

Legislative History for Connecticut Act

---

SB 1036	PA 83-581	1983
House	7257-7269	13
Senate	2547-2552, 2605-2607, 4623, 4664-4665	12
Judiciary	(995), 1074-1076, 1099-1102, 1167-1173, 1179-1180, 2021	18
	Total	43

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

Connecticut State Library  
Compiled 2012

H-353

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1983

VOL. 26

PART 20

7001-7383

House of Representatives

Wednesday, June 1, 1983

CLERK:

Senate Bill 929, as amended by Senate "A" and  
House "A".

Total number voting	148
Necessary for passage	75
Those voting yea	65
Those voting nay	83
Those absent and not voting	3

SPEAKER STOLBERG:

The bill fails.

CLERK:

Calendar 701, Substitute for Senate Bill 1036,  
AN ACT CONCERNING POST-JUDGMENT REMEDIES, as amended by  
Senate Amendment Schedules "A" and "B". Favorable Report  
of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

The distinguished Chairman of the Judiciary Committee,  
Rep. Richard Tulisano.

REP. TULISANO: (29th)

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

House of Representatives

Wednesday, June 1, 1983

concurrence with the Senate.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO 7040.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7040, which will be designated House Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO 7040, designated House Amendment Schedule "A", offered by Rep. Tulisano of the 29th and Rep. Ritter of the 2nd.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano, might I suggest that in order to maintain the precedence of the amendments, you might want to withdraw House "A" at this point and move for Senate "A" and Senate "B", and then reintroduce House "A".

The proper motion at this time would be to withdraw.

REP. TULISANO: (29th)

Mr. Speaker, may I withdraw that amendment at this point in time.

krr

House of Representatives

Wednesday, June 1, 1983

SPEAKER STOLBERG:

Is there objection? Seeing no objection, House "A" is withdrawn at this time.

The Clerk has an amendment, LCO 6145, which is Senate Amendment Schedule "A". Will the Clerk please call and read.

CLERK:

LCO 6145, previously designated Senate "A", offered by Sen. Owens of the 22nd.

In line 158, after the word "court", insert the words, "or their designee"

SPEAKER STOLBERG:

Rep. Tulisano, what is your pleasure?

REP. TULISANO: (29th)

I move for adoption of Senate "A".

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

I think it's clear that we're just trying to clarify the language in it.

SPEAKER STOLBERG:

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

House of Representatives

Wednesday, June 1, 1983

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay. The amendment is adopted and ruled technical.

Will you remark further?

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO 6153.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 6153, Senate Amendment Schedule "B". Will the Clerk please call.

CLERK:

LCO 6153, previously designated Senate Amendment Schedule "B", offered by Sen. Owens of the 22nd.

SPEAKER STOLBERG:

Rep. Tulisano would ask leave to summarize. Is there objection? Seeing no objection, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, this is another clarifying amendment in terms of establishing proper references in the file copy, and I would move its adoption.

SPEAKER STOLBERG:

Will you remark on Senate "B"? Will you remark? If not, all those in favor of the amendment, please indicate

House of Representatives

Wednesday, June 1, 1983

saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay. The amendment is adopted and ruled technical.

Will you remark further? Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has another amendment.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7040, designated House Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO 7040, previously designated House "A", offered by Rep. Tulisano of the 29th and Rep. Ritter of the 2nd.

SPEAKER STOLBERG:

Rep. Tulisano asks leave to briefly summarize. Is there objection? Seeing no objection, please proceed.

REP. TULISANO: (29th)

Mr. Speaker, the amendment before us requires the application for an execution under here to be accompanied by a \$6.00 fee which will be a cost, and what the amendment does is say that that fee would not be required by the State of Connecticut or any of its individuals acting

krr

House of Representatives

Wednesday, June 1, 1983

thereunder. The purpose of this amendment is to make sure that there are no additional costs to the State of Connecticut in implementing the file copy, the PJR required under there. I move its adoption.

SPEAKER STOLBERG:

Will you remark further on House "A"?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. VanNorstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, I'm going to oppose House "A", and I don't suppose that's a monumental statement, but it seems to me that this is getting to the point of ridiculous. We have raised fees left and right. We have fees that touch upon all parts of the process, even once you get in the courthouse. I have nothing to tell me anything is related at any given cost of an action, and indeed what the first general fee goes to.

I think to charge \$6.00 on these, just to clear up this fiscal note is wrong, and I oppose the amendment.

SPEAKER STOLBERG:

Will you remark further?

krr

House of Representatives

Wednesday, June 1, 1983

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the fee will be a taxable cost to the defendant and recoverable. Frankly, it is the same method. It's nothing different that what we used last year on the bank execution bill, and it's an attempt to be consistent in the manner in which we implement these matters.

SPEAKER STOLBERG:

Will you remark further? Will you remark further? If not, will members please be seated. Oh, we're on House "A". It's a voice vote. We're about to vote on House Amendment Schedule "A". All those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

krr

House of Representatives

Wednesday, June 1, 1983

SPEAKER STOLBERG:

The Chair is in doubt. Will try your minds one more time. It's only about 17 to 17. A lot of people were clearly abstaining.

We are about to vote on House Amendment Schedule "A". All those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

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

\*\*\*\*\*

House Amendment Schedule "A".

In line 270, after the period insert the following: "the application shall be accompanied by a fee of six dollars payable to the clerk of the court for the administrative costs of complying with the provisions of this section which fee may be recoverable by the judgment creditor as a taxable cost of the action."

In line 589, after the period, insert the following: "The application shall be accompanied by a fee of six dollars

krr

House of Representatives

Wednesday, June 1, 1983

payable to the clerk of the court for the administrative costs of complying with the provisions of this section which fee may be recoverable by the judgment creditor as a taxable cost of the action."

