Legislative History for Connecticut Act

HB 5076 PA 422 fax 1 scan 1977

Judiciary 478, 482 (2p)

Senate Proc. 2821-2824 (4p)

House Proc. 2894-2900 (7p)

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JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 2
354-671

1977

125
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March 8, 1977

JUDICIARY
CRIMINAL LAW

REP. ABATE: O.K... we are open to any suggestions.

MICHAEL ROEDER: No in all fairness I talked to Rep....about that an I indicated to him in my letter that $5700 would be more than enough to cover the cost of the people we have on board right now but really any amount of money that we could receive from the Legislature towards this effort would be greatly appreciated.

REP. ABATE: Thank you very much, any questions of Mr. Roeder? Gilbert Salk, Beatrice Kowalski, Mr. R. Gried, Albert Cramer, Rev. Richard Pagano, Edward Sichinski, Hugh Ward,

HUGH WARD: Mr. Chairman, members of the panel and Rep. Abate, members of the committee, I'm Hugh F. Ward of three Evergreen Road, in Manchester speaking in behalf of the 7,500 member local 1746 machinists A.F.L.-C.I.O. and the district of 91 retirees and also the Connecticut Council of Senior Citizens, Inc. We favor, it was a proposed bill now it is a committee bill, 5606, concerning sexual assault we desire the enactment to include provisions of all types of assault committed against the elderly. We feel that this would reduce crime, also bill 5076 which is a companion bill. C. B. 35, 5072 and proposed bill 7242 are related in compensating innocent victims of violent crimes, C.B. 5072 definitely spells out the course of action to be taken and this would be our first choice bill.

I do wish to leave you a clipping from a New YOrk Times dated March 5, Paris, where a new law is now in effect throughout France that they will allow up to $30,000 compensation to crime victims who suffer severe injury. The government of France has set aside $800,000 and they do expect as many as 1,000 cases in 1977. This article goes on to describe the injuries which the victims must have suffered to be eligible for compensation. I thank you, you will find it in your box and I've already photostated on it.

REP. AB ATE: Thank you , Marcella Fahey

MARCELLA FAHEY: Marcella Fahey and I'm testifying on behalf of Rep. Margaret Morton, O.K. she is strongly in favor of bill 5958 AN ACT ABOLISHING THE DEATH PENALTY she feels that if we can not decide on a standard of rules and criteria we should remove it from the books altogether. Thank you very much

REP. ABATE: Is there anybody else who wishes to testify that hasn't signed up here because I'm at the end of the list.

LILLIAN VAN DE VERE (CONT.): so they built that upper story and without my knowing it he sneaked up there and did something or other and I said no smoking up there and because I said that I was beaten brutally, terribly and I don't know what to do really. The police don't do anything you tell them about it you go to ... they ask me do you have any witnesses does anyone think that when a man is going to beat you that he is going to wait until you have witnesses. Anymore than do they think you are going to have your purse snatched when there is anybody around, those things happen when they are sure the cost is clear.

SEN DePIANO: I appreciate your views and I'm sure that the committeee will take it into consideration and we know what bills you want us to consider and which bills you want us to consider and we certainly will in view of your plight. I would suggest that if you would have to write to the state police if the local police won't help you.

LILLIAN VAN DE VERE: Well it's a funny situation in Manchester. I thought is you don't get help from one police department you could go to another and I was informed that the Manchester Police Department was a private corporation and no outside police department can come in and do anything in Manchester and that's a very strange situation isn't it but so they say it is. But at least today is the first, or at least these last few days are the first time I came out to walk without crutches. I have been on crutches a long time, wheel chair a long time, hospitalization for a long time

SEN. DePIANO: We know thank you very much, we appreciate your coming.

LILLIAN VAN DE VERE: Well thank you very much... favorable report on this bill 5076, we need some kind of remuneration, some type of a care for elderly because they are getting away with too much.

EDMOND MOSCA: Mr. Chairman, members of the committee my name is Edmond Mosca and I'm the chief of police in the town of Old Saybrook, I thought my name was on that list. I also represent the Eastern Council of Connecticut's Police Chief, I would like to start off by saying we are opposed to C.B. 813 we think it would be tree giant steps backwards to abolish the office of Chiefs State 's Attorney. We strongly support bill 5244 relevant evidence dealing with Connecticut's current statute defining the property that may be lawfully searched for pursuant to a warrant based on probable cause, as the most restrictive in the nation. Property searched for and seized is currently restricted to contraband and instrumentalities of a crime. This means

S-126

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
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VOL. 20
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General Law. Substitute for House Bill 8124. AN ACT VALIDATING ACTS AND DEEDS, VALID EXCEPT FOR CERTAIN IRREGULARITIES AND OMMISSIONS.

