

Legislative History for Connecticut Act

HB 8183

PA 415

FAY

1977

Judiciary 1362, 1364-65

(3p)

Senate 2925-26

(2p)

House 3103-3110

(8p)

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JUDICIARY  
PART 4  
999-1455

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disposable income. This amendment will avoid the ambiguity that arises under current law when a determination must be made regarding the amount of a defendant's income that cannot be touched in a support action. We urge its consideration along with proposed Draft No. 6159 to which it is identical but for the definition of disposable income.

Section 65 amends C.G.S. Section 54-50. Since this section is identical to H.B. No. 8183, in all respects except for technical merger related changes, we respectfully recommend eliminating section 65 from this bill, No. 8169, and urge consideration of our proposals in Bill No. 8183, instead.

Finally, section 62 would allow transfer of funds between the judicial department and the division of criminal justice. Further consideration of this section on our part has led us to recommend that it be eliminated entirely from the bill.

#### X. CONCLUSION

Sections 1-48 are necessary if we are going to have an efficient transition to a unified court system in accordance with the legislative mandate embodied in Public Act 76-436. It is important that the legislature act during this session for several reasons.

As you are aware, Section 48(e) of 76-436, calling for rules to be promulgated by the judges to go into effect with the merger on July 1, 1978, is currently effective. In order to coordinate statutes and court rules and to allow time for the writing and adoption of rules, legislative clarification of merger implementation is needed now.

Also, since we believe these amendments clear up many of the ambiguities of P.A. 76-436, they are necessary to provide the basis for sound and careful planning for merger within the judicial department.

Finally, if these implementation amendments are enacted this year, there will be an adequate amount of time to educate both the personnel who operate all aspects of the courts, and the public, about the one-tier system. This, we believe, will make the courts more efficient and more responsive.

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REP. ABATE: Thank you, Miss Rosen. Just one question. You mentioned that your Belt #2 proposal indicates that papers may be required to be filed in a particular court even though the trial proceedings and short calendar, I gather, would be held or heard at another court. Is there a significant departure from our current system in that regard?

H. ROSEN: No-not at all.

REP. ABATE: Okay - - so the existing system will be maintained.

H. ROSEN: Right.

REP. ABATE: All right. Rep. Parker.

REP. PARKER: I'm Rep. Nina Parker. I am interested in how you arrived at the judicial districts. Just a brief glance at this, was it based on

This bill almost made it during the last session of the general assembly, but for reasons unknown to me didn't quite get / <sup>over the hump</sup> But essentially, under present law, the amount of recoverable costs by a party to civil litigation depends on the plaintiffs ad damnum--that is how much the plaintiff sues for. It doesn't depend at all on how much the plaintiff recovers. If the plaintiff, for example, sues for \$50,000 and recovers \$1,500., he would recover costs based on his ad damnum, namely, \$50,000 rather than on the amount of the recovery. We think that this is unfair to the defendant in such situations. It's my opinion that the amount of costs recoverable by a plaintiff who prevails in a civil action should not depend on his ad damnum, that is the amount sued for, but rather on the amount of the judgment. On the other hand, if the defendant prevails and I think the defendants costs should be predicated or based on the amount of the ad damnum or the amount the plaintiff sued for. This bill, I think then, would do away with what I consider to be an inequity where the plaintiff may sue for an outlandish sum and recover only a small amount of money and yet get costs based upon the higher ad damnum. Harriett Rosen of my office spoke at length rather about 8169 - AN ACT IMPLEMENTING THE ONE-TIER TRIAL COURT SYSTEM. I don't want to repeat what she has said, just want to say that I am very, very much in favor of the passage of this legislation. Sections 49 through 65 of this particular bill could be eliminated from it because there is other legislation pending before the general assembly and I believe, in the judiciary committee which deals with the same subject matter and I think it would be better taken up when they consider those specific bills. But we feel that sections 1 through 48 are extremely important - - that they be passed during this session so that we could plan properly for the merger. To speak briefly about Raised Committee Bill 8183 - AN ACT CONCERNING HEARINGS ON COMPETENCY TO STAND TRIAL. The main purpose of this bill is to correct what I believe was an error in Public Act 76-353. This Public Act provided, in part, that if the court found an accused unable to understand the proceedings against him or to assist in his own defense, that the court under such circumstances could committ the defendant to the department of mental health for the longer - and I underscore the word longer - of 18 months or the maximum period to which the accused may be sentenced should he be found guilty of the crime charged. Thus, an accused found unable to stand trial and facing, for example, a twenty year felony could under the provisions of current law, be committed to the Department of Mental Health for twenty years even though he had been found guilty of nothing. This bill would correct this deficiency and indicate - by indicating that the most an individual could be who was not able to stand trial - could be committed for would be the shorter of eighteen months or the maximum period of the sentence with which he was faced. Also clarifies other language in the bill - re-instates the last two sections of 54-40 as 54-40 existed prior to the passage of last years Public Act, namely Public Act 76-353. Public Act 76-353 by, I believe an error deleted the last two sections of 54-40. Finally, I would speak in favor of Raised Committee Bill 1645--there are some typographical errors, as I understand it, in this particular bill but the main purpose is to delete the statutory requirement that appeals from the court of common pleas to the  session of the superior court be taken within fourteen days of judgment. We think that the

