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A tax exempt 501c3 nonprofit organization providing free confidential safety needs and direct advocacy services to individuals whose lives have been affected by domestic violence, sexual assault, and/or human trafficking.

### HB 1255 Senate State Affairs Committee Hearing

Good Afternoon, my name is Jessica Wurtz and I am the Executive Director of Project Hope, an anti-domestic violence agency in Gunnison, Colorado. I am here today asking you to support HB 1255.

**Anonymous, in Gunnison County**, is a victim of domestic violence. Her perpetrator's abuse escalated to pulling a gun in public. She wanted to file a protection order to keep herself and her baby safe, but was intimidated into not pursuing it.

As an advocate in rural Colorado, I understand the fear many survivors have expressed in obtaining protection orders or cooperating in a criminal prosecution once they learn that even though the law allows for and states a defendant in a criminal case or a respondent to a civil protection order must surrender firearms, no action will be taken. That part of the law will largely be ignored.

**Anonymous, in Gunnison County**, is a victim of domestic violence who still fears for her life despite escaping her abuser. She knows that a piece of paper isn't going to protect her if he finds her and has a gun.

When I safety plan with clients their abusers' access to firearms is top of mind. They often weigh the usefulness of a protection order against the likelihood their partner will obey the law, or will their partner be so enraged by their bold action to seek the order that they will escalate their abuse? Will they follow through on their promise to kill their victim, themselves, their children, or pets? We have seen all of this play out far too many times, and the fear is enough to keep many victims from trying to take steps within the system to protect themselves.

**Anonymous, in Montrose County**, is a victim of domestic violence who recently fled not only her home, but her community. Her perpetrator had pointed a gun at her head and threatened her life repeatedly.

Enforcing the state law to remove firearms when a criminal or a permanent protection order is entered will help us safety plan with clients and will encourage victims to trust that protection orders and the laws that govern them can actually help them stay safe from individuals who have already proven through their own actions that they are capable and willing to cause direct harm through **"threats or use of physical force"**.

Some folks have talked about this bill as a second ERPO, which is inaccurate. Most people who qualify for ERPO will be in the throes of a mental health crisis, which are uncontrollable and unpredictable. This is different. This bill protects victims from people who have made the choice, made a conscious decision, to abuse their partners. If individuals don't want to have to relinquish their firearms, they can simply choose not to inflict harm on their partner. I ask for your support to help protect victims from the harm that can be caused by an abuser with access to deadly weapons by voting in support of this bill. Thank you.

Jessica Wurtz  
Executive Director

Chair Gonzales and Members of the Committee-

Thank you for allowing me to testify today. Thank you to Senators Jaquez Lewis and Pettersen for bringing this important life-saving bill to this committee. My name is Holly Cheng. I Live in Douglas County, I am a mother and I am a volunteer with the Colorado chapter of Moms Demand Action. I am here today to voice my strong support for HB21-1255.

I sit here over a year from the last time I testified on this issue looking at a picture of Ty Tesroiero that hangs in my home office. It sits next to the green hot wheel he gave my son and the red ribbon from his memorial and the emotions of losing him in 2019 come rushing back. I was a neighbor and friend. I was sleeping right below when he was killed and it can't be overstated how much greater the pain must be for his family. I no longer live in the same community, but a few weeks ago an officer was parked in my neighborhood. My husband and I both had flashbacks of seeing the caution tape, getting that knock on the door, and having an officer telling my husband to wake up our napping children because a gun round could go off through the wall during the investigation. Every time I see a story with his name I lose my breath.

We are examples of the ripple effect of trauma in a community that comes with intimate partner violence and gun violence. As a PHN that serves families in prevention, a childhood survivor and especially as someone that held Ty close, this is personal. Ty was killed with a firearm his dad should not have owned, a gun an existing law prohibits him from owning. He owned firearms long before his charge about 4 years before Ty's murder that should've prevented him from keeping firearms in his possession. While a judge told Ty's mother not to have a firearm at home, no one had checked to see if Anthony had filed an affidavit stating he didn't own any, even after he had 3 warrants out for his arrest for violating a protection order and was arrested once for this. Chris Vanderveen at channel 9 uncovered Anthony's name in a data dump over a year before Ty's murder as one of the 69,000 people ordered to relinquish their firearms between 2014-2017 in CO. He found that Anthony in fact never certified an affidavit with the court.

This bill is a public safety bill that sees to it that existing law from 2013 is actually followed. Not enforcing these laws have dire consequences. Over 50% of deaths related to domestic violence in 2018 and 2019 in CO were caused by firearms (Colorado Domestic Violence Fatality Review Board).. According to the Colorado Domestic Violence Fatality Review Board, in 2019 there was a 62.7% increase in domestic violence deaths over the previous year, and 64.7% of these were from gunshot wounds. Additionally, 19 children were involved in 20% of the cases in that year. Ty was the youngest victim. CDC data suggests 1 in 5 homicide victims are killed by an intimate partner (CDC Intimate Partner Violence Fact Sheet, 2020) and it is well known in public health that a woman being killed by an abusive partner is 5x more likely when a firearm is present. I can tell you from my work, there are countless others living in fear because the current laws are not protecting them.

