

Legislative History for Connecticut Act

HB 5314	PA 6	1983
House 586-594		(9)
Senate 503-505, 537-538		(5)
Judiciary 107-109		(3)

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1983

VOL. 26

PART 2

415-763

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House of Representatives

Wednesday, March 2, 1983

SPEAKER STOLBERG:

Is there any objection? The resolution is passed temporarily. Please proceed with the call of the Calendar.

CLERK:

Substitute for House Bill 5314, Calendar 29, AN ACT CONCERNING ERASURE OF CRIMINAL RECORDS, Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

The distinguished Chairman of the Judiciary Committee, Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Please proceed.

REP. TULISANO: (29th)

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

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, this legislation before us concerning erasure of criminal records is an

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attempt to --

SPEAKER STOLBERG:

If you could wait just one minute, Rep. Tulisano. I'm going to ask that the aisles be cleared, and that members please take their seats. Will all staff and guests come to well of the House. The noise level, I think, is inappropriate to the consideration of this bill. Rep. Tulisano, please proceed.

REP. TULISANO: (29th)

What the bill does is erases criminal records for those individuals, allows them to have the records erased, if they were convicted of a crime which this General Assembly subsequently decided it had not been a crime.

As an example, public intoxication, or intoxication was once treated as a criminal offense in the early days. Right now we recognize it more as a medical problem, and it is not a crime, and accordingly this would allow individuals to have their records erased and say they had not been convicted of a crime as a result of subsequent action by this General Assembly. I move for adoption of the bill.

SPEAKER STOLBERG:

Will you remark further?

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REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

A question through you, to the proponent of the bill.

SPEAKER STOLBERG:

Please proceed to frame your question.

REP. KRAWIECKI: (78th)

Mr. Speaker, Rep. Tulisano, in the drafting of this bill, is there any intention to include crimes, that for one reason or another have had the name changed?

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Please proceed with your answer, Rep. Tulisano.

REP. TULISANO: (29th)

Absolutely not, Mr. Speaker. The intent of this legislation is clear to allow erasure of those crimes which are no longer criminal in the State of Connecticut.

If, in fact, as an example, the old rape was changed to sexual assault, this legislation would not allow that to be changed, that record to be erased. So the rape case would still show on someone's record.

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SPEAKER STOLBERG:

Rep. Krawiecki, you still have the floor.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. Thank you, Rep. Tulisano. As one of the sponsors of the bill, I think that was our intention all the way through, and I am satisfied with the Chairman's answer on that question, and urge adoption.

SPEAKER STOLBERG:

Is there further discussion of this bill? Is there further discussion?

REP. FARR: (19th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

Mr. Speaker, another question, through you to Rep. Tulisano. While he represents to the body that that is not the intention to allow people who have been convicted of a crime that has now had its name changed, to get their record erased, it strikes me that there are numerous crimes for which the elements may be contained in some existing act, but it's been more than simply a name change.

For example, there used to be a crime of seduction of minor females. That crime has been eliminated. And yet,

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somebody who is convicted of that crime might be today, convicted of risk of injury. It's a different crime. It has different elements.

SPEAKER STOLBERG:

Rep. Farr, could you frame your question concisely, please.

REP. FARR: (19th)

Yes. Sorry, Mr. Speaker, it's getting noisy in here.

SPEAKER STOLBERG:

Okay, we'll get the attention for your brief question. Could you please give your attention to Rep. Farr.

REP. FARR: (19th)

My question to Rep. Tulisano, is how does the court determine whether there has been simply a name change, or in fact, the crime has been substantively changed, and aren't we just inviting further litigation on this whole area by not spelling out specifically those acts for which we want to decriminalize. Through you, Mr. Speaker, to Rep. Tulisano.

SPEAKER STOLBERG:

Rep. Tulisano, would you care to respond to the question?

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REP. TULISANO: (29th)

Yes, Mr. Speaker, through you. Decriminalized, I think, is self-explanatory, and any dictionary definition would be used, and I don't even think we need a legal dictionary, though we could refer to Bouvier's or any of the others, Black's. It is criminal and we have decriminalized it. It's self-explanatory, no longer a crime. The elements which made up the offense are no longer a crime in Connecticut. It is no longer an offense.

If we went to list those potential crimes, which we think have been decriminalized, I don't think we have a list of those offenses. I know there is one floating around right now, which shows four or five offenses, however, with a quick review of that, we noted that they were acts between consenting adults, which were once criminal, and are no longer criminal, were not included in that list, so we would leave some on and some off, and I don't think we've had the opportunity to do extensive research on the matter.

So I think decriminalization with its self-explanatory definition would sufficient to protect the citizens of this state, and to protect the people from any mininterpretation that any judge may do in the future, because I think we've made it clear here what our intent was.

