

Legislative History for Connecticut Act

SB 575	PA 517	1984
House 7204-7212		(9)
Senate 1589-1591, 1994-1995, 2081, 3405-3407		(9)
Judiciary 714, 734-735		(3)
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS

1984

VOL. 27

PART 20

7142-7558

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House of Representatives

Wednesday, May 9, 1984

Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted and is your vote properly recorded?

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

Will the Clerk please announce the tally.

CLERK:

Senate Bill 610, Calendar 604.

Total Number Voting	147
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Necessary for Passage	74
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Those voting Yea	126
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Those voting Nay	21
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Those absent and not Voting	4
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SPEAKER STOLBERG:

The bill is passed.

CLERK:

Calendar 715, Substitute for Senate Bill 575, AN ACT CONCERNING PRIVATELY OPERATED RESIDENCES AND SERVICES FOR MENTALLY RETARDED PERSONS.

REP. FOX: (144st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. John Wayne Fox.

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REP: FOX: (144st)

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

SPEAKER STOLBERG:

Will you remark?

REP. FOX: (144st)

Thank you Mr. Speaker. Mr. Speaker, during the special session in June of '83, we passed a bill which established new procedures for setting rates for community residence for the mentally retarded.

This bill would allow the commissioner of the Department of Mental Retardation to grant exceptions to those regulations for group homes in operation before October 1, 1983. I move adoption of the bill.

SPEAKER STOLBERG:

Will you remark further on the bill? If not, will members please be seated. Rep. Meyer.

REP. MEYER: (135th)

Thank you Mr. Speaker. The Clerk has an amendment, LCO 4231. Will he please call and read.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 4231, which will be designated House Amendment Schedule "A". Will the Clerk please call and read.

CLERK:

LCO 4231, designated House "A", offered by Rep. McLaughlin, Rep. Meyer and Rep. Garavel. Line 1, before section, insert section 1. After line 46, add sections 2 and 3 as follows:

Section 2. (NEW) No community residence established pursuant to section 83e of the general statutes shall be established within 1,000 feet of any other such community residence without the approval of the body exercising zoning powers within the municipality in which such residence is proposed to be established.

Section 3. This action will take effect July 1, 1984, except that section 1 shall take effect October 1, 1984.

REP. MEYER: (135th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Meyer.

REP. MEYER: (135th)

I move acceptance of the amendment.

SPEAKER STOLBERG:

Rep. Meyer, will you remark further?

REP. MEYER: (135th)

Mr. Speaker, this merely allows the same distance

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as we have already passed for the homes for the mentally ill. It does say that the planning and zoning board would be consulted. The reason for this is that under present legislation, many of these, some of these homes have already been established.

They are working exceedingly well. We are able to get these people in to residential areas, homelike atmosphere. However, when a large number of these homes are clustered together in one neighborhood, there is a feeling that we are losing the advantage of bringing these people out in to our community. And, therefore, we feel that there should be some examination of how close these homes are being developed to one another.

In certain areas it is not a good policy to have them very close to one another. In other areas where there may be natural barriers such as highways or rivers it would not matter as much. In still other urban areas there might be a necessity to have the homes closer together if there are some sheltered workshops in the area and it would be possible for them to do so.

I think it is a very valid amendment. I think it will help our constituents who feel perhaps in certain areas that there is too great a concentration. It will be in line with what we have passed for other group homes

and it will basically give the local community an opportunity to do what is best for everyone in the community and for the people in the group homes.

I urge acceptance of the amendment.

SPEAKER STOLBERG:

Will you remark further on House "A"? Rep. Murdock,

REP. MURDOCK: (17th)

Thank you Mr. Speaker. A question through you to the proponent of the amendment.

SPEAKER STOLBERG:

Please frame your question.

REP. MURDOCK: (17th)

Thank you sir. Through you, Rep. Meyer, I am aware of one instance where a modular development is occurring right now, where two units are being built on one piece of property.

Would this have effect on that kind of a development?

Mr. Speaker, through you.

SPEAKER STOLBERG:

Rep. Murdock.

