

Legislative History for Connecticut Act

SB 1435

PA 301

Scanned

1981

Senate - 2411-2415, 2457

6

House - 5961-5963

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Judiciary - See subj. index under
"Insanity Defense" - (18 pgs)
(p. 699-702, 664-665, 680-682)

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Committee's Favorable Report and passage of this Bill.

THE CHAIR:

Will you remark Senator?

SENATOR OWENS:

Yes. This would make it clear that larceny in the first, second, third or fourth degree each involve the wrongful taking, obtaining or withholding by a defendant of property with the intent of depriving the owner of it or of appropriating to such defendant or for a third party. There has been some question about the ambiguity of the existing statute and interpretations of the courts and this would clarify it. I'd move, if there is no objection, it be placed on Consent.

THE CHAIR:

Any objection to placing it on Consent? Hearing none, it is so ordered.

THE CLERK:

Moving to page seventeen of the Calendar, Calendar 374, File 562, Substitute for Senate Bill 1435, AN ACT CONCERNING THE DEFENSE OF INSANITY, with a Favorable Report

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of the Committee on Judiciary.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Yes, Mr. President, I move acceptance of the Joint Committee's FAVORABLE Report and passage of this Bill.

THE CHAIR:

Proceed Senator.

SENATOR OWENS:

Yes, Mr. President. The defendants, under existing law, who are acquitted on the grounds of insanity, must be temporarily committed for psychiatric evaluation and then the court determines what has to be done after that. This Bill specifies that the court may require a sum of these options and it sets forth these are out-patient treatment, taking a vacation and so forth. The Bill would change the status of a defendant who was legally insane at the time of the crime. Instead of being acquitted, instead of having the jury come back and saying not guilty, such

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person would be guilty but not criminally responsible if in fact it was the--crime was committed as the result of a mental defect or some other type of problem involving his mental capacity. This Bill would also explicitly state some of the options that are available to the court on how to handle the case in the event that a jury comes back and says guilty but not criminally responsible.

I think it's a needed change in the law and is something that other jurisdictions have done and I think it would be an improvement in our existing law instead of having someone come back and be found not guilty and excused, it would at least explain the reasons for it. I would ask if there is no objection, that it be placed on Consent.

THE CHAIR:

Any objection to placing on Consent? So ordered.

Excuse me, Senator Post.

SENATOR POST:

Mr. President, I have no objection to it being placed

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on Consent, but prior to doing so, I would like to add a concern and a request, through you to Senator Owens and that is that in this area of the law, insanity as a defense, probably causes more people in the State confusion and anger over our judicial system. When they believe that people commit crimes and then hide behind the insanity defense label and the people of Connecticut believe, accurately, that that is happening in a way which then allows those criminals to get away with their conduct and be back out on the street within a short period of time.

And I would hope the Judiciary Committee would put this item on its agenda for concern and study and perhaps some improvement because I sense more anger directed at this concept in our judicial system and these changes that we're making today it seems to me are more window dressing than they are substantive and I would hope that we would have a substantive measure a year from now. Thank you.

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THE CHAIR:

Any further comments before placing on Consent?

The matter is placed on the Consent Calendar.

THE CLERK:

Calendar 376, File 572, Senate Bill 587, AN ACT
AUTHORIZING ISSUANCE OF REVENUE BONDS OF THE CITY OF
NEW HAVEN FOR PURPOSES OF REFUNDING BONDS ISSUED TO
FINANCE PARKING FACILITIES, with a Favorable Report of
the Committee on Finance, Revenue and Bonding.

THE CHAIR:

Senator Beck.

SENATOR BECK:

Mr. President, I move acceptance of the Committee's
Favorable Report and favorable action on the Bill.

THE CHAIR:

Will you remark Senator?

