



General Assembly

February Session, 2014

Amendment

LCO No. 5506

HB0558605506HDO

Offered by:
REP. FOX, 146th Dist.

To: Subst. House Bill No. 5586 File No. 596 Cal. No. 388

**"AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM."**

1 Strike lines 60 to 71, inclusive, in their entirety and substitute the
2 following in lieu thereof:

3 "the condemned property is money (A) on and after October 1, 2014,
4 and prior to July 1, 2016, the court shall order that such money be
5 distributed as follows: (i) Seventy per cent shall be allocated to the law
6 enforcement agency, including the Department of Emergency Services
7 and Public Protection and local police departments, responsible for
8 investigating the criminal violation and seizing the money, and such
9 local police departments shall use such money for the detection,
10 investigation, apprehension and prosecution of persons for the
11 violation of criminal laws, and any money allocated to the Department
12 of Emergency Services and Public Protection shall be deposited in the
13 General Fund; (ii) twenty per cent shall be deposited in the Criminal
14 Injuries Compensation Fund established in section 54-215; and (iii) ten
15 per cent shall be allocated to the Division of Criminal Justice and

16 deposited in the General Fund; and (B) on and after July 1, 2016, such
17 money shall be deposited in the General Fund."

18 Strike sections 5 to 10, inclusive, in their entirety and renumber the
19 remaining sections and internal references accordingly

20 Insert the following after section 12 and renumber the remaining
21 sections and internal references accordingly:

22 "Sec. 13. Subsections (a) to (c), inclusive, of section 54-56e of the 2014
23 supplement to the general statutes are repealed and the following is
24 substituted in lieu thereof (*Effective October 1, 2014*):

25 (a) There shall be a pretrial program for accelerated rehabilitation of
26 persons accused of a crime or crimes or a motor vehicle violation or
27 violations for which a sentence to a term of imprisonment may be
28 imposed, which crimes or violations are not of a serious nature. Upon
29 application by any such person for participation in the program, the
30 court shall, but only as to the public, order the court file sealed.

31 (b) The court may, in its discretion, invoke such program on motion
32 of the defendant or on motion of a state's attorney or prosecuting
33 attorney with respect to a defendant (1) who, the court believes, will
34 probably not offend in the future, (2) who has no previous record of
35 conviction of a crime or of a violation of section 14-196, subsection (c)
36 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
37 section 14-227a, and (3) who states under oath, in open court or before
38 any person designated by the clerk and duly authorized to administer
39 oaths, under the penalties of perjury, (A) that the defendant has never
40 had such program invoked [in] on the defendant's behalf or [,] that the
41 defendant was charged with a misdemeanor or a motor vehicle
42 violation for which a term of imprisonment of one year or less may be
43 imposed and ten or more years have passed since the date that any
44 charge or charges for which the program was invoked on the
45 defendant's behalf were dismissed by the court, or (B) with respect to a
46 defendant who is a veteran, that the defendant has not had such

47 program invoked in the defendant's behalf more than once previously,
48 provided the defendant shall agree thereto and provided notice has
49 been given by the defendant, on a form approved by rule of court, to
50 the victim or victims of such crime or motor vehicle violation, if any,
51 by registered or certified mail and such victim or victims have an
52 opportunity to be heard thereon. Any defendant who makes
53 application for participation in such program shall pay to the court an
54 application fee of thirty-five dollars. No defendant shall be allowed to
55 participate in the pretrial program for accelerated rehabilitation more
56 than two times. For the purposes of this section, "veteran" means a
57 person who is [(A)] (i) a veteran, as defined in subsection (a) of section
58 27-103, or [(B)] (ii) eligible to receive services from the United States
59 Department of Veterans Affairs pursuant to Title 38 of the United
60 States Code.