After line 1436, add section 38 as follows and renumber the remaining sections accordingly:

"Sec. 38. Section 52-259a of the general statutes is repealed and the following is substituted in lieu thereof:

Any member of the division of criminal justice or the public defenders services, the attorney general, an assistant attorney general, the consumer counsel, any attorney employed by the division of consumer counsel within the department of public utility control, any attorney employed by the commission on human rights and opportunities or the freedom of information commission or an attorney appointed by the court to assist any of them or to act for any of them in a special case or cases, while acting in his official capacity or in the capacity for which he was appointed, shall not be required to pay the fees specified in sections 52-258, 52-259 and 52-269, SUBSECTION (a) OF SECTION 9 OF THIS ACT AND SUBSECTION (a) OF SECTION 13 OF THIS ACT."

\*\*\*\*\*

SPEAKER STOLBERG:

Will you remark further on the bill as amended?

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

The bill as amended, and the need for this bill, I think, is self-evident, and most I think, individuals

krr

House of Representatives

Wednesday, June 1, 1983

in this hall have, in fact, acknowledged information from individuals indicating that wage executions are no longer valid in Connecticut.

This bill before us enables individuals to get wage executions on judgment debtors. It also allows and presents to the procedure for establishing the requirements under the, what is known as the Denunzio Decision, which indicated our existing wage execution statute might be invalid, and it provides, and this methodology has been developed by the Law Revision Commission, subject to some amendments, that it was obvious to make it a bill which all parties that were involved in this, debtors, creditors, and the court system can live with.

It is very complex, and I'll be very honest, the details of which are very complex, but I would move its adoption, and I have a summary available for it in front of us, should we go into detail.

SPEAKER STOLBERG:

Will you remark further on the bill? Will you remark further?

REP. OSLER: (150th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Osler.

krr

House of Representatives

Wednesday, June 1, 1983

REP. OSLER: (150th)

May I ask a question through you, Mr. Speaker of Rep. Tulisano.

We passed a bill the other day about wage execution. Would you comment on how these two interrelate, please.

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

The wage execution bill we dealt with the other day was House Bill 5510. That dealt clearly with only those kinds of wage executions dealing with support only, in terms of marital or dissolutions or paternity cases and things like that, particularly and most importantly when the state was involved, someone was on welfare and domestic relations cases.

This particular bill deals with debtors, generally, whether it was because you owed money in small claims court, or whether any kind of judgment that was rendered against you, and which wage execution is issued outside the area of the domestic relations situation.

The terms are parallel, not quite exact. That's

krr

House of Representatives

Wednesday, June 1, 1983

why it took so long to develop them, because some of the same notice provisions are required now by the federal court.

SPEAKER STOLBERG:

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

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

Have all the members voted? Have all the members voted? If so, the machine will be locked, and the Clerk will take a tally.

REP. RUWET: (64th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Ruwet.

REP. RUWET: (64th)

In the affirmative, please.

SPEAKER STOLBERG:

Rep. Ruwet in the affirmative. Rep. Lugo.

REP. LUGO: (130th)

In the affirmative, please.

krr

House of Representatives

Wednesday, June 1, 1983

SPEAKER STOLBERG:

Rep. Lugo in the affirmative.

Will the Clerk please announce the tally.

CLERK:

Senate Bill 1036, as amended by Senate "A" and Senate "B" and House "A".

Total number voting	148
---------------------	-----

Necessary for passage	75
-----------------------	----

Those voting yea	148
------------------	-----

Those voting nay	0
------------------	---

Those absent and not voting	3
-----------------------------	---

SPEAKER STOLBERG:

The bill is passed.

At this time, it is my duty to report that our action earlier on Substitute for Senate Bill 1109, File 555, AN ACT CONCERNING COMMUNITY RESIDENCES FOR MENTALLY ILL ADULTS, puts us in a posture of disagreement with the State Senate, and necessitating, under our rules the appointment of a Committee on Conference.

At this time, I would like to appoint the following individuals to the Committee on Conference, Rep. Tony Truglia, Rep. Sweeney, and Rep. Meyer. If you could meet with the Senate counterparts to be appointed and report back to the

S-211

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1983

VOL. 26  
PART 8  
2496-2810

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

139  
LFU

ambit of a misdemeanor where they are entitled to a trial and brings it down to infraction where the court would set a schedule of fees not to exceed \$99.00. I'd ask if there is no objection that it be placed on Consent.

THE CHAIR:

Any objection to placing on Consent? Hearing none it will go on Consent.

THE CLERK:

Calendar 538, File 752, Substitute for Senate Bill 1036, AN ACT CONCERNING POST JUDGMENT REMEDIES, Favorable Report of the Committee on Judiciary. The Clerk has Amendments.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Would you call the first one? I think it's LCO 6153.

THE CHAIR:

Do you want to move adoption of the Bill?

SENATOR OWENS:

I move adoption--I move acceptance of the Joint

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

140  
LFU

Committee's Favorable Report and passage of the Bill.

THE CHAIR:

Thank you Senator. Which Amendment do you want first, Senator?

SENATOR OWENS:

I think we should take LCO 6145 first.

THE CHAIR:

The Clerk will call that.

THE CLERK:

Excuse me. Could I ask, through you Mr. President, could I ask the Senator to repeat himself?

SENATOR OWENS:

Yes, 6145.

THE CLERK:

Yes Senator, Clerk has Senate Amendment, Schedule A, LCO 6145.

THE CHAIR:

Senator Owens,

SENATOR OWENS:

Move adoption of the Amendment and waive its reading.

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

141  
LFU

THE CHAIR:

Any objection to waiving the reading? Hearing none, proceed.

SENATOR OWENS:

It's just technical. After the word court it says or their designee, if they want to use another judge or a referee. I ask its adoption.

THE CHAIR:

Remark further on Senate A? If not, all those in favor of adopting Senate Amendment, Schedule A, will signify by saying aye. Those opposed, nay. Ayes have it. Amendment A is adopted.

THE CLERK:

Clerk has Senate Amendment, Schedule B, LCO 6153.

SENATOR OWENS:

I move its adoption and waive its reading.

THE CHAIR:

Any objection to waiving the reading? Hearing none, proceed Senator,

SENATOR OWENS:

Basically Mr. President, the Amendment is technical.

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

142  
LFU

It changes words such as implement and includes, after the word of, various sections, because the Bill is rather long and it's technical in nature. I move its adoption.

