



Senate

File No. 785

General Assembly

January Session, 2001

(Reprint of File No. 578)

Substitute Senate Bill No. 1418
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 18, 2001

AN ACT AUTHORIZING JUDGE TRIAL REFEREES TO ISSUE WARRANTS AND OTHER CRIMINAL PROCESS.

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

1 Section 1. Section 54-2a of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) In all criminal cases the Superior Court, or any judge thereof, or
4 any judge trial referee specifically designated by the Chief Justice to
5 exercise the authority conferred by this section may issue (1) bench
6 warrants of arrest upon application by a prosecutorial official if the
7 court or judge determines that the affidavit accompanying the
8 application shows that there is probable cause to believe that an
9 offense has been committed and that the person complained against
10 committed it, (2) subpoenas for witnesses, (3) capias for witnesses and
11 for defendants who violate an order of the court regarding any court
12 appearance, and (4) all other criminal process; and may administer
13 justice in all criminal matters.

14 (b) The court, [or] judge or judge trial referee issuing a bench

15 warrant for the arrest of the person or persons complained against
16 shall, in cases punishable by death or life imprisonment, set the
17 conditions of release or indicate that the person or persons named in
18 the warrant shall not be entitled to bail and may, in all other cases, set
19 the conditions of release. The conditions of release, if included in the
20 warrant, shall fix the first of the following conditions which the court,
21 [or] judge or judge trial referee finds necessary to assure such person's
22 appearance in court: (1) Written promise to appear; (2) execution of a
23 bond without surety in no greater amount than necessary; or (3)
24 execution of a bond with surety in no greater amount than necessary.

25 (c) In lieu of a warrant for the rearrest of any defendant who fails to
26 appear for trial at the place and time specified or on any court date
27 thereafter the court, [or] judge or judge trial referee may issue a *capias*.

28 (d) All process issued by said court or any judge thereof, or any
29 judge trial referee shall be served by any proper officer, or an
30 indifferent person when specially directed to do so, and shall be
31 obeyed by any and all persons and officers to whom the same is
32 directed or whom it may concern.

33 (e) Whenever a rearrest warrant is issued under this section, the
34 court, [or] judge or judge trial referee may cause such warrant to be
35 entered into a central computer system. Existence of the warrant in the
36 computer system shall constitute *prima facie* evidence of the issuance
37 of the warrant. Any person named in the warrant may be arrested
38 based on the existence of the warrant in the computer system and
39 shall, upon any such arrest, be given a copy of the warrant.

40 Sec. 2. Section 54-33a of the general statutes is repealed and the
41 following is substituted in lieu thereof:

42 (a) As used in sections 54-33a to 54-33g, inclusive, "property"
43 includes, without limitation, documents, books, papers, films,
44 recordings and any other tangible thing.

45 (b) Upon complaint on oath by any state's attorney or assistant

46 state's attorney or by any two credible persons, to any judge of the
47 Superior Court or judge trial referee, that such state's attorney or
48 assistant state's attorney or such persons have probable cause to
49 believe that any property (1) possessed, controlled, designed or
50 intended for use or which is or has been used or which may be used as
51 the means of committing any criminal offense; or (2) which was stolen
52 or embezzled; or (3) which constitutes evidence of an offense, or that a
53 particular person participated in the commission of an offense, is
54 within or upon any place, thing or person, such judge or judge trial
55 referee, except as provided in section 54-33j, may issue a warrant
56 commanding a proper officer to enter into or upon such place or thing,
57 search the same or the person and take into such officer's custody all
58 such property named in the warrant.

59 (c) A warrant may issue only on affidavit sworn to by the
60 complainant or complainants before the judge or judge trial referee
61 and establishing the grounds for issuing the warrant, which affidavit
62 shall be part of the arrest file. If the judge or judge trial referee is
63 satisfied that grounds for the application exist or that there is probable
64 cause to believe that they exist, the judge or judge trial referee shall
65 issue a warrant identifying the property and naming or describing the
66 person, place or thing to be searched. The warrant shall be directed to
67 any police officer of a regularly organized police department or any
68 state policeman or to a conservation officer, special conservation
69 officer or patrolman acting pursuant to section 26-6. The warrant shall
70 state the date and time of its issuance and the grounds or probable
71 cause for its issuance and shall command the officer to search within a
72 reasonable time the person, place or thing named, for the property
73 specified. The inadvertent failure of the issuing judge or judge trial
74 referee to state on the warrant the time of its issuance shall not in and
75 of itself invalidate the warrant.