REP. MEYER: (135th)

The way the amendment is phrased, it would merely be the planning and zoning if they felt that this was in

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Keeping with that particular area, certainly this would be allowed. Pay attention to the fact that what has been done, certainly this is not a retroactive bill.

REP. MURDOCK: (17th)

Thank you.

SPEAKER STOLBERG:

Will you remark further on the amendment? Rep. Garavel.

REP. GARAVEL: (110th)

Mr. Speaker, I rise to support the amendment. It is our understanding in speaking with both the Department of Mental Health, Department of Mental Retardation and the Department of Health Service, that any community residence for the mentally ill or mentally retarded that has made application at this point will not be affected.

All this will do is set a standard for uniformity throughout our statutes with regard to the mentally ill and mentally retarded. It would not prohibit any community if they did not want to from prohibiting a community residence for the mentally retarded.

All it says is that it must have the approval of the zoning authority in that town if in fact the community residence is within 1,000 feet.

And, Mr. Speaker I would urge unanimous passage.

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SPEAKER STOLBERG:

Will you remark further on House "A"? If not, all those in favor of the amendment, please indicate by saying aye;

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary nay.

The amendment is adopted.

The following is House Amendment Schedule "A":

In line 1, before "Section" insert "Section 1."

After line 46, add sections 2 and 3 as follows:

"Sec. 2. (NEW) No community residence established pursuant to section 8-3e of the general statutes shall be established within one thousand feet of any other such community residence without the approval of the body exercising zoning powers within the municipality in which such residence is proposed to be established.

Sec. 3. This act shall take effect July 1, 1984, except that section 1 shall take effect October 1, 1984."

SPEAKER STOLBERG:

Will you remark further on the bill? If not, will members please be seated. Staff and guest to the well of the House. Rep. Joyce.

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REP. JOYCE: ..(25th)

Thank you Mr. Speaker. The final copy does solve, or does attempt to solve a very great problem in regulations. The group homes for the mentally retarded have presented a very great problem in regulations and this will go a long way to help it. I would urge passage of the bill. Thank you, sir.

SPEAKER STOLBERG:

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

CLERK:

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

The House of Representatives is currently voting by roll. Members please return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted? Have all the members voted and is your vote properly recorded?

Have all the members voted and is your vote properly recorded? Have all the members voted? Have all the members voted and is your vote properly recorded? Rep.

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Wednesday, May 9, 1984

Schmidle. The machine is still open. The machine is still open.

Have all the members voted and is your vote properly recorded? If all the members have voted the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

Senate Bill 575, as amended by House "A".

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	1
Those absent and not Voting	4

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 5, Calendar 803, Substitute for --

REP. GROPPA: (63rd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Groppo.

REP. GROPPA: (63rd)

Mr. Speaker, I ask for suspension of the rules for the immediate transmittal of this bill to the Senate.

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PTs and go through those.

THE CHAIR:

Thank you. Are you ready Senator Owens?

SENATOR OWENS:

Yes. Thank you. Thank you for your patience.

THE CHAIR:

Clerk, please call the bill.

THE CLERK:

Yes. Calendar 442, File No. 626, Substitute for Senate Bill 575.

Senator Owens.

SENATOR OWENS:

Yes. Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR OWENS:

Legislation passed during the June '83 Special Session established new procedures for setting rates for community residences. Part of that act required that the Department of Mental Retardation to adopt regulations governing payment requirements and the annual review DMR is required to make of each person admitted to the facilities. These regulations must cover such things as eligibility for program services, client need and so forth. This bill would allow the Commissioner of DMR to grant exceptions to these regulations for group homes in operation before October 1 of '83. The Commissioner would have to set out the regulations and procedures and criteria

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for granting such exceptions. I'd ask, if there's no objection, that it be placed on consent.

THE CHAIR:

Without objection, so ordered. I'm sorry. Senator Regina Smith.

SENATOR SMITH:

Yes. I would, through you, Mr. President, if I could ask a question of Senator Owens.

THE CHAIR:

You may proceed.

