



Substitute House Bill No. 7313

Public Act No. 07-123

AN ACT CONCERNING DOMESTIC VIOLENCE.

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

Section 1. Section 54-63c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Except in cases of arrest pursuant to a bench warrant of arrest in which the court or a judge thereof has indicated that bail should be denied or ordered that the officer or indifferent person making such arrest shall, without undue delay, bring such person before the clerk or assistant clerk of the superior court for the geographical area under section 54-2a, when any person is arrested for a bailable offense, the chief of police, or the chief's authorized designee, of the police department having custody of the arrested person shall promptly advise such person of the person's rights under section 54-1b, and of the person's right to be interviewed concerning the terms and conditions of release. Unless the arrested person waives or refuses such interview, the police officer shall promptly interview the arrested person to obtain information relevant to the terms and conditions of the person's release from custody, and shall seek independent verification of such information where necessary. At the request of the arrested person, the person's counsel may be present during the interview. No statement made by the arrested person in response to

Substitute House Bill No. 7313

any question during the interview related to the terms and conditions of release shall be admissible as evidence against the arrested person in any proceeding arising from the incident for which the conditions of release were set. After such a waiver, refusal or interview, the police officer shall promptly order release of the arrested person upon the execution of a written promise to appear or the posting of such bond as may be set by the police officer, except that no condition of release set by the court or a judge thereof may be modified by such officer and no person shall be released upon the execution of a written promise to appear or the posting of a bond without surety if the person is charged with the commission of a family violence crime, as defined in section 46b-38a, and in the commission of such crime the person used or threatened the use of a firearm.

(b) If the person is charged with the commission of a family violence crime, as defined in section 46b-38a, and the police officer does not intend to impose nonfinancial conditions of release pursuant to this subsection, the police officer shall, pursuant to the procedure set forth in subsection (a) of this section, promptly order the release of such person upon the execution of a written promise to appear or the posting of such bond as may be set by the police officer. If such person is not so released, the police officer shall make reasonable efforts to immediately contact a bail commissioner to set the conditions of such person's release pursuant to section 54-63d. If, after making such reasonable efforts, the police officer is unable to contact a bail commissioner or contacts a bail commissioner but such bail commissioner is unavailable to promptly perform such bail commissioner's duties pursuant to section 54-63d, the police officer shall, pursuant to the procedure set forth in subsection (a) of this section, order the release of such person upon the execution of a written promise to appear or the posting of such bond as may be set by the police officer and may impose nonfinancial conditions of release which may require that the arrested person do one or more of the

Substitute House Bill No. 7313

following: (1) Avoid all contact with the alleged victim of the crime, (2) comply with specified restrictions on the person's travel, association or place of abode that are directly related to the protection of the alleged victim of the crime, or (3) not use or possess a dangerous weapon, intoxicant or controlled substance. Any such nonfinancial conditions of release shall be indicated on a form prescribed by the Judicial Branch and sworn to by the police officer. Such form shall articulate (A) the efforts that were made to contact a bail commissioner, (B) the specific factual basis relied upon by the police officer to impose the nonfinancial conditions of release, and (C) if the arrested person was non-English-speaking, that the services of a translation service or interpreter were used. A copy of that portion of the form that indicates the nonfinancial conditions of release shall immediately be provided to the arrested person. A copy of the entire form shall be provided to counsel for the arrested person at arraignment. Any nonfinancial conditions of release imposed pursuant to this subsection shall remain in effect until the arrested person is presented before the Superior Court pursuant to subsection (a) of section 54-1g. On such date, the court shall conduct a hearing pursuant to section 46b-38c at which the defendant is entitled to be heard with respect to the issuance of a protective order.

(c) When cash bail in excess of ten thousand dollars is received for a detained person accused of a felony, where the underlying facts and circumstances of the felony involve the use, attempted use or threatened use of physical force against another person, the police officer shall prepare a report that contains (1) the name, address and taxpayer identification number of the accused person, (2) the name, address and taxpayer identification number of each person offering the cash bail, other than a person licensed as a professional bondsman under chapter 533 or a surety bail bond agent under chapter 700f, (3) the amount of cash received, and (4) the date the cash was received. Not later than fifteen days after receipt of such cash bail, the police

Substitute House Bill No. 7313

officer shall file the report with the Department of Revenue Services and mail a copy of the report to the state's attorney for the judicial district in which the alleged offense was committed and to each person offering the cash bail.

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

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

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

Sec. 2. Subsection (c) of section 46b-38b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(c) No peace officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a family violence incident for an arrest based on probable cause or for any conditions of release imposed pursuant to subsection (b) of section 54-

Substitute House Bill No. 7313

63c, as amended by this act.

