

Judiciary Committee JOINT FAVORABLE REPORT

Bill No.: SB-466

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

Title: VIOLENCE.

Vote Date: 4/2/2018

Vote Action: Joint Favorable Substitute

PH Date: 3/16/2018

File No.:

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SPONSORS OF BILL:

The Judiciary Committee

REASONS FOR BILL:

CCADV brought this issue to the attention of the Judiciary Committee with the hope of lowering Connecticut's dual arrest rates to more closely match the national standard. This bill outlines and details the procedures that must be followed by officers of the law in cases of family violence, including arrest decisions, officer liability, and officer responsibilities; and requires and/or encourages the development of specific operational guidelines and training programs concerning domestic violence, child abuse, and suicide prevention.

SUBSTITUTE LANGUAGE:

Provides definitions of and/or qualifications for various terminologies, actions, and peoples involved with/in domestic violence incidents, including: "family violence," "family or household member," "family violence crime," "institutions and services," and "dominant aggressor;" determines the course(s) of action that a peace officer or officers must follow upon learning of or hearing accusations of family crime.

RESPONSE FROM ADMINISTRATION/AGENCY:

State of Connecticut, Public Defender Services, Chief Public Defender, Christine Perra Rapillo:

Supports this bill because it allows the police to use discretion to arrest the most culpable party in domestic violence incidents; the dual arrest policy has resulted in a massive workload for the public defender office. In addition, the Department of Children and Families receives a

referral in dual arrest situations which has a negative impact especially on the women. The arrest and pending criminal investigation impact the woman's ability to fully participate in the DCF investigation and often results in DCF being involved in her life for a sustained period of time.

This bill would train police officers to be able to competently determine who the primary aggressor is in an intimate partner situation and arrest only that person.

State of Connecticut, Division of Criminal Justice:

Supports this bill. The Division points out that Connecticut has a unique policy by which once a police officer makes an arrest, the matter is immediately put on the court docket and is counted among court cases. This potentially inflates Connecticut's dual arrest statistics versus other states.

The Division proposes alternative language for the bill that would allow a police officer, after arresting the primary aggressor, to submit an unsigned summons or warrant application to the prosecutor for review and determination of whether the second individual, who likely used force in self-defense, should be charged. This would reduce dual arrests.

The Division would also like to be included in the group that will be developing the standardized domestic violence training curriculum.

Office of the Victim Advocate, Natasha Pierre, State Victim Advocate:

Supports this bill because it would reduce the prevalence of dual arrests. Unwarranted arrests cause trauma on the victim and their family members and lead to financial instability and distrust of the criminal justice system.

Office of the Child Advocate, Sarah Eagan, Connecticut Child Advocate:

Supports this bill because reducing the number of dual arrests will benefit children and the parent victim. Connecticut's dual arrest rate is 20% higher than the national average of 7%. 87 of the state's 106 law enforcement agencies have a dual arrest rate at least double the national average and the arrests cross socio-economic communities through rural, suburban and urban settings.

Dual arrests make it less likely that a victim will call the police for help when they need it. It is traumatic for children to see the parent who was assaulted being arrested with the aggressor and they are often left without a guardian and have to enter the DCF system.

This bill would require police officers to determine and arrest the dominant aggressor and assess whether or not other people who engaged in physical violence did so in self-defense or in defense of the victim.

The Judicial Branch neither supports nor opposes this bill, but stands ready to implement it, should it pass.

NATURE AND SOURCES OF SUPPORT:

The House Republican Office:

Supports this bill because it allows police officers to use their training and discretion to separately determine and arrest the dominant aggressor. This change in policy will make it more likely that victims of domestic violence will call the police for help. Twenty-seven states already have similar legislation already.

Representative Caroline Simmons, 114th District:

Supports this bill because it will reduce the number of dual arrests which will improve the safety of victims of domestic violence and offer more stability for the children in such homes.

Prudence Crandall Center, Barbara Damon, Executive Director:

Supports this bill. The negative consequences of dual arrest include:

- **Decreasing victim safety:** The victim will be less likely to call the police in the future. The abuser is likely to exploit this fact.
- **Financial consequences:** When arrested, people have to hire a lawyer, miss work and pay for childcare on court dates.
- **Trauma for children:** For children, seeing the parental victim arrested with the aggressor can lead to distrust of law enforcement
- **Potential immigration and/or other legal issues:** An arrest could trigger immigration issues. The victim is also burdened with the arrest on their record.
- **Hinders prosecution:** An arrested victim has little reason to cooperate with the prosecutor since he/she is also facing prosecution. The aggressor's attorney can argue that there is reasonable doubt about the severity of the incident since both people were arrested.
- **Overburdens the courts:** Family violence cases make up 1/3 of the criminal docket taking up time and money.