76 Sec. 3. Section 36a-44 of the general statutes is repealed and the
77 following is substituted in lieu thereof:

78 No provision of sections 36a-41 to 36a-45, inclusive, shall be

79 construed to prohibit: (1) The preparation, examination, handling or
80 maintenance of any financial records by any officer, employee or agent
81 of a financial institution having custody of such records or the
82 examination of such records by a certified public accountant engaged
83 by the financial institution to perform an independent audit; (2) the
84 examination of any financial records by, or the furnishing of financial
85 records by a financial institution to any official, employee or agent of a
86 supervisory agency solely for use in the exercise of the duties of such
87 official, employee or agent; (3) the publication of data furnished from
88 financial records relating to customers where such data does not
89 contain information identifying any particular customer or account; (4)
90 the making of reports or returns required under the Internal Revenue
91 Code of 1986, or any subsequent corresponding internal revenue code
92 of the United States, as from time to time amended, or under section
93 12-382; (5) disclosure of information permitted under the Uniform
94 Commercial Code concerning the dishonor of any negotiable
95 instrument; (6) the exchange, in the regular course of business, of
96 credit information between a financial institution and other financial
97 institutions or commercial enterprises, directly or through a consumer
98 reporting agency; (7) disclosures to appropriate officials of federal,
99 state or local governments upon suspected violations of the criminal
100 law; (8) disclosures pursuant to a search warrant issued by a judge of
101 the Superior Court or a judge trial referee under the provisions of
102 section 54-33a; (9) disclosures concerning lawyers' clients' funds
103 accounts made to the state-wide grievance committee pursuant to any
104 rule adopted by the judges of the Superior Court; (10) disclosures to
105 the purported payee or to any purported holder of a check, draft,
106 money order or other item, whether or not such check, draft, money
107 order or other item has been accepted by such payee or holder as
108 payment, or to any financial institution purportedly involved in the
109 collection process of a check, draft, money order or other item whether
110 such check, draft, money order or other item would be paid if
111 presented at the time of such disclosure; (11) any disclosure made in
112 connection with a financial institution's attempts to preserve its rights
113 or determine its liabilities with regard to any funds transfer or any

114 check, draft, money order or other item drawn by or upon it or
115 handled by it for collection or otherwise; (12) the transfer of
116 information from a Connecticut credit union to a shared service center
117 and the personnel of such shared service center which takes place
118 when a member of such Connecticut credit union uses a shared service
119 center to effect a transaction with such Connecticut credit union; (13)
120 any other disclosure required under applicable state or federal law or
121 authorized to be made to any regulatory or law enforcement agency
122 under applicable state or federal law.

123 Sec. 4. Section 54-33b of the general statutes is repealed and the
124 following is substituted in lieu thereof:

125 The officer serving a search warrant may, if [he] such officer has
126 reason to believe that any of the property described in the warrant is
127 concealed in the garments of any person in or upon the place or thing
128 to be searched, search the person for the purpose of seizing the same.
129 When the person to be searched is a woman, the search shall be made
130 by a policewoman or other woman assisting in the service of the
131 warrant, or by a woman designated by the judge or judge trial referee
132 issuing the warrant.

