

Act Number	Session	Bill Number	Total Number of Committee Pages	Total Number of House Pages	Total Number of Senate Pages
PA 71-241		5092	5	3	3
<u>Committee Pages:</u> <ul style="list-style-type: none"> • <i>Judiciary</i> 222-223 • <i>Judiciary</i> 264-266 				<u>House Pages:</u> <ul style="list-style-type: none"> • 2003-2005 	<u>Senate Pages:</u> <ul style="list-style-type: none"> • 1659-1661

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
1971**

**VOL. 14
PART 5
1968-2502**

Monday, May 3, 1971

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THE CLERK:

A Change of Reference Report from Education, S.B. 1675, AN ACT CONCERNING AUTHORIZATION TO BOND OF THE STATE to PROVIDE FOR PARKING FACILITIES AT THE UNIVERSITY OF CONNECTICUT. For reference to Finance.

THE SPEAKER:

Returning to Cal. business. The gentleman from the 116th is recognized.

MR. VOTTO: (116th) HB 5092

Mr. Speaker, referring to Cal. 586, File 532, I move for acceptance of the Joint Committee's favorable report and passage of the bill.

THE SPEAKER:

Question is on acceptance of the joint committee's favorable report and passage of the bill. Will you remark.

MR. VOTTO: (116th)

Mr. Speaker, I am sure my colleagues know there is currently a law in the State of Connecticut entitled, Sec. 53-255 Misuse of the American Flag and the Flag of the State of Connecticut. Through an oversight a similar provision was not included in the new penal code. In view of that, a special bill is required, such as is being presented now, to include in the Penal Code a public policy of the State of Connecticut concerning misuse, mutilation of the flag of the United States of America and the State of Connecticut. The purpose of this bill now is to have an effective public policy in this matter for the Penal

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Code when it takes effect on October 1, 1971. A second reason for a bill of this type is that there is currently, as many members know, cases testing the constitutionality of our present law and it is in the best interest of this State to have our Supreme Court decide upon the bill for our future use and education in this area. And finally, Mr. Speaker, I point out that the bill is similar to the current law in the State of Connecticut with the exception of the penalties. Under the current law the penalty for mutilation or misuse and derogatory public display of the American flag is a misdemeanor carrying a fine of not more than \$100 or imprisonment of not more than six months or both. Under the bill as proposed, you will note that the punishment is the only change. The punishment for the violation of the statute would make this transgression a Class A misdemeanor under the new Penal Code carrying a penalty of not more than one thousand dollars and not more than one year in jail. It adds to the penalty section, the other provisions remain the same. Since it is in the general best interest, in my opinion, that the State of Connecticut has a public policy concerning the treatment and respect of our American flag and the colors and flag of this State, I move for passage of the bill.

THE SPEAKER:

Further remarks on the bill. Rep. Provenzano of 127th.

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MR. PROVENZANO: (127th)

Mr. Speaker, just briefly I would like to comment on the bill because I happen to be the introducer of it and so very happy that it came out of Committee. The bill provides nothing more than what existed in the previous statute except for the penalty. And what is a flag but nothing more than what we represent. It stands for what this nation represents and I am very proud of that. I am going to move that when the vote be taken it be taken by a standing vote in respect of that flag.

THE SPEAKER:

The gentleman has moved for a standing vote. Before proceeding with the vote and this is called for under our rules, will you remark further on the bill. If not, all those in favor please stand. The bill is PASSED.

THE CLERK:

Cal. 587, H.B. 5389, AN ACT CONCERNING THE SUPPRESSION OF CRIMINALLY OPERATED BUSINESSES, File 549.

THE SPEAKER:

Representative Carrozzella of the 81st.

MR. CARROZZELLA: (81st)

Mr. Speaker, I would move acceptance of the joint committee's favorable report and passage of the bill.

THE SPEAKER:

Question is on acceptance and passage. Will you remark.

