



General Assembly

February Session, 2004

**Raised Bill No. 5293**

LCO No. 1176

\*01176\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**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 Section 46b-38b of the general statutes is repealed and the  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. When a peace officer has  
28 probable cause to believe that an incident of family violence has been  
29 committed, such officer, in determining whether to make an arrest of  
30 more than one of the opposing parties, shall consider (1) the  
31 responsibility of such officer to protect victims of family violence, (2)  
32 the degree of any injuries inflicted on such parties, (3) the extent to  
33 which such parties have been placed in fear of physical injury to  
34 themselves or to other family or household members, and (4) any  
35 history of family violence and potential for future family violence  
36 between such parties that can reasonably be ascertained by such  
37 officer. Notwithstanding the provisions of this subsection and  
38 subsection (a) of this section, a peace officer shall not arrest any such  
39 party if such officer has reasonable cause to believe that the party was  
40 acting in lawful self defense or in lawful defense of a third person.

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

44 (d) It shall be the responsibility of the peace officer at the scene of a  
45 family violence incident to provide immediate assistance to the victim.  
46 Such assistance shall include but not be limited to: (1) Assisting the  
47 victim to obtain medical treatment if such is required; (2) notifying the  
48 victim of the right to file an affidavit or warrant for arrest; and (3)

49 informing the victim of services available and referring the victim to  
50 the Office of Victim Services. In cases where the officer has determined  
51 that no cause exists for an arrest, assistance shall include: (A)  
52 Assistance included in subdivisions (1) to (3), inclusive, of this  
53 subsection; and (B) remaining at the scene for a reasonable time until  
54 in the reasonable judgment of the officer the likelihood of further  
55 imminent violence has been eliminated.

56 (e) [On or before October 1, 1986, each] Each law enforcement  
57 agency shall develop, in conjunction with the Division of Criminal  
58 Justice, and implement specific operational guidelines for arrest  
59 policies in family violence incidents. Such guidelines shall include but  
60 not be limited to: (1) Procedures for the conduct of a criminal  
61 investigation; (2) procedures for arrest and for victim assistance by  
62 peace officers; (3) education as to what constitutes speedy information  
63 in a family violence incident; (4) procedures with respect to the  
64 provision of services to victims; and (5) such other criteria or  
65 guidelines as may be applicable to carry out the purposes of sections  
66 46b-1, as amended, 46b-15, as amended, 46b-38a to 46b-38f, inclusive,  
67 and 54-1g. Such procedures shall be duly promulgated by said law  
68 enforcement agency.

69 (f) The Police Officer Standards and Training Council, in  
70 conjunction with the Division of Criminal Justice and the Connecticut  
71 Coalition Against Domestic Violence, shall establish [an education and  
72 training program] a protocol for law enforcement officers, supervisors,  
73 [and] state's attorneys and judges on the handling of family violence  
74 incidents. Such [training] protocol shall: (1) Stress the enforcement of  
75 criminal law in family violence cases and the use of community  
76 resources and [include] require initial training for peace officers at  
77 [both] the recruit level and mandatory in-service [levels] training  
78 thereafter; (2) include, but not be limited to: (A) The nature, extent and  
79 causes of family violence; (B) legal rights of and remedies available to  
80 victims of family violence and persons accused of family violence; (C)  
81 services and facilities available to victims and batterers; (D) legal

82 duties imposed on police officers to make arrests and to offer  
83 protection and assistance; (E) techniques for handling incidents of  
84 family violence that minimize the likelihood of injury to the officer and  
85 promote safety of the victim.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>

***Statement of Purpose:***

To establish considerations to be made by a peace officer prior to arresting more than one party to a family violence incident and to provide for the establishment of a protocol for the handling of family violence incidents.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*