



General Assembly

Substitute Bill No. 6245

January Session, 2009

* HB06245JUD 033109 *

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 Section 46b-38b of the general statutes is repealed and the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 to obtain and maintain certification from a
68 federal agency that enables the officer to provide a certification of
69 helpfulness that demonstrates that a victim of family violence or other
70 crime has been helpful, is being helpful, or is likely to be helpful in the
71 investigation or prosecution of the criminal activity, including, but not
72 limited to, a U Nonimmigrant Status Certification (Form I-918,
73 Supplement B), or any subsequent corresponding certification or form.

74 (f) The Police Officer Standards and Training Council, in
75 conjunction with the Division of Criminal Justice, shall establish an
76 education and training program for law enforcement officers,
77 supervisors and state's attorneys on the handling of family violence
78 incidents. Training under such program shall: (1) Stress the
79 enforcement of criminal law in family violence cases and the use of
80 community resources, and include training for peace officers at both
81 recruit and in-service levels; and (2) include, but not be limited to: (A)
82 The nature, extent and causes of family violence; (B) legal rights of and
83 remedies available to victims of family violence and persons accused
84 of family violence; (C) services and facilities available to victims and
85 batterers; (D) legal duties imposed on police officers to make arrests
86 and to offer protection and assistance, including applicable probable

87 cause standards; and (E) techniques for handling incidents of family
88 violence that minimize the likelihood of injury to the officer and
89 promote the safety of the victim. On and after January 1, 2010, training
90 under such program shall also include information on (i) the impact of
91 arrests of multiple parties in a family violence case on the immigration
92 status of the parties; (ii) crime scene investigation and evaluation
93 practices in family violence cases designed by the council to reduce the
94 number of multiple arrests in family violence cases; and (iii) practical
95 considerations in the application of state statutes related to family
96 violence. On and after January 1, 2010, such training shall also address
97 eligibility for federal T Visas for victims of human trafficking and
98 federal U Visas for unauthorized immigrants who are victims of family
99 violence and other crimes.

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

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

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

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

119 direct operations of the local units.

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

137 (d) In all cases of family violence, a written or oral report and
138 recommendation of the local family violence intervention unit shall be
139 available to a judge at the first court date appearance to be presented at
140 any time during the court session on that date. A judge of the Superior
141 Court may consider and impose the following conditions to protect the
142 parties, including, but not limited to: (1) Issuance of a protective order
143 pursuant to subsection (e) of this section; (2) prohibition against
144 subjecting the victim to further violence; (3) referral to a family
145 violence education program for batterers; and (4) immediate referral
146 for more extensive case assessment. Such protective order shall be an
147 order of the court, and the clerk of the court shall cause (A) a certified
148 copy of such order to be sent to the victim, and (B) a copy of such
149 order, or the information contained in such order, to be sent by
150 facsimile or other means within forty-eight hours of its issuance to the
151 law enforcement agency for the town in which the victim resides and,
152 if the defendant resides in a town different from the town in which the

153 victim resides, to the law enforcement agency for the town in which
154 the defendant resides. If the victim is employed in a town different
155 from the town in which the victim resides, the clerk of the court shall,
156 upon the request of the victim, send, by facsimile or other means, a
157 copy of such order, or the information contained in such order, to the
158 law enforcement agency for the town in which the victim is employed
159 within forty-eight hours of the issuance of such order.

160 (e) A protective order issued under this section may include
161 provisions necessary to protect the victim from threats, harassment,
162 injury or intimidation by the defendant, including, but not limited to,
163 an order enjoining the defendant from (1) imposing any restraint upon
164 the person or liberty of the victim, (2) threatening, harassing,
165 assaulting, molesting or sexually assaulting the victim, or (3) entering
166 the family dwelling or the dwelling of the victim. A protective order
167 issued under this section may include provisions necessary to protect
168 any animal owned or kept by the victim including, but not limited to,
169 an order enjoining the defendant from injuring or threatening to injure
170 such animal. Such order shall be made a condition of the bail or release
171 of the defendant and shall contain the following language: "In
172 accordance with section 53a-223 of the Connecticut general statutes,
173 any violation of this order constitutes criminal violation of a protective
174 order which is punishable by a term of imprisonment of not more than
175 five years, a fine of not more than five thousand dollars, or both.
176 Additionally, in accordance with section 53a-107 of the Connecticut
177 general statutes, entering or remaining in a building or any other
178 premises in violation of this order constitutes criminal trespass in the
179 first degree which is punishable by a term of imprisonment of not
180 more than one year, a fine of not more than two thousand dollars, or
181 both. Violation of this order also violates a condition of your bail or
182 release, and may result in raising the amount of bail or revoking
183 release." Every order of the court made in accordance with this section
184 after notice and hearing shall also contain the following language:
185 "This court had jurisdiction over the parties and the subject matter
186 when it issued this protection order. Respondent was afforded both

187 notice and opportunity to be heard in the hearing that gave rise to this
188 order. Pursuant to the Violence Against Women Act of 1994, 18 USC
189 2265, this order is valid and enforceable in all fifty states, any territory
190 or possession of the United States, the District of Columbia, the
191 Commonwealth of Puerto Rico and tribal lands." The information
192 contained in and concerning the issuance of any protective order
193 issued under this section shall be entered in the registry of protective
194 orders pursuant to section 51-5c.