SENATOR BECK:

The Bill is designed to permit the Parking Authority
of New Haven to refinance its bonds through revenue means
in order to continue to be in a position to pay off its

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three, Calendar 228 and 256; On page four, Calendar SB1002, HB7267,
288. On Page five, Calendar 305, 306, 307 and 308. SB1449, HB6063, 5988,
5756, 7248,
On page six, Calendar 310, 311, 312 and 313. On page 6269, 7221, 7234,
seven, Calendar 315, 318, 319. On page eight, Calendar 6675,
6199, 7368, 7307,
320, 321, 322, 323, and 324. On page nine, Calendar 6571, 6737, 7257, 6985,
6388,
326, 327, 329, and 330. On page ten, Calendar 331, 332, 6979, 6986, 7034,
7313, 5911, 6662,
333, 334 and 335. On page eleven, Calendar 337, 338 5928, 5727, 7244, 7245,
7090,
and 339. On page twelve, Calendar 346, 348 and 349. On 6027, SB376, 373,
page thirteen, Calendar 352, 353 and 354. Page fourteen, 905,
1178, 1219, 1342,
Calendar 357, 359 and 360. Page fifteen, Calendar 362, 663, 1275, 252, 491,
363, 365, 366 and 367. 546, 671, 894, 932,

On page sixteen, Calendar 368, 369, 370 and 1089, 1153, 1206,
372. On page seventeen, Calendar 374 and 376 and 379. 1343, 1435, 587, 1453,
Page eighteen, Calendars 380, 382, 383, 384. Page 1454, HB7284, 7328, 7363,
nineteen, Calendar 385, 387 and 389. On page thirty one, 5811, 6875, 6877,
Calendar 46 and that concludes today's Consent Calendar. SB54

THE CHAIR:

Does any member of the chamber have any ques-
tion in reference to the Consent Calendar? The Clerk
will make the appropriate announcement of a Roll Call.

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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 chamber. Will all Senators please be seated.

THE CHAIR:

The machine will be closed, and locked.

| | |
|-----------------------|----|
| TOTAL VOTING | 36 |
| NECESSARY FOR PASSAGE | 19 |
| YEA | 36 |
| NAY | 0 |

The Consent Calendar is adopted. Senator Mustone.

Can we have it quiet in here please. Senator Mustone.

SENATOR MUSTONE:

Monday, May 4th at 11:00 in Room 4 1/2. Thank you, sir.

THE CHAIR:

Any further announcements? Senator Schneller. Do you want to make an announcement as to our schedule for next week?

REP. GROPPA: (63rd)

May this item be recommitted to the Committee on
Judiciary.

SPEAKER ABATE:

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

CLERK:

Calendar No. 551, Substitute for Senate Bill No. 1435,

AN ACT CONCERNING THE DEFENSE OF INSANITY. Favorable Report

of the Committee on Judiciary.

REP. ONORATO: (97th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Al Onorato:

REP. ONORATO: (97th)

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

SPEAKER ABATE:

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

REP. ONORATO: (97th)

"Thank you, Mr. Speaker. Mr. Speaker, briefly what this bill would do was to make some changes in our insanity laws as concerns criminal violations. It would amend the insanity defense statute to provide instead of innocent or acquitted guilty but not criminally responsible on the grounds of mental disease or defect. It would provide that any defendant who has been found guilty but not criminally responsible and whose release from confinement may be ordered by the court, to undergo various programs and various treatments not to exceed the term of the sentence he ordinarily would have received.

It further requires the court if there is no objection from the defense counsel, to instruct the jury as to what the penalty would be if the defendant were indeed found guilty but not criminally responsible.

This goes a little way toward straightening out an old problem, Mr. Speaker. I would urge passage of the bill.

SPEAKER ABATE:

Will you remark further on the bill? Will you remark further on this bill? If not, would all the members please be seated. Staff and guests please come to the well of the House.

The Chair has been led to believe that there might be

some points of personal privilege for purposes of ladies and gentlemen of this Chamber excusing themselves of a possible conflict of interest. Is that true, on this bill?

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

Have all the members voted? The machine will be locked and the Clerk will take the tally.

Would the Clerk please announce the tally.

CLERK:

Senate Bill No. 1435:

Total number voting 143

Necessary for passage 72

Those voting yea 143

Those voting nay 0

Those absent and voting 8

SPEAKER ABATE:

The bill passes.

CLERK:

Calendar No. 552, Senate Bill No. 587, AN ACT AUTHORIZING

MS. LANI EBERSOLD: Lani Ebersold, Burlington, Connecticut. I'm not going to take too much of your time. I'm only a victim. It's rare that you have people come here from just everyday life and put input into what you're trying to make up as laws and this is one of the biggest things, I think, that annoys me the most.

I thought you were here to make laws to protect us. That isn't what's happening. You're making laws to protect the criminals. I'm speaking of Bill 288 and 5307, both together. I think it is pertinent, talking about 602I because last year it passed because the people wanted that bill. They wrote their legislators, they called them. They wanted increased sentencing and, yet, many of them don't realize because of that five year deletion there is decreasing of sentences in many cases.