THE CHAIR:

Remark further on Senate B? If not, all those in favor of adopting Senate Amendment, Schedule B will signify by saying aye. Those opposed, nay. The ayes have it. The Amendment is adopted. Are there any further Amendments?

THE CLERK:

No Mr. President,

THE CHAIR:

On the Bill as amended, Senator Owens?

SENATOR OWENS:

Please Mr. President. This Bill would make numerous changes and clarifications in post judgment remedy procedures. Whereby a person in a so-called judgment creditor may collect money which should go to him by the debtor. The major changes would require that judgment debtors receive various plain language notices informing them of their rights and it would allow judgment creditors

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

143  
LFU

to send the judgment debtors interrogatories, written questions regarding his assets and ability to pay money owed. It would also change the exploration of judgment liens from 15 to 20 years; provide specific definition of terms used; authorize the superior court to adopt rules and forms, add certified mail as a means of service of process; allow a judgment creditor to use discovery procedures not only from the debtor but also any third person whom the judgement debtor believes in good faith to have assets of the debtor and establishes a procedure whereby a third person holding some of the judgment debtor's assets could be ordered into court and required to make disclosure and turn them over and makes numerous technical changes and removes obsolete provisions.

Obviously this is in response to some problems that have been created in the United States District Court and the Bankruptcy Court in some areas so the Bill is effective upon passage.

There's been a lot of work gone into it with the various groups representing creditors and debtors and I think it's a good piece of legislation and I want to thank everyone who worked on it and I'd ask if there's no

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

144  
LFU

objection that this Bill as amended by A and B, be placed on the Consent Calendar.

THE CHAIR:

Any objection to placing the Bill as amended by Senate A and B on Consent? Hearing none, the matter will go on Consent. I believe the Clerk is going to return to a couple of items that were passed temporarily, at this point.

THE CLERK:

Yes Mr. President, On page 10, Calendar 520, File 717, Senate Bill 903, AN ACT CONCERNING THE COPARTICIPANT'S OPTION IN THE TEACHERS RETIREMENT SYSTEM, Favorable Report of the Committee on Appropriations,

THE CHAIR:

Senator O'Leary.

SENATOR O'LEARY:

Mr. President, I move acceptance and passage of the Joint Committee's Favorable Report.

THE CHAIR:

Remark?

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

197  
LFU

Agenda dated Tuesday, May 10th, 1983, that's apge 2 of the Agenda, be acted upon as indicated and be incorporated by reference into the Senate Journal and the Senate Transcript.

THE CHAIR:

Is there any objection? Hearing none, it's so ordered. I believe the Clerk has no further business.

THE CLERK:

That's correct Mr. President.

THE CHAIR:

The Clerk will make the appropriate announcement for a Roll Call vote on the Consent Calendar and if you'd give your attention to the Clerk as he proceeds to a rather lengthy Consent Calendar.

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 CLERK:

The following is a list of items that have been

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

198  
LFU

placed on today's Consent Calendar. On page 2, Calendar 297, 305, 310. Page 3, Calendar 340 and 381. Page 4, Calendar 415, 421, 425, 428. Page 5, Calendar 438, 452, 455. Page 6, Calendar 462. Page 7, Calendar 472, 479, 486. Page 8, Calendar 506, 508. Page 9, Calendar 512, 515, 516, and 517. On page 10, Calendar 520 and 521. Page 11, Calendar 527, 530 and 531.

On page 12, Calendar 532, 533, 537, 538. On page 22, Calendar 141. On page 23, Calendar 185, 216, 243, 292. On page 25, Calendar 503 and 146. Page 26, Calendar 149 and 159. Page 27, Calendar 172, 205, 207 and 209. Page 29, Calendar 332. That completes the list of items on today's Consent Calendar.

THE CHAIR:

Is there any question on any item on the Consent Calendar? Is there any objection to any item that's on the Consent Calendar? Hearing none, the machine is open. We will vote on the Consent Calendar. The machine will be closed and locked.

SB1056, SB883,  
SB894, HB5693,  
SB932, SB712,  
SB457, SB929,  
SB332, HB7083,  
SB1051, SB805,  
SB1127, HB7138,  
HB5111, HB6240,  
SB189, SB402,  
SB1140, SB204,  
SB453, SB495,  
SB903, SB1008,  
SB1093, SB584,  
SB832, SB872,  
SB1017, SB1059,  
SB1036, SB312,  
SB953, SB874,  
SB13, SB282,  
HJ23, SB792,  
SB387, SB900,  
SB796, SB388,  
SB381, SB383,  
HB6175

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
MAY 10, 1983

199  
LFU

TOTAL VOTING	36
NECESSARY FOR PASSAGE	19
VOTING YEA	36

The Consent Calendar is adopted. Senator Larson.

SENATOR LARSON:

Mr. President, thank you. Just a quick reminder to everyone, we do have a practice game tonight against the lobbyists for those able-bodied who can make it out here right behind the Capitol and also that all of you have on your desks, directions to get to the field for Friday's game and also the parings as they've been drawn and the Senate will be playing the press and media in the first game of the Big Brothers-Big Sisters softball benefit and we've just received the list from the media luminaries as to who their team is so we're going to have somepretty stiff competition.

THE CHAIR:

Senator Skelley.

SENATOR SKELLEY:

Yes Mr. President. Just briefly, Senator Larson is about to make a substantial investment on most of the

S-216

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1983

VOL. 26  
PART 13  
4361-4670

Regular Session  
Monday, June 6, 1983

Page 287  
jgt

Well, you're going to get another crack at it because the Clerk indicates to me that the machine didn't record it. They must have known you were on the run, Senator. Clerk, make the announcement. We're going to have to take the vote over again.

THE CLERK:

Immediate roll call has been called for in the Senate. Will all Senators please be seated. Immediate roll call has been called for in the Senate. Will all Senators please take their seats.

THE CHAIR:

The issue is Calendar No. 656 upon which we just voted. The machine is open. If all the Senators would stay in the Chamber the next item of business is the consent calendar. Senator Schneller. Have all Senators voted? Machine is closed and locked. Total voting is 36, voting yes, 24. The measure is adopted. I believe everybody's in the Chamber. Clerk will proceed with the consent calendar. Would you give your attention to the Clerk because the consent calendar again this evening is rather long.

