

Good morning!

I would like to testify my opposition to HB4145.

While I agree that domestic violence offenders should not have firearms, I'm not convinced that this bill protects the rights of the accused. This ties into a larger conversation about falsely accusing an individual as a tactical move in divorce.

Protective orders are often entered on an "emergency" basis without notice to the defending party and then set for a full hearing date several weeks out. Courts will do this in order to maintain the status quo until proper notice can be given to the now restrained party and a hearing can be held.

With a small statement, the accused (again, the man in about 85% of the cases) can be forced to stay out of the home, barred from parenting time, and prevented from any contact with his children, including through phone and email. In an instant, his house and kids can be taken away from him.

In effect, the order becomes a de facto sole child custody order.

Having an order of protection entered against you may affect your criminal history record and many times protective orders are visible on background checks for employment.

So the unnecessary or false orders entered result in persistent damage to the innocent person's reputation, career prospects, financial status, and standing in the eyes of any children they may share.

This is a big concern for me because restraining orders are granted to virtually all who apply and now used as a tactical advantage in divorce cases. A 1995 study by the Massachusetts courts showed that fewer than half of all restraining orders involved even an allegation of physical abuse. Let that sink in. Not even a threat of physical harm.

In theory, a defendant gets a chance 10 days after or extend the restraining order it to a year. However, it's usually limited to a he said/she said exchange in which the defendant is given little credit. The normal rules of evidence do not apply; hearsay is commonly allowed while evidence favorable to the defendant can be kept out.

This is especially egregious because the majority of the domestic violence allegations are false. (See attached).

An example is the case of Shane Morgan who was falsely accused of human trafficking, kidnapping, and abuse. He lost his job. He was kicked out of his home. His face was all over the news and he felt scared everywhere he went. Though exonerated, he moved to South Carolina. If my face and name were smeared all over my community as committing those heinous crimes, a fresh start would be appealing to me.

The advantages of a restraining order to the complainant -- exclusive possession of the home (with the alleged abuser often required to continue paying the rent or mortgage), temporary and probably permanent sole custody of the children -- can be tempting. So can the opportunity to make your ex very miserable.

Now HB4145 is adding additional people into this broken system by changing the definition of family. I can see the merit now that we're in a post-marriage society, but it needs additional safeguards to protect the accused.

Please do not pass this legislation without appropriate safeguards.

Semper Fidelis,
Rodger