Legislative History for Connecticut Act

SB 568 PA 527 final 1984

House 6568-6574 (7)

Senate 1659-1661, 1721, 3342-3343, 3417 (7)

Judiciary 709-710, 739-740, 820 (5)

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1984

VOL. 27
PART 18
6333-6686

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

SPEAKER STOLBERG:

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.

DEPUTY SPEAKER FRANKEL:

The Clerk please announce the tally.

CLERK:

Senate Bill 451, as amended by Senate "A".

Total number voting	132
Necessary for passage	67
Those voting yea	132
Those voting nay	0
Those absent and not voting	19

DEPUTY SPEAKER FRANKEL:

The bill as amended is passed.

CLERK:

Page 7, Calendar 681, Substitute for Senate Bill No. 568, AN ACT CONCERNING POST-JUDGMENT REMEDIES, as amended by Senate Amendment "A". Favorable Report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Tulisano.

REP. TULISANO: (29th)

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

DEPUTY SPEAKER FRANKEL:

The question before the Chamber is acceptance and passage in concurrence with the Senate. Will you remark, sir?

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO 3820.

DEPUTY SPEAKER FRANKEL:

The Clerk has LCO No. 3820, previously designated Senate Amendment Schedule "A". Will the Clerk please call and read the amendment.

CLERK:

LCO No. 3820, offered by Sen. Owens.

Delete lines 490 and 491 in their entirety.

DEPUTY SPEAKER FRANKEL:

The amendment's in your possession, sir. What is your pleasure?

REP. TULISANO: (29th)

Mr. Speaker, I move for adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of Senate "A". Will you remark on the adoption of Senate "A"?

REP. TULISANO: (29th)

Mr. Speaker, this amendment would make the bill effective October 1, 1984.

DEPUTY SPEAKER FRANKEL:

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

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

All those opposed, nay. The ayes have it. Senate "A" is adopted. Will you remark further on this bill as amended by Senate "A"?

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Tulisano.

REP. TULISANO: (29th)

The Clerk has an amendment, LCO 3779.

DEPUTY SPEAKER FRANKEL:

The Clerk has LCO No. 3779, which will be designated House Amendment Schedule "A". The Clerk please call and read the amendment.

CLERK:

LCO 3779, designated House "A", offered by Rep. Tulisano.

In lines 97 and 261, delete the word "HIS" and substitute in lieu thereof the words "THE JUDGMENT DEBTOR'S"

In line 429, delete the words "THE JUDGMENT DEBTOR and substitute in lieu thereof the words "SUCH PERSON"

DEPUTY SPEAKER FRANKEL:

The amendment's in your possession. What is your pleasure, sir?

REP. TULISANO: (29th)

Mr. Speaker, I move for adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

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

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed, nay. The ayes have it. House "A" is adopted. Will you remark further on this bill as amended by Senate "A" and House "A"? Will you remark further?

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, this bill is trying to make some changes in the procedures that the post-judgment remedy bill we passed last year, incorporating to make them a little easier, technical changes. Further, it would raise the amount of disclosure of earnings exempt from wage executions from $70 to $100. That has been done a number of times informally in family matters in order to let people be able to handle their own financial matters today. $30 is an old basis. I would move for passage of the bill as amended.

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended by Senate "A" and House Amendment Schedule "A"? If not,

staff and guests please come to the well of the House. The members please take their seats. All staff and guests to the well of the House at this time, immediately.

The Clerk please open the machine.

CLERK:

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

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

DEPUTY SPEAKER FRANKEL:

Have all the members voted? Have all the members voted and is your vote properly cast? Would the members please check the voting boards to determine if their vote is properly cast.

If so, the machine will be locked, and the Clerk will take a tally.

Would the Clerk please announce the tally.

CLERK:

Senate Bill 568, as amended by Senate Amendment Schedule "A" and House Amendment Schedule "A".

Total number voting	136
Necessary for passage	69
Those voting yea	136
Those voting nay	0
Those absent and not voting	15

DEPUTY SPEAKER FRANKEL:

The bill as amended is passed.

REP. GROPPO: (63rd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. John Groppo.

REP. GROPPO: (63rd)

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

DEPUTY SPEAKER FRANKEL:

The motion is for suspension of our rules for the immediate transmittal of this item to the Senate. Is there objection? Is there objection? Seeing none, it is so ordered.

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been Passed Retaining its Place.

THE CHAIR:

Thank you.

THE CLERK:

Cal. 433, File 622. Senate Bill No. 418. AN ACT CONCERNING PAYMENT FOR AUDITS OF EDUCATION GRANTS. Favorable report of the Committee on Education. The Clerk has an amendment.