THE CLERK:

On page 7, calendar 719. Page 9, calendar 854, 855, 856, 857, 858. Page 10, calendar 859, 860, 884. Page 11, calendar 886, 889, 890, 891. Page 12, calendar 892, 893, 894, 895. Page 13, calendar 898, 900 and 901. Page 14, calendars 902, 903, 904, 905, 906. Page 15, calendars 908, 909 and 911. Page 16, calendars 912, 913, 914, 915 and 916. Page 17, calendars 918, 919, 920, 921. Page 20, calendars 265 and 459. Page

HB5250,  
HB6327  
HB5493  
HB5697  
HB6902  
HB6955  
HB7041,  
HB5322  
HB5634  
HB6562  
HB6946  
HB6953,  
HB6989  
HB7000  
HB7009,  
HB7183,  
HB5196,  
HB5292,  
HB5543,  
HB5905  
HB6092,  
HB6466,  
HB6069,  
HB6363,  
HB6960,

HB6975, HB7047, HB7060, HB7091, HB7236, HB7263, HB7268, HB5843,  
HB7189, HB6227, HB6321, HB6713, SB972

Regular Session  
Monday, June 6, 1983

Page 288  
jgt

21, calendar 461, 487, 505. Page 22, calendar 538, 546, 594, 596, 667. Page 23, calendar 673, 454. Page 24, calendar 531 and 846 and on page 25, calendar 836.

SB 565, HB6511,  
SB989, SB1036,  
SB1144, SB1155  
SB237, SB355,  
SB928, SB438,  
SB832, SB1165,  
SR30

THE CHAIR:

Are there any corrections or omissions on the consent calendar? Senator Skowronski?

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I would move that on page 7, item 719 be removed from the consent calendar and have a separate roll call after the consent calendar. I wish to vote against that bill and make some very brief remarks.

THE CHAIR:

Is there any other notation on the consent calendar? If not, the machine is open. Senator Morano. The machine'll be closed and locked. Total voting is 36, voting yes is 36. The consent calendar is adopted. The Clerk will recall calendar 719.

THE CLERK:

Calendar No. 719, File Nos. 821, 967 and 1129, Substitute for House Bill No. 7218. An Act Protecting The First Amendment Rights Of Employees.

Favorable Report of the Committee on Labor and Public Employees.

THE CHAIR:

The bill was previously moved for adoption, Senator. Remarks were given by the Chairman of the committee. You care to speak in opposi-

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 3  
820 - 1196

1983

MS. MANDELL: (continued)

Regardless of whether the fee is imposed on the obligor or the recipient, the end result in most cases would be less money to the children of the recipient. If the fee were to be imposed on the obligor, the court would need to adjust its support orders because the support order reflects the maximum amount the obligor is found able to pay. If the recipient were to be charged the fee, less money -- If just wanted to say that the federal legislation which mandated that collection fee be imposed has been repealed.

I also would like to comment on House Bill 7125, An Act Concerning Information Required in a Petition Seeking the Termination of Parental Rights and House Bill 7130, An Act Concerning the Grounds for the Termination of Parental Right. The Judicial Department supports both of these bills.

I would like to make one recommendation regarding House Bill 7125. Rather than having subsection A of section 17-43A referred to section 45-61C as set forth in the line 98½ through 101. Repeat the language set forth in lines 39 through 63 as set forth in section 1.

REP. TULISANO: Do you have that written out for me?

MS. MANDELL: Yes, I do. The fourth bill I would like to address is House Bill 6321, An Act Concerning the Processing of Children Arrested for Serious Juvenile Offenses. The Judicial Department would ask the Committee to give its support to Senate Bill 1015, An Act Concerning the Definition of Delinquency and the Disposition of Children Taken into Custody for Delinquent Acts. This bill has already had a public hearing. The bill, 1015, goes a step further than this bill before you today. It provides an arrested juvenile be brought to a juvenile detention center. It does not limit it to children who are arrested for the commission of a serious juvenile offense.

And the last bill I'd just like to comment on is Senate Bill 1036, An Act Concerning Post-Judgment Remedies. The Judicial Department, the staff of which were consulted during the drafting stages are in support of this bill if the General Assembly feels that such legislation is

MS. MANDELL: (continued)

needed. However, since this bill before you is a final draft, we would just like to be able to take this opportunity to request that we be able to submit written comments to you in a few days. Thank you very much.

REP. TULISANO: Thank you. 7130 is which?

MS. MANDELL: Concerning the grounds of termination.

REP. TULISANO: Bourke Spellacy.

BOURKE SPELLACY: Bourke Spellacy, SB 1036 Updike, Kelley and Spellacy, Hartford. I'm here today as a member of the law revision commission. I would like to yield to Phil Dunn, another member of the commission who was the head of the subcommittee that participated and worked on the draft of the legislation, proposed legislation concerning post-judgement remedies that you have before you.

REP. TULISANO: Bourke and Dunn are not going to talk at the same time. Will be around. Right.

PHILIP DUNN: Mr. Chairman, members of the Committee. My name is Philip Dunn and I was chairman of the subcommittee that was responsible for drafting an act concerning post-judgement remedies. This task was assigned to the Commission in 1981 by your reference and at that time, the intent was to clean up a hodge podge of legislation that regulated and controlled the enforcement of judgements. Since that time, there have been many suits brought that now make this bill a bit more imperative for passage because several of our existing collection procedures have been considered to be unconstitutional.

REP. TULISANO: Excuse me. Did the changes you made do you think will address it?

MR. DUNN: We feel --

REP. TULISANO: The promise made by the recent magistrate's decision and Judge Burn's decision.

MR. DUNN: Yes, we do. We don't say that this act is in all respects perfect or that this might be referred for further

MR. DUNN: (continued)

corrections or amendments or refinements according to the Committee's wishes. I think we feel that the work that was done by the committee is rather balanced inasmuch both the creditors and consumers take issue with some parts of our legislation so we have not made everyone happy as you would expect could be done. I think what we have tried to do is to put into one cohesive act the post-judgement remedy procedures.

