours.

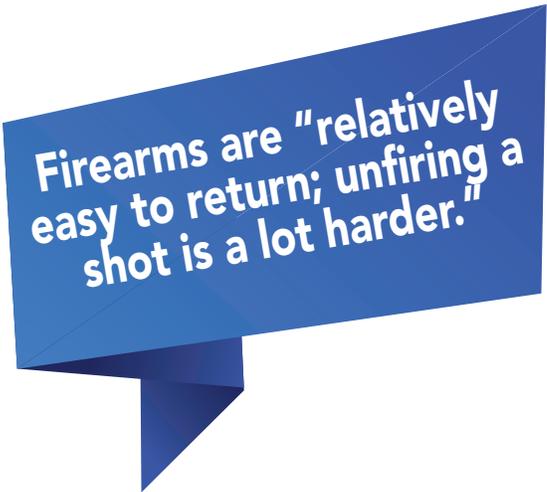
A 2006 survey of domestic violence offenders attending offender intervention programs in Massachusetts revealed that offenders who continued to possess firearms after becoming ineligible to do so by federal law were more likely to attempt to or threaten to kill their partners with guns than those who had relinquished their firearms.¹⁶ In Connecticut in 2012, 33% of family violence arrests and 55% of intimate partner homicides occurred on either Saturday or Sunday.^{17,18} Of the intimate partner homicides that occurred on the weekend, firearms were used 50% of the time.¹⁹ The correlation between firearms, the threat of serious injury or death of a victim of domestic violence, and the weekend is clear.

As noted earlier, the time immediately following a victim's attempt to end an abusive relationship, including seeking a restraining order, is the most dangerous. If, under this proposal, the court believes that the victim faces an immediate and present physical danger and grants an ex parte order, it is critical that firearms be surrendered as soon as possible. There is no value to waiting, only an increase in the likelihood of serious injury or death. Recognizing the deadly connection between firearms and domestic violence, it is essential to develop practical procedures to quickly and efficiently remove weapons from these situations. These policies must recognize the needs of law enforcement who are often in the position of accepting and storing surrendered firearms, but we believe that the shared goal of protecting lives will lead to effective policy.

CONCLUSION

It is incumbent upon us, as a state, to close gaps in safety through policy and practice when we know those gaps exist. We know that the most dangerous time for a victim of domestic violence is when she or he takes step to end the relationship. We know that obtaining a restraining order can be the first step in that process. We know that courts order temporary, ex parte restraining orders for a two week period only when the victim faces "immediate and present physical danger." And we know that the presence of firearms in an abusive relationship significantly increases the likelihood that the victim will die. It is critical that we ensure Connecticut's laws be amended to close this gap in safety for victims of domestic violence.

