



General Assembly

February Session, 2016

**Raised Bill No. 5532**

LCO No. 2490



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

**AN ACT CONCERNING THE USE OF AN ADMINISTRATIVE SEARCH WARRANT FOR PROPERTY POSING A SERIOUS HAZARD TO PERSONS.**

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

1 Section 1. (NEW) (*Effective October 1, 2016*) (a) Upon complaint on  
2 oath or affirmation by any two duly authorized officials of the state of  
3 Connecticut or any town, city, borough or district therein, to any judge  
4 of the Superior Court or judge trial referee, that such persons are  
5 permitted under state law to conduct a search or inspection of private  
6 property, the judge to whom an application is made shall issue an  
7 administrative search warrant upon finding that the proposed  
8 activities are a reasonable intrusion into such private property and  
9 that: (1) The persons seeking the warrant swear or affirm that they are  
10 unable to gain access to the property to conduct a search or inspection  
11 that they are officially authorized or required by law to conduct,  
12 despite a prior reasonable attempt to gain access by consent of the  
13 owner, occupant or person in charge of the property, unless seeking  
14 prior consent is unjustified under the circumstances; (2) the property to  
15 be searched or inspected is to be searched or inspected as part of a

16 legally authorized inspection program which naturally includes such  
17 property, or there is probable cause to believe that there exists a  
18 condition, object, activity or circumstance which presents a serious  
19 hazard to persons or property, or which violates state or local law, and  
20 which legally justifies such a search or inspection of the subject  
21 property; (3) the warrant describes, either directly or by reference, the  
22 property where the search or inspection is to occur and the warrant is  
23 accurate enough in description so that any official who executes the  
24 warrant and the owner, occupant or person in charge of the property  
25 can reasonably determine from the warrant what property the warrant  
26 authorizes a search or inspection of; and (4) the warrant indicates the  
27 conditions, objects, activities or circumstances which the search or  
28 inspection is intended to view or reveal.

29 (b) If the judge or judge trial referee is satisfied that grounds for the  
30 application exist or that there is probable cause to believe that they  
31 exist, the judge or judge trial referee shall issue an administrative  
32 search warrant identifying the property and naming or describing the  
33 areas to be searched or inspected. The administrative search warrant  
34 shall be directed to any police officer of a regularly organized police  
35 department or any state police officer, to an inspector in the Division of  
36 Criminal Justice or to a conservation officer, special conservation  
37 officer or patrolman acting pursuant to section 26-6 of the general  
38 statutes for service and return. The warrant shall state the date and  
39 time of its issuance and the grounds or probable cause for its issuance  
40 and shall command any proper official authorized by the  
41 administrative search warrant to search within a reasonable time the  
42 property named or described. The inadvertent failure of the issuing  
43 judge or judge trial referee to state on the warrant the time of its  
44 issuance shall not in and of itself invalidate the warrant.

45 (c) The applicants for the search warrant shall file the application for  
46 the warrant and all affidavits upon which the warrant is based with  
47 the clerk of the court for the geographical area within which the  
48 property is located subsequent to the execution, and present it with the

