

Legislative History for Connecticut Act

HB 5945 PA 345 1978 Scan

Judiciary: 0

Senate: 2830-2831, 2832 (3p)

House: 1937-1941, 4552-4554 17p
1644-1652

LAW/LEGISLATIVE REFERENCE
DO NOT REMOVE FROM LIBRARY

Total 20p

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

Connecticut State Library

Compiled 2015

PA78-345

Proceedings / Connecticut General Assembly, House. 1978 v.21:pt.5.,
p.1644-1652

Proceedings / Connecticut General Assembly, House. 1978.v.21:pt.6.,
p.1937-1941

Proceedings / Connecticut General Assembly, House. House. 1978, v.21
pt.13., p.4552-4554

Proceedings / Connecticut General Assembly, Senate. 1978 v.21:pt.7

Monday, April 10, 1978 134

Those absent and not voting 8 efr

The bill as amended fails.

THE CLERK:

Page 13 of the Calendar, Calendar 577, Substitute for H.B. 5945, File 375, an Act concerning the employment and promotion of children in obscene performances and material. Favorable report of the Committee on Judiciary.

JAMES E. DYER:

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

MR. SPEAKER:

The question is on acceptance of the Joint Committee's favorable report and passage of the bill. Will you remark, sir?

TAPE #20

JAMES E. DYER:

Yes. Mr. Speaker, this bill would expand the scope of the criminal statutes prohibiting activities related to child pornography so as to reach and materials not now covered by the law. Specifically, it would make it a crime punishable by imprisonment for up to 20 years and/or a fine of up to \$10,000 to employ any child under 16 in order to promote materials which are obscene as to minors. Two, make it a crime punishable by imprisonment for up to ten years and/or a fine up to \$5,000 to knowingly promote any material or performance in which a child is used and which is obscene as to minors. And three, substitute in the existing law against employing a child in order to promote an obscene performance the more restrictive standard of obscenity

Monday, April 10, 1978

135

as to minors for the more permissive standard of obscenity as to adults. Mr. Speaker, there is a cancer growing in our land. It is a cancer that feeds on the exploitation of tender young flesh; a cancer that is prostituting our young and eating at our moral fiber. It is a cancer known as child pornography. It isn't bad enough that we have pornography, and the minds that seek fulfillment by viewing perversion, but now we have reached an era where pornography demands categorizing. As an individual, and as a legislator, I've really had enough of this filth. The legislation before us presents an opportunity for Connecticut to establish one of the toughest anti-child pornography laws in the nation. This bill presents each of us with the opportunity to tell the flesh peddlers that they are not welcome in Connecticut, nor will they be tolerated in Connecticut. When I first asked for this legislation I did so in response to a constituent's call. The person asked me, "How is it that a movie like 'Pretty Baby'...featuring an explicit sex scene with a twelve-year-old girl...how is it that that kind of film can be shown in Connecticut?" It's time to say that that kind of film cannot be shown in Connecticut. It's time to throw that kind of smut out of Connecticut. Mr. Speaker, I urge passage of this bill.

MR. SPEAKER:

For further remarks.

CLYDE O. SAYRE:

Mr. Speaker, I believe the Clerk has an amendment, L.C.O. 2944. Would the Clerk please call and read.

MR. SPEAKER:

Monday, April 10, 1978 136

Would the Clerk please call and read L.C.O. 2944, which shall have the style of House Amendment Schedule "A". The Clerk call and read. efr

THE CLERK:

House Amendment Schedule "A", L.C.O. 2944, offered by Representative Sayre, 68th District. In line 34, delete the word "nudity". In line 36, delete everything after the word "intercourse". Delete lines 37 to 42, inclusive. In line 43, delete the word "state" and delete the opening and closing brackets around "3" and delete "4". Renumber the remaining subsections accordingly. In line 78, delete the word "serious" and substitute in lieu thereof the following: "social importance".

CLYDE O. SAYRE:

Mr. Speaker, I move adoption and request permission to speak on the amendment, sir.

MR. SPEAKER:

The gentleman of the 68th moves adoption of House "A", and you have the floor, sir, to speak in furtherance of your motion.