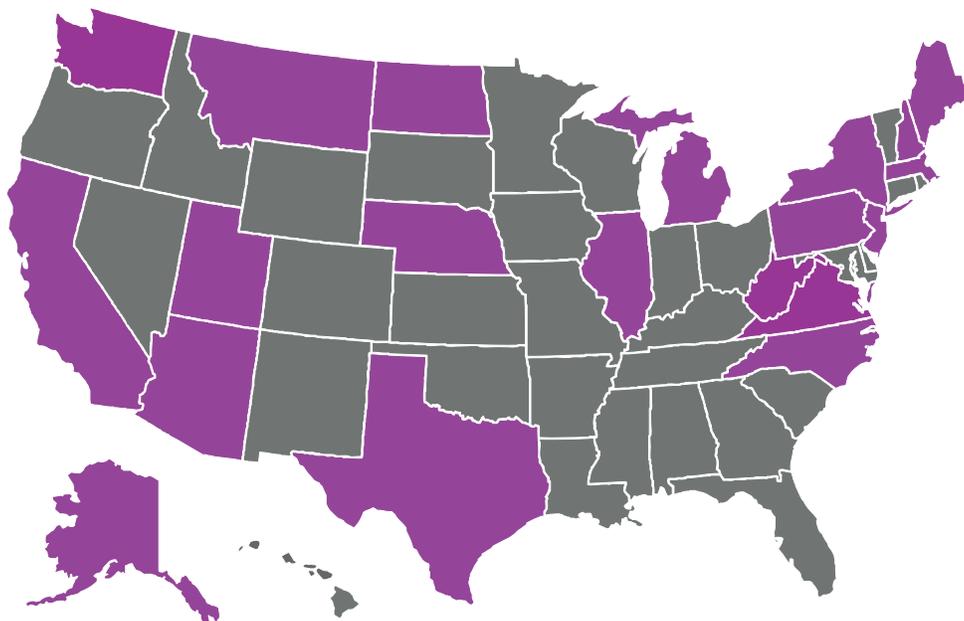
Connecticut has made significant advancements in our laws and policies that protect victims of domestic violence and hold offenders accountable. Extending firearm and ammunition prohibitions to temporary, two week orders will only further enhance the strong protections that the state has put in place for victims. As noted earlier, state laws prohibiting firearm possession by persons subject to restraining orders reduced rates of intimate partner homicide of women by 12-13%, decreasing overall intimate partner homicides by 10%. Victims facing "immediate and present physical danger" need and should have immediate protection from firearms. Waiting can and has resulted in tragedy. Governor Dannel P. Malloy explained removal for a limited, two week period prior to a hearing best, noting that firearms are "relatively easy to return; unfiring a shot is a lot harder."²⁵



Firearms are "relatively easy to return; unfiring a shot is a lot harder."

Governor Dannel P. Malloy
September 10, 2014

WHAT ARE OTHER STATES DOING?



At least 20 states²⁰ give courts explicit authority to temporarily remove firearms from some or all individuals subject to ex parte restraining orders. However, it is important to note that not all of these states include the same prohibitions under their criminal possession statutes, resulting in inconsistent practices across those states. Below are examples of laws in nearby states.

Massachusetts²¹

A court must order the immediate suspension and surrender of a respondent's license to carry and order respondent to surrender all firearms and ammunition if applicant demonstrates a substantial likelihood of immediate danger. Law enforcement shall immediately take possession of all firearms, ammunition, and firearm licenses upon service of the order.

Maine²²

A court may order a respondent not to possess firearms for the duration of the ex parte restraining order if the applicant alleges the abuse involved a firearm or other dangerous weapon or that there is a heightened risk to the applicant or minor child. If so ordered, a respondent must surrender firearms within 24 hours of being served with the ex parte restraining order.

New Jersey²³

A court may forbid a respondent from possessing any firearm and may order a search and seizure of any such weapon, any firearms purchaser identification card, or permit to purchase a handgun.

New Hampshire²⁴

A court may order a respondent to relinquish all firearms and ammunition in the respondents' possession, control, or ownership upon the applicant showing she is in immediate and present danger of abuse.

At least **20** states recognize the gap in safety when respondents of temporary restraining orders are allowed to keep their guns.

ENDNOTES

¹ Connecticut State Police Crimes Analysis Unit; <http://www.dps-data.ct.gov/dps/ucr/ucr.aspx>

² Ibid

³ Connecticut General Statutes § 46b-15

⁴ Arizona, California, Hawaii, Illinois, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, Texas, Utah, Virginia, Washington, West Virginia

⁵ Connecticut General Statutes § 46b-15

⁶ Connecticut General Statutes § 46b-15

⁷ Campbell, JC, et al. 2007. "Intimate Partner Homicide: Review and Implications of Research and Policy." *Trauma, Violence & Abuse*. (8)3:246-247.

⁸ Campbell, JC, et al. 2003. "Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study." *American Journal of Public Health*. 93(7): 1092.

⁹ Supra note 1

¹⁰ Center for Gun Policy and Research. "Intimate Partner Violence and Firearms." Johns Hopkins Bloomberg School of Public Health, citing Saltzman LE, et al., 1992. "Weapon Involvement and Injury Outcomes in Family and Intimate Assaults." *Journal of the American Medical Association*. 41(2): 281-83.

