



General Assembly

Amendment

February Session, 2016

LCO No. 5812



Offered by:

SEN. FASANO, 34th Dist.
SEN. MARKLEY, 16th Dist.
SEN. FRANTZ, 36th Dist.

To: Subst. House Bill No. 5054

File No. 750

Cal. No. 531

"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. Upon receipt
16 of the application the court shall order that a hearing on the
17 application be held not later than fourteen days from the date of the
18 order except that, if the application indicates that the respondent holds
19 a permit to carry a pistol or revolver, an eligibility certificate for a
20 pistol or revolver, a long gun eligibility certificate or an ammunition
21 certificate or possesses one or more firearms or ammunition, and the
22 court orders an ex parte order, the court shall order that a hearing be
23 held on the application not later than seven days from the date on
24 which the ex parte order is issued. The court, in its discretion, may
25 make such orders as it deems appropriate for the protection of the
26 applicant and such dependent children or other persons as the court
27 sees fit. In making such orders, the court, in its discretion, may
28 consider relevant court records if the records are available to the public
29 from a clerk of the Superior Court or on the Judicial Branch's Internet
30 web site. Such orders may include temporary child custody or
31 visitation rights, and such relief may include, but is not limited to, an
32 order enjoining the respondent from (1) imposing any restraint upon
33 the person or liberty of the applicant; (2) threatening, harassing,
34 assaulting, molesting, sexually assaulting or attacking the applicant; or
35 (3) entering the family dwelling or the dwelling of the applicant. Such
36 order may include provisions necessary to protect any animal owned
37 or kept by the applicant including, but not limited to, an order
38 enjoining the respondent from injuring or threatening to injure such
39 animal. If an applicant alleges an immediate and present physical
40 danger to the applicant, the court may issue an ex parte order granting
41 such relief as it deems appropriate. If a postponement of a hearing on
42 the application is requested by either party and granted, the ex parte
43 order shall not be continued except upon agreement of the parties or
44 by order of the court for good cause shown. If a hearing on the
45 application is scheduled or an ex parte order is granted and the court is
46 closed on the scheduled hearing date, the hearing shall be held on the
47 next day the court is open and any such ex parte order shall remain in
48 effect until the date of such hearing."

49 After the last section, add the following and renumber sections and
50 internal references accordingly:

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

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

69 (b) A warrant may issue only on affidavit sworn to by the
70 complainant or complainants before the judge and establishing the
71 grounds for issuing the warrant, which affidavit shall be part of the
72 seizure file. In determining whether grounds for the application exist
73 or whether there is probable cause to believe they exist, the judge shall
74 consider: (1) Recent threats or acts of violence by such person directed
75 toward other persons; (2) recent threats or acts of violence by such
76 person directed toward himself or herself; and (3) recent acts of cruelty
77 to animals as provided in subsection (b) of section 53-247 by such
78 person. In evaluating whether such recent threats or acts of violence
79 constitute probable cause to believe that such person poses a risk of
80 imminent personal injury to himself or herself or to others, the judge
81 may consider other factors including, but not limited to (A) the

82 reckless use, display or brandishing of a firearm by such person, (B) a
83 history of the use, attempted use or threatened use of physical force by
84 such person against other persons, (C) prior involuntary confinement
85 of such person in a hospital for persons with psychiatric disabilities,
86 and (D) the illegal use of controlled substances or abuse of alcohol by
87 such person. If the judge is satisfied that the grounds for the
88 application exist or that there is probable cause to believe that they
89 exist, such judge shall issue a warrant naming or describing the
90 person, place or thing to be searched. The warrant shall be directed to
91 any police officer of a regularly organized police department or any
92 state police officer. It shall state the grounds or probable cause for its
93 issuance and it shall command the officer to search within a reasonable
94 time the person, place or thing named for any and all firearms and
95 ammunition. A copy of the warrant shall be given to the person named
96 therein together with a notice informing the person that such person
97 has the right to a hearing under this section and the right to be
98 represented by counsel at such hearing.

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

110 (d) Not later than fourteen days after the execution of a warrant
111 under this section, the court for the geographical area where the
112 person named in the warrant resides shall hold a hearing to determine
113 whether the firearm or firearms and any ammunition seized should be
114 returned to the person named in the warrant or should continue to be
115 held by the state. At such hearing the state shall have the burden of

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

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

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

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

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