THE PRESIDENT:

Senator Cutillo.

SENATOR CUTILLO:

Mr. President, I am going to ask that that be passed retaining, and if I may before theClerk goes on to other business, I request of Senator Gawrych, on the same page, page sixteen, Cal. 902, that that be passed retained.

THE PRESIDENT:

So ordered.

THE CLERK:

Turning to page seventeen of theCalendar, middle of the page, Cal. 909, Files 611 and 1030. Favorable report of the joint standing Committee on Judiciary. Substitute for House Bill 5076. AN ACT CONCERNING SENTENCING FOR ASSAULT OF PERSONS SIXTY OR OVER, as amended by House Amendment ScheduleA.

THE PRESIDENT:

Senator DePiano.

SENATOR DEPIANO: (23rd)

I move for passage of the Amendment.

THE PRESIDENT:

Since this is a house bill, Senator DePiano, I believe

that if you request that the bill be passed as amended by House Amendment Schedule A that would suffice.

SENATOR DEPIANO:

So requested, Mr. President.

THE PRESIDENT:

Will you comment?

SENATOR DEPIANO:

Well, we have already passed on this bill and I think the comments were made at that time.

THE PRESIDENT:

I don't believe that we have, Senator. Correct me, if I am wrong, but I don't believe we have passed on this bill in this chamber. This is Substitute for House Bill 5076.

SENATOR DEPIANO:

This bill would create four new crimes involving assaults against elderly blind or disabled persons. The new crimes would carry the same authorized sentences as comparable assaults against nonelderly persons, but would require the imposition of a nonsuspendible minimum term of imprisonment. Of course, this bill is directed at trying to stop these assaults upon people who are blind and elderly and disabled who cannot defend themselves. So I move for passage of the bill as amended.

THE PRESIDENT:

Senator Gunther.

SENATOR GUNTHER: (21st)

Mr. President, I am very happy to rise in support of

this bill. I have some misgivings about it. This doesn't really get to the problem that they would have you believe it gets to. If this bill had included youths and youthful offenders from fourteen up, it would have been a good bill because the statistics will show that the crimes that they are talking about here, eighty percent of them are committed by juveniles. And all I can say is that it is unfortunate that the Judiciary Committee didn't go beyond the mini-step and that they didn't take the step to go all the way to get at these heinous crimes and that would have been to involve the sixteen or even down to the fourteen year olds. I think we have heard enough of this. On CBS, they ran a special program on it. I know many of the newspapers throughout the state have been concerned about this particular type of crime. This is one little step in the direction to get at the whole problem. I hope that maybe next session we can reduce the age and get into the juvenile offender and that and get him included in this bill for open court hearings and to get after the problem that we should have done this time.

THE PRESIDENT:

Senator Lieberman.

SENATOR LIEBERMAN: (10th)

Mr. President, I rise to support the bill. Mr. President, I rise to say a word to myself, I think, for therecord. I traditionally have been at least skeptical about the idea of

mandatory sentencing. I voted for mandatory sentencing in one other case before this Legislature and it was in relationship to the commission of a felony while in possession of a hand gun because I thought that category of crime was so serious that it deserved that kind of treatment. In this case, I think that the category of crimes which is crimes against the elderly and the disabled are also that serious and deserve that kind of treatment. Mr. President, I can't think of anything else that makes me angry here as I live and work as a state senator or read the newspapers than the attacks that occur regularly on older people in our communities. They, in my opinion, are the most heinous and cowardly kinds of crimes that are committed in our society and I think, therefore, that the notion of a mandatory, nonsuspendible, minimum sentence in these cases is justified and I hope it plays some part in deterring the commission of these crimes.

THE PRESIDENT:

Senator DePiano.

SENATOR DEPIANO:

If there is no objection, I move that it be placed on the Consent Calendar.

THE PRESIDENT:

Hearing no objection, it shall be ordered.

