



General Assembly

Amendment

February Session, 2016

LCO No. 5435



Offered by:
SEN. MARKLEY, 16th 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 subsection (b) of section 3 in its entirety and insert the
2 following in lieu thereof:

3 "(b) The application form shall allow the applicant, at the applicant's
4 option, to indicate whether the respondent holds a permit to carry a
5 pistol or revolver, an eligibility certificate for a pistol or revolver, a
6 long gun eligibility certificate or an ammunition certificate or possesses
7 one or more firearms or ammunition. The application form shall also
8 allow the applicant, at the applicant's option, to state whether or not he
9 or she has probable cause to believe that the respondent poses a risk of
10 imminent personal injury to the applicant, in which case, the court
11 shall notify the office of the state's attorney for the judicial district in
12 which the application was filed to commence proceedings pursuant to
13 section 29-38c, as amended by this act. The application shall be
14 accompanied by an affidavit made under oath which includes a brief

15 statement of the conditions from which relief is sought. When
16 completing an application, the applicant shall complete a form that
17 includes a telephone number for the applicant so that the court may
18 provide the applicant with updated information concerning the time,
19 date and place of the hearing on the application. Such form shall not be
20 part of the application nor available for public inspection, but instead
21 shall be kept confidential by the court. Upon receipt of the application
22 the court shall order that a hearing on the application be held not later
23 than fourteen days from the date of the order except that, if the
24 application indicates that the respondent holds a permit to carry a
25 pistol or revolver, an eligibility certificate for a pistol or revolver, a
26 long gun eligibility certificate or an ammunition certificate or possesses
27 one or more firearms or ammunition, and the court orders an ex parte
28 order, the court shall order that a hearing be held on the application
29 not later than seven days from the date on which the ex parte order is
30 issued. The court, in its discretion, may make such orders as it deems
31 appropriate for the protection of the applicant and such dependent
32 children or other persons as the court sees fit. In making such orders,
33 the court, in its discretion, may consider relevant court records if the
34 records are available to the public from a clerk of the Superior Court or
35 on the Judicial Branch's Internet web site. Such orders may include
36 temporary child custody or visitation rights, and such relief may
37 include, but is not limited to, an order enjoining the respondent from
38 (1) imposing any restraint upon the person or liberty of the applicant;
39 (2) threatening, harassing, assaulting, molesting, sexually assaulting or
40 attacking the applicant; or (3) entering the family dwelling or the
41 dwelling of the applicant. Such order may include provisions
42 necessary to protect any animal owned or kept by the applicant
43 including, but not limited to, an order enjoining the respondent from
44 injuring or threatening to injure such animal. If an applicant alleges an
45 immediate and present physical danger to the applicant, the court may
46 issue an ex parte order granting such relief as it deems appropriate. If a
47 postponement of a hearing on the application is requested by either
48 party and granted, the ex parte order shall not be continued except
49 upon agreement of the parties or by order of the court for good cause

50 shown. If a hearing on the application is scheduled or an ex parte order
51 is granted and the court is closed on the scheduled hearing date, the
52 hearing shall be held on the next day the court is open and any such ex
53 parte order shall remain in effect until the date of such hearing."

54 After the last section, add the following and renumber sections and
55 internal references accordingly:

56 "Sec. 501. Section 29-38c of the general statutes is repealed and the
57 following is substituted in lieu thereof (*Effective October 1, 2016*):

58 (a) Upon complaint on oath by any state's attorney or assistant
59 state's attorney or by any two police officers, to any judge of the
60 Superior Court, that such state's attorney or police officers have
61 probable cause to believe that (1) a person poses a risk of imminent
62 personal injury to himself or herself or to other individuals, (2) such
63 person possesses one or more firearms, and (3) such firearm or
64 firearms are within or upon any place, thing or person, such judge may
65 issue a warrant commanding a proper officer to enter into or upon
66 such place or thing, search the same or the person and take into such
67 officer's custody any and all firearms and ammunition. Such state's
68 attorney or police officers shall not make such complaint unless such
69 state's attorney or police officers have conducted an independent
70 investigation and have determined that such probable cause exists and
71 that there is no reasonable alternative available to prevent such person
72 from causing imminent personal injury to himself or herself or to
73 others with such firearm.