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SENATE

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for at least 30 days in any calendar year. And on the cases of out-patient treatment benefits payable for 50% of the expenses incurred up to a limit of \$500 in any calendar year.

Mr. President, I would like to point out that the committee takes great pride in coming up with this bill. And supporting it. We feel it takes the mental illness problem out of the dark ages concept and presents it as a fact of life that can strike anyone. In any category of age or financial status. We are also proud of the fact that here in the insurance state this will be the first state to recognize that this fact does exist. And we are making a small but honest attempt to correct it. I move for acceptance.

THE CHAIR:

The question is on passage of the bill. Will you remark further? If not all those in favor of passage of the bill signify by saying aye. Opposed nay? The ayes have it. The bill is passed.

THE CLERK:

Page 5, Cal. 541, File 532 Favorable report of the joint standing committee on Judiciary on H.B. 5092 An Act Concerning Misuse or Multilation of the Flag.

THE CHAIR:

Senator Jackson.

SENATOR JACKSON:

Mr. President, I move acceptance of the committee's

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favorable report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR JACKSON:

Mr. President, this bill will restore existing language to our general statutes. The penal code in its repealer section had repealed this section. And as of October 1, of this year if no action is taken by the general assembly this will no longer be law. At the present time there is a court action pending to test the constitutionality of this particular section. And it would be the hope of the Judiciary Committee that if the court rules that the action, the statute is constitutional, that we will still have a statute on the books and this is the reason that we have reinstated this particular section. And we would hope that it would be passed.

THE CHAIR:

The question is on passage of the bill. Will you remark further? Senator Lieberman.

SENATOR LIEBERMAN:

Mr. President, I rise to oppose the motion. Mr. President I perhaps do not need to say in rising to oppose this motion, but I will anyway. That I have great personal reverence for the flag. I display it often. And I do so voluntarily and with some enthusiasm. But I believe that this piece of law is best not on the books for two primary reasons. The first I think is

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that it is to my way of thinking incredibly vague. And really does not meet the test that the law should in guiding the citizenry as to what will constitute a violation of this law. So much is left to the discretion of one gathers the enforcing officer. There are phrases such as the one used in line 23, one who puts indignity upon a flag. I don;t know what that means and I don't know if anyone can help me find the way. I don't know whether the person who wears a flag in a lapel as I often do is guilty of some violation. I don't know whether the individual who tacks a flag on to a construction hat is guilty. Or whether it has to do with someone who puts a tag on his coat, pants. It seems to me to be very unclear.

And secondly, and perhaps more important, I don't think that we have reached the stage in this country's history, I certainly hope we haven't, where we have to legislate patriotism. In other words I think that a true test of respect for the flag is to have a citizenry that is really devoted enough to the country to respect the flag and treat it with respect. And not to have to legislate or compel that kind of respect and devotion. And so I oppose the motion for acceptance and passage of this bill.

THE CHAIR:

The question is on passage, will you remark further? If not all those in favor of passage of the bill signify by saying aye. AYE. Opposed nay? The ayes have it. The bill is passed.

**JOINT
STANDING
COMMITTEE
HEARINGS**

JUDICIARY

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Rep. Bingham: I think you are incorrect, Representative. The Sentence Review Division, you must file within a certain period of time in order to have your sentence reviewed.

Rep. Provenzano: After his conviction.

Rep. Bingham: That is what I am saying.

Rep. Provenzano: But he hasn't served any time.

The other Bill which I would like to comment on, very briefly, is H.B. #6749.

H.B. #6749 - AN ACT CONCERNING HEARINGS IN PROBABLE CAUSE IN THE CIRCUIT COURT.

Very briefly, the purpose of the Bill is to have the arresting officer and a complaining witness at the hearing which I think is a just request. Altogether too many times the Court, the Prosecutor and the Attorney for the accused have their -say, get-together, discuss what they would like to see come out of the trial and then recess and there is no court case. The complaining witness and the arresting officer go home and no-one knows what happened except the three who were involved in the consultation. I think that a person who is aggrieved by another certainly has his right and his day in court. And, I think this is all the Bill asks for.

