

Legislative History for Connecticut Act

SB 431 (PA 480) 1979

Labor & Pub. Emp. : 261, 378-80 ;
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JOINT
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PART 1

1-344

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SUSAN AMENDOLA: I want to thank you for the opportunity to (Cass. testify here today. I am Mrs. Amendola, and I am a social worker and I am here representing the National--Connecticut #2) Chapter of the National Association of Social Workers. I want to talk about the support of Bill No. 562. The No. 562, I would also like to state my support at this time for Committee Bill No. 431, 7128 and proposed Bill No. 930.

The problem that we're concerned about is that there is presently no federal or state law prohibiting insurance companies from releasing information to an employer who has purchased a group health insurance plan for its employees. Presently insurance companies can and have been known to release the following information to employers: Name of employee, copy of claim check, diagnostic code even in the case of a nervous or mental disorder which would have nothing to do with the job performance of the employee. Name of the doctor and the dates on which the patient visited the doctor. Point 1: If a person works for a private organization and does not belong to a union and it cannot be proven that as a non-union member he or she sought with fellow employees to change working conditions that person is not protected by the National Labor Relations Act. Point 2: The unfair labor practices of the federal statute does not prohibit an employer from terminating a non-union employee working in a private organization at will or without force. Point 3: The Freedom of Information Act and the Personal Data Act of the Connecticut and federal statutes do not protect a person who works in a private organization. For most intents and purposes, this means that a person does not have a legal right to inspect and copy any part of the personnel file. The Fair Employment Practices defined by Connecticut State statutes entitled 31 Chapter 563, Sections 1, 2, 3, and 1, 2, 6, afford equal opportunity of profitable employment to all people regardless of race, color, , sex, age, marital status, physical disability, , national origin or ancestry. Summation:

- (1) If a person in a private organization is not able to use personnel file, he may not even know that a group insurance plan is routinely releasing medical information about himself to his employer.
- (2) Since the Unfair Labor Practices do not prohibit an employer from terminating a non-union employee working for a private organization at will, it is possible that an employee may never know that his termination resulted from medical information which the employer acquired from the insurance company.
- (3) Information from an insurance company which is received by the employer may be used prejudicially in the following ways: (a) The company or employer may feel it can save itself a certain amount of money if it eliminates employees

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MR. MULLINS (Continued): Inspection of personnel files or medical records should not be contingent under any circumstances upon a payment of fee or charge. Obviously, the proposed bills under consideration here today do not all include every one of these considerations. I hope that the committee takes this in its goal to approve a combination of these bills or a consolidation which meets the guidelines we suggested. By doing so, you will render an important service to the workers of the State of Connecticut.

SEN. SKELLEY: Thank you.

REP. SMITH: Mr. Chairman, while he's here -- Smith of the 149th -- in your experience, how many employees would you say in the Southern New England Telephone group of 9,000 would have asked for this type of access?

MR. MULLINS: Uh, Representative Smith, I could not give you that answer. I really could not give you that answer. I know, you know there are people that do request a look into their personal files and are granted this. But there are many of them, supervisor won't let.

REP. SMITH: But you don't have any figures on it.

MR. MULLINS: No. I don't have any figures.

SEN. SKELLEY: Thank you. Susan Amendola.

MS. AMENDOLA: Thank you, Mr. Chairman and committee members. My name is Susan Amendola and I am here today to talk about proposed Bill 562 to support employee access to personnel files. I am a member of the Academy of Certified Social Workers, the Connecticut Society of the Clinical Social Workers and I'm here today to represent the Connecticut Chapter of the National Association of Social Workers. Mr. Chairman and committee members, as you already know by now, there is no federal or state law which grants the private employee access to his personnel records, to medical information which is in the possession of his employer or to the copies of such records. There is no law which prohibits private employers from discharging an employee without cause. And there is presently no law prohibiting insurance companies from releasing medical information to any employer who has purchased a group health plan for his employees. Presently, insurance companies can and do release the following information to employers: Name of employee, copy of claim check, diagnosis code, even in the case of a nervous or mental disorder, name of doctor and the dates on

MS. AMENDOLA (Continued): which the patient visited the doctor. Furthermore, Section 52-146 and section C of Connecticut Statutes allows the following information to be released without consent. The name, address and fees for psychiatric services to a patient may be disclosed to individuals or agencies involved in the collection of fees for such services. In cases where dispute and dispute is not defined, arises over such fees or claims, or where additional information is needed to substantiate the fee or claim, such disclosure of further information shall be limited to the following: (1) that the person was in fact a patient; (2) diagnosis; (3) date and duration of treatment; and (4) a general description of the treatment which shall include evidence that a treatment plan exists and has been carried out and evidence to substantiate the necessity for admission or length of stay and health care institution or facility.

Since a private employee is not permitted to view his personnel and/or medical records, and private employers can discharge an employee without cause, it is possible that an employee may never know that his termination resulted from the medical information which employer acquired from an insurance company. Information from an insurance company which is received by the employer may be used prejudicially in the following way. One, the company may feel it can save itself money if it eliminates employees which it feels is raising the cost of the group insurance premium. (2) the employer and/or supervisor may have prejudicial attitudes regarding certain treatment and/or illnesses even if the employees' work performance remains from an objective point of view satisfactory. (3) certain medications may indicate to the employer that an employee has a serious nervous or mental disorder and may discriminate against the employee even though the medication prevents the disorder from manifesting itself. The employer may also misinterpret medical information which is received by an insurance company.

Based on the above information, I wish to indicate support for Committee Bill No. 431, proposed Bill No. 930, proposed Bill No. 7128 and respectfully request that the following recommendations be included in proposed Bill No. 562. (1) prohibit any and all third party access to medical information from insurance companies to employers for any purposes without the informed consent of the employee. Informed consent could be defined for legislative purposes as the employee's written consent to the release of medical and/or psychiatric information by insurance companies to an employer and includes the right of the employee to know why the information needs to be transmitted and what dispute is, as well as the right of the

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MS. AMENDOLA (Continued): employee, the employee's health care provider, physician, psychologist, whoever, an authorized attorney to inspect copy and correct or amend all medical and/or psychiatric information before it is released to an employer by an insurance company. The employee should also be informed of any repercussions that might occur should he (a) grant permission for the disclosure or (b) not give permission. It should be noted, that Section 4-104 of the Connecticut General Statutes, gives the patient upon discharge of any private hospital, public hospital society or corporation receiving state aid, the right to inspect his file and copy it, because each private hospital, public hospital society or corporation receiving state aid shall upon the demand of any patient who has been treated in such hospital and after his discharge therefrom, permit such patient or his physician or authorized attorney to examine the hospital record. Including the history. Bedside notes. Charts. Pictures and plates kept in connection with the treatment of such patient and permit copies of such history, bedside notes and charts to be made by such patient, his physician, or authorized attorney.

SEN. SKELLEY: What was the number of that Statute?

MS. AMENDOLA: Uh, Title 4, Section 104. It should also be noted that if an employee is not aware that information from an insurance company is being shared with the employer, and the medical doctor, psychologist, social worker, etc. is not aware of this fact either, insurance companies and employers should realize that they are ignoring the rights a patient has under the oath of Hypocrites, social worker code of ethics as well as other codes that professional persons abide by. Recommendation No. 2 permit employee access to any medical information an employer has received from an insurance company for the purpose of verifying accuracy. This would include access of the employee to his or her personnel record.

Recommendation No. 3 requires separation of medical records from personnel records in a safe and secure place. Recommendation No. 4, prohibit employment discrimination on the basis of medical conditions unrelated to the ability to perform specific jobs. Statement of purpose, hopefully, for 562 as I see it, would be to ensure the confidentiality and accuracy of medical and/or psychiatric information which an insurance company may have in regards to any employee and to prevent unfair employment discrimination based on a medical and/or psychiatric condition unrelated to the job performance.

SEN. SKELLEY: Would you leave that information with us.

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644-952

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SEN. BECK: Mr. Chairman, my name is Senator Audrey Beck, representing the 29th Senatorial District in northeastern Connecticut and I would like to speak on five bills before your Committee very briefly.

First, S.B.261, Concerning Retirement Of Employees At Institutions Of Higher Education. This is a definite waste of highly qualified personnel to require that people retire at the age of 70 and I strongly oppose mandatory retirement in this advanced day and age. If we were to have retired an Einstein or some of the people who have brought so much to our society, where would we in fact be at this point.

Secondly, S.B.741, Concerning Union Membership For Employees Who Are Full-time Students, I wish to state in the most emphatic terms, as a representative of the largest institution of higher education in the State of Connecticut, that it is not my belief that student employees want to be excluded from paying their fair share of union dues. I do not think it is wise to pit the students against union members and I do not believe and do not support this way of approaching wage legislation in this State. Certainly, I would like to speak for H.B.6597, to have better business hours for the Department of Labor to conform with those of other State agencies and to particularly make available the information, when people are not working and to speak for S.B.431, to prevent Discrimination Against The Mentally Ill.

Most, importantly, Mr. Chairman, I would like to speak now, not only on behalf of myself, but on behalf of thirty women legislators, who have grouped together in a non-partisan way to support the concept of S.B.1298, Concerning Development Of An Objective Job Evaluation Procedure. As you may be aware, I originally sponsored a bill with a similar intent, S.B.885 and I would call the attention of the Committee to the fact that the original S.B.885, is the one which the women legislators support. I do believe there was simply an error in the drafting, but the important point to be made is that the legislation would revise the criteria upon which State's jobs are evaluated, when establishing salary schedules. This legislation is probably one of the most important things we can do for the women of Connecticut in sex segregated jobs. We do not intend that it be implemented and we would request that, that section be removed at this point, because we are first asking for the job evaluation and we do not want to

J. IBSEN: (continued)

The Commission is obliged to note a recent United States Supreme Court interpretation of Title VII of the Civil Rights Act of 1964 which, of course as you know, is the United States counterpart to the Fair Employment Practices Act. In the city of Los Angeles vs. Manhart, decided April 25th of last year, 1978, wherein the court concluded the basic policy of title VII requires that the court focus on fairness to individuals rather than fairness to classes. The court held that the Title VII prohibition of sex discrimination in employment prohibits sex-based pension contribution differentials because, although as a class, women live longer than men, "it is equally true that all individuals in their respective classes do not share the characteristic which differentiates the average class representatives" and "even a true generalization about the class is an insufficient reason for disqualifying an individual to whom the generalization does not apply".

SEN. SKELLEY: Please summarize sir.

J. IBSEN: O.K. Similar considerations should apply when considering any modification of the Fair Employment Practices Act prohibition of age discrimination. My third and final point was that we ask why there is a special bonafide occupational provision in the proposed bill, when there is a general bonafide occupational provision in the statute presently in effect. The Commission continues to cooperate with the Committee if it should so desire. The Commission notes the technical defects in the present act have been addressed by the proposed bill 104, and the Commission continues to cooperate when the Committee would so desire, and this concludes the statement of the Commission on Human Rights and Opportunities.

SEN. SKELLEY: Thank you very much. Eleanor Caplan.

ELEANOR CAPLAN: I'm Eleanor Caplan, legislative liaison for the Commission of Human Rights and Opportunities. The Commission supports Committee bill 431 An Act Concerning Discrimination Against the Mentally Ill. This bill would make possible the proper enforcement of the prohibition against discrimination in employment on grounds of mental illness, which was part of Public Act 834, passed by the 1971 General Assembly. This Act is known informally as the patients bill of rights, and was codified in the General Statutes as Section 70-206 A - K.

MS. CAPLAN: (continued)

Specifically Section 70-206 J prohibits the denial of employment, housing, and licenses because of present or past history of a mental disorder. However, aggrieved persons must petition the court for appropriate relief. Experience has shown that persons so aggrieved rarely if ever, chose this expensive and possibly, humiliating, private right of action. Under this bill, persons aggrieved by employment discrimination could take their complaint to the Commission on Human Rights for investigation. However, we respectfully suggest to the Committee that they consider using the language in Section 17-206 J, that is, substitute for mental illness, present or past history of a mental disorder or illness. This phraseology would remedy the type of problem the Commission is currently facing with laws prohibiting physical disability discrimination, where some employers are refusing to hire recovered heart and cancer patients.

Moreover, we would ask the General Assembly to consider at some point, amending the definition of physically disabled to cover past history of a physical disability. Senate Bill 431 would not prohibit an employer from inquiring about a person's mental health history. What it does prohibit is discrimination. Except in the case of a bonafide occupational qualification or need, by employers, employment agencies, and labor organizations. In other words, it would prevent employers from treating individual persons with a history of mental illness as a group or class to be denied equal treatment. Without this bill, employers are, in effect, allowed to say, no person who has a history of mental illness need apply, except if they appeal to the courts for relief.

Over the years, many individuals have contacted our office about what they felt was employment discrimination because of their past history of treatment for mental illness. Some have also expressed fear that their present out-patient psychiatric treatment or counseling was preventing them from gainful employment. We have had to advise them that since the state anti-discrimination laws, administered by our agency, cover only physical disabilities, and not^(w) mental retardation, their recourse was a private action in Superior Court.