SENATOR SMITH:

I'm reading this analysis here, Senator Owens, and I still can't grasp the exact purpose of this legislation. What exactly is the purpose? It's something it appears that the Commissioner - "This will allow the Commissioner to grant exceptions to these regulations for group homes in operation before October 1, 1983. The Commissioner would have to set out in regulation the procedures and criteria for granting such exceptions." What's the purpose? Exceptions because of what reason?

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Yes, Mr. President. There are exceptions and the Commissioner of DMR would grant exceptions, would be allowed to grant exceptions in these cases. I know that Senator Rogers has had some contact with the DMR. I would ask if we could yield to Senator Rogers on this.

THE CHAIR:

Senator Rogers.

SENATOR ROGERS:

Thank you Senator Owens and Mr. President. I was talking to the Department earlier today for my clarification, and apparently as the new requirements effective last year, some of the group homes that have been in existence before that find that they would have difficulty in coming up to the current more stringent standards as quickly as they might ordinarily be expected to. Therefore, the Commissioner although not relinquishing the authority to bring those up to standard, will with his authority, grant a little extra time to bring them up to the current more stringent standards.

SENATOR SMITH:

Mr. President ...

THE CHAIR:

Senator Regina Smith.

SENATOR SMITH:

I'm a bit confused because it's my understanding the Regulations Review Committee is supposed to be in the process of reviewing and approving regulations. I don't know what's happened to the regulations in that committee. It clearly appears again to be a bill that should have come to the Public Health Committee. I'm willing to pass retain this before I request such a referral to see if I can get a better understanding of what it's all about.

THE CHAIR:

Is there any objection to pass retaining?

SENATOR OWENS:

I - through you, Mr. President, I have no objection to pass retention.

THE CHAIR:

Without objection, it will be passed retained.

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funds administered by the State Board of Education to use that money to conduct required audits as long as such use was not otherwise prohibited or restricted by law. This permission would supercede the current requirement of the Municipal Auditing Act that all state grants be audited and that all costs of the audit be borne by the recipient. Federal law generally permits the use of grant funds for audits. If there are no objections, Mr. President, I ask that it be placed on the consent calendar.

THE CHAIR:

Hearing no objection, so ordered.

THE CLERK:

Calendar 434, File 624. Substitute for Senate Bill No. 553. An Act Concerning The Written Decision In Binding Arbitration. Favorable Report of the Committee on Education.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Mr. President, we are in anticipation of an amendment. I ask that this be Ptd.

THE CHAIR:

Without objection, the matter is passed temporarily.

THE CLERK:

Calendar 442, File No. 626. Substitute for Senate Bill 575. An Act Concerning Privately Operated Residences And Services For Mentally Retarded Persons. Favorable Report of the Committee on Judiciary.

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THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR OWENS:

Yes. In the '83 session, we passed legislation establishing new procedures for setting rates for community residents of the mentally retarded and making state payments on behalf of persons residing in such facilities. Part of that act required the Department of Mental Retardation to adopt regs governing payment requirements. These regs must cover such things as eligibility for program services, etc. This bill would allow the Commissioner of DMR to grant exceptions to these regs for group homes in operation before October 1 of '83. I'd ask, if there's no objection, that this be placed on consent.

THE CHAIR:

Hearing no objection, so ordered.

THE CLERK:

Calendar 455, File No. 659, Substitute for Senate Bill No. 47. An Act Concerning The Compensation Of Members Of The State Ethics Commission. Favorable Report of the Committee on Appropriations.

THE CHAIR:

Senator O'Leary. The Senate will stand at ease. Senator O'Leary,

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THE CHAIR:

Clerk will make the 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 CHAIR:

Request is for a consent calendar up to this moment. Please give your attention to the Clerk who will list the items on the consent calendar.

