

<b>Act Number</b>	<b>Session</b>	<b>Bill Number</b>	<b>Total Number of Committee Pages</b>	<b>Total Number of House Pages</b>	<b>Total Number of Senate Pages</b>
PA 71-81		762	7	1	2
<u>Committee Pages:</u> <ul style="list-style-type: none"> <li>• <i>Judiciary</i> 651</li> <li>• <i>Judiciary</i> 652-653</li> <li>• <i>Judiciary</i> 661</li> <li>• <i>Judiciary</i> 674</li> <li>• <i>Judiciary</i> 677</li> <li>• <i>Judiciary</i> 680</li> </ul>				<u>House Pages:</u> <ul style="list-style-type: none"> <li>• 1357</li> </ul>	<u>Senate Pages:</u> <ul style="list-style-type: none"> <li>• 923-924</li> </ul>

**H-110**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 3  
974-1450**

Tuesday, April 13, 1971 14.

come to order.

EFH

JOHN D. MAHANEY:

Mr. Speaker, pursuant to House Joint Rule No. 48, I would like, at this time, to move for the acceptance of the Joint Committees' favorable reports and passage of the following Bills that are on the Consent Calendar. On Page 1, Calendar No. 308, S.B. No. 0546, an Act concerning practice in Probate Court by partner or associate, File No. 178; Calendar No. 309, Substitute for S.B. No. 0547, an Act concerning a beneficiary's right to exoneration from a security interest existing at death, File No. 179; Calendar No. 310, S.B. No. 0578, an Act concerning the fire police, File No. 182; Calendar No. 0577, Substitute for S.B. No. 0762, an Act concerning confidentiality of communications and records of mental patients, File No. 153. If there is no objection to these Bills at this time, I move for their passage.

MR. SPEAKER:

Does any individual Member object to the passage of the Bills on the Consent Calendar. Hearing no individual objection, the question is on acceptance and passage. Will all those in favor indicate by saying "aye". Those opposed. The Bills are passed.

JOHN D. MAHANEY:

Mr. Speaker, proceeding with Consent business at this time, pursuant to Joint Rule 48 of the House, I'd like to call the House's attention to the following Bills, which I move be placed on the Consent Calendar: on Page 5, Calendar No. 299, Substitute for H.B. No. 5256, an Act concerning welfare reimbursement, File

**S-77**

**CONNECTICUT  
GENERAL ASSEMBLY**

**SENATE**

**PROCEEDINGS**

**1971**

**VOL. 14**

**PART 2**

**474-956**

April 6, 1971

Page 110

THE CHAIR:

there is objection. Today is not Wednesday so therefore, any objection would prevent suspension. We will proceed with the Calendar.

SENATOR CALDWELL:

Mr. President, before we go to today's calendar, yesterday we passed Cal. No. 170, House Bill No. 6263, File No. 120 and that concerning proof of financial responsibility on violation of certain motor vehicles statutes. At this time, Mr. President, I'd like to move that we reconsider our action of yesterday.

THE CHAIR:

Question is on reconsideration. You were on the prevailing side? All those in favor of reconsideration indicate by saying, "aye". Opposed, "any" The ayes have it. The bill will be reconsidered.

SENATOR CALDWELL"

May the matter be printed on tomorrow's calendar?

THE CHAIR:

It will be printed on tomorrow's calendar.

THE CLERK:

CAL. NO. 129, FILE NO. 153. Favorable report of the joint standing committee on Judiciary. Substitute Senate Bill No. 762. An Act concerning Confidentiality of Communications and Records of Mental Patients.

SENATOR JACKSON:

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

THE CHAIR:

Will you remark?

April 6, 1971

Page 111

SENATOR JACKSON:

Mr. President, this will amend Section 52-146a to allow testimony of psychiatrists and conservators at proceedings providing the patient has been warned prior to such communications that they are not confidential.

THE CHAIR:

Any other remarks? Question is on the acceptance of the committee's favorable report and passage of the bill. All those in favor indicate by saying "aye". Opposed, "nay". The ayes have it. The bill is passed.

