



General Assembly

January Session, 2003

**Amendment**

LCO No. 6902

\*SB0096906902HD0\*

Offered by:

REP. DIAMANTIS, 79<sup>th</sup> Dist.

To: Subst. Senate Bill No. 969

File No. 634

Cal. No. 561

(As Amended by Senate Amendment Schedule "A")

**"AN ACT CONCERNING INVESTIGATIVE SUBPOENAS."**

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1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2003*) (a) Notwithstanding the  
4 provisions of section 3 of this act, a prosecuting official who seeks to  
5 issue a subpoena pursuant to section 2 of this act to an attorney with  
6 respect to a former or current client of such attorney shall submit an  
7 application to a judge of the superior court. Such application shall  
8 include an affidavit sworn to by such prosecuting official stating that  
9 such official has reasonable grounds to believe that:

10 (1) A crime, as defined in section 1 of this act, has been committed  
11 and the basis for such belief;

12 (2) The testimony or production of property sought is not protected  
13 by the attorney-client privilege or a statutory or constitutional

14 privilege;

15 (3) The testimony or production of property is necessary and not  
16 merely relevant to the investigation concerning the alleged  
17 commission of a crime, as defined in section 1 of this act;

18 (4) All other available sources of comparably probative evidence  
19 have been exhausted; and

20 (5) The necessity for the testimony or production of property  
21 outweighs any harm that might result to the attorney-client  
22 relationship that may result if the attorney is required to testify.

23 (b) If the judge finds that all the provisions of subsection (a) of this  
24 section have been satisfied, the judge may grant the application for the  
25 issuance of a subpoena to an attorney by such prosecuting official."