MS. CAPLAN: (continued)

More and more states now cover discrimination based on mental disability, mental illness or a mental condition under their human rights laws. The federal vocational rehabilitation act outlaws this kind of discrimination by federal contractors, and recipients of federal funds.

SEN. SKELLEY: Can you summarize?

MS. CAPLAN: I'm finishing. You might also be interested in knowing that in 1975 a leadership proposed bill on this same subject was considered by the General Assembly, and was derived from a plank in the Democratic state platform of that same year. We urge enactment of this reasonable and humane legislation. Thank you.

SEN. SKELLEY: Thank you. Commissioner Joseph Peraro.

JOSEPH PERARO: Good morning. Senator Skelley, Representative Balducci, Committee, I'm Joe Peraro, Commissioner of Labor. I respect the fact that you've asked for some brevity so I changed my notes. I want to thank you for giving me this opportunity to appear before this Committee to present my views. I would like to make a brief statement to register my opposition to Bill 7344. Section 1, subsection A. An Act Concerning the State Board of Labor Relations and one of the objects of this bill is to remove the Labor Relations Department from the Labor Department. This Labor Relations Department has been in integral part of the Connecticut Labor Department since April 17, 1945. I see no advantage to change -- that the change this bill suggests would further the operations of this particular Department. Furthermore this flies in the face of the reorganization plan which the legislature worked so hard to achieve, and I've avoided all the lengthy detail that I had here, but I guess the concept is well-noted, and if there's any questions, I'd be happy to answer them in the absence, and that concludes my report.

SEN. SKELLEY: Thank you sir. Any questions? Thank you Commissioner. Susan Bucknell.

MS. BUCKNALL: (continued)

Very briefly, the second bill I want to speak to, 6395, the federal minimum wage act was amended to cover persons working in private homes, under the term domestics. The federal law covers anybody doing vocational full-time child care. Someone working in the parents' home, on a vocational, regular, contracted basis. We amended our state law to cover -- to mirror the federal law in 1977. There was considerable concern as to whether the federal law covered casual baby-sitting. Consequently the state law was amended to exempt baby-sitters, however, in doing this we have, and I feel this is a technical omission, exempted not only casual baby-sitters but also those working for their livelihood in a private home. It seems to us inequitable that if you work as somebody's maid or do housework, you're covered, but if you take care of their children, you are not. The language before you, in 6395 allows the exemption of casual baby-sitters, that is someone who works -- a teenager at night or a few hours a week, allows those to be exempted, but would cover someone doing full-time child care. And we would urge your consideration. I have included in my testimony a summary of the arguments that have been made against this, and the answers I would make to those arguments. I will not go into them now, as I have appreciated your letting me speaking after this long line of speakers, and would ask that if you have any questions on the testimony submitted, I would be happy to answer them at another time.

SEN. SKELLEY: Thank you Susan. E. Engelbrecht, followed by Elliot Dober.

E. ENGELBRECHT: Mr. Chairman, members of the Committee, my name is Ernst Engelbrecht, I'm Chief of Liaison and Communications for the Department of Mental Health. And on behalf of the Department, I am here to testify in support of Committee Bill 431 An Act Concerning Discrimination Against the Mentally Ill. We are totally in favor of the bill, would like to make only one suggestion, agreeing with a previous speaker, where the term mental illness appears in the various sections of the bill, that that phrase be changed to read, present or past history of a mental disorder. Thank you.

SEN. SKELLEY: Thank you sir. Very much. Mr. Dober.

ELLIOT DOBER: Good morning. My name is Elliot Dober.
(inaudible) I will be very brief Mr. Chairman. I am here
on Bill No. 431. You all have a prepared testimony before
you, I hope. (inaudible)
And I would urge you to bill No. 431 that will give
them equal opportunity to be able to give them the right
to work. I think my outline in my statement speaks for
itself. I will not take up any more of your time. Is
there any questions?

SEN. SKELLEY: Thank you sir. Any questions? Thank you very
much. Call Senator Howard Owens, one more time. He's
chairing a Transportation Committee meeting. Senator Owens?
O.K. I'm going to call two names at a time, again I would
like you to please stay within the 3 minute range, and try
not to be repetitious. Pat Paul and John Driscoll. Pat
Paul first.

PAT PAUL: Members of the Committee, my name is Pat Paul. I am
Vice President of the Connecticut State Employees Association
here today representing the 7,500 clerical workers in state
service. 92% of whom are women. On behalf of those 7,500
people, I wish to relate to you their strong support in
favor of a long-overdue concept in Connecticut state service.
Equal pay for equal work. Senate Bill 885 and House Bill
1298 both begin to address an issue of utmost concern to
all state employees, the creation of a logical system of
setting compensation rates. CSEA has completed a preliminary
study of equal pay for equal work in state service, and we
have a few questions. Can anyone tell me the rationale for
paying a toll collector \$1,600 a year more, than a house
parent who cares for children in a state school or institution.
Or the reason why a welfare eligibility technician earns
less than a barber. Perhaps the state can explain why a
school custodian earns the same salary as a mental retardation
program instructor or a medical stenographer, or why a state
school teacher or a supervisor of a large data entry
installation are in the same salary group as a boiler tender.

Let's fact it, the state cannot provide rational explanations
for these comparisons, because the state cannot realistically
justify the method for setting salaries. The amount of
compensation for any job classification depends on a number
of factors. None of which are objective, including political
maneuvering, availability of funds in the budget, and internal
consistency with benchmark classes for which there is not
logical way of determining pay levels.

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MR. SINNOCK: (Continued)

I'd like to testify on three bills, testify in favor of 7344, which I notice that AAUP and CSEA have already testified in favor of. I think we need an independent and free State Board of Labor Relations, that will do that.

I testify also in favor of Senate Bill 781. I think that we all do not want our tax dollars spent for labor law violators, but I do think also that 781 needs to be amended as Mr. McFadden suggested many hours ago, to include sub-contractors.

I'd like to also register opposition to Senate Bill 741. Many of our students at Central Connecticut State College work full time, they work an 8 hour shift, before they come to college, after they leave from college. I've spoken with many of them over the many years that I've taught at Central and I know that those who are not in union shops are quite often victims, they are just cheap labor available to work for very little. One of those benefits that many students don't feel that they get out of the union, they don't even notice, is the fact that they have decent high wages and that they have a decent place to work in.

I think that's enough. Thank you.

SEN. SKELLEY: Thank you, sir. Mr. Raphael Podolsky, and Walter Porowski.

RAPHAEL PODOLSKY: Mr. Chairman, and members of the Committee, my name is Raphael Podolsky. I'm a lawyer with the Legal Services Legislative Office, which represents low-income clients of legal aid programs in the State. I want to speak very briefly to you about Senate Bill 431, which I'm testifying in support of. In addition I am testifying on behalf of Judith Lerner who was here earlier and had to leave. She is the Director of the Mental Health Law Clinic of the University of Connecticut School of Law, and has prepared written testimony in support of this bill.

The experience that she has had and also that the Legal Services Office has had has essentially been a common experience, and that is that the people who have any kind of a record of mental illness or mental disorder, they will face a level of job discrimination that appears even to exceed the job discrimination faced by people who have criminal records.

And what this bill would do, there were earlier made some

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MR. PODOLSKY: (Continued)

suggestions to change the drafting, which I endorse, to make clear that it refers to past or present history of mental disorder, this gives some protection to two categories of people. One would be people who in the past have had some kind of treatment for mental illness.

And the other would be people who may now be receiving treatment. And the sorts of things we've seen deal in a sense with two different categories. One is the person who perhaps has been in a mental hospital, has been treated, has been cured, has been released, is unable to find a job as a result.

But a second category I think reaches a lot closer to home, for people, for members of the General Assembly who may be familiar with this problem in a different kind of way. For anyone, for example, who's ever had psychiatric treatment or perhaps is getting psychiatric treatment and applies for a job. To have an application for employment turned down solely because a person answers a question, yes have you ever had psychiatric treatment, and that's it. And the application is basically thrown in the discard pile from that point on.

It illustrates to me, that this is not merely a problem for poor people only, or for the very, very sickest people in our society, but is the kind that reflects a problem that can exist throughout all levels of our society. The bill makes it clear that where mental illness is job-related, that it would not be a violation of this act. We have in the past, last year we passed a statute prohibiting discrimination based upon mental retardation and a couple of years before that we passed a statute prohibiting job discrimination based on physical disability.

25 This bill would in a sense complete the coverage by including mental as well as physical disability and as well as mental retardation. It provides what I think is an essential protection. It does not in any way interfere in the right of employers to choose who is to be hired, in a situation where the condition of the applicant is related to his ability to perform on the job. So in that sense I think this is a good bill, and I hope very much the Committee would endorse it. Thank you.

SEN. SKELLEY: Thank you, sir. Walter Porowski. I hope I pronounce this correctly, it's Ernest G. - I can't make out the last name, it starts with a P, UAW 626. Anna Lupus. J. Kiss.

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SEN. SKELLEY: (Continued)
John Gilmore. Dennise Donnelly.

WALTER POROWSKI: I thank this Committee for the opportunity to testify on behalf of HB5421, an act concerning whistle blowing by state employees. My name is Walter Porowski, Jr. of Bristol, Connecticut. I am a member of the Ad Hoc Committee for the Organization of the Ombudsman Commission for the State. I've edited most of my testimony to meet the three minute limit, but the entire testimony will be available to the Committee.

Some days before the election of '76, President Carter declared I intend to seek strong legislation to protect our Federal employees from harrassment and dismissal if they find out and report waste and dishonesty by their supervisors or others. The Fitzgerald case, where a dedicated civil servant was fired from the Defense Department, for reporting cost overruns must never be repeated. The importance of whistle blowing, of having whistle blowing is brought home by the magnitude of the waste they are talking about.

I quote from the Hartford Current, March 16, "The Justice Department estimates as much as 10% of the tax dollar is wasted or stolen, a Senate Budget Committee was told Thursday." That would mean a loss of at least 5 billion and over 50 billion dollars this year. Senator Edmund Muskey, Chairman of the Budget Committee, cited a recent poll which showed most of those surveyed think at least 48 cents of every federal dollar is wasted. The Hartford Courant, incidentally, has endorsed passage of the whistle blowing bill in an editorial last week.

Now that we see the problem, how do we deal with it? Of course, the first step is an effective whistle blowing law so that no people with this knowledge, who Mr. Fitzgerald cites as closet patriots, can report arbitrary, unreasonable or illegal actions which waste taxpayers' dollars without fearing reprisals.

How do we insure a final solution? Mr. Fitzgerald, commenting on a group hired to give "independent" reviews of defense spending plans, said we need media exposure to insure that they do their jobs in the taxpayers' interest.

I had the honor to meet Ernest Fitzgerald last month at a conference for investigative reporters and editors which was run

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STATEMENT BY
LINDA C. KLATT, COUNSEL
CONNECTICUT CAST METALS FEDERATION
BEFORE THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
MONDAY, MARCH 19, 1979

Mr. Chairman and Members of the Committee:

My name is Linda C. Klatt and I am Counsel for the Connecticut Cast Metals Federation. The Cast Metals Federation is the government action arm of the state's foundry industry which is comprised of approximately 100 operating units, the majority of which employ less than 100 persons.

I am here today to address three of the bills before you.

S.B. 431, "An Act Concerning Discrimination Against the Mentally Ill"

The foundry industry supports any and all workable legislation designed to eliminate discrimination in the workplace. However, we are concerned about the impact and implementation of S.B. 431. The underlying concept is plausible. Nevertheless the question remains whether such legislation can be drafted in such a manner that does not so constrain employers that they are unable to refuse to hire or terminate a mentally ill individual who is unable to do the job or whose current mental illness may in fact endanger his or her co-workers. I cite the possibility of a severe workplace accident caused by a worker who is responsible for pouring molten iron and who is undergoing a period of extreme emotional stress.

We recommend that any legislation prohibiting discrimination against the mentally ill be drafted to specifically prohibit discrimination against those individuals, now recovered, who have a history of mental illness, rather than prohibiting discrimination because of a current state of mental illness. We also raise for the Committee's consideration the problem of defining what constitutes a mental illness to be protected under the statute. How are you going to diagnose or segregate the more severe disorders from the day-to-day neuroses from which we

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March 19, 1979

TESTIMONY OF JUDITH LERNER
Director, Mental Health Law Clinic
University of Connecticut School of Law

I have worked in the field of mental health law for several years, and for the last three years, have implemented an advocacy project for patients and ex-patients of psychiatric facilities. I am speaking today in support of S.B. 431, which would make it an unfair employment practice to discriminate against persons alleged to be mentally ill except where such illness would interfere with job performance.

