

# Legislative History for Connecticut Act

**PA 16-70**

HB5605

Senate	2665, 2746-2747	3
Judiciary	(1916-1917), 1920-1921, 1922, 2020-2023, 2049, 2051-2052, 2213, 2216, 2239, 2246-2247, 2481- 2486	23
House Transcripts have not been received. They are available on CGA website, but are not the Official copy. Contact House Clerk for assistance (860) 240-0400		<b>26</b>

**Transcripts from the Joint Standing Committee Public  
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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2016**

**VOL. 59  
PART 8  
2400 – 2750**

cf  
Senate

221  
May 3, 2016

And Madam President, if there is no further debate regarding this bill and if there's no objection, I'd ask that the item be placed on the Consent Calendar.

THE CHAIR:

Without objection. Seeing none, so ordered, sir.  
Will the clerk -- Mr. Majority Leader, Senator Duff.  
You have the floor.

SENATOR DUFF (25TH):

Thank you, Madam President. Madam President, for a couple markings, please.

THE CHAIR:

Please proceed, sir.

SENATOR DUFF (25TH):

Thank you, Madam President. On calendar page 31, Calendar 569, House Bill 5620, I'd like to place that item on our Consent Calendar.

THE CHAIR:

So ordered.

SENATOR DUFF (25TH):

On calendar page 24, Calendar 533, House Bill 5605, I'd like to place that item on our Consent Calendar.

THE CHAIR:

So ordered, without objection, sir.

Senate Bill 351, on page 2, Calendar 157, Senate Bill 69. Page 4, Calendar 341, Senate Bill 328, page 5, Calendar 375, House Bill 5296, page 6, Calendar 384, House Bill 5393. Also on page 6, Calendar 383, House Bill 5430. On page 7, Calendar 385, House Bill 5254. Page 8, Calendar 393, House Bill 5255, page 11, Calendar 440, House Bill 5252. On page 14, Calendar 475, House Bill 5627, Page 15, Calendar 477, House Bill 5072. Page 18, Calendar 498, House Bill 5513, Page 19, Calendar 502, House Bill 5526. Page 20, Calendar 504, House Bill 5403. Page 22, Calendar 516, House Bill 3 -- I'm sorry -- 5358. Page 22, Calendar 519, House Bill 5053. On page 24, Calendar 533, House Bill 5605, Calendar 532, House Bill 5335, Calendar 530, House Bill 5498, and Calendar 534, House Bill 5621. On page 27, Calendar 549, House Bill 5416. Also on page 27, Calendar 546, House Bill 5571. Page 28, Calendar 552, House Bill 5180. On page 30, Calendar 563, House Bill 5412. Page 31, Calendar 567, House Bill 5537. Page 31, Calendar 569, House Bill 5620. On page 32, Calendar 571, House Bill 5435. Page 34, Calendar 583, House Bill 5400. On page 35, Calendar 586, House Bill 5521. Page 36, Calendar 169, Senate Bill 266. Page 37, Calendar 207, Senate Bill 327. Page 39, Calendar 361, Senate Bill 15. Page 41, Calendar 246, Senate Bill 88. Also on page 41, Calendar 464, House Joint Resolution Number 38. Calendar 465, House Joint Resolution 43. On page 42, Calendar 466, House Joint Resolution 99. Page 42, Calendar 467, House Joint Resolution 121. Also on page 42, Calendar 468, House Joint Resolution Number 133, and on page 43, Calendar 470, House Joint Resolution Number 136.

THE CHAIR:

cf  
Senate

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May 3, 2016

Okay. The clerk shall announce pendency of a roll call vote on the Consent Calendar. The machine is open. Please cast your vote.

THE CLERK:

Immediate Roll Call has been ordered in the Senate. Immediate Roll Call on today's Consent Calendar has been ordered in the Senate.

THE CHAIR:

Have all members have voted? Have members have voted? Please check to see that your votes have been properly recorded. If so, the machine shall be closed and the clerk shall announce the tally.

THE CLERK:

On today's Consent Calendar.

Total number voting	36
Necessary for Adoption	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar is done. Senator Duff, for what reason do you rise?

SENATOR DUFF (25TH):

Many reasons, Madam President, thank you. Madam President, I move that all items that require action

**STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 5  
1766 – 2346**

**2016**

REP. REBIMBAS (70TH): Not knowing where this legislation is going to go, whether it's going to be passed or not passed, if in your practice you are made aware of how that information is getting out, just in case we don't know where this is going to end up, please advise us because we'd like to bring it to whoever's attention that's violating that.

LEON SMITH: I will absolutely do that. Thank you.

REP. REBIMBAS (70TH): Thank you.

SENATOR COLEMAN (2ND): Any other members have questions? If not, thank you, Attorney.

LEON SMITH: Thank you, Senator Coleman.

SENATOR COLEMAN (2ND): Senator Paul Formica is next.

SENATOR FORMICA (20TH): Good afternoon.

SENATOR COLEMAN (2ND): Good afternoon.

(HB 5605)  
SENATOR FORMICA (20TH): Senator Coleman, Senator Tong, Ranking Members Kissel and Rebimbas, members of the Judiciary Committee, good afternoon. I am Paul Formica. I am here to testify in support of H.B. 506; AN ACT CONCERNING TERMINATION OF PARENTAL RIGHTS.

Clear and convincing evidence may be the appropriate standard to withhold parental rights of rapists rather than conviction. And this bill would conform with federal law, and due to the nature of low rate of prosecutions and convictions for this crime in general, I would offer more and stronger protections for victims of this horrible crime who have been impregnated.

A number of other states operate under this standard of protection, and I urge the committee to consider its support for this bill today. Thank you very much.

SENATOR COLEMAN (2ND): Thank you, sir. Are there any questions for Senator Formica? Seeing none, we appreciate your information and your attendance here today. Thank you very much. We appreciate your good work today.

James Crook?