Belt #3

time of appeals should be fixed by rule of court and for the sake of uniformity with the Supreme Court rules should be twenty days. In other words, if the statutory requirement that appeals be taken within fourteen days is eliminated with respect to appeals from the Court of common pleas to the appellate division of the superior court, it will then be possible to have a uniform time of appeal, both in appeals to the supreme court and to the appellate session of the superior court. Thank you.

S.B. No. 1589

AN ACT ESTABLISHING VENUE IN ACTIONS INVOLVING SECURITY DEPOSITS

In the absence of any designation of venue in Chapter 831, this bill makes it clear that these actions are to be brought to the geographical area of the Court of Common Pleas where the premises are located.

S. B. No. 1590

AN ACT CONCERNING COSTS COLLECTIBLE BY THE PREVAILING PARTY IN CIVIL LITIGATION

This bill sets out in detail the costs that can be recovered by a prevailing party. The point of greatest significance is that a prevailing plaintiff would collect costs based not on the ad damnum but on the actual amount recovered. A prevailing defendant, on the other hand, would collect costs based on the amount of the ad damnum. These results, we believe are the most equitable.

H.B. No. 8183

AN ACT CONCERNING HEARINGS ON COMPETENCY TO STAND TRIAL

This bill revises C.G.S. Section 54-40. The most important change is in section (c) of the proposed bill limiting the maximum period of commitment upon the finding of incompetency to stand trial to the shorter of 18 months or the maximum period to which the accused could have been sentenced if found guilty. Most of the other suggested changes are technical and involve minor revisions in wording or section designation to avoid repetition and increase clarity.

REP. ABATE: Thank you very much. Any questions of Mr. Keefe? John Maloney.

J. MALONEY: Good morning.

REP. ABATE: Good morning, Mr. Maloney.

J. MALONEY: I'm John Maloney. I'm the Director of the Corporations Division of the Secretary of the States Office and I'm Here to speak in favor

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elements of the fire service in Connecticut and I suspect elsewhere, they have a common thread. That common thread is they are all one, fire-fighters, and that's a bond that unless one is either a fire-fighter or very close to a fire-fighter, is difficult to understand, but they understand it, most of us understand all too well, and it's a magnificent characteristic, but in this bill, let's go back and examine what has occurred. Initially, the Filer Commission made a recommendation that the Fire Commission should be placed under the Department of Motor Vehicles and at that time, many felt that that was not a good move, and perhaps they were right. I suspect they were. And so, they decided that it was their prerogative that they would advise those that were working on the reorganization bill, what their feelings were, and who can quarrel with that? And on April 7th, Mr. President, Mr. William Porter, the State Fire Administrator, who is in effect the executive director of the Fire Commission wrote indeed to the Honorable Pat Handle and the Honorable Wayne Baker and they expressed their point of view, and I will quote now, Mr. President, from the final paragraph: "As representative of the State's 21,000 Fire-fighters and because this commission is the voice through which those on the local level can be heard on the state level, the commission strongly feels that in any reorganization of the state government the least that it can accept in good conscience is the ability to report directly to the Commissioner of the proposed Department of Public Safety. Anything less, the commission feels