My work has made me acutely aware of the difficulties in finding employment faced by ex-patients. Research indicates that ex-convicts have an easier time getting jobs than ex-mental patients. Persons who have undergone hospitalization or even psychiatric care are stigmatized and viewed with fear and suspicion. My clients frequently tell me that they have diligently applied for work throughout the region, truthfully answering the questions on applications concerning psychiatric history, and despite excellent experience and qualifications never receive any response.

Yet there is no justification whatsoever for the widespread and deeply-rooted prejudice against persons who have received psychiatric care. Several recent studies have shown that mental patients are no more dangerous, and may be less dangerous, than the general population. There is considerable controversy, within the psychiatric profession and elsewhere, as to whether "mental illness" exists at all. Mounting evidence indicates that it is not analogous to physical illness, because psychiatric diagnoses are based largely upon impressions of the diagnosing physicians which cannot be objectively verified. Different doctors, for instance, can arrive at entirely different conclusions, as recent well-publicized trials have dramatically shown, and none of these conclusions can be proven.

In any case, this bill provides that if the mental illness presents a bona fide occupational problem, the employer's, union's or agency's action will not constitute an unfair employment practice.

This bill cannot eliminate the pervasive job discrimination suffered by ex-patients. But it can at least indicate a policy established by the Connecticut legislature condemning unjustified discrimination. The mentally retarded and physically disabled have already been granted this protection. Please extend it to the mentally ill. Thank you.

If you have any questions or would like to discuss this bill further, please call me at (203) 523-4841, Ext. 374.

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GEN. ASSEMBLY
SENATE

PROCEEDINGS
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AND EDUCATIONAL FACILITIES AUTHORITY IN CERTAIN FEDERAL
GUARANTY PROGRAMS.

SENATE FAVORABLE CHANGES OF REFERENCE

Banks. Substitute Senate Bill 497. AN ACT CONCERNING
THE RETURN OF STOLEN PROPERTY. Referred to the Committee on
Judiciary.

Education. Substitute Senate Bill 1383. AN ACT
CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR
SCHOOL CONSTRUCTION PROJECTS. Referred to Committee on
Appropriations.

Labor and Public Employees. Substitute Senate Bill
431. AN ACT CONCERNING DISCRIMINATION AGAINST THE MENTALLY
ILL. Referred to Committee on Judiciary.

Labor and Public Employees. Substitute Senate Bill
1298. AN ACT CONCERNING DEVELOPMENT OF AN OBJECTIVE JOB
EVALUATION PROCEDURE. Referred to Committee on Appropriations.

Public Health. Substitute Senate Bill 324. AN ACT
REQUIRING INFORMED CONSENT PRIOR TO AN INDUCED TERMINATION
OF PREGNANCY IN A MINOR. Referred to Committee on Judiciary.

Public Health. Senate Bill 1433. AN ACT APPROPRIATING
FUNDS TO THE FIVE REGIONAL HEALTH SYSTEM AGENCIES. Referred
to Committee on Appropriations.

SENATE CHANGE OF REFERENCE

Insurance and Real Estate. Senate Bill 1615. AN ACT
CONCERNING PRODUCTS LIABILITY ACTIONS. Referred to Judiciary.

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SENATOR CUTILLO:

Mr. President and Members of the Circle, presently many of the stores throughout Connecticut by statute, must give the person who does business with that particular store, at the end of the year, a statement of what the interest was and monies spent during the course of a year. This Bill changes that. It would give a statement upon request. Many people, as you well know, don't file their income taxes on the long form and have no need for that information that is going out that we have mandated the stores throughout Connecticut; many stores are not computerized. It is a hardship. It is wrong. We recognize that. We're changing it now. The individual who does file the long form still has the prerogative to ask the Foxes or whoever it may be that we want a statement. Let me know what it is so I can file it with my income taxes. The information is there. You can get it. This changes it and makes it permissive and if there is no objection, I move it to the Consent Calendar.

THE CHAIR:

Is there discussion on the Bill? Hearing none, the Motion is to place the item on Consent. Is there objection? Hearing none, it is so ordered.

The item is on Consent.

THE CLERK:

Calendar 608, File 597, Favorable Report of the Joint Standing Committee on Judiciary, Substitute for Senate Bill 431, AN ACT CONCERNING DISCRIMINATION AGAINST MENTALLY ILL.

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THE CHAIR:

Senator De Piano.

SENATOR DE PIANO:

Mr. President, I'm going to defer to Senator Curry in regard to this Bill.

THE CHAIR:

Senator Curry.

SENATOR CURRY:

Mr. President, I move acceptance of the Committee's Joint Favorable Report and urge adoption of the Bill. I believe the Clerk has an Amendment.

THE CHAIR:

Question is on acceptance and passage and the Clerk has an Amendment.

THE CLERK:

Clerk has Senate Amendment, Schedule A, Substitute Senate Bill 431, LCO 7099, offered by Senators Johnson and Curry.

SENATOR CURRY:

Mr. President, I'd like to waive the reading of the Amendment and summarize.

THE CHAIR:

Without objection, you may proceed Senator.

SENATOR CURRY:

Just briefly the Bill, Senate Bill 431, would prohibit discrimination

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in employment against any individual on the mere basis of a past or present mental disorder. The Amendment before us simply clarifies that that discrimination prohibition would not cause it to be an affirmative action program of any kind. That's probably already the case, but in order to clarify that fact, Senator Johnson and I have offered this Amendment and I would like to move adoption of the Amendment.

THE CHAIR:

Question is on adoption of Senate A. Will you remark further?

Hearing no further remarks, I'll try your minds. Those in favor indicate by saying aye. Those in opposition? Senate A is adopted. Proceed Senator Curry.

SENATOR CURRY:

I would just like to set up the Bill very quickly. This Bill makes it an unfair employment practice to discriminate in connection with employment on the basis of a past or of a present mental disorder or past history of a mental disorder. And this is a Bill which runs very much parallel to a Bill passed by an earlier session of this legislature regarding mentally retarded persons. I think it's a very important Bill. The Bill does not prohibit an employer from refusing employment to an individual whose mental illness is a legitimate job disqualification. What it speaks to most importantly is the fear, ignorance, imbias which sad to report, is still so pervasive in this society regarding the problems of the mentally ill that it effectively precludes people who have suffered problems of mental illness from really fully participating in the mainstream of this culture and of this economy. I think that perhaps many of us in this

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Circle have known individuals who have either encountered genuine discrimination on the basis, on the mere basis of the fact that at some point in their lives, they had sought counselling in order to deal with the kinds of mental crises that are often attendant upon the crises that we face in our lives. I'm sure that many of us may have known individuals who have not sought valuable, needed counselling because they are afraid that that counselling will be on their record; that someone will know and at some time down the road, they'll lose a job to which they might feel they would otherwise be entitled because of someone's fear or someone's ignorance or someone's bias on the subject of mental illness. It's been a taboo subject for too long so that perhaps even here there are people who would not understand the dimension of this human problem.

I would ask all of you in order to make this whole idea a little more concrete, to think of what is perhaps the most widespread mental illness in America today; that is depression and realize that there are many individuals, there are indeed, millions of adult Americans and in fact, minors, teenagers, suffering from some form of depression. Some psychiatrists have estimated that as much as half of our population suffers from some degree of depression and some have said as much as 20 percent from a rather vast degree of depression. Think of that individual, suffering from mere depression who seeks and obtains counselling and later being denied any kind of employment because the employer doesn't understand that particularly

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an individual who has been wise enough to receive treatment, is certainly able, at a later point in life and in fact in almost every instance, even at the time at which the affliction might be most acute, to deal full well with the problems of employment. We have to have policies that encourage people to seek counselling, not policies which discourage them. We have to have people with policies which assuage people's fears and unwarranted biases about mental illness; not policies which exacerbate those fears. We have to have policies which bring discreet minorities such as this fully into the mainstream of American culture and of the American economic life, not policies which continue to close the door. I think this is a very important piece of legislation and I would urge the support of every Member of this Circle.

THE CHAIR:

Will you remark further? Senator Matthews.

SENATOR MATTHEWS:

Mr. President, I think there are times when mental illness does enter into the decision making as to what and how that particular person may be best reoriented or oriented into our social life. Certainly we are all fully aware of and deeply concerned with the needs of these people and how to overcome their problems. In many areas which seem to me that a person who has had considerable disability from a mental disorder, if you place them in a position where, by law, you cannot turn them down for a position which you think would require greater pressure than they could stand, and

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you hire them and put them on that job, it seems to me you are almost placing them in a very unfortunate position of they being required to do something which they may be so unable to accept that they would be returned to their "mental illness" state. There are many examples of that possibility. I think all of you can imagine them. I think that if we are going to give the benefits of our society's abilities and skills in handling mental disabilities and people who have had them in the past, that we owe it to them to work with them and to do all that we can to provide them with opportunities that will give them the kind of understanding and needs that will help them to accommodate their life with the normal life. And I think when you place them in a pressure situation, that really is not going to be accommodated.

Perhaps, through you Mr. Chairman, I could ask Senator Curry one or two questions.

THE CHAIR:

Proceed, Senator.

SENATOR MATTHEWS:

Through you Mr. President, could you, Senator Curry, tell us what constitutes a mental illness that would be protected under this statute?

THE CHAIR:

Senator Curry if you care to respond.

SENATOR CURRY:

Mr. President, through you, I would respectfully suggest that my

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colleague Senator Matthews is overlooking an important qualification within this Bill which is that in any situation in which mental illness is a genuine disqualification of employment, an employer may refuse the position to any potential employee upon that basis. The Bill itself, in direct response to your question, would cover any form of what an individual might construe to be mental illness, but the important distinction or the important point to be remembered in recognizing that is that if an individual has shown a great susceptibility to pressure and a job is a high pressure job, then an employer is entirely within his or her rights to deny employment to an individual on that basis. And what we have here is when any individual in any other protective category within these statutes would have; a mere right of appeal upon the part of the person so aggrieved to the Commission. Yes, all categories of mental illness are included within the definition of this Bill, but that does not mean that any individual with any mental problem is going to be able to apply for an obtain any kind of employment. There are safeguards.

THE CHAIR:

Senator Matthews, you have the floor.

SENATOR MATTHEWS:

Thank you for your comments, Senator Curry. I'm not sure that you've answered my question because you have indicated that any kind of an illness, mental illness could be considered a mental illness and I agree

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with that but let me proceed one step farther perhaps and ask this - how are you going to diagnose or segregate the more severe disorders from those that are not severe disorders? In order to know whether you are in a position to use this person as an employee? Here you are, a layman, discussing a position with somebody or a promotion with somebody or whatever employment status may be involved and how do you know whether that illness is just a little illness in the mind or a very critical one? How do you segregate these?

THE CHAIR:

Senator Curry, if you care to respond.

SENATOR CURRY:

Yes, through you Mr. President, the point of the Bill is precisely to ask employers to make that distinction, Senator Matthews. The - and a point to be remembered is that the only instance in which it is likely that an employer is going to be aware of a past history of mental illness is one in which a record exists; a record of treatment, a record which is self-explanatory; a record which prescribes precisely those incremental categories of disorder to which you refer; and a record upon which an intelligent, rational decision can be easily made.

THE CHAIR:

Senator Matthews, you have the floor.

SENATOR MATTHEWS:

Thank you Senator Curry. I would just comment further that I sympathize

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I guess is the correct word, with Senator Curry's desire to try to help these people, but I think that we are in the wrong element when we place this kind of a situation in with other types of elements which involve discriminatory action. I don't know how I would know for instance, if I wanted to hire a person to take care of two or three sons that I might have for a camp or on a canoe trip or something like that and it turned out that that particular man was similar to the man in Chicago who has taken care of some what? - 32 or 35 young boys. That man is mentally sick and yet he was out on the street. He was doing all kinds of things. How would I, as a person, a layman, asking some person looking for a way to take my three children on a canoe trip for that reason, and he's supposed to be a capable canoeist and knows all about it. How would I know that he was in that frame of mind? I don't see how we can believe that this could be a Bill which would help people in that status or would provide those people who want to find an employee who can fulfill the obligations that we could rely upon.

Now, mental difficulties are extremely uncertain. We even come to the degree now where many of the psychiatrists are being challenged by the people, physicians or medical related people who think that psychiatry as such is not necessarily the answer to our problem for mental disorders; that it may be vitamins or some other blood chemistry type problem. I would just conclude my observations by saying I think this is a Bill that does not help the situation which we are attempting to help. In fact, I

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believe it could be harmful, not only to that person, but to those other people in society who might not be aware of it and I would recommend that we do not support the Bill. Thank you.

THE CHAIR:

Will you remark further? Senator Curry.

