

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 4
876-1126

1980

MR. HOLZBERG: (Continued)

on a writ of habeas corpus, the court must decide at the time of the hearing whether the patient would be committable under 17-178. That necessarily requires psychiatric evidence.

This amendment would provide for that psychiatric evidence. Finally, one brief comment. We took, as best as we could determine, the number of hearings in all last year, there were about 40. We do not think that these amendments would substantially increase the hearings. The machinery is already in place for appointment of attorneys and for appointment of psychiatrists and we do not believe that it would place an undue burden on either the Probate Court or on the Department of Mental Health. Thank you.

REP. TULISANO: Thank you. Patricia Graves?

PATRICIA GRAVES: Good morning Mr. Chairman, members of the Committee. My name is Patricia Graves, I am here in support of Bill No. 5845 An Act Concerning Incest. My purpose for my presence here this morning ladies and gentlemen, has to do with the fact that I am indeed in support of 5845 with the hope that if passage of this bill occurs by your Connecticut legislature, that hopefully placing this under the Sexual Assault statute of sexual assault second degree, that we will have in some way protected the victim of the offense of incest.

As you probably are all aware the crime of incest identifies its victim through newspaper publicity at which point in time when we, as a police agency, make an arrest for the crime of incest, we have immediately identified not the individual, but a member of the family as being a victim of this offense. I therefore would like to request that not only is this bill passed, certainly that you consider placing it under the Sexual Assault statute which would mean second degree, placing it as a Class C felony because incest at this point in time is a Class D felony, which would certainly make the offense of incest a much more serious offense, but, at the same time, hiding it within the sexual assault statute, therefore we would not be identifying the victim. Thank you.

REP. TULISANO: Similar to last year's

MS. GRAVES: Yes sir, it is. That is correct, Thank you.

REP. TULISANO: Charles Hoyt?

CHARLES HOYT: Ladies and gentlemen, I'm addressing Bill No. 5791. My name is Charles Hoyt, I've a short statement to make. I have spoken to this Committee on two other occasions and you all know my feelings on capital punishment.

We're not here to change the Constitution of the United States. I want everybody to know that. We're here because we want justice, all right? Not only justice for the criminals but justice for the victims. We need drastic, drastic, I say, changes in the laws pertaining to murder, I have received numerous letters and telephone calls from citizens throughout Stamford. And if we don't have some changes in the laws ladies and gentlemen, the citizens of the state of Connecticut are going to end up taking the law in their own hands. Thank you.

REP. TULISANO: Gregory Vickers.

GREGORY M. VICKERS: My name is Gregory Vickers, I'm from East Haddam, Connecticut. I'm here today to speak on two bills, one 5853, the compensation act. In 1977, actually in August of '77, my daughter was murdered and I fully know the expenses which were incurred at that time and I'm sure that there's many, many other people that have also gone through that. However, I would suggest that maybe that what you should do to try to amend that perhaps in two ways. One being that it should include the immediate family of the victim and/or also the legal guardians.

I don't think you really want to go beyond that. The second bill that I'd like to talk about is 5791 and I believe that Mr. Ebersold and Mr. Hoyt and so many others have already expressed some of my views. I'd like to speak as an individual and as a member of the National Rifle Association. One of about a million and a half. Number one, the NRA supports more stringent laws concerning the misuse of firearms and I think a lot of people feel that they do not. But a couple of years ago we had, what do you call it? Kind of a poll I guess amongst all members and it was almost unanimous that yes, we do want stricter laws.

S-165

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1980

VOL. 23,

PART 9

2630-1052

Tuesday, April 29, 1980

71.

roc

SENATOR BALLEEN:

Just very briefly, Mr. President. I am in total agreement with Senator Cunningham that if we do nothing the problem will take care of itself. He is right. The farmlands will disappear. There will be no farmland left. We will have no problem. There will be nothing to worry about. Thank you, sir.

THE PRESIDENT:

Are you prepared to vote?

THE CLERK:

An immediate roll call has been called for in the Senate. Will all senators please take their seats. An immediate roll call has been called for in the Senate. Will all senators please be seated.

THE PRESIDENT:

The machine is open. Have all senators voted?
The machine is closed. The Clerk will take a tally.

Total Number Voting 35. Necessary for Passage 18.

