

Legislative History for Connecticut Act

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JOINT  
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constitutionally protected right to bail should not be hampered solely because of his inability to pay. We have known many cases where people have worked unable to raise bail. For example, one man, a suspected criminal, waited in jail for two months before his trial. Meanwhile he lost his job and his car and his family split up. This is not an isolated occurrence; it happens every day and injustice does not stem solely from the idea that the man was later to be found innocent. If he had the money, he would have been released and he would have been referred to his job. The system of the Bail Commission prevents situations such as these. Thank you very much.

Sen. Pickett: Thank you, Mr. West. For the record, that was Gregory West. Are there any other speakers here on the Bail Commission other than Judge Daly? The bail bond bills? Hearing none, Judge, rather than hold you up, we're going to see you in executive session from time to time, may we just call you when we need you, unless you wish to make a statement. For the record, would you refresh my memory. Who is the Head Bail Commissioner at ... What's his name?

Judge Daly: The Chief Bail Commissioner is Thomas O'Rourke who is presently ill today. His deputy is here.

Sen. Pickett: For the record, Mr. Sturges was here, Mr. O'Rourke did talk to us previously on a different day about this and they are quite interested and my understanding is that Mr. O'Rourke and Mr. Sturges are available for the committee in executive session. Thank you.

Mr. Cooney?

Mr. Cooney: Thank you, Mr. Chairman. Joseph P. Cooney, Attorney for the Catholic Bishops in Connecticut.

I direct your attention to the last bill on the list. H.B. 8130 affecting divorce. This bill does three things. It shortens the period for desertion from three to two years. We take no position on that. It shortens the period for from seven years absence to three years absence. We take no position on that. You may feel that that period should be shortened, the Enoch Arden conditions about communication and so on are different from the time of the enactment of the law so perhaps you might want to shorten that period.

But we do object to the third change which provides divorce by consent, separation of the parties without co-habitation for a period of three years. The first objection, of course, is that this does make divorce by consent. The second objection is this, that divorce is an equitable remedy and a person should enter equity with clean hands and our divorce laws are based upon some wrong-doing by one party to the contract. There's almost always been an element of culpability. Further, from my own point of view,

I question whether such a provision is just and fair if the wrongdoer is automatically entitled to a divorce. There are subsidiary questions that go along with divorce, such as, alimony, support, custody of children, and so on. These are not solved here since you've said that each of two people, if you pass the bill you would say under the terms of this bill, that each of two people is equally entitled to a divorce and I respectfully submit that that third provision is worthy of your earnest consideration. Thank you, very much.

Rep. Bingham: Sir, don't we have in effect divorce by consent at the present time?

Mr. Cooney: I'm not aware that we do. I've always assumed and in the cases I've been in, every judge has insisted that the person establish a ground, a statutory ground of action. Would you give me an example of divorce by consent?

Rep. Bingham: Well, the list of cases that are heard every Friday in Short Calendar, if anyone has matrimonial difficulty that's going to affect their health, and that's exactly what they state, and they have matrimonial difficulties and essentially their health is disturbed by it, the divorce is granted.

Mr. Cooney: Yes, but the other party has an opportunity to defend that divorce. In addition to the four classical defenses of collusion, connivance, condonation and recrimination, he may contest the fact in issue as to whether there's been cruelty, as to whether there's been desertion. On the other hand, as in any other civil litigation, he may fail to interpose a defense. That's a little different from creating a new cause of action in which you say that there is no defense. You are giving two parties to a marriage contract an absolute right for a divorce and saying there is no defense to this action. Thank you, sir.

Sen. Pickett: Going back momentarily to these psychiatric confidentiality bill, which we've had quite a bit of testimony on, I've been handed some sheets here. Three people would like to speak briefly. If I can read the writing accurately, Robert Melander, and the next one, I really can't read. Madelyn? Is there a Madelyn here? Well, if I don't call you, you're the one.

Mr. Melander: Mr. Chairman, I'm Robert Melander of East Hartford and I'm representing the Connecticut Association for Mental Health. We have a brief statement and I won't even read all of that. We want to go on record as an association supporting substitute H.B. 5734. We feel it's a good bill and we feel that it's an important bill and as the only voluntary citizens group in the state interested in this particular area, we feel that our views should carry some weight. We urgently appeal to you.

