



Senate

General Assembly

File No. 549

February Session, 2018

Substitute Senate Bill No. 466

Senate, April 17, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

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

1 Section 1. Section 46b-38a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2019*):

3 For the purposes of sections 46b-38a to 46b-38f, inclusive:

4 (1) "Family violence" means an incident resulting in physical harm,
5 bodily injury or assault, or an act of threatened violence that
6 constitutes fear of imminent physical harm, bodily injury or assault,
7 including, but not limited to, stalking or a pattern of threatening,
8 between family or household members. Verbal abuse or argument
9 [shall] does not constitute family violence unless there is present
10 danger and the likelihood that physical violence will occur.

11 (2) "Family or household member" means any of the following

12 persons, regardless of the age of such person: (A) Spouses or former
13 spouses; (B) parents or their children; (C) persons related by blood or
14 marriage; (D) persons other than those persons described in
15 subparagraph (C) of this subdivision presently residing together or
16 who have resided together; (E) persons who have a child in common
17 regardless of whether they are or have been married or have lived
18 together at any time; and (F) persons in, or who have recently been in,
19 a dating relationship.

20 (3) "Family violence crime" means a crime as defined in section 53a-
21 24, other than a delinquent act, as defined in section 46b-120, which, in
22 addition to its other elements, contains as an element thereof an act of
23 family violence to a family or household member. "Family violence
24 crime" does not include acts by parents or guardians disciplining
25 minor children unless such acts constitute abuse.

26 (4) "Institutions and services" means peace officers, service
27 providers, mandated reporters of abuse, agencies and departments
28 that provide services to victims and families and services designed to
29 assist victims and families.

30 (5) "Dominant aggressor" means the person who poses the most
31 serious ongoing threat in a situation involving the suspected
32 commission of a family violence crime.

33 Sec. 2. Section 46b-38b of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective January 1, 2019*):

35 (a) [Whenever] Except as provided in subsections (b) and (c) of this
36 section, whenever a peace officer determines upon speedy information
37 that a family violence crime has been committed within such officer's
38 jurisdiction, such officer shall arrest the person [or persons] suspected
39 of its commission and charge such person [or persons] with the
40 appropriate crime. The decision to arrest and charge shall not (1) be
41 dependent on the specific consent of the victim, (2) consider the
42 relationship [of the parties] between persons suspected of committing
43 a family violence crime, or (3) be based solely on a request by the

44 victim. Whenever a peace officer determines that a family violence
45 crime has been committed, such officer may seize any firearm or
46 electronic defense weapon, as defined in section 53a-3, or ammunition
47 at the location where the crime is alleged to have been committed that
48 is in the possession of any person arrested for the commission of such
49 crime or suspected of its commission or that is in plain view. Not later
50 than seven days after any such seizure, the law enforcement agency
51 shall return such firearm, electronic defense weapon or ammunition in
52 its original condition to the rightful owner thereof unless such person
53 is ineligible to possess such firearm, electronic defense weapon or
54 ammunition or unless otherwise ordered by the court.

55 (b) [No peace officer investigating an incident of family violence
56 shall threaten, suggest or otherwise indicate the arrest of all parties for
57 the purpose of discouraging requests for law enforcement intervention
58 by any party. Where complaints are made by two or more opposing
59 parties, the officer shall evaluate each complaint separately to
60 determine whether such officer should make an arrest or seek a
61 warrant for an arrest. Notwithstanding the provisions of subsection (a)
62 of this section, when a peace officer reasonably believes that a party in
63 an incident of family violence has used force as a means of self
64 defense, such officer is not required to arrest such party under this
65 section.] When complaints of family violence are made by two or more
66 opposing persons, a peace officer is not required to arrest both
67 persons. The peace officer shall evaluate each complaint separately to
68 determine which person is the dominant aggressor. In determining
69 which person is the dominant aggressor, the peace officer shall
70 consider the need to protect victims of domestic violence, whether one
71 person acted in defense of self or a third person, the relative degree of
72 any injury, any threats creating fear of physical injury, and any history
73 of family violence between such persons, if such history can
74 reasonably be obtained by the peace officer. The peace officer shall
75 arrest the person whom the officer believes to be the dominant
76 aggressor.

77 (c) If a peace officer believes probable cause exists for the arrest of

78 two or more persons, in lieu of arresting or seeking a warrant for the
79 arrest of any person determined not to be the dominant aggressor,
80 such peace officer may submit a report detailing the conduct of such
81 person during the incident to the state's attorney for the judicial district
82 in which the incident took place for further review and advice. The
83 provisions of this section shall be construed to discourage, when
84 appropriate, but not prohibit, dual arrests.

85 (d) No peace officer investigating an incident of family violence
86 shall threaten, suggest or otherwise indicate, the arrest of all persons
87 involved in such incident for the purpose of discouraging any request
88 from a person for law enforcement intervention.

89 [(c)] (e) No peace officer shall be held liable in any civil action
90 regarding personal injury or injury to property brought by any party
91 to a family violence incident for (1) an arrest based on probable cause;
92 [or for] (2) any conditions of release imposed pursuant to subsection
93 (b) of section 54-63c; or (3) determinations made pursuant to
94 subsection (b) or (c) of this section.