74 (b) A warrant may issue only on affidavit sworn to by the
75 complainant or complainants before the judge and establishing the
76 grounds for issuing the warrant, which affidavit shall be part of the
77 seizure file. In determining whether grounds for the application exist
78 or whether there is probable cause to believe they exist, the judge shall
79 consider: (1) Recent threats or acts of violence by such person directed
80 toward other persons; (2) recent threats or acts of violence by such
81 person directed toward himself or herself; and (3) recent acts of cruelty

82 to animals as provided in subsection (b) of section 53-247 by such
83 person. In evaluating whether such recent threats or acts of violence
84 constitute probable cause to believe that such person poses a risk of
85 imminent personal injury to himself or herself or to others, the judge
86 may consider other factors including, but not limited to (A) the
87 reckless use, display or brandishing of a firearm by such person, (B) a
88 history of the use, attempted use or threatened use of physical force by
89 such person against other persons, (C) prior involuntary confinement
90 of such person in a hospital for persons with psychiatric disabilities,
91 and (D) the illegal use of controlled substances or abuse of alcohol by
92 such person. If the judge is satisfied that the grounds for the
93 application exist or that there is probable cause to believe that they
94 exist, such judge shall issue a warrant naming or describing the
95 person, place or thing to be searched. The warrant shall be directed to
96 any police officer of a regularly organized police department or any
97 state police officer. It shall state the grounds or probable cause for its
98 issuance and it shall command the officer to search within a reasonable
99 time the person, place or thing named for any and all firearms and
100 ammunition. A copy of the warrant shall be given to the person named
101 therein together with a notice informing the person that such person
102 has the right to a hearing under this section and the right to be
103 represented by counsel at such hearing.

104 (c) The applicant for the warrant shall file a copy of the application
105 for the warrant and all affidavits upon which the warrant is based with
106 the clerk of the court for the geographical area within which the search
107 will be conducted no later than the next business day following the
108 execution of the warrant. Prior to the execution and return of the
109 warrant, the clerk of the court shall not disclose any information
110 pertaining to the application for the warrant or any affidavits upon
111 which the warrant is based. The warrant shall be executed and
112 returned with reasonable promptness consistent with due process of
113 law and shall be accompanied by a written inventory of all firearms
114 and ammunition seized.

115 (d) Not later than fourteen days after the execution of a warrant

116 under this section, the court for the geographical area where the
117 person named in the warrant resides shall hold a hearing to determine
118 whether the firearm or firearms and any ammunition seized should be
119 returned to the person named in the warrant or should continue to be
120 held by the state. At such hearing the state shall have the burden of
121 proving all material facts by clear and convincing evidence. If, after
122 such hearing, the court finds by clear and convincing evidence that the
123 person poses a risk of imminent personal injury to himself or herself or
124 to other individuals, the court may order that the firearm or firearms
125 and any ammunition seized pursuant to the warrant issued under
126 subsection (a) of this section continue to be held by the state for a
127 period not to exceed one year, otherwise the court shall order the
128 firearm or firearms and any ammunition seized to be returned to the
129 person named in the warrant. If the court finds that the person poses a
130 risk of imminent personal injury to himself or herself or to other
131 individuals, the court shall give notice to the Department of Mental
132 Health and Addiction Services which may take such action pursuant to
133 chapter 319i as it deems appropriate.

134 (e) Any person whose firearm or firearms and ammunition have
135 been ordered seized pursuant to subsection (d) of this section, or such
136 person's legal representative, may transfer such firearm or firearms
137 and ammunition in accordance with the provisions of section 29-33 or
138 other applicable state or federal law, to any person eligible to possess
139 such firearm or firearms and ammunition. Upon notification in writing
140 by such person, or such person's legal representative, and the
141 transferee, the head of the state agency holding such seized firearm or
142 firearms and ammunition shall within ten days deliver such firearm or
143 firearms and ammunition to the transferee.

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

147 [(f)] (g) For the purposes of this section, "ammunition" means a
148 loaded cartridge, consisting of a primed case, propellant or projectile,

149 designed for use in any firearm."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2016</i>	29-38c