



House of Representatives

File No. 1002

General Assembly

January Session, 2009

(Reprint of File No. 669)

Substitute House Bill No. 6245
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 28, 2009

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE TASK
FORCE ON DOMESTIC VIOLENCE IN IMMIGRANT COMMUNITIES.**

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 Section 46b-38b of the general statutes is repealed and the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 January 1, 2010*):

3 (a) Whenever a peace officer determines upon speedy information
4 that a family violence crime, except a family violence crime involving a
5 dating relationship, has been committed within such officer's
6 jurisdiction, such officer shall arrest the person or persons suspected of
7 its commission and charge such person or persons with the
8 appropriate crime. The decision to arrest and charge shall not (1) be
9 dependent on the specific consent of the victim, (2) consider the
10 relationship of the parties, or (3) be based solely on a request by the
11 victim. Whenever a peace officer determines that a family violence
12 crime has been committed, such officer may seize any firearm or
13 electronic defense weapon, as defined in section 53a-3, at the location
14 where the crime is alleged to have been committed that is in the
15 possession of any person arrested for the commission of such crime or

16 suspected of its commission or that is in plain view. Not later than
17 seven days after any such seizure, the law enforcement agency shall
18 return such firearm or electronic defense weapon in its original
19 condition to the rightful owner thereof unless such person is ineligible
20 to possess such firearm or electronic defense weapon or unless
21 otherwise ordered by the court.

22 (b) No peace officer investigating an incident of family violence
23 shall threaten, suggest or otherwise indicate the arrest of all parties for
24 the purpose of discouraging requests for law enforcement intervention
25 by any party. Where complaints are made by two or more opposing
26 parties, the officer shall evaluate each complaint separately to
27 determine whether such officer should make an arrest or seek a
28 warrant for an arrest. Notwithstanding the provisions of subsection (a)
29 of this section, when a peace officer reasonably believes that a party in
30 an incident of family violence has used force as a means of self
31 defense, such officer is not required to arrest such party under this
32 section.

33 (c) No peace officer shall be held liable in any civil action regarding
34 personal injury or injury to property brought by any party to a family
35 violence incident for an arrest based on probable cause or for any
36 conditions of release imposed pursuant to subsection (b) of section 54-
37 63c.

38 (d) It shall be the responsibility of the peace officer at the scene of a
39 family violence incident to provide immediate assistance to the victim.
40 Such assistance shall include, but not be limited to: (1) Assisting the
41 victim to obtain medical treatment if such treatment is required; (2)
42 notifying the victim of the right to file an affidavit or warrant for
43 arrest; [and] (3) informing the victim of services available and referring
44 the victim to the Office of Victim Services; and (4) providing assistance
45 in accordance with the uniform protocols for treating victims of family
46 violence whose immigration status is questionable established
47 pursuant to subsection (g) of this section. In cases where the officer has
48 determined that no cause exists for an arrest, assistance shall include:

49 (A) Assistance as provided in subdivisions (1) to [(3)] (4), inclusive, of
50 this subsection; and (B) remaining at the scene for a reasonable time
51 until, in the reasonable judgment of the officer, the likelihood of
52 further imminent violence has been eliminated.

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

66 (2) On and after January 1, 2010, each law enforcement agency shall
67 designate at least one officer with supervisory duties to expeditiously
68 process, upon request of a victim of family violence or other crime who
69 is applying for U Nonimmigrant Status (A) a certification of
70 helpfulness on Form I-918, Supplement B, or any subsequent
71 corresponding form designated by the United States Department of
72 Homeland Security, confirming that the victim of family violence or
73 other crime has been helpful, is being helpful, or is likely to be helpful
74 in the investigation or prosecution of the criminal activity, and (B) any
75 subsequent certification required by the victim.