The danger also extends to the larger community. Over half of mass shootings are related to domestic violence (EverytownResearch.org). I have no doubt Anthony would've taken other victims if given the circumstances. He threatened to kill the CFI in his case just a month before he took Ty's life. Vote yes for the victims and survivors of IPV, vote yes for Ty and vote yes for our community.

2019 and 2020 reports available from: <https://coag.gov/office-of-community-engagement-state-impact-programs/domestic-violence-fatality-review-board/>

<https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>

<https://www.9news.com/article/news/local/colorado-domestic-violence-deaths/73-d5cbce5c-876f-4a08-a395-34124434b07d>

<https://www.everytown.org/issues/mass-shootings/>



Testimony in opposition to HB21-1255, Protection Order Issued Against Domestic Abuser:

This bill requires compelled speech that may violate the 5<sup>th</sup> amendment, imposes an unrealistic timeline that will not be effective in enforcing existing duties to relinquish firearms and ammunition, and criminalizes the failure to file a signed declaration or affidavit, not just the failure to relinquish firearms and ammunition.

The bill only allows 24 hours after receipt of a court order to relinquish firearms, or 24 hours after release from custody (in the court's discretion, in some cases relinquishment can be required BEFORE release from custody). In that time, a person subject to a protection order, whether or not they are the defendant in a criminal case, must find either a federally licensed firearm dealer, a law enforcement agency who elects to store firearms (for a fee), or a private party who does not live in the same residence (and have a criminal background check conducted), transfer the firearms and ammunition, obtain a written receipt and signed declaration of the transfer, file the signed declaration and results of criminal background check with the court within 3 business days of the transfer, and then either attend in person a mandatory compliance hearing or file a signed affidavit where they affirm under penalty of perjury the number, type, and location of all firearms and ammunition (or their transfer) or attest to nonpossession.

Failure to transfer the firearms OR failure to file the signed declaration constitutes the crime of violation of a protection order.

Failure to attend the compliance hearing or file the signed affidavit before that hearing constitutes contempt of court.

Either the crime of violation of a protection order or contempt of court subjects the person to arrest, a new bond, and deprivation of liberty. The bill targets people deemed unfit to possess firearms and ammunition, either when presumed innocent or not even charged with a crime, and further destabilizes them in the hopes of increasing public safety.

The speech required either at the compliance hearing or in the sworn affidavit is compelled speech that can violate the 5<sup>th</sup> amendment right against self-incrimination. It is required under the bill either at a time when the person has no lawyer, or when that lawyer has just advised the person of their right to remain silent and that anything they say in court or submit in writing will be used against them. Despite the attempt at immunity provisions for this compelled speech, it cannot apply to federal cases and it does not apply to perjury under 18-8-503. Under

current law, criminal defendants have the right not to incriminate themselves because they can remain silent. In the circumstances described in the bill, the law will mandate speech.

It is also important to note that a law that is too difficult to follow invites noncompliance.

Someone who has been charged with even low level offenses and not held in jail very long has a slew of problems upon release. They may have lost their job, housing, transportation, public benefits, custody of children, means of communication, cell phone/internet access, contact with their support system, medication, etc. Many of these people have difficulty reporting to pretrial supervision, completing an application for a public defender, and making their court dates upon release due to these and a host of other issues. The timeline in the bill for compliance is simply unrealistic and therefore will not further the goal of increasing relinquishment. It will only serve to further criminalize and keep people going through the revolving door of the jail. Particularly when you factor in court discretion to require relinquishment BEFORE release from custody, the process in the bill is simply unworkable.

CCDB appreciates the extensive stakeholder work conducted by the proponents. They have been transparent, collaborative, and receptive to our input not just this session, but last session, as well. However, we have a philosophical difference here as to whether and to what extent the criminal system can effectively address these issues. We have grave constitutional concerns and see many practical problems with the process outlined in the bill. Therefore, we remain opposed to this legislation.

Please vote no on HB21-1255.

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Thank you, Madam Chairwomen and committee members. My name is Jane Dougherty and I m representing myself. I am in support of HB21-1255 Domestic Violence Relinquishment.

My reason for supporting this bill is very personal. My sister Mary was a gun violence victim. Mary was the brave school psychologist that gave her life to save her kids. Prior to blasting his way into Sandy Hook school with a Bushmaster AR-15 rifle the shooter murdered his mother while she slept with a Savage Mark II rifle. Most people do not think of the slaughter of lives in Newtown as domestic violence but that is how it began.

As a family member of a gun violence victim, you think about all the ‘what ifs’ and “if only”. What if the shooter did not have easy access to the guns? What if the guns had been locked up? If only the guns had been removed from the home before the crisis. What if all those lives could have been saved? What if my sister did not have to act as a first responder?