THE CHAIR:

Senator Casey. The Senate will stand at ease. Senator CAsey.

SENATOR CASEY:

Mr. President, I would like to ask that the Senate P.T. that item.

THE CHAIR:

Without objection, the matter will be marked P.T.

THE CLERK:

Cal. 440, File 623. Substitute for Senate Bill No. 568. AN ACT CONCERNING POST-JUDGMENT REMEDIES. Favorable report of the Committee on Judiciary. The Clerk has an amendment.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

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

THE CHAIR:

The Clerk please call the amendment.

THE CLERK:

The Clerk has Senate Amendment Schedule A. LCO No. 3820.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

May I just have one minute, Mr. President.

THE CHAIR:

It is a very simple amendment, Senator. It only deletes lines 490 and 491 in their entirety.

SENATOR OWENS:

It makes the effective date, I move adoption of the amendment and waive its reading.

THE CHAIR:

Without objection, you may proceed.

SENATOR OWENS:

It makes the effective date October 1, 1984, Mr. President.

THE CHAIR:

All those in favor of the amendment signify by saying Aye. Those opposed Nay. The Ayes have it. SENATE AMENDMENT SCHEDULE A IS ADOPTED.

Senator Owens.

SENATOR OWENS:

Mr. President, the bill would make a number of changes, technical and procedural changes, in the Postjudgment Remedies Act passed last session. It would also raise the amount of disposable earnings exempt from wage executions from seventy to one hundred dollars.

I would move, if there is no objection, that this bill as amended by Senate Amendment A be put on Consent.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Cal. 446, a matter originally Passed Retaining its Place, and now being taken up, Files 198 and 645. Substitute for House Bill No. 5633. AN ACT AMENDING AND RESTATING THE SPECIAL ACTS FOR THE INCORPORATION AND GOVERNMENT OF THE KASSON GROVE PROPERTY OWNERS ASSOCIATION, INCORPORATED AND CHANGING THE NAME OF THE CONNECTICUT STATE SOCIETY OF THE CINCINNATI, as amended by House Amendment Schedule A.

SB451-HB5185
HB5567-SB568
HB5633-HB5886
HB5920-SB610
SB94-SB408
SB38-SB294
SB346-HB5288
HB5106-HB5573
HB5785-HB5876
HB5139-HB5648
HB5587-HB5897
HB5838-HB5626

Page three - nothing. Page four - Cal. 423. Page five - Cal. 440. Page six - Cal. 446, 447 and 450. Page seven - Cal. 458, 459 and 460. Page eight - Cal. Nos. 463, 464, 465. Page nine - Cals. 471 and 472. Page ten - Cals. 474, 475, 476, 477 and 478. Page 11 - Cals. 480, 481, 482. Page twelve - Cal. 484. Page 20 - Cal. 182. Page twenty-one - Cal. 486.

That completes the list of items on today's Consent Calendar.

THE CHAIR:

Are there any corrections or omissions? We are now voting on the Consent Calendar, on all of the items that have been referred to the Consent Calendar and as announced by the Clerk. 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: 36 Yea. 0 Nay. THE CONSENT CALENDAR IS ADOPTED.

Senator Schneller.

SENATOR SCHNELLER:

Mr. President, my friend down in the House, Representative Mae Schmidle has asked me to announce that tomorrow will be the first annual celebration in honor of the demise of

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SENATOR OWENS:

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

THE CHAIR:

Will you remark?

SENATOR OWENS:

Yes Mr President. The House Amendment basically added provisions with respect to regulations related to statute and specified that following a hearing with respect to which notice in writing specifying the time and place of the hearing and requiring the dealer to show cause why the license should not be revoked so it's basically a provision that gives notice and right to hearing. It's a good Amendment. I'd ask if there is no objection that this Bill go to the Consent Calendar in accordance with the action taken in the House.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar 440, File 623, Substitute for Senate Bill 568, AN ACT CONCERNING POST JUDGMENT REMEDIES, as amended by Senate Amendment, Schedule A and House Amendment,

Schedule A, Favorable Report of the Committee on Judiciary. Senate passed April 24th; House passed with Senate A and House A on May 8th.

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.

THE CHAIR:

Will you remark?

SENATOR OWENS:

Yes. Basically on May 8th, the House passed the Bill as amended by Senate A and adopted House A. House Amendment A simply corrects grammatical errors in the file copy. I'd ask if there is no objection that this Bill as amended by House Amendment go to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar 441, File 627, Substitute for Senate Bill 537, AN ACT CONCERNING UNIFORM PENALTIES FOR PRACTICING MEDICINE WITHOUT A LICENSE, as amended by House Amendment Schedule A, Favorable Report of the Committee on Judiciary. Passed Senate April 18.

lists the Bills on the Consent Calendar.