76 (f) The Police Officer Standards and Training Council, in
77 conjunction with the Division of Criminal Justice, shall establish an
78 education and training program for law enforcement officers,
79 supervisors and state's attorneys on the handling of family violence
80 incidents. Training under such program shall: (1) Stress the
81 enforcement of criminal law in family violence cases and the use of

82 community resources, and include training for peace officers at both
83 recruit and in-service levels; and (2) include, but not be limited to: (A)
84 The nature, extent and causes of family violence; (B) legal rights of and
85 remedies available to victims of family violence and persons accused
86 of family violence; (C) services and facilities available to victims and
87 batterers; (D) legal duties imposed on police officers to make arrests
88 and to offer protection and assistance, including applicable probable
89 cause standards; and (E) techniques for handling incidents of family
90 violence that minimize the likelihood of injury to the officer and
91 promote the safety of the victim. On and after January 1, 2010, training
92 under such program shall also include, within available
93 appropriations, information on (i) the impact of arrests of multiple
94 parties in a family violence case on the immigration status of the
95 parties; (ii) crime scene investigation and evaluation practices in family
96 violence cases designed by the council to reduce the number of
97 multiple arrests in family violence cases; and (iii) practical
98 considerations in the application of state statutes related to family
99 violence. On and after January 1, 2010, such training shall also address,
100 within available appropriations, eligibility for federal T Visas for
101 victims of human trafficking and federal U Visas for unauthorized
102 immigrants who are victims of family violence and other crimes.

103 (g) Not later than January 1, 2010, the Police Officer Standards and
104 Training Council shall establish uniform protocols for treating victims
105 of family violence whose immigration status is questionable, and shall
106 make such protocols available to law enforcement agencies. Each law
107 enforcement agency shall adopt and use such protocols on and after
108 the date they are established by the council.

109 Sec. 2. Section 46b-38c of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective January 1, 2010*):

111 (a) There shall be family violence response and intervention units in
112 the Connecticut judicial system to respond to cases involving family
113 violence. The units shall be coordinated and governed by formal
114 agreement between the Chief State's Attorney and the Judicial

115 Department.

116 (b) The Court Support Services Division, in accordance with the
117 agreement between the Chief State's Attorney and the Judicial
118 Department, shall establish within each geographical area of the
119 Superior Court a local family violence intervention unit to implement
120 sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, as amended by
121 this act, and 54-1g. The Court Support Services Division shall oversee
122 direct operations of the local units.

123 (c) Each such local family violence intervention unit shall: (1) Accept
124 referrals of family violence cases from a judge or prosecutor, (2)
125 prepare written or oral reports on each case for the court by the next
126 court date to be presented at any time during the court session on that
127 date, (3) provide or arrange for services to victims and offenders, (4)
128 administer contracts to carry out such services, and (5) establish
129 centralized reporting procedures. All information provided to a family
130 relations officer in a local family violence intervention unit shall be
131 solely for the purposes of preparation of the report and the protective
132 order forms for each case and recommendation of services and shall
133 otherwise be confidential and retained in the files of such unit and not
134 be subject to subpoena or other court process for use in any other
135 proceeding or for any other purpose, except that if the victim has
136 indicated that the defendant holds a permit to carry a pistol or revolver
137 or possesses one or more firearms, the family relations officer shall
138 disclose such information to the court and the prosecuting authority
139 for appropriate action.

140 (d) In all cases of family violence, a written or oral report and
141 recommendation of the local family violence intervention unit shall be
142 available to a judge at the first court date appearance to be presented at
143 any time during the court session on that date. A judge of the Superior
144 Court may consider and impose the following conditions to protect the
145 parties, including, but not limited to: (1) Issuance of a protective order
146 pursuant to subsection (e) of this section; (2) prohibition against
147 subjecting the victim to further violence; (3) referral to a family

148 violence education program for batterers; and (4) immediate referral
149 for more extensive case assessment. Such protective order shall be an
150 order of the court, and the clerk of the court shall cause (A) a certified
151 copy of such order to be sent to the victim, and (B) a copy of such
152 order, or the information contained in such order, to be sent by
153 facsimile or other means within forty-eight hours of its issuance to the
154 law enforcement agency for the town in which the victim resides and,
155 if the defendant resides in a town different from the town in which the
156 victim resides, to the law enforcement agency for the town in which
157 the defendant resides. If the victim is employed in a town different
158 from the town in which the victim resides, the clerk of the court shall,
159 upon the request of the victim, send, by facsimile or other means, a
160 copy of such order, or the information contained in such order, to the
161 law enforcement agency for the town in which the victim is employed
162 within forty-eight hours of the issuance of such order.