SENATOR CURRY:

Mr. President, I would just quickly reiterate for Senator Matthews that any instance in which there were past behavior of the individual which raised serious questions as to the qualifications of an individual for a particular job, would have precisely the same impact upon employer's decision, under this Bill as under the current law. An employer would be able to consider them and give them precisely the same priority because of their obvious job connection. Obviously, the principal impact upon the Bill is upon an individual with a mental disorder and upon that basis alone, discriminating in employment. I really feel that it ought to be patently clear that we are not moving simply out of our desire to help a given category of individuals. We are not creating a legal privilege. We're recognizing a national right in this Bill just as in so many previous Bills in the area of discrimination. However, having said that, I would ask the Chair if this Bill might be passed retaining on the Calendar in order to discuss some of the problems which some of the Senators might be having with it.

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THE CHAIR:

The Motion is to pass the Bill retaining, is that what you said Senator?

SENATOR CURRY:

Yes, Mr. President.

THE CHAIR:

Without objection, it is so ordered. The item is passed retaining its place on the Calendar.

THE CLERK:

On page 20 of the Calendar, Calendar 612, File 358, 610, Substitute House Bill 5329, AN ACT CONCERNING DEBT ADJUSTORS, as amended by House Amendment, Schedule A.

THE CHAIR:

Senator Ballen.

SENATOR BALLEEN:

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

THE CHAIR:

Question is on acceptance and passage as amended by House A. Will you remark Senator?

SENATOR BALLEEN:

Yes. Thank you Mr. President. This Bill prohibits debt adjustment for profit in the State of Connecticut and it requires non-profit

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there are no problems with this Bill and no one objects, I move that it be placed on the Consent Calendar.

THE CHAIR:

Discussion on the Bill? Objection to the Motion? Hearing neither, it is so ordered. The item is placed on the Consent Calendar.

THE CLERK:

Turning to page 8 of the Calendar, Calendar 608, File 597, Favorable Report of the Joint Standing Committee on Judiciary, Substitute for Senate Bill 431, AN ACT CONCERNING DISCRIMINATION AGAINST THE MENTALLY ILL, as amended by Senate Amendment, Schedule A.

THE CHAIR:

Senator Curry.

SENATOR CURRY:

Mr. President, I urge acceptance of the Committee's Favorable Report and adoption of the Bill as amended.

THE CHAIR:

Question is on acceptance and passage as amended by Senate A. Will you remark Senator Curry?

SENATOR CURRY:

Just briefly Mr. President. On two previous occasions, we've taken the time in the Circle to discuss this Bill so I will keep my own remarks to a minimum. I would like only to emphasize to all the Members of the Circle, that this is perhaps the most important point about this Bill before

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us. Simply that there is currently, within our statutes in Section 17-206j, the following: No person shall be denied employment, housing, civil service rank, any license or permit, including a professional license, or any other civil or legal right, solely because of a present or past history of mental disorder. The affect of Senate Bill 431 is really to change the remedy that is available to people who are the victims of discrimination in employment so as to make this law with its language in tact, as it exists in 17-206j, and as it pertains to employment questions, practical and effective. We have decided to remove that aspect of the law which pertains to employment to the civil rights sections of our statutes in order to provide an expeditious mechanism for relief, a mechanism which will benefit both parties to any dispute arising under the law and a mechanism which will bring both parties to a forum well equipped to understand and to decide upon such disputes.

We've made this decision in part out of a realization that such discriminations may exist against the mentally ill in the area of employment tends not to be behavior derived, but rather seems to derive merely from the fact that there is a record of such treatment so that it is not an instance of a person perceiving another person's behavior, some job related reason to disqualify that person from employment or to dispossess that person from a job, but rather because the mere fact of arecord of mental treatment for a particular applicant so frightens a potential employer,

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that that person does not receive the employment sought. One of the ironies here is that the person who is most likely to do well in the job, the person who has had the sense or the opportunity to seek treatment is the person who is denied. I would again ask all of you to think of that classic situation in which, and this pertains to the largest single proportion of all instances of mental illness in this country, depression - a person suffering from that disorder seeks treatment, receives it and then is disqualified for a job even though, having received or currently receiving such treatment the person could in no way be considered unable to perform virtually any job imaginable to any of us.

I think it's also important to remember also that under this law proposed, as under the present law, any legitimate job related problem which might arise in a given individual's mental illness could still rightly and legally disqualify that person from any employment which any employer chose to deny. So I ask all of us to think of the people whom we may have met from our own constituents, whom we may have met from among our own friends, who have been deterred from seeking treatment for mental illness because of their fear that such treatment might eventually cost them a job. I ask you to think whether or not we need a policy which encourages people to seek treatment or one that discourages treatment. Do we need a policy which encourages people to treat with the mentally ill in a rational fashion or do we need to exacerbate, perpetuate all of the irrational fears which far too many of us bring to this question. Do we

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need a policy ultimately, which brings to people into the mainstream of this society or which continues to close the door to them? Segregation in too many forms, continues to be a chronic and very bothersome syndrome within too many aspects of our society. I think that we can help to bring about an end to this instance of it with the passage of this Bill and I recommend that passage to all of you.

THE CHAIR:

Will you remark further? Senator Johnson.

SENATOR JOHNSON:

Mr. President, I'd like to rise in support of this Bill. It is - I imagine Senator Curry mentioned earlier but I was out of the Chamber and want to make sure that it's clear that the provisions of this Bill are essentially already in the statutes and I agree with him that often the worker who has the courage and insight to seek help in the end is a more responsible worker than many of those who refuse to face the problems created by the tensions, pace and complexities of contemporary society. I think this is a good Bill and deserves the support of the Senate.

THE CHAIR:

Will you remark further on the Bill? Senator Matthews.

SENATOR MATTHEWS:

Mr. President, as I remarked earlier when this Bill came up, I sympathize fully with the need to protect people who are notable to care for themselves in one way or another and in this case, it's a discriminatory factor which I support. I do not wish to discriminate against anybody for

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whatever reason. I am concerned still, however, even though I realize that the jurisdiction of what happened has been transferred from one agency to another, that in the definition or the statement of the item as it now appears in the Bill reads present or past history of mental disorder and I am still a little bit confused or a little bit doubtful as to how we know whether the person is presently or does presently have a mental disorder. I think that a discussion and interview with a person of this nature for a job application or a job placement conceivably would be rejected but not necessarily for reasons that could be clearly identified and made specific. It would merely be that the responses that were given, that the attitude or that the emotional relationship between the interviewer and the person might be very unique. I don't know whether that could be identified as a provable fact but it seems to me that we are treading on very thin ice and should that person be employed, and some disastrous situation should result, I think it would be unfortunate.

There seems to be in this particular point of discriminatory possibility, a much more difficult area to identify than in most any of the others which have appeared in the Bill or in the statutes in the past. Most of them are really quite identifiable. They're clear. Mentally retarded or physically disabled - these things are quite easily identifiable as well as the other items such as color or race, creed, so forth. Through either written material on the application or whatever. I don't know whether it's

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fair or probably even realistic to have the potential charges brought by an agency in the State and require an employer, whatever status the employer's in, whether he be small or large, to have to support his position because of this particular type of "discrimination".

I am afraid I just feel uncomfortable about having it in there and I would ask the Members of the Circle to think about that phase of it; whether you agree I don't know. I'm not pressing my point to you. I merely am asking you to be very careful and as you think about this Bill, consider what I have said in terms of all the elements involved. Thank you.

THE CHAIR:

Will you remark further? Senator Post.

SENATOR POST:

Mr. President, through you sir, I'd like to ask Senator Curry a question or two about the Bill.

THE CHAIR:

Proceed Senator.

SENATOR POST:

Senator Curry, through you Mr. President, is it - would you answer sir, your interpretation of this law as to whether or not an employer such as a school system would be entitled to take into account in hiring or promoting personnel, the personality of the applicant; their sourness or their happiness in considering applicants for particular positions?

THE CHAIR:

Senator Curry, if you care to respond.

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SENATOR CURRY:

Yes Mr. President, I'd be glad to. Through you, sir. Senator Post I truly believe that there is nothing in this Bill which would preclude any employer from examining to whatever extent is wished, any of the kinds of subjective criteria of personality or behavior to which you allude. All this Bill does, in fact all the present law does, is preclude an employer from refusing employment merely on the basis of that record of past or present treatment for an illness which is unrelated to qualification or suitability for a particular job. And all this Bill does is expedite the remedy available and render that remedy available in a more suitable forum.

SENATOR POST:

Thank you. If I may follow up Mr. President -

THE CHAIR:

Senator Post. The Senate will please come to order. So that it's possible to hear the debate that is taking place. If you are going to have conversation, please leave the Chamber. Senator Post, I believe you have the floor. Senator Curry, are you finished with your response to the first question? Thank you Senator. Senator Post.

SENATOR POST:

Thank you sir. Then, Senator Curry, through you Mr. President, am I correct in assuming that an employer reviewing applicants for a position such as a teaching position would be entitled to take into account the personality of the applicants and an applicant that did not get the job

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could not bring a suit under this Bill, claiming that the employer was prevented from considering personalities in such a situation.

THE CHAIR:

Senator Curry if you care.

SENATOR CURRY:

Yes Mr. President. I don't suppose I could predict as to whether or not an individual could bring a suit. I can tell you what the outcome would be for this Bill. And that outcome would be precisely as I outlined in response to your question. The employer is not prohibited from making subjective appraisals as to the suitability of an individual for a job. Rather, he is merely precluded from rank discrimination upon the mere basis of a record of treatment for mental illness when there can be established no relationship between that illness, between that record and qualifications for suitability for the job in question. But I would imagine that an individual who has been denied a position based upon some egregious personality trait or behavior would be hard pressed to base a successful suit upon this and I cannot see that happening.

THE CHAIR:

Senator Post, you still have the floor. Will you remark further on the Bill? The Bill is before us. Will you remark? Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you Mr. President. I rise to oppose the Bill. Mr. President, and I do so with due respect to Senator Curry, but I'm concerned, disturbed

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over the language and the breadth of the language in this Bill. The Bill would ban, as an unfair employment practice, any employee who had a present or past history of mental disorder. I'm troubled by the language present history of mental disorder. That's very broad language. It's all inclusive and seems to me to lend itself to an interpretation that an employer would be precluded from not hiring someone who has a demonstrable, serious mental disorder that may or may not be treated and may or may not be under control. I think the intent is laudible. I certainly don't seek to encourage discrimination against those people who have mental illnesses or depression or what have you and have those conditions under treatment and under control, but what I'm concerned about is the breadth of the language, the possibility of abuse, the possibility of misinterpretation and the specter of foisting upon our society and our employers, the inability to not hire someone who really, has a mental illness that is not under control and can't really perform the job.

Now, if this is a problem and if we need to pass this kind of a statute, I'm not aware of the problem. It certainly hasn't come to my attention and I'm very concerned about the breadth of the language if it could be tidied up, limited, reference could be made to a present mental illness being treated and certified to be under control and does not in any way interfere with the performance of duties - that might be another matter, but the way the Bill is now written in which it seems it would exempt all present

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mental disorders, is far too broad. I think it's dangerous. I think it's a bad Bill and I'm going to vote against it and I would urge the other Senators to think very carefully about the language of the Bill which we will protect present mental disorders. I believe it's overly broad.

THE CHAIR:

Will you remark further? Senator Curry for the second time.

SENATOR CURRY:

Mr. President, just quickly I would like to clarify for my very good friend Senator Skowronski, and for all Members of the Circle, a point which I made at the outset of this debate and which is really the most, as I said then, important point to be made in regard to this Bill and that is that precisely that language in which Senator Skowronski objects is already imbedded in our statutes, in Statute Section 17-206j. Already there is a prohibition against discrimination in employment matters and in other and with all other civil or legal rights and that's language in the statute. Based on a present or past history - a little redundancy there - of mental disorder. All right, that language - and I just want everyone to understand that. I am not involved here, nor are any of the proponents of this Bill, involved in altering that language. What we are trying to insure is that where a legal right has been recognized by statute, an expeditious and appropriate remedy exists within the government in order to make that legal right that we promise to people a living reality for them. And so, on the

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one hand there's not much change here but there's an important change and we're making this thing consistent, we're putting our money where our mouth is. We're really doing what it is that we purport to do in law already established. So that's very important. We're not enlarging that right in any way. It will be, after passage of this Bill, as it has been before it. All we're saying is that for both parties, for an aggrieved employer as well as for an aggrieved employee, a more expeditious and more appropriate remedy to a more suitable forum ought to be made available. And in a sense, I think you can look at this as a very close issue in that way and to find in those terms and even to individual who had problems with the existing State law, I think that you could consider that law to have been somewhat ameliorated by virtue of having supported this Bill having thereby cut down a little bit on the time it takes to appeal it, brought in parties who were sufficiently trained and supposed to understand the kinds of issues which it raises. This is all we're doing here. It's important to people who find themselves aggrieved on either side of this statute and who seek a resolution of their conflict. It is of true importance to them, but the substantive change in law as opposed to the procedural change in law involved here is very slight, very slight. And to all parties concerned inarguably, an improvement. So I just hope that I haven't done this Bill a disservice by not explaining the precise nature of the change that is involved here and I hope that that is apparent to every Member of the Circle now as I hope

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we go to vote.