THE CLERK:

On page 1 of today's Calendar, Calendar 744 and 373. SB585-SB86 On page 2, Calendar 384, 437, 439, 440 and 441. On page 3, Calendar 443, 594, 603. SB531-SB568 SB537-SB588 SB169-SB636

Turning to today's Agendas, Senate Bill 550, this is on Agenda 1, Substitute Senate Bill 128, Substitute Senate Bill 575, House Joint Resolution 60. On page 3 or Senate Agenda 3, Substitute Senate Bill 223 and on Senate Agenda 5, Substitute Senate Bill 280. That completes the list of items on today's Consent Calendar.

THE CHAIR:

Are there any questions, any item that you want removed from the Consent Calendar? After you have voted, we would appreciate it if you would stay in your seat. The Roll Call that was taken on the Suspension of the Rules Motion by Senator DiBella apparently did not print out and we're going to have to take that vote over again and we'll do that immediately after we do this vote.

The issue before the chamber is the Consent Calendar. The machine is open. Senator Rogers, Senator Hampton, Senator Robertson. The machine will be closed and locked.

JOINT
STANDING
COMMITTEE
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MS. MANDELL: (continued)
selecting additional jurors if, after the random selection process by the jury administrator, there is an insufficient number of jurors. It permits the jury administrator to select the number of names that are necessary for that town or city from the remaining names on the list originally compiled by the jury admini-trator.

Third, this Bill clarifies that jurors selected in the previous year, under the present system for service should not be selected again and that under the one day one juror system, jurors selected in the previous three years should not be selected.

This is accomplished by specifying that the jury administrator shall send to the jury committees the names of persons who had been selected from the master list of the previous year or from the last three final lists as the case may be.

I'd like to submit proposed revisions to this Bill for your consideration. Many of the revisions are technical--

SEN. OWENS: Do you have them with you Faith?

MS. MANDELL: Yes, I do.

SEN. OWENS: Would you just leave them with us?

MS. MANDELL: Okay. I'll leave them with you and then I'll go on. The second Bill I'd like to address is Senate Bill 568, An Act Concerning Post Judgment Remedies. The Judicial Department would like to recommend that this Committee clarify an ambiguity that presently exists concerning the precedence of execution under Public Act 83-581 entitled An Act Concerning Post Judgment Remedies and Public Act 83-400, An Act Concerning Wage Executions.

Section 1 of Public Act 83-400 provides that all executions and earning assignments issued pursuant to this section shall take precedence over any execution issued pursuant to Section 52-361. The ambiguity stems from the words take precedence. It is unclear to us whether family wage execution in taking precedence over a civil

MS. MANDELL: (continued)
wage execution means that the civil wage execution is eliminated until the family wage execution is no longer in effect or that the civil wage execution may be satisfied when the obligor has sufficient earnings after deducting the amount required by the family wage execution.

We would urge that the General Assembly resolve this ambiguity.

The third Bill I'd like to address is Senate Bill 538, An Act Concerning Physical Destruction of Certain Criminal Records. We'd like to ask that should the Committee act favorably on this Bill, that the Bill be amended to give the Judicial Department ample time to destroy records in order to guarantee the integrity of the system. We would like to recommend that the definition of erasure be amended to mean actual physical destruction with a time set by the Judicial Department. We do believe that erasure means non-disclosure until the time of destruction. I would like to state that the Practice Book right now does permit destruction or sets a time in which court records shall be destroyed and that time period is three years.

REP. TULISANO: And they do destroy them.

MS. MANDELL: They do destroy them within three years.

SEN. OWENS: What records are destroyed? They can't reach into the Police Department and tell them what to do.

MS. MANDELL: No, only court records, criminal court records.

REP. TULISANO: Sometimes, some places, those records are destroyed in Connecticut.

MS. MANDELL: Yes, they are.

REP. TULISANO: The ones that the state has jurisdiction over.

MS. MANDELL: The ones that--we can only speak for the court.

SEN. OWENS: That's not our problem. I think the big complaint is primarily with the police departments.

MR. PODOLSKY: (continued)
extent that you want somebody to be coming out owing a debt, I would think that if you want that debt to anybody, you owe it to the victim because I would think that the priority debt is if there was a victim that had been injured, they may want the defendant to compensate the victim. Why should you put the state's claim for how many days of a prosecutor's salary ahead of the claim of the victim? Of course, there are some real constitutional problems here because that means if that's what this Bill means, then it means the bigger a fight you put up, the longer your trial, the larger your liability is, if you lose.