49 return of the warrant. The warrant shall be executed within ten days  
50 and returned with reasonable promptness consistent with due process  
51 of law and shall be accompanied by a written report from the officials  
52 who conducted the search or inspection of the conditions, objects,  
53 activities or circumstances which were viewed or revealed. If present  
54 upon execution, a copy of such warrant shall be given to the owner,  
55 occupant or person in charge of the property named or described  
56 therein. If not present upon execution, within forty-eight hours of such  
57 search, a copy of the application for the warrant and a copy of all  
58 affidavits upon which the warrant is based shall be given to such  
59 owner, occupant or person in charge of the property. If the owner,  
60 occupant or person in charge of the property is not present on the  
61 property at the time of the search or inspection and reasonable efforts  
62 to locate such persons have been made and have failed, the warrant or  
63 a copy thereof may be affixed to the property and shall have the same  
64 effect as if served personally upon the owner, occupant or person in  
65 charge of the property. The judge or judge trial referee may, by order,  
66 dispense with the requirement of giving a copy of the affidavits to  
67 such owner, occupant or person at such time if the applicant for the  
68 warrant files a detailed affidavit with the judge or judge trial referee  
69 which demonstrates to the judge or judge trial referee that (1) the  
70 personal safety of a confidential informant would be jeopardized by  
71 the giving of a copy of the affidavits at such time, or (2) the search is  
72 part of a continuing investigation which would be adversely affected  
73 by the giving of a copy of the affidavits at such time. If the judge or  
74 judge trial referee dispenses with the requirement of giving a copy of  
75 the affidavits at such time, such order shall not affect the right of such  
76 owner, occupant or person in charge of the property to obtain such  
77 copy at any subsequent time. No such order shall limit the disclosure  
78 of such affidavits to the attorney for a person arrested in connection  
79 with or subsequent to the execution of a search warrant unless, upon  
80 motion of the prosecuting authority within two weeks of such person's  
81 arraignment, the court finds that the state's interest in continuing  
82 nondisclosure substantially outweighs the defendant's right to

83 disclosure.

84 (d) Any order dispensing with the requirement of giving a copy of  
85 the warrant application and accompanying affidavits to such owner,  
86 occupant or person within forty-eight hours shall be for a specific  
87 period of time, not to exceed two weeks beyond the date the warrant is  
88 executed. Within that time period the prosecuting authority may seek  
89 an extension of such period. Upon the execution and return of the  
90 warrant, affidavits which have been the subject of such an order shall  
91 remain in the custody of the clerk's office in a secure location apart  
92 from the remainder of the court file.

93 (e) Any person who forcibly assaults, resists, opposes, impedes,  
94 intimidates or interferes with any person authorized to serve or  
95 execute search warrants or to make searches and inspections while  
96 engaged in the performance of his duties with regard thereto or on  
97 account of the performance of such duties, shall be fined not more than  
98 one thousand dollars or imprisoned not more than one year, or both;  
99 and any person who in committing any violation of this section uses  
100 any deadly or dangerous weapon shall be fined not more than ten  
101 thousand dollars or imprisoned not more than ten years, or both.

102 (f) A person aggrieved by search or inspection may move the court  
103 which has jurisdiction of such person's case or, if such jurisdiction has  
104 not yet been invoked, then the court which issued the warrant, or the  
105 court in which such person's case is pending, to suppress for use as  
106 evidence anything so obtained on the grounds that: (1) The property  
107 was searched or inspected without a warrant, or (2) the warrant is  
108 insufficient on its face, or (3) the property searched or inspected is not  
109 the property described in the warrant, or (4) there was not probable  
110 cause for believing the existence of the grounds on which the warrant  
111 was issued, or (5) the warrant was illegally executed. In no case may  
112 the judge or judge trial referee who signed the warrant preside at the  
113 hearing on the motion.

114 (g) The motion to suppress shall be made before trial or hearing  
115 unless opportunity therefor did not exist or the defendant was not  
116 aware of the grounds for the motion, but the court in its discretion may  
117 entertain the motion at the trial or hearing.

118 (h) The court shall receive evidence on any issue of fact necessary to  
119 the decision of the motion to suppress. If the motion is granted, the  
120 evidence obtained as a result of the search or inspection shall be  
121 inadmissible as evidence at any civil, criminal or administrative  
122 proceeding or trial; but this shall not prevent any such facts or  
123 evidence to be so used when the warrant issued is not constitutionally  
124 required in those circumstances.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section

**Statement of Purpose:**

To provide safe and affordable housing by establishing a procedure for the issuance of administrative search warrants to enable state and local building and safety code officials to conduct the inspections required by existing law.

*[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.]*