163 (e) A protective order issued under this section may include
164 provisions necessary to protect the victim from threats, harassment,
165 injury or intimidation by the defendant, including, but not limited to,
166 an order enjoining the defendant from (1) imposing any restraint upon
167 the person or liberty of the victim, (2) threatening, harassing,
168 assaulting, molesting or sexually assaulting the victim, or (3) entering
169 the family dwelling or the dwelling of the victim. A protective order
170 issued under this section may include provisions necessary to protect
171 any animal owned or kept by the victim including, but not limited to,
172 an order enjoining the defendant from injuring or threatening to injure
173 such animal. Such order shall be made a condition of the bail or release
174 of the defendant and shall contain the following language: "In
175 accordance with section 53a-223 of the Connecticut general statutes,
176 any violation of this order constitutes criminal violation of a protective
177 order which is punishable by a term of imprisonment of not more than
178 five years, a fine of not more than five thousand dollars, or both.
179 Additionally, in accordance with section 53a-107 of the Connecticut
180 general statutes, entering or remaining in a building or any other
181 premises in violation of this order constitutes criminal trespass in the

182 first degree which is punishable by a term of imprisonment of not
183 more than one year, a fine of not more than two thousand dollars, or
184 both. Violation of this order also violates a condition of your bail or
185 release, and may result in raising the amount of bail or revoking
186 release." Every order of the court made in accordance with this section
187 after notice and hearing shall also contain the following language:
188 "This court had jurisdiction over the parties and the subject matter
189 when it issued this protection order. Respondent was afforded both
190 notice and opportunity to be heard in the hearing that gave rise to this
191 order. Pursuant to the Violence Against Women Act of 1994, 18 USC
192 2265, this order is valid and enforceable in all fifty states, any territory
193 or possession of the United States, the District of Columbia, the
194 Commonwealth of Puerto Rico and tribal lands." The information
195 contained in and concerning the issuance of any protective order
196 issued under this section shall be entered in the registry of protective
197 orders pursuant to section 51-5c.

198 (f) In cases referred to the local family violence intervention unit, it
199 shall be the function of the unit to (1) identify victim service needs and,
200 by contract with victim service providers, make available appropriate
201 services and (2) identify appropriate offender services and where
202 possible, by contract, provide treatment programs for offenders.

203 (g) There shall be a pretrial family violence education program for
204 persons who are charged with family violence crimes. At a minimum,
205 such program shall inform participants of the basic elements of family
206 violence law and applicable penalties. The court may, in its discretion,
207 invoke such program on motion of the defendant when it finds: (1)
208 That the defendant has not previously been convicted of a family
209 violence crime which occurred on or after October 1, 1986; (2) the
210 defendant has not had a previous case assigned to the family violence
211 education program; (3) the defendant has not previously invoked or
212 accepted accelerated rehabilitation under section 54-56e for a family
213 violence crime which occurred on or after October 1, 1986; and (4) that
214 the defendant is not charged with a class A, class B or class C felony, or
215 an unclassified felony carrying a term of imprisonment of more than

216 ten years, or unless good cause is shown, a class D felony or an
217 unclassified offense carrying a term of imprisonment of more than five
218 years. Participation by any person in the accelerated pretrial
219 rehabilitation program under section 54-56e prior to October 1, 1986,
220 shall not prohibit eligibility of such person for the pretrial family
221 violence education program under this section. The court may require
222 that the defendant answer such questions under oath, in open court or
223 before any person designated by the clerk and duly authorized to
224 administer oaths, under the penalties of perjury as will assist the court
225 in making these findings. The court, on such motion, may refer the
226 defendant to the family violence intervention unit, and may continue
227 [his] the defendant's case pending the submission of the report of the
228 unit to the court. The court shall also give notice to the victim or
229 victims that the defendant has requested assignment to the family
230 violence education program, and, where possible, give the victim or
231 victims opportunity to be heard. Any defendant who accepts
232 placement in the family violence education program shall agree to the
233 tolling of any statute of limitations with respect to the crime or crimes
234 with which [he] the defendant is charged, and to a waiver of [his] the
235 defendant's right to a speedy trial. Any such defendant shall appear in
236 court and shall be released to the custody of the family violence
237 intervention unit for such period, not exceeding two years, and under
238 such conditions as the court shall order. If the defendant refuses to
239 accept, or, having accepted, violates such conditions, [his] the
240 defendant's case shall be brought to trial. If the defendant satisfactorily
241 completes the family violence education program and complies with
242 the conditions imposed for the period set by the court, [he] the
243 defendant may apply for dismissal of the charges against [him] the
244 defendant and the court, on finding satisfactory compliance, shall
245 dismiss such charges. Upon dismissal all records of such charges shall
246 be erased pursuant to section 54-142a.