CLYDE O. SAYRE:

Thank you, Mr. Speaker. I think that the original piece of legislation was probably one of the most poorly drafted that I've seen, and the amendment really leaves some huge problems with the bill, such as on line 34..."nudity", which we are deleting...and line 36...the description of "nudity". And I might call to the members' attention that that covers material or performances. And if you look under material..."anything

Monday, April 10, 1978 137

changeable or capable of being used or adapted to arouse interest
whether through the media of reading, observation, sound or in
any other matter". And I would call the members' attention to
between the third and fourth floor on the east wing we have
statues of nude males...or females...I'm sorry...with certain parts

MR. SPEAKER:

There is a difference, sir.

CLYDE O. SAYRE:

I know that, Mr. Speaker. I checked those statues.

MR. SPEAKER:

Gee whiz.

CLYDE O. SAYRE:

I would say that anytime that we, under this enacting
legislation, took a group of young students up through the
Capitol, this is only one area. I didn't have time to explore
the rest of the Capitol building. I'd also say that Picasso,
and Michaelangelo, and Rembrandt, and Rubens, under this bill,
would be totally out-of-line. I would suggest that you go to
your museums, or any library, and you will find many things that
would be out-of-line. And then back over on page...or on line
79...78 and 79...where they talk about "serious literary bene-
fit", and I talked with my librarians who said that the books
that depict sexual being...you know, we weren't brought by the
stork...and so when you want to talk to your young children you
might wish to have a book to explain sex to these kids. It is
really not a literary gem, but there are many, many books on the
subject of sex which do show nude males and do show nude females

Monday, April 10, 1978 138

and do show certain things that can be performed. I think we're efr
going overboard on this, Mr. Speaker. We did put in "social
importance" so that we could keep the books in the library so
that you mothers and fathers who are at a loss of words with your
own kids can show them a book.

MR. SPEAKER:

Will you remark further on House "A"?

ERNEST N. ABATE:

Mr. Speaker, I rise in opposition to the amendment.
I'd like to call to this chamber's attention the fact that the
file copy addresses a certain context. We're talking about
prohibited sexual acts. We're talking about acts that are
harmful to minors. These particular phrases are not without
definition in the statute, and if one were to seriously consider
the file copy relative to the amendment, one would see that the
concerns which have been voiced by Representative Sayre are
without foundation. The entire context of this bill relates
to prohibited sexual acts and acts which are harmful to minors.
Now, obviously, the display of a nude statue doesn't have any
application in this particular context, because if taken as a
whole would not lack serious literary, artistic, political, or
scientific value. Obviously a statue is a work of art, and you
have to view that in that context. Obviously you're going to
have to address the reason behind the performance that one is
challenging as being obscene. If its reason is to appeal to
the purient interests, then it's obviously irregular and ought
to be prohibited. This particular statute addresses just that

Monday, April 10, 1978

139

kind of issue. I might call your attention to the fact that the language contained in lines 78 through 80 where it refers to "taken as a whole it lacks serious literary, artistic, political, or scientific value" is language right out of the case law that has come out of our United States Supreme Court. So, in summary, I would ask you consider the facts that I've presented you today. Don't be impressed with what I consider specious argument...argument which, when examined carefully, is going to be proved to be without foundation. Thank you.

MR. SPEAKER:

For further remarks on the amendment

UNIDENTIFIED REPRESENTATIVE: (JAMES E. DYER)

Mr. Speaker. I would just, Mr. Speaker...I would just speak against the amendment, also. I believe the bill very clearly leaves great room for serious literary and artistic, scientific and educational value, and at the same time it addresses very strongly if the intent is for pornographic purposes employing children.

MR. SPEAKER:

Are you prepared to vote on the amendment?

CLYDE O. SAYRE:

Mr. Speaker.

MR. SPEAKER:

The gentleman of the 68th for the second time.

CLYDE O. SAYRE:

For the second time.