JAMES CROOK: Good afternoon, Senator Coleman, Representative Tong, respected members of the Judiciary Committee, my name is James Crook. I'm a lobbyist for the Coalition of Connecticut Sportsmen. I've submitted testimony on six bills; however, clearly there is not enough time to speak on all of them, so I will talk to the general theme of firearms and temporary restraining orders.

(HB 5054)

The proponents of this bill suggest that since due process has already been eroded through the ex parte restraining order, that adding another component, voluntary mandatory firearms seizure seems to not concern them very much; however, this concerns us gravely.

Also, it seems to us based on their testimony that the issuance of the TRO is itself the trigger that causes this dangerous period from those suffer -- those suffering from domestic violence. It seems that, to us, after someone receives a temporary restraining order, and then finding out that they have to turn in their firearms would cause an escalation in the events, not a de-escalation.

We believe this puts the victims into a false sense of security thinking that a rational, law-abiding



REP. STAFSTROM (129TH): I'm not sure I quite understand. The incrementalism or the slippery slope, does that start if we pass the legislation we are currently enacting or did the slippery slope already start by putting in place a process for someone who has been beaten by a -- a domestic partner to prevent that person from coming back into their home?

JAMES CROOK: As stated before, we're concerned about the incrementalism and the erosion of due process. Today it's voluntary removal of firearms. What is it tomorrow?

REP. STAFSTROM (129TH): Okay. I'm not sure I quite understand your position, but the question I'm getting at is: are we already down that slippery slope or not in your mind?

JAMES CROOK: I would argue no; however, as stated people in the past when previous legislation has come up, previous legislation related to this, before it was passed, probably argued in the affirmative.

REP. STAFSTROM (129TH): Okay. Thank you.

SENATOR COLEMAN (2ND): Do other members have questions? Seeing none, thank you, Mr. Crook.

JAMES CROOK: Thank you, sir.

SENATOR COLEMAN (2ND): Carolyn Treiss.

CAROLYN TREISS: Good -- my testimony says "morning," but good afternoon, Senators Coleman and Kissel, Representatives Tong and Rebimbas, and distinguished members of the Judiciary Committee. My name is Carolyn Treiss, and I am the Executive

HB5054

HB5623

HB5605

HB5621

HB5052

SB443

Director of the Permanent Commission on the Status of Women.

I'm joined today by Jillian Gilchrest, PCSW Senior Policy Analyst. Thank you for this opportunity to provide testimony on a variety of policies contained in several bills on your agenda today that address violence against women.

Because our testimony is rather lengthy due to the number of bills we're commenting on, I will highlight the most important points, and then Jillian and I will be more than happy to respond to any follow-up questions you'll have.

Since others have and will speak in depth to the temporary restraining orders and sexual assault proposals, we would like to touch very briefly on those and then spend the bulk of our time on the proposals that address human trafficking and prostitution.

At this point I believe that all of you are familiar with the statistics on domestic violence involving firearms. Women in abusive relationships are five times more likely to be killed if their abuser has access to a firearm. Between 2000 and 2012, 188 domestic violence victims have been killed in our state, an average of 14 such deaths each year.

Thirty-nine percent of domestic violence homicides have involved the use of firearms, making guns the most common method of domestic violence homicides. You also know that when a domestic violence victim finally takes the courageous step to leave or end the abusive relationship, she is most at risk for fatal violence.

HOUSE BILL 5054 and 5623 close this gap, a dangerous gap in Connecticut law by enabling a judge to order

the respondent to an ex parte restraining order to turn over any firearms within 24 hours of service of the TRO. The TRO provisions in 5054 and 5623 mirror legislation passed in 20 other states.

Fatal domestic violence has been reduced by 12 to 13 percent in states that have passed such laws. It is important for victims in Connecticut feel the overwhelming majority are women to have comprehensive protection from dangerous abusers.

(HB 5623)

This is a matter of public safety, and 5054 and 5026 help to further that public safety goal.

With regard to the termination of parental rights, each year an estimated 25,000 American women will become pregnant following an act of sexual violence. HOUSE BILL 5605 and 5623 amend existing law which currently requires a conviction in order for a victim of sexual assault to terminate the parental rights of the perpetrator. This change would allow for termination of parental rights in the absence of a conviction, and we support it.

HB 5621

HB 5623

Now, shifting to the trafficking and prostitution proposals. As some of you may know, the PCSW chairs the trafficking of persons council pursuant to 46(a)-170, and annually the trafficking persons council makes recommendations to the legislature. Many of the council's 2016 recommendations are reflected in the proposals before you, and we do -- the council on behalf of the council, we thank you for raising these proposals.

PCSW encourages Connecticut lawmakers to place a greater emphasis on reducing the demand side of human trafficking and prostitution. Under current law, anyone convicted for trafficking in persons, prostitution, or promoting prostitution must forfeit

And one of my fears with this bill is the unintentional consequence of taking a firearms away from someone who has chosen to take that step. So my students vary from all ages and all walks of life.

REP. DUBITSKY (47TH): Thank you very much.

BROOKE CHENEY: You're welcome.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman.

SENATOR COLEMAN (2ND): Any other members have questions? If not, thank you.

BROOKE CHENEY: Thank you, Mr. Chair. And just to -  
-

SENATOR COLEMAN (2ND): We appreciate your testimony.

BROOKE CHENEY: On my second page as well there are some quotes from domestic abuse survivors as well. Thank you.

SENATOR COLEMAN (2ND): Deb Heinrich.

DEB HEINRICH: Good evening, everybody.

SENATOR COLEMAN (2ND): Good evening, Deb. We knew you couldn't stay away. Good to see you again.

DEB HEINRICH: Good evening, Senator Coleman, Representative Rebimbas, and members of the committee. My name is Deb Heinrich, and I'm Director of Policy and Public Relations at Connecticut Alliance to End Sexual Violence.

There are a lot of bills that we have opinions on today and you can see them at the top of our testimony, but the one I would spend my three minutes talking about today is H.B. 5605 and 5623;

THE TERMINIATION OF PARENTAL RIGHTS. This bill would allow a woman who has been impregnated by rape to terminate the parental rights of the rapist using a clear and convincing evidence standard.

