



General Assembly

Substitute Bill No. 5293

February Session, 2004

* _____ HB05293JUD__032204_____ *

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 Section 46b-38b of the general statutes is repealed and the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	<i>October 1, 2004</i>

JUD *Joint Favorable Subst.*