

Legislative History for Connecticut Act

HB8092

PA 360

1977

Senate: P. 2067-2069

(3p)

House: P. 2185-2187, 4543-4545

(6p)

Judiciary: P. 1250-1252

(3p)

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1977

VOL. 20  
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1686-2095

## 1977 - GENERAL ASSEMBLY

## SENATE

WEDNESDAY

MAY 11, 1977

100  
LFU

really read the section of the Statute that I quoted, you won't take the matter quite so lightly and I think it is a matter of importance and concern and it's not the way to go about a resolution to the problem. I would urge that you vote no.

THE CHAIR:

Everybody in their seats? The machine may be opened. Please cast your vote. Senator Lieberman.

SENATOR LIEBERMAN:

Mr. President, I want to note that Senator Houley has had to leave the building to make a speech to the CPEC tonight.

THE CHAIR:

I think he left with a parched throat. The machine is closed. The Clerk may tally the vote. And I might add, I hope it isn't libation. Result of the vote:

TOTAL VOTING	35
NECESSARY FOR PASSAGE	18
YEAS	22
NAYS	13

The Bill is adopted.

THE CLERK:

Page eleven of the Calendar, Calendar 750, File 563, Favorable Report of the Joint Standing Committee on Judiciary, Substitute for House Bill 8092, AN ACT CONCERNING AN ACCUSED PERSON'S FAILURE TO TESTIFY IN A CRIMINAL ACTION as amended by House Amendment, Schedule A.

THE CHAIR:

Senator DePiano.

1977 - GENERAL ASSEMBLY

## SENATE

WEDNESDAY

MAY 11, 1977

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LFU

SENATOR DE PIANO:

Mr. President, I move acceptance of the Committee's Joint Favorable Report and passage of the Bill. There is an Amendment.

THE CLERK:

Clerk has Senate Amendment, Schedule A, File 563, Substitute House Bill 8092, LCO 8475, offered by Senator DePiano. Copies are on the desks.

THE CHAIR:

Senator DePiano.

SENATOR DE PIANO:

Yes, the Amendment merely makes the Court mandatorily give a charge to the jury that they can draw no unreasonable or unfavorable inference against a defendant who has not testified in his own behalf unless the defendant makes a motion to the Court asking the Court not to make such a charge to the jury in which case, if such motion is made, it is mandatory upon the Court not to make that charge. If there is no objection, I move for passage of the Amendment.

THE CHAIR:

Senator Putnam.

SENATOR PUTNAM:

Mr. President, through you, I just looked at the Constitution of the State of Connecticut and the Constitution of the United States and they both seem to indicate that a person has a right not to testify against himself. Should this law say that prior to this time a judge has not been able to make that statement, even though it's in our Constitution?

THE CHAIR:

You're deferring to a constitutional lawyer. Senator DePiano.

1977 - GENERAL ASSEMBLY

SENATE

WEDNESDAY

MAY 11, 1977

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LFU

SENATOR DE PIANO:

I can speak without a parched throat, Senator. In answer to the good Senator's question, it's been a diversified opinion in regard to whether that rule applies or it doesn't apply. Some courts have taken the position that the Supreme Court has taken some courts have misinterpreted it, at least I think it is a misinterpretation. This will clarify the problem and make it standard in all cases in this State.

THE CHAIR:

Very explicit. All those in favor of the Amendment, signify by saying aye. Those opposed nay. Senator DePiano.

SENATOR DE PIANO:

Mr. President, I now move for passage of the Bill as amended, sir.

THE CHAIR:

If there is no objection, it may be placed on the Consent Calendar.

SENATOR DE PIANO:

Thank you very much.

THE CLERK:

Calendar 751, File 590, Favorable Report of the Joint Standing Committee on Human Services, House Bill 6218, AN ACT CONCERNING PROVISION OF A REASONABLE TIME IN WHICH TO FILE FAIR HEARING APPEALS, as amended by House Amendment, Schedule A.

THE CHAIR:

Senator Hudson.

SENATOR HUDSON:

Yes, Mr. President, I move acceptance of the Committee's Joint Favorable Report and passage of the Bill, as amended by House Amendment A.

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House of Representatives

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teg

MR. RITTER (6th):

Mr. Speaker, thank you, I'd like to move this be recommitted to the General Law Committee.

MR. SPEAKER:

Is there any objection? Hearing none, it is so ordered.

THE CLERK:

Cal. 651, substitute for H.B. No. 8092, file 563, An Act Concerning An Accused Person's Failure to Testify in a Criminal Action, Favorable Report of the Committee on Judiciary.

MR. SPEAKER:

Gentleman from the 148th.

MR. ABATE (148th):

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

MR. SPEAKER:

The question's on acceptance and passage and will you remark sir?

MR. ABATE (148th):

Yes, Mr. Speaker, the Clerk has an amendment, L.C.O. No. 8058.

MR. SPEAKER:

Will the Clerk please call and read L.C.O. No. 8058 House Amendment Schedule A?

THE CLERK:

House Amendment Schedule A, L.CO. No. 8058, offered by

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teg

Representative Abate of the 148th district, in line one strike "section 1." strike lines 30 and 31 in their entirety.

MR. SPEAKER:

You have the amendment, what is your pleasure?

