

Legislative History for Connecticut Act

HB 7767	PA 350	1985
House	4313, 4315, 4562-4585, 5114-5165	75p.
Senate	3041, 3140-3141	3p.
Judiciary	1398-1404, 1405	8p.
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GEN. ASSEMBLY
HOUSE

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House of Representatives

Tuesday, May 7, 1985

Page 13, Calendar No. 512, Bill No. 6287, File No. 614, AN ACT CONCERNING PROGRAM REVIEW, INVESTIGATIONS AND EVALUATION OF AUDIT FINDINGS BY THE GENERAL ASSEMBLY.

Page 14, Calendar No. 518, Bill No. 7770, File No. 610, AN ACT AUTHORIZING RENOVATIONS AND REPAIRS AT THE CONNECTICUT STATE UNIVERSITY.

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Calendar No. 544, Bill No. 149, File