



Testimony of Representative Garey Bies
Assembly Committee on Public Safety and Homeland Security
AB 464- Relinquishing Firearms in Cases Involving a Restraining Order

Chairman Jacque, committee members. I appreciate the opportunity to testify in support of Assembly Bill 464, also known as the SAFE ACT. (Stopping Abuse Fatalities through Enforcement)

This bill is a reasonable and proven way to prevent domestic violence homicides while enforcing a current law.

Right now an abuser with an active child abuse, domestic abuse or, in some cases, a harassment restraining order is prohibited from possessing a firearm and is directed to either surrender the firearms to the sheriff or a third party. However, a survey conducted of Wisconsin Sheriff departments found the majority didn't automatically follow up to ensure that abusers had complied with the court-ordered mandatory surrender of weapons, meaning in most Wisconsin counties abusers are put on the honor system to hand them over.

This bill adopts court procedures that were successfully piloted in four Wisconsin counties (Outagamie, Sauk, Waushara, and Winnebago). The procedures ensure and verify that abusers relinquish their firearms when required by current law.

Under this bill, abusers who are currently required to relinquish their firearms will be asked about the firearms they own or possess. The court will then verify the guns are given to the sheriff or a third party. If there are issues with compliance, a mandatory court hearing is scheduled to ensure the firearms are turned in. If the abuser fails to attend the required hearing or later fails to surrender the firearms, the abuser will be arrested and held in contempt of court. The bill also provides a uniform procedure to return guns to individuals once their restraining order has expired.

Victims in the pilot counties supported the procedures called for under the bill. They said the procedures made them feel safer, gave them peace of mind, and enhanced their actual safety. Agency representatives in the pilot counties reported the new protocol required minimal court time and that they didn't experience any significant costs to law enforcement. I believe you'll be hearing from some of those folks today.

I'd also like to mention that we're working on a technical amendment based on recommendations from the State Courts and supported by End Domestic Abuse Wisconsin. We didn't have it back in time for the hearing, but will share it with committee members as soon as it's available.

This bill has bipartisan support and the recent tragedies here in Wisconsin support why this enforcement is necessary. Wisconsin needs to close this gap in our laws and provide a better opportunity to prevent the next domestic violence tragedy.

First for Wisconsin!

testimony



To: Members of the Assembly Committee on Public Safety and Homeland Security
Date: November 19, 2013
From: Tony Gibart, Public Policy Coordinator
Re: AB 464: The SAFE Act (Stopping Abuse Fatalities through Enforcement)

Wisconsin Coalition Against Domestic Violence
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Chairperson Jacque and Members of the Committee, thank you for the opportunity to provide testimony on AB 464, the SAFE Act (Stopping Abuse Fatalities through Enforcement). My name is Tony Gibart, and I represent End Domestic Abuse Wisconsin. End Abuse is the statewide membership organization that is the voice for survivors of domestic violence and local domestic violence victim service providers. We strongly support Assembly Bill 464 and thank Rep. Bies for bringing it forward.

A gun is the most commonly used weapon in domestic violence homicide in Wisconsin and throughout the United States. In response to the heightened risk that guns pose to domestic violence victims, both federal and Wisconsin law prohibit the possession of firearm while a person is subject to an active restraining order. However, abusers with civil restraining orders are not held accountable and retain possession of their guns, even when barred under state law.

In 2004, a Polk County resident, Mikayla Tester, died after being shot by her father, John Tester, who then killed himself. Mikayla was only five years old. Mikayla's mother had long been afraid for her and Mikayla's safety. She related numerous occasions when John threatened her life. She had two different protection orders during their marriage, and in court documents she had written, "I worry about our daughter if she happens to be in the wrong place at the wrong time when he goes into a rage." John had been arrested three times, twice for violating the order of protection and once for interfering with a 911 call. At the time of the homicide, he had an order of protection against him stating he was not to possess a firearm.

Under an existing law, individuals subject to restraining orders must surrender their firearms.

