



General Assembly

Amendment

February Session, 2014

LCO No. 5034

HB0558605034HDO

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 sections 5 to 10, inclusive, in their entirety and renumber
2 sections and internal references accordingly

3 Insert the following after section 12 and renumber sections and
4 internal references accordingly:

5 "Sec. 13. Subsection (a) of section 53a-39c of the 2014 supplement to
6 the general statutes is repealed and the following is substituted in lieu
7 thereof (*Effective from passage*):

8 (a) There is established, within available appropriations, a
9 community service labor program for persons convicted of a first
10 violation of section 21a-267 or 21a-279 who have not previously been
11 convicted of a violation of section 21a-277 or 21a-278. Upon application
12 by any such person for participation in such program the court: (1)
13 Shall, but only as to the public, order the court file sealed, and (2) may
14 grant such application and, upon a plea of guilty without trial where a

15 term of imprisonment is part of a stated plea agreement, suspend any
16 sentence of imprisonment and make participation in such program a
17 condition of probation or conditional discharge in accordance with
18 section 53a-30. No person may be placed in such program who has
19 previously been placed in such program.

20 Sec. 14. Subsections (a) to (c) inclusive, of section 54-56e of the 2014
21 supplement to the general statutes are repealed and the following is
22 substituted in lieu thereof (*Effective from passage*):

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

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

48 the victim or victims of such crime or motor vehicle violation, if any,
49 by registered or certified mail and such victim or victims have an
50 opportunity to be heard thereon. Any defendant who makes
51 application for participation in such program shall pay to the court an
52 application fee of thirty-five dollars. For the purposes of this section,
53 "veteran" means a person who is [(A)] (i) a veteran, as defined in
54 subsection (a) of section 27-103, or [(B)] (ii) eligible to receive services
55 from the United States Department of Veterans Affairs pursuant to
56 Title 38 of the United States Code.

57 (c) This section shall not be applicable: (1) To any person charged
58 with a class A felony, a class B felony, except a violation of subdivision
59 (1), (2) or (3) of subsection (a) of section 53a-122 that does not involve
60 the use, attempted use or threatened use of physical force against
61 another person, or a violation of subdivision (4) of subsection (a) of
62 section 53a-122 that does not involve the use, attempted use or
63 threatened use of physical force against another person and does not
64 involve a violation by a person who is a public official, as defined in
65 section 1-110, or a state or municipal employee, as defined in section 1-
66 110, or a violation of section 14-227a, subdivision (2) of subsection (a)
67 of section 53-21, section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-
68 71, except as provided in subdivision (5) of this subsection, 53a-72a,
69 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any person charged with a
70 crime or motor vehicle violation who, as a result of the commission of
71 such crime or motor vehicle violation, causes the death of another
72 person, (3) to any person accused of a family violence crime as defined
73 in section 46b-38a who (A) is eligible for the pretrial family violence
74 education program established under section 46b-38c, or (B) has
75 previously had the pretrial family violence education program
76 invoked in such person's behalf, (4) to any person charged with a
77 violation of section 21a-267 or 21a-279 who (A) is eligible for the
78 pretrial drug education and community service program established
79 under section 54-56i, or (B) has previously had the pretrial drug
80 education program or the pretrial drug education and community
81 service program invoked on such person's behalf, (5) unless good

82 cause is shown, to (A) any person charged with a class C felony, or (B)
83 any person charged with committing a violation of subdivision (1) of
84 subsection (a) of section 53a-71 while such person was less than four
85 years older than the other person, (6) to any person charged with a
86 violation of section 9-359 or 9-359a, or (7) to any person charged with a
87 motor vehicle violation (A) while operating a commercial motor
88 vehicle, as defined in section 14-1, or (B) who holds a commercial
89 driver's license or commercial driver's instruction permit at the time of
90 the violation.