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

200 (g) There shall be a pretrial family violence education program for
201 persons who are charged with family violence crimes. At a minimum,
202 such program shall inform participants of the basic elements of family
203 violence law and applicable penalties. The court may, in its discretion,
204 invoke such program on motion of the defendant when it finds: (1)
205 That the defendant has not previously been convicted of a family
206 violence crime which occurred on or after October 1, 1986; (2) the
207 defendant has not had a previous case assigned to the family violence
208 education program; (3) the defendant has not previously invoked or
209 accepted accelerated rehabilitation under section 54-56e for a family
210 violence crime which occurred on or after October 1, 1986; and (4) that
211 the defendant is not charged with a class A, class B or class C felony, or
212 an unclassified felony carrying a term of imprisonment of more than
213 ten years, or unless good cause is shown, a class D felony or an
214 unclassified offense carrying a term of imprisonment of more than five
215 years. Participation by any person in the accelerated pretrial
216 rehabilitation program under section 54-56e prior to October 1, 1986,
217 shall not prohibit eligibility of such person for the pretrial family
218 violence education program under this section. The court may require
219 that the defendant answer such questions under oath, in open court or
220 before any person designated by the clerk and duly authorized to

221 administer oaths, under the penalties of perjury as will assist the court
222 in making these findings. The court, on such motion, may refer the
223 defendant to the family violence intervention unit, and may continue
224 [his] the defendant's case pending the submission of the report of the
225 unit to the court. The court shall also give notice to the victim or
226 victims that the defendant has requested assignment to the family
227 violence education program, and, where possible, give the victim or
228 victims opportunity to be heard. Any defendant who accepts
229 placement in the family violence education program shall agree to the
230 tolling of any statute of limitations with respect to the crime or crimes
231 with which [he] the defendant is charged, and to a waiver of [his] the
232 defendant's right to a speedy trial. Any such defendant shall appear in
233 court and shall be released to the custody of the family violence
234 intervention unit for such period, not exceeding two years, and under
235 such conditions as the court shall order. If the defendant refuses to
236 accept, or, having accepted, violates such conditions, [his] the
237 defendant's case shall be brought to trial. If the defendant satisfactorily
238 completes the family violence education program and complies with
239 the conditions imposed for the period set by the court, [he] the
240 defendant may apply for dismissal of the charges against [him] the
241 defendant and the court, on finding satisfactory compliance, shall
242 dismiss such charges. Upon dismissal all records of such charges shall
243 be erased pursuant to section 54-142a.

244 (h) A fee of two hundred dollars shall be paid to the court by any
245 person who enters the family violence education program, except that
246 no person shall be excluded from such program for inability to pay the
247 fee, provided (1) the person files with the court an affidavit of
248 indigency or inability to pay and (2) the court enters a finding thereof.
249 All such fees shall be credited to the General Fund.

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

255 intervention units and the use of restraining and protective orders.

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

264 (b) The Judicial Department shall, on an ongoing basis, study and
265 implement methods to reduce disparities in the disposition of family
266 violence cases among geographic areas.

267 Sec. 4. (*Effective from passage*) (a) There is established a task force on
268 domestic violence in immigrant communities. Such task force shall
269 consist of the members of the task force on domestic violence in
270 immigrant communities established by the speaker of the House of
271 Representatives on August 4, 2008, and shall continue the work of said
272 task force.

273 (b) In addition to the requirement set forth in subsection (a) of this
274 section, the task force shall:

275 (1) Review the number of females arrested, prosecuted and
276 convicted of a crime involving domestic violence and the treatment
277 opportunities available to them;

278 (2) Explore ways to reduce waiting lists for domestic violence
279 programs, including increasing the number and location of such
280 programs;

281 (3) Identify state-funded programs that may help domestic violence
282 victims obtain work permits, licenses and access to federal services to
283 meet their basic needs;

284 (4) Explore the practical implications, fiscal impact and potential

285 benefits of utilizing family justice centers or similar entities that use a
 286 multidisciplinary team of professionals who collaborate, in one
 287 location, to provide coordinated services to victims of domestic
 288 violence;

289 (5) Consider any potential benefit or detriment in increasing the
 290 time allowed for vacating a guilty plea in a domestic violence case;

291 (6) Consider the benefits of a state resolution urging the United
 292 States Congress to support and continue the federal U Visa program
 293 which assists unauthorized immigrants who are victims of domestic
 294 violence and other crimes; and

295 (7) Explore the possibility of ensuring attendance at state domestic
 296 violence proceedings by providing in-state housing for noncitizen
 297 victims and defendants in domestic violence cases when such victims
 298 or defendants are otherwise detained by the United States Immigration
 299 and Customs Enforcement.

300 (c) Not later than January 1, 2010, the task force shall submit a
 301 report on its findings and recommendations to the joint standing
 302 committees of the General Assembly having cognizance of matters
 303 relating to the judiciary and appropriations, in accordance with the
 304 provisions of section 11-4a of the general statutes. The task force shall
 305 terminate on the date that it submits such report or January 1, 2010,
 306 whichever is later.

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
Sec. 4	<i>from passage</i>	New section

JUD *Joint Favorable Subst.*