THE CLERK:

CAL. NO. 154, FILE NO. 134. Favorable report of the joint standing committee on Judiciary on House Bill 6028. An Act Concerning Authority to Re-Arrest a Paroled Convict.

SENATOR JACKSON:

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

THE CHAIR:

Any remarks?

SENATOR JACKSON:

This amends section 54-127 to allow the Chairman of the Board of Parole to give him the authority to re-arrest a parole convict.

THE CHAIR:

Any further remarks? Question is on passage of the bill. All those in favor signify by saying, "aye". Opposed? The ayes have it. The bill is passed.

THE CLERK:

CAL. NO. 160 FILE NO. 178. Favorable report of the joint standing committee

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY**

**PART 2  
393-688**

**1971**

Mr. Marsh: I am Doctor E. J. Marsh from the State Department of Mental Health.

Sen. Jackson: I am sorry, is your name Marsh?

Mr. Marsh: Yes.

Sen. Jackson: What is your first name, Mr. Marsh?

Mr. Marsh: Lea. Just for the record, an Ex-Speaker of the House of Representatives.

Sen. Jackson: Well, go ahead then, Mr. Marsh.

Mr. Marsh: I am Doctor Marsh of the State Department of Mental Health and I am Chairman of the Departmental Task Force on Constantiality. I am here to speak briefly in favor of S. B. #672. Confidentiality and Communications.

Mr. Chairman, this clarifies a point in an Act - Public Act No. 819 of the 1969 General Assembly that provides for confidentiality and communications between psychiatrists and patients, that Act provided that no psychiatrist could reveal any communications between him and the patient without the written consent of the patient or of the guardian with certain kinds of exceptions. But the exception did not include the situation in which a psychiatrist might be called to testify concerning the incompetence of a patient because the - and since the patient is incompetent and unable to give his own permission, the psychiatrist is caught in a very peculiar bind. He is being asked to testify concerning the incompetence of the patient but the patient cannot give his permission to testify so therefore, the psychiatrist cannot testify as requested.

This S. B. #672 clarifies this particular point including as a specific exception to the giving of written permission for revealing communication in connection with the application for the appointment of a conservator by the Probate Court. Speaking on behalf of the Department, we urge your favorable consideration of this Bill.

Sen. Jackson: Thank you very much. Attorney Scoler then I have been told that the first name we called on the list previously, Mitchell Labuda has returned so he will be the next speaker.

Mr. Scholer: My name is Jerry Scoler and I live in Newington and I am here to speak in favor of H. B. #6574 which is a Bill creating a Probate District for Wethersfield, Newington and Rocky Hill.

H.B. #6574 - AN ACT CONCERNING THE PROBATE DISTRICT OF WETHERSFIELD.

I would like to register my favor of this Bill but to indicate also that this is not interrogation in any manner of the matter in which the Hartford Probate District is being run by Judge Kinsella. It certainly is a very efficient district but I would like to point out that in this day in age

of increasing size of governmental units of bureaus that perhaps we should take another look at the Probate Courts because I am not sure that this is an advantage in this area. The nature of the work that is done in the Probate Court I think lends itself a lot better to smaller units because of the intimate and confidential and very emotional type of situations that do arise there.

For Wethersfield, Newington and Rocky Hill we now have a population of between 80,000 and 85,000 people and I believe it would be entirely appropriate that the people of this area - these towns should be able to come to their own Probate Courts, their own Clerks, their own Judge and not have to come to Hartford with the difficulties that arise in coming to Hartford under the conditions in which most people go to the Probate Court.

This is, of course, a no money Bill. It would be self sustaining. I am sure that the Committee Members are well aware of all of the advantages and disadvantages perhaps of such a Bill as this so I won't go on at length about this. Since this has come up several times, I myself have spoken to other lawyers who practice in the area, to other citizens and I have found some people who have not had an opinion one way or another but I haven't found anybody who was against such a provision as this and overwhelmingly, they have been in favor of it. Thank you.