91 Sec. 15. Subsection (b) of section 17a-696 of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective from*
93 *passage*):

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

108 Sec. 16. Section 54-33a of the 2014 supplement to the general statutes
109 is repealed and the following is substituted in lieu thereof (*Effective*
110 *October 1, 2014*):

111 (a) As used in sections 54-33a to 54-33g, inclusive, as amended by
112 this act, "property" includes, [without limitation] but is not limited to,
113 documents, books, papers, films, recordings, records, data and any

114 other tangible thing; and "tracking device" means an electronic or
115 mechanical device that permits the tracking of the movement of a
116 person or object.

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

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

143 [(c)] (d) A warrant may issue only on affidavit sworn to by the
144 complainant or complainants before the judge or judge trial referee
145 and establishing the grounds for issuing the warrant, which affidavit
146 shall be part of the arrest file. If the judge or judge trial referee is

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

173 (e) A judge or judge trial referee may issue a warrant pursuant to
174 this section for records or data that are in the actual or constructive
175 possession of a foreign corporation or business entity that transacts
176 business in this state, including, but not limited to, a foreign
177 corporation or business entity that provides electronic communication
178 services or remote computing services to the public. Such a warrant
179 may be served on an authorized representative of the foreign
180 corporation or business entity by hand, mail, commercial delivery,

181 facsimile or electronic transmission, provided proof of delivery can be
182 established. When properly served with a warrant issued pursuant to
183 this section, the foreign corporation or business entity shall provide to
184 the applicant all records or data sought by the warrant within five
185 business days of being served with the warrant, unless the judge or
186 judge trial referee determines that a shorter or longer period of time is
187 necessary or appropriate.

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

191 Sec. 17. Section 54-33c of the general statutes is repealed and the
192 following is substituted in lieu thereof (*Effective October 1, 2014*):

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

204 (b) Except for a warrant for the installation and use of a tracking
205 device: (1) The warrant shall be executed within ten days and returned
206 with reasonable promptness consistent with due process of law and
207 shall be accompanied by a written inventory of all property seized; [.
208 A] (2) a copy of such warrant shall be given to the owner or occupant
209 of the dwelling, structure, motor vehicle or place designated [therein]
210 in the warrant, or the person named [therein. Within] in the warrant;
211 and (3) within forty-eight hours of such search, a copy of the
212 application for the warrant and a copy of all affidavits upon which the

213 warrant is based shall be given to such owner, occupant or person. The
214 judge or judge trial referee may, by order, dispense with the
215 requirement of giving a copy of the affidavits to such owner, occupant
216 or person at such time if the applicant for the warrant files a detailed
217 affidavit with the judge or judge trial referee which demonstrates to
218 the judge or judge trial referee that [(1)] (A) the personal safety of a
219 confidential informant would be jeopardized by the giving of a copy of
220 the affidavits at such time, or [(2)] (B) the search is part of a continuing
221 investigation which would be adversely affected by the giving of a
222 copy of the affidavits at such time, or [(3)] (C) the giving of [such] a
223 copy of the affidavits at such time would require disclosure of
224 information or material prohibited from being disclosed by chapter
225 959a.

226 (c) A warrant for the installation and use of a tracking device shall
227 be returned with reasonable promptness consistent with due process
228 of law and after the period authorized for tracking, including any
229 extension period authorized under subsection (d) of section 54-33a, as
230 amended by this act, has expired. Within ten days after the use of the
231 tracking device has ended, a copy of the application for the warrant
232 and a copy of all affidavits upon which the warrant is based shall be
233 given to the person who was tracked or the owner of the property to,
234 in or on which the tracking device was installed. The judge or judge
235 trial referee may, by order, dispense with the requirement of giving a
236 copy of the affidavits to the person who was tracked or the owner of
237 the property to, in or on which the tracking device was installed if the
238 applicant for the warrant files a detailed affidavit with the judge or
239 judge trial referee which demonstrates to the judge or judge trial
240 referee that (1) the personal safety of a confidential informant would
241 be jeopardized by the giving of a copy of the affidavits at such time, or
242 (2) the search is part of a continuing investigation which would be
243 adversely affected by the giving of a copy of the affidavits at such time,
244 or (3) the giving of a copy of the affidavits at such time would require
245 disclosure of information or material prohibited from being disclosed
246 by chapter 959a.

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

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