Wisconsin was one of the first states to implement legislation to require domestic abusers to surrender their firearms. Currently, under Wisconsin law, individuals who have an active domestic abuse, child abuse or, in some cases, a harassment restraining order against them may not possess firearms and must surrender firearms in their possession to the sheriff's department or a court approved third party. This provision, passed almost 20 years ago, makes sense.

- A Massachusetts study found that almost two-thirds of guns used by men who shot their partners were illegal because the killer had a prior abuse conviction or a protective order was in effect at the time of the killing.
- A study in North Carolina found that over one-third of respondents to domestic abuse restraining orders had access to a firearm, and over a quarter of those had used firearms against the victim in the previous 12 months.
- A 2010 study in the journal *Injury Prevention* found that **disarming violent offenders through the restraining order process reduces domestic violence homicides by almost one-fifth.**

Currently, offenders are not being required to actually surrender their guns.

In many counties, procedures do not exist to enforce firearms surrender requirements, leaving abusers to the honor system and exposing victims to potentially fatal danger. The Governor's Council on Domestic Abuse—Firearms Subcommittee, an interdisciplinary group of law enforcement officers, judicial officials, victim advocates and other professionals, surveyed counties regarding enforcement of the surrender law. In 2008, the subcommittee found that only 12 counties in Wisconsin have policies in place to actively ensure that abusers who are required to surrender their firearms do so.

AB 464 provides for the implementation of model procedures to ensure that perpetrators are held accountable and victims are protected.

AB 464 will create a procedure to confirm that the abuser has surrendered firearms in accordance with current law. The procedures were developed by the Governor's Council on Domestic Abuse—Firearms Subcommittee. The subcommittee, which was made up of a variety of stakeholders, was mindful of administrative and practical concerns and looked to best practices from other jurisdictions that have similar surrender requirements. Under the model procedures, if the firearms are not surrendered to the sheriff after the restraining order has issued, the abuser will be required to appear in court so that surrender can be arranged. Under AB 464, the respondent may still surrender the weapons to a third party. The bill requires that the third party also appear in court so that the judge takes steps to approve the third party, including informing that individual of his or her responsibilities as a third party and verifying that the third party is not legally prohibited from possessing guns.

AB 464 will not affect the rights of anyone who is currently legally allowed to possess a gun.

AB 464 will not affect the rights of anyone who is currently legally allowed to possess a gun. This is bipartisan legislation; it only creates procedures to make sure that Wisconsin's current surrender law actually does what it is supposed to do—protect victims and prevent domestic violence killings.

These model procedures have been successfully piloted in four counties.

Since the development of the procedures, four counties in Wisconsin, Outagamie, Winnebago, Waushara and Sauk, took part in a pilot project to implement the procedures. The pilot project was widely considered a success and demonstrated that these commonsense procedures can be implemented without undue expenditures of time and money. After these findings were documented in a final report, the Chief Judges in Wisconsin endorsed the procedures as a best practice.

Victims statewide deserve consistent enforcement of laws that can save their lives.

The success of the pilot projects and the support of judicial leaders represent improvements compared to the situation several years ago. However, still today, most counties do not have an active enforcement procedure. A victim's safety should not depend on where he or she lives in Wisconsin. This legislation will ensure that lifesaving enforcement of Wisconsin law will exist throughout our state and that the safety of victims in all of your districts will be taken seriously when known offenders are supposed to surrender their guns. For close to 20 years, the enforcement of this law has been worse than inconsistent. Now that we have a proven solution, we should not wait for another preventable killing before we act.

Thank you for the opportunity to provide testimony on AB 464, the SAFE Act. I urge you to pass this legislation.

From: Sarah Engle
Date: November 19, 2010
Re: Testimony in Support of Assembly Bill 464, the SAFE Act.

Hello, my name is Sarah Engle. I am from Price County, but currently live in Marshfield, Wisconsin to be near the Marshfield Clinic, where I received treatment for my injuries. I am a survivor of domestic violence. I am here today to testify in support of Assembly Bill 464 and tell my story about how dangerous it is when abusers have guns.