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SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

Well, Mr. Speaker, I'm very much concerned when Rep. Tulisano doesn't represents to this body that we don't know what crimes we're including, and we're going to pass the bill, it seems to me then, that we're acting prematurely. I have a list that was prepared which shows some acts which were decriminalized, and some that were posthumously decriminalized. I don't know which ones would be affected or not, but I do know, that in some cases, someone might have been convicted of an act, who would today still be guilty of a crime, but the crime would have different elements than the crime for which he was convicted.

And, some of the list, for those of you who haven't seen the list, it includes things that are obviously no longer crimes, loitering by a vagabond, unlawful gait of a horse on a bridge, are no longer crimes, and clearly it's no concern to our society that somebody has those records erased.

But included in this list are things, such as seduction of a minor female for somebody who today might be convicted of risk of injury, but because they were

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convicted of seduction of a minor female, they would no longer have a criminal record.

There's a crime of being a tramp with a dangerous weapon. It seems like an absurd crime, but the point of the matter is, they might have been otherwise convicted of carrying a dangerous weapon. So, if we now say that that crime has been decriminalized, the person has their arrest record erased, because we don't know what we're doing, it seems to me that it's inappropriate to pass this bill unless we can spell out those crimes which it applies to.

Otherwise, all we're doing is inviting people to go into court and litigate this issues, because we haven't been able to decide ourselves which crimes we wish to decriminalize. Thank you.

SPEAKER STOLBERG:

Is there further discussion on the bill? Is there further discussion? Seeing no further discussion, may I ask that the aisles be cleared. Would all staff and guests come to the well of the House, and the machine will be opened.

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

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please return to the Chamber immediately.

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

Would the Clerk please announce the tally?

CLERK:

House Bill 5314.

Total number voting	139
Necessary for passage	70
Those voting yea	91
Those voting nay	48
Those absent and not voting	12

SPEAKER STOLBERG:

The bill is passed.

Are there any announcements or points of personal privilege at this time? Are there any announcements or points of personal privilege at this time?

REP. CONN: (67th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Conn.

REP. CONN: (67th)

The Republican members of the Human Services Committee will meet immediately following the session in Room 111.

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If there are no objections, I move that this bill be placed on the Consent Calendar.

THE PRESIDENT:

Any further comments? Any objection? The motion is so ordered.

THE CLERK:

Cal. 53, Substitute for House Bill No. 5314.  
File No. 6. AN ACT CONCERNING ERASURE OF CRIMINAL  
RECORDS.

Favorable Report of the Committee on Judiciary.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS: (22nd)

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

THE PRESIDENT:

Will you remark?

SENATOR OWENS:

Yes. Briefly, this bill would require the

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physical destruction of all police, court and prosecution records relating to a Connecticut conviction when the offense has been decriminalized subsequent to the date of conviction. The convicted person would have to file a petition for such destruction with either the Superior Court where the conviction occurred which has custody of the records or with the record center of the Judicial Department in the cases where the conviction occurred and the Court of Common Pleas, Circuit Court, Municipal Court or by trial justice.

I would point out, Mr. President, that the purpose of this bill, as you know, there were many offenses that had been decriminalized or had been declared unconstitutional in years gone by, such as intoxication and so forth, and in view of those or, ah, in many instances these are still on the record of the individual at the municipal police department or in some court file and it applies when someone makes an application for civil service employment or for other type of employment, and this remedies a serious problem and

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defect in our records in the state, and would certainly help a lot of individuals who had pleaded guilty or convicted to offenses that have since then been decriminalized.

I would ask, Mr. President, if there is no objection that this matter be placed on the Consent Calendar.

THE PRESIDENT:

Hearing no objection, so ordered.

THE CLERK:

Page 3, Cal. 54, House Bill No. 6719, AN ACT CONCERNING THE JUDICIAL DISTRICT FOR FILING AN APPLICATION FOR A WRIT OF HABEAS CORPUS. File 12.

Favorable Report of the Committee on Judiciary.

THE PRESIDENT:

Senator Owens:

SENATOR OWENS: (22nd)

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

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THE PRESIDENT:

We are ready for the Consent Calendar. Please make an immediate announcement for a roll call.

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 Clerk will mention the list that we passed on the Consent Calendar.

THE CLERK:

The list of bills on the Consent Calendar:  
Page 2, Cal. 48, Senate Bill 779; Cal. 49, Senate Bill 175; Cal. 53, Sub. for H.B. 5314.

Page 3, Cal. 54, House Bill 6719; Cal. 57, Sub. for S.B. 743; Cal. 59, Sub. for S.B. 97.

Page 4, Cal. 60, Sub. for S.B. 333; Cal. 47, Senate Bill 706.

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THE PRESIDENT:

Are there any omissions, changes? We are now prepared to vote on the Consent Calendar. The machine is open. Please record your vote. Has everyone voted? The machine is closed. The Clerk please tally the vote.

Result of the Vote: 34 Yea. 0 Nay. THE

CONSENT CALENDAR IS ADOPTED.

Senator Schneller.

SENATOR SCHNELLER:

Mr. President, I would like to announce that our next session will be Tuesday, and note that it is Tuesday, March 22 at 2:30.