In Connecticut if a woman becomes pregnant because of rape, her decision to continue the pregnancy will be informed by the fact that the rapist can sue for custody and visitation rights. A rapist can use the child to further traumatize and have power over the survivor and child for the next 18 years.

We are seeing cases right here in Connecticut where rapists are using the threat of suing for custody and visitation as a way to ensure that a victim does not report the crime. Connecticut law requires a rape conviction before a woman is allowed to petition the probate court to terminate the parental rights of a rapist.

National statistics show, however, that rape only ends in conviction 2 percent of the time. Even when survivors report to the police and undergo an invasive exam and evidence collection, their cases may not move forward. For those that do, cases may languish in court while a victim waits for justice. Many times rapists plead to lesser or non-sexual assault charges.

This does not mean that the rape did not happen, it doesn't mean that a woman should not have access to the legal system to terminate parental rights of her rapist. Through the passage of the Rape Survivor Child Custody Act, the Federal Government is offering federal dollar incentives that change their laws to clear and convincing standard in these cases.

If Connecticut passes H.B. 5605, we will receive an additional 10 percent of our violence against women federal dollars which will be upwards of \$200,000 each year for five years. Currently in 12 other states no conviction is required to terminate parental rights, and Maine has just passed this bill or a similar bill out of committee.

And those other states evidence used to determine if the clear and convincing standard has been met includes: police reports, sexual assault forensic exam kit findings, therapy records, reports to sexual assault victim advocates with privileged communication status, witnesses and DNA test.

It is important to note that in Connecticut statutes for termination of parental rights each and every reason that a judge may use to terminate parental rights uses the clear and convincing evidence standard, everyone, including if the parent killed another child, except the one and only statute that requires conviction is if a woman is impregnated by rape.

In other words, the rape of a woman is being held to a higher standard than any other reason for terminating parental rights. Women in Connecticut who have become impregnated through rape should have access -- I'm almost done -- to a fair and appropriate evidentiary standard for terminating the custody rights of their rapist.

Thank you for your consideration. I'm happy to answer any questions you might have.

SENATOR COLEMAN (2ND): Thank you. Are there questions of Ms. Heinrich? Representative Rebinbas.

REP. REBINBAS (70TH): Thank you, Mr. Chairman. Good afternoon. Thank you for your testimony. I

just want to also commend you for your work and for reaching out to different members to have conversations about the proposals.

But I think when you started out, did you mention two bills that you wanted to talk about?

DEB HEINRICH: Yes, the -- the language is in both bills, so it's in 5605 as a stand-alone, but it's also in 5623, which is omnibus bill.

REP. REBIMBAS (70TH): Okay. I just wanted to make sure in case there was something else you wanted to add regarding the second one. Thank you.

DEB HEINRICH: Thank you.

SENATOR COLEMAN (2ND): Any further questions? Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in and thank you for your work. I -- I hope I don't put you at a disadvantage, but I would -- can you -- do you know of anybody who objects to this?

DEB HEINRICH: There's no testimony entered in objection.

REP. DUBITSKY (47TH): All right. Okay. Because, as you said, it seems like common sense to be with the other statutes to have the same burden. I was just wondering if there's some interest group that objects to this in any way. I -- I can't -- I have not seen any in the testimony.

DEB HEINRICH: Thank you.

REP. DUBITSKY (47TH): Thank you.

SENATOR COLEMAN (2ND): Others with questions? If not, thank you, Deb.

seizure of firearms; you're only talk -- you're talking about the service parts, right?

AARON VENSLOFF: That's right. I mean, for example, 5623 also has a number of provisions about human trafficking. We're not testifying about those provisions.

REP. DUBITSKY (47TH): Okay. Thank you, and thank you for your work. Thank you, Mr. Chairman.

REP. TONG (147TH): Further questions? Thank you.

AARON VENSLOFF: Thanks.

REP. TONG (147TH): Veronica Margole. I think she's already testified. Larry Potter.

LUCY POTTER: My name is not Larry. You're looking at somebody's handwriting who signed me up.

REP. TONG (147TH): Oh, okay.

LUCY POTTER: My name is Lucy Potter.

REP. TONG (147TH): Okay.

LUCY POTTER: I'm an attorney at Greater Hartford Legal Aid. I submitted testimony. I'm here to testify in opposition to raise BILL 5530. I'm an attorney at legal aid and I've served on the past five child support guideline commissions, and I've represented a lot of people in child support matters over the years.

HB 5605  
HB 5623

Child support is based on ability to pay, and that's really important because when you don't pay child support, you can -- very serious consequences. You can lose your license; you can have your tax refund intercepted, and ultimately be sent to jail. So child support arrearage guidelines define what



Also the court already has the opportunity, the ability, under the statutes to order a lump sum payment if a person has been particularly egregious in nonpayment. So this isn't needed for that reason as well. Any questions?

REP. TONG (147TH): Thank you.

LUCY POTTER: Thank you.

REP. TONG (147TH): I have a question, but not on this bill. Do you mind?

LUCY POTTER: Sure.

REP. TONG (147TH): I take it that you've probably been doing child support work for some time.

LUCY POTTER: I have.

REP. TONG (147TH): So there's another bill that is on the agenda today, and I'm trying to find the number, 5605; AN ACT CONCERNING THE TERMINATION OF PARENTAL RIGHTS.

LUCY POTTER: Oh.

REP. TONG (147TH): So this bill -- and it's also part of 5623, it provides that if someone who commits sexual assault that results in conception of a child, that person may have his parental rights terminated.

LUCY POTTER: Right.

REP. TONG (147TH): On a clear and convincing showing -- a showing of clear and convincing evidence that that -- that person committed the sexual assault that resulted in her pregnancy. Senator Formica testified on that earlier.