Sen. Pickett: Would you file your statement?

Mr. Melander: Yes, I will, sir.

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PART 7  
3074-3658

THE CHAIR:

Question is on passage of this bill. Will you remark.

SENATOR PICKETT:

Mr. President, this bill, as Senator Hull has indicated, it gives the period involved for divorces on the grounds of wilful desertion. You will recall that earlier this session we amended the same statutes on the grounds of divorce and I think that this is a common sense change.

THE CHAIR:

Are there further remarks on the passage of this bill. If not, as many who are in favor signify by saying aye, opposed. The aye's have it and the bill is passed.

THE CLERK:

Calendar No. 1418, File No. 1430. Favorable report of the Joint Standing Committee on Judiciary and Governmental Functions on Substitute House Bill No. 8579. An Act concerning the Retirement of Judges from Active Service.

SENATOR PICKETT:

Mr. President, I move for acceptance of the Joint Committees favorable report and passage of the bill.

THE CHAIR:

Question is on passage of this bill. Will you remark.

SENATOR PICKETT:

Mr. President, this is a technical bill which is concerned with the retirement of judges from active service. There is some language as set forth in the statutes that we now have that might

biggest bill of the session judging from the pile of papers in the Clerk's hand.

This bill has to do with the Fiduciary Powers Act which in effect will be as follows: That when an attorney is preparing a will or some similar document or nature, that he may by reference refer to all or some of the various powers set forth in this act. This Fiduciary Powers Act, again its been hammered out for many years, has been enacted into law in many jurisdictions throughout the United States and we are bringing Connecticut into line with those four states which are trying to give to the Fiduciary in those states the complete powers so that they can act for the best interest of the state to effect efficiency and economy for those states involved.

THE CHAIR:

Are there further remarks. If not, as many who are in favor signify by saying aye, opposed. The aye's have it and the bill is passed.

THE CLERK:

Calendar No. 1417, File No. 1486. Favorable report of the Joint Standing Committee on Judiciary and Governmental Functions on Modified House Bill No. 8130. An Act concerning Divorce on Grounds of Wilful Desertion. Clerk has an amendment.

SENATOR PICKETT:

Will the Clerk please read the amendment.

THE CLERK:

Senate Amendment Schedule A if offered by Senator Hull.

Add the following sentence. Line 24, service of the general assembly shall be excluded from the computation of the time period of an action claiming a divorce on the grounds of wilful desertion.

SENATOR HULL:

Mr. President, since the main bill reduces from three years to two years of the time required for wilful desertion from ones spouse. Many of us who come from far away are not home to much during the five months that we are in session and this amendment proposes that during the time the general assembly is in session and we are not home that our wives cannot use that five months to add up to the two years for desertion.

THE CHAIR:

Are there further remarks on this amendment.

SENATOR PICKETT:

Mr. President, I was not aware of this amendment however, upon listening to the amendment, my initial reaction is that it is a marvelous amendment. I think that we should enact this into law Senator Hull. Of course, he'd drop dead if we ever did.

SENATOR HULL:

Mr. President, I wish to withdraw the amendment.

THE CHAIR:

The amendment will be withdrawn.

SENATOR PICKETT:

Mr. President, I now move for the acceptance of the Committee favorable report and passage of the bill.

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VOL. 13  
PART 11  
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Saturday, May 31, 1969

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THE CLERK:

Calendar 1401. Modified House Bill No. 8130. An Act concerning  
Divorce on Grounds of Wilful Desertion.

(SPEAKER RATCHFORD RETURNED TO THE ROSTRUM)

THE SPEAKER:

The gentleman from the 75th.

MR. GILLIES: (75th)

Mr. Speaker, I move acceptance of the Joint Committee's favorable  
report and passage of the bill.

THE SPEAKER:

The question is on acceptance and passage. Will you remark?

MR. GILLIES: (75th)

Mr. Speaker, the Clerk has an Amendment.

THE SPEAKER:

Will the Clerk please call the Amendment Schedule "A".

THE CLERK:

House Amendment Schedule "A" offered by Mr. Gillies of the 75th  
District:

In line 12, strike out "Osborn" and insert "Somers".

MR. GILLIES: (75th)

This is just a technical correction, Mr. Speaker, - it indicates  
where the Connecticut Correctional Institution is, in fact.