THE CLERK:

Page No. 2, calendar 578. Page No. 3, calendar numbers 364 and 365. Page 4, calendars 384, 422. On page 5, calendar numbers 433, 34, 442, 455, 456, 457. On page 6 calendar 461, 462, 466, 468. On page 7, calendar 473, 479, 488. Let me do page 7 again. Calendar 473, 479, 483, -- one more time, 473, 479, 488 and 489. Let's get Senator Gunther back. Excuse me, Mr. President. Page No. 8, calendar 490, 491, 493, 494. Page 9, calendar 495, 499. Page 10, calendar 500, 503. On page 11, calendar 507, 508, 509 On page 12, calendar 510.

THE CHAIR:

Any requests to remove anything from the consent calendar? Senator

Scott.

SENATOR SCOTT:

Mr. President, I would request that House Bill 5126 ...

THE CHAIR:

What's the calendar number, Senator?

SJ60-SB485

SB93-SB585

HB5576-SB418

SB553-SB575

SB47-SB411

SB522-SB76

SB504-SB347

SB394

HB5572

HB5748-SB211

SB254-SB448

SB508-SB541

SB595-SB597

HB5329

HB5248

HB5542

HB5844

HB5421

HB5722

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CONNECTICUT
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SENATE

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basically what we're doing in the Senate here today is readopting what we did here a couple of weeks ago without the study of stocking trout in the Naugatuck River. If there is no objection, I move it to the Consent Calendar.

THE CHAIR:

Any objection to placing on Consent? Hearing no objection the matter will go on Consent.

THE CLERK:

Substitute Senate Bill 575, AN ACT CONCERNING
PRIVATELY OPERATED RESIDENCES AND SERVICES FOR MENTALLY
RETARDED PERSONS, passed Senate 4-26; passed House 5-9
with House A.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, would you call the Bill please, again?

THE CHAIR:

It's the 4th item on Senate Agenda 1. It's a
Judiciary Bill. It's Substitute Senate Bill 575. Senator
Owens.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint
Committee's Favorable Report in concurrence with the
action of the House and passage of the Bill.

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THE CHAIR:

Remark?

SENATOR OWENS:

Basically the House Amendment provided that no community residence established pursuant to the General Statutes should be established within--could be established within 1,000 feet of any other community residence without the approval of the body exercising zoning powers within the municipality.

And I should point out that the legislative intent is that this does not--and I emphasize does not, apply to condominium ownership, and condominiums and I would ask if there is no objection that this Bill as amended by the House Amendment, be placed on Consent.

THE CHAIR:

Senator Regina Smith.

SENATOR REGINA SMITH:

Thank you Mr. President, just to extra-clarify the intent, Senator Owens did mention that this does not affect condominiums. I would also appreciate the intent to clarify condominiums or apartments because we do have independent living quarters in apartment dwellings; if that is the intent to also include apartments?

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THE CHAIR:

Senator Owens.

SENATOR OWENS:

Through you, I see no problem with that. That seems to me to be the intent also. I'd ask if there is no objection, that the Bill now, as amended, go to the Consent Calendar.

THE CHAIR:

Is there any objection to going to Consent? Hearing no objection, the matter will go on Consent.

THE CLERK:

Going back to the top of Agenda 1, Substitute Senate Bill 550, AN ACT CONCERNING MEDIATION AND DISSOLUTION
PROCEEDINGS.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's Favorable Report in concurrence with the action of the House and passage of the Bill.

What the House did, Mr. President, is, in their House Amendment, they provided that the commission that shall not later than January 1 of '86 develop in each judicial district, offering mediation and conciliation services in

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MR. WOLFE: (continued)

something that would maintain a fair across the board kind of composition. Thank you.

SEN. OWENS: Any questions of Mr. Wolfe? Hearing none, we will go to Toni Richardson to be followed by Mr. Satti and Mr. Brown.

MS. TONI RICHARDSON: Good morning. I'm Toni Richardson, Executive Assistant to Commissioner Thorne in the Department of Mental Retardation. I'm here to testify on Raised Committee Bill 575, An Act Concerning Definition of Parent for the Purposes of the Department of Mental Retardation.