Sec. 3. Section 53a-222 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

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

(b) Violation of conditions of release in the first degree is a class [A misdemeanor] D felony.

Sec. 4. (NEW) (*Effective October 1, 2007*) (a) A person is guilty of violation of conditions of release in the second degree when, while charged with the commission of a misdemeanor or motor vehicle violation for which a sentence to a term of imprisonment may be imposed, such person is released pursuant to subsection (b) of section 54-63c, as amended by this act, subsection (c) of section 54-63d or subsection (c) of section 54-64a of the general statutes and intentionally violates one or more of the imposed conditions of release.

(b) Violation of conditions of release in the second degree is a class A misdemeanor.

Sec. 5. Section 53a-40e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) If any person is convicted of (1) a violation of section 53a-59, 53a-

Substitute House Bill No. 7313

59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-181c, 53a-181d, 53a-181e, [or] 53a-182b, 53a-183, 53a-223, 53a-223a or 53a-223b or [of] attempt or conspiracy to violate any of said sections or section 53a-54a, against a family or household member, as defined in [subdivision (2) of] section 46b-38a, or (2) any crime that the court determines constitutes a family violence crime, as defined in section 46b-38a, or attempt or conspiracy to commit any such crime, the court may, in addition to imposing the sentence authorized for the crime under section 53a-35a or 53a-36, if the court is of the opinion that the history and character and the nature and circumstances of the criminal conduct of such offender indicate that a standing criminal restraining order will best serve the interest of the victim and the public, issue a standing criminal restraining order which shall remain in effect until modified or revoked by the court for good cause shown. If any person is convicted of any crime against a family or household member, as defined in section 46b-38a, other than a crime specified in subdivision (1) or (2) of this subsection, the court may, for good cause shown, issue a standing criminal restraining order pursuant to this subsection.

(b) Such standing criminal restraining order may include but is not limited to enjoining the offender from (1) imposing any restraint upon the person or liberty of the victim; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the victim; or (3) entering the family dwelling or the dwelling of the victim.

(c) Every standing criminal restraining order of the court made in accordance with this section shall contain the following language: "This order shall remain in effect until modified or revoked by the court for good cause shown. In accordance with section 53a-223a, violation of a standing criminal restraining order issued by the court pursuant to subsection (a) of this section shall be punishable by a term of imprisonment of not less than one year nor more than five years, a

Substitute House Bill No. 7313

fine of not more than five thousand dollars or both."

Sec. 6. Subdivision (20) of section 53a-3 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

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

Sec. 7. Subsection (a) of section 46b-38b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

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

Substitute House Bill No. 7313

Sec. 8. (NEW) (*Effective October 1, 2007*) (a) A person is guilty of strangulation in the first degree when such person commits strangulation in the second degree as provided in section 9 of this act and (1) in the commission of such offense, such person (A) uses or attempts to use a dangerous instrument, or (B) causes serious physical injury to such other person, or (2) such person has previously been convicted of a violation of this section or section 9 of this act.

(b) No person shall be found guilty of strangulation in the first degree and unlawful restraint or assault upon the same incident, but such person may be charged and prosecuted for all three offenses upon the same information. For the purposes of this section, "unlawful restraint" means a violation of section 53a-95 or 53a-96 of the general statutes, and "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a of the general statutes.

(c) Strangulation in the first degree is a class C felony.

Sec. 9. (NEW) (*Effective October 1, 2007*) (a) A person is guilty of strangulation in the second degree when such person restrains another person by the neck or throat with the intent to impede the ability of such other person to breathe or restrict blood circulation of such other person and such person impedes the ability of such other person to breathe or restricts blood circulation of such other person.

(b) No person shall be found guilty of strangulation in the second degree and unlawful restraint or assault upon the same incident, but such person may be charged and prosecuted for all three offenses upon the same information. For the purposes of this section, "unlawful restraint" means a violation of section 53a-95 or 53a-96 of the general statutes, and "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a of the general statutes.

Substitute House Bill No. 7313

(c) Strangulation in the second degree is a class D felony.

Sec. 10. (NEW) (*Effective October 1, 2007*) (a) A person is guilty of strangulation in the third degree when such person recklessly restrains another person by the neck or throat and impedes the ability of such other person to breathe or restricts blood circulation of such other person.

(b) No person shall be found guilty of strangulation in the third degree and unlawful restraint or assault upon the same incident, but such person may be charged and prosecuted for all three offenses upon the same information. For the purposes of this section, "unlawful restraint" means a violation of section 53a-95 or 53a-96 of the general statutes, and "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a of the general statutes.

(c) Strangulation in the third degree is a class A misdemeanor.

Approved June 11, 2007