



Senate

General Assembly

File No. 421

February Session, 2006

Substitute Senate Bill No. 443

Senate, April 6, 2006

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DOMESTIC VIOLENCE.

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

1 Section 1. Section 54-63c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) Except in cases of arrest pursuant to a bench warrant of arrest in
4 which the court or a judge thereof has indicated that bail should be
5 denied or ordered that the officer or indifferent person making such
6 arrest shall, without undue delay, bring such person before the clerk or
7 assistant clerk of the superior court for the geographical area under
8 section 54-2a, when any person is arrested for a bailable offense, the
9 chief of police, or the chief's authorized designee, of the police
10 department having custody of the arrested person shall promptly
11 advise such person of the person's rights under section 54-1b, and of
12 the person's right to be interviewed concerning the terms and
13 conditions of release. Unless the arrested person waives or refuses
14 such interview, the police officer shall promptly interview the arrested
15 person to obtain information relevant to the terms and conditions of

16 the person's release from custody, and shall seek independent
17 verification of such information where necessary. At the request of the
18 arrested person, the person's counsel may be present during the
19 interview. After such a waiver, refusal or interview, the police officer
20 shall promptly order release of the arrested person upon the execution
21 of a written promise to appear or the posting of such bond as may be
22 set by the police officer, except that no condition of release set by the
23 court or a judge thereof may be modified by such officer and no person
24 shall be released upon the execution of a written promise to appear or
25 the posting of a bond without surety if the person is charged with the
26 commission of a family violence crime, as defined in section 46b-38a,
27 and in the commission of such crime the person used or threatened the
28 use of a firearm.

29 (b) If the person is charged with the commission of a family violence
30 crime, as defined in section 46b-38a, the police officer may set
31 nonfinancial conditions of release which may require the arrested
32 person do one or more of the following: (1) Avoid all contact with the
33 alleged victim of the crime, (2) comply with specified restrictions on
34 the person's travel, association or place of abode that are directly
35 related to the protection of the alleged victim of the crime, or (3) not
36 use or possess a dangerous instrument, intoxicant or controlled
37 substance. Any nonfinancial conditions of release set pursuant to this
38 subsection shall remain in effect until the arrested person is presented
39 before the superior court pursuant to subsection (a) of section 54-1g.

40 (c) When cash bail in excess of ten thousand dollars is received for a
41 detained person accused of a felony, where the underlying facts and
42 circumstances of the felony involve the use, attempted use or
43 threatened use of physical force against another person, the police
44 officer shall prepare a report that contains (1) the name, address and
45 taxpayer identification number of the accused person, (2) the name,
46 address and taxpayer identification number of each person offering the
47 cash bail, other than a person licensed as a professional bondsman
48 under chapter 533 or a surety bail bond agent under chapter 700f, (3)
49 the amount of cash received, and (4) the date the cash was received.

50 Not later than fifteen days after receipt of such cash bail, the police
51 officer shall file the report with the Department of Revenue Services
52 and mail a copy of the report to the state's attorney for the judicial
53 district in which the alleged offense was committed and to each person
54 offering the cash bail.

55 (d) No police officer shall set the terms and conditions of a person's
56 release, set a bond for a person or release a person from custody under
57 this [subsection] section unless the police officer has first checked the
58 National Crime Information Center (NCIC) computerized index of
59 criminal justice information to determine if such person is listed in
60 such index.

61 (e) If the arrested person has not posted bail, the police officer shall
62 immediately notify a bail commissioner.

63 [(b)] (f) The chief, acting chief, superintendent of police, the
64 Commissioner of Public Safety, any captain or lieutenant of any local
65 police department or the Division of State Police within the
66 Department of Public Safety or any person lawfully exercising the
67 powers of any such officer may take a written promise to appear or a
68 bond with or without surety from an arrested person as provided in
69 subsection (a) of this section, or as fixed by the court or any judge
70 thereof, may administer such oaths as are necessary in the taking of
71 promises or bonds and shall file any report required under subsection
72 [(a)] (c) of this section.