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will be a dereliction of its duty to the paid and volunteer local fire departments through-out the state." The G.A.P. Committee, Mr. President, Members of the Circle, understood this letter and they thought about it and they said "that's right." And, indeed, they placed at the specific request of the commission itself, the commission for budgetary purposes only, for budgeted purposes only, underneath the Department of Public Safety, and now, Mr. President, we're talking today of some 21 or 22 agencies and they're listed there, Education, Mental Health, Hospitals, major, absolutely major functions of government, and we would be facing an amendment that would say we're going to create the 22nd separate department within the State of Connecticut and that there's going to be a five member \$178,000.00 funded commission and that's going to be the 22nd agency of the State of Connecticut. Okay. I understand that. They made their views known to the G.A.P. Committee on the 7th of April and shortly thereafter made some adaptations, but they didn't know about this. At that point, they weren't sure what G.A.P. was going to do, so they used a devise which is perfectly acceptable, they went to the State Firemen's Association and they said to the State Firemen's Association, "Fellas, we got an awful problem in Hartford. We've got to do something about it. Let's pass a resolution that says we've got to stay unto ourselves because we can't be under the Motor Vehicles Commissioners" and they were right, but nonetheless, they're where they requested to be, and the State Firemen's Association let everyone of us know

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MR. SPEAKER:

The amendment fails. Will you remark further on the bill? If not, will the members please be seated, staff and guests please come to the well, 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 .....	95
Those voting Nay .....	50
Those absent and not voting .....	6

MR. SPEAKER:

The bill is passed.

THE CLERK:

Page seven of the Calendar. Cal. 912, substitute for H.B. No. 8183, file 802, An Act Concerning Hearings on Competency to Stand Trial, Favorable Report of the Committee on Judiciary.

MR. SPEAKER:

Gentleman from the 148th.

MR. ABATE (148th):

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

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MR. SPEAKER:

The question's on acceptance of the Joint Committee's Favorable Report and passage of the bill and will you remark sir?

MR. ABATE (148th):

Yes, Mr. Speaker, the Clerk has an amendment, L.C.O. 7739 will the Clerk please call the amendment? And would I be allowed summarization, Mr. Speaker?

MR. SPEAKER:

The Clerk please call and read L.C.O. 7739, House Amendment Schedule A.

THE CLERK:

House Amendment Schedule A, L.C.O. 7739, offered by Representative Abate of the 148th district, in line 24, between "HIM" and "IN" insert "AND TO ASSIST".

MR. SPEAKER:

Gentleman from the 148th.

MR. ABATE (148th):

By way of explanation, the gist of this proposal before us addresses the ability of an individual accused of having committed an offense, which individual at the time of trial, is so mentally incompetent or so mentally defected as not to be able to understand the proceedings against him or to participate in his own defense. The amendment clearly inserts "And to assist" in his own defense in addition to being able to understand the proceedings against him. I move adoption of the amendment.

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MR. SPEAKER:

Will you remark further on House A? If not, the question is on it's adoption. All those in favor of House A will indicate by saying aye. Opposed? Ayes have it, House A is adopted and ruled technical. Will you remark on the bill as amended sir?

MR. ABATE (148th):

Yes, Mr. Speaker, by way of explanation, this bill addresses as I indicated in explaining the amendment, the situation where an individual has committed an offense and at the time of trial it is determined that that individual is so mentally defected or incompetent as not to be able to participate in the proceedings or to understand the proceedings or to assist in his own defense. When that situation is found to exist, the individual is committed to an institution which exists for housing the mentally ill. Under the existing law, that individual will be so confined in such an institution for the longer of eighteen months or the maximum period of confinement allowed for that offense. The case of Jackson vs. Indiana, clearly establishes that our existing statute is unconstitutional. Jackson vs. Indiana simply states that when a criminal accused is committed on account of his incapacity to stand trial, he should be held no more than a reasonable period of time necessary to determine whether there is substantial probability that he will obtain that capacity in the foreseeable future. In Connecticut, our existing statute has been declared unconstitutional in a Superior Court decision rated by

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Justice Levine in the State of Connecticut vs. Mark Carrington. And there is of record in the Federal Court in Connecticut a consent judgement where the Attorney General of this State agreed that no individual shall be kept longer than eighteen months when he is found to be mentally defected or mentally ill and not able to participate in his own defense. After the eighteen month period of time, that individual is committed in accordance with the standard commitment procedures now in the statutes. This bill is absolutely necessary, absolutely required and I move passage.