If only the guns had been removed my sister would have celebrated her 57<sup>th</sup> birthday the following February.

If only the guns had been removed my sister and her husband would have celebrated their 31<sup>st</sup> anniversary the following April.

If only the guns had been removed my sister would have retired the following year after taking care of her kids at Sandy Hook for 18 years.

If only the guns had been removed my sister would still be laughing at my dumb jokes on facebook.

If only the guns had been removed my two nieces would still have their mother and my sister would have experienced becoming a grandmother to two little girls.

If only the guns had been removed, I may not have had to work for 9 years to fight to save other families the devastation my family has suffered.

This bill will tighten up the process of removing a gun from a domestic violence offender. Victims and Families must rely on the courts to order relinquishment of a gun before a crisis happens, and our law enforcement must remove the gun. Vote yes on this life saving bill. Thank you.



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**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

**Office of the Attorney General**

**Attorney General Phil Weiser**  
**Testimony on House Bill 21-1255**  
**Before the Committee on the State, Veterans, & Military Affairs,**  
**Colorado Senate**  
**- May 25, 2021 -**

Members of the Committee, thank you for allowing me to join you today to express my strong support for House Bill 21-1255. I am very grateful for the sponsors—Representatives Duran and Gray, as well as Senators Jaquez Lewis and Pettersen—for their leadership on this important bill. And thank you as well to the proponents of this legislation, including Violence Free Colorado, for their work to stem the tide of violence within intimate relationships and protecting survivors.

Domestic violence (“DV”), also known as intimate partner violence, remains a threat and an affliction that we must curtail—and ultimately eradicate—here in Colorado. Domestic violence takes many forms, often including physical, psychological, or sexual abuse and trauma.

As chair of Colorado’s Domestic Violence Fatality Review Board (“Review Board”), I oversee our work demonstrating how intimate partner violence can escalate and end in death. The Review Board found that in 2019, Colorado had at least 60 incidents where domestic violence resulted in a fatality. Of those 60 incidents, 70 people lost their lives.<sup>1</sup> Of the 70 people who died, the plurality (27, or 38.5%) were women killed by a current or former male partner, followed by men who died by suicide during DV incidents (16, or 22.8%).<sup>2</sup> These deaths have enduring ripple effects, especially for children who lose parents through DV incidents (and sometimes witness their parents’ deaths first-hand).

Limiting access to firearms for individuals subject to DV-related protection orders is a commonsense health and safety measure. In 2019 in Colorado, for example, gunshot wounds accounted for nearly two-thirds of DV deaths.<sup>3</sup> National

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<sup>1</sup> Colorado Domestic Violence Fatality Review Board, 2020 Annual Report p.4, <https://coag.gov/app/uploads/2020/12/CDVFRB-2020-Annual-Report.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 19.

studies have found that firearms are involved in approximately 50-60% of fatal DV-related incidents.<sup>4</sup> In fact, research shows that DV perpetrators with access to firearms are 5 to 8 times more likely to kill their victims than those without firearms.<sup>5</sup> In short, requiring individuals subject to DV-related protection orders to relinquish their firearms can help save lives.

In 2013, the General Assembly wisely moved to protect the safety of survivors of domestic violence by passing Senate Bill 13-197. That bill required some domestic violence offenders who are subject to a protection order stemming from an act of domestic or intimate partner violence to relinquish their firearms and refrain from possessing or purchasing firearms for the duration of the order. In the intervening years, however, stakeholders identified aspects of the law ripe for clarification. By clarifying various aspects of the process, this bill takes important steps to help ensure the relinquishment process is fair, straightforward, and reduces the risk of intimate partner violence using firearms. Let me briefly mention a few key examples.

First, this bill clarifies and strengthens important aspects of the relinquishment process itself. The relinquishment process should be easy to understand, easy for courts and law enforcement to implement, and easy for respondents and defendants to navigate. By clarifying how and when respondents and defendants must act to comply with the relinquishment requirement, and by specifying the courts' role in monitoring for compliance, this bill takes important steps to ensure that the relinquishment process works as intended.

Second, by clarifying that the duty to relinquish firearms following a protective order applies not only to current and former spouses and cohabitants, but also to current and former unmarried couples, the bill closes the so-called "boyfriend loophole." This commonsense reform extends the protections in current law to cover all intimate partners subject to domestic violence protection orders, regardless of marital status.

Third, the bill prohibits respondents and defendants subject to the relinquishment requirement from transferring firearms to a private party living in the same residence as the respondent or defendant. This provision is consistent with the core purpose of the relinquishment requirement—keeping firearms out the hands of domestic abusers who are subject to a protection order.

Together, these and other provisions of House Bill 21-1255 are thoughtful improvements to the current relinquishment process. And I strongly urge the Committee's approval of this bill.

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<sup>4</sup> *Id.* at 4.

<sup>5</sup> *Id.* at 8.

Members of the Committee, thank you for the opportunity to speak to you today. I am pleased to answer any questions you may have.