



General Assembly

January Session, 2011

Raised Bill No. 6423

LCO No. 3540

03540_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING SUBPOENAS FOR PROPERTY.

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

1 Section 1. (NEW) (*Effective October 1, 2011*) For the purposes of this
2 section and sections 2 to 5, inclusive, of this act:

3 (1) "Crime" means a violation of section 36b-4, 36b-6, 36b-16, 53-153,
4 53-451, 53a-122, 53a-123, 53a-129b, 53a-129c, 53a-129d, 53a-129e, 53a-
5 138, 53a-147, 53a-148, 53a-149, 53a-150, 53a-152, 53a-153, 53a-158, 53a-
6 159, 53a-160, 53a-161, 53a-161a, 53a-161c, 53a-161d, 53a-215, 53a-252,
7 53a-253, 53a-254, 53a-291, 53a-292 or 53a-293 of the general statutes;

8 (2) "Person" means any natural person, firm, partnership, limited
9 partnership, limited liability partnership, limited liability company,
10 trust, syndicate, estate, association, corporation, custodian, nominee,
11 municipality, agency or political or administrative subdivision of the
12 state, or other legal entity of any kind;

13 (3) "Property" includes, but is not limited to, documents, books,
14 papers, records, films, recordings and other tangible things; and

15 (4) "Prosecuting official" means the Chief State's Attorney, a deputy
16 Chief State's Attorney or a state's attorney.

17 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) In the investigation of
18 conduct that would constitute the commission of a crime, a
19 prosecuting official, in the performance of such official's duties during
20 such investigation, may issue a subpoena to compel the production of
21 property relevant to the matter under investigation.

22 (b) Any subpoena issued pursuant to this section shall (1) compel
23 only the production of property relevant to the investigation being
24 conducted, (2) specify with reasonable particularity the property to be
25 produced, (3) allow a reasonable period of time for compliance, and (4)
26 require only the production of property covering a reasonable period
27 of time.

28 (c) Any subpoena issued pursuant to this section shall compel the
29 person to produce the property at the office of the prosecuting official.

30 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) In conducting any
31 investigation in which a subpoena is issued pursuant to sections 1 to 5,
32 inclusive, of this act, a prosecuting official may apply to a judge of the
33 Superior Court for an order granting immunity from prosecution to
34 any natural person to whom a subpoena has been issued. Such
35 immunity may provide that the person will not be prosecuted or
36 subjected to any penalty or forfeiture (1) for or on account of any
37 property produced by such person, or for or on account of any
38 evidence discovered as a result of or otherwise derived from property
39 produced by such person, or (2) for or on account of any transaction,
40 matter or thing concerning which such person produces property.

41 (b) No person who has been properly served with a subpoena
42 pursuant to sections 1 to 5, inclusive, of this act and receives immunity
43 under subsection (a) of this section shall be excused from producing
44 any property before the prosecuting official concerning an
45 investigation on the ground or for the reason that the property

46 required may tend to incriminate such person or subject such person to
47 a penalty or forfeiture.

48 Sec. 4. (NEW) (*Effective October 1, 2011*) If any subpoena is issued
49 pursuant to section 2 of this act for the production of the medical
50 records, including psychiatric and substance abuse treatment records,
51 of a person, the prosecuting official shall give written notice of the
52 issuance of such subpoena to such person. Such person shall have
53 standing to file a motion to quash the subpoena in accordance with
54 section 5 of this act.

55 Sec. 5. (NEW) (*Effective October 1, 2011*) (a) Whenever a subpoena
56 has been issued to compel the production of property pursuant to
57 section 2 of this act, the person summoned may file a motion to quash
58 the subpoena. No fees or costs shall be assessed.

59 (b) The party filing the motion to quash shall be designated as the
60 plaintiff and shall be described as "John Doe", "Jane Doe" or some other
61 alias, and the prosecuting official shall be designated as the defendant.

62 (c) The motion, upon its filing, shall be sealed as to the public. The
63 motion shall be referred to the presiding criminal judge of the court for
64 hearing or for assignment to another judge for hearing. Unless
65 otherwise ordered by the judge conducting the hearing, the hearing
66 shall be conducted in camera and the file on the motion shall be sealed
67 as to the public, subject to further order of the court.

68 (d) The motion shall be expeditiously assigned and heard. The date
69 and time of the hearing shall be established by the clerk after
70 consultation with the judge assigned to conduct the hearing. The clerk
71 shall give notice to the parties of the hearing so scheduled.

72 (e) A judge may quash or modify any subpoena issued pursuant to
73 sections 1 to 5, inclusive, of this act for just cause or in recognition of
74 any privilege established under law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>October 1, 2011</i>	New section

Statement of Purpose:

To give state prosecutors the tools necessary to protect state residents and government funds and programs from fraud.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]