There will be a Democratic caucus at 1:30 in the Democratic caucus room.

THE PRESIDENT:

Any other announcements? Mr. Clerk.

THE CLERK:

I have been asked to ask each and every senator to clear off the tops of the desks as a convention of

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JUDICIARY

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REP. TULISANO: Anybody? Thank you.

SEN. OWENS: Mr. Olds.

WILLIAM OLDS: I'm Williams Olds, Executive Director of the Connecticut Civil Liberty's Union and I'm here to speak to Committee Bill 307, an act concerning a right to a speedy trial. And I speak in opposition to that bill.

We believe this bill if enacted into law would be unconstitutional. We believe a person's inability to obtain a speedy trial violates constitutional guarantees in the 6th and the 14th Amendments. I think the issue of speedy trials is an area which both liberals and conservatives can come together.

On the one hand, there are those who believe that it's wrong to lock a person up for a long period of time without giving them their day in court; and there are those on the other hand who believe that speedy trials are the most effective deterrent to crime.

During the past year and a half, there have been two court decisions in Connecticut which declared that the lack of speedy trials in this State violated Constitutional guarantees. The first came in a Federal Court decision involving Judge Cabronis involving one Robert McCossey who was held at the Bridgeport jail for 18 months before he had his day in court. Judge Cabronis ordered the release of Mr. McCossey. And in the second case, Connecticut Superior Court Judge Douglas Wright ruled, in December of 1981, that an accused person by the name of Luellen Young, who had been held in prison for 18 months before being brought to trial "had a valid complaint concerning the violation of his constitutional right to a speedy trial." Judge Wright ruled that if Mr. Young was not brought to trial within 3 months, the State would have to release him on bond pending the outcome of his trial.

Judge Wright also said something that I think was helpful in that decision. He said "the system will not be able to function adequately under present conditions until a great increase is effected in the number of courtroom judges, states attorneys, public defenders, investigators". I might note that following the decision

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MR. OLDS: (continued)

in the State Superior Court regarding this Young, he was brought to trial within that 3 month period and he was found not guilty of felony murder charges.

Today, the situation continues to be a serious one. Today we estimate that there are approximately 175 individuals in Connecticut prisons who have been in prison for between 1 and 2 years, and who have not yet been brought to trial. It's our position that they deserve their day in court.

And I would also submit to you that the citizens of the State of Connecticut deserve to find out whether they're guilty or they're innocent. And in many of these cases, as with the McCossey and the Young case, their attorneys had asked on numerous occasions that they be brought to trial.

Finally, the State's inability to provide for speedy trials, I believe, has a disproportionate impact on minorities and the poor. The rich do not remain in jail for long periods of time, if they remain there whatsoever, at least while their case is pending. And the studies that have been done during the last few years show that this State, Connecticut, incarcerates more Hispanics in proportion to their population in Connecticut than any other state in the country. And we're, I think, 16th or 17th in terms of the percentage of Blacks that are actually held in Connecticut prisons.

So, for all of these reasons, I would urge the Judiciary Committee to reject Bill 307. I'd like, with your permission, to describe very briefly a couple of other bills.

I would support Bill 5788, which concerns the use of physical force when making an arrest or preventing an escape. This would limit the discretionary use of deadly force by a police officer to situations in which the officer reasonably believes that he is confronted with a dangerously violent felon, to quote the statement of purpose in the bill. There can be some situations in which a person who is suspected of committing a felony poses no threat to the officer or to a third person.

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MR. OLDS: (continued)

And, still under current law, could be executed while attempting to leave the scene.

And then, finally, I would also support Bill 5314, an act concerning erasure of criminal records. This would require the erasure of records in situations where crimes have been decriminalized. I would make one recommendation on Lines 29 and 30. It states that all police and court records and records of the State's or Prosecuting Attorney pertaining to such case be erased. The word erased bothers me. I would like to see that read physically destroyed. Because, what is happening today, we still have that continuing controversy. A lot of our records have simply been rubber stamped with the word "erased" and it's really a fallacy. You can still read it even if you have that rubber stamp on the record. And it does influence people who do read those records, if though people have been found innocent or have had their cases nolle.

That's all. Thank you.

REP. TULISANO: Thank you. Any questions? 307, as you know, is a bill that was desired from this legislature past trying to establish a speedy trial system. Would you think it would be fair as a result of it, they'd use that bill to let individuals en masse go free, say on July 1, if it could not be fully implemented? This was really a financing bill until just now.

MR. OLDS: I'm not advocating that people be dismissed in large numbers from our prisons. I'm advocating that they be brought to trial within a reasonable period of time.

REP. TULISANO: On the other hand, with the bill as being amended as a new piece of legislation from last year, which, in fact, tried to establish exactly that working itself ahead with the funding bill, which starts July 1, the funding.

If the funding isn't there to do what you're suggesting the only real result would not be a case by case determination of whether or not an individual was getting a speedy trial. It would be a determination en masse