THE SPEAKER:

Will you remark further on the Amendment? If not, all those in  
favor of the Amendment indicate by saying Aye. Those opposed? The Amend-  
ment is ADOPTED.

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THE SPEAKER:

The gentleman from the 75th.

MR. GILLIES: (75th)

Mr. Speaker, the purpose of this bill is simply to change the grounds for divorce in the state of Connecticut, of changing from three years to two years, the length of time for desertion. In other words, if you are absent from your spouse for two years, you have got desertion.

THE SPEAKER:

To the gentleman from the 75th. I saw the heading on the bill and wondered if this applies to the members of the General Assembly during period of the closing days?

MR. GILLIES: (75th)

It would apply.

THE SPEAKER:

The gentleman from the 1st.

MR. KENNELLY: (1st)

Mr. Speaker, I have just been apprised that there may be a few other technical problems with the bill, and I wonder if the matter may be passed temporarily?

THE SPEAKER:

It is so ordered.

MR. GILLIES: (75th)

Having nothing to do with your last question, Mr. Speaker.

THE SPEAKER:

Based upon the current company, I don't know, sir. The Clerk will continue with the Calendar.

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in favor, indicate by saying Aye. Those opposed? The bill is PASSED.

The gentleman from the 1st.

MR. KENNELLY: (1st)

Would the Clerk please call on Page 20 the second matter up from the bottom, Calendar 1401?

THE CLERK:

Calendar 1401, Modified House Bill No. 8130. An Act concerning Divorce on Grounds of Wilful Desertion.

THE SPEAKER:

The gentleman from the 75th.

MR. GILLIES: (75th)

Having been on the prevailing side, I move for Reconsideration of the Amendment which we previously adopted.

THE SPEAKER:

The question is on reconsideration of Amendment Schedule "A" which was adopted earlier, following which this item was passed temporarily. Will you remark on reconsideration?

MR. GILLIES: (75th)

The purpose of reconsideration is to clarify the clarification, so if we could do that.

THE SPEAKER:

Is there objection to reconsideration? Hearing none, it is so ordered. The gentleman from the 75th.

MR. GILLIES: (75th)

Would the Clerk read the new Amendment?

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THE SPEAKER:

Do you wish to withdraw the old Amendment, Schedule "A"?

MR. GILLIES: (75th)

Yes, Mr. Speaker.

THE SPEAKER:

The Clerk will call. Just as a matter of keeping the records straight, move rejection of the original Amendment.

MR. GILLIES: (75th)

I move rejection, Mr. Speaker.

THE SPEAKER:

I don't think remarks are necessary in view of your explanation. All those in favor of rejecting the original Schedule "A" please indicate by saying Aye. Those opposed? Schedule "A" is REJECTED. The next item to be called is Schedule "B".

THE CLERK:

House Amendment Schedule "B" offered by Mr. Gillies:

Line 11, strike out the bracket, and insert a bracket before the word "the".

Strike out line 12, and insert in lieu thereof the following:

"Prison" followed by a bracket, a "Prison or correctional institution for a period in excess of one year; legal." Of the words which I have read, the following words are underlined: "A prison or correctional institution for a period in excess of one year."

THE SPEAKER:

The question is on adoption of the Amendment Schedule "B". Will you remark?

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MR. GILLIES: (75th)

Mr. Speaker, this simply clarifies that the grounds for desertion are made two years, and this particular Amendment makes it clear that any offense which is punishable by a term in prison or correctional institution for a period in excess of one year, will suffice for the grounds.

THE SPEAKER:

The question is on adoption of this Amendment. Will you remark further? If not, all those in favor of Amendment Schedule "B" indicate by saying "Aye". Those opposed? The Amendment is ADOPTED. The gentleman from the 75th.

MR. GILLIES: (75th)

Mr. Speaker, I move passage of the bill as amended.

THE SPEAKER:

The question is on acceptance and passage as amended by Schedule "B". Will you remark further? If not, will all those in favor indicate by saying "Aye". Those opposed? The bill is PASSED.

THE CLERK:

Calendar 1402 on Page 20. Substitute for House Bill No. 6204.  
An Act concerning Special Education.

THE SPEAKER:

The gentleman from the 86th.

MR. BEGG: (86th)

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE SPEAKER:

The question is on acceptance and passage. Will you remark?