On September 10, 2008, my ex, James Lahoud, shot and killed my mother—she was my best friend. He also held me hostage, raped me, shot me in the head and left me for dead. At the time, I was living with my mom because I had left him. When I returned home that night, he was in my mother's house holding a gun. He threatened to shoot me if I did not do what I was told. He told me to take off all of my clothes. He then taped my hands behind my back and tried to rape me. I convinced him to untie me, and I pretended that I wanted to have sex with him. I just wanted to get the gun away from him. But, he kept the gun close at hand as he raped me several times that night. Even when I had to use the bathroom, he would stand there and point the gun at me—always threatening to shoot me. He even shot the gun once to let me know that it worked. Then he made me get dressed. I assumed he would just go. I don't remember being shot. I have no idea how long I was unconscious before I woke up.

When I woke up, I didn't realize that I had been shot. I searched through the house to see if he was still there. I saw my car was gone. He had barricaded the door to my mother's room. I had to break in. I remember her being cold. I remember telling her I would get help. I left house frantically, without my shoes. Someone on the road saw me and got me to a clinic that just opened early that morning. I was taken to a hospital and don't remember much after that. I was told that because I was shot at such close range my skin burned immediately, preventing me from bleeding to death.

The next thing I can remember is waking up in the hospital. It was a month later, and I had been in a coma. As soon as I woke up, I immediately felt that I had survived so that I could speak out and help prevent others from becoming victims. That is why I am here. Even if AB 464 would not have saved my mother, I am living proof of how important it is that we do everything we can to keep guns out of the hands of domestic abusers. My ex had a history of being abusive. He had active domestic restraining orders at the time of the killing. AB 464 is the least we can do. The bill will help keep guns out of the hands of people like him, abusers who already are not legally able to own guns.

This legislation is not intended to punish abusers; it is meant to protect victims and prevent the senseless loss of life. I believe many domestic abusers learn abusive behavior because they either witnessed or experienced abuse as a child. However, when domestic abusers have access to guns, the cycle of abuse and pain continues for generations. Since 2000, over 50 people in Wisconsin, including my mother, have been killed by domestic abusers who illegally possessed their guns. Domestic violence has caused me pain and heartache that I will have to confront for the rest of my life. My hope is that by speaking out here today I can transform that experience into something positive and help change the laws so that others don't lose a parent or loved one.



Tom Barrett
Mayor

Bevan K. Baker, CHE
Commissioner of Health

Health Department Milwaukee Commission on Domestic Violence and Sexual Assault

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November 18, 2013

Representative André Jacque and Members
Committee on Public Safety and Homeland Security
Wisconsin State Assembly
State Capitol
Madison, Wisconsin 53708

RE: AB 464 SAFE Act

Dear Chairman Jacque and Committee Members:

This letter is written on behalf of the City of Milwaukee and its Commission on Domestic Violence and Sexual Assault to express support for the SAFE Act (AB 464).

Created by the City of Milwaukee Common Council, the Commission has worked with those affected by domestic violence and sexual assault and the agencies that serve them for more than thirty years. The Commission's duties include, but are not limited to, monitoring and promoting legislation, information and referral for persons affected by sexual assault and domestic violence, increasing community awareness, and designing policies, protocols, and trainings for public and private entities. This multidisciplinary team is charged with the responsibility to increase safety for victims of domestic violence and sexual assault while holding perpetrators accountable for their behavior.

As service providers, educators, health professionals, advocates, and law enforcement personnel, we well know the impact of gun violence on victims of abuse. Nationally and in Wisconsin, guns are the most commonly used weapon in domestic violence homicides. Milwaukee is no exception to this fact, where guns factor among the top three weapons used in intimate partner homicides in our city. Firearms are frequently used to inflict abuse, and the mere presence of a gun in the home increases a victim's chances of being killed. Since 2000, at least 53 Wisconsinites have lost their lives at the hands of a perpetrator who was legally prohibited from possessing a firearm. These staggering statistics underscore the relationship between gun violence and domestic abuse but, more importantly, they highlight an opportunity to strengthen the current law and protect some of our community's most vulnerable members.

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Think Health. Act Now!