The Connecticut Coalition against Domestic Violence released a report after a seven month study that found that a significant number of the arrests were found by the court to be at low to moderate risk to reoffend and eventually had their cases nolleed or dismissed. In addition, Connecticut's family violence mandatory arrest law is a significant contributing factor to the dual arrest challenges.

The passage of SB 466 will make victims safer and relieve stress on our overburdened court system.

Women's Support Services, Dr. Elizabeth Mauro, Executive Director:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

YWCA Greenwich Domestic Abuse Services, Mary Lee Kiernan, President/CEO and Meredith Gold, Director of Domestic Abuse Services:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

The United Services Domestic Violence Program, Heather Victoria, Intensive Services Division Director:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

Ms. Victoria included the story of a victim who was strangled by her partner and then arrested based on false accusations made by her abuser. She had fled the scene and called the police for help and then was arrested. She lost her job and had to stop pursuing her

education to become a teacher because her arrest record would prevent her from being hired in that field.

The Umbrella Center for Domestic Violence Services, Esperina Stubblefield, Director:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

Ms. Stubblefield included this story to illustrate the negative ramifications of the overuse of dual arrests:

In September 2017, a female victim of domestic violence was arrested in New Haven along with her abuser because she chose to fight back, and her abuser suffered a small laceration on his face. The victim had been strangled, and she hit her abuser to try to get him to break his hands free from her neck. The victim and her abuser were both in court for arraignment the next day. The victim had no prior history of arrest, her abuser had an extensive history of domestic violence arrests and had been recently released from prison after serving 18 months for strangulation. Although there were no visible marks on the victim's neck, she was hoarse and having trouble breathing as a result of the incident. The prosecutor refused to drop the charges, and allowed her abuser to play victim. The victim was forced to complete a program to earn a nolle on the charges forcing her to miss work and time with her six-year-old child.

Women's Center of Greater Danbury, Ann Rodwell-Lawton, Legislative Liaison and Director of Education, Training, and Outreach:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

Ms. Rodwell-Lawton included the story of a middle-aged victim who called the police after being slammed against appliances in an altercation with her partner of 2 years that had escalated from verbal abuse to physical violence. Both the victim and abuser were arrested which was a traumatic and devastating experience for the victim. Her counselor had to help the victim develop a safety plan that did not involve calling the police. The current policy of dual arrests is not helping the true victims of domestic violence and SB 466 will help rectify this.

The Center for Family Justice, Angela Schlingheyde, Legal and Court Advocacy Services Director:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

Ms. Schlingheyde included the following story to illustrate:

"Jane" had two children with an abusive man. She left him to protect herself and her children but agreed to share custody. The abuser used this arrangement to continue to abuse, harass and stalk Jane. One day, while driving in the car together, the abuser started an argument with her and then assaulted her. When the police arrived, the abuser claimed that Jane had started the assault so the officer arrested both individuals despite the fact that Jane was covered in bruises and the abuser only had minor injuries.

Jane was only given a summons and was not taken into custody. She now felt that she could not call the police in the future. She suffered financially because of having to miss work to attend court dates. She could not get a full protective order and was only granted a partial one because of the dual arrest, leaving her vulnerable to future assaults. Additionally, she

could not file an Application for Custody motion because she had an open criminal case and her Office of Victim Services compensation request was put on hold pending the disposition of her case. In the end, her case was nolle, and Jane was able to file for custody and OVS granted her compensation request. However, Jane is forever impacted by the lack of support the criminal justice system provided her. SB 466 will better enable law enforcement to protect the victims of domestic violence.

Connecticut Coalition against Domestic Violence, Karen Jarmoc, Chief Executive Officer:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

Based on discussions with representatives from the State Police Training Academy and the Police Officer Standards and Training Council, they request the following language changes:

Line 192: keep "program curriculum" in statute

Lines 194-195: strike "standardized training curriculum for use statewide by state and all municipal police departments"

Susan B. Anthony Project, Jeanne Fusco, Executive Director:

Supports this bill reiterating statistics about Connecticut's high dual arrest rates and the negative consequences of such arrests as stated in testimony summarized above.

Ms. Fusco shared the story of Sanna Dilawar, a resident of Torrington, who was arrested while reporting the physical assault she survived. She had escaped the assault by fighting back and getting out of her apartment. While she was being arrested, she worried about how she would be able to keep her job, go to school and care for her child. She had not been able to seek medical attention before her arrest. Ms. Fusco stated that over her 23 years working at this organization, she has heard countless stories like that. SB 466 will help reduce the number of dual arrests which do little to support the victims of domestic violence.