Those Voting Yea 34. Those Voting Nay 1. THE BILL IS

PASSED.

THE CLERK:

Cal. 585. File 418, 782. House Bill 5845. AN ACT CONCERNING INCEST, as amended by House Amendment Schedule A. Favorable report of the Committee on Judiciary.

Tuesday, April 29, 1980

72.

roc

THE PRESIDENT:

Senator Santaniello.

SENATOR SANTANIELLO: (25th)

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the House. House Amendment Schedule A.

THE PRESIDENT:

Will you remark.

SENATOR SANTANIELLO:

Yes, Mr. President. This bill would really just change the title. Crimes that are now classified as incest would be classified as sexual assault in the third degree and the reason for that is to try to remove some of the stigma of the victims of the crime. It no longer would be labeled as an incestuous relationship and that stigma be attached but it would be assault in the third degree. The House Amendment restores the original penalties. The original file copy had increased the penalties but I think the important part about the bill is the changing of the title and the protection of the victim.

If there is no objection, Mr. President, I would move it to the Consent Calendar.

THE PRESIDENT:

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

The item is placed on the Consent Calendar.

Tuesday, April 29, 1980

186.

roc

the session, and please come quickly so that we can do our business and then go on home.

THE PRESIDENT:

Thank you, Senator. Any other announcements at this time prior to the vote on the Consent Calendar. Hearing none, the machine is open. The machine is closed and the Clerk will take a tally.

The vote is 34 Yea - 0 Nay. THE CONSENT CALENDAR

IS ADOPTED, PASSED. SB 245, HB 5773, HB 5576, HB 5769, HB 5845, HB 5138,
HB 5194, HB 5722, HB 5731, HB 5748, HB 5035, HB 5641,

Senator Lieberman. HB 5870, HB 5907, HB 6008, HB 5123, HB 5151,
HB 5425, HB 5638, HB 5686, HB 5908, HB 5109,

SENATOR LIEBERMAN: (10th) HB 5317, HB 5322, HB 5419, HB 5422, HB 5827,
HB 5974, HB 5931, HB 5574, HB 5740, SB 311,

Mr. President, I move ~~for~~ ^{SB 669, SB 577} suspension of the rules

to allow for immediate transmittal to the House of those items that should go to the House.

THE PRESIDENT:

Without objection, the rules are suspended and the items needing further House action shall be immediately transmitted.

SENATOR LIEBERMAN:

Mr. President, I ask that the Senate stand in recess pending the arrival of bills from the House which could be read in to our, ah, and tabled for the Calendar tonight.

THE PRESIDENT:

Those in favor indicate by saying Aye. Those in

H-260

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS

1980

VOL. 23

PART 11

3045-3335

House of Representatives

Friday, April 18, 1980

61
klr

CLERK:

Calendar No. 263. File No. 353. Page 9. Substitute for House Bill No. 5372. AN ACT CONCERNING TEACHER FAIR DISMISSAL AND STAFF LAYOFF PROVISIONS. Favorable report of the Committee on Education.

REP. HENDERSON: (112nd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Walter Henderson.

REP. GROPPA: (63rd)

Mr. Speaker.

SPEAKER ABATE:

Rep. John Groppo.

REP. GROPPA: (63rd)

May this item be passed, retaining its place in the Calendar? Someone who is interested in this particular bill is not here today.

SPEAKER ABATE:

Is there objection to the motion? Is there objection?

Hearing none, it is so ordered.

CLERK:

Calendar No. 268. File No. 418. House Bill No. 5845. AN ACT CONCERNING INCEST. Favorable report of the Committee on Judiciary.

House of Representatives

Friday, April 18, 1980

62
klr

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

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

SPEAKER ABATE:

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

REP. TULISANO: (29th)

Mr. Speaker. The Clerk has an amendment LCO No. 3537.

SPEAKER ABATE:

The Clerk has in his possession an amendment LCO No. 3537, designated House Amendment Schedule "A". Would the Clerk please call the amendment?

CLERK:

LCO No. 3537 offered by Rep. Tulisano of the 29th.

REP. TULISANO: (29th)

Mr. Speaker, permission to summarize?