I think the problems that are espoused by the most vocal advocates are problems that probably run to the entry of judgements rather than the collection of judgements in that that was not a problem that was referred to us, it is something we cannot address post-judgement. We had to presume the judgements were validly entered and in the proper form and we feel that what we have done here is to give to the state a framework for intelligent and constitutional protections of all parties.

I think the notice requirements of exemptions of the consumers is large step forward and we feel that the disclosure provisions will be a help to the people who collect just debts. And I think there's no way can avoid not wanting to have just debt collected and by the same token, there is no intent by the Commission or the legislature to try and take advantage of a citizen or consumer creditor or debtor.

We have, I want to say that Mr. Heman who has been our author and of this has been admirable in his detachment and dispassionate treatment of the legislation excepted everything, our Commission pretty much listened to the varying viewpoints and tried to incorporate it the best we can without emasculating an act that's necessary.

REP. TULISANO: Any provisions of automatic wage execution and dissolution action in this particular.

MR. DUNN: I don't think we involved ourselves with the family relations. This is something the Judiciary did not want to have us get involved with.

REP. TULISANO: Thank you. You all will be available when we write the bill.

28  
ksg

## JUDICIARY

March 22, 1983

REP. TULISANO: (Continued)  
Lifshitz.

2 RUTH LIFSHITZ: Thank you. I'm here this morning to speak on S.B. 1036, An Act Concerning Post Judgment Remedies. From the office of the Secretary of State doesn't take a position on the merits of S.B. 1036 as a whole, however, there are numerous legal administrative problems in the bill that's currently drafted. I'd like to just call your attention to the problems that we see and I would ask that these problems be addressed before any favorable action is taken on the bill by the Committee.

Problems from the Secretary of the State's office that are found in S.B. 1036 focus on Section 8 and then Sections 15 through 19 of the bill. These are the Sections that deal filing of judgment lien certificates and notices of release, discharge, termination satisfaction of the judgment liens. All of these liens are to be filed in the office of the Secretary of the State.

Section 8 states that a judgment lien may be placed on any personal property in which a security interest could be perfected under the UCC. And further states that a judgment lien filed in the office of the Secretary of State will be effective to the same extent as a similar security interest under the UCC. We assume from this language that the bills drafters intend that judgment liens be filed with UCC liens.

We further assume that judgment liens once filed with UCC article 9 liens will be subject to the provisions of article 9 and the administrative procedures used by the Secretary of the State to implement article 9.

However, this is not clear in the bill as currently drafted.

REP. TULISANO: You actually foreclose liens in the Secretary of State's office. Is that what you mean?

MS. LIFSHITZ: No, No, I'm talking about filing judgment liens.

REP. TULISANO: Judgment liens, okay.

MS. LIFSHITZ: Under the terms of this bill--

29  
kl1

## JUDICIARY

March 22, 1983

- REP. TULISANO: Okay, what happens after you file a Judgment Lien? I'm trying to learn something.
- MS. LIFSHITZ: A Judgment Lien is not filed currently in our office under SB, --
- REP. TULISANO: How do you perfect your liens?
- MS. LIFSHITZ: You could perfect by filing. If I have a transaction with someone and I send the lender and they are the borrower and I take a security interest and some collateral that they have by filing notice of that transaction in the UCC Division, I have my lien.
- REP. TULISANO: Okay, but now how do I get it because you haven't paid the bill. You haven't paid your note to me and I have got to --
- MS. LIFSHITZ: You must eventually foreclose on the lien.
- REP. TULISANO: Go to regular Court?
- MS. LIFSHITZ: Yes, unless there is a Bankruptcy action and then the Bankruptcy --. My purpose of SB 1036 is to establish priorities between judgment lien holders. But numerous questions will arise if the bill is enacted without the clarification of the extent of application of Article 9 to Judgment Liens. For example, under Article 9 we are required to supply the quest for information and the quest for copies of all financing statements filed in our office. What's not clear is whether or not a Judgment Lien would be considered a finance statement.
- REP. TULISANO: Did you go see the Counsel for the Law Division Commission and tell him all these problems?
- MS. LIFSHITZ: Yes, I just wanted to get these problems on the record. Another question which arises is the amount of review of Judgment Liens which the Office of the Secretary of State will be required to make. There is information that is required under the proposed bill to be on the Judgment Lien, the question would be are we required to review those liens to determine whether or not that the signatures that are required by Statute to be there are on the lien or not. It is not clear under the UCC whether or not we should review financing statements so we do a

MS. LIFSHITZ: (continued)

minimal review, we would like some clarification of that. We would like authority to prescribe forms and policy procedures. It is not clear whether or not we are to incorporate judgment liens into the existing filing system for UCC liens or whether or not we are to set up a separate system. It seems that we are to incorporate it within our existing system and if that is so then we would need the authority to prescribe forms and fees so that the forms that are used for judgment liens are the same as the forms that are used for Article 9 liens for administrative purposes. We charge different fees on the type of form that is submitted to us.

REP. TULISANO: The bureaucracy will kill us yet, won't it.

MS. LIFSHITZ: Kill us with kindness. Then, also then Sections 15-19 of the Bill concern termination, releases, partial and total discharges. They seem to imply that these will be filed in our office, there are no provisions for filing fees for these notices, there are no provisions for forms for these notices. Section 15 described procedures for executing releases for judgment liens and requires us to note the release under the releasor and the releasee which makes sense in the town clerks office but doesn't make sense in the Secretary of State's Office, we do not file liens underneath the name of the creditor, only under the name of the debtor so it would be impossible for us to know the release next to the name of the creditor and the debtor.

REP. TULISANO: Just a minute, we had a bill last week on 8½ x 11 paper, remember that one. If we resurrected that bill under our Committee meeting on Thursday and changed some of the languages to allow you the power by regulation to submit, to regulate the forms of all the things that are filed with you, would that be, would that solve some of the problems with this bill.