MR. SPEAKER:

Monday, April 10, 1978 140

Yes, sir. You have the floor, sir.

efr

CLYDE O. SAYRE:

Mr. Speaker, I have no quarrel with the intent of what this bill is to do. I do have quarrel with the language that is being used. Serious literary matters to me aren't books that are for third and fourth graders. That is not really serious literature. Nudity as defined doesn't show me or spell out to me that it does not entail the statues or some of the works of art that we do have, and I wonder if we could p.t. this bill so that we can properly draft an amendment.

MR. SPEAKER:

Is the gentleman moving...

CLYDE O. SAYRE:

I'm asking for a pass temporarily from the Chairman of Judiciary so that we might properly draft the amendment.

MR. SPEAKER:

The Chair has the sense of the gentleman's comment that he is suggesting the matter be passed temporarily, or is the Chair incorrect? Is the gentleman from the 68th so moving?

CLYDE O. SAYRE:

All right. I'll move that we pass the matter temporarily, sir.

MR. SPEAKER:

What we have before us is a motion to pass the matter temporarily. Will you remark on the gentleman's motion?

ERNEST N. ABATE:

Mr. Speaker. Yes, Mr. Speaker. I object to the motion

Monday, April 10, 1978

141
efr

that we pass this matter temporarily based simply upon the comments that I made when I addressed the amendment at the outset. If the members present in this chamber at this moment are reading this file copy and considering the amendment relative to the language in the file copy, you will see that the arguments being made are specious. They appear to be sound, but on evaluation when read relative to the context of this statute they are without foundation.

GERALD F. STEVENS:

Mr. Speaker, I would rise to support the gentleman's request for a motion to pass temporarily. I think common courtesy to any member in a serious debate such as this requires that]that the chamber, unless there is some pressing reason, go along with the request. Now, we've been here in session since twelve today, and this is one of the few bills that we have engaged in debate on. I think we've taken up three or four bills so far today. It may be specious to one of us, but to others there may be some merit, and I would ask that the other side, and especially the Chairman of the Judiciary Committee, reconsider his position just in light of common courtesy to another member of the House who may wish to perfect an amendment.

MR. SPEAKER:

Further remarks on the motion?

ERNEST N. ABATE:

Mr. Speaker, strictly out of the sense of courtesy in response to my friend, Gerry Stevens, I'm going to withdraw my objection.

Monday, April 10, 1978 142

MR. SPEAKER:

efr

Is there objection. Now we're back on the motion to pass temporarily. Are there any further comments or objections to the motion or kind words for the gentleman of the 119th or whatever? Are there any objections to the motion of the gentleman of the 68th to pass it temporarily? Well, hearing no objection, the matter is passed temporarily.

THE CLERK:

Page 13 of the Calendar, Calendar 578, Substitute for H.B. 5310, File 407, an Act concerning the Oak Grove Association. Favorable report of the Committee on Government Administration and Policy.

TIMOTHY J. MOYNIHAN:

Mr. Speaker, I move that the following items be placed on today's regular Consent Calendar: Calendar No. 578, Substitute to H.B. 5310, File No. 407; Page 21, Calendar No. 644, H.B. 5307, File No. 408; Page 27, Calendar No. 696, S.B. No. 188, File No. 318; Calendar No. 697, S.B. 527, File No. 304; Calendar No. 698, S.B. 595, File No. 300. Thank you, Mr. Speaker.

TAP
#2

MR. SPEAKER:

You have the gentleman's motion. Is there objection on the part of any individual member to any of the bills within the scope of his motion being placed at this time on Consent? Any such objection? Hearing none, it is so ordered.

THE CLERK:

Calendar 580, H.B. 5081, File 383, an Act extending liability for injury to all employees of the Public Defender

Will you remark on the bill as amended?

MR. WALSH (53rd):

Mr. Speaker, I believe the amendment and the bill are one and the same, so I would urge its passage.

THE SPEAKER:

Will you remark further? If not, will the members please be seated and the staff come to the well of the House. The machine will be open. The machine is still open. Have all the members voted. Is your vote properly recorded? Have all of the members voted? Thank you. If all the members have voted the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	134
Necessary for passage.....	68
Those Voting Yea.....	126
Those Voting Nay.....	8
Those Absent and Not Voting....	17

THE SPEAKER:

The bill as amended is PASSED.

