



House of Representatives

General Assembly

File No. 450

February Session, 2002

Substitute House Bill No. 5692

House of Representatives, April 11, 2002

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FIREARMS AND FAMILY VIOLENCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 46b-38b of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2002*):

4 (a) Whenever a peace officer determines upon speedy information
5 that a family violence crime, as defined in subdivision (3) of section
6 46b-38a, except a family violence crime involving a dating relationship,
7 has been committed within such officer's jurisdiction, such officer shall
8 arrest the person or persons suspected of its commission and charge
9 such person or persons with the appropriate crime. The decision to
10 arrest and charge shall not (1) be dependent on the specific consent of
11 the victim, (2) consider the relationship of the parties, or (3) be based
12 solely on a request by the victim. Whenever a peace officer [makes an
13 arrest under this subsection] determines that a family violence crime
14 has been committed, such officer may seize any firearm at the location

15 where the crime is alleged to have been committed that is in the
16 possession of any [such] person arrested for the commission of such
17 crime or suspected of its commission or that is in plain view. Not later
18 than [forty-eight hours] seven days after any such seizure, the law
19 enforcement agency shall return such firearm in its original condition
20 to the rightful owner thereof unless such person is ineligible to possess
21 such firearm or unless otherwise ordered by the court.

22 Sec. 2. Section 29-36n of the general statutes, as amended by section
23 14 of public act 01-130, is repealed and the following is substituted in
24 lieu thereof (*Effective October 1, 2002*):

25 (a) The Commissioner of Public Safety, in conjunction with the Chief
26 State's Attorney and the Connecticut Police Chiefs Association, shall
27 develop a protocol to ensure that persons who become ineligible to
28 possess a pistol or revolver have, in accordance with section 29-36k,
29 transferred such pistol or revolver to a person eligible to possess such
30 pistol or revolver or have delivered or surrendered such pistol or
31 revolver to said commissioner.

32 (b) The Commissioner of Public Safety, in conjunction with the
33 Chief State's Attorney and the Connecticut Police Chiefs Association,
34 shall update the protocol developed pursuant to subsection (a) of this
35 section to reflect the provisions of [this act] public act 01-130 and shall
36 include in such protocol specific instructions for the transfer of pistols
37 and revolvers when the assistance of more than one law enforcement
38 agency is necessary to effect the requirements of section 29-36k.

39 Sec. 3. Subsection (b) of section 29-37 of the general statutes is
40 repealed and the following is substituted in lieu thereof (*Effective*
41 *October 1, 2002*):

42 (b) Any person violating any provision of subsection (a) of section
43 29-35, as amended, may be fined not more than [one] ten thousand
44 dollars and shall be imprisoned not less than one year nor more than
45 [five] ten years, and, in the absence of any mitigating circumstances as
46 determined by the court, [one year] five years of the sentence imposed

47 may not be suspended or reduced by the court. The court shall
48 specifically state the mitigating circumstances, or the absence thereof,
49 in writing for the record. Any pistol or revolver found in the
50 possession of any person in violation of any provision of subsection (a)
51 of section 29-35, as amended, shall be forfeited.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Revenue Gain	Judicial Dept.	-	Minimal	Minimal
GF - Cost	Correction, Dept.	-	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases the maximum penalty for carrying a pistol or revolver without a permit from 5 years imprisonment and a \$1,000 fine to 10 years imprisonment and a \$10,000 fine. The bill also increases the mandatory minimum sentence applicable in the absence of mitigating circumstances from 1 year to 5 years. Under current law, there were 506 offenses resulting in 235 convictions with \$200 in revenue from fines in FY 01. It is unknown how many of these convictions were made in the absence of mitigating circumstances (resulting in a mandatory minimum sentence.) Currently, no one is incarcerated with such an offense as the primary offense.¹

While the bill is expected to generate a minimal (less than \$500) revenue gain from fines, the cumulative cost to incarcerate offenders could increase *see the table below*. Increasing the maximum penalty for carrying a pistol or revolver without a permit represents a cumulative cost increase for incarceration per offender of approximately \$130,000. Increasing the minimum mandatory sentence by four years (from one

¹ While offenders may be incarcerated for multiple offenses, all inmates are identified by a single offense that is referred to as the "primary offense" for data collection purposes.

to five), as described in the bill, would result in an additional cost of approximately \$104,000 per offender.²

Current law	Proposed change	Cumulative impact to DOC per offender
Pistol w/out permit (\$1,000 & 5 years)	Pistol w/out permit (\$10,000 & 10 years)	\$130,000
Pistol w/out permit & mitigating circumstances (1 year)	Pistol w/out permit & mitigating circumstances (5 years)	\$104,000

The bill also increases the length of time a peace officer has to return a firearm seized at the scene of a domestic violence crime from 48 hours to 7 days. This increase results in no fiscal impact.

Finally, the bill also requires that the protocol for specific transfer of handguns include a provision that addresses when multiple law enforcement agencies are necessary to complete a transfer and has no fiscal impact on the state.

² Calculated as follows: \$26,000 (annual cost of incarceration) * 4 (years).

OLR Bill Analysis

sHB 5692

AN ACT CONCERNING FIREARMS AND FAMILY VIOLENCE**SUMMARY:**

This bill increases, from up 48 hours to up to seven days, the time a peace officer has to return to the rightful owner a firearm seized at the scene of a domestic violence crime.

It increases the maximum penalty for carrying a pistol or revolver without a permit from five years' imprisonment and a \$1,000 fine to 10 years imprisonment and a \$10,000 fine. It increases the mandatory minimum sentence, applicable in the absence of mitigating circumstances, from one to five years imprisonment.

Public Act 01-103 required the public safety commissioner, chief state's attorney, and Connecticut Police Chiefs Association to work together to update the protocol they developed to ensure that people who become ineligible to possess handguns either transfer them to someone eligible or surrender them to the commissioner. The bill requires this group to include in the protocol specific transfer instructions when more than one law enforcement agency must be involved to complete the transfer or surrender.

EFFECTIVE DATE: October 1, 2002

BACKGROUND***Carrying Permit***

The following people are not required to get a permit to carry a gun:

1. parole or peace officers in this state;
2. out-of-state parole or peace officers while on official duty;
3. members of the armed forces when on duty or traveling to and from duty;
4. military organization members on parade or traveling to or from an assembly;
5. pistol or revolver traveling salesmen;

6. people transferring a newly purchased pistol or revolver from the store to their home or business;
7. people moving their household belongings from one place to another;
8. people taking the weapon for, or picking it up from, repair;
9. U.S. residents traveling through the state to or from a competition, formal training, repair shop, or a collector's meeting or exhibit, provided they can carry the weapon in the state where they reside;
10. people carrying the weapon to or from a testing range at the issuing authority's request; or
11. people transporting an antique pistol or revolver.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0