



General Assembly

January Session, 2013

Raised Bill No. 6598

LCO No. 4202



Referred to Committee on PUBLIC SAFETY AND SECURITY

Introduced by:
(PS)

AN ACT CONCERNING PUBLIC PROTECTION.

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

1 Section 1. Section 29-38c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) Upon complaint on oath by any state's attorney or assistant
4 state's attorney or by any two police officers, to any judge of the
5 Superior Court, that such state's attorney or police officers have
6 probable cause to believe that (1) a person poses a risk of imminent
7 personal injury to himself or herself or to other individuals, (2) such
8 person possesses one or more firearms, and (3) such firearm or
9 firearms are within or upon any place, thing or person, such judge may
10 issue a warrant commanding a proper officer to enter into or upon
11 such place or thing, search the same or the person and take into such
12 officer's custody any and all firearms. Such state's attorney or police
13 officers shall not make such complaint unless such state's attorney or
14 police officers have conducted an independent investigation and have
15 determined that such probable cause exists and that there is no
16 reasonable alternative available to prevent such person from causing

17 imminent personal injury to himself or herself or to others with such
18 firearm.

19 (b) A warrant may issue only on affidavit sworn to by the
20 complainant or complainants before the judge and establishing the
21 grounds for issuing the warrant, which affidavit shall be part of the
22 seizure file. In determining whether grounds for the application exist
23 or whether there is probable cause to believe they exist, the judge shall
24 consider: (1) Recent threats or acts of violence by such person directed
25 toward other persons; (2) recent threats or acts of violence by such
26 person directed toward himself or herself; and (3) recent acts of cruelty
27 to animals as provided in subsection (b) of section 53-247 by such
28 person. In evaluating whether such recent threats or acts of violence
29 constitute probable cause to believe that such person poses a risk of
30 imminent personal injury to himself or herself or to others, the judge
31 may consider other factors including, but not limited to (A) the
32 reckless use, display or brandishing of a firearm by such person, (B) a
33 history of the use, attempted use or threatened use of physical force by
34 such person against other persons, (C) prior involuntary confinement
35 of such person in a hospital for persons with psychiatric disabilities,
36 and (D) the illegal use of controlled substances or abuse of alcohol by
37 such person. If the judge is satisfied that the grounds for the
38 application exist or that there is probable cause to believe that they
39 exist, such judge shall issue a warrant naming or describing the
40 person, place or thing to be searched. The warrant shall be directed to
41 any police officer of a regularly organized police department or any
42 state police officer. It shall state the grounds or probable cause for its
43 issuance and it shall command the officer to search within a reasonable
44 time the person, place or thing named for any and all firearms. A copy
45 of the warrant shall be given to the person named therein together
46 with a notice informing the person that such person has the right to a
47 hearing under this section and the right to be represented by counsel at
48 such hearing.

49 (c) The applicant for the warrant shall file a copy of the application

50 for the warrant and all affidavits upon which the warrant is based with
51 the clerk of the court for the geographical area within which the search
52 will be conducted no later than the next business day following the
53 execution of the warrant. Prior to the execution and return of the
54 warrant, the clerk of the court shall not disclose any information
55 pertaining to the application for the warrant or any affidavits upon
56 which the warrant is based. The warrant shall be executed and
57 returned with reasonable promptness consistent with due process of
58 law and shall be accompanied by a written inventory of all firearms
59 seized.

60 (d) Not later than fourteen days after the execution of a warrant
61 under this section, the court for the geographical area where the
62 person named in the warrant resides shall hold a hearing to determine
63 whether the seized firearms should be returned to the person named in
64 the warrant or should continue to be held by the state. At such hearing
65 the state shall have the burden of proving all material facts by clear
66 and convincing evidence. If, after such hearing, the court finds by clear
67 and convincing evidence that the person poses a risk of imminent
68 personal injury to himself or herself or to other individuals, it may
69 order that the firearm or firearms seized pursuant to the warrant
70 issued under subsection (a) of this section continue to be held by the
71 state for a period not to exceed one year, otherwise the court shall
72 order the seized firearm or firearms to be returned to the person
73 named in the warrant. If the court finds that the person poses a risk of
74 imminent personal injury to himself or herself or to other individuals,
75 it shall give notice to the Department of Mental Health and Addiction
76 Services which may take such action pursuant to chapter 319i as it
77 deems appropriate.

78 (e) Any person whose firearm or firearms have been ordered seized
79 pursuant to subsection (d) of this section, or such person's legal
80 representative, may transfer such firearm or firearms in accordance
81 with the provisions of section 29-33 or other applicable state or federal
82 law, to any person eligible to possess such firearm or firearms. Upon

83 notification in writing by such person, or such person's legal
84 representative, and the transferee, the head of the state agency holding
85 such seized firearm or firearms shall within ten days deliver such
86 firearm or firearms to the transferee.

87 (f) Any person whose firearm or firearms have been ordered seized
88 pursuant to subsection (d) of this section and who does not transfer
89 such firearm or firearms in accordance with subsection (e) of this
90 section may request the return of such firearm or firearms upon the
91 expiration of any period, ordered by the court pursuant to subsection
92 (d) of this section, during which such firearm or firearms shall
93 continue to be held. Such request shall be made in writing to the state
94 agency holding such firearm or firearms, and shall be made not later
95 than sixty days after the expiration of the holding period ordered by
96 the court. If no such request is received by the state agency prior to the
97 expiration of such time period, the state agency may dispose of such
98 firearm or firearms in any manner it deems appropriate, and no
99 liability shall thereby accrue against such state agency or its
100 employees.

101 Sec. 2. Section 53a-217b of the general statutes is repealed and the
102 following is substituted in lieu thereof (*Effective October 1, 2013*):

103 (a) A person is guilty of possession of a weapon on school grounds
104 when, knowing that such person is not licensed or privileged to do so,
105 such person possesses a firearm or deadly weapon, as defined in
106 section 53a-3, (1) in or on the real property comprising a public or
107 private elementary or secondary school, or (2) at a school-sponsored
108 activity as defined in subsection (h) of section 10-233a.

109 (b) The provisions of subsection (a) of this section shall not apply to
110 the otherwise lawful possession of a firearm (1) by a person for use in a
111 program approved by school officials in or on such school property or
112 at such school-sponsored activity, (2) by a person in accordance with
113 an agreement entered into between school officials and such person or

114 such person's employer, (3) by a peace officer, as defined in
115 subdivision (9) of section 53a-3, [while engaged in the performance of
116 such peace officer's official duties,] or (4) by a person while traversing
117 such school property for the purpose of gaining access to public or
118 private lands open to hunting or for other lawful purposes, provided
119 such firearm is not loaded and the entry on such school property is
120 permitted by the local or regional board of education.

121 (c) Possession of a weapon on school grounds is a class D felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	29-38c
Sec. 2	<i>October 1, 2013</i>	53a-217b

Statement of Purpose:

To allow state agencies holding seized firearms to manage their inventory of such firearms without the risk of liability, and to permit peace officers to possess firearms on school grounds, even when off duty.

[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.]