THE CHAIR:

Will you remark further? Senator Smith.

SENATOR SMITH:

Through you Mr. President, a question to Senator Curry. Precisely the new language is Senator - present or past history of mental disorder is not included - is that correct?

THE CHAIR:

Senator Curry if you care to respond.

SENATOR CURRY:

Yes Mr. President. Could you repeat the question Senator Smith?

SENATOR SMITH:

Precisely the changes - the change that is being made is to cover mental disorder, to be exact, present or past history of mental disorder.

SENATOR CURRY:

Senator Smith, that language is not being changed at all. That language appears in this Bill precisely as it already appears in Section 17-206j of the Connecticut General Statutes which unequivocally state no person shall be denied employment solely because of a present or past history of mental disorder, except as so provided by the general statutes which don't provide -

THE CHAIR:

Senator Smith, you have the floor. Will you respond Senator Curry?

SENATOR SMITH:

Through you Mr. President, just to be certain that I understand at

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this point, what we are then saying is that was in the statute regarding the hiring process by an employer. Now we are saying you cannot dismiss a person from employment because he is under - he is presently receiving -

THE CHAIR:

Senator Curry, through the Chair. If you care to respond, Senator Curry, to the question.

SENATOR CURRY:

Thank you Mr. President. No again, and if I haven't made that point sufficiently clear, I apologize to everyone. But there is no enlargement of that right either because - and now let me just read to everyone's infinite boredom, I'm sure, this same sentence in its entirety, which is the sentence which is presently contained within the statute which is already on our books and that sentence reads as follows: No person shall be denied employment, housing, civil service rank, any license or permit including a professional license or any other civil or legal right - which would clearly Senator, include continuation of employment in any other civil complaint which an individual might raise. Any other civil or legal right, okay? Because of a past history - because of a present or past history of mental disorder. So that there is no enlargement of substantive rights already granted under current Connecticut statute. I tell you true, all we're looking at here is making this remedy practical, expeditious and appropriate.

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THE CHAIR:

Senator Smith, you still have the floor.

SENATOR SMITH:

Mr. President, it seems then that we have on one hand, Mr. President, one Senator concerned with what I believe I just asked Senator Curry to clarify for me and if in fact this has already been covered by statute, it would seem that there really doesn't exist the concern that Senator Skowronski had earlier expressed and if Senator Skowronski has anything further to add to what we have just discussed, I would appreciate hearing from Senator Skowronski. Thank you Mr. President.

THE CHAIR:

Senator Smith, you still have the floor. If you want to ask Senator Skowronski a question, you may proceed to do that. Otherwise, if Senator Skowronski takes the floor on his own volition, he is speaking for the second time. Do you have a question Senator Smith?

SENATOR SMITH:

Through you Mr. President, Senator Skowronski, Senator Curry has just read the passages from where the concerns that you expressed actually do already exist and I was wondering if you had anything further to add to it because the concerns you did express were valid ones. However, if these have existed and there haven't been any problems in this area, then I was wondering if you could further elaborate on your specific concerns with

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this Bill.

THE CHAIR:

Senator Skowronski if you care to respond.

SENATOR SKOWRONSKI:

Thank you Mr. President, through you, I'm not satisfied that the present law already - that the present Connecticut law elsewhere in Chapter 17 uses this same language. My feeling is that if this language is used elsewhere in the Connecticut Statutes, that it ought to be deleted from those statutes because I find the language overly broad, subject to misinterpretation and unfair. So while I think the argument could be made, Senator Smith, that the language presently exists and perhaps there are no problems with it, I find in principle and in logic, that it's overly broad. It's dangerous and my own inclination is let's stop at the other statutes. Deep down in my heart of hearts I think I'd say to myself let's amend the other statute and take that language out. But I certainly can't see the expansion of that language which I consider overly broad and subject to abuse and misinterpretation to be extended to another statute. So I don't know if Senator Smith - that answers your question, but my own feeling is that the language doesn't belong in Title 17 and it doesn't belong in Title 31 because it's overly broad.

THE CHAIR:

Senator Smith, you still have the floor. Senator Cunningham.

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SENATOR CUNNINGHAM:

Thank you Mr. President. I rise in support of what Senator Skowronski has said. I believe he has said it very well with regard to this Bill. I think I can add but on one small point and that is perhaps distinguishing between what it says in Title 17 and I'm surprised that this Bill is merely setting forth in this Section what is already stated there and that this Bill does not specifically repeal that section, if it covers it. But also Mr. President, this does go beyond what is in Title 17. Title 17 refers to basically obtaining employment. This goes beyond that. This - in Title 17 it speaks in part, if I'm quoting correctly from what I wrote down from Senator Curry, it says for other legal rights. We are in fact, creating here, an enlargement of what is in Title 17.

Title 17 is vague and I agree with Senator Skowronski. We should consider deleting some of the language in that section. Certainly, we should not be discussing, adding this language in civil rights sections as we are here. It is overly broad. It is something which, in my opinion, goes too far. And I would urge this Chamber to vote no on this Bill. Thank you Mr. President.

THE CHAIR:

You're welcome. Senator Beck.

SENATOR BECK:

Mr. President, I really think that there is an unnecessary misunderstanding in pulling back from this piece of legislation. I think Senator Curry is to be commended for trying to simplify the process of remedy and

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Senator Curry is bringing it within the financial means of those people, both in terms of time and money to remedy a situation which is now on the statutes. Now, speaking to the basic objections to the existence of the statutory language in the first place, I think we have a tendency in the last days of the Session to move a lot of legislation and suddenly we're all capable of it and looking at things that we haven't looked at in some ways before. What we are saying here is that the discrimination should not be because of the history of mental disorder any more than it should be because of the history that you're female, or the history that you're black or the history that you're something else. If you are female, black, have a history of disorder or retardation and you can't do the job, you can't stay on the job. And you can be fired or whatever. And there are procedure for that. We are saying that because of your background and the history of what you are, you cannot be anything but what your history says and you cannot be discriminated against because of that reason. And with due respect that I deeply respect Senator Skowronski's thinking and his abilities and his capabilities and indeed, much of our statutory language may be drawn in ways that under ideal circumstances might be different, I challenge anybody to define some of these things in such a workable fashion that we can deal with them and we are talking about something which is not per se at the time employment, relevant. It may be if you cannot perform, that is something else. That is no longer history.

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That is actuality and I do think that what is a well intended improvement in process should not be misunderstood as beclouding and making more complex, an already highly humane, highly important, highly worked over at the Committee level, piece of legislation which has gone on in this State for many, many years and indeed, decades.

THE CHAIR:

Will you remark further? Senator Martin.

SENATOR MARTIN:

Mr. President, I support this Bill. I think it's way past due. We've taken care of the mentally retarded, the physically disabled, the blind and we have always overlooked the mentally ill. Many businesses employ these people. They go out of their way to try to help them back on the road to recovery and try to help them along in their private lives. There's no reason why all businesses can't do this. I was instrumental in having a man who was let go by a firm in my district and not because he had a mental illness hopefully, but I went down and explained to them that this man has proved to be an outstanding employee and I support the Bill and I think it's about time we stopped discriminating against the mentally ill.

THE CHAIR:

Will you remark further? Hearing no - Senator Skowronski, do you want to remark again?

SENATOR SKOWRONSKI:

Thank you very much. Mr. President and addressing these remarks to

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Senator Beck, I thank you for your very kind words and I assure you that the respect is mutual. If the Bill said, Senator Beck, what you said so eloquently, if the language said we won't discriminate in hiring against someone who had a past history of mental illness and they're fully capable of doing the present job, that would be fine and that would be one thing. But the Bill doesn't say that. It says something quite different. It says that we won't discriminate if they have a past or present history of mental illness and I'm troubled by the words - present mental - present history of mental illness. It doesn't say anything in there of the nature of the illness we're talking about, whether it's being treated; whether it's under control; what reference it has to do with capability of doing the job. There are a whole host of unanswered questions here that this language creates and doesn't solve. If it said what you said it - what you stated so eloquently, that we shouldn't and I don't condone discrimination in employment against anyone who's had a past history of mental illness and it's under control and they've been treated and they can do the job, but this goes far beyond that. It's talking about present mental disorder and that could be - we could be talking about the most severe psychosis, the most severe paranoia, any number of severe conditions that would really preclude someone from holding a particular job. And yet, with this statute on the books, we would be requiring employers to hire these people, make expenditures of time and money in training and so forth and not have it work

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out. So, if the language were as clear and as beautiful as that what you stated, I don't think that I'd probably be objecting to the Bill. But as it's written, the language just is overly broad and needs reworking in my-opinion. Thank you, Mr. President.

THE CHAIR:

Will you remark further? Senator Skelley.

SENATOR SKELLEY:

Mr. President, I rise in favor of this particular piece of legislation. The Bill went to two committees. The first Committee was Labor and Public Employees and several of the points that Senator Matthews has discussed with the Circle this afternoon came up. One of them happened to be the concern that Senator Skowronski has in dealing with individual that has a current mental disorder. First of all, if I remember this from the debate that took place in Committee, the objection was what if he's not capable of doing the job? Well, first of all, the employer would be aware of the fact that the employee was slipping; that he wasn't doing the job; that he was capable of doing or had done in the past and that he would probably warn him or reprimand him or eventually get rid of him.

Secondly, if the employer was made aware of the mental disorder, it would probably mean that the employee was under a doctor's supervision. We discussed the medication that perhaps the employee would be taking. The employer would be aware of that type of medication. If he was running a machine, working in high areas, it would immediately disqualify him. It isn't in the statute. It's a matter of good business practice. It's a matter that any-logical or rational employer or physician would take

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into consideration. It doesn't belong in the statutes listing the disorders, listing the type of medication for the job that's being performed. But it does take that cloud away from an individual that is currently being treated by a psychiatrist that perhaps this form of illness is something that we, as a society or as employers or labor organizations disassociate ourselves with; that there's some sort of a difference between this type of medical problem than there is with a physical medical problem and there are people that I am sure all of us have been associated with in the workplace that have had physical disorders that have in fact, impaired their jobs but we never questioned about removing them. Many times we find a place for them within that establishment.

The language in the Bill does everything the Bill is designed to do. It gives the flexibility to the employer; allows the employer to make certain inquiries of the doctor if he knows the individual is under a doctor's advice or care. It's a good Bill. It was sent down to Judiciary with a Joint Favorable and it should pass. Thank you.

THE CHAIR:

Will you remark further? Senator Leonhardt.

SENATOR LEONHARDT:

Mr. President, as I listen to Senator Skowronski's objection to this Bill and I think sharing though I do sometimes a different perspective from him, I think we've grown over a period of time to have great respect for each other's reasoning and capacity, at least my respect for his reasoning capacity, the good faith and intelligent arguments that he makes,

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I think the first question that he's raising goes to the standard that would bring into play various grievance procedures. I mean the first question you're raising is about the standards and you're particularly raising the question with reference to the present history of mental disorder. Now, I don't think the phrase present history of mental disorder is a clear legal phrase that's even been drafted. I don't know quite what a present history is. I think that that alludes to a continuing existence of a mental disorder; one that comes up to the present time, but what I'd like to point out to you Senator Skowronski and to other Members of the Circle who are perhaps focusing on this point, is the language in Lines 7 and 8 except in the case of a bona fide occupational qualification or need. In other words, the employer can consider any mental disorder and that's something that can be properly considered by an employer if it would cut into the person's ability to do the job for which they're hired.

So I think what we're saying is not that you cannot consider present mental disorder in not hiring someone. We're not saying that you can't consider it. I think that would be a very difficult concept for all of us. What we're saying is that we can't consider it beyond a reasonable extent. In other words, if someone has some sort of very minor mental disorder, that does not interfere with their performing a routine clerical position, as one example; that it is unfair discrimination to consider that under the circumstances. I think it's a reasonable standard for us to enact in

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the legislation. I don't think this is a case of extreme breast beating or someone taking up unpopular causes for the sake of doing that. I think it's trying to establish a kind of reasonable standard to protect people and so that they have a reasonable chance for employment, but not creating a situation where someone who has a disfunctional mental disorder would have a legal right to apply and be accepted for a job. I think all of us, though we feel sympathy for that individual, would understand that they couldn't properly apply and be accepted for that type of employment.

I think that goes to the first range of questions. The second range of questions that Senator Skowronski raised and I think in a very thoughtful way, is the question of enforcement and I think all we're saying when we're enacting this Bill is that we want to have the same type of enforcement through the Commission of Human Rights and Opportunities, that we have for other forms of discrimination. Senator Curry has already read the language in other statutes that are outside the Commission on Human Rights and Opportunities statutes so we've already established a standard, now let's take the one small final step, even though I agree with Senator Skowronski that the specific language is slightly different, but we've already established a basic standard, let's now take the one small step and bring that standard home to reality in allowing the Commission to enforce it. And I think when you think about that, that's not an unreasonable thing. I mean to me, it's a very simple concept that if someone is unreasonably

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discriminated against because of a continuing history of mental disorder - in other words, someone who perhaps has a minor mental problem sometimes that doesn't interfere with their performing a routine task under non-stressful circumstances, I don't have any problem at all with that person being able to go to the Commission on Human Rights and Opportunities and have that right enforced. Not only do I not have any problem with it, I think they should be able to and I think if we think about it on that basis, a very small extension on a reasonable basis of rights for people, I think it might help to gain acceptance of this Bill and I urge every Member of the Circle to please support it.