61 (c) This section shall not be applicable: (1) To any person charged
62 with a class A felony, a class B felony, except a violation of subdivision
63 (1), (2) or (3) of subsection (a) of section 53a-122 that does not involve
64 the use, attempted use or threatened use of physical force against
65 another person, or a violation of subdivision (4) of subsection (a) of
66 section 53a-122 that does not involve the use, attempted use or
67 threatened use of physical force against another person and does not
68 involve a violation by a person who is a public official, as defined in
69 section 1-110, or a state or municipal employee, as defined in section 1-
70 110, or a violation of section 14-227a, subdivision (2) of subsection (a)
71 of section 53-21, section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-
72 71, except as provided in subdivision (5) of this subsection, 53a-72a,
73 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any person charged with a
74 crime or motor vehicle violation who, as a result of the commission of
75 such crime or motor vehicle violation, causes the death of another
76 person, (3) to any person accused of a family violence crime as defined
77 in section 46b-38a who (A) is eligible for the pretrial family violence
78 education program established under section 46b-38c, or (B) has
79 previously had the pretrial family violence education program
80 invoked in such person's behalf, (4) to any person charged with a

81 violation of section 21a-267 or 21a-279 who (A) is eligible for the
82 pretrial drug education and community service program established
83 under section 54-56i, or (B) has previously had the pretrial drug
84 education program or the pretrial drug education and community
85 service program invoked on such person's behalf, (5) unless good
86 cause is shown, to (A) any person charged with a class C felony, or (B)
87 any person charged with committing a violation of subdivision (1) of
88 subsection (a) of section 53a-71 while such person was less than four
89 years older than the other person, (6) to any person charged with a
90 violation of section 9-359 or 9-359a, or (7) to any person charged with a
91 motor vehicle violation (A) while operating a commercial motor
92 vehicle, as defined in section 14-1, or (B) who holds a commercial
93 driver's license or commercial driver's instruction permit at the time of
94 the violation.

95 Sec. 14. Subsection (b) of section 17a-696 of the general statutes is
96 repealed and the following is substituted in lieu thereof (*Effective*
97 *October 1, 2014*):

98 (b) The court may order suspension of prosecution and order
99 treatment for alcohol or drug dependency as provided in this section
100 and sections 17a-697 and 17a-698 if it, after considering information
101 before it concerning the alcohol or drug dependency of the person,
102 including the examination report made pursuant to the provisions of
103 section 17a-694, finds that (1) the accused person was an alcohol-
104 dependent or drug-dependent person at the time of the crime, (2) the
105 person presently needs and is likely to benefit from treatment for the
106 dependency, and (3) suspension of prosecution will advance the
107 interests of justice. Treatment may begin no earlier than the date the
108 clinical examiner reports under the provisions of section 17a-694 that
109 space is available in a treatment program. Upon application by any
110 such person for participation in a treatment program, the court shall,
111 but only as to the public, order the court file sealed.

112 Sec. 15. Section 54-33a of the 2014 supplement to the general statutes
113 is repealed and the following is substituted in lieu thereof (*Effective*

114 *October 1, 2014*):

115 (a) As used in sections 54-33a to 54-33g, inclusive, as amended by
116 this act, "property" includes, [without limitation] but is not limited to,
117 documents, books, papers, films, recordings, records, data and any
118 other tangible thing; and "tracking device" means an electronic or
119 mechanical device that permits the tracking of the movement of a
120 person or object.

121 (b) Upon complaint on oath by any state's attorney or assistant
122 state's attorney or by any two credible persons, to any judge of the
123 Superior Court or judge trial referee, that such state's attorney or
124 assistant state's attorney or such persons have probable cause to
125 believe that any property (1) possessed, controlled, designed or
126 intended for use or which is or has been used or which may be used as
127 the means of committing any criminal offense; or (2) which was stolen
128 or embezzled; or (3) which constitutes evidence of an offense, or which
129 constitutes evidence that a particular person participated in the
130 commission of an offense, is within or upon any place, thing or person,
131 such judge or judge trial referee, except as provided in section 54-33j,
132 may issue a warrant commanding a proper officer to enter into or
133 upon such place or thing, search [the same or the] such place, thing or
134 person and take into such officer's custody all such property named in
135 the warrant.