73 Sec. 2. Subsection (c) of section 46b-38b of the general statutes is
74 repealed and the following is substituted in lieu thereof (*Effective*
75 *October 1, 2006*):

76 (c) No peace officer shall be held liable in any civil action regarding
77 personal injury or injury to property brought by any party to a family
78 violence incident for an arrest based on probable cause or for any
79 conditions of release set pursuant to subsection (b) of section 54-63c, as
80 amended by this act.

81 Sec. 3. Section 53a-222 of the general statutes is repealed and the
82 following is substituted in lieu thereof (*Effective October 1, 2006*):

83 (a) A person is guilty of violation of conditions of release when,
84 while charged with the commission of a felony, misdemeanor or motor
85 vehicle violation for which a sentence to a term of imprisonment may
86 be imposed, such person is released pursuant to subsection (b) of
87 section 54-63c, as amended by this act, subsection (c) of section 54-63d
88 or subsection (c) of section 54-64a on the condition that such person (1)
89 avoid all contact with the alleged victim, or (2) not use or possess a
90 dangerous weapon, and such person intentionally violates that
91 condition.

92 (b) Violation of conditions of release is a class [A misdemeanor] D
93 felony.

94 Sec. 4. (NEW) (*Effective October 1, 2006*) (a) A person is guilty of
95 assault by strangulation in the first degree when such person commits
96 assault by strangulation in the second degree as provided in section 5
97 of this act and (1) in the commission of such offense, such person (A)
98 uses or attempts to use a dangerous instrument, or (B) causes serious
99 physical injury to such other person, or (2) such person has previously
100 been convicted of a violation of this section or section 5 of this act.

101 (b) Assault by strangulation in the first degree is a class B felony.

102 Sec. 5. (NEW) (*Effective October 1, 2006*) (a) A person is guilty of
103 assault by strangulation in the second degree when, with intent to
104 impede the normal breathing or blood circulation of another person,
105 such person impedes the normal breathing or blood circulation of such
106 other person by applying pressure on the throat or neck of such other
107 person or by blocking the nose or mouth of such other person.

108 (b) Assault by strangulation in the second degree is a class D felony.

109 Sec. 6. Subdivision (20) of section 53a-3 of the general statutes is
110 repealed and the following is substituted in lieu thereof (*Effective*
111 *October 1, 2006*):

112 (20) "Electronic defense weapon" means a weapon which by
 113 electronic impulse or current is capable of immobilizing a person
 114 temporarily, but is not capable of inflicting death or serious physical
 115 injury, including a stun gun or other conductive energy device.

116 Sec. 7. Subsection (a) of section 46b-38b of the general statutes is
 117 repealed and the following is substituted in lieu thereof (*Effective*
 118 *October 1, 2006*):

119 (a) Whenever a peace officer determines upon speedy information
 120 that a family violence crime, except a family violence crime involving a
 121 dating relationship, has been committed within such officer's
 122 jurisdiction, such officer shall arrest the person or persons suspected of
 123 its commission and charge such person or persons with the
 124 appropriate crime. The decision to arrest and charge shall not (1) be
 125 dependent on the specific consent of the victim, (2) consider the
 126 relationship of the parties, or (3) be based solely on a request by the
 127 victim. Whenever a peace officer determines that a family violence
 128 crime has been committed, such officer may seize any firearm or
 129 electronic defense weapon, as defined in section 53a-3, as amended by
 130 this act, at the location where the crime is alleged to have been
 131 committed that is in the possession of any person arrested for the
 132 commission of such crime or suspected of its commission or that is in
 133 plain view. Not later than seven days after any such seizure, the law
 134 enforcement agency shall return such firearm or electronic defense
 135 weapon in its original condition to the rightful owner thereof unless
 136 such person is ineligible to possess such firearm or electronic defense
 137 weapon or unless otherwise ordered by the court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	54-63c
Sec. 2	<i>October 1, 2006</i>	46b-38b(c)
Sec. 3	<i>October 1, 2006</i>	53a-222
Sec. 4	<i>October 1, 2006</i>	New section
Sec. 5	<i>October 1, 2006</i>	New section

Sec. 6	<i>October 1, 2006</i>	53a-3(20)
Sec. 7	<i>October 1, 2006</i>	46b-38b(a)