Sen. Jackson: Mr. Labuda.

Mr. Labuda: Mr. Chairman, Senators and Representatives, my name is Mitchell L. Labuda, 51 Locust Avenue, Danbury, Connecticut. I rise, with approximately 16 years of psychiatric nursing service in support of Bill #592 in particular - Section 4b.

S.B. #592 - AN ACT CONCERNING THE RIGHTS OF THE MENTALLY DISORDERED.

It is this speaker's opinion that the personal problems of patients in State Mental Institutions should be and must be confidential. To be discussed only between the patient's doctors and patient himself or herself. Not to be discussed with or before the rank and file staff - most of all, most certainly not before other mental patients who - do to their mental illness, could harass other mental patients with their knowledge of said patients personal problems.

I also speak in support of Bill # 762.

S.B. #762 - AN ACT CONCERNING CONFIDENTIALITY OF COMMUNICATIONS AND RECORDS OF MENTAL PATIENTS.

Statement of Purpose: To allow psychiatrists to testify in conservatorship proceedings with consent safeguards. This Bill appears to be a fine one, but I suggest amending it and including this statement - that communication, personal problems and records of mental patients in State Mental Institutions be strictly confidential between the patient and his

or hers assigned physician, psychiatrist, etc. That no mental patient's personal problems or records be discussed in any way or manner at or in large or small groups of rank and file employees nor before any group or groups of mental patients. I thank you.

Sen. Jackson: Thank you very much. Mr. Lynch to be followed by Attorney Glenn.

Mr. Lynch: My name is William J. Lynch, I am a Legislative Administrator Advisor for the Connecticut Department of Transportation and I have been asked to appear here today in support of H. B. #5714.

H. B. #5714 - AN ACT CONCERNING DISCLOSURE OF PROPERTY OF PERSONS AGAINST WHOM THE STATE HAS A CLAIM.

This Bill would permit other State Agencies having claims against debtors to utilize the facilities that are presently available in the matter of welfare actions under Section 17-303. This would tend to keep down the cost of recovering what are frequently small sums of money and would also expedite the litigation of those cases where it was necessary.

For this reason, the Department of Transportation supports this Bill. Thank you, Gentlemen.

Sen. Jackson: Mr. Glenn to be followed by Mr. Arafah.

Mr. Glenn: Mr. Chairman, Members of the Committee, my name is William E. Glenn, I am an Attorney appearing on behalf of the Connecticut Bankers Association. I will speak very briefly on 3 or 4 Bills. H. B. #7256 -

H. B. #7256 - AN ACT CONCERNING DISCLOSURE OF BENEFICIARIES OF REAL PROPERTY HELD IN TRUST.

In listening to Representative Miller, it seems that the purpose here is a ~~locatable~~ <sup>locatable</sup> one and I think, Mr. Chairman, you directed yourself to this question in West Hartford some years ago having to do with hiding the true interest through the use of trust or some other means. The only thing we can point out is that there are many, many trusts where there are corporate trustees having contingent on bona on determined beneficiaries and this would require a great deal of work just to file all the names even if we could determine them in all cases.

On H. B. #7485.

H. B. #7485 - AN ACT CONCERNING PROPERTY IN DECEDENT'S ESTATE.

Reducing the period before (as Chief) <sup>escheat</sup> to the State from 5 to 10 years, I think it is recognized that it is generally longer in other states and that many times banks and lawyers have been successful in locating lost heirs during a period of time of well in excess of five years and we would therefore hope that the Committee would not give this a reduction of time favorable consideration.

Dr. Donnelly: Mr. Chairman, Members of the Committee, I am John Donnelly, Psychiatrist-in-Chief of the Institute of Living and Chairman of the Committee on Mental Health in the State Medical Society and Member of the Board of Mental Health for the State of Connecticut.

I am appearing here with respect to two Bills, the first #762 which modifies or makes an exception for the feeling of examinations of a psychiatrist in connection with an examination made and an application for appointment of a conservatorship.