136 (c) Upon complaint on oath by any state's attorney or assistant
137 state's attorney or by any two credible persons, to any judge of the
138 Superior Court or judge trial referee, that such state's attorney or
139 assistant state's attorney or such persons have probable cause to
140 believe that a criminal offense has been, is being, or will be committed
141 and that the use of a tracking device will yield evidence of the
142 commission of that offense, such judge or judge trial referee may issue
143 a warrant authorizing the installation and use of a tracking device. The
144 complaint shall identify the person on which or the property to, in or
145 on which the tracking device is to be installed, and, if known, the
146 owner of such property.

147 [(c)] (d) A warrant may issue only on affidavit sworn to by the
148 complainant or complainants before the judge or judge trial referee
149 and establishing the grounds for issuing the warrant, which affidavit
150 shall be part of the arrest file. If the judge or judge trial referee is
151 satisfied that grounds for the application exist or that there is probable
152 cause to believe that [they] grounds for the application exist, the judge
153 or judge trial referee shall issue a warrant identifying the property and
154 naming or describing the person, place or thing to be searched or
155 authorizing the installation and use of a tracking device and
156 identifying the person on which or the property to, in or on which the
157 tracking device is to be installed. The warrant shall be directed to any
158 police officer of a regularly organized police department or any state
159 police officer, to an inspector in the Division of Criminal Justice, to a
160 conservation officer, special conservation officer or patrolman acting
161 pursuant to section 26-6 or to a sworn motor vehicle inspector acting
162 under the authority of section 14-8. [The] Except for a warrant for the
163 installation and use of a tracking device, the warrant shall state the
164 date and time of its issuance and the grounds or probable cause for its
165 issuance and shall command the officer to search within a reasonable
166 time the person, place or thing named, for the property specified. A
167 warrant for the installation and use of a tracking device shall state the
168 date and time of its issuance and the grounds or probable cause for its
169 issuance and shall command the officer to complete the installation of
170 the device within a specified period not later than ten days after the
171 date of its issuance and authorize the installation and use of the
172 tracking device, including the collection of data through such tracking
173 device, for a reasonable period of time not to exceed thirty days from
174 the date the tracking device is installed. Upon request and a showing
175 of good cause, a judge or judge trial referee may authorize the use of
176 the tracking device for an additional period of thirty days.

177 (e) A judge or judge trial referee may issue a warrant pursuant to
178 this section for records or data that are in the actual or constructive
179 possession of a foreign corporation or business entity that transacts
180 business in this state, including, but not limited to, a foreign

181 corporation or business entity that provides electronic communication
182 services or remote computing services to the public. Such a warrant
183 may be served on an authorized representative of the foreign
184 corporation or business entity by hand, mail, commercial delivery,
185 facsimile or electronic transmission, provided proof of delivery can be
186 established. When properly served with a warrant issued pursuant to
187 this section, the foreign corporation or business entity shall provide to
188 the applicant all records or data sought by the warrant within fourteen
189 business days of being served with the warrant, unless the judge or
190 judge trial referee determines that a shorter or longer period of time is
191 necessary or appropriate.

192 (f) The inadvertent failure of the issuing judge or judge trial referee
193 to state on the warrant the time of its issuance shall not in and of itself
194 invalidate the warrant.

195 Sec. 16. Section 54-33c of the general statutes is repealed and the
196 following is substituted in lieu thereof (*Effective October 1, 2014*):

197 (a) The applicant for [the] a search warrant shall file the application
198 for the warrant and all affidavits upon which the warrant is based with
199 the clerk of the court for the geographical area within which any
200 person who may be arrested in connection with or subsequent to the
201 execution of the search warrant would be presented with the return of
202 the warrant. Upon the arrest of any person in connection with or
203 subsequent to the execution of the search warrant, the law enforcement
204 agency that arrested the person shall notify the clerk of such court of
205 the return of the warrant by completing a form prescribed by the Chief
206 Court Administrator and filing such form with the clerk together with
207 any applicable uniform arrest report or misdemeanor summons.

