



# House of Representatives

General Assembly

**File No. 483**

February Session, 2004

Substitute House Bill No. 5293

*House of Representatives, April 6, 2004*

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 DUAL ARRESTS IN FAMILY VIOLENCE CASES.**

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

1 Section 1. Section 46b-38b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

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

21 (b) No peace officer investigating an incident of family violence  
22 shall threaten, suggest or otherwise indicate the arrest of all parties for  
23 the purpose of discouraging requests for law enforcement intervention  
24 by any party. Where complaints are [received from] made by two or  
25 more opposing parties, the officer shall evaluate each complaint  
26 separately to determine whether [he] such officer should make an  
27 arrest or seek a warrant for an arrest. Notwithstanding the provisions  
28 of subsection (a) of this section, when a peace officer reasonably  
29 believes that a party in an incident of family violence has used force as  
30 a means of self defense, such officer is not required to arrest such party  
31 under this section.

32 (c) No peace officer shall be held liable in any civil action regarding  
33 personal injury or injury to property brought by any party to a family  
34 violence incident for an arrest based on probable cause.

35 (d) It shall be the responsibility of the peace officer at the scene of a  
36 family violence incident to provide immediate assistance to the victim.  
37 Such assistance shall include, but not be limited to: (1) Assisting the  
38 victim to obtain medical treatment if such treatment is required; (2)  
39 notifying the victim of the right to file an affidavit or warrant for  
40 arrest; and (3) informing the victim of services available and referring  
41 the victim to the Office of Victim Services. In cases where the officer  
42 has determined that no cause exists for an arrest, assistance shall  
43 include: (A) Assistance [included] as provided in subdivisions (1) to  
44 (3), inclusive, of this subsection; and (B) remaining at the scene for a  
45 reasonable time until, in the reasonable judgment of the officer, the  
46 likelihood of further imminent violence has been eliminated.

47 (e) [On or before October 1, 1986, each] Each law enforcement  
 48 agency shall develop, in conjunction with the Division of Criminal  
 49 Justice, and implement specific operational guidelines for arrest  
 50 policies in family violence incidents. Such guidelines shall include, but  
 51 not be limited to: (1) Procedures for the conduct of a criminal  
 52 investigation; (2) procedures for arrest and for victim assistance by  
 53 peace officers; (3) education as to what constitutes speedy information  
 54 in a family violence incident; (4) procedures with respect to the  
 55 provision of services to victims; and (5) such other criteria or  
 56 guidelines as may be applicable to carry out the purposes of sections  
 57 46b-1, as amended, 46b-15, as amended, 46b-38a to 46b-38f, inclusive,  
 58 and 54-1g. Such procedures shall be duly promulgated by [said] such  
 59 law enforcement agency.

60 (f) The Police Officer Standards and Training Council, in  
 61 conjunction with the Division of Criminal Justice, shall establish an  
 62 education and training program for law enforcement officers,  
 63 supervisors and state's attorneys on the handling of family violence  
 64 incidents. [Such training] Training under such program shall: (1) Stress  
 65 the enforcement of criminal law in family violence cases and the use of  
 66 community resources, and include training for peace officers at both  
 67 recruit and in-service levels; and (2) include, but not be limited to: (A)  
 68 The nature, extent and causes of family violence; (B) legal rights of and  
 69 remedies available to victims of family violence and persons accused  
 70 of family violence; (C) services and facilities available to victims and  
 71 batterers; (D) legal duties imposed on police officers to make arrests  
 72 and to offer protection and assistance; and (E) techniques for handling  
 73 incidents of family violence that minimize the likelihood of injury to  
 74 the officer and promote the safety of the victim.

This act shall take effect as follows:	
Section 1	October 1, 2004

**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:

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### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 05 \$</b>	<b>FY 06 \$</b>
Criminal Justice Agencies	GF - Savings	Potential Minimal	Potential Minimal

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 05 \$</b>	<b>FY 06 \$</b>
Municipal Police Departments	Savings	Potential Minimal	Potential Minimal

### **Explanation**

The bill specifies that a peace officer is not required to arrest a party in an incident involving family violence if such party used force as a means of legal self-defense. Under current law, officers may determine that there is no probable cause to make dual arrests in certain circumstances. The outcome of this change is uncertain, however, to the extent that emphasizing the self-defense exception results in a reduction of dual arrests, minimal savings could result.

In addition, law enforcement agencies are required to include the relevant dual arrest procedures in their respective policy guidelines. Passage of this provision would not result in the need for additional resources.

**OLR Bill Analysis**

sHB 5293

**AN ACT CONCERNING DUAL ARRESTS IN FAMILY VIOLENCE CASES****SUMMARY:**

This bill creates an exception to the requirement for peace officers to arrest anyone they suspect has committed a family violence crime. When complaints are made by two or more opposing parties to the crime, the bill relieves the officer of his duty to arrest any party that he reasonably believes used force only as a means of self-defense. The procedures or criteria for making this determination should be included in each law enforcement agency's operational guidelines for arrest policies in family violence incidents, as required by law.

EFFECTIVE DATE: October 1, 2004

**BACKGROUND*****Family Violence Crime***

A "family violence crime" is an incident between family or household members that either causes physical injury or creates fear that physical injury is about to occur, but does not include verbal abuse or arguments. "Family or household members" are spouses, former spouses, parents and their children, people age 18 or older related by blood or marriage, people age 16 or older either living together or who have lived together, people who have a child together, and people in or who once were in a dating relationship.

***Related Bill***

SB 514, also reported favorably by the Judiciary Committee, permits judges to issue *ex parte* orders after courts are closed.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 40 Nay 2