You're all members of the judiciary and the majority of you do not know how good time is computed. I think you should. If you don't, the average person does not know that. You're also considering a group to study the insanity defense. That should have been done a long time ago. I think what is more pertinent, though, is a study of what falls under first degree manslaughter and I really think that is an issue you should take up. Every crime committed falls under first degree manslaughter if you look at it carefully.

That did affect me. If psychiatrists say you are extremely emotionally disturbed you cannot have murdered. Period. There is nothing else you can do. Because the maximum you can get with first degree manslaughter is ten to twenty years; that did affect me. Neuhauser, who slaughtered my daughter, will be released in four years from now. March, 1985. Slaughtered--and that is when he will be out and I blame you, the judiciary for this. Each step of the way we went to court, we did this, we did that, but see, we get all the way up to you, as the final step. The judges and lawyers can only work with the system that they are given and it is you that gives them that system. I think a close look at first degree manslaughter would be in order. Maybe we need fewer lawyers on this judiciary committee. Maybe just average citizens who could set up laws that could be read, not interpreted many different ways.

It seems insane to me that all of these years have passed and criminals have been getting out of prison earlier than they should only because none of you knew how good time was computed. I don't think you, as a Committee, are serving

MR. EBERSOLD: (continued)
the purpose intended. I don't think you are representing the people.

Do you have any questions to ask a victim? Because that's the way you should direct your questions. We are victims and maybe you should know how we feel about certain things.

SEN. OWENS: I have nothing. Does anyone on the Committee have any questions? Thank you Ms. Ebersold. George Luther. To be followed by Craig Appez.

MR. GEORGE LUTHER: Good morning ladies and gentlemen. I was wondering if I was going to be able to say good morning. My name is George Luther. I am the State Director of Fire Training and Education for the Commission on Fire Prevention and Control. At the present time I am also serving as the Acting State Fire Administrator.

The Commission on Fire Prevention and Control is a member organization of the Governor's Arson Task Force and, as such, we develop, administer and deliver all of the training aspects to the police, fire, prosecutorial staffs that require arson training. At the present time we have completed training these groups of people and they number about 1,000 in slightly less than one year. Some of these investigators have been trained in as much as 100 hours of actual fire and arson investigation.

I'm here to speak to you, today, in favor of Senate Bills 252, Criminal Penalties for Arson, 1156, The Investigation of the Origin of Fires, 1160, Insurance Fraud, 1161, Immunity From Prosecution.

SEN. OWENS: Do you have a prepared text on this at all?

MR. LUTHER: No, I don't.

SEN. OWENS: Okay.

MR. LUTHER: I had a prepared text but I've considerably shortened it.

SEN. OWENS: Okay.

MR. LUTHER: 1178, Insurers to Furnish Information. Mr. Brown ably this morning described the arson problem in the country and in the State and has technically gone over all of these bills for you and I don't intend to do that. I would like

REP. ONORATO: (continued)

of the inmates are recidivists; what it might do is keep the recidivists in without going through the process over and over again.

MR. MCQUIGAN: Well, to some degree that's not -- I think that's a good effect. Twenty-nine percent of all the criminals in Connecticut are out on bail. Seventy-five percent of those people are on bail, probation and parole and we have a revolving door now where we have people commit crimes, they go out on bond and they go back out and commit another crime and if they're out on probation and parole they're doing the same thing and I think, to some degree, we have got to give people longer sentences and this is going to -- in effect, they're not going to be committing crimes while they're in prison.

REP. ONORATO: Okay, thank you. Does the Committee have any questions for Mr. McQuigan.

MR. MCQUIGAN: Thank you very much.

REP. ONORATO: Thank you Mr. McQuigan.

SEN. OWENS: Is William McCullough here.

MR. WILLIAM MCCULLOUGH: My name is William McCullough.

SEN. OWENS: I'm sorry. Just go right ahead Mr. McCullough.

MR. MCCULLOUGH: My name is William McCullough. I'm Assistant Attorney General. I'm speaking on behalf of the Attorney General and the Commissioner of Mental Health and the Department of Mental Health in support of Bill 5307 which would create a study commission for the defense of insanity.