The one question I have is that if this bill moves forward, and let's just say in a typical case a guy commits a sexual assault, results in pregnancy and birth of a child and his parental rights are terminated, does the woman then lose her recourse for child support?

LUCY POTTER: She would.

REP. TONG (147TH): Okay.

LUCY POTTER: She -- you know, I know in the past there have been a number of bills proposing that child support obligation continue when there's no longer parental rights, when terminal -- when people's paternal rights are terminated, and I testified against the continuation of child support in that situation. I think it's important to keep that distinction correct.

REP. TONG (147TH): Okay. Can you leave your contact information with our clerk, please.

LUCY POTTER: Sure.

REP. TONG (147TH): And just -- somebody make a note in case we need to consult with you on that piece of legislation if you're willing?

LUCY POTTER: Sure. Thank you.

REP. TONG (147TH): Thank you.

LUCY POTTER: Especially if they'll pay extra attention to my -- (inaudible 7:31:50.3)

REP. TONG (147TH): (Laughter). Any further questions? Thank you. I think Antonia Hernandez has testified already. Matt Zurell. Good evening.

MATT ZURELL: Good evening, Rep. Tong, Senator Coleman, and Rep. Rebimbas, and the rest of the

HB 5054

HB 5623



Connecticut Coalition Against Domestic Violence

**Member Organizations**

The Umbrella Center for  
Domestic Violence Services  
Ansonia, CT

The Center for Family Justice  
Bridgeport, CT

Women's Center  
Danbury, CT

Domestic Violence Program  
United Services  
Dayville, CT

Network Against Domestic  
Abuse  
Enfield, CT

Domestic Abuse Services  
Greenwich YWCA  
Greenwich, CT

Interval House  
Hartford, CT

City of Meriden Domestic Violence  
Services  
Meriden, CT

New Horizons  
Middletown, CT

Frederic Crandall Center  
New Britain, CT

The Umbrella Center for  
Domestic Violence Services  
New Haven, CT

Safe Futures  
New London, CT

Domestic Violence Crisis Center  
Norwalk, CT

Women's Support Services  
Sharon, CT

Domestic Violence Crisis Center  
Stamford, CT

St. John B. Anthony Project  
Torrington, CT

Safe Haven  
Waterbury, CT

Domestic Violence Program  
United Services  
Willimantic, CT

**Testimony in Support of**

**SB 442, AAC a Victim's Right to be Reasonably Protected from a Person  
Accused of Committing a Crime**

**SB 444, AAC Penalties for Family Violence Crimes that a Child Witnesses and  
Establishing a Working Group Concerning Information and  
Communications Related to Victims of Family Violence**

**HB 5605, AAC the Termination of Parental Rights**

**HB 5621, AAC Human Trafficking**

**Testimony In Opposition of**

**SB 443, AAC Notification to Victim Support Groups of the Names of Victims of  
Domestic Violence**

**Judiciary Committee  
March 14, 2016**

Good morning Senator Coleman, Representative Tong and members of the committee. CT Coalition Against Domestic Violence (CCADV) is the state's leading voice for victims of domestic violence and our 18 member organizations that serve them. Our members provide essential services to over 40,000 victims of domestic violence each year. Services provided include 24-hour crisis response, emergency shelter, safety planning, counseling, support groups and court advocacy.

**We urge your support of SB 442, SB 444, HB 5605 and HB 5621.**

**We urge your opposition of SB 443.**

**SB 442 (Support)**

Section 1 of the bill requires the Commissioner of Emergency Services and Public Protection to provide written notification to persons, including victims of domestic violence, who are protected under civil restraining or criminal protective orders, that the respondent of the order has complied with the requirements to surrender, deliver or transfer any firearms as a result of the issuance of such an order. As the Office of the Victim Advocate points out, victims have a state constitutional right to be reasonably protected from the accused. These orders can result in increased risk for the victim. Victims provide important information to the court about the respondent or defendant's possession of firearms, including those not necessarily properly registered. However, victims do not receive notification that the respondent or defendant has complied with the court order to surrender those firearms. We often get panicked calls from victims who are afraid that their abuser still has firearms. This measure will provide them with a small measure of safety knowing that the defendant has complied with the firearm surrender requirements and we urge your support.

Section 3 of the bill requires law enforcement, upon an arrest, to provide notice to a victim of a crime, including domestic violence victims, related to the arrest and

information, including those that will make her or him less safe. Such a working group will be able to have a thoughtful conversation that weighs the practical and legal implications that proposed information sharing will have on victims, including their likelihood to seek assistance if they feel that their information or situation will be shared without their permission.

**HB 5605 (Support)**

We would like to align ourselves in support of CT Alliance to End Sexual Violence and this measure. This bill proposes that the state adopt a standard of "clear and convincing evidence" when deciding whether or not to terminate the parental rights of a rapist whose choice to rape their victim resulted in pregnancy. It is unconscionable to force a rape victim to proceed through a custody battle or the prospect of co-parenting with a rapist. This standard would replace Connecticut's current requirement of a conviction to terminate the parental rights of the rapist and is in line with 12 other states that do not require a conviction (Colorado, Florida, Idaho, Illinois, Louisiana, Missouri, New Hampshire, Oklahoma, South Dakota, Texas, Vermont and Wisconsin). National statistics demonstrate that charges for rape result in convictions approximately 2% of the time. The recently passed federal Rape Survivor Child Custody Act incentivizes states to adopt the "clear and convincing" standard by offering to grant an additional 10% of the annual Violence Against Women Act (VAWA) funds that come to the state. In Connecticut, that would mean approximately an additional \$200,000 each year for five years. We urge your support.

**HB 5621 (Support)**

This bill proposes several recommendations by the Trafficking in Persons Council, of which CCADV is a member, and the Permanent Commission on the Status of Women. We support efforts to create greater protections for victims of trafficking and greater accountability for those who support this horrific crime. It is critical that the state addresses the demand side of human trafficking. Recommendations include various reporting and training requirements that seek to educate and hold accountable those business owners that support trafficking with business practices that are known to be used by traffickers. The bill also includes fines for individuals found guilty of patronizing a prostitute as well as forfeiture of property used or intended to be used for such a crime.