133 Sec. 5. Subsection (a) of section 54-33c of the general statutes is
134 repealed and the following is substituted in lieu thereof:

135 (a) The applicant for the search warrant shall file the application for
136 the warrant and all affidavits upon which the warrant is based with
137 the clerk of the court for the geographical area within which any
138 person who may be arrested in connection with or subsequent to the
139 execution of the search warrant would be presented with the return of
140 the warrant. The warrant shall be executed within ten days and
141 returned with reasonable promptness consistent with due process of
142 law and shall be accompanied by a written inventory of all property
143 seized. A copy of such warrant shall be given to the owner or occupant
144 of the dwelling, structure, motor vehicle or place designated therein, or
145 the person named therein. Within forty-eight hours of such search, a

146 copy of the application for the warrant and a copy of all affidavits
147 upon which the warrant is based shall be given to such owner,
148 occupant or person. The judge or judge trial referee may, by order,
149 dispense with the requirement of giving a copy of the affidavits to
150 such owner, occupant or person at such time if the applicant for the
151 warrant files a detailed affidavit with the judge or judge trial referee
152 which demonstrates to the judge or judge trial referee that (1) the
153 personal safety of a confidential informant would be jeopardized by
154 the giving of a copy of the affidavits at such time, or (2) the search is
155 part of a continuing investigation which would be adversely affected
156 by the giving of a copy of the affidavits at such time, or (3) the giving
157 of such affidavits at such time would require disclosure of information
158 or material prohibited from being disclosed by chapter 959a. If the
159 judge or judge trial referee dispenses with the requirement of giving a
160 copy of the affidavits at such time, such order shall not affect the right
161 of such owner, occupant or person to obtain such copy at any
162 subsequent time. No such order shall limit the disclosure of such
163 affidavits to the attorney for a person arrested in connection with or
164 subsequent to the execution of a search warrant unless, upon motion of
165 the prosecuting authority within two weeks of such person's
166 arraignment, the court finds that the state's interest in continuing
167 nondisclosure substantially outweighs the defendant's right to
168 disclosure.

169 Sec. 6. Subsection (a) of section 54-33f of the general statutes is
170 repealed and the following is substituted in lieu thereof:

171 (a) A person aggrieved by search and seizure may move the court
172 which has jurisdiction of [his] such person's case or, if such jurisdiction
173 has not yet been invoked, then the court which issued the warrant, or
174 the court in which [his] such person's case is pending, for the return of
175 the property and to suppress for use as evidence anything so obtained
176 on the ground that: (1) The property was seized without a warrant, or
177 (2) the warrant is insufficient on its face, or (3) the property seized is
178 not that described in the warrant, or (4) there was not probable cause
179 for believing the existence of the grounds on which the warrant was

180 issued, or (5) the warrant was illegally executed. In no case may the
181 judge or judge trial referee who signed the warrant preside at the
182 hearing on the motion.

183 Sec. 7. Section 54-154 of the general statutes is repealed and the
184 following is substituted in lieu thereof:

185 In any case in which the statutes provide for a search warrant and
186 seizure, the court, [or] judge or judge trial referee issuing such warrant
187 may tax for the officer's services thereon the same fees for service,
188 travel, copies and endorsements as are taxed in civil cases, and such
189 sum for securing, care and destruction of property as such court, [or]
190 judge or judge trial referee, under the circumstances, deems
191 reasonable, such fees and sum to be paid from the appropriation for
192 the Division of Criminal Justice.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Judicial Department

Municipal Impact: None

House "A" made a technical change and did not result in a fiscal impact.

OLR Amended Bill Analysis

sSB 1418 (as amended by House "A")*

AN ACT CONCERNING THE POWER OF JUDGE TRIAL REFEREES TO AUTHORIZE WARRANTS.**SUMMARY:**

This bill gives judge trial referees the same authority as a Superior Court judge to issue search warrants. It also gives judge trial referees, if specifically designated by the chief justice for this purpose, the same authority as a Superior Court judge in criminal cases to administer justice and issue:

1. arrest warrants (and set conditions of release),
2. subpoenas for witnesses,
3. a *capias* (order to take someone into custody) for a witness or defendant who does not appear in court, and
4. all other criminal process.

*House Amendment "A" requires the chief justice to specifically designate judge trial referees who can issue an arrest warrant, subpoena, *capias*, and other criminal process.

EFFECTIVE DATE: October 1, 2001

BACKGROUND***Judge Trial Referees***

A judge who retires at the mandatory retirement age of 70 can become a state referee and may be reappointed as a referee by the governor and General Assembly. Judge trial referees are referees who have been specifically designated as such by the chief justice. A judge trial referee can hear criminal and civil cases and juvenile matters on referral from the Superior Court.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 36 Nay 0