SPEAKER ABATE:

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

House of Representatives

Friday, April 18, 1980

63
klr

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, this changes from the file copy 53871 to 53872 the section of the existing statutes is being amended with exactly the same language. It maintains that marriage without sexual intercourse would still be incest under the existing statute. In effect, what this legislation does is maintains as a Class B felony incest and the title of incest for one who marries within the degrees of kindred already prohibited in law but shifts to the sexual assault statutes as Class B felonies as existing law that of sexual intercourse, because it has been felt by many people interested in this legislation that children whose parent might be arrested, might be better served if no one would know that they were the object of an incestuous relationship. I move adoption of the resolution.

SPEAKER ABATE:

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

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Van Norstrand

REP. VAN NORSTRAND: (141st)

I would be reluctant to move to pass the matter, but I

House of Representatives

Friday, April 18, 1980

64
klr

would as if we could stand in recess for just a moment. We do not have the amendment. I am advised that it was prepared yesterday but for some reason, it never got to our side. Rep. Tulisano has just handed a copy over, but we've never had a chance to look at it.

SPEAKER ABATE:

The Chamber will be at ease for a very short period of time.

REP. VAN NORSTRAND: (141st)

Thank you, Mr. Speaker.

SPEAKER ABATE:

Will the House please come to order? Would the House please come to order? The question is on adoption of House Amendment Schedule "A". Will you remark further on its adoption? Will you remark further on the adoption of House Amendment Schedule "A"? If not, all those in favor of its adoption, please indicate by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

All those opposed, nay.

REPRESENTATIVES:

Nay.

SPEAKER ABATE:

The ayes have it. The amendment is adopted and it is ruled technical.

House Amendment Schedule "A".

Strike everything after the enacting clause and substitute the following in lieu thereof:

"Section 1. Section 53a-72a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) A person is guilty of sexual assault in the third degree when such person (1) compels another person to submit to sexual contact (1) (A) by the use of force against such other person or a third person, or (2) (B) by the threat of use of force against such other person or against a third person, which reasonably causes such person to fear physical injury to such person or a third person, OR (2) ENGAGES IN SEXUAL INTERCOURSE WITH ANOTHER PERSON WHOM SUCH PERSON KNOWS TO BE RELATED TO SUCH PERSON WITHIN ANY OF THE DEGREES OF KINDRED SPECIFIED IN SECTION 46b-21.

(b) Sexual assault in the third degree is a class D felony.

Sec, 2, Section 53a-191 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) A person is guilty of incest when (he) SUCH PERSON marries (or engages in sexual intercourse with) a person whom (he) SUCH PERSON knows to be related to (him) SUCH PERSON within any of the degrees of kindred specified in section 46b-21.

(b) Incest is a class D felony."

SPEAKER ABATE:

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

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

House of Representatives

Friday, April 18, 1980

66
klr

REP. TULISANO: (29th)

The bill as now in effect with House "A" made it. I've indicated the purpose of the bill is to shelter to some extent the victims of incestuous relationships. There is no intent to deal with the penalties at all. There was something to shelter children from adverse publicity. I move its passage.

SPEAKER ABATE:

Will you remark further on this bill as amended by House Amendment Schedule "A"? Will you remark further on the bill as amended.

REP. OSLER: (150th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Osler.

REP. OSLER: (150th)

Mr. Speaker. let me hasten to assure you that I do not arise to be excused for conflict of interest on this, but I did have a question of -- I read in a newspaper about a woman in England, and it was a situation that could occur here, too. The country had nothing to do with it. The people were about sixty and forty years old involved, and this woman was the step-daughter of the man that she wished to marry, and she had to get a special dispensation from the King or the Archbishop of something in order to get married. What would happen under this statute in

Connecticut if that situation were to occur?

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I think 46 -- I have to check 46 -- I'm sorry, 46b-21. I don't know whether step children are in the prohibited class. If they are in there -- I'm not sure that they are now -- if they are in that, there is no way you can get a dispensation, and the marriage between the parties would be incest under existing law. O.K. This does not really change existing law, but for to change the name of one of the acts involved in the crime of incest so that if a parent, say a father, were arrested for incest and the only reasonable conclusion that neighbors would know is that the daughter of that father was the one who was victimized and that child has certain stigma attached to her, maybe. If he's arrested for sexual assault in the third degree, well, they don't know. He's the one who has the stigma, but no one knows who the victim necessarily was. You always know the victim, more than likely if he has daughters, would be the daughter, and the victim is then stigmatized, and that's the purpose of this legislation.