Thank you for your consideration. Please do not hesitate to contact me with questions or for additional information.

Liza Andrews  
Director of Public Policy & Communications  
[landrews@ctcadv.org](mailto:landrews@ctcadv.org)



NATASHA M. PIERRE, ESQ.  
*State Victim Advocate*

Testimony of Natasha M. Pierre, Esq., State Victim Advocate  
 Submitted to the Judiciary Committee  
 Monday, March 14, 2016

Good morning Senator Coleman, Representative Tong and distinguished members of the Judiciary Committee. For the record, my name is Natasha Pierre and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Governor's Bill No. 5052, An Act Strengthening Protection for Victims of Human Trafficking;  
Raised House Bill No. 5621, An Act Concerning Human Trafficking;  
Raised House Bill No. 5623, An Act Concerning Violence Against Women and Victims of Human Trafficking;  
Governor's Bill No. 5054, An Act Protecting Victims of Domestic Violence; and  
Raised Senate Bill No. 429, An Act Concerning Service of Restraining Orders  
Raised House Bill No. 5605, An Act Concerning the Termination of Parental Rights

The Office of the Victim Advocate (OVA) fully supports efforts to improve the delivery of services to victims of domestic violence, sexual violence and human trafficking. The above proposals, many of which are similar in nature, serve to increase protections to victims of domestic and sexual violence and to improve the identification of, treatment and services to victims of human trafficking.

Domestic Violence:

It is well known that certain events, including divorce or separation and applications for a restraining order, are often triggers that may cause increased violence to a victim of domestic violence. Particularly when a court issues an ex-parte restraining order, the respondent of the order is not required to surrender, deliver or transfer any firearms in his/her possession until after the scheduled hearing on the restraining order, which is typically 14 days after the issuance of the ex-parte order. That 14 day period can be the most dangerous time for a victim/applicant.

The court, in deciding whether to grant an ex-parte order, must make a finding that the applicant has alleged an immediate and present physical danger. In doing so, the applicant may also indicate whether the respondent possess firearms and/or ammunition. Once the ex-parte order is issued, the applicant must then arrange for service of the order and notice of the scheduled

Connecticut, the overwhelming majority of whom are women, to have comprehensive protection from dangerous abusers. HB 5054 and HB 5626 help to further that goal.

In an attempt to better address domestic violence victims' needs, HB 5597 seeks to amend the risk warrant statute by allowing a victim to initiate a firearm removal proceeding under Connecticut's existing "risk warrant" statute, §29-38c, simultaneously upon applying for a temporary restraining order. HB 5597 attempts to streamline these currently separate processes, allowing a victim to indicate on her temporary restraining order affidavit whether she has cause to believe her abuser poses a risk of imminent personal injury, triggering the risk warrant proceedings.

Under current law, to apply for a risk warrant, a victim must notify law enforcement about her belief that her armed abuser poses an imminent risk of harm. After an investigation and a probable cause determination, law enforcement may pursue a warrant to seize the firearms. This process could take several days. In addition to being time-consuming and confusing, the risk warrant process also makes the victim the principal actor in yet another legal process against her abuser. Both the substance of this legal process, and because it is another discrete legal process, increases a victim's risk for retaliation. Requiring victims to shoulder the burden and blame for the seizure of firearms deters victims from seeking help, narrowing victims' ability to gain comprehensive relief from the terror of domestic violence.

The risk-warrant statute was not created to address domestic violence victims' unique safety needs, and reliance on it has not served these victims. Even with the changes proposed in HB 5597, the process would still require a temporary restraining order petitioner to wait, potentially for several days, until her abuser's firearms are removed. Because the time immediately after taking steps to leave or end the relationship is the most dangerous time for victims, even a few days is too long to wait for full protection. While HB 5597 addresses some of the administrative burdens victims currently bear by enabling victims to apply for both remedies at once, it would not merge the processes on the receiving end. And as previously mentioned, initiating two separate legal processes increases the chances for retaliation. Under HB 5597, an abuser would still be served twice: once with the temporary restraining order and a few days later with a risk warrant to remove his firearms.

While this proposed legislation attempts to balance the liberty interests of gun owners with domestic violence victims' safety needs, HB 5597 does not go far enough to protect victims.

### *Sexual Violence*

Each year, an estimated 25,000 American women will become pregnant following an act of sexual violence.<sup>2</sup> HB 5605, An Act Concerning the Termination of Parental Rights and HB 5623, An Act Concerning Violence Against Women and Victims of Human Trafficking ensure that if a woman is raped and becomes pregnant as a result of that rape, she can terminate the parental rights of the person who raped her. Both bills amend current state law to allow the Superior Court to grant a petition if it finds by clear and convincing evidence that the parent has committed a sexual assault resulting in the conception of a child, which is recognized as best practice. Current law requires that the parent be convicted of sexual assault before parental rights can be terminated. Sexual assault cases are some of the most difficult to prosecute. For many reasons, ranging from bias to resource shortages to concern about conviction rates, prosecutors weed out far too many cases because they wrongly believe they cannot win them.<sup>3</sup> By linking

<sup>2</sup> Connecticut Alliance to End Sexual Violence, <http://endsexualviolencect.org/resources/get-the-facts/national-statistics-on-sexual-violence/>, March, 2016.

<sup>3</sup> Jennifer C. Long, JD and Elaine Nugent-Borakove, Beyond Conviction Rates: Measuring Success in Sexual Assault Prosecutions, April 2014

termination of parental rights to a conviction, the current law significantly limits a woman's ability to parent her child and heal from sexual violence.

Thank you for the opportunity to provide testimony today and we welcome your questions.

**STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 6  
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**2016**



Testimony of Brianna DeVivo  
Intern, The CT Alliance to End Sexual Violence  
Judiciary Committee  
March 14, 2016

**In Support of:** H.B. 5605, Termination of Parental Rights

Honorable Chairs Senator Coleman, Representative Tong, and the members of the Judiciary Committee, my name is Brianna DeVivo and I am an intern with the Connecticut Alliance to End Sexual Violence. I am testifying in support of House Bill Number 5605, An Act Concerning the Termination of Parental Rights.

One of my projects as a Connecticut Alliance to End Sexual Violence intern has been to research state's evidentiary standards for the termination of parental rights of a rapist. Current Connecticut law requires that in order for a woman who became pregnant as a result of rape to terminate their rapist's parental rights, their rapist must be *convicted* of that sexual assault. This creates a large burden for these mothers, as rape is the most under-prosecuted crime in America *and* only 2% of sexual assault cases result in a conviction. Joined with the reality that between 25,000 and 32,000 pregnancies in the United States occur from rape each year, the need for an update in the standards by which parental rights of rapists are terminated is urgent.

House Bill 5605 would allow victims of rape to terminate the parental rights of the rapist using a clear and convincing standard. This standard is already the typical standard for restriction of custody rights. Survivors of sexual assault should not be unfairly held to a higher standard of proof.

In holding these mothers to an unjust standard, we are forcing many of them into unwanted interactions with their perpetrators. Vermont is one of the states that uses a clear and convincing standard. They felt so strongly about this that they put the following directly into their statute: "*The state has a compelling interest in not forcing a victim of sexual assault or sexual exploitation to continue an ongoing relationship with the perpetrator of the crime. Such continued interaction can have traumatic psychological effects on the victim, making recovery more difficult and negatively affect the victim's ability to parent and to provide for the best interest of the child.*"

Connecticut women who have become mothers through a sexual assault deserve a new, fair, and appropriate standard to allow them to terminate the parental rights of their rapist. I thank you for your time today and urge you to act favorably on House Bill 5605.



In Support of HB5605 AN ACT CONCERNING TERMINATION OF PARENTAL RIGHTS

Judiciary Committee  
Legislative Office Building  
Hartford, CT 06106

Hello Committee Members,

My name is Heather Francisco; I am an advocate at Safe Haven of Greater Waterbury. Safe Haven is a member center working under the guidance of the Connecticut Alliance to End Sexual Violence (formally CONNSACS). Our sexual assault crisis center provides free and confidential services to victims and survivors of sexual violence in Beacon Falls, Bethlehem, Middlebury, Nangatuck, Oxford, Prospect, Southbury, Thomaston, Waterbury, Watertown, Wolcott, and Woodbury. I am writing you today to ask for your continued support of HB 5605 An Act Concerning the Termination of Parental Rights.

Under current law in Connecticut the standard Judges are required to use for termination of parental rights is a conviction. This differs from all other termination petitions in the state which require only clear and convincing evidence. If a rapist is not convicted his victim could then be forced to maintain a relationship with the person who violated her in one of the most intimate and personal ways. This is troubling when one considers the fact that rape is the most under-prosecuted crime in America with an estimated 2% of sexual assaults resulting in a conviction. The current law holds rape survivors at a higher standard than other woman seeking to restrict custody rights on the grounds of abuse, neglect, abandonment and even killing of a child. Connecticut is a forward thinking state and I am saddened to know that a conviction would not be required to terminate the parental rights of a parent who killed their child, but would for a parent whose child was a product of a sexual assault. Rape results in pregnancy for between 25,000 and 32,000 women annually in our country and we have an opportunity to make sure that in Connecticut when this occurs we are not holding survivors of sexual assault to an unfairly higher standard of proof.

Thank you in advance for your time, effort, and consideration.

Heather Francisco, MSHSV  
Adult Advocate/Legislative Liaison  
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Waterbury, CT 06702  
(203)753-3613

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The Center for  
Family Justice  
(Bridgeport)  
203-333-2233 hotline  
203-334-6154 office

Women's Center  
of Greater Danbury  
203-731-5204 hotline  
203-731-5200 office

Women & Families Center  
(Meriden)  
203-235-9297 office  
(Middletown)  
203-344-1474 office  
(New Haven)  
203-235-444 hotline  
203-389-5010 office

Rape Crisis Center  
of Milford  
203-878-1212 hotline  
203-874-8712 office

YWCA New Britain  
Sexual Assault Crisis Service  
(New Britain)  
860-223-1787 hotline  
860-225-4681 office  
(Hartford)  
860-547-1022 hotline  
860-225-4681 office

The Center for Sexual Assault  
Crisis Counseling and Education  
(Stamford)  
203-329-2929 hotline  
203-348-9346 office

Susan B. Anthony Project  
(Torrington)  
860-482-7133 hotline  
860-489-3798 office

Safe Haven of  
Greater Waterbury  
203-753-3613 hotline  
203-753-3613 office

Sexual Assault Crisis Center  
of Eastern Connecticut  
(Willimantic)  
860-456-2789 hotline  
860-456-3595 office  
(New London)  
860-437-7766 hotline  
860-442-0604 office

96 Pitkin Street  
East Hartford, CT 06108  
860-282-9881  
EndSexualViolenceCT.org

## CONNECTICUT ALLIANCE TO END SEXUAL VIOLENCE



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Testimony of Deb Heinrich, Director of Policy and Public Relations  
Connecticut Alliance to End Sexual Violence (formerly CONNSACS)  
Judiciary Committee  
March 14, 2016

**In Support of:**

HB5605 TERMINATION OF PARENTAL RIGHTS

HB5621 AN ACT CONCERNING HUMAN TRAFFICKING

HB5054 AN ACT PROTECTING VICTIMS OF DOMESTIC VIOLENCE

HB5623 AN ACT CONCERNING VIOLENCE AGAINST WOMEN AND VICTIMS OF HUMAN  
TRAFFICKING

SB442 AN ACT CONCERNING A VICTIM'S RIGHT TO BE REASONABLY PROTECTED FROM  
A PERSON ACCUSED OF COMMITTING A CRIME

**In Opposition to:**

HB5597 AN ACT CONCERNING DOMESTIC VIOLENCE VICTIMS SEEKING RESTRAINING ORDERS

SB443 AN ACT CONCERNING NOTIFICATION TO VICTIM SUPPORT GROUPS OF THE NAMES OF  
VICTIMS OF DOMESTIC VIOLENCE

**In Support with Reservations:**

HB5052 AN ACT CONCERNING PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING

Good Afternoon Senator Coleman, Representative Tong, Senator Kissel, Representative Rebinbas and members of the Judiciary Committee. My name is Deb Heinrich and I am Director of Policy and Public Relations for Connecticut Alliance to End Sexual Violence (formerly CONNSACS). The Alliance is the state's leading voice to end sexual violence. We are a coalition of nine community-based sexual assault crisis services programs, which provide free and confidential sexual assault crisis counseling and victim advocacy to thousands of women, men and children across Connecticut each year.

There are many bills before you today for which we would like to voice our opinions.

**Support for HB5605 TERMINATION OF PARENTAL RIGHTS (Identical language also found in HB5623)**

This bill is of particular importance to our alliance. It would allow a woman who has been impregnated by rape to terminate the parental rights of the rapist using a clear and convincing evidence standard, a standard that has been endorsed by the Supreme Court for matters of the termination of parental rights.

In Connecticut, if a woman becomes pregnant as a result of rape, her decision to continue the pregnancy will be informed by the fact that the rapist can sue for custody and visitation rights. A rapist can use the child to further traumatize and have power over the survivor and the child for the next 18 years. We are seeing cases right here in Connecticut where rapists are using the threat of suing for custody and visitation as a way to ensure that a victim does not report the crime.

Statewide 24 Hour  
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1-888-999-5545 ENGLISH  
1-888-568-8332 ESPAÑOL

Connecticut law requires a rape conviction before a woman is allowed to petition the probate court to terminate the parental rights of a rapist. National statistics show, however, that rape only ends in conviction 2% of the time. Even when survivors report to the police and undergo an invasive exam and evidence collection, their cases may not move forward. For those that do, cases may languish in court while a victim waits for justice. Many times, rapists plead to lesser non-sexual assault charges. This does not mean that the rape did not happen. It does not mean that a woman should not have access to the legal system to terminate the parental rights of the rapist.

Growing concern about the health and well being of rape survivors across the country prompted Congress to address this very issue last summer and bring to light this barrier and the importance of using the clear and convincing evidence standard to terminate the parental rights of a rapist. Through the passage of the Rape Survivor Child Custody Act, the federal government is offering federal dollar incentives to states that change their laws to the clear and convincing standard in these cases. If Connecticut passes HB5605, we will receive an additional 10% of our annual Violence Against Women federal dollars, which will be upwards of \$200,000 each year for five years.

Currently, no conviction is required to terminate parental rights in Colorado, Florida, Idaho, Illinois, Louisiana, Missouri, New Hampshire, Oklahoma, South Dakota, Texas, Vermont and Wisconsin. Maine is considering this legislation right now and it has passed out of committee nearly unanimously and is heading forward.

Probate judges are the experts in applying the clear and convincing evidence standard. They use it to decide if termination of parental rights is appropriate as I mentioned before, they use it to decide if a person should be involuntarily committed to a psychiatric institution, they use it to rule on claims involving wills and inheritances, they use it in cases involving important family decisions such as withdrawing life support from a relative, and much more. The clear and convincing legal standard means that the evidence being presented must be highly and substantially more probable to be true rather than untrue. In other states, evidence used to determine if the clear and convincing standard has been met includes: police reports, sexual assault forensic exam kit findings, therapy records, reports to sexual assault victim advocates with privileged communication status, witnesses, and DNA tests.

It is important to note that in the statutes for termination of parental rights, each and every reason that a judge may choose to terminate parental rights, and the list is lengthy, uses the clear and convincing evidence standard. Every one. Including if the parent killed another child. However, the one and only statute that requires conviction is if a woman is impregnated by rape. In other words, the rape of a woman is being held to a higher standard than any other reason for terminating parental rights.

It is estimated that there are between 25,000 and 32,000 rape-related pregnancies annually in the US. According to one recent study, 32% of the survivors continue the pregnancy. Women in Connecticut who have become impregnated through rape should have access to a fair and appropriate evidentiary standard for terminating the custody rights of their rapists.

**Support for HB5621 AN ACT CONCERNING HUMAN TRAFFICKING (Identical language also found in HB5623)**

The Connecticut State Legislature and this committee in particular have shown exceptional leadership in working to raise awareness of and prevention of human trafficking. HB5621 contains the logical next step in continuing that work. Connecticut Alliance to End Sexual Violence is a member of the Trafficking in Persons Council which is chaired by the Permanent Commission on the Status of Women. We are in support of the multiple measures in this bill that will aid Connecticut in its ability to raise awareness of and to prevent human trafficking. Of particular interest to us in this bill is the language in Section 7 that raises the age of a person who can be convicted of prostitution to 18. It should be assumed that children under 18 who are involved prostitution are victims of human trafficking. They need our help and they need services not prosecution.

In order to fully address human sex trafficking, we need to address the demand side of the equation. Sex trafficking relies on the people who demand these services. They should also be held accountable. Sections 8 and 9 provide for monetary

penalties to the person patronizing a prostitute. In addition, Section 8 removes the defense that a person just did not know that they were soliciting prostitution from a minor. Soliciting prostitution from a minor is a serious crime and should be treated as such. Section 12 focuses the forfeiture requirements on the demand side as well, requiring all property used or intended for use to commit or facilitate the commission of patronizing a prostitute will be subject to forfeiture.

The measures in HB5621 focus on helping the people who are harmed by human trafficking as well as holding accountable the people who make human trafficking possible and profitable.