MS. LIFSHITZ: Yes, that would it would solve the problems of forms if that were put in Title 3 vs. in the Corporation Statutes.

REP. TULISANO: Okay.

- MS. LIFSHITZ: I'd say generally then to conclude that the problems are that there are numerous problems in terms of fees, in terms of forms, in terms of what role the office is to play in this system and we would like those resolved before the bill received favorable action.
- REP. PARKER: Yes, it isn't fair to ask you but I just noticed you in the Commission that worked on this have left, line 629, a judgment line on real or personal property may be released and it is also filed in your office, does this mean that the Secretary of State, that title searches in the future would have to check with your office to see if judgment liens or is there some way of getting them recorded in the land records also on real property?
- MS. LIFSHITZ: I believe, not being the draft of this bill that that provision is talking about judgment liens that are filed in the town clerks office and judgment liens that are filed in the Secretary of State's Office, it is two separate entities.
- REP. PARKER: Fine, fine, thank you.
- J. R. CARPENTER: Mr. Chairman, members of the Judiciary Committee, thank you for the opportunity to testify on those mortgage foreclosure legislation, especially Committee Bill No. 5972. My name is J. R. Carpenter, I am Assistant Regional Vice President and Regional Counsel for the Federal National Mortgage Association in Philadelphia. Federal National Mortgage Association or Fannie Mae as we would like to call ourselves, federally chartered, shareholder owned and privately managed corporation. We are the nation's largest single supplier of home mortgage funds. We purchase mortgages from banks and other local lenders and our mortgage portfolio at the moment is in excess of \$7 billion.
- I'd like to just say in general that we support any government efforts to assist recently unemployment home owners that are have difficulty in making their mortgage payments. I think everyone is sympathetic to that, but we have to oppose broad measures that simply shift the burden from the mortgagor over to the mortgagee and I think that unless that is done very carefully it runs into problems of unconstitutionality.
- REP. TULISANO: Have you had an opportunity to review Mr. VanNorstrums substitute language?

96  
kod

JUDICIARY

March 22, 1983

MR. PODOLSKY: (continued)

to welfare, they've got to support themselves, they got to get their own apartment, they've got to get their own jobs. And I just don't know if that's the solution for a 12 or 13 or 14 year old. Especially when you're not even doing it through court proceedings. I mean what you're doing is that you are setting up a law that says de facto that this is what happens.

House Bill No. 5972, AN ACT CONCERNING MORTGAGE FORECLOSURE PROCEEDINGS. I gather this bill is undergoing some drafting but I would like to just make three comments on the version of the bill that we have in printed form.

I strongly support the concept behind the bill. I strongly support the bill. When you have high periods of unemployment, you have people who have worked all their lives who are going to lose their homes.

In the bill it has four conditions. No. 1, has made timely payments on the mortgage loan for at least five years I think is an unreasonably constrictive condition. It means that you are excluding everybody who bought a house less than five years ago.

REP. TULISANO: There's a whole new draft. None of this language makes it there.

MR. PODOLSKY: If I could speak to something else?

REP. TULISANO: Don't speak at all. We can talk about it later.

MR. PODOLSKY: In the third one it says unemployed at the time of the foreclosure action. You certainly don't want to lock it in to whether you are unemployed or employed at the time of foreclosure. If you are going to use unemployment, the unemployment presumably occurred before the foreclosure, not necessarily at the time. All right I will leave that alone.

The last bill on which I would like to speak is Senate Bill No. 1036 (inaudible)

I have submitted to the co-Chairmen of the Committee a

MR. PODOLSKY: (continued)

set of line by line comments, which I will not burden you with. What I'd like to do is address what I see to be the main problems, and there are, what I tried to do is put my comments into six categories.

The first is that it repealed the existing bank account execution statute. Members of the Judiciary Committee who were here a couple of years ago remember that a great deal of time was spent in 1981 after the bank account execution statute was held unconstitutional. Actually the motion to dismiss was denied, but in any event, what is clear is that the statute was unconstitutional. In working out revised statutes, it involved the Clerk, it involved the Sheriffs, it involved the banks, it involved consumer representatives. Much time was spent in negotiation. A compromise was worked out.

And my impression is the compromise works fine. The banks are part of the chain. The reason they're part of the chain is ultimately constitutional. The constitutional requirement is that you give notice of your right to claim an exemption in a manner reasonably calculated to bring that notice to the actual attention of the debtor.

One of the problems when you're trying to give notice post judgment, is you may be dealing with a time period years and years after the lawsuit started. And whatever address the creditor has for you when the lawsuit started is long gone. Roughly half the population of the country moves every five years. And people who owe debts are probably in the half that by and large that move more frequently than every five years.

So you're dealing with a constant movement of people. You cannot have a constitutional statute that uses as its basis for service the processor's services notice, an address for which there is a high likelihood that it's out of date. Especially if you have easily available to you a better system for giving you that notice. If the person whose bank account you're attaching has a bank account, by definition you know where his money is. The bank certainly has some reasonable idea where he is. This bill takes out that whole procedure and puts in another which is essentially reliant on mailing notice to the last known address. I

MR. PODOLSKY: (continued)

don't think it's constitutional. And also politically, I don't think you should make that change. Everybody cut a deal, why fool around with it. I've talked to the law revision staff and the answer I get is, well the bank isn't a party to the action. They shouldn't be brought into it. They're not a party to the action, but they are intimately involved in the execution, because they have been served with legal process. That service gives them some obligations.

The statute includes the provision they can charge \$8.00 for it. It's going to be \$5.00, on the floor they made it \$8.00, I mean all these deals were cut. Frankly I think that version is much better than what the Law Revision Commission has.

Second of all, as you know from the hearing last week, the wage execution statute is also declared unconstitutional. And for those of you who did not get copies of that decision, I brought another batch of extra copies today if anybody wants it because they came up short handed last time.

This bill covers the same territory as 5822. In my opinion, it is less desirable both as a matter of policy and as a matter of constitutional law. And I think it virtually guarantees that if 1036 went through, rather than 5822, you're going to have ~~another~~ challenge to the statute in court, and you may discover come October or November, you don't have a wage execution statute. In particular, there are at least six ways I would suggest to you that 1036 fails to make the wage execution statute constitutional.