S.B. #762 - AN ACT CONCERNING CONFIDENTIALITY OF COMMUNICATIONS AND RECORDS OF MENTAL PATIENTS.

Earlier witnesses have already made the point that the present Bill needs a technical amendment, therefore I will not repeat those points.

S.B. #592 - AN ACT CONCERNING THE RIGHTS OF THE MENTALLY DISORDERED.

With regard to Bill #592, dealing with the rights of the mentally disordered, the State Medical Society has some very definite positions. While there are many good features in this Bill, protecting the rights of the mentally ill patient in the hospital, there are a number of provisions to which the Connecticut State Medical Society takes exception.

Section 4. Consent: - Under Paragraph 4a, it would be necessary for a voluntary patient to give his written informed consent before he can be given medication. The absurdity of this provision is made clear when it would be necessary to get written consent when a doctor orders Aspirin for a headache. It is quite evident that this would be completely unworkable in a hospital without the doctors spending vast amounts of time being involved with vast amounts of unnecessary paper work.

Equally important is the stigmatization of the person who is admitted to a psychiatric facility either a psychiatric hospital or a general hospital on a voluntary basis when this type of procedure is required by law. Again, this absurdity would occur in a general hospital and incidentally, although previous witnesses have mentioned only State Hospitals, this refers to all psychiatric facilities. The ultimate absurdity would be where the psychiatric floor is on one wing of the hospital - it would be on the floor of one wing and on the other side of the floor, would be a general medical ward.

On the psychiatric floor, the voluntary patients would be required to give written consent every time they received medication. With regards to this section also, involuntary patients could not receive a course of treatment without written informed consent of one of a variety of persons who are not available very often when it is needed to give the medication. For example, a patient with a severe headache needing a course of aspirin could not receive that unless a family member or others and maybe ultimately a Judge of Probate Court had authorized the prescription of medication.

individual and on behalf of the Middlesex Area Mental Health Council and in accordance with my own feelings as a Mental Health Professional, I strongly urge your favorable report on S. B. #592. Thank you.

Sen. Jackson: Thank you, Doctor. Doctor Kenny to be followed by Edward J. Tomkiel.

Mr. Kenny: My name is Doctor William Kenny, I am a practicing Psychiatrist at the Institute of Living in Hartford and Chairman of the Legislative Committee of the Connecticut Psychiatric Society. I appear here before you today on behalf of that Society which is made up of 350 members throughout the State of Connecticut.

I appear very briefly on one Bill, Bill #762 on confidentiality which we formally endorsed. It is merely to cover a loophole in the confidentiality Bill, the loophole which has to be covered in the interests of not the physician but of the patient.

S.B. #762 - AN ACT CONCERNING CONFIDENTIALITY OF COMMUNICATIONS AND RECORDS OF MENTAL PATIENTS.

The Connecticut Psychiatric Society recognizes the basic idealism expressed in the Bill #592 which tries to delineate the rights of the mentally ill, but it opposes the Bill on the basis that it is both ineffective and impractical.

S.B. #592 - AN ACT CONCERNING THE RIGHTS OF THE MENTALLY DISORDERED.

The Society is strongly opposed to Section 4a in particular and I quote very briefly: "No voluntary patient shall receive any course of medication or treatment without his written informed consent." This is a specification which is totally impractical. Perhaps the best way to illustrate this is to give clinical examples. Part of this, I think, has already been given by Doctor Donnelly when he mentioned about the actual effect of this is that aspirin. To get an order of aspirin, one would have to give a written informed consent - let me follow a little bit from this.

The inoperable nature of this is clearly evident, but it becomes even more clearly so when one considers the necessary urgent use of medications in emergency situations such as severe asthma or cardiac arrest. Severe infections like pneumonia or meningitis are even more complex since a toxic delirium can impair the patient's ability to give any type of informed consent, and thus make treatment under this particular subsection impossible.