THE CHAIR:

Will you remark further? Senator Schnell.

SENATOR SCHNELLER:

Mr. President, through you to either Senator Curry or Senator Leonhardt, because I feel it's important to have a record of legislative intent as part of the discussion of this Bill, is it your opinion that if this legislation should be adopted and an employer found that an employee was unable to satisfactorily perform a task because of the present history of mental disorder, that that employer would in any way be precluded from discharging that employee and hiring another employee to perform such duty?

THE CHAIR:

Senator Leonhardt, if you care to respond.

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SENATOR LEONHARDT:

In my judgment, the employer is not precluded from considering that -
from discharging the person under those circumstances.

SENATOR SCHNELLER:

Thank you.

THE CHAIR:

Will you remark further? Hearing no further - Senator Beck.

SENATOR BECK:

Mr. President, just to clarify Senator Schneller's question and our mutual understanding as this very good dialogue is understood by me, we are talking about again, the distinction between past or present history of and inability to perform on the job which I think is the heart of Senator Schneller's question. Per se, the history would be of relevance but per se, the job functioning would be highly relevant. Is that correct? Maybe if we could have a response for the record.

THE CHAIR:

Senator Leonhardt if you care to respond.

SENATOR LEONHARDT:

Not only high relevant, determinative. That's exactly right. I'm excepting 100 percent the distinction that both Senators Schneller and Beck are making, very helpfully I think, for the Members of the Circle.

SENATOR BECK:

Thank you.

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THE CHAIR:

Senator Skowronski, this will be your third time. Is there objection to Senator Skowronski speaking? Hearing none, proceed.

SENATOR SKOWRONSKI:

Thank you very much. Particular thanks to Senator Schneller for vocally expressing his non-objection Mr. President. Very briefly, Mr. President, I think you appreciate, coming from the Town of East Hampton which is not unlike the Town of Derby, God help us when the Harvard lawyers come at us. There's not much defense. They erode our position pretty quickly and I appreciate and admire Senator Leonhardt for pointing out the language in Lines 7 and 8 which is important language that I did not focus in on and I'll say that he's got me thinking again, but probably not so much that I can withdraw my objections to the Bill which I still think is a can of worms. So I appreciate the calm and deliberative and reasonable approach that he's taking here in argument, but I still think it's a can of worms and I would ask that the vote be taken by Roll Call.

THE CHAIR:

As long as he's got you thinking and not speaking, Senator, I agree fully with a Roll Call. Further discussion on the Bill? Hearing none - Senator Cunningham.

SENATOR CUNNINGHAM:

Mr. President, very briefly, I was aware when I spoke earlier of those lines in the Bill. However, the problem of proof to a business of those

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very items that it is necessary in the job and that pretty much is in there and the situation of being able to inquire for certain very specialized jobs. For example, you might be able to inquire if you're a youth camp director, you might be able to find out certain items on the mental background of your perspective counsellor. I think when you're talking about business in general and you're talking about only General Motors and General Electric who can always find a place to put anyone, you're talking about businesses where it might be a great hardship and it also could place them in a situation of litigation and real problems under this. I think that the Bill on its merits should be defeated. Thank you Mr. President.

THE CHAIR:

Will you remark further? Hearing no further remarks, announce an immediate Roll Call of the Senate.

THE CLERK:

Immediate Roll Call has been ordered in the Senate. Would all Senators please return to the Chamber. Immediate Roll Call in the Senate. Would all Senators please take their seats.

THE CHAIR:

The machine is open. Have all Senators voted?

THE CLERK:

A Roll Call is taking place in the Senate. Would all Senators please return to the Chamber.

THE CHAIR:

The machine will be closed. The Clerk will take a tally.

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The vote is:

23 YEA

9 NAY

The Bill is passed. I believe the Clerk has a matter of importance on her desk.

THE CLERK:

The Clerk has received, under a Suspension, House Joint Resolution 211, recalling Substitute House Bill 5347 from the Governor's Office.

THE CHAIR:

Senator Baker.

SENATOR BAKER:

Mr. President, I move adoption of the Resolution.

THE CHAIR:

Question is on Suspension and adoption. Is there objection to Suspension? Hearing none, question is on adoption. Senator Baker.

SENATOR BAKER:

Mr. President, this Bill has passed both Houses and is on the Governor's desk and I believe has some technical defects and I would ask the Circle to agree to the adoption of this Resolution, appointing a Committee of 2 representatives and one senator to request the Governor to return the Bill
AN ACT REQUIRING NOTICE TO MUNICIPALITIES PRIOR TO THE DEMOLITION OF A
STATE BUILDING to the Chambers.

THE CHAIR:

The question is on adoption of the Recall Resolution. Will you remark?

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The machine is closed. The Clerk please tally the vote.

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Result of the vote: 32 Yea - 2 Nay.

THE BILL IS PASSED.

THE CLERK:

Cal. 608, Files 597 and 1131. Favorable report of the joint standing Committee on Judiciary. Substitute for Senate Bill 431. AN ACT CONCERNING DISCRIMINATION AGAINST THE MENTALLY ILL, as amended by Senate Amendment Schedule A and House Amendment Schedule A.

THE PRESIDENT:

Senator Curry.

SENATOR CURRY: (9th)

Mr. President, I would like to move that we reject House Amendment Schedule A. I would like to waive the reading of that amendment and I will summarize it for you.

THE PRESIDENT:

You may proceed.

SENATOR CURRY:

House Amendment Schedule A contains an issue we will all pretty easily recollect from the Senate debate over this bill. The debate here as there was whether or not to leave within the bill language regarding present or past history of mental disorder and what the House did was adopt Amendment A eliminating the word "present" and thus applying the bill only in those instances of a past history of mental

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disorder. I can report to you that I have had some discussions with members of the House who supported House Amendment Schedule A and that while I cannot report to you that all of them are in agreement with my own original version of this bill, I do believe that most of them now are. And I can report to you without fail that no one in the House understood the principal point made here on the Senate floor. It was unknown to those who spoke about this bill in the House that it did not change the substantive law that it only changed the remedy available to people seeking relief under the law and I know that we have been over this territory before so I will just quickly say that I know the issue that convinced the majority of the members of this body to support the bill as it was originally written was the information that by doing so we were not enlarging or changing in any way people's substantive right under current Connecticut statute but that we were only, by passing this bill, attempting to change the remedy from Superior Court to the Commission on Human Rights and Opportunities; thereby providing both employers and employees alike a more expedient remedy and a more appropriate forum. Unfortunately, that fact was not brought out in the House and the entire debate over this bill did not include a single mention of the fact that the substantive provisions of this bill are already law. And so I believe, I have very good reason to believe that if we reject House Amendment A this issue will be quite easily settled in the House

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when we send it back to them and I urge rejection of House Amendment Schedule A.

THE PRESIDENT:

Your motion, Senator Curry, is for rejection of House Amendment Schedule A.

SENATOR CURRY:

Yes, Mr. President, to reject House Amendment A.

THE PRESIDENT:

The motion is for rejection of House Amendment A. Will you remark further. Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you very much, Mr. President. Senator Gunther was prophetic when he said we seldom get two shots at a bill. And it is a welcome opportunity.

THE PRESIDENT:

Make it a short jab, please.

SENATOR SKOWRONSKI:

I'll refrain from the roundhouse right, Mr. President. I rise to oppose the motion to reject House A and to encourage its adoption, indeed, its embracement by this circle. Thank God for the bicameral system of government, Mr. President, because sometimes the secondhouse can bail out the first. I believe House A makes more palatable the bill which I was quite opposed to that we passed. And that is at the time of the debate and I don't want to reinvent the wheel, Mr. President, but the point we made in the debate, on the original debate on.

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this bill was that to insert the language "present history of mental illness" was opening a can of worms, that certainly past history of mental illness is something legitimate and it ought to be protected, but to also extend the same protection to present history of mental illness opens the door to all kinds of abuse and really creates many more problems than it solves. I think the amendment cleans up the bill. It reduces the possibility of abuse and injects an element of commonsense and practicality into the bill. I would hope we will vote down the motion by Senator Curry and accept House A.

THE PRESIDENT:

Motion is for rejection of House Amendment Schedule A. Senator Skelley.

SENATOR SKELLEY: (35th)

Mr. President, I would hope that we accept Senator Curry's recommendation. He has put a great deal of work into this. He has spent a great deal of time with the House members. There was obviously a misunderstanding under the concept. I would say that from the beginning in the Labor Committee over to Judiciary and now as the bill stands before us as amended, I would request that we take his suggestion and reject the amendment.

THE PRESIDENT:

Senator Curry.

SENATOR CURRY:

Mr. President, I just would emphasize to the members of

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the circle one point. If we accept House Amendment A what we have done is kept the same substantive law but offer two different remedies available to an individual in essence depending upon at what stage of their rehabilitation they are. So that if you have a past history, you go to the Commission on Human Rights and Opportunities and the present history, you go to the Superior Court. And that just isn't the sensible thing to do. Just in terms of logic and consistency in the statute alone. To have those two different remedies available to them in those two situations is only going to confuse people and confuse all of us. And I really do believe as Senator Skelley said that if this had been understood in the House, the amendment would not have been offered and had it been offered, it would not have been voted upon. And I really believe we will be able to work this out quite easily.

THE PRESIDENT:

A roll call has been requested in view of the opposition and the Clerk will please make the announcement. Let's try to confine our debate to new material, new arguments and in the meantime please hold your arguments in abeyance, Senator Matthews, until the roll call is announced.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all senators please come to the chamber. An immediate roll call has been called for in the Senate. Will all senators please take their seats.

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THE PRESIDENT:

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Senator Matthews.

SENATOR MATTHEWS: (26th)

Thank you, Mr. President. Very briefly, I had opposed this bill, as you will perhaps remember, from its initiation in the Senate circle. I agree with the comments made to support House Amendment Schedule A. The termination of a present psychological or mental problem is absolutely incredible to me when you try to decide whether a person should be treated for the appropriate need of employment or any other related activity. I support House Amendment A. I think it is the only way this bill really makes good sense.

THE PRESIDENT:

Senator Prete.

SENATOR PRETE: (14th)

An inquiry to the Chair. If my memory serves me correctly, there was an amendment offered in this house and defeated which would have removed the provision which the House Amendment put back in. Would this not then be a disagreeing action which would require a committee on conference.

THE PRESIDENT:

I don't think so, Senator Prete. The House made an independent judgment. The matter is legally before us. The motion is for rejection and that's where we are at now.

Are you ready for a roll call. If you vote Yes, it's for rejection. If you vote No, it's for no rejection. The

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machine is open. Please record your vote. The machine is closed. The Clerk please tally the vote.

Result of the vote: 18 Yea - 16 Nay.

MOTION FOR REJECTION PREVAILS.

THE PRESIDENT:

Senator Curry, do you wish to move the bill at this point?

SENATOR CURRY:

My apologies, Mr. President. I understood the rejection automatically sends the bill back, but I will, yes, move for passage of the bill.

THE PRESIDENT:

Then I think there is opposition so a roll call is requested.

THE CLERK:

A roll call in the Senate. Would all senators be seated. A roll call in the Senate. Would all senators please return to the chamber.

THE PRESIDENT:

The machine is open. Please record your vote. The machine is closed. The Clerk please tally the vote. Result of the vote: 30 Yea - 4 Nay.

THE BILL IS ADOPTED.

THE CLERK:

Cal. 648, Files 644 and 1115. Favorable report of the

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TERMINATION OF PREGNANCY IN A MINOR. The committee has had the bill under consideration and feels that it should be referred to the Committee on Judiciary.

SPEAKER RAPOPORT:

So ordered.

CLERK:

Favorable report of the Joint Standing Committee on Labor and Public Employees. On Substitute for S.B. No. 431 (COMM) AN ACT CONCERNING DISCRIMINATION AGAINST THE MENTALLY ILL. The committee feels that this bill should pass but first be referred to the Committee on Judiciary.

SPEAKER RAPOPORT:

So ordered.

CLERK:

Favorable report of the Joint Standing Committee on Education. On Substitute for S.B. No. 1383 (COMM) AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL CONSTRUCTION PROJECTS. The committee feels that the bill should pass but first be referred to the Committee on Appropriations.

SPEAKER RAPOPORT:

So ordered.

CLERK:

Favorable report of the Joint Standing Committee on Banks. On Substitute for S.B. No. 497 (COMM) AN ACT CONCERNING

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at the request of the chairman?