All of those ways 5822 does. Number one, the notice is not sufficiently likely to reach the debtor. Instead of having the employer give the notice to the employee, obviously the employer knows where he is, they have it mailed to his last known address. It doesn't work post judgment.

Number two, it does not mandate that the notice be in a simple, readable form that a defendant who does not have a lawyer is going to be able to understand. The constitution requires that the notice be done in a meaningful way. The

MR. PODOLSKY: (continued)

Law Revision Commission deliberately would not put in that language. It was not something they overlooked. It was a deliberate decision because I lobbied the Law Revision Commission on this issue.

Third, it gives no notice of the right to seek modification. I believe the trial court in *Right v. Tenesio* held that you must be given notice of your rights. That is a borderline issue within the meaning of that case, but I believe that that notice includes a notice of all your rights, and not merely the notice that you can claim exemption.

Number four, the bill does not adequately give the debtor information as to what amount of his wages are exempt. It needs to say specifically the exempt amount is \$134 per week, not to exceed 25% of your income. The court indicated in *Right v. Tenesio* that it is very important that the debtor know the information. It has to be presented in understandable language.

Number five, it allows wages to be withheld from the debtor pending the hearing and pending the claim for exemption. Under 5822, the way the system works is the execution does not take effect for 30 days, and if the hearing is requested, until the hearing is held. That is to say the debtor continues to get his wages. You don't have a problem with the debtor splitting because people don't quit their jobs for that purpose. It's not like a bank account where you have to freeze the account or else he will take his money and leave.

1036 says that from the time he gets the notice until the time you notify the court, which is bound to be a week or ten days, in any event, the money comes right out of your wages, even if it is exempt. And number two, if you file your claim for a hearing, at that point the sheriff stops taking the money, but the employer doesn't. The employer takes the money and holds it. If you figure it's going to take two or three weeks to get a hearing, you're talking about a month in which the debtor is having money removed from his wages. I do not think that will stand the constitutional test.

100  
kod

JUDICIARY

March 22, 1983

MR. PODOLSKY: (continued)

And finally and sixth, it allows the execution to be issued by a clerk. There is a constitutional argument that only a judge can issue an execution of that sort. And in fact under the existing statute, the judge has to issue the execution.

In addition, the bill additionally fails to make provision for assuring that you will get a fair resale on seized goods when those goods are taken. I'm now no longer talking about wage executions. The wage execution problem can be solved by taking Bill 5822, and you may want to do that and move that bill separately because you potentially have no wage execution statute. And 1036 you may want to look at more closely.

By the way, I should mention there are ways in which 1036 is drafted in a more modern way. And you could, if you wanted to, take the substance of 5822 and put it into 1036 and put it into the style of drafting that 1036 uses. I would have no objection to that being done. That will take some work, but it can be done. But that's one of your options. 5822 simply works with the existing language of the statute.

The bill as a whole now fails to include provisions assuring fair resale value on seized goods. The Sheriff takes the goods, it's going to be sold off for next to nothing. We've solved that problem with self-help repossession by creditors. The model for that is in place. All you have to do is put it into this bill. That is something that can be done.

The bill adequately fails to prevent harrassment of debtors. It sets up some new systems for for gathering information from third parties. I think those systems are good. They are desirable. I have no objection to those systems being put into place. In some ways they are a genuine improvement over the status quo. It makes use of interrogatories by mail, which I think is a legitimate and desirable thing to do. But it fails to limit who you can send those interrogatories to. It fails to limit the issuance of a capious, which is the paper that is issued when you bring the debtor into court, if he doesn't

101  
kod

JUDICIARY

March 22, 1983

MR. PODOLSKY: (continued)

answer the interrogatories. You've got to understand you're talking about debtors by and large who defaulted, who do not have lawyers, who are not necessarily understand what these papers are.

The bill does not in general adequately make certain that notices to debtors are written in clear and simple comprehensive language. That's something I think needs to be adjusted.

And finally, and I will call this to your attention, every year I come to this Committee and testify that you have a statute that deals with executions of adjustment. It's part of mortgage foreclosure. Section 14 of Bill No. 1036 in a general way addresses problems that are concerned with foreclosure. The Connecticut Superior Court has declared the statute unconstitutional as I have told you many times that somebody was going to declare it unconstitutional because it is patently unconstitutional. I wish Rep. Tulisano was up here because he and I have had this discussion every year since 1976.

This bill is an appropriate bill because it deals with post judgment procedures to constitutionalize the statute. I don't know if you want to do it or not. The Law Revision Commission did not want to touch it as part of this bill. But you have a statute that has been declared unconstitutional in the Superior Court which no one is addressing this year in the Legislature.

That's basically all that I have to testify on. I'm sorry it's taken me so long. And I realize it's very late in the day. I would be happy to answer questions.

REP. PARKER: Are there any questions.

MR. PODOLSKY: I would certainly be happy to sit down with members of the Committee or with other people who have an interest in either the termination of rights bills or in the Law Revision Commission post judgment remedy bill and work on it. I think that it is possible to amend Bill No. 1036 in a way that would make it satisfactory. Some of those changes need to be made and I think in particular, getting the wage executions and the bank

102  
kod

JUDICIARY

March 22, 1983

MR. PODOLSKY: (continued)

account executions using a different method for them. I think that's particularly important.

REP. PARKER: I did try to take notes as you were talking. You were a little fast. Do you have written testimony?

MR. PODOLSKY: I don't have it this instant because of my misunderstanding of the time of the hearing. But I will get things to you in writing. Thank you.

REP. PARKER: The next speaker is Patrice Massa.

PATRICE MASSA: Good afternoon. I'm very happy to be in this chair and for those of you who have been in your chairs for a long time, I really don't plan to say all that much because I'm going to hand in a copy of my written testimony. My name is Patrice Massa. I am with the Connecticut National Organization for Women, a chapter of a national membership organization which as you may realize, is the largest organization which deals with equal protection for women under economic, legal, social and any other saction we can think of.