208 (b) Except for a warrant for the installation and use of a tracking
209 device: (1) The warrant shall be executed within ten days and returned
210 with reasonable promptness consistent with due process of law and
211 shall be accompanied by a written inventory of all property seized; [.
212 A] (2) a copy of such warrant shall be given to the owner or occupant

213 of the dwelling, structure, motor vehicle or place designated [therein]
214 in the warrant, or the person named [therein. Within] in the warrant;
215 and (3) within forty-eight hours of such search, a copy of the
216 application for the warrant and a copy of all affidavits upon which the
217 warrant is based shall be given to such owner, occupant or person. The
218 judge or judge trial referee may, by order, dispense with the
219 requirement of giving a copy of the affidavits to such owner, occupant
220 or person at such time if the applicant for the warrant files a detailed
221 affidavit with the judge or judge trial referee which demonstrates to
222 the judge or judge trial referee that [(1)] (A) the personal safety of a
223 confidential informant would be jeopardized by the giving of a copy of
224 the affidavits at such time, or [(2)] (B) the search is part of a continuing
225 investigation which would be adversely affected by the giving of a
226 copy of the affidavits at such time, or [(3)] (C) the giving of [such] a
227 copy of the affidavits at such time would require disclosure of
228 information or material prohibited from being disclosed by chapter
229 959a.

230 (c) A warrant for the installation and use of a tracking device shall
231 be returned with reasonable promptness consistent with due process
232 of law and after the period authorized for tracking, including any
233 extension period authorized under subsection (d) of section 54-33a, as
234 amended by this act, has expired. Within ten days after the use of the
235 tracking device has ended, a copy of the application for the warrant
236 and a copy of all affidavits upon which the warrant is based shall be
237 given to the person who was tracked or the owner of the property to,
238 in or on which the tracking device was installed. The judge or judge
239 trial referee may, by order, dispense with the requirement of giving a
240 copy of the affidavits to the person who was tracked or the owner of
241 the property to, in or on which the tracking device was installed if the
242 applicant for the warrant files a detailed affidavit with the judge or
243 judge trial referee which demonstrates to the judge or judge trial
244 referee that (1) the personal safety of a confidential informant would
245 be jeopardized by the giving of a copy of the affidavits at such time, or
246 (2) the search is part of a continuing investigation which would be

247 adversely affected by the giving of a copy of the affidavits at such time,
 248 or (3) the giving of a copy of the affidavits at such time would require
 249 disclosure of information or material prohibited from being disclosed
 250 by chapter 959a.

251 (d) If the judge or judge trial referee dispenses with the requirement
 252 of giving a copy of the affidavits at such time pursuant to subsection
 253 (b) or (c) of this section, such order shall not affect the right of such
 254 owner, occupant or person to obtain such copy at any subsequent time.
 255 No such order shall limit the disclosure of such affidavits to the
 256 attorney for a person arrested in connection with or subsequent to the
 257 execution of a search warrant unless, upon motion of the prosecuting
 258 authority within two weeks of such person's arraignment, the court
 259 finds that the state's interest in continuing nondisclosure substantially
 260 outweighs the defendant's right to disclosure.

261 [(b)] (e) Any order entered pursuant to subsection (b) or (c) of this
 262 section dispensing with the requirement of giving a copy of the
 263 [warrant application and accompanying] affidavits to such owner,
 264 occupant or person [within forty-eight hours] shall be for a specific
 265 period of time, not to exceed (1) two weeks beyond the date the
 266 warrant is executed, or (2) with respect to a warrant for the installation
 267 and use of a tracking device, two weeks after any extension period
 268 authorized under subsection (d) of section 54-33a, as amended by this
 269 act, has expired. Within [that] the applicable time period set forth in
 270 subdivision (1) or (2) of this subsection, the prosecuting authority may
 271 seek an extension of such period of time. Upon the execution and
 272 return of the warrant, affidavits which have been the subject of such an
 273 order shall remain in the custody of the clerk's office in a secure
 274 location apart from the remainder of the court file."

This act shall take effect as follows and shall amend the following sections:		
Sec. 13	<i>from passage</i>	53a-39c(a)
Sec. 14	<i>from passage</i>	54-56e(a) and (b)

Sec. 15	<i>from passage</i>	17a-696(b)
Sec. 16	<i>October 1, 2014</i>	54-33a
Sec. 17	<i>October 1, 2014</i>	54-33c