95 [(d)] (f) It shall be the responsibility of the peace officer at the scene
96 of a family violence incident to provide immediate assistance to the
97 victim. Such assistance shall include, but need not be limited to: (1)
98 Assisting the victim to obtain medical treatment if such treatment is
99 required; (2) notifying the victim of the right to file an affidavit for a
100 warrant for arrest; (3) informing the victim of services available,
101 including providing the victim with contact information for a regional
102 family violence organization that employs, or provides referrals to,
103 counselors who are trained in providing trauma-informed care; (4)
104 referring the victim to the Office of Victim Services; and (5) providing
105 assistance in accordance with the uniform protocols for treating
106 victims of family violence whose immigration status is questionable,
107 established pursuant to subsection [(g)] (i) of this section. In cases
108 where the officer has determined that no cause exists for an arrest,
109 assistance shall include: (A) Assistance as provided in subdivisions (1)
110 to (5), inclusive, of this subsection; and (B) remaining at the scene for a

111 reasonable time until, in the reasonable judgment of the officer, the
112 likelihood of further imminent violence has been eliminated. For the
113 purposes of this subsection, "trauma-informed care" means services (i)
114 directed by a thorough understanding of the neurological, biological,
115 psychological and social effects of trauma and violence on a person;
116 and (ii) delivered by a regional family violence organization that
117 employs, or provides referrals to, counselors who: (I) Make available to
118 the victim of family violence resources on trauma exposure, its impact
119 and treatment; (II) engage in efforts to strengthen the resilience and
120 protective factors of victims of family violence who are impacted by
121 and vulnerable to trauma; (III) emphasize continuity of care and
122 collaboration among organizations that provide services to children;
123 and (IV) maintain professional relationships for referral and
124 consultation purposes with programs and persons with expertise in
125 trauma-informed care.

126 [(e)] (g) (1) Each law enforcement agency shall develop, in
127 conjunction with the Division of Criminal Justice, and implement
128 specific operational guidelines for arrest policies in family violence
129 incidents. Such guidelines shall include, but need not be limited to: (A)
130 Procedures for the conduct of a criminal investigation; (B) procedures
131 for arrest and for victim assistance by peace officers; (C) education as
132 to what constitutes speedy information in a family violence incident;
133 (D) procedures with respect to the provision of services to victims; and
134 (E) such other criteria or guidelines as may be applicable to carry out
135 the purposes of sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive,
136 and 54-1g. Such procedures shall be duly promulgated by such law
137 enforcement agency. On and after October 1, 2012, each law
138 enforcement agency shall develop and implement specific operational
139 guidelines for arrest policies in family violence incidents which, at a
140 minimum, meet the standards set forth in the model law enforcement
141 policy on family violence established in subdivision (2) of this
142 subsection.

143 (2) There is established a model law enforcement policy on family
144 violence for the state. Such policy shall consist of the model policy

145 submitted by the task force established in section 19 of public act 11-
146 152 on January 31, 2012, to the joint standing committee of the General
147 Assembly having cognizance of matters relating to the judiciary, as
148 amended from time to time by the Family Violence Model Policy
149 Governing Council established pursuant to section 46b-38j.

150 (3) Not later than January 15, 2013, and annually thereafter, the
151 chairperson of the Police Officer Standards and Training Council shall
152 provide notice of updates to the model policy, if any, adopted by the
153 council during the prior calendar year, to the chief law enforcement
154 officer of each municipality having a police department, the law
155 enforcement instructor of each such police department, and the
156 Commissioner of Emergency Services and Public Protection.

157 (4) Not later than July 1, 2013, and annually thereafter, each law
158 enforcement agency shall submit a report to the Commissioner of
159 Emergency Services and Public Protection, in such form as the
160 commissioner prescribes, regarding the law enforcement agency's
161 compliance with the model law enforcement policy on family violence
162 for the state.

163 (5) On and after July 1, 2010, each law enforcement agency shall
164 designate at least one officer with supervisory duties to expeditiously
165 process, upon request of a victim of family violence or other crime who
166 is applying for U Nonimmigrant Status (A) a certification of
167 helpfulness on Form I-918, Supplement B, or any subsequent
168 corresponding form designated by the United States Department of
169 Homeland Security, confirming that the victim of family violence or
170 other crime has been helpful, is being helpful, or is likely to be helpful
171 in the investigation or prosecution of the criminal activity, and (B) any
172 subsequent certification required by the victim.