247 (h) A fee of two hundred dollars shall be paid to the court by any
248 person who enters the family violence education program, except that
249 no person shall be excluded from such program for inability to pay the

250 fee, provided (1) the person files with the court an affidavit of
 251 indigency or inability to pay and (2) the court enters a finding thereof.
 252 All such fees shall be credited to the General Fund.

253 (i) The Judicial Department shall establish an ongoing training
 254 program for judges, Court Support Services Division personnel and
 255 clerks to inform them about the policies and procedures of sections
 256 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, as amended by this act, and
 257 54-1g, including, but not limited to, the function of the family violence
 258 intervention units and the use of restraining and protective orders.

259 Sec. 3. (NEW) (*Effective July 1, 2009*) (a) The Judicial Department
 260 shall provide training to Judicial Department staff, including court
 261 personnel, within available appropriations, on family violence issues
 262 and law, including, but not limited to, issues and law related to family
 263 violence in immigrant communities. Such training shall address arrest
 264 policies and eligibility for federal T Visas for victims of human
 265 trafficking and federal U Visas for unauthorized immigrants who are
 266 victims of family violence and other crimes.

267 (b) The Judicial Department shall, on an ongoing basis, within
 268 available appropriations, study and implement methods to reduce
 269 disparities in the disposition of family violence cases among
 270 geographic areas.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	46b-38b
Sec. 2	<i>January 1, 2010</i>	46b-38c
Sec. 3	<i>July 1, 2009</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Various State Agencies	GF - Potential Cost	Less than \$50,000	Less than \$50,000

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 requires the Police Officer Standards and Training Council (POST), in conjunction with the Division of Criminal Justice (DCJ) and within available appropriations, to expand education and training programs for law enforcement officers, supervisors, and state’s attorneys to include various aspects of domestic violence in immigrant communities. This could result in a minimal cost to POST and DCJ to contract with outside experts. Since the agencies must implement this provision within available appropriations, they would need to do one of the following: (1) re-allocate existing funding for these purposes from another program; (2) incur additional costs; or (3) delay or not implement these programs due to lack of funding.

Section 2 requires that the pretrial family violence education program that the Court Support Services Division of the Judicial Department administers inform participants of the basic elements of family violence law and applicable penalties. Since this conforms to current practice, there is no fiscal impact.

Section 3 requires the Judicial Department, within available appropriations, to provide training in specific family violence issues and law to its staff. To the extent that this necessitates the hiring of an

outside, expert speaker, the Judicial Department would incur an intermittent cost of less than \$10,000. In order to comply with this provision of the bill, the Judicial Department would need to do one of the following: (1) re-allocate existing funding for these purposes from another program; (2) incur additional costs; or (3) delay or not implement these programs due to lack of funding.

Section 3 also requires the Judicial Department, within available appropriations, to study, on an ongoing basis, disparity in the disposition of family violence cases. The Judicial Department must also implement methods to reduce disparities in accordance with this section. To the extent that outside expertise is contracted in order to conduct this study and train Judicial Department personnel, an annual cost of less than \$50,000 is anticipated. In order to comply with this provision of the bill, the Judicial Department would need to do one of the following: (1) re-allocate existing funding for these purposes from another program; (2) incur additional costs; or (3) delay or not implement these programs due to lack of funding.

House Amendment "A" requires that various aspects of the bill be accomplished within available appropriations. This would require that affected agencies either (1) re-allocate existing funding for these purposes from another program; (2) incur additional costs; or (3) delay or not implement these programs due to lack of funding.