THE CLERK:

Page 9 of the Calendar. Calendar No. 577. Substitute for H.B. No. 5945. AN ACT CONCERNING THE EMPLOYMENT AND PROMOTION OF CHILDREN IN OBSCENE PERFORMANCES AND MATERIAL.

Favorable report of the Committee on Judiciary.

MR. DYER (110th):

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

THE SPEAKER:

The gentleman from the 110th has the floor and he's moved for acceptance and passage, and will you remark?

MR. DYER (110th):

Yes, Mr. Speaker. We've already discussed this bill at length and when we left it the other day, there was an amendment from Representative Sayre from the 68th District, and I would yield to Representative Sayre.

THE SPEAKER:

The Chair would inquire whether the gentleman from the 68th accepts the yield from the gentleman from the 110th?

MR. SAYRE (68th):

Yes, I do, sir. Mr. Speaker, there is an amendment which was being considered, LCO No. 2944, which I would request that amendment be withdrawn at this time.

THE SPEAKER:

Yes. Now for the status for the record, the Chair would recall with the Chamber that when the matter was first double-starred and reached, a motion for acceptance and passage -- a motion was made by the gentleman from the 110th for acceptance and passage. During the colloquy in furtherance of his motion, the gentleman from the 68th offered an amendment, specifically LCO No. 2944, which had been designated House Amendment Schedule "A". There was subsequent colloquy and before a vote was taken on House "A" the matter was first passed temporarily and then retained with a blanket motion or, indeed, retained by operation of adjournment. In either case, we had the matter brought before us and the gentleman from the 68th who offered

House of Representatives

Friday, April 14, 1978

25
mcb

"A" is now respectfully requesting that House Amendment Schedule "A" be withdrawn, and it is so withdrawn, sir.

Now, will you remark further on the bill? You have the floor, the gentleman from the 68th, Representative Clyde Sayre has the floor and retains the floor.

MR. SAYRE (68th):

Thank you, Mr. Speaker. LCO No. 3431. Could the Clerk please call and read?

THE SPEAKER:

Is it the gentleman's pleasure to have the Clerk read or would the gentleman care to summarize?

MR. SAYRE (68th):

The Clerk can read it.

THE SPEAKER:

Hopefully, you're correct, sir. Now, will the Clerk please call and read LCO No. 3431 which shall be designated House Amendment Schedule "B".

THE CLERK:

(record
#4)

House Amendment Schedule "B", LCO No. 3431, offered by Representative Tulisano, 29th District, Representative Sayre, 68th District, Representative Berman, 19th District.

In line 34, delete the word "nudity" and substitute the words "nude performance" in lieu thereof.

In line 79, before the word "political" insert the word "educational".

House of Representatives

Friday, April 14, 1978

26
mcb

In line 83, before the word "interest" insert the words "prudent, shameful or morbid".

THE SPEAKER:

You have the amendment. What is your pleasure, sir?

MR. SAYRE (68th):

I would move adoption of the amendment.

THE SPEAKER:

The gentleman moves House "B", and would you remark, sir?

MR. SAYRE (68th):

Mr. Speaker, this takes care of the problems that we have had with the bill, those of us that had had very deep concerns about some of the language - not the intent of the bill, not what the legislation was going to do, but in the method in which it was comprised, and I would thank Representative Dyer, Representative Abate and Representative Stevens for their help in this matter. Thank you.

THE SPEAKER:

Will you remark further on House "B"?

MR. DYER (110th):

Mr. Speaker, first my apologies, Mr. Speaker, for being so enthusiastic when I first stood up. I support the amendment as does the Chairman of the Judiciary Committee, otherwise the bill came out of the Judiciary Committee with unanimous support. I think it makes a good bill better and clarifies it. I would move passage of the bill as amended.

THE SPEAKER:

Will you remark further on House "B"? If not, the question is

House of Representatives

Friday, April 14, 1978

27
mcb

on its adoption. All those in favor of House "B" will indicate by saying "Aye". Opposed? The "Ayes" have it. "B" is ADOPTED and it is ruled technical.

