



House Criminal Justice and Public Safety Committee, April 28, 2021
SB141, relative to the procedure for conducting firearm background checks

Testimony of Pamela Keilig
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Good morning Mister Chair and Members of the Committee. My name is Pamela Keilig, and I am the Public Policy Specialist at the NH Coalition Against Domestic and Sexual Violence. The Coalition is an umbrella organization for 12 community-based crisis centers who each year provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence. I am here to speak in **opposition to SB141**, which would eliminate the state's Gunline and place victims of domestic violence and stalking at a heightened risk of lethal assault in New Hampshire. Thank you for the opportunity to share this testimony.

Introduction

New Hampshire's Gunline serves as a state back-up registry allowing law enforcement in New Hampshire to conduct criminal background checks when individuals attempt to purchase firearms, or petition to return their firearms after they have been legally relinquished due to domestic or sexual violence incidents. New Hampshire is a partial point of contact state, whereby the Gunline conducts background checks on handguns, and the Federal Government conducts long-arm background checks via the NICS system. **This system has been in place for over 20 years in the Granite State, and there are New Hampshire-specific public safety concerns that will ultimately need to be addressed before we eliminate the Gunline completely.** These concerns are not adequately or appropriately rectified in SB141. Public safety needs to be the primary focus when considering overhauling a system that the state has utilized for over two decades. **We need a system that is a flexible and recognizes the complexity of domestic violence and stalking cases.**

Domestic Violence Homicides in New Hampshire and Risk of Lethality

The Coalition has significant concerns about the process taken to ensure a smooth transition should the Gunline be eliminated. SB141 does not provide enough clarity around this process, nor evoke confidence that it is even feasible to make this change. As written, this bill lacks transparency around ensuring that cases won't fall through the cracks and that the most lethal individuals in the state won't be able to access firearms.

According to the 2018-2019 Domestic Violence Fatality Review Committee Biennial Report, 21 people lost their lives to domestic violence homicide in the Granite State,

representing 45% of all homicides during that timeframe. This is a dramatic increase from the prior reporting period, illustrating that domestic violence remains one of the most prevalent legal and social problems in our state. In fact, on average, domestic violence is a factor in 77% of state's murder/suicides and 51% for domestic violence homicides.

Additionally, thousands of individuals sought protection from domestic violence and stalking between 2018 – 2019. Nearly 8,000 victims filed for domestic violence petitions, and 4,200 civil stalking petitions were filed by people requesting protection from abuse. In addition, 7,501 Criminal Bail Protective Orders were issued. **Selling the wrong person, a firearm could be life or death.**

When reviewing cause of death for the domestic violence homicides a firearm was used nearly 50% of the time; with handguns being the cause of homicide over long guns 9 out of 10 times. This means that firearms are the leading cause of death in domestic violence cases. **We know that the most dangerous time for a victim is when they are trying to leave an abusive relationship. It is essential that all safeguards remain in place to prevent and deter escalating violence.**

This is particularly important when reviewing data from the Lethality Assessment Program, also known as LAP. Over the last two years, law enforcement departments across the state have conducted LAP screenings where 54% of victims (over 3,000 individuals) screened in as “high danger”. This means they are at a heightened risk of fatality. The fact that more than half of LAP screens are recognized as high danger is deeply concerning and indicates a need for protective measures to ensure the safety of victims. Moreover, crisis center advocates have reported an increase in the number of lethal cases over the last year. **This growing trend of more escalated violence demands that we take victim safety extremely seriously and ensure that all the tools that we can utilize to prevent lethal violence be maintained.** The elimination of the Gunline at this juncture would place too many victims at unnecessary risk for their safety.

SB141 Fails to Address Safety Concerns for Domestic Violence and Stalking Victims

While SB141 makes some attempts to address victim safety concerns, there are **significant gaps** in the legislation that need to be acknowledged, particularly in ensuring that violent offenders remain prohibited from purchasing or acquiring firearms in New Hampshire. As it stands, **this bill is missing critical provisions that would ensure the same level of comprehensive protections currently afforded victims of domestic violence and stalking would be covered in the new system.** We recognize the rights of citizens in our state to purchase and own firearms, but that right should not replace the right to public safety that all citizens of our state should have.

There are **three specific** areas that this bill fails to address that would be detrimental to victims of domestic violence and stalking:

- 1) **Addressing Cases where the offender's DOB is not identified.** Approximately 6% of cases where protective orders are issued the court does not have a date of birth for the

defendant. If the Date of Birth (DOB) of an offender is unknown, the national registry will cannot accept the petition so it cannot be instantly entered into the federal system. This is problematic because most victims of stranger stalkers do not know the DOB of the offender and their information would not show up on a “check” for certain firearms. **This is a gap that cannot be addressed with the proposed legislation.** If not addressed, there will always be approximately 50-70 people with the ability to purchase a firearm that are legally prohibited from doing so.

- 2) **SB141 does not cover all types of protective orders.** This bill authorizes the Judicial Branch to enter any temporary or final court order requiring the relinquishment of firearms or prohibiting the possession of firearms under RSA 173-B or RSA 633:3-a into the NICS system, however, **leaves out critical protective orders that also need to be included.** The bill should be expanded to allow entry of protective orders under RSA 169-C (Child Protection Act), RSA 597 (Bail) or any other statute that authorizes the issuance of protective orders that would result in a disqualification under state or federal weapons laws, which would not be authorized as the bill is currently written. **This leaves significant gaps in upholding New Hampshire’s statutory protections for domestic violence and stalking victims.** Additionally, the bill would not allow for searching of the internal database at the Department of Safety which has cases which result in disqualifying events that are not captured in a search by FBI only. It would also not search the emergency domestic violence orders and criminal bail protective orders issued after hours, **further limiting the state’s ability to adequately respond and ensure that violent offenders are not able to access deadly weapons.**
- 3) **Does not propose solutions to records not in certain databases.** There are between 150,000 – 200,000 criminal records that are not (and cannot be) adequately uploaded into the NICS databases. When they pop up for Gunline, the staff can check, but would not show up in a NICS database. Between these criminal records, and the 50-70 nonconforming individuals, there is a significant need to ensure that records that are currently manually checked will not be left out of the new system.

Conclusion

It’s imperative that the state’s background check system be comprehensive, responsive and flexible to account for the realities of the highly dangerous and lethal experiences that survivors face, and that law enforcement have to address in the field. **The outright elimination of the gunline without sufficient planning and evaluation trivializes the very real danger that victims of domestic violence, sexual assault, stalking and human trafficking face every day in this state.** There are still too many questions left unanswered that are of serious concern around what the transition out of the current system into a new system would be like, and how the unique cases and situations that the law enforcement and the courts manage will be addressed. We understand that the majority of gun owners in this state are not abusers. But we also need to recognize that when abusers do have access to guns it has deadly consequences. If

we are going to overturn a 20-year-old system, it is imperative that these safety concerns be adequately addressed. We urge the committee to vote ITL on this bill and prioritize the safety of individuals experiencing domestic and sexual violence in our state.

Thank you so much for your time and I'd be happy to answer any questions.