The third Bill is H.B. #5092.

H.B. #5092 - AN ACT CONCERNING MISUSE OR MUTILATION OF THE FLAG

Far be it for me to try to stand here and be a flag waiver, but I think what is happening to this Nation today is this, very briefly, That many people are placed in the position of being ashamed of being Americans and proud to have and wear or show their flag. I think when we get in that situation, we are in trouble.

We have people who display the flag in disrespect, we have many young people and I am glad to say that not an overwhelming number, but we do have young people who show and disrespect the flag - either on the back side of their pants, patches - inappropriate patches, I have seen news articles showing the flag used as lean to - right here

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in the State of Connecticut, at that so-called "rock festival" - it was used as a lean to as a tent, it was shown upside down and I think the time has come for this, the Connecticut Legislature, the home of the Constitution State, to show that we demand and have respect for the American Flag. The flag is our symbol of our nationality and what we stand for. Now I cannot in no stretch of the imagination see any constitutional rights that bridge or deprive by demanding every citizen to show respect for that flag and that is all the Bill does and I hope that you give this very careful consideration. Thank you.

Sen. Jackson: Representative Morris. I would ask all the members of the public who have not already done so, to please sign the sheet on the table in the left rear if you wish to testify. Thank you.

Rep. Morris: My name is Bruce Morris from the 111th Assembly District in New Haven and I am speaking on behalf of the Democratic Majority in the House of Representatives in favor on H.B. #5371.

H.B. # 5371 - AN ACT PROHIBITING DEBT POOLING.

Debt Pooling also.

Rep. Carrozzella: Representative, that Bill is listed on the Hearing schedule, but it has been referred to General Law because they have got all the Bills so if you want to give your testimony to General Law, maybe you will save a little time, but it is no longer here.

Rep. Morris: Very good.

Rep. Carrozzella: But we will take your testimony and submit it to General Law if you want.

Rep. Morris: Okay, I erroneously adhere to reading the bulletin and

Rep. Carrozzella: Right, and it wasn't stricken off the bulletin. There was a change of reference on that.

Rep. Morris: I try to follow the rules and regulations but obviously I am in error.

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to be the Corporation Counsel for the City of Hartford. I am here to talk about two House Bills, you may recall that in 1969 Session of the General Assembly revised our criminal code to be effective as of October 1, 1971 of this year and a couple of the statutes they took out - that is Section 53-7 of the General Statutes and also the abuse of flag statute, which is 53-255 of the General Statutes. As I mentioned earlier, both of these statutes would be repealed as of the effective date of the enactment of the criminal code October 1, 1971.

I came to speak in behalf of two Bills, one introduced by Representative Pugliese, H.B. #5864 which would continue in effect the red flag statute and also H.B. #5092 introduced by Representative Provenzano which would continue in effect the abusive flag statute.

H.B. #5864 - AN ACT CONCERNING DISPLAY OF FLAGS OF A COUNTRY OR MOVEMENT ENGAGED IN HOSTILITIES AGAINST THE UNITED STATES.

H.B. #5092 - AN ACT CONCERNING MISUSE OR MUTILATION OF THE FLAG.

I can show you two files that the City of Hartford is presently in Court on both involving these two Statutes actions brought in both cases by the members of the State of Connecticut's Law School Legal Clinic. They are both Federal Court Cases at this point and both of these cases attack the constitutionality of the two Statutes in question. As I say, neither of these Statutes have been determined by the Federal Court yet, I do not know what the Federal Court is going to do about them, but no matter what the Federal Court does about either Statutes, I am firmly convinced that they are constitutional. They are valid. They are necessary. I think that they are in the nature of preach of the peace Statutes, that this particular kind of conduct that you are legislating against in both of these Statutes is such that would incite a preach of the peace, disorder, violence - as I say, I think we should retain both of them and no matter what happens in the Federal Court, I am prepared to go to the United States Supreme Court on both of these Statutes. I feel so soundly or so firmly that they are Constitutional. Thank you.