Now, will you remark on the bill as amended by "B"? The gentleman from the 110th has the floor.

MR. DYER (110th):

Mr. Speaker, I think all has been said that is necessary about this bill and I would urge its passage as we have amended it.

THE SPEAKER:

Remark further on the bill as amended? If not, will all the members please be seated and the staff and guests come to the well. The machine will be open. The machine is still open. If all the members have voted, the machine will be locked and the Clerk will be good enough to take a tally.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	134
Necessary for Passage	68
Those Voting Yea.....	134
Those Voting Nay.....	0
Those Absent and Not Voting...	17

THE SPEAKER:

The bill as amended is PASSED.

The Chair at this point would inquire if there are any points of personal privilege, requests for Journal notations, or announcements.

MS. BERMAN (92nd):

Thank you, Mr. Speaker. I have the honor to introduce one

House of Representatives

Monday, May 1, 1978

255
mcb

THE DEPUTY SPEAKER:

Sorry, sir, the tally has been announced.

THE CLERK:

Page 9 of the Calendar. Calendar No. 577. Substitute for H.B. No. 5945, File Nos. 375 and 608. AN ACT CONCERNING THE EMPLOYMENT AND PROMOTION OF CHILDREN IN OBSCENE PERFORMANCES AND MATERIAL. As amended by House Amendment Schedule "A" and Senate Amendment Schedule "A".

Favorable report of the Committee on Judiciary.

MR. DYER (110th):

Mr. Speaker, I move acceptance and passage of the bill in concurrence with the Senate.

THE DEPUTY SPEAKER:

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

MR. DYER (110th):

Mr. Speaker, the Clerk has an amendment, designated Senate "A", LCO No. 3838.

THE DEPUTY SPEAKER:

The Clerk has in his possession LCO No. 3838, which is designated as Senate "A". Would the Clerk please call and read the amendment.

THE CLERK:

Senate Amendment Schedule "A", LCO No. 3838.

In line 36, bracket the word "nudity" and insert nude performance.

In line 43, before the period insert "in any play, motion picture, dance or other exhibition performed before an audience".

MR. DYER (110th):

Mr. Speaker, this amendment further defines and restricts the bill especially regarding the concerns of many people, that being educational books. I move acceptance -- I move adoption of the amendment.

THE DEPUTY SPEAKER:

The question is on adoption of Senate "A". All those in favor indicate by saying "Aye". Opposed? Senate "A" is ADOPTED.

Will you remark further on the bill as amended?

MR. DYER (110th):

Mr. Speaker, we've already discussed the bill when it was in the Chamber.

THE DEPUTY SPEAKER:

Members please take your seats. Staff and guests please come to the well of the House. The machine will be open. Have all the members voted. The machine will be locked. The Clerk please take a tally.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	139
Necessary for Passage.....	70
Those Voting Yea.....	139
Those Voting Nay.....	0
Those Absent and Not Voting.....	12

MS. BELAGA (136th):

Mr. Speaker, in the affirmative, please.

THE DEPUTY SPEAKER:

House of Representatives

Monday, May 1, 1978

257
mcb

From the 136th, Ms. Belaga.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	140
Necessary for Passage.....	71
Those Voting Yea.....	140
Those Voting Nay.....	0
Those Absent and Not Voting.....	11

THE DEPUTY SPEAKER:

The bill as amended is PASSED.

THE CLERK:

Calendar No. 701. Substitute for S.B. No. 254, File Nos. 264 and 645. (AN ACT CONCERNING THE STATE COMMUNITY DEVELOPMENT PROGRAM. As amended by Senate Amendment Schedule "A" and House Amendment Schedules "A" and "B".)

MR. CARRAGHER (5th):

Mr. Speaker, I move that this bill be passed retaining its place.

THE DEPUTY SPEAKER:

You have heard the motion. Any objection? So ordered.

THE CLERK:

Calendar No. 1096. Substitute for H.B. No. 5264, Files Nos. 711 and 762. AN ACT CONCERNING SUCCESSION AND TRANSFER TAXES. As amended by House Amendment Schedule "A" and Senate Amendment Schedule "A".