The amendment also eliminates the bill's time extension for the Domestic Violence Task Force in Immigrant Communities, thereby eliminating the associated, potential minimal state cost.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: U.S. Citizenship and Immigration Services

OLR Bill Analysis**sHB 6245 (as amended by House "A")******AN ACT CONCERNING THE RECOMMENDATIONS OF THE TASK FORCE ON DOMESTIC VIOLENCE IN IMMIGRANT COMMUNITIES.*****SUMMARY:**

This bill requires (1) the Police Officer Standards and Training Council (POST) to establish, by January 1, 2010, uniform protocols for treating victims of family violence whose immigration status is questionable, (2) law enforcement agencies to adopt and use the protocols, and (3) police officers on the scene of a family violence crime to assist such victims consistent with the protocols.

Beginning on the same date, the bill requires each law enforcement agency to designate an officer to help crime victims applying for a U Visa (see BACKGROUND).

Lastly, the bill requires:

1. POST to cover specified topics in its family violence training for law enforcement officers and state's attorneys;
2. the Judicial Department's pretrial family violence education program to inform participants of the basic elements of family violence and the applicable penalties; and
3. the Judicial Department to (a) within available appropriations, train its staff, including court personnel, on domestic violence issues and laws, including issues and laws related to family violence in immigrant communities and policies and eligibility for federal T and U Visas and (b) continuously study and implement ways to reduce disparities in the way family violence

cases are disposed of in different geographic areas.

*House Amendment "A" (1) eliminates the provision in the original bill that established a task force on domestic violence in immigrant communities, (2) requires that the law enforcement officer designated to help victims with U Visas have supervisory authority, (3) requires POST to make the 2010 adjustments to its training program as permitted by its available appropriations, and (4) requires the Judicial Department to provide the training and conduct the study the bill requires as permitted by available appropriations.

EFFECTIVE DATE: January 1, 2010, except that the provision on Judicial Department training is effective July 1, 2009.

POST FAMILY VIOLENCE TRAINING

The bill requires POST to include in its family violence training appropriate probable cause standards for making arrests. Beginning January 1, 2010, the training, within available appropriations, must include information on:

1. the impact multi-party arrests have on the immigration status of the parties;
2. crime scene investigation and evaluation practices designed by POST to reduce the number of multiple arrests in family violence cases;
3. practical considerations of applying family violence laws; and
4. eligibility requirements for federal T Visas for victims of human trafficking and federal U Visas for unauthorized immigrants who are victims of family violence and other crimes.

U VISA CERTIFICATIONS

Beginning on January 1, 2010, each law enforcement agency must designate at least one officer with supervisory duties to respond to requests from victims of crime for help applying for U Nonimmigrant

Status. The officer must expeditiously process (1) a certification of helpfulness on Form 1-918, Supplement B, or any other subsequent form designated for the same purpose, that confirms the victim's helpfulness or potential helpfulness in the investigation or prosecution of the underlying crime and (2) any subsequent certification the victim requires.

BACKGROUND

POST

POST, in conjunction with the Division of Criminal Justice, is responsible for establishing a family violence education and training program for law enforcement officers and state's attorneys.

Federal U and T Visas

The U Visa allows certain immigrant victims of crime to live and work lawfully in the United States. Immigrants who receive a U Visa can apply for a green card after three years. The government plans to issue up to 10,000 U Visas each year.

U Visas are available to immigrants who are either victims of or who possess information concerning one of the following forms of criminal activity: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, hostage holding, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, or attempt, conspiracy, or solicitation to commit one of these offenses. A federal, state, or local official must certify that an investigation or prosecution would be harmed without the immigrant's assistance or, in the case of a child, the immigrant's parent's assistance.

T Visas are available to individuals who are victims of "a severe form of trafficking in persons." Severe forms of trafficking include sex trafficking of persons under 18 years of age, or recruiting or obtaining

persons for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Pretrial Family Violence Program

The pretrial family violence education program is for people who are charged with family violence crimes. A defendant can ask the court to place him or her in the program. A defendant is ineligible if he or she:

1. is charged with a class A, B, or C felony, an unclassified felony that carries more than a 10 year sentence, or, unless good cause is shown, a class D felony, or an unclassified felony carrying a penalty of at least five years;
2. has previously participated in the program; or
3. has been convicted of, or accepted accelerated rehabilitation for, a family violence crime committed after October 1, 1986.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (03/30/2009)

Public Safety and Security Committee

Joint Favorable

Yea 20 Nay 0 (04/28/2009)