SPEAKER ABATE:

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

CLERK:

Calendar page 18, Calendar No. 1176, File No. 597, Sub-
stitute for Senate Bill No. 431, AN ACT CONCERNING DISCRIMINATION
AGAINST THE MENTALLY ILL (as amended by Senate Amendment Schedule
"A"). Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Richard Tulisano of the 29th.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint Committee's
Favorable Report and passage of the bill in concurrence with the
Senate.

SPEAKER ABATE:

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

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has an amendment,
LCO No. 7099. Please read.

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SPEAKER ABATE:

The Clerk has in his possession an amendment, LCO No. 7099, previously designated Senate Amendment Schedule "A". Would the Clerk please call and read the amendment.

CLERK:

LCO No. 7099, offered by Senator Curry of the 9th, Senator Johnson of the 6th. In line 1, insert section 1. After line 96, insert the following: "Sec. 2. The use of numerical goals or quotas or other types of affirmative action programs in the administration or enforcement of provisions of this act relating to discrimination on account to a present or past history of mental disorder is prohibited."

SPEAKER ABATE:

The amendment is in your possession, sir. What is your pleasure?

REP. TULISANO: (29th)

Mr. Speaker, I move for adoption of the amendment.

SPEAKER ABATE:

The question is on adoption of Senate Amendment Schedule "A". Will you remark on its adoption?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, this amendment makes it clear that affirmative action is not a requirement in this non-discrimination act dealing with mental illness. Many people would

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think that would be a violation of privacy in any event. It is not the normal kind of status which is easily identifiable, and therefore proper for this kind of exclusion.

SPEAKER ABATE:

Will you remark further on the adoption of Senate "A"? Will you remark further on its adoption? If not, all those in favor of its adoption, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Opposed, nay. The ayes have it. The amendment is adopted and it is ruled technical.

Will you remark further on the bill as amended by Senate "A"?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, this is a bill which was referred to the Judiciary Committee by the Labor Committee and which made it clear that present or past history of mental disorders may not be a purpose for which would be discrimination for any of those mental illnesses would be an unfair employment practice in obtaining a job and this is solely limited to the occupational area and I move its adoption.

SPEAKER ABATE:

Will you remark further on the bill? Will you remark further on this bill as amended by Senate "A"?

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REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Robert Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. The Clerk has an amendment, bearing LCO No. 7969. Would the Clerk please call and may I be permitted to summarize in lieu of Clerk's reading?

SPEAKER ABATE:

The Clerk has in his possession an amendment, LCO No. 7969, designated House Amendment Schedule "A". Would the Clerk please simply call the amendment.

CLERK:

LCO No. 7969, offered by Rep. Jaekle of the 122nd.

SPEAKER ABATE:

The gentleman is seeking leave of the chamber to summarize this amendment in lieu of Clerk's reading. Is there objection? Is there objection to summarization? Hearing none, you may proceed with summarization, Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. The amendment would remove from the file copy the word present or, in the context of present or past history of mental disorder, leaving the file in the non-discrimination section only applicable to past histories of

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mental disorder and therefore meaning that a present mental disorder indeed could be grounds for refusing hiring an individual or indeed for termination of employment. I move adoption of the amendment, Mr. Speaker.

SPEAKER ABATE:

The question is on adoption of House Amendment Schedule "A". Will you remark on its adoption?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER ABATE:

Will you remark on its adoption? Rep. Jaekle.

REP. JAEKLE: (122nd)

Yes, Mr. Speaker. In reviewing the file copy, and giving it some deep reflection, I have to say that a present mental disorder indeed would be legitimate grounds for an employer to refuse employment or fire an individual under his employ. I'd like to say that it's self-explanatory, but I hesitated in offering the amendment, because I realized it could be interpreted as a motherhood bill and therefore to amend it might be somewhat controversial.

However, I think someone's present mental disorder is grounds for discharge. There's a reason why other employees might not wish to work with that employee, and indeed could seriously affect a reputation of a business for hiring individuals

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with mental disorders. Mental disorders could range from nervous breakdowns, some sort of violent activities, schizophrenic actions. Frankly, while I will support the bill that someone's past history of mental disorder should not be used to discriminate against one, that if somebody has been treated and cured of a mental disorder that history should not be used as a basis to discriminate against the individual in employment. But if someone is ill, I believe it's the right of an employer to refuse employment or to fire somebody because of this condition. I therefore urge adoption of the amendment, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on the adoption of House "A"?

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I rise to oppose adoption of House Amendment Schedule "A". I understand what Mr. Jaekle has indicated and I understand his concern clearly. This was part of the discussion in the Judiciary Committee. In fact, at one point the Committee had thought very seriously of adopting such similar amendment. But after a long discussion, we decided not to make that provision part of the file copy as it's before you for a very important

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reason.

As Mr. Jaekle has indicated, there are people who may have had some form of -- they have recently had a nervous breakdown is the language he used as I recall, and although it's not a medical term, it's generally understood to be someone who's had maybe some conflict in their life, some immediate loss in their family and they, it caused them nervous disorder, whether it be depression or some other activity, and are under treatment for that.

Now that may mean that they are receiving medication. It may mean that they are receiving psychiatric counseling. Not being a physician, I don't know how they would treat these things, but clearly it was the Committee's understanding, opinion at that time that we would be able then to discriminate people who are being treated and who are of no possible, have no possible bad influence on their job qualifications or on their co-workers. It was felt clearly that the existing language would protect co-workers, if some of them were violent. It would protect an employer if one were not capable, if the existing mental disorder would make one incapable of performing the job, then this statute would not be applicable.

And we felt that in the weighing and balancing of the interests, the great numbers of people who do receive treatment today, because we do recognize mental disorder in its broadest sense, to include great numbers of individuals and

great numbers of kinds of medical problems that this would be the better bill and I urge rejection of the amendment.

REP. CANDELORI: (23rd)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on the adoption of House "A"?

Rep. William Candelori.

REP. CANDELORI: (23rd)

Mr. Speaker, I rise in support of Rep. Jaekle's amendment. I believe what the bill is trying to address is that situation where a client may come to an employer for possible work and manifest a mild disorder. But certainly, Rep. Jaekle's amendment recognizes the possibility of the disorder situation where an individual is abusive, dangerous and represents a clear and present danger to the rest of the employees at that establishment. I urge support of that amendment.

SPEAKER ABATE:

Will you remark further on the adoption of House "A"?

REP. QUINN: (132nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. John Quinn of the 132nd.

REP. QUINN: (132nd)

Thank you, Mr. Speaker. Mr. Speaker, through you a question to the chairman of the Judiciary Committee.

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SPEAKER ABATE:

State your question, please, sir.

REP. QUINN: (132nd)

Through you, Mr. Speaker. Mr. Chairman, would you say that without this amendment that a person who would have current mental strain and disorders undergoing those current problems, would have the right to be hired by an agency providing psychological services and counseling? About the amendment, Mr. Speaker, what I'm trying to ask the chairman is that with this amendment not being attached to this bill, would it therefore be right to say that a person undergoing current mental strain and disorder might possibly have to be hired by an agency providing psychiatric and psychological counseling service?

REP. TULISANO: (29th)

Through you, Mr. Speaker...

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, if I understand the question correctly, I would respond yes, with a proviso. That proviso being, if that mental disorder was not, did not adversely affect the job qualifications by which, for which that person was being hired, then it would be an unfair labor practice to not hire that person. If, on the other hand, that job could be interfered with

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as a result of that disorder, then it would be clearly proper for the employer not to hire that individual.

SPEAKER ABATE:

Rep. Quinn.

REP. QUINN: (132nd)

Thank you, Mr. Speaker. Comment on this amendment, Mr. Speaker. I wish to support the amendment. I feel that Rep. Tulisano's first answer was yes, and I believe although he qualified his answer I believe there are many professions, many areas of employment, where a person currently undergoing great mental strain and disorders should not be employed. And very often, especially in the field of psychological and psychiatric counseling, these problems may not be that evident initially, but dealing with other people's problems and their difficulties, certainly might have this problem rise to a greater difficulty level for the person to deal with and cause harm, not only to that individual but to other people which that person's supposed to be helping at the time.

Mr. Speaker, I urge acceptance of this amendment.

SPEAKER ABATE:

Will you remark further on the adoption of House "A"?

Rep. Elizabeth Leonard.

REP. LEONARD: (111th)

Thank you, Mr. Speaker. Mr. Speaker, through you a

question to the proponent of the bill. Is there a definition in line 11 of mental disorder?

SPEAKER ABATE:

Rep. Tulisano, will you respond, sir?

REP. TULISANO: (29th)

Mr. Speaker, through you, a point of order. We're discussing the amendment.

REP. LEONARD: (111th)

May I rephrase the question, Mr. Speaker?

SPEAKER ABATE:

Will you state the question, please, madam?

REP. LEONARD: (111th)

The amendment refers to line 10 in which it says striking the word "present or", and I assume what they are striking is present, refers to a mental disorder. So linking that there's a thin line I would submit, sir, between the question and the amendment. I need a definition of mental disorder, sir, before I can vote on the amendment in an intelligent manner. We're discussing now nervous breakdowns. Is that what the statutes or anything else define as mental disorder? What I'm looking for is a definition, sir.

SPEAKER ABATE:

I think the question is appropriate, madam. Will you respond to the question, Rep. Tulisano?

REP. TULISANO: (29th)

Through you, Mr. Speaker, the bill does not define mental disorder. I think it would use its normal medical terminology as may be found in medical areas, which I do not have before me at this time. However, in the comments that were just made, indication was nervous breakdown. Nervous breakdown is a layman's term and is not a medical term. Often it made reference to various forms of mental disorder, but it is a lay term, not a medical term.

REP. LEONARD: (111th)

Thank you, Mr. Speaker. That even makes my questioning a little more imperative. Because I'm asking now, could we be speaking of a person who is presently a manic-depressive, someone who is presently schizophrenic? Are these the type of things that we are talking about, and I would address that through you, sir, to the chairman of the Judiciary.

SPEAKER ABATE:

Rep. Tulisano, will you respond to the inquiry put to you by Rep. Leonard?

REP. TULISANO: (29th)

Mr. Speaker, through you, Mr. Speaker, I think clearly that we are talking about individuals who are manic-depressive, who may be schizophrenic but who are under treatment and according to lines 7 and 8 of the bill:

Those disorders do not hamper their occupational qualifications or need.

REP. LEONARD: (111th)

Well frankly Mr. Speaker, I would like to comment then. In view of the fact that we do not have a definition of a mental disorder, this is kind of an open door to any mental condition that a person is presently unfortunately suffering from, whether he is in fact being treated for it or not. He is still suffering for it. Under the term of mental disorder, when we go into the categories of those that I had referred to just previously, we're speaking of people who are dangerous to themselves and to their co-workers without an identified triggering mechanism.

Sir, I would then have to support and urge support for the amendment which would prevent a company from having to expose its employees and itself to the real and clear and present danger as I believe Rep. Quinn just mentioned, of people who could be suffering from anything under the term mental disorder, since it is not defined. I urge approval of the amendment.

Thank you sir.

SPEAKER ABATE:

Will you remark further on the adoption of House "A".

REP. WILBER: (133rd)

Mr. Speaker.

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SPEAKER ABATE:

Rep. Elinor Wilber.

REP. WILBER: (133rd)

Thank you Mr. Speaker. Mr. Speaker, I would not support the amendment. I think - however, I think the entire bill is really a serious problem with or without the amendment, it's a problem. We've got ourselves into a bill and the amendment clearly makes it clear that we have a problem. How are we going to define these things? How are we going to tell an employer one is not an employee because the person is mentally ill or a question of incompetence. In fact, I think we've gotten ourselves into so many problems with our antidiscrimination statutes that I refuse absolutely to vote for another one on any list of antidiscrimination. I think we've got enough problems. And, I certainly do not believe in discriminating against mentally ill people in employment or in fact, in any other way.

I just think we are just never going to be able to handle this particular problem. I don't think it matters whether the amendment is on it or not. I think it's a terrible bill. Thank you Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this bill.

REP. JOYNER: (12th)

Mr. Speaker.

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SPEAKER ABATE:

Rep. Walter Joyner.

REP. JOYNER: (12th)

Well thank you, Mr. Speaker. I have a question to the proponent of the bill, but it respects in regards to the amendment.

SPEAKER ABATE:

State your question, please sir.

REP. JOYNER: (12th)

Thank you, Mr. Speaker. Rep. Tulisano, in order to try to decide on the amendment, I should like to ask a combination of questions but in one question.

First of all, if you were hiring a teacher to teach children in your school system with a known mental disorder, how would this affect your decision?

Secondly, as Chairman of the Judiciary Committee, if you had a judge coming up for review on the eight year reappointment and you knew he had a mental disorder, how would this affect your decision? And, how would this affect the amendment and the bill?

SPEAKER ABATE:

Rep. Tulisano will you respond sir.