MR. SPEAKER:

Will you remark further on the bill as amended? Gentleman from the 119th.

MR. STEVENS (119th):

Mr. Speaker, through you, a question to the Gentleman reporting out the bill.

MR. SPEAKER:

Please frame your question sir?

MR. STEVENS (119th):

Through you, Mr. Speaker, my question is if the Gentleman would make reference to the attorney General's opinion, that he mentioned in the course of his remarks and give us more specific information on just what point the Attorney General rendered an opinion on?

MR. SPEAKER:

Gentleman from the 148th to respond.

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MR. ABATE (148th):

Mr. Speaker, through you, I did not indicate, Mr. Speaker and the record will so reflect that there was an Attorney General's opinion. I indicated that there was a Consent Judgement entered into by the Attorney General but that isn't the gist of the objection. I'll get into the specifics on the Consent Judgement. It was entered in the United States District Court for the District of Connecticut for the case of Michael Kavar vs. Ernest Shepardatal. In that Consent Judgement, entered into by the attorneys for the plaintiff and the attorney for the defendant, it stated that the defendant commissioner of Mental Health or his designee will release the plaintiff Kavar and all other similarly situated. Those were individuals who were confined because of a mental deficiency and an inability to assist in their own defense, who have been confined in mental health facilities pursuant to section 54-40 of the General Statutes, for a period in excess of eighteen months or make application to the Probate Court pursuant to section 17-178 of the General Statutes for the commitment of the individuals. This clearly indicates that the Attorney General of this state felt that eighteen months was a maximum term allowable for such commitment and meets the requirements of reasonableness set out in the Jackson case. Thank you, Mr. Speaker.

MR. SPEAKER:

Will you remark further on the bill as amended? Gentleman from the 102nd.

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MR. FARRICIELLI (102nd):

Mr. Speaker, for clarification, may I ask a question of the Representative of the 148th please?

MR. SPEAKER:

Please frame your question sir.

MR. FARRICIELLI (102nd):

Mr. Speaker, not being an attorney and not being familiar with all the references that were made, but am I correct to understand that if a person were to commit a crime and held for eighteen months and then bound to a mental institution would then be freed at the time or the point that the mental institution determines that they were competent, irregardless of whatever the sentence might be for the crime committed?

MR. SPEAKER:

Gentleman from the 148th.

MR. ABATE (148th):

Mr. Speaker, through you, that is the holding in the Jackson case. That is the law of the United States as determined in the Jackson vs. Indiana decision. That is right.

MR. FARRICIELLI (102nd):

And for one further clarification, if somebody were to commit a murder or a mass murder be found incompetent eighteen months later or two years later, a Mental Board now finds them competent, they would not have to serve the balance of what ever term there might have been, they could then be set free?

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MR. SPEAKER:

Gentleman from the 148th.

MR. ABATE (148th):

Mr. Speaker, through you, assuming the (inaudible) was at a eighteen month period time has elapsed, if subsequent to that eighteen month period of time the individual were committed to an institution for the mentally defected or the mentally ill and then subsequently again determined to be competent, the individual would be released.

MR. FARRICIELLI (102nd):

Thank you, Mr. Speaker, I do understand that this is a necessary bill and that we must comply with our Federal regulations and our Federal Supreme Court, but somehow it is somewhat frustrating to see how many times our state and our United States Supreme Court make the laws of the land and leave us as elected officials kind of twirling our thumbs, it is frustrating but I guess there isn't too much we can do. Thank you.

MR. SPEAKER:

Will you remark further on the bill as amended? If not, the members will be seated, staff 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.