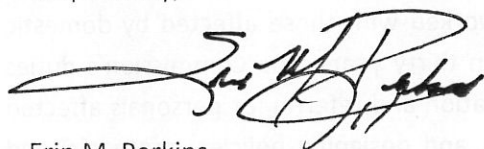
As advocates for victims of domestic abuse, we are grateful that our state provides for the surrender of firearms by respondents to domestic, harassment, and child abuse injunctions, but we can do better than to rely on an honor system, where the safety and security of victims hinges on the honesty of dangerous offenders. Wisconsin can take common sense, feasible steps to prevent tragedy.

Our state has already seen four counties successfully implement effective firearm surrender policies. A University of Wisconsin evaluation of these pilot programs reported that the protocol required minimal court time and no additional significant costs to law enforcement agencies. In addition, the evaluation emphasized the victim advocates' support of the protocol. According to researcher Steve Brandl, "the protocol made victims feel safer and may have enhanced their actual safety." He added, "the point is to prevent guns from being in the hands of a person in times of rage and anger."

Milwaukee County similarly convened an interdisciplinary team to create its own firearm surrender protocol. Since the implementation of that practice in April, there have been 200 firearm surrender hearings related to domestic abuse and harassment. This bill supports the expansion of this evidence-based protocol, which provides clarity for victims to understand their rights, demands accountability from batterers who may possess firearms, and highlights the danger of firearms and domestic violence to the community at large. Statewide protocols also guide the work of law enforcement, advocates, and court personnel, laying the groundwork for critical collaboration among these entities to prevent violence and create safer communities.

Thank you for your time and consideration. If you would like additional information, please do not hesitate to contact me by email at eperkin@milwaukee.gov or by phone at (414) 286-2997.

Respectfully,



Erin M. Perkins
Coordinator
Milwaukee Commission on Domestic Violence and Sexual Assault

- CC: Rep. Edward Brooks
Rep. John Murtha
Rep. Kathleen Bernier
Rep. Rob Swearingen
Rep. Frederick Kessler
Rep. JoCasta Zamarripa
Rep. Janet Bewley



STATE REPRESENTATIVE
JON RICHARDS

WISCONSIN STATE ASSEMBLY

November 19, 2013

To: Members, Assembly Committee on Public Safety and Homeland Security
From: Representative Jon Richards
Re: Support of Assembly Bill 464

Unfortunately, I am not able to attend today's public hearing on Assembly Bill 464. However, I wanted to add my voice to the ones you hear today in support of this proposal.

I am a cosponsor of AB 464, which is an important public safety bill that will benefit victims of domestic abuse and help law enforcement.

In 1996, the U.S. Congress passed a law that prohibits anyone convicted of a domestic violence crime from possessing a firearm. Additionally under Wisconsin law, individuals who have an active domestic abuse or child abuse injunction issued against them may not possess firearms and must surrender their guns to the sheriff's department or a court-approved third party.

However, we currently do not have a uniform system in our state to help local law enforcement ensure the surrender of firearms.

AB 464 responds to the real and grave dangers presented by domestic abusers who are in possession of firearms. According to the Bureau of Justice Statistics:

- A gun is the most commonly used weapon in domestic violence homicides;
- When a gun is in the household, the risk of any family member being killed increases, but for women the risk increase more than triples; and
- Nationally, in 2006 (the last year for which data is available), Intentional Homicide was the 2nd leading cause of death for women between the ages of 15-24 (62% with a firearm).

In response to the heightened risk that firearms pose to domestic violence victims, AB 464 establishes procedures for surrendering firearms after a court grants an injunction. There are currently several counties that have policies in place to actively ensure that abusers surrender their firearms. This proposal will establish procedures for all Wisconsin counties to comply with state and federal laws that prohibit domestic violence offenders from having possession of firearms.

AB 464 promotes proactive enforcement of current state law and is a significant public safety measure. Domestic violence prevention is not a partisan issue. It is an important issue that can bring us together in an effort to stop future senseless tragedies.

I encourage your support of Assembly Bill 464. Thank you for your consideration.