THE CLERK:

Turning to page nineteen of the Calendar, Cal. 919, File 834. Favorable report of the joint standing committee on

H-1832

CONNECTICUT
GEN. ASSEMB

HOUSE

PROCEEDINGS
1977

VOL. 20
PART 7
2589-2978

your minds. All those in favor of acceptance and passage of the balance of the bills contained within the original motion of the gentleman from the 10th, except Calendar No. 530 just removed by the gentleman from the 52nd, will indicate by saying aye. Opposed? The ayes have it, the bills are PASSED.

The Clerk be good enough to proceed with the call of the regular Calendar.

THE CLERK:

Page 5 of the Calendar, favorable reports, Calendar No. 446, substitute for H.B. No. 6231, File Nos. 330, 864, An Act Concerning the Organization of the Department of Mental Health and the Slcohol and Drug Councils.

MR. O'NEILL (34th):

Mr. Speaker, may that item be passed retaining its place.

THE SPEAKER:

Is there objection? Hearing none, the matter is retained.

THE CLERK:

Calendar No. 498, substitute for H.B. No. 5542, File No. 361, An Act Concerning Litter Control.

MR. O'NEILL (34th):

Mr. Speaker, may that item be passed retaining its place.

THE SPEAKER:

Is there objection? Hearing none, the matter is retained.

THE DEPUTY SPEAKER IN THE CHAIR

THE CLERK:

Page 6 of the Calendar, Calendar No. 719, substitute for H.B. No. 5076, File No. 611, An Act Concerning Sentencing for Assault of

Persons Sixty or Over, favorable report of the Committee on Judiciary.

MR. GILLIGAN (28th):

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

THE DEPUTY SPEAKER:

The question is on acceptance of the committee's favorable report and passage of the bill.

MR. GILLIGAN (28th):

Mr. Speaker, the Clerk has an amendment, LCO 6685.

THE DEPUTY SPEAKER:

The Clerk has LCO 6685 designated as House Amendment Schedule "A". Would the Clerk please call.

THE CLERK:

House Amendment Schedule "A", LCO 6685 offered by Rep. Stevens, 119th district, Rep. Gilligan, 28th district.

MR. GILLIGAN (28th):

Mr. Speaker, I request permission to summarize the amendment.

THE DEPUTY SPEAKER:

Is there any objection to the gentleman summarizing the amendment? Any objection? Please proceed, sir.

MR. GILLIGAN (28th):

Mr. Speaker, this amendment would merely delete the language throughout the bill that appears in, I think, four places, the words, and the person committing such assault has reason to believe that he is physically stronger than the victim, is deleted throughout the file copy. I move its adoption.

THE DEPUTY SPEAKER:

The question is on adoption of House Amendment Schedule "A". Would you remark further? Will you remark? All those in favor of House Amendment Schedule "A" signify by saying aye.Those opposed? House "A" is ADOPTED and ruled technical.

Would you remark on the bill as amended by House Amendment Schedule "A"?

MR. GILLIGAN (28th):

Mr. Speaker, this bill would impose more stringent penalties upon persons committing various types of violent crimes against victims who are over the age of sixty along with blind and physically handicapped persons. The question has been asked a great deal in the last several weeks as to why we should distinguish between persons over the age of sixty and persons of lesser years. I'd like for a moment to read for the records the reasons that I believe we can make a fair distinction between persons over the age of sixty. In the first place, older persons are more likely to live alone and travel alone and that isolation tends to increase their vulnerability to crime. Further, older persons have diminished physical strength and stamina and, therefore, are less able to defend themselves or to excape from threatening situations. Three, older persons are more likely to suffer from physical ailments such as loss of hearing or sight or arthritis which makes them more vulnerable. Four, older persons are more easily injured since their bones are more brittle and slower to recover from their injuries. Five, older persons are more likely to be dependent upon walking or public transportation and, therefore, are more exposed to assault. Six, the dates of receipt of monthly pension and benefit checks are widely known increasing the likelihood that older persons will be carrying cash and the likelihood of assault

at regular intervals.

Mr. Speaker, I urge passage of this bill primarily for the reasons that there exists in this state at the present time a self-imposed house arrest on many of the citizens of this state and from my experience and from my research and my mail, the crime is uppermost on the lists of (record 2) concerns of our elderly, and I believe this measure is but a first step towards meeting that concern. It has the support of the former commissioner on aging, Mr. Charles O'Dell. It has the support of the chairman of the Hartford Commission on Aging, Mr. Sydney Gardiner and it is merely a first step but an important step towards the establishment of a firm social policy that states that we will, as a society, no longer permit the molestation of our elderly citizens.

