



General Assembly

**Amendment**

February Session, 2016

LCO No. 5432



Offered by:  
SEN. MARKLEY, 16<sup>th</sup> Dist.

To: Subst. House Bill No. 5054      File No. 750      Cal. No. 531

(As Amended by House Amendment Schedule "A")

**"AN ACT PROTECTING VICTIMS OF DOMESTIC VIOLENCE."**

1      Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3      "Section 1. Subsection (b) of section 46b-15 of the general statutes is  
4 repealed and the following is substituted in lieu thereof (*Effective*  
5 *October 1, 2016*):

6      (b) The application form shall allow the applicant, at the applicant's  
7 option, to indicate whether the respondent holds a permit to carry a  
8 pistol or revolver, an eligibility certificate for a pistol or revolver, a  
9 long gun eligibility certificate or an ammunition certificate or possesses  
10 one or more firearms or ammunition. The application form shall also  
11 allow the applicant, at the applicant's option, to state whether or not he  
12 or she has probable cause to believe that the respondent poses a risk of  
13 imminent personal injury to the applicant, in which case, the court  
14 shall notify the office of the state's attorney for the judicial district in

15 which the application was filed to commence proceedings pursuant to  
16 section 29-38c, as amended by this act. The application shall be  
17 accompanied by an affidavit made under oath which includes a brief  
18 statement of the conditions from which relief is sought. Upon receipt  
19 of the application the court shall order that a hearing on the  
20 application be held not later than fourteen days from the date of the  
21 order. The court, in its discretion, may make such orders as it deems  
22 appropriate for the protection of the applicant and such dependent  
23 children or other persons as the court sees fit. In making such orders,  
24 the court, in its discretion, may consider relevant court records if the  
25 records are available to the public from a clerk of the Superior Court or  
26 on the Judicial Branch's Internet web site. Such orders may include  
27 temporary child custody or visitation rights, and such relief may  
28 include, but is not limited to, an order enjoining the respondent from  
29 (1) imposing any restraint upon the person or liberty of the applicant;  
30 (2) threatening, harassing, assaulting, molesting, sexually assaulting or  
31 attacking the applicant; or (3) entering the family dwelling or the  
32 dwelling of the applicant. Such order may include provisions  
33 necessary to protect any animal owned or kept by the applicant  
34 including, but not limited to, an order enjoining the respondent from  
35 injuring or threatening to injure such animal. If an applicant alleges an  
36 immediate and present physical danger to the applicant, the court may  
37 issue an ex parte order granting such relief as it deems appropriate. If a  
38 postponement of a hearing on the application is requested by either  
39 party and granted, the ex parte order shall not be continued except  
40 upon agreement of the parties or by order of the court for good cause  
41 shown. If a hearing on the application is scheduled or an ex parte order  
42 is granted and the court is closed on the scheduled hearing date, the  
43 hearing shall be held on the next day the court is open and any such ex  
44 parte order shall remain in effect until the date of such hearing.

45 Sec. 2. Section 29-38c of the general statutes is repealed and the  
46 following is substituted in lieu thereof (*Effective October 1, 2016*):

47 (a) Upon complaint on oath by any state's attorney or assistant  
48 state's attorney or by any two police officers, to any judge of the

49 Superior Court, that such state's attorney or police officers have  
50 probable cause to believe that (1) a person poses a risk of imminent  
51 personal injury to himself or herself or to other individuals, (2) such  
52 person possesses one or more firearms, and (3) such firearm or  
53 firearms are within or upon any place, thing or person, such judge may  
54 issue a warrant commanding a proper officer to enter into or upon  
55 such place or thing, search the same or the person and take into such  
56 officer's custody any and all firearms and ammunition. Such state's  
57 attorney or police officers shall not make such complaint unless such  
58 state's attorney or police officers have conducted an independent  
59 investigation and have determined that such probable cause exists and  
60 that there is no reasonable alternative available to prevent such person  
61 from causing imminent personal injury to himself or herself or to  
62 others with such firearm.