MR. ABATE (148th):

Mr. Speaker, Ladies and Gentleman, what the amendment does is simply delete from you file copy section number two which indicates that this act shall be take effect on passage. I move adoption of the amendment.

MR. SPEAKER:

Will you remark further on House A? If not, the question's on its adoption, all those in favor will indicate by saying aye. Opposed? House A is adopted and ruled technical. Will you remark further on the bill as amended? Gentleman from the 148th.

MR. ABATE (148th):

Mr. Speaker, thank you. Ladies and Gentleman, this bill will relate to an individual's right under the constitution not to testify at a trial which he is the accused. I'll call you attention to lines 18 through 22, it says the neglect or refusal of an accused party to testify shall not be commented upon to the Court or jury. This does not indicate that the Court or Prosecutorial officials can not comment on that point in either instructions or otherwise. What the bill does now is it says the neglect or refusal of an accused party to testify shall not be commented



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teg

by the Court or Prosecuting Official except as provided in sub-section B and of course sub-section B just allows an individual to waive this right and permit comment. The bill is clearly a good bill, it ought to pass.

MR. SPEAKER:

Will you remark further on the bill as amendment? If not, will the members please be seated, staff and guests please come to the well of the House, the machine will be opened. Have all the members voted and is your vote properly recorded? If so, the machine will be closed and the Clerk will take a tally. The Clerk will please announce the tally.

THE CLERK:

Total number voting .....	145
Necessary for Passage .....	73
Those voting Yea .....	145
Those voting Nay .....	0
Those absent and not voting .....	6

MR. SPEAKER:

The bill as amended is passed.

THE CLERK:

Cal. 652, substitute for H.B. No. 8213, file 562, An Act Concerning the Role of the State Board of Education in Injunctive Proceedings Resulting from a Teacher Strike, Favorable Report of the Committee on Education.

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Monday, May 23, 1977 133.

Those voting Yea. . . . .	104	efr
Those voting Nay. . . . .	36	
Those absent and not voting . . . . .	11	

The bill as amended is passed.

THE CLERK:

Page 16 of the Calendar, Calendar 651, Substitute for H.B. 8092, Files 563, 1063, an Act concerning an accused person's failure to testify in a criminal action. As amended by House Amendment Schedule "A" and Senate Amendment Schedule "A". Favorable report of the Committee on Judiciary.

ROBERT G. JAEKLE:

Mr. Speaker. Thank you, Mr. Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

MR. SPEAKER:

The question's on acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate. Would you remark, sir?

ROBERT G. JAEKLE:

Thank you, Mr. Speaker. The Clerk has an amendment, Senate Amendment Schedule "A", L.C.O. No. 8475. Would the Clerk please call and read.

MR. SPEAKER:

The Clerk please call Senate Amendment Schedule "A"... call and read.

THE CLERK:

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Senate Amendment Schedule "A", L.C.O. 8475, offered by efr  
Senator DePiano, 23rd District. In line 23 strike everything af-  
ter "be" and insert "unless the accused requests". In line 24  
strike out "testify in his own behalf but not".

ROBERT G. JAEKLE:

Mr. Speaker, I move adoption of the amendment.

MR. SPEAKER:

The question is on adoption of Senate Amendment Schedule  
"A". Would you remark, sir?

ROBERT G. JAEKLE:

Thank you, Mr. Speaker. On April 27th this House unani-  
mously passed then File No. 563, which provided that in the event  
that an accused fails to testify against himself in a criminal  
action that he could request that the Judge so instruct the jury  
that no adverse inference could be drawn from the accused's fail-  
ure to testify. In the Senate, Senate Amendment "A" modified this  
to provide that in any case where a defendant fails to testify  
that the Judge automatically would instruct the jury that no ad-  
verse inference could be drawn, unless the defendant request to  
the contrary. I say in this case it's a matter of making a good  
bill better, and I urge passage of this bill.

MR. SPEAKER:

The question's on adoption of Senate Amendment Schedule  
"A". Would you remark further? If not, all those in favor of  
Senate Amendment Schedule "A" indicate by saying "aye". Those  
opposed. Senate "A" is adopted and ruled technical. Would you  
remark further on the bill as amended? Would you remark further

Monday, May 23, 1977 135.

on the bill as amended? If not, will the Members please take their efr  
seats, and will the staff please come to the well of the House.  
The machine will be opened. Have all the Members voted? Have all  
the Members voted? If so, the machine will be locked. The Clerk  
please take a tally. The Clerk please announce the tally.

The following is the result of the vote:

Total number voting . . . . .	137
Necessary for passage . . . . .	69
Those voting Yea. . . . .	129
Those voting Nay. . . . .	8
Those absent and not voting . . . . .	14

TAPE  
#20

The bill as amended is passed.

THE CLERK:

Calendar 653, H.B. 5116, Files 8560 and 1055, an Act  
concerning certain definitions in the Teachers' Retirement System.  
As amended by Senate Amendment Schedule "A". Favorable report of  
the Committee on Public Personnel and Military Affairs.

NICHOLAS M. MOTTO:

Mr. Speaker, I move acceptance of the Joint Committee's  
favorable report and passage of the bill as amended...in concur-  
rence with the Senate.

MR. SPEAKER:

The question's on the acceptance of the Joint Committee's  
favorable report and passage of the bill in concurrence with the  
Senate, and would you remark, sir?