So what you're really doing is you're setting up a disincentive for the defendant to contest a charge, a criminal charge by the state. It seems to me that may raise some very serious constitutional questions.

Finally, the last Bill, and I am sorry I have taken so long, Senate Bill 568, the Amendments to the post judgment remedies act. The Bill itself is unobjectionable. It makes a number of changes and my concern is that there are numerous other changes and it fails to make, including some that I felt assurances were made last year would be addressed in this year's cleanup amendments. There are
Cass #3 three particular ones one of which was in that category that I'd like to call to your attention and I will separately submit to you a written list with other suggestions.

One is that last year, there was consideration given to putting in some protections connected with the examination of judgment debtors to make sure that a capeus was not used abusively to bring people in, to make sure that the defendant was not arrested on a capeus unless he violated a subpoena, unless that there was some reason to believe that the questioning would reveal non-exempt income, unless that the information could not be obtained from some other source.

I was led to believe last year that the Law Revision Commission would consider this. It was never considered at all and it was referred to another Committee which

MR. PODOLSKY: (continued)
never reported. I think you should put something in the Bill on that this year.

The two other things that I'd like to specifically mention, one is we still have a statute that appears to imply that the petition for new trial procedures require a separate action. It's ambiguous and you can argue both sides. We have streamlined the post judgment remedies procedure for creditors. We should streamline it equally for debtors and that can be raised by motion, rather than by a separate action. It's simply unclear now what the rule is.

And finally, in the wage execution section, neither this Bill nor any possible amendments to the family support wage execution section deals with the fact that the DHR regulations, child support regulations, are inconsistent with our family wage exemption statute.

Under the family wage exemption statute, $70 per week is exempt. That has not been changed since 1978. That is an exceedingly low amount. Under DHR regulations for child support, under 4(d) $100 is exempt. You ought to make them consistent by bringing the $70 up to $100. The time that it becomes significant is when someone who is under an order assumes he'll have $100 left, ends up going on part time or losing his job and then no longer has $100 of income. He may only have $80 and he will then have more taken out then the exemption anticipated. I view that in some sense as a cleanup. As I said, there are a number of other small amendments that I would like you to address in this but I will submit that separately in writing. Thank you very much for your time.

SEN. OWENS: Any questions? Ann Marie Martin, to be followed by Laura Minor. Good afternoon, Miss Martin.

MS. ANN MARIE MARTIN: Good afternoon. I'm here to testify in favor of House Bill 5888. I am a legislative intern with the University of Connecticut, Public Interest Research Group, CONNPIRG. We are a student supported research and advocacy organization which supports this legislation along with DES action. This proposed Bill would

MR. HEMOND: (continued) SB 568
Concerning Post Judgment Remedies. This is a straightforward, clarifitory bill of last year's post-judgment remedies act. I prepared a memo which I sent to the Co-Chairmen of the Judiciary on that which explains the act in more detail. It's primarily technical. I would point out that there are two provisions, one dealing with the exemption claim provisions, and one dealing with the turnover procedure, which are which have been raised by practitioners which could be constitutional dimension, and they should be addressed.

Attorney Podolsky on testifying on this bill did not for the bill, but he raised several other areas which he thought needed looking at and one of those areas deals with potential conflict in the exemptions with respect to wage, support executions. It's not an area which Mr. Podolsky brought to our attention. In my reading his proposal, he's probably correct. It probably should be addressed, and I don't mind if it's addressed in this bill, but the commission had not seen that earlier and does not have a position at this time. If there are any questions, I'd be happy to answer them.

REP. TULISANO: Patricia Stevens. Jeanne Milstein. Bill Carbone.

MR. WILLIAM CARBONE: Thank you, Mr. Chairman. My name is Bill Carbone, I'm Chairman of the State Commission on Prison and Jail Overcrowding, and I'm here to testify briefly in favor of Bill No. 567, An Act Concerning Prison Overcrowding And An Intensive Probation Program.

As I'm sure many of you know, we've done many things over the last three years to aleviate prison overcrowding. Many of them have come before your committee in prior sessions. We have a totally expanded Bail Commission. We've increased the number of halfway house beds that we purchased by three fold. We've developed and implemented a community residence program which now saves more than 100 beds a day, and we in fact have leased facilities in local police lockups in Hartford and the City of New Haven.

In total, we are saving on an average of about 1,000 beds