Section 19a-460 of the statutes clearly requires the Department to notify parents, guardians and other legal representatives of an impending transfer between residential facilities. In general, we have no quarrel with the current statute. We think it's appropriate for us to be required parents and we're happy to comply with that requirement. Our single concern involves the parents of a competent adult who has specifically asked that we not contact the parents. This happens extremely rarely; maybe five times a year.

It usually involves a very significant event in the person's life. In one case that comes to my mind, it involved a pregnancy and the person did not want the parents told of the pregnancy. In another case it involved a situation in which the father had been molesting the individual for many years and she didn't want her father to know what her new location would be.

We think in these rare circumstances, we should not be required to inform the parents of the transfer, prior to that transfer taking place. We request only relief from having to do that. And we have some written testimony that suggests alternative language that would restrict the impact of the proposed Bill to just that population.

SEN. OWENS: Thank you Toni. Any questions? Mr. Satti.

MR. C. ROBERT SATTI: Co-chairmen and ladies and gentlemen of the Judiciary Committee, I'm Attorney C. Robert Satti, Sr.,

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MR. PODOLSKY: (continued)

that has become very, very clear in the condominium conversion portions of the Act.

We've discovered that it is very easy for landlords who are supposed to be giving rights to tenants in a condo conversion situation, to get around those provisions simply by vacating the building first. And there's a recent, again, a recent New Haven Housing Court which really draws the line on this, that dealt with something called the Livingston Street Apartments in New Haven where a landlord was in the middle of a conversion. By withholding certain papers, he was able to get around the fact that tenants are supposed to have time to buy, time to move and a right to buy their units, a right to relocation assistance. So a part of this Bill is an effort to close those loopholes.

I'm told that there may be some people who will speak on the Bill who might suggest the possibility that these sections should be severed from the Bill. I will only say to you it is very, very important that they be included in the Bill and that the Committee substantively address that problem. If not with this language, then with some similar language.

Second Section 3 of the Bill amends Section 6 of the common interest ownership act dealing with what powers towns have in relation to condominium conversions. I think it remains important that the Committee address the problem that towns have some powers over conversions. If the Committee does not want to expressly put in language that the towns have powers, the Committee should simply consider the possibility of deleting Section 6 in entirety, which would restore the law to where it was before last year.

REP. TULISANO: Every year, the same thing.

MR. PODOLSKY: Senate Bill 575 is An Act--it's a definition of parent--for purposes the Department of Mental Retardation. The Bill needs either to be changed or boxed. There are two--the Department--this is a Bill from the Department of Mental Retardation and my understanding is that the

MR. PODOLSKY: (continued)

Department itself thinks the Bill has not been drafted correctly and has offered alternative language to you. That alternative language is acceptable. The problem with this Bill is it totally and completely removes parents from the process, from the transfer from institution to institution of an adult mentally retarded person.

There are two kinds of problems. First of all, it is not drafted correctly. If what it means is in dealing with people who don't have guardians, it should use that phrase. It uses the phrase a person who has been adjudicated incompetent. It's not clear what that means in terms of limited guardianships, full guardianships, conservatorships. You need to clarify that piece. The second is that the Bill is overbroad because there are circumstances when a parent should have notice.

The point is if an adult retarded person who has no guardian affirmatively says I don't want my parents to have notice; I don't want my parents to have the right to appeal, that is the circumstance under which this Bill should take the right of that appeal away.

If it is short of that, I don't think it's such a good idea. And I would also mention that this whole area is fairly sensitive, because there was litigation recently involving the Department of Mental Retardation that deals in part with what role parents should play and it may be that you may want to just let this Bill go for this year so as not to antagonize people, particularly some of the parent groups who are concerned about the parent involvement. But in any event, if you do choose to move the Bill forward I hope you would do a lot of rewrite on the Bill.

Senate Bill 578 deals with product liability claims. I'm not sure that I understand what this Bill means but if it means what I think it means, it seems to say that if a manufacturer and a distributor make a contract saying that basically saying that--limiting liability, that that agreement would be enforceable against anybody down the line. It's structured as if commercial parties might make disagreement. If that's what it means, it would mean that a consumer could be cut off from his products liability