63 (b) A warrant may issue only on affidavit sworn to by the  
64 complainant or complainants before the judge and establishing the  
65 grounds for issuing the warrant, which affidavit shall be part of the  
66 seizure file. In determining whether grounds for the application exist  
67 or whether there is probable cause to believe they exist, the judge shall  
68 consider: (1) Recent threats or acts of violence by such person directed  
69 toward other persons; (2) recent threats or acts of violence by such  
70 person directed toward himself or herself; and (3) recent acts of cruelty  
71 to animals as provided in subsection (b) of section 53-247 by such  
72 person. In evaluating whether such recent threats or acts of violence  
73 constitute probable cause to believe that such person poses a risk of  
74 imminent personal injury to himself or herself or to others, the judge  
75 may consider other factors including, but not limited to (A) the  
76 reckless use, display or brandishing of a firearm by such person, (B) a  
77 history of the use, attempted use or threatened use of physical force by  
78 such person against other persons, (C) prior involuntary confinement  
79 of such person in a hospital for persons with psychiatric disabilities,  
80 and (D) the illegal use of controlled substances or abuse of alcohol by  
81 such person. If the judge is satisfied that the grounds for the  
82 application exist or that there is probable cause to believe that they

83 exist, such judge shall issue a warrant naming or describing the  
84 person, place or thing to be searched. The warrant shall be directed to  
85 any police officer of a regularly organized police department or any  
86 state police officer. It shall state the grounds or probable cause for its  
87 issuance and it shall command the officer to search within a reasonable  
88 time the person, place or thing named for any and all firearms and  
89 ammunition. A copy of the warrant shall be given to the person named  
90 therein together with a notice informing the person that such person  
91 has the right to a hearing under this section and the right to be  
92 represented by counsel at such hearing.

93 (c) The applicant for the warrant shall file a copy of the application  
94 for the warrant and all affidavits upon which the warrant is based with  
95 the clerk of the court for the geographical area within which the search  
96 will be conducted no later than the next business day following the  
97 execution of the warrant. Prior to the execution and return of the  
98 warrant, the clerk of the court shall not disclose any information  
99 pertaining to the application for the warrant or any affidavits upon  
100 which the warrant is based. The warrant shall be executed and  
101 returned with reasonable promptness consistent with due process of  
102 law and shall be accompanied by a written inventory of all firearms  
103 and ammunition seized.

104 (d) Not later than fourteen days after the execution of a warrant  
105 under this section, the court for the geographical area where the  
106 person named in the warrant resides shall hold a hearing to determine  
107 whether the firearm or firearms and any ammunition seized should be  
108 returned to the person named in the warrant or should continue to be  
109 held by the state. At such hearing the state shall have the burden of  
110 proving all material facts by clear and convincing evidence. If, after  
111 such hearing, the court finds by clear and convincing evidence that the  
112 person poses a risk of imminent personal injury to himself or herself or  
113 to other individuals, the court may order that the firearm or firearms  
114 and any ammunition seized pursuant to the warrant issued under  
115 subsection (a) of this section continue to be held by the state for a  
116 period not to exceed one year, otherwise the court shall order the

117 firearm or firearms and any ammunition seized to be returned to the  
 118 person named in the warrant. If the court finds that the person poses a  
 119 risk of imminent personal injury to himself or herself or to other  
 120 individuals, the court shall give notice to the Department of Mental  
 121 Health and Addiction Services which may take such action pursuant to  
 122 chapter 319i as it deems appropriate.

123 (e) Any person whose firearm or firearms and ammunition have  
 124 been ordered seized pursuant to subsection (d) of this section, or such  
 125 person's legal representative, may transfer such firearm or firearms  
 126 and ammunition in accordance with the provisions of section 29-33 or  
 127 other applicable state or federal law, to any person eligible to possess  
 128 such firearm or firearms and ammunition. Upon notification in writing  
 129 by such person, or such person's legal representative, and the  
 130 transferee, the head of the state agency holding such seized firearm or  
 131 firearms and ammunition shall within ten days deliver such firearm or  
 132 firearms and ammunition to the transferee.

133 (f) An action under this section shall not preclude any person from  
 134 seeking any other civil or criminal relief against the person named in  
 135 the warrant.

136 [(f)] (g) For the purposes of this section, "ammunition" means a  
 137 loaded cartridge, consisting of a primed case, propellant or projectile,  
 138 designed for use in any firearm."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	46b-15(b)
Sec. 2	October 1, 2016	29-38c