Even if this subsection is clarified and amended to include only medications used routinely in psychiatric practice, it remains totally inoperable and I will give you very brief clinical examples. It is very nice to talk about idealism, but when you have to deal with the patient, it is another story. The first example is a very simple one and not an unusual one.

This Bill pertains to the informal filing of an account with the Probate Court by a statement under oath with a waiver by the heirs. The Tax Commissioner has no objection to the passage of this Bill, but he would suggest however, that if the Bill is enacted, it contain a provision that the Probate Judge require a final receipt from the Tax Commissioner that all State Succession Taxes are paid before the account is accepted. This of course would also be additional protection for the fiduciary. The final Bill is #6570.

H.B. #6570 - AN ACT CONCERNING THE TAXATION OF THE ESTATES OF DECEASED PERSONS.

This is merely a Statement of Purpose Bill and the Tax Commissioner can take no position on this Bill as yet, of course, until a detailed proposed Bill has been put forth and analyzed by him. However, the subject matter of this Bill is of the gravest concern to the Tax Commissioner as it would change the statutory law in the entire field of Succession Taxes which has been in existence since 1879.

Rep. Sullivan: The last Bill was #6570, Sir.

Mr. Alpert: #6570, yes.

Rep. Sullivan: The one before it, #544.

Mr. Alpert: No, yes, that is correct, #544. Thank you.

Sen. Jackson: Thank you very much. Mary Parham to be followed by Attorney Wynne.

Ms. Parham: Chairmen of the Committee and Members of the Committee, I am interested - I support Bill #592, #762 and do not support #6267. My concern with these Bills comes being committed in a mental hospital and being railroaded through Connecticut Mental Health.

S.B. #592 - AN ACT CONCERNING THE RIGHTS OF THE MENTALLY DISORDERED.

S.B. #762 - AN ACT CONCERNING CONFIDENTIALITY OF COMMUNICATIONS AND RECORDS OF MENTAL PATIENTS.

H.B. #6267 - AN ACT CONCERNING LENGTH OF COURT COMMITMENT OF MENTAL PATIENTS.

With reference to S.B. #592 - Section 4 (a) "No voluntary patient shall receive any course of medication or treatment without his written informed consent," Mary expressed, from her experience with the Connecticut Mental Health and having been a patient at the Connecticut Valley Hospital, her opposition to taking medicine or being forced to take medication as she claims all patients are given upon entrance to the hospital.

She freely discussed her experience when she was on LSD and was then admitted to the Connecticut Valley Hospital. She felt that many of the drugs used in the hospitals are more toxic and more dangerous than what is used on the open street. She felt that medical doctors, not psychiatrists should treat physical illnesses of the mental patients and without written consent.

TESTIMONY BEFORE THE COMMITTEE ON JUDICIARY  
REGARDING SENATE BILL NO. 762 - AN ACT CONCERNING  
THE CONFIDENTIALITY OF COMMUNICATIONS AND RECORDS  
OF MENTAL PATIENTS

---

I am Dr. John Donnelly, Psychiatrist-in-Chief of the Institute of Living and Chairman of the Committee on Mental Health of the Connecticut State Medical Society. I am addressing this Committee on behalf of the State Medical Society.

The Connecticut State Medical Society strongly supports this Bill which takes care of a technical situation not dealt with under Sub-section (d) of Section 52-146-f of the General Statutes. This Bill would create a special exception to the privileged communications of a psychiatric patient with the psychiatrist in those cases where an application for the appointment of a conservator have been made to the Probate Court.

At the present time, psychiatric testimony cannot be introduced in the Probate Court in those cases in which mental illness is the issue in incompetency hearings. The Judges of some Probate Courts have expressed the opinion that they should not appoint psychiatrists to examine the subjects of petitions dealing with incompetency. On the other hand, a psychiatrist, under the present Statute, cannot present testimony based upon his examinations.

This Bill would permit a psychiatrist to examine the patient after informing him of the purpose of the examination and to present his findings to the Court.

  
John Donnelly, M. D.

March 4, 1971