I move passage of the bill, Mr. Speaker.

THE DEPUTY SPEAKER:

Would you remark further on the bill as amended?

MR. VARIS (90th):

Mr. Speaker, I would hope that this bill would pass unanimously in this House to give a clear signal to those who would prey on our senior citizens that this House will not tolerate it. Thank you, sir.

THE DEPUTY SPEAKER:

Would you remark further? Would you remark further?

MR. SERES (128th):

Mr. Speaker, thank you Mr. Speaker. I too would rise in favor of this bill. I feel it's specious in some regards when we try to establish a chronological age for the elderly. I think anyone convicted of an assault of people on our city streets and in our suburbs should be sentenced to maximum prison sentences regardless of the age of the victim. I only wish

that this bill would go further than that. I wish that this bill would keep the marauders off our streets but if this is the first step in that direction, I along with I'm sure my other colleagues wholly support it. But I think in the future, we should look to more stringent laws to protect all of our citizens all of the time. Thank you.

MR. BERMAN (19th):

Mr. Speaker, I would like to rise in opposition to this bill. I believe I was the only member of the Judiciary Committee which opposed the bill when we convened as a committee and voted on it and I would like to explain why I opposed it then and why I oppose it now, if anyone is interested.

THE DEPUTY SPEAKER:

The Chair is having difficulty and I know some of the members are in trying to follow the debate. We would ask your cooperation in trying to keep the noise level to a very minimum. Thank you very much. Will you continue, sir.

MR. BERMAN (19th):

Yes, Mr. Speaker. We are going to be asked to favor a great deal of mandatory sentence legislation and I think it's important that those of us who oppose this kind of legislation not be painted with a brush, in this instance of being in favor of assaults on elderly and that sort of thing, because rising to oppose a bill like this is, of course, not a particularly popular thing to do. But I think right now the style that we're being asked to espouse is mandatory minimum sentences so under a bill such as the one before us today, any person over sixty is entitled to special treatement by our statutes and by our courts so that the person who commits the offense, whether or not he knows the person is over sixty,

gets especially harsh treatment and this would apply, Mr. Speaker, to the situation where a seventy year old wife assaults her sixty year old husband. If those are the facts, then that person, that assailant is entitled to especially harsh treatment, perhaps justly so, but I think our assembly ought to be aware of what we are voting today by approving of this kind of a mandatory minimum. There is a bill before the general assembly, there is a commission which is going to study the entire sentencing of our citizens and I believe that the way to handle this is to develop a uniform sentencing policy in Connecticut rather than to have our general assembly adopt a piecemeal approach.

Thank you, Mr. Speaker.

MR. DYER (110th):

Mr. Speaker, I'd like to support this bill, Mr. Speaker. There's a greater issue than just law involved in this bill. The basic issue is for the state to put on notice to those who would assault or purge our senior citizens that we care about our elderly and that we intend to take all action necessary to protect our elderly residents. As my distinguished fellow colleague on the Judiciary Committee raises a good point when he says we are giving special attention to people over sixty years of age. I think that is what we are doing and I think that's what we should be doing to protect those people, to see that they can serve out their remaining years that they have without assault, without being purged because they are regarded as weak by the criminals. I urge passage of this bill. Thank you.

MR. HINDS (8th):

Mr. Speaker, a question to the proponent of the bill, please, through you Mr. Speaker. I'm wondering if there has been any comment in

the deliberations of the committee, any comment from the Attorney General's office or any comment from the corrections department relating to the number of people that would be imprisoned because of this kind of thing and what the net effect would be to the rest of the system. We have all gotten letters concerning overcrowding in prisons in the state.

MR. GILLIGAN (28th):

Through you Mr. Speaker, no, there has been no comment whatsoever on that issue. I have received no communications from the department of corrections or the state's attorney office. That would be the state's attorney's office rather than the attorney general's office.

THE DEPUTY SPEAKER:

Are you prepared to vote? Will the members please take their seats, the staff and guests come to the well of the House. The machine will be open. Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk please take a tally.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....137
Necessary for Passage..... 69
Those Voting Yea.....118
Those Voting Nay..... 19
Those Absent and Not Voting.... 14

THE DEPUTY SPEAKER:

The bill as amended is PASSED.

MR. BORDIERE (24th):

Mr. Speaker, I am rising for the purpose of a personal privilege.

THE DEPUTY SPEAKER:

What is your point of personal privilege, sir?

MR. BORDIERE (24th):