SPEAKER ABATE:

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

House of Representatives

Friday, April 18, 1980

3112
68
klr

REP. DE MERELL: (35th)

Mr. Speaker.

SPEAKER ABATE:

Rep. De Merell.

REP. DE MERELL: (35th)

The original file brought this transfer from the incest section over to the sexual assault section with a class C felony. Through you, Mr. Speaker, to Mr. Tulisano, is there any particular reason having first put it into that section which requires a class C felony, why you then decided to amend to transfer it to a class D felony?

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

It was clearly a drafting question. We amended the wrong section. The purpose and intent was to get it into the sexual assault language and we picked up the wrong degree of sexual assault. The existing law is that it is a class D felony. As that issue was never debated or questioned in the committee, nor was it really the focus of attention of the public hearing. But it was better to follow through on the question of whether or not --

My purpose in this was to change the name for those certain instances and not to get involved at this time improperly, I thought with regard to the penalty because, you see, we will be leaving incest a class D felony, that which remains of the incest.

REP. DE MERELL: (35th)

Mr. Speaker, the section of the statutes that is in file has a class C felony which would pertain to sexual assault for when the assault occurs for people under fifteen years of age. I would assume that in many cases that incest, as such, is defined by our statutes, would occur with people under fifteen years of age. Would it be my understanding that it would open up -- that sexual assault if the incest is committed with someone less than fifteen, could move into section 53a-71?

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I'm not sure I understand the question. I think all the amendment does is define as sexual assault under 53a-72a to be the act of sexual intercourse with a person one knows to be related to them within the degrees prohibited under the other sections of our statutes. That would be parent-child, uncles, the uncle, aunt, niece, nephew, step daughter, step son.

REP. DE MERELL: (35th)

Mr. Speaker, I would try one more time, and I'm sorry not

to be absolutely clear on this. What I am, I guess, trying to -- if the incest occurs with a child fifteen or under, could it not also come underneath 53a-71?

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. That is correct. Presumably an individual could -- I think that statute, and I haven't read it recently -- says anyone who has control over or regardless of a parent, whether or not they were a parent, they have control or are in a position of control over an individual -- and the answer is, yes, in that case.

SPEAKER ABATE:

Rep. De Merell, you have the floor.

REP. DE MERELL: (35th)

Thank you, Mr. Speaker. I was originally going to offer an amendment to the file copy which would simply have changed the class D felony to a class C felony underneath the existing section of the statutes which refers to incest as defined by a kindred section in 46b-21. I will not do that. I understand the thrust of this attempting to protect the victims of what is a most unfortunate behavior pattern. I've had some concern on the other hand that indeed to a certain extent, what I consider a most abhorrent behavior pattern is essentially stricken from public

and that is the individual who commits the incest and indeed, that does bother me. I will be persuaded that it is in the best interests overall of the victim of the incest.

REP. YACAVONE: (9th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Yacavone.

REP. YACAVONE: (9th)

Mr. Speaker, I think this is an excellent bill, and I just wanted to point out that a Police Officer, Lieutenant Patricia Graves from the Town of Manchester was a prime mover behind this bill. She is, of course, very concerned, as we all are, for the children and youths who are victims of adult criminal behavior. The bill was submitted, I believe, last year, and is finally come to the floor. I think it's a very, very important bill for the protection of our young people. Thank you.

SPEAKER ABATE:

Will you remark further on this bill? Will you remark further on this bill as amended? If not, would the staff and guests please come to the well of the House. Would the members please take their seats? All staff and guests please come to the well of the House. Would the members please take their seats? The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately? There is a roll call vote in progress in the Hall of the House. 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 board to determine if their vote is properly cast. The machine is still open. The machine will be locked. The Clerk will please take a tally.

Will the Clerk please announce the tally.

CLERK:

House Bill No. 5845 as amended by House Amendment Schedule "A".

Total number voting 134

Necessary for passage 68

Those voting yea 134

Those voting nay 0

Those absent and not voting 17

SPEAKER ABATE:

The bill as amended is adopted.

CLERK:

Calendar No. 270. File No. 422. Substitute for House Bill No. 5991. AN ACT CONCERNING SUMMARY PROCESS. Favorable report of the Committee on Judiciary.

REP. ONORATO: (97th)

Mr. Speaker.