



General Assembly

**Substitute Bill No. 7313**

January Session, 2007

\* \_\_\_\_\_ HB07313JUD\_\_041307\_\_\_\_\_ \*

**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 Section 54-63c of the general statutes is repealed and the  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, 2007*):

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. No statement made by the arrested person in response to

20 any question during the interview related to the terms and conditions  
21 of release shall be admissible as evidence against the arrested person in  
22 any proceeding arising from the incident for which the conditions of  
23 release were set. After such a waiver, refusal or interview, the police  
24 officer shall promptly order release of the arrested person upon the  
25 execution of a written promise to appear or the posting of such bond as  
26 may be set by the police officer, except that no condition of release set  
27 by the court or a judge thereof may be modified by such officer and no  
28 person shall be released upon the execution of a written promise to  
29 appear or the posting of a bond without surety if the person is charged  
30 with the commission of a family violence crime, as defined in section  
31 46b-38a, and in the commission of such crime the person used or  
32 threatened the use of a firearm.

33 (b) If the person is charged with the commission of a family violence  
34 crime, as defined in section 46b-38a, the police officer shall notify a bail  
35 commissioner. If, after reasonable efforts have been made to contact a  
36 bail commissioner, a bail commissioner is unavailable, the police  
37 officer may impose nonfinancial conditions of release which may  
38 require that the arrested person do one or more of the following: (1)  
39 Avoid all contact with the alleged victim of the crime, (2) comply with  
40 specified restrictions on the person's travel, association or place of  
41 abode that are directly related to the protection of the alleged victim of  
42 the crime, or (3) not use or possess a dangerous instrument, intoxicant  
43 or controlled substance. Any such nonfinancial conditions of release  
44 shall be indicated on a form prescribed by the Judicial Branch and  
45 sworn to by the police officer. Such form shall articulate (A) the efforts  
46 that were made to contact a bail commissioner, (B) the specific factual  
47 basis relied upon by the police officer to impose the nonfinancial  
48 conditions of release, and (C) if the arrested person was non-English-  
49 speaking, that the services of a translation service or interpreter were  
50 used. A copy of that portion of the form that indicates the nonfinancial  
51 conditions of release shall immediately be provided to the arrested  
52 person. A copy of the entire form shall be provided to counsel for the  
53 arrested person at arraignment. Any nonfinancial conditions of release

54 imposed pursuant to this subsection shall remain in effect until the  
55 arrested person is presented before the superior court pursuant to  
56 subsection (a) of section 54-1g. On such date, the court shall conduct a  
57 hearing pursuant to section 46b-38c at which the defendant is entitled  
58 to be heard with respect to the issuance of a protective order.

59 (c) When cash bail in excess of ten thousand dollars is received for a  
60 detained person accused of a felony, where the underlying facts and  
61 circumstances of the felony involve the use, attempted use or  
62 threatened use of physical force against another person, the police  
63 officer shall prepare a report that contains (1) the name, address and  
64 taxpayer identification number of the accused person, (2) the name,  
65 address and taxpayer identification number of each person offering the  
66 cash bail, other than a person licensed as a professional bondsman  
67 under chapter 533 or a surety bail bond agent under chapter 700f, (3)  
68 the amount of cash received, and (4) the date the cash was received.  
69 Not later than fifteen days after receipt of such cash bail, the police  
70 officer shall file the report with the Department of Revenue Services  
71 and mail a copy of the report to the state's attorney for the judicial  
72 district in which the alleged offense was committed and to each person  
73 offering the cash bail.

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

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

82 [(b)] (f) The chief, acting chief, superintendent of police, the  
83 Commissioner of Public Safety, any captain or lieutenant of any local  
84 police department or the Division of State Police within the  
85 Department of Public Safety or any person lawfully exercising the

86 powers of any such officer may take a written promise to appear or a  
87 bond with or without surety from an arrested person as provided in  
88 subsection (a) of this section, or as fixed by the court or any judge  
89 thereof, may administer such oaths as are necessary in the taking of  
90 promises or bonds and shall file any report required under subsection  
91 [(a)] (c) of this section.

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

95 (c) No peace officer shall be held liable in any civil action regarding  
96 personal injury or injury to property brought by any party to a family  
97 violence incident for an arrest based on probable cause or for any  
98 conditions of release imposed pursuant to subsection (b) of section 54-  
99 63c, as amended by this act.