REP. TULISANO: (29th)

Through you Mr. Speaker, I will attempt to. If I had the

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opportunity to hire a teacher and from my experience there are probably less of teachers who are out there who have mental disorders of some sort. The other, as there may be some of us sitting in here who have some form of mental disorder of some form or other from time to time; that disorder may be depression, it may be extreme anxiety and that is a form of mental disorder. And, I have experienced the same myself. If the job as a teacher, if the mental disorder that particular teacher had, would adversely affect their job, then I don't think we have to hire them. And, clearly the bill says you do not have to hire them.

If it is a slower mental disorder, which is being treated simply by some prescription they are taking every day, a very minor one, - first of all, you'd probably never know about it, and second of all, it's probably right and correct that it would be an unfair labor practise not to hire that person. Because, it has no relationship to the job. Secondly, if it were a judge coming before a Judiciary Committee, and with my own vote I can only speak for myself and not for any member of that committee, I would use exactly the same criteria for that person whether it be for a teacher or for any other job which I had a decision to make.

SPEAKER ABATE:

Rep. Joyner, you still have the floor sir.

REP. JOYNER: (12th)

Well thank you, Mr. Speaker. I appreciate your answer and I too express anxiety and I would like to get out of here now. This is my anxiety. But, I cannot support this bill without the amendment on it. Thank you very much.

SPEAKER ABATE:

Will you remark further on the adoption of House "A"?

Will you remark further on its adoption.

REP. MATTIES: (20th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Charles Matties.

REP. MATTIES: (20th)

Mr. Speaker, in support of the amendment and a person who has had some experience, but totally unqualified, I think we're putting an awful onerous on an employer. I had the experience of having an employee who did indicate some problems mentally. I waited too long, I didn't act in the right way, I was fortunate that the night that he tried to run down one of his fellow employees, he was not successful. I think putting an employer in that type position, where they have to be concerned as to whether they should or should not or have to keep a person with a mental illness is unfair to the employer. We are not capable of judging the seriousness of it. And, to put that in statute is

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REP. TULISANO: (29th)

Through you Mr. Speaker, I certainly do not think the bill would be crippled with the amendment. It would provide a great measure of protection even with the amendment for numbers of people who have received treatment in the past and are no longer receiving it and are now the subject of some sort of fear that exists in the community, resulting in of a belief about mental illness that comes out of our far past of the time in United States which is no longer prevalent. And, I certainly don't think the bill would be crippled, even though the amendment would be passed.

REP. RITTER: (6th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Ritter.

REP. RITTER: (6th)

With that thought in mind, I'm going to support this amendment. I think that the bill is too important to lose on concern that if we don't pass the amendment we might lose the bill. Perhaps, some other year with additional experience, more fully feel comfortable in supporting what we know will amend out. So, I will support the amendment.

SPEAKER ABATE:

Will you remark further on the adoption of House "A"?

REP. PATTON: (119th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Gerrard Patton. and house amendment

REP. PATTON: (119th)

I was just going to comment that I think existing mental disorders may not be a liability if you are serving here in the House, but it does strike me as if a grave insanity for us to tell employers that they must hire people who are mentally ill, and I have not heard it mentioned in the bill that the words presently under treatment is in the bill. And so, I suggest that we're in essence telling people that they are required to hire people who are mentally ill and I think that's a terrible step for us to take.

SPEAKER ABATE:

Will you remark further on the adoption of House "A"? Will you remark further on its adoption? If not, all those in favor of its adoption please indicate by say aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Opposed, nay.

REPRESENTATIVES:

Nay.

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SPEAKER ABATE:

The ayes, have it. The amendment is adopted and it is ruled technical. Will you remark further on this bill as amended by Senate Amendment Schedule "A" and House Amendment Schedule "A".

REP. BERMAN: (19th)

Mr. Speaker.

SPEAKER ABATE:

Rep. John Berman.

REP. BERMAN: (19th)

I reluctantly rise to oppose the bill even in its amended form, and I deposed it in Judiciary although the file copy would indicate it was an unanimous vote, and I think we would all agree that when it comes to legislating individual conduct or employment practices, we can only legislate in the most gross fashion and try to perhaps hit a majority of the cases.

By adopting this bill, what we do is permit an individual who has not received the job to go to the Human Rights and Opportunities Commission, file a complaint, and call for an investigation by that agency. And I do not think that mental illness is an area that we ought to try to legislate. I think in some occupations it is critical even though it may not superficially appear to be job related.

The statute as we have it before us is so grossly --

SPEAKER ABATE:

Excuse me, Rep. Berman. Would the House please come to order? Would the House please come to order?

REP. BERMAN: (19th)

Thank you, Mr. Speaker. The statute as we have it before us does not attempt to define the term, and the term does not have a definition. I spoke with a psychiatrist on this question, and I was led to believe by him that the language as we have before us is so difficult to interpret, that what we really in cases like this is encourage people to file complaints. We make no attempt to be discriminating ourselves in providing adequate standards and definitions, which there ought to be, but simply throw out a couple of words, without describing it in a finer way, such as depression or manic depressive.

The two are so far apart in mental disorders and yet in certain instances, we could all agree that a manic depressive or an individual such as that would not be appropriate, whereas a depressed person would be. So I would submit that this bill needs a great deal of work and education, and it ought to be defeated.

SPEAKER ABATE:

Will you remark further on the bill as amended? Will

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you remark further on the bill as amended? If not, would all the members please be seated. Would all the members please be seated. Would all staff and guests please come to the well of the House. The machine will be opened.

SP. CLERK: The House is voting by roll at this time, would the members please return to the Chamber immediately. The House is voting by roll at this time, would the members please return to the Chamber immediately?

SP. CLERK: Have all the members voted? Would the members please check the roll call machine to determine if their vote is properly recorded?

The machine will be locked. Clerk will take the tally.

REP. MIGLIARO: (80th)

Mr. Speaker, so note.

SPEAKER ABATE: (109th)

Rep. Eugene Migliaro.

REP. MIGLIARO: (80th)

Affirmative, please.

SPEAKER ABATE: (109th)

The Journal will so note, Rep. Migliaro has cast his vote in the affirmative.

REP. WALSH: (53rd) well so.

Mr. Speaker.

Mr. Speaker.

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SPEAKER ABATE:

Rep. Walsh.

REP. WALSH: (53rd)

In the affirmative, please.

SPEAKER ABATE:

Journal will so note, sir.

REP. HANLON: (70th)

Mr. Speaker.

SPEAKER ABATE:

Schedule Rep. Hanlon.

REP. HANLON: (70th)

In the affirmative, please.

SPEAKER ABATE:

Journal will so note, sir.

REP. WALKOVICH: (109th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Walkovich.

REP. WALKOVICH: (109th)

In the affirmative, please.

SPEAKER ABATE:

The Journal will so note.

REP. ANDERSON: (106th)

Mr. Speaker.

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SPEAKER ABATE:

Rep. Anderson.

REP. ANDERSON: (106th)

In the affirmative, please.

SPEAKER ABATE:

Journal will so note, sir.

Clerk, please announce the tally.

CLERK:

Senate Bill No. 431 as amended by Senate Amendment
Schedule "A" and House Amendment Schedule "A".

Total number voting 127

Necessary for passage 64

Those voting Yea 74

Those voting Nay 53

Those absent and not voting 24

SPEAKER ABATE:

The bill as amended passes.

Senate Amendment Schedule "A" and House Amendment Schedule
"A".

In line 10, strike the words "PRESENT OR"

In line 25, strike the words "PRESENT OR"

In line 30, strike the word "PRESENT"

In line 31, strike the word "OR"

In line 59, strike the word "PRESENT"
In line 60, strike the word "OR"

REP. JOHNSTON: (51st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Kevin Johnston.

REP. JOHNSTON: (51st)

Mr. Speaker, I move for acceptance and passage of those
five items placed on the Consent Calendar earlier.

SPEAKER ABATE:

The question is on acceptance and passage of the following
Calendar items, 1123, 1129, 1130, 1140 and 1170. All those in
favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Opposed, nay. The ayes have it. The bills are passed.

House Bill No. 7833, AN ACT CONCERNING THE USE OF STATE
FUNDS FOR STUDENT ACTIVITY PROGRAMS.

House Bill No. 7972, AN ACT CONCERNING A CONVEYANCE OF A
CERTAIN PARCEL OF STATE LAND TO TALCOTT MOUNTAIN SCIENCE CENTER
FOR STUDENT INVOLVEMENT, INC.

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SPEAKER ABATE:

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

CLERK:

Calendar No. 1176, File No. 597, 1131, Substitute for
Senate Bill No. 431. AN ACT CONCERNING DISCRIMINATION AGAINST
THE MENTALLY ILL. (As amended by Senate Amendment Schedule "A"
and House Amendment Schedule "A"). Favorable Report of the
Committee on Judiciary. Senate rejected House Amendment Schedule
"A" on 5-22.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Richard Tulisano of the 29th.

REP. TULISANO: (29th)

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

SPEAKER ABATE:

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

REP. TULISANO: (29th)

Yes, Mr. Speaker. The Clerk has an amendment, LCO 7969.

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SPEAKER ABATE:

The Clerk has in his possession an amendment, LCO 7969, previously designated as House Amendment Schedule "A". Would the Clerk please call the amendment.

CLERK:

LCO 7969, offered by Rep. Jaekle of the 122nd.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

The gentleman is seeking leave of the Chamber to summarize the amendment in lieu of Clerk's reading. Is there objection? Hearing none, you may proceed to summarize the amendment.

REP. TULISANO: (29th)

Yes, Mr. Speaker. This is the amendment that struck our "present" from the file copy in regard to mental disorder for which -- which would give the Human Rights and Opportunities the ability to implement the existing legislation. That amendment was rejected by the Senate and I would ask this body to reject House Amendment "A" also. I move its rejection.

SPEAKER ABATE:

The question is on the rejection of House Amendment Schedule "A". Will you remark on its rejection? Will you remark on the rejection of House "A".

REP. TULISANO: (29th)

Mr. Speaker.

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SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Just for clarification, the language is just another part of the statute and to reject "A" would make this statute consistent with Sec. 17-206 of the General Statute.

SPEAKER ABATE:

Will you remark further on the rejection of House "A"?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Jaekle.

REP. JAEKLE: (122nd)

I too, rise to urge rejection of the amendment. Rep. Tulisano did indeed indicate that Sec. 17-206 J of the General Statutes, currently embodies the principle that employers shall not discriminate against potential or existing employees because of present or past history of mental disorder. That was a provision put into our Statutes in 1971. It would mean that the trust of the bill before us would be to change the way an individual aggrieved by an action of an employer would be able to get a remedy. The Statute, Sec. 17-207 J provides that an individual could bring a court action. By putting this language into our nondiscrimination sections of our Statutes

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would mean an individual seeking a remedy could go through the administrative route of going to the Human Rights and Opportunities Commission which would be less costly and more efficient than going to court. I therefore will support rejection of the amendment.

SPEAKER ABATE:

Will you remark further on the rejection of House "A"? If not, all those in favor of its rejection please indicate by saying, Aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Opposed, Nay. The Ayes have it. The amendment is rejected. Will you remark further on the bill.

REP. TULISANO: (29th)

Yes, Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker. I move for passage of the bill as amended by Senate Amendment Schedule "A" consistent with our prior action.

SPEAKER ABATE:

Will you remark further on the bill? Will you remark

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further on this bill? If not, would all the members please be seated. Would all staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Would all the members please return to the Chamber immediately. The House is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? Would the members please check the roll call machine to determine if their vote has been properly recorded. The machine will be locked. The clerk will take the tally.

Would the clerk please announce the tally.

CLERK:

Senate Bill No. 431 as amended by Senate Amendment
Schedule "A".

Total Number Voting --

REP. GIONFRIDDO: (33rd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Gionfriddo. Are you trying to get the attention of the Chair, sir.

(LAUGHTER)

REP. GIONFRIDDO: (33rd)

Yes, Mr. Speaker. In the affirmative, please.

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SPEAKER ABATE:

The Chair will so note, Rep. Gionfriddo cast his vote in the affirmative. Would the clerk please announce the tally.

CLERK:

Senate Bill No. 431 as amended by Senate Amendment

Schedule "A".

Total Number Voting 133

Necessary for Passage 67

Those voting Yea 126

Those voting Nay 7

Those absent and Not Voting 18

SPEAKER ABATE:

The bill passes.

Is there business on the clerk's desk?

CLERK:

Emergency Certification Raise, Committee Bill No. 7984.

AN ACT CONCERNING A GRANT FOR THE TOWN OF STRATFORD TO ALLEVIATE THE ASBESTOS PROBLEM.

SPEAKER ABATE:

Refer to the Committee on Appropriations.

CLERK:

Calendar, page 11. Calendar No. 1125, File No. 904,1133,

Substitute for House Bill No. 7336. AN ACT CONCERNING A TAX CREDIT AGAINST THE CORPORATION BUSINESS TAX FOR APPRENTICESHIP