173 [(f)] (h) The Police Officer Standards and Training Council, in
174 conjunction with the Division of Criminal Justice, shall establish an
175 education and training program for law enforcement officers,
176 supervisors and state's attorneys on the handling of family violence
177 incidents. Training under such program shall: (1) Stress the

178 enforcement of criminal law in family violence cases and the use of
179 community resources, and include training for peace officers at both
180 recruit and in-service levels; and (2) include, but not be limited to: (A)
181 The nature, extent and causes of family violence; (B) factors for
182 determining a dominant aggressor in a family violence case; (C) legal
183 rights of and remedies available to victims of family violence and
184 persons accused of family violence; [(C)] (D) services and facilities
185 available to victims and persons who commit acts of family violence;
186 [(D)] (E) legal duties imposed on police officers to make arrests and to
187 offer protection and assistance, including applicable probable cause
188 standards; and [(E)] (F) techniques for handling incidents of family
189 violence that minimize the likelihood of injury to the officer and
190 promote the safety of the victim. [On and after July 1, 2010, training]
191 Training under such program shall also include, within available
192 appropriations, information on (i) the impact of arrests of multiple
193 parties in a family violence case on the immigration status of the
194 parties; (ii) crime scene investigation and evaluation practices in family
195 violence cases designed by the council to reduce the number of
196 multiple arrests in family violence cases; and (iii) practical
197 considerations in the application of the general statutes related to
198 family violence. [On and after July 1, 2010, such] Such training shall
199 also address, within available appropriations, eligibility for federal T
200 Visas for victims of human trafficking and federal U Visas for
201 unauthorized immigrants who are victims of family violence and other
202 crimes.

203 [(g) Not later than July 1, 2010, the] (i) The Police Officer Standards
204 and Training Council shall establish uniform protocols for treating
205 victims of family violence whose immigration status is questionable,
206 and shall make such protocols available to law enforcement agencies.
207 Each law enforcement agency shall adopt and use such protocols on
208 and after the date they are established by the council.

209 Sec. 3. Section 7-294g of the general statutes is repealed and the
210 following is substituted in lieu thereof (*Effective January 1, 2019*):

211 (a) Each police basic or review training program conducted or
212 administered by the Division of State Police within the Department of
213 Emergency Services and Public Protection, by the Police Officer
214 Standards and Training Council established under section 7-294b or by
215 a municipal police department in the state shall provide a minimum of
216 two hours of training on the subject of domestic violence that includes,
217 but is not limited to, the following: (1) Enforcement of criminal laws
218 applicable in cases involving domestic violence; (2) factors for
219 determining a dominant aggressor in a family violence case; (3)
220 techniques for handling incidents of domestic violence which promote
221 the safety of the victim and the officer and which reduce the likelihood
222 of recurrence; [(3)] (4) organizations in the state that offer aid or shelter
223 to victims of domestic violence; [(4)] (5) applicable procedures in the
224 prosecution of cases involving domestic violence; [(5)] (6) orders
225 issued by a court pursuant to chapter 815a. The Division of State
226 Police, the Police Officer Standards and Training Council or municipal
227 police departments, in consultation with the [Connecticut Task Force
228 on Abused Women] Division of Criminal Justice and an entity
229 representing the state-wide domestic violence coalition, shall develop a
230 program curriculum, [and shall submit such curriculum to the task
231 force for approval. Individual shelter programs in the task force] A
232 domestic violence agency, as defined in section 52-146k, may also
233 conduct domestic violence training in conjunction with any police
234 training program, pursuant to the guidelines and certification
235 requirements established by the Police Officer Standards and Training
236 Council under section 7-294d.

237 (b) Each police basic training program conducted or administered
238 by the Division of State Police within the Department of Emergency
239 Services and Public Protection, by the Police Officer Standards and
240 Training Council established under section 7-294b or by a municipal
241 police department in the state shall include a course on the recognition
242 and management of child abuse and suicide intervention procedures.

243 Sec. 4. Subdivision (2) of subsection (g) of section 46b-38c of the 2018
244 supplement to the general statutes is repealed and the following is

245 substituted in lieu thereof (*Effective January 1, 2019*):

246 (2) The Judicial Department may contract with victim service
247 providers to make available, either directly or through referral,
248 appropriate services that include, but are not limited to, the provision
249 of trauma-informed care, as defined in subsection [(d)] (f) of section
250 46b-38b, as amended by this act.

251 Sec. 5. Section 54-224 of the general statutes is repealed and the
252 following is substituted in lieu thereof (*Effective January 1, 2019*):

253 Except as provided in subsection [(d)] (f) of section 46b-38b, as
254 amended by this act, the state or any agent, employee or officer thereof
255 shall not be liable for (1) the failure to afford the victim of a crime any
256 of the rights provided pursuant to any provision of the general
257 statutes, or (2) the failure to provide the victim of a crime with any
258 notice pursuant to any provision of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2019</i>	46b-38a
Sec. 2	<i>January 1, 2019</i>	46b-38b
Sec. 3	<i>January 1, 2019</i>	7-294g
Sec. 4	<i>January 1, 2019</i>	46b-38c(g)(2)
Sec. 5	<i>January 1, 2019</i>	54-224

JUD *Joint Favorable Subst.*

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:*** None***Municipal Impact:*** None***Explanation***

There is no fiscal impact resulting from the bill, which requires police officers arrest the dominant aggressor in instances of domestic violence and expands existing training exercises. To the extent this training can be conducted within existing time constraints, there is no fiscal impact.

The bill provides officers immunity from civil liability as a result of such arrests. To the extent the changes to arrest procedures in the bill would have increased litigation against state and municipal police departments, there is no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 466*****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.

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 state-wide 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.

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.

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 state-wide 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)