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

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

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

114 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) A person is guilty of  
115 violation of conditions of release in the second degree when, while  
116 charged with the commission of a misdemeanor or motor vehicle

117 violation, such person is released pursuant to subsection (b) of section  
118 54-63c, as amended by this act, subsection (c) of section 54-63d or  
119 subsection (c) of section 54-64a of the general statutes and intentionally  
120 violates one or more of the imposed conditions of release.

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

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

125 (a) If any person is convicted of (1) a violation of section 53a-59, 53a-  
126 59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-71,  
127 53a-72a, 53a-72b, 53a-181c, 53a-181d, 53a-181e, [or] 53a-182b, 53a-183,  
128 53a-223, 53a-223a or 53a-223b or [of] attempt or conspiracy to violate  
129 any of said sections or section 53a-54a, against a family or household  
130 member, as defined in [subdivision (2) of] section 46b-38a, or (2) any  
131 crime that the court determines constitutes a family violence crime, as  
132 defined in section 46b-38a, or attempt or conspiracy to commit any  
133 such crime, the court may, in addition to imposing the sentence  
134 authorized for the crime under section 53a-35a or 53a-36, if the court is  
135 of the opinion that the history and character and the nature and  
136 circumstances of the criminal conduct of such offender indicate that a  
137 standing criminal restraining order will best serve the interest of the  
138 victim and the public, issue a standing criminal restraining order  
139 which shall remain in effect until modified or revoked by the court for  
140 good cause shown. If any person is convicted of any crime against a  
141 family or household member, as defined in section 46b-38a, other than  
142 a crime specified in subdivision (1) or (2) of this subsection, the court  
143 may, for good cause shown, issue a standing criminal restraining order  
144 pursuant to this subsection.

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

149 entering the family dwelling or the dwelling of the victim.

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

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

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

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

168 (a) Whenever a peace officer determines upon speedy information  
169 that a family violence crime, except a family violence crime involving a  
170 dating relationship, has been committed within such officer's  
171 jurisdiction, such officer shall arrest the person or persons suspected of  
172 its commission and charge such person or persons with the  
173 appropriate crime. The decision to arrest and charge shall not (1) be  
174 dependent on the specific consent of the victim, (2) consider the  
175 relationship of the parties, or (3) be based solely on a request by the  
176 victim. Whenever a peace officer determines that a family violence  
177 crime has been committed, such officer may seize any firearm or  
178 electronic defense weapon, as defined in section 53a-3, as amended by  
179 this act, at the location where the crime is alleged to have been  
180 committed that is in the possession of any person arrested for the

181 commission of such crime or suspected of its commission or that is in  
182 plain view. Not later than seven days after any such seizure, the law  
183 enforcement agency shall return such firearm or electronic defense  
184 weapon in its original condition to the rightful owner thereof unless  
185 such person is ineligible to possess such firearm or electronic defense  
186 weapon or unless otherwise ordered by the court.

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

194       (b) No person shall be found guilty of strangulation in the first  
195 degree and unlawful restraint or assault upon the same incident, but  
196 such person may be charged and prosecuted for all three offenses  
197 upon the same information. For the purposes of this section, "unlawful  
198 restraint" means a violation of section 53a-95 or 53a-96 of the general  
199 statutes, and "assault" means a violation of section 53a-59, 53a-59a, 53a-  
200 59b, 53a-59c, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a of the  
201 general statutes.

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

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

209       (b) No person shall be found guilty of strangulation in the second  
210 degree and unlawful restraint or assault upon the same incident, but  
211 such person may be charged and prosecuted for all three offenses  
212 upon the same information. For the purposes of this section, "unlawful

213 restraint" means a violation of section 53a-95 or 53a-96 of the general  
 214 statutes, and "assault" means a violation of section 53a-59, 53a-59a, 53a-  
 215 59b, 53a-59c, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a of the  
 216 general statutes.

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

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

223 (b) No person shall be found guilty of strangulation in the third  
 224 degree and unlawful restraint or assault upon the same incident, but  
 225 such person may be charged and prosecuted for all three offenses  
 226 upon the same information. For the purposes of this section, "unlawful  
 227 restraint" means a violation of section 53a-95 or 53a-96 of the general  
 228 statutes, and "assault" means a violation of section 53a-59, 53a-59a, 53a-  
 229 59b, 53a-59c, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a of the  
 230 general statutes.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	54-63c
Sec. 2	<i>October 1, 2007</i>	46b-38b(c)
Sec. 3	<i>October 1, 2007</i>	53a-222
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	53a-40e
Sec. 6	<i>October 1, 2007</i>	53a-3(20)
Sec. 7	<i>October 1, 2007</i>	46b-38b(a)
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	New section

**JUD**      *Joint Favorable Subst.*