Favorable report of the Committee on Finance.

MR. ALLYN (43rd):

Mr. Speaker, I move passage of the bill as amended by the Senate.

SENATE

FRIDAY
APRIL 28, 1978

75
LFU

SENATOR SULLIVAN:

Mr. President, while we'r awaiting for these Amendments, this has been passed temporarily, can we go back to page 5 of the Calendar and take the bottom item on the page at this time?

THE CHAIR:

We're back to page 5 at the bottom. It's Calendar 682, it was PT'd and we're ready to proceed now.

THE CLERK:

Calendar 682, File 275 and 608, Favorable Report of the Joint Standing Committee on Judiciary, Substitute for House Bill 5945, AN ACT CONCERNING THE EMPLOYMENT AND PROMOTION OF CHILDREN IN OBSCENE PERFORMANCES AND MATERIAL, as amended by House Amendment, Schedule A.

THE CHAIR:

Senator De Piano.

SENATOR DE PIANO:

I move for acceptance of the Committee's Favorable Report and passage of the Bill as amended.

THE CHAIR:

Do you have remarks Senator?

SENATOR DE PIANO:

There is an Amendment, I believe, on the Bill.

THE CLERK:

Clerk has Senate Amendment, Schedule A, Substitute House Bill 5945, LCO 3838, offered by Senator Reimers.

THE CHAIR:

Senator Reimers.

1978 - GENERAL ASSEMBLY

SENATE

FRIDAY
APRIL 28, 1978

76
LFU

SENATOR REIMERS:

Mr. President, I move adoption of the Amendment and waive the reading.

THE CHAIR:

Will you explain it, Senator please?

SENATOR REIMERS:

The Bill itself deletes from the law, the word "nudity" amongst other things, but fails to delete the definition. It also includes in the new Bill the expression "nude performance". My Amendment would simply delete the definition of "nudity" and replace it with a definition of "nude performance". This Amendment has been requested by the Librarians and the Media people in our schools and in our libraries to protect them from being accused under this law for having such things as the National Geographic with pictures like this in it.

I'd urge your adoption of the Amendment.

THE CHAIR:

Senator De Piano.

SENATOR DE PIANO:

Mr. President, I rise in support of that Amendment.

THE CHAIR:

All in favor? Opposed? The ayes have it. The Amendment's adopted.

SENATOR DE PIANO:

I now move for passage of the Bill as amended. If there is no objection can it be placed on the Consent Calendar?

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Clerk has passed out the Amendments on Calendar 909 on page 10. If you'd

1978 - GENERAL ASSEMBLY

SENATE

FRIDAY
APRIL 28, 1978

77
LFU

like to return to that.

SENATOR SULLIVAN:

Mr. President, if I can get back to my desk, I'd like to call a Consent Calendar now because some of - or at least one of the Senators I know would like to leave so if I can interrupt this Bill.

THE CHAIR:

Go ahead. Go ahead, Senator.

THE CLERK:

Immediate Roll Call in the Senate on a Consent Calendar. Would all Senators please take their seats. Immediate Roll Call in the Senate on a Consent Calendar. Would all Senators please be seated.

Going over the Consent Calendar as it stands so far, page 4, Calendar 324. Page 5, Calendar 602, 666, 682. Page 7, Calendar 793, 796. Page 8, Calendar 800. Page 10, Calendars 910, 911. And on page 12, Calendar 277.

THE CHAIR:

I've opened the machine. Please vote. The machine is now closed and locked.

TOTAL VOTING	31
NECESSARY FOR PASSAGE	16
YEAS	31
NAYS	0

The Consent Calendar has been adopted.

SB 333, HB 5903, SB 460, HB 5945,
HB 5162, HB 5803, HB 5983, HB 5274,
HB 5331, SB 267

SENATOR CUTILLO:

Mr. President, I know Senator Hannon is in the building. I just left him. He's on an important call. I don't know if you can take that vote in a very short future, but would you please hold for Senator Hannon?

THE CHAIR:

Very well Thank you Senator. If the Majority Leader would like to suspend