¹¹ Campbell, JC, et al. 2003. "Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study." *American Journal of Public Health*. 93(7): 1092.

¹² Vigdor ER, Mercy JA. 2006. "Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?" *Evaluation Review*. 30: 313-46.

¹³ *District of Columbia v. Heller*, 554 U.S. 570, 634-35, 128 S.Ct. 2783. (2008)

¹⁴ Connecticut General Statutes § 29-38c

¹⁵ Connecticut General Statutes § 29-36k

¹⁶ Rothman, E, et al. 2006. Gun Possession Among Massachusetts Batterer Intervention Program Enrollees. *Evaluation Review*. 30(3): 283-291.

¹⁷ Department of Emergency Services and Public Protection. Family Violence Arrests Annual Report 2012. (July 2013)

¹⁸ Department of Emergency Services and Public Protection. Family Violence Homicides: A Summary of 2012 Incidents. (July 2013)

¹⁹ Department of Emergency Services and Public Protection. Family Violence Homicides: A Summary of 2012 Incidents. (July 2013)

²⁰ Arizona, California, Hawaii, Illinois, Maine, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, Texas, Utah, Virginia, Washington, West Virginia

²¹ General Laws of Massachusetts, Chapter 209A §3B, available at <https://malegislature.gov/laws/generallaws/search>.

²² Maine Revised Statutes, title 19-A § 4006, available at <http://www.mainelegislature.org/legis/statutes/>.

²³ New Jersey Statutes Annotated § 2C:25-28, available at http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=24294779&depth=2&expandheadings=off&headingswithhits=on&infobase=statutes.nfo&softpage=TOC_Frame_Pg42.

²⁴ New Hampshire Revised Statutes Annotated § 173-B:4, available at <http://www.gencourt.state.nh.us/rsa/html/indexes/>.

²⁵ Wilson, J. "Gov. Malloy Announces Domestic Violence Proposal." *Hartford Courant*. (September 10, 2014)

WHO IS CCADV?

Connecticut Coalition Against Domestic Violence, Inc. (CCADV) is the state's leading voice for domestic violence victims and those agencies that serve them. Our coalition is comprised of Connecticut's 18 domestic violence service organizations that provide critical support to keep victims safe 24 hours per day, wherever they live in our state. Confidential services provided by our members include a 24-hour toll-free crisis line, emergency shelter, safety planning, counseling, support groups, court advocacy, information and referrals, and community education. These services are provided free of cost to all victims of domestic violence.

The Umbrella Center for Domestic Violence Services
Ansonia | 203.736.9944

The Center for Family Justice
Bridgeport | 203.384.9559

Women's Center of Greater Danbury
Danbury | 203.731.5206

Domestic Violence Program United Services, Inc.
Dayville | 860.774.8648

Network Against Domestic Abuse
Enfield | 860.763.4542

Domestic Abuse Services Greenwich YWCA
Greenwich | 203.622.0003

Interval House
Hartford | 860.527.0550

Chrysalis Domestic Violence Services
Meriden | 203.238.1501

New Horizons
Middletown | 860.347.3044

Prudence Crandall Center
New Britain | 860.225.6357

The Umbrella Center for Domestic Violence Services
New Haven | 203.789.8104

Safe Futures
New London | 860.701.6000

Domestic Violence Crisis Center
Norwalk | 203.852.1980

Women's Support Services
Sharon | 860.364.1900

Domestic Violence Crisis Center
Stamford | 203.588.9096

Susan B. Anthony Project
Torrington | 860.482.7133

Safe Haven
Waterbury | 203.575.0036

Domestic Violence Program United Services, Inc.
Willimantic | 860.456.9476

For questions or more information, please contact
Liza Andrews, Director of Public Policy & Communications
860.282.7899; landrews@ctcadv.org