
OLR Bill Analysis

sSB 466 (File 549, as amended by Senate "A")*

AN ACT CONCERNING DUAL ARRESTS AND THE TRAINING REQUIRED OF LAW ENFORCEMENT PERSONNEL WITH RESPECT TO DOMESTIC VIOLENCE.

SUMMARY

This bill requires a peace officer, in responding to a family violence complaint made by two or more opposing parties, to arrest the person the officer determines is the dominant aggressor. The bill does not prohibit dual arrests, but discourages it when appropriate. It does not apply to (1) college and university students who live together in on-campus housing and (2) tenants who live together in a residential rental property, who are not in a dating relationship.

Under the bill, a “dominant aggressor” is the person who poses the most serious ongoing threat in a situation involving a suspected family violence crime (see BACKGROUND).

The bill also:

1. establishes the factors a peace officer must consider in determining which person is the dominant aggressor,
2. allows the officer to submit a report to the state’s attorney for further review and advice on the conduct of the person or persons not arrested, and
3. gives the officer immunity from civil liability based on such actions.

It expands certain police and state’s attorneys’ training programs to include training on the factors for determining a dominant aggressor in a family violence case. It also allows an entity representing the statewide domestic violence coalition to assist with the training curriculum and allows certain domestic violence agencies to conduct

training.

It also makes technical and conforming changes.

*Senate Amendment "A" adds a provision that exempts certain college and university students and co-tenants from the primary aggressor and dual arrests provisions under the bill and existing law.

EFFECTIVE DATE: January 1, 2019

ARRESTS

Under current law, when complaints of family violence are made by two or more opposing parties the peace officer must evaluate each complaint separately to determine whether to seek an arrest warrant. If the officer determines that a family violence crime has been committed, the officer must arrest the alleged perpetrator and charge the person with the appropriate crime.

Under the bill, the peace officer is not required to arrest both people. The bill, instead, requires the officer to (1) evaluate each complaint separately to determine which person is the dominant aggressor and (2) arrest the person the officer believes to be the dominant aggressor.

Under existing law, unchanged by the bill, the officer's decision to arrest and charge the perpetrator must not be based on (1) getting the victim's specific consent, (2) the relationship of the parties, or (3) solely on a victim's request.

By law, a peace officer investigating a family violence incident must not threaten to arrest all parties to discourage any of them from requesting law enforcement intervention.

The primary aggressor and dual arrests provisions under the bill and existing law do not apply to people who are not in a dating relationship but live together (1) in on-campus housing at an institution of higher education or (2) as tenants in a residential rental property.

DOMINANT AGGRESSOR FACTORS

The bill requires the peace officer, in determining the dominant aggressor, to consider:

1. the need to protect domestic violence victims;
2. whether one person acted in self-defense or that of a third person;
3. the relative degree of any injury;
4. threats creating fear of physical injury; and
5. any history of family violence between the people involved, if it can reasonably be obtained by the peace officer.

PEACE OFFICER'S REPORT TO THE STATE'S ATTORNEY

The bill allows a peace officer who believes probable cause exists for the arrest of two or more persons, in lieu of arresting or seeking a warrant for the arrest of anyone determined not to be the dominant aggressor, to submit a report detailing the conduct of such person to the state's attorney for the judicial district in which the incident took place for further review and advice.

TRAINING PROGRAMS

Police Officer Standards and Training Council (POST) Education and Training Program

The bill expands the POST education and training program for law enforcement officers, supervisors, and state's attorneys on the handling of family violence incidents to include training on the factors for determining a dominant aggressor in a family violence case.

By law, the training program must also include:

1. the nature, extent, and causes of family violence;
2. legal rights of, and remedies available to, victims of family violence and people accused of family violence;
3. services and facilities available to victims and people who

commit acts of family violence;

4. legal duties imposed on police officers to make arrests and to offer protection and assistance, including applicable probable cause standards; and
5. techniques for handling incidents of family violence that minimize the likelihood of injury to the officer and promote the safety of the victim.

Basic or Review Training Program

By law, each police basic or review training program conducted or administered by the Division of State Police, POST, or municipal police departments must provide a minimum of two hours of training on domestic violence, such as techniques for handling incidents of domestic violence that promote victim safety. The bill requires this program to also include training on factors for determining a dominant aggressor in a family violence case.

The bill requires the Division of State Police, POST, or municipal police departments to develop the training program curriculum in consultation with the Division of Criminal Justice and an entity representing the statewide domestic violence coalition, rather than in consultation with the Connecticut Task Force on Abused Women and with its approval.

The bill allows domestic violence agencies, instead of the task force's individual shelter programs, to conduct domestic violence training in conjunction with any police training program, pursuant to POST guidelines and certification.

BACKGROUND

Family Violence

By law, "family violence" means an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury, or assault, including stalking or a pattern of threatening, between family or household members. It does not include verbal abuse or argument

unless there is present danger and the likelihood that physical violence will occur (CGS § 46b-38a(1)).

Family Violence Crime

By law, “family violence crime” means a crime, other than a delinquent act, which, in addition to its other elements, contains an element of an act of family violence to a family or household member. It does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse (CGS § 46b-38a(3)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/02/2018)