Rep. Argazzi: Representative Argazzi from the 25th District. What evidence do you have that somebody showing a flag

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of a - say North Vietnam tends to incite a riot or cause a breach of the peace or anything like that.

Mr. Fitzgerald: Well, there were a couple of incidents that happened in Hartford - one was a situation involving a visit by President Nixon and there was a red flag, a Viet Cong flag displayed and apparently there was some sort of a breach of the peace in that a candidate for State Office as I recall it at that time, went over and snatched the flag away from this particular individual and threw it to the ground. Shortly thereafter, involving one of these court cases, there was a display of Viet Cong flags again, this time it was in conjunction with a fund raising Republican dinner, wherein Vice President Agnew was the guest at the Statler Hilton and there was a rally going on across the street from it.

There were two or three instances of violence at that time which I maintain were induced, were incited by the display of these Viet Cong flags but if you are a lawyer, and you probably are, a good number of our Legislatures are, you take a look at that Statute, really it talks about the display of any emblem which is calculated to induce a disorder so that really they are in a nature of a breach of the peace statute. They are in the nature of such that they would require perhaps a finding that the flag was displayed under certain circumstances and my argument at Federal Court I mentioned other instances where I think we could be involved with the breach of the peace with a violation of this Statute which would result in disorder.

For example, let us assume that instead of a bunch of kids, holding an anti-Agnew rally at the Park, that we had a convention of Jewish War Veterans there on a Sunday afternoon and somebody marched in with a Nazi flag. I think, under those circumstances, that Statute would be applicable and it would be inclined and calculated to induce disorder. The same thing might apply to a rally of Irishmen - Hibernians gathered in the same spot and an orange flag were displayed so that I think it would require a finding of fact, it would require some finding as to the definite circumstances under which emblem or flag is displayed.

Rep. Argazzi: Aren't you drawing a fine line through between the protesters who want to demonstrate for some reason or

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another as to what they can and can not carry. If somebody has a Nazi flag at a Jewish rally, you say that might be calculated to incite a riot. If they have a sign saying the Arabs are being persecuted, how do you distinguish those things?

Mr. Fitzgerald: I would distinguish it on the basis of the circumstances as I say, a careful reading of the Statutes would indicate to you that it talks about the circumstances under which this particular emblem is displayed, you know - if it says that it is calculated to induce violence. As I say, it is a very short Statute, it is 53-7. There has been a lot of series of red flag cases that have come down which dis-prohibit the display of a red flag. I think those are unconstitutional indiscriminately, but I think our Connecticut Statutes is constitutional on the basis of when it does talk about circumstances that are calculated to induce disorder and violence.

Rep. Carrozzella: Mrs. Ingellis to be followed by Mr. Petty. Mr. Petty to be followed by Mr. Smalley.

Mr. Petty: Mr. Chairman, Ladies and Gentlemen, I am A. Ray Petty, Executive Director of the Connecticut Prison Association and I want to speak in favor of H.B. #5316.

H.B. #5316 - AN ACT PROHIBITING EMPLOYERS FROM ASKING PROSPECTIVE EMPLOYEES IF THEY HAVE EVER BEEN ARRESTED.

I have listened to some comments here this morning that everybody should know what an arrest record is of every other individual before they are hired but an arrest record is not a conviction to begin with. We have found in our work and we have found in the last two years, at least, 1,800 jobs for men who have records or have been in jail in the respect of misdemeanors as well as felonies. We have found very, very few employers in the State of Connecticut, and particularly in the greater Hartford area, turn a man down because he was up for non-support or drunken driving or any other misdemeanor.

We have found one or two companies that we worked with for ten years and try to secure employment for men who have misdemeanors and anytime they find any kind of an arrest record, they do not employ. At least they do not employ the people that we suggest to them. Therefore, they become the jury and the judge of a man who has committed a small crime not a heinous crime. When it speaks about felonies, I agree that any employer has the