Several years ago the Commissioner created a similar -- a similarly constituted commission on his own which I was a member of. We were unable to come up with a --

MR. WILLIAM MCCULLOUGH: (continued)

#5 Bill 5307 which would create a study commission for the defense of insanity. Several years ago the Commissioner created a similarly constituted commission on his own of which I was a member. We were unable to come up with a suitable proposal for the General Assembly, so therefore nothing came out of that.

We did request that a commission of this type be created. Last year it didn't go anywhere for some reason or another and we were again supporting it this year with certain changes in the proposal, which I believe would make it easier to pass.

The first change would be to remove the Appropriations Section. The Commissioner of Mental Health has agreed to underwrite the Commission for the purposes of providing staff support and any report that might be required to come out of this Commission and therefore we would also request that the-- Lines 27, 28 and 29 be taken out where it refers to necessary expenses of the members of the Commission. We feel that with those changes it would be easier to enact this and there would not be the need to go to the Appropriation Committee.

We also feel that the number of people that are mentioned in the body of the bill --

SEN. OWENS: Mr. McCullough would you speak into the microphone. I think we're missing a little bit. Okay.

MR. MCCULLOUGH: The number of people that are mentioned maybe be somewhat unwieldy. It might be better to limit them. Maybe rather than two of each, maybe one of each but we have no real judge into that. Just the number of people in total. Any questions on this?

SEN. OWENS: Thank you very much. Allen Peichert. I just can't-- I have trouble with your handwriting. I have trouble with my own, so --

MR. ALLEN PEICHERT: It's P-e-i-c-h-e-r-t. Peichert.

SEN. OWENS: P-i-

MR. PEICHERT: No, P-e-i-c-h-e-r-t.

SEN. OWENS: Okay. Got it.

MR. PEICHERT: Okay. I reside in the Town of West Hartford,

MR. PEICHERT: (continued)

(HB 6442)

Connecticut and I come before this Committee today to speak against eliminating the death penalty. As I heard a young lady speaking from one church, she has an absolute right to her beliefs and I think it goes further than that. The Bible of Genesis speaks very clearly, "who so shedeth man's blood by man, shall his blood be shed. Wherein the image of God man made he."

Fellow Americans and members of your committee, man or woman who commits a hideous crime of murder, with true intent to commit murder, must in order to receive whatever glory he is going to receive, must shed his own blood. It is sad but that's the way the law is. This law was put out by Almighty God himself and Moses instituted it in the State of Israel many thousands of years ago.

It has not been repealed by him or taken back. It is something that must be carried out. When man or woman commits these crimes, it is sad but it is sadder to know that he or she goes on living and denying the victim, the time of probation he has on earth to progress one way or the other. Good, bad or otherwise, you have stamped out that individual's life with true intent of doing so.

Only in the remote aspect is taking another person's life acceptable and that is in self-defense and no other way. Defending your family from intruders. Defending your country when called upon to serve your nation as we are required to serve our home land. Those are the exceptions. But the death penalty must not be stripped from our books, for then you are in total violation of what Our Father in Heaven teaches. Thank you.

SEN. OWENS: Thank you for your comments. Edward Finnelly, to be followed by Everett A. Galligan.

MR. EDWARD FINNELLY: My name is Edward Finnelly. I represent the Connecticut State Firemen's Association and I'll be very, very brief.

SEN. OWENS: Where are you from?

MR. FINNELLY: East Hartford, Connecticut. I'm here to speak in favor of Senate Bills 252, 1156, 1160, 1161 and 1178. As we know the fight against arson across the country and in the State of Connecticut in particular has been accelerated in recent years. Both the private and public sectors have come

151 Farmington Avenue
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Robert S. Ebersold, C.P.C.U.
Director
Insurance Department Affairs
Commercial Lines
Casualty & Surety Division

699 X

September 30, 1980

~~_____~~
Belt 1
Speaker 2

Senator Russell Lee Post
45 Lawton Road
Canton, CT 06019

Representative Gardner E. Wright
45 Primrose Lane
Bristol, CT 06010

Dear Sen. Post and Rep. Wright:

Now that another legislative session is approaching, I have done some thinking about some appropriate legislative change as a follow up to what was achieved in the 1980 session. Since last year's changes in our Penal Code were significant and accomplished the vast majority of what I and others were seeking, I see only some fine tuning for this year. I have two interests.