Connecticut Women's Education and Legal Fund (CWEALF), Madeline Granato, Policy Manager:

Supports this bill because it will help train police officers in how to appropriately assess which parties should be arrested in a domestic violence incident which will reduce the number of dual arrests. Ms. Granato noted that the CCADV study referenced in Ms. Damon's (from Prudence Crandall) testimony found that a higher percentage of women were found by the courts to have a low risk of reoffending than men which calls into question the overuse of the dual arrest policy. Police officers will still have the discretion to arrest both parties if the situation warrants it.

Many clients of CWEALF are currently or have previously experienced domestic violence. Calling the police about such incidents can be daunting because of language barriers, fear of deportation and fear of retaliation from their abuser. When coupled with the likelihood that they too would be arrested if a police officer gets involved, there is little chance that these women can have trust in the criminal justice system which reduces the chance that they will be safe in their homes with their children.

Women’s Support Service, Maria Horn, Past Chair and Current Board Member:

Supports this bill. Over the course of her professional and personal life, many survivors of domestic violence have shared their stories with her. The enormous conflict of pain and self-doubt these women experienced from being abused by a loved one is hard to comprehend. When they have the courage to stand up to their abuser and seek help and protection, these women need to be supported by law enforcement, not be arrested. Adding the fear of arrest to the fear of coming forward at all makes this too big a burden to shoulder. SB 466 helps fix the dual arrest policy which wastes money and takes up too much court time, while doing little to help the survivors of domestic violence.

Nancy Tyler:

Supports this bill. Ms. Tyler, a lawyer, lived with domestic violence for several years because she did not want to risk being arrested herself if she called the police to intervene. She had teenage children, needed her income to support them, and her professional career could have been jeopardized if she had been arrested. Her children both went on to have successful careers in the law; she hypothesizes that had they experienced their mom being arrested along with her abuser when they were younger, they would not have pursued this path because their faith in the justice system would have been damaged.

The following individuals/organizations submitted brief and/or identical testimony in support of SB 466:

- Connecticut Alliance to End Sexual Assault Violence, Laura Cordes, Executive Director
- K. Prasad Menon, Volunteer at Hartford Interval House
- Samia Hussein, Board Member, Interval House
- Vanessa Wilson
- Dorian Owens, a survivor of domestic violence from East Granby
- Valerie Woodruff

NATURE AND SOURCES OF OPPOSITION:

Connecticut Police Chiefs’ Association, Chief L. J. Fusaro

Supports the intent of the bill to reduce the number of dual arrests but would like the bill amended to reflect the perspective of law enforcement officials who have to carry out the law.

As the bill is currently written, officers are required to “evaluate each complaint separately to determine whether such officer should make an arrest or **seek a warrant** for an arrest.” The removal of statutory language “supporting an officer’s ability to swear out an affidavit for review by a prosecuting authority and presentment for judicial review, is counter to our training, and the longstanding preference of the Court whereby preference is given to an arrest supported by a warrant.” This ability is important in a domestic violence investigation because it is challenging for an officer to get all the facts during the immediate emotional aftermath of a confrontation. When it is difficult to establish probable cause, more investigative steps are needed. They are “fearful that officers may default to making an arrest, which, after review, could expose them and their department to subsequent civil litigation.”

Chief Fusaro explained the distinction between “domestic violence” and “intimate partner domestic violence”; Connecticut’s high recorded rates of dual arrests include incidents in

which the individuals cohabit but are not intimately involved with each other. The Association would like to know if the states with lower rates have a similar arrest requirement as Connecticut.

The Association would like a clearer definition of “dominant aggressor” to avoid ambiguity or misinterpretation. They are in favor of a standardized, state-wide domestic violence training curriculum for police but point out that new required training would cost municipalities a lot of money at a time when town budgets are already overstretched. The Association is committed to working with other stakeholders to find mutually acceptable language for this bill and request that representatives from the Division of Criminal Justice be included in such a group. Together an acceptable policy can be developed which would reduce the number of unnecessary dual arrests with the full support of law enforcement.

Kaloidis Law Firm, Ioannis Kaloidis, President:

Opposes this bill because her legal experience for the last 15 years in defending domestic violence clients has led her to believe that dual arrests are actually underutilized. She states that domestic violence laws are applied in a way that discriminates against men. One of her clients had video evidence of his female partner attacking him while he tried to defend himself. She was not arrested, but the client was. She points out that the proposed legislation is based on the work of many groups but with no representation from the private criminal defense bar so there is a lack of balance and perspective in the conclusions of the work.

Reported by: Tamara Morris

Date: April 26, 2018