**Support for HB5054 AN ACT PROTECTING VICTIMS OF DOMESTIC VIOLENCE (Identical language also found in HB5623)**

When discussing domestic violence and firearms, the statistics speak for themselves. A person in an abusive relationship is five times more likely to be killed if their abuser has access to firearms. Domestic assaults involving firearms are twelve times more likely to end in death than those involving other weapons or bodily force. In our state alone, there is an average of 14 intimate partner homicides each year, and the most common weapon used is a firearm. We, as a society, encourage people who are experiencing domestic violence to take steps to leave a relationship, so we must then give them the tools they need to do so safely. When a judge believes, based on a sworn affidavit from a victim, that the victim faces immediate physical danger and grants a temporary restraining order, the subject of that restraining order should surrender their firearms. The language of the bill makes it clear that they will be returned if a full restraining order is not granted. This is a basic and necessary protection that twenty other states have already passed. Connecticut should provide victims of domestic violence the tools they need to leave an abusive relationship safely.

**Support for HB5623 AN ACT CONCERNING VIOLENCE AGAINST WOMEN AND VICTIMS OF HUMAN TRAFFICKING**

We are in support of the provisions of this bill. For specific testimony, please reference our above testimony for the bills that also contain the same language: HB5605, HB5621, and HB5054.

**Support for SB442 AN ACT CONCERNING A VICTIM'S RIGHT TO BE REASONABLY PROTECTED FROM A PERSON ACCUSED OF COMMITTING A CRIME**

When a court issues a protective order, it can be a dangerous time for a victim of sexual assault, a time when there can be an increased risk of retaliation and further violence. Connecticut already has laws that require the subject of the protective order to surrender, deliver or transfer firearms. A victim who has applied for and received the protection of a protective order has the right to know if the subject of the protective order has complied with the laws regarding their firearm possession as it directly affects their safety. Therefore we are in support of the additional language in Section 1 which requires that the victim be notified in a timely manner of the firearm possession compliance of the subject of a protective order.

We also appreciate the language in Section 3 that puts the onus on the court to notify a victim of a crime that a defendant has applied to participate in a diversionary program so that a victim can have the opportunity to be heard before the court rules on the application. Previous language put the onus on the defendant to notify the victim. Thus the defendant is provided the name and address of the victim in order to notify them of their application. This is an unnecessary risk and can be re-traumatizing to the victim. We agree that the court is the more appropriate entity to notify a victim in these cases.

Section 4 also provides important notifications to victims when their perpetrators are arrested, released on bond and when they are to appear in court. Again, this information is critical to the victim's safety and peace of mind. In addition, this information will allow the victim to exercise their rights to be present at the hearings.

According to the Connecticut State Constitution, victims of crime have a right to be reasonably protected from the accused. These measures in SB442 will help to ensure that right is upheld.

**Opposition to HB5597 AN ACT CONCERNING DOMESTIC VIOLENCE VICTIMS SEEKING RESTRAINING ORDERS**

Though requesting a risk warrant to remove firearms is a useful tool for victims of domestic violence, it is not a tool that can be used successfully in every circumstance. The differences between the risk warrant process and the restraining order process are significant to victims of domestic violence. Unlike applying for a restraining order, which is a civil process, applying for a risk warrant requires police involvement. There are many reasons why someone in a domestic violence situation may not wish to escalate the dangerous situation they are already in by contacting law enforcement. Connecticut in particular has a 20% dual arrest rate when law enforcement is involved in domestic violence situations. Nationally, that rate is 7%. In Connecticut, in some communities, the dual arrest rate is even higher than 20%. When the risk is that high that a victim will also be arrested, it presents a barrier to involving law enforcement. If a risk warrant is issued, not only are firearms taken, but the home is searched. This can be perceived as a very provocative move and escalate anger and violence toward the victim. Utilizing the risk warrant system is an important option, but there are multiple ways to solve issues and victims of domestic violence should not be limited to only receiving protection from firearms if they choose to report to law enforcement.

**Opposition to SB443 AN ACT CONCERNING NOTIFICATION TO VICTIM SUPPORT GROUPS OF THE NAMES OF VICTIMS OF DOMESTIC VIOLENCE**

We appreciate that this bill acknowledges the important advocacy and support work that victim support groups provide to survivors of domestic violence and sexual assault. For survivors and victims of sexual assault, Connecticut Alliance to End Sexual Violence member programs offer 24/7 free and confidential crisis counseling and hotline services from certified sexual assault victim advocates, information and referrals to social and legal services, short-term counseling for individuals and groups, and community education programs concerning sexual assault issues, safety concerns, etc. They also have memoranda of understanding with most colleges and universities across the state to help provide support services to students.

We invite anyone who encounters a survivor of sexual assault to provide that person with our contact information so that they can contact us if they choose to do so. The key here is to let them choose whether or not to reach out to us. People react to trauma in a variety of ways. There is no right or wrong way to react to or process trauma. Different people need different things. A survivor of trauma should be empowered to make their own decisions. This includes whether or not to reach out to a victim support group. People who experience the trauma of sexual assault have lost their power over decisions regarding their bodies. Reclaiming their power to make their own decisions is an important part of the healing process. Providing them with information and allowing them to decide what their next steps will be is empowering them.

In addition, there may be a myriad of reasons why a survivor of sexual violence may not want to have their name given out. They may know someone who works at the local victim service group and may not want to disclose what is happening to them to that particular acquaintance. They may have safety concerns. If victims know that their names will be given out, for many, it will discourage reporting. Sexual violence is already severely underreported. Maintaining privacy is of the utmost importance.

Though the intention of this legislation to connect victims and survivors with much needed services is honorable, there will be unintended consequences, including further victimizing someone who has already lost their agency as well as discouraging survivors from reporting.

**Support with Reservations for HB5052 AN ACT CONCERNING PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING**

As members of the Trafficking in Persons Counsel, we support the efforts of this bill to protect minors who are subject to human trafficking. Section 2 clarifies that a person is guilty of trafficking in persons if they compel or coerce a person under 18 to engage in sexual contact with one or more third persons, even one time. We question, however, why this language