First of all, there is one area of which I believe deserves some attention - that is the general area "The Insanity Defense" and whether an otherwise guilty party should have a sentence reduced or excused because "expert" testimony indicates some degree of mental incapacitation. I would like to propose consideration of three aspects of this general subject:

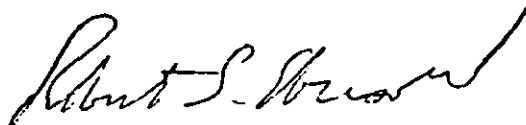
- a) I think that "insanity" must be very specifically defined so as to limit its successful application by the defense in only those cases where the crime is committed by someone who is truly insane,
- b) The possible verdict "not guilty due to insanity" should be eliminated and replaced with "guilty but insane". The sentence following such a verdict should recognize the necessary treatment of the party, and if cured, this treatment should be followed by a prison term commensurate with the crime.
- c) That part of our murder statute that says that "extreme emotional disturbance" shall be a defense for the crime of murder and shall reduce the crime to that of manslaughter should be eliminated. In my opinion, psychiatrists have a difficult enough time trying to determine whether someone is insane or sane without pinning it down to a matter of degrees. It would appear to me to be much more appropriate for a judge to consider such impairment as a possible mitigating circumstance, as he does for other factors, in the determining of the appropriate sentence for a crime, rather than

statutorily saying that a person can commit no worse than manslaughter if he is "extremely emotionally disturbed".

The second required change deals with the subject of "good time" and some poor statutory construction which allows Commissioner Manson to credit more "good time" than is contemplated under the statute. Right now, "good time" is credited toward the entire sentence whether served or not, rather than credited as time is served, and "good time" is earned, through good behavior. There is a significant difference.

As my elected representatives, I would appreciate hearing from you regarding your interest and expected participation in addressing the above suggested legislative changes.

Very truly yours,



Robert S. Ebersold
RFD 3 Route 4
Burlington, CT 06013

hpr

201 x 13
Belt 1
Speaker 2

November 17, 1980

Gardner Wright
State Representative
44 Primrose Lane
Bristol, CT 06010

Dear Gardner:

Thank you very much for sharing a copy of ORL 80-81. I am glad to see this research completed and available for the upcoming legislative session. I want to give you my reaction to this research report as it brings into perspective some of the things I am hoping to accomplish.

First of all, it is clear that the "insanity defense" is deep-rooted in Connecticut and elsewhere, and any attempt to abolish it would be inappropriate and unsuccessful. Generally speaking, a person is insane and may avoid liability if he lacks substantial capacity either to appreciate the wrongfulness of his activities or conform to the requirements of the law. Someone successfully defending himself on such grounds would be released back to society as soon as the court determined that they are not a danger to themselves or others. Once again, I am convinced that any attempt to weaken this defense would be unconstitutional despite the fact that the vast majority of the public feel that it is over lenient and dangerous.

It is also clear, however, that there are degrees of incapacitation and it is in this area that certain jurisdictions have made their move. I believe that Connecticut chose the wrong route and it appears to me from the author's editorial comments in the final paragraph that he agrees.

The "diminished capacity" defense described on pages 7 and 8 of the report track closely with Connecticut's "extremely emotionally disturbed" defense in that it allows the guilty party to be found guilty of a lesser crime than the one which was in fact committed. In other words, it provides an optional defense and it allows a compromise verdict between "Not Guilty Because of Insanity" and "Guilty" in those cases where the evidence indicates that the accused was working with less than a full deck when the crime was committed. This creates another plea bargain situation.

The preferable solution, as enacted in Indiana and Michigan, allows for a defense and a verdict of "Guilty But Mentally Ill" as an alternative to "sane" or "insane". "Mentally ill" carries its own statutory definition which is very close to Connecticut's definition of "extremely emotionally disturbed". Someone found "Guilty But Mentally Ill" is first treated for the mental illness and then transferred to a correctional facility for the remainder of his sentence. Here, the judge could take into account the degree of mental illness in the setting of the sentence rather than having to work within the frame work of a lesser charge.

I would like to meet with you and Judiciary Committee Chairman *Tulisano* to discuss this subject and how best to bring about this change. In order that you have an understanding of how the current law in Connecticut operates, I will be prepared to share with you all of the details of how one recent murder in Connecticut became "manslaughter" because of the existence of the "extremely emotionally disturbed" defense. I am confident that you will agree that the requested change is appropriate when you understand the application of the current law.

I look forward to hearing from you at your earliest convenience.

Very truly yours,



Robert S. Ebersold
RFD 3 Route 4
Burlington, CT 06013

hpr