I would like to just endorse Committee Bill No. 5804, which is AN ACT CONCERNING APPROPRIATION FOR MENTAL HEALTH UNIT AT THE CONNECTICUT CORRECTIONAL INSTITUTE. We heard some very eloquent testimony on that this morning and I would just like to make three additional points.

Really the first one is to reiterate a point that was made and because some questions were asked of it, I would like to reiterate the fact that there is presently no mental health unit at Niantic right now. We have been talking with two of the women who testified as having been in Niantic for a period of time and it was said that they were put on a ward with escape risks and disciplinary problems. It's a special management unit. It is really not a mental health unit, and I would like to make the point that there is a mental health unit available to men and the State of Connecticut is not now providing equal services, mental health services, for our female and male inmates in the state.

108  
kod

JUDICIARY

March 22, 1983

MS. MARKOWITZ: (continued)

terms of criteria for judging. And that means then you cannot shop the courts.

And since many of our statutes kind of grew like Topsy some of these things had happened. So that as, on behalf of the Courts Committee, we would hope very much that you would look with favor on these bills. What we're talking about is a concept now. If there are specific little changes of words for certain meanings on that, that does not get away from the important concept of what we're trying to thrust. And the thrust is not necessarily to terminate parental rights. The thrust is in the best interests of the child, how do we get a permanent placement for that child.

And one of the options if the child cannot go home is to terminate parental rights assuming that the findings are such that identify reasons for removing the child from those parents.

REP. TULISANO: David DellaBitta.

DAVID DELLABITTA: Mr. Chairman, members of the Committee, I'm David DellaBitta, Vice President of Government Relations of the Connecticut Bankers Association. I would like to just comment very briefly on Raised Committee Bill No. 1036.

I find myself more and more reaching agreement with Raphael Podolsky and I do agree that we should all sit down and again reach some sort of middle ground that all the various interest groups can live with, particularly with respect to something as important as this.

As you remember, Mr. Chairman, two years ago we sat around the table and we talked about what type of proposal on executions we could all live with. We'd like to do that again. We have some particular problems with this and I intend to, we're still studying it and I intend to put those in writing in detail.

For example, one section of this bill, Section 7, requires that interrogatories be served on the bank, etc. There is conflicting provisions of the statute that require

109  
kod

JUDICIARY

March 22, 1983

MR. DELLABITTA: (continued)  
confidentiality to be kept in certain instances. There might be conflicts with other sections of the statutes.

With respect to Section 26, another example there. Monies that were most recently deposited as of the time of the execution shall be deemed to be monies remaining in the account. I can conceive problems under this section where you have a couple who have a joint direct deposit Social Security account and one of the partners dies. The remaining spouse removes some of the money and subsequently deposited the money to the account. The problem the bank will have is how to get its hands on those monies that are in the account. There are these problems and many more problems.

We would like to make ourselves available and I intend to submit written testimony. Thank you very much.

REP. TULISANO: That ought to be about midnight someplace.  
Patricia Brewer.

PATRICIA J. BREWER: Rep. Tulisano, honorable members of the Committee on the Judiciary. I am Patricia J. Brewer, Coordinator of the Connecticut Catholic Conference, who speaks for the four Roman Catholic dioceses in the State of Connecticut.

I speak in favor of Committee Bill 5804, AN ACT CONCERNING AN APPROPRIATION FOR A MENTAL HEALTH UNIT AT CONNECTICUT CORRECTIONAL INSTITUTE AT NIANTIC. The Conference bases its support of this legislation in the recognition that the convicted criminal, whether man or woman, has not by conviction lost his or her dignity as a person or rights as citizens. It bases its support also in the recognition that the purposes of forced imprisonment in a civilized Judeo-Christian society must be to protect, to correct, to expiate, to educate, to restore, to reconcile and to renew. Never to destroy the human spirit of the prisoner.

To forcibly confine in the same facility and to treat in similar fashion the sane and the insane, the mentally disturbed and the mentally healthy, violates the human dignity of both. Reportedly it is a tactic used by totalitarian states to destroy the spirit of its dissidents.

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 6  
1820 - 2159

1983

# LEGAL SERVICES TRAINING & ADVOCACY PROJECT, INC.

140 Huyshope Ave.

~~111 Oak Street~~ • Hartford, Connecticut 06106 • (203) 525-6604

April 7, 1983

## H.B. 5110 and S.B. 1129 -- Wage executions and post-judgment collections

<p>Recommended Committee action: H.B. 5110 - Rewrite for consistency with H.B. 5822 S.B. 1129 - Box</p>
---

These bills overlap with subject matter covered by H.B. 5822 (which establishes a due process procedure for wage executions) and S.B. 1036 (which changes post-judgment procedures generally). They should be reviewed in conjunction with those bills.

## H.B. 5110 -- Wage executions for family support

1. Apart from questions about its substantive content, the bill is drafted in a confusing and sometimes internally inconsistent way. It needs to be rewritten in entirety for clarity.
2. The bill fails to acknowledge or cite the federal exemption for family support executions, which in some cases is larger than the state exemption [1. 136].
3. Service of process is inadequate to give proper notice. Service to the last-known address is not sufficient when the place of employment is known [1. 100]. Service by certified mail is not adequate unless there is proof of receipt [1. 99].
4. It is unclear whether or not execution is automatically stayed to give time for the filing of a hearing claim form.
5. The bill permits an employer to charge his employee for complying with the wage execution [1. 239].
6. Numerous other provisions of the bill are in need of revision.

## S.B. 1129 -- Attorney's fees for post-judgment procedures

The entire subject matter of this bill is covered, in a far better way, by §22 of S.B. 1036. In general, attorney's fees for post-judgment work are improper because the statutory limit of 15% attorney's fees added to the judgment already includes post-judgment collection work. That is the very reason that a percentage limit is used -- it takes more time and work post-judgment to collect a large judgment than a small one. S.B. 1036 narrowly limits the right to claim additional attorney's fees to exceptional cases. S.B. 1129 should be rejected and §22 of S.B. 1036 should be adopted instead.

-- Prepared by Raphael L. Podolsky