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:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Judicial Dept.	GF - Potential Revenue Gain	Minimal	Minimal
Public Safety, Dept.; Police Officer Std. & Training Council	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill establishes two new crimes of assault by strangulation. To the extent that this increases the likelihood that violent offenders would be prosecuted or receive harsher penalties, a potential revenue gain from criminal fines and potential cost for incarceration and/or probation supervision in the community exist. It is anticipated that relatively few fines would be imposed on an annual basis, and, consequently, any revenue gain under the bill is expected to be minimal. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

The bill will not result in an additional cost to the Department of Public Safety or the Police Officer Standards and Training Council. The bill allows law enforcement officers to seize electronic defense weapons at a family violence crime scene. Additionally, the bill could result in training for law enforcement officers which could result in an increase in workload, but will not result in a fiscal impact.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential	Potential
Judicial Dept.	GF - Potential Revenue Gain	Minimal	Minimal	Minimal
Public Safety, Dept.; Police Officer Std. & Training Council	GF - None	None	None	None

Note: GF=General Fund

Municipal Impact: None

OLR Bill Analysis**sSB 443*****AN ACT CONCERNING DOMESTIC VIOLENCE.*****SUMMARY:**

This bill establishes two new crimes of assault by strangulation.

It specifies nonfinancial conditions that police officers may set when releasing someone arrested for a family violence crime, makes the arrestee guilty of a crime if he intentionally violates some of the conditions, and increases the penalty for anyone who intentionally violates certain conditions of release.

The bill allows law enforcement officers to seize any electronic defense weapon that is in plain view or possessed by the arrestee at a family violence crime site. They can already seize firearms. Just as is the case with firearms, the bill requires the officers to return the weapon within seven days to its lawful owner if he is eligible to possess it and a court has not ordered otherwise.

Lastly, the bill specifies that stun guns and other conductive energy devices are types of electronic defense weapons. By law, it is illegal for anyone, other than a peace officer on official duty, to possess or carry these weapons in a motor vehicle or on his person.

EFFECTIVE DATE: October 1, 2006

ASSAULT BY STRANGULATION

Under the bill, a person is guilty of 2nd degree assault by strangulation when he intentionally and actually impedes another person's breathing or blood circulation by applying pressure to the person's throat or neck or by blocking the person's nose or mouth. The crime is a class D felony, punishable by up to five years in prison, a

\$5,000 fine, or both.

A person commits 1st degree assault by strangulation if he (1) is a repeat offender of 2nd degree strangulation or (2) commits 2nd degree strangulation and either causes serious physical injury or uses or attempts to use a dangerous instrument. This crime is a class B felony, punishable by up to 20 years in prison, a \$15,000 fine, or both.

CONDITIONAL RELEASE OF FAMILY VIOLENCE CRIME ARRESTEES

By law, when a person is taken into custody for a bailable family violence offense and a court has not ordered otherwise, a police officer must interview him for information to determine the terms and conditions of release and release him if he posts a bond in an amount the officer sets. If the person cannot post bail, the officer notifies the bail commissioner.

The bill allows police officers to set release conditions that require an arrestee to:

1. avoid all contact with the alleged victim;
2. comply with any restrictions on travel, associations, or living accommodations that directly relate to the victim’s protection; or
3. refrain from using or possessing a dangerous instrument, intoxicant, or controlled substance.

The conditions stay in effect until the arrestee is arraigned. The bill makes the arrestee guilty of a crime if he intentionally contacts an alleged victim or uses or possesses a dangerous weapon in violation of the release conditions. It increases the penalty for intentional violation of release conditions. Under current law, the crime is a class A misdemeanor, punishable by up to one year in prison, a \$2,000 fine or both. The bill makes it a class D felony (see above).

The bill absolves police officers from civil liability to any party of a family violence incident for personal or property injuries resulting

from the release conditions that the police set.

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.

Electronic Defense Weapon

An electronic defense weapon is one capable of immobilizing, but not killing or seriously injuring, a person through the use of an electronic impulse or current.

Related Bill

sSB 105, favorably reported by the Public Safety Committee, prohibits all, but a select few, from selling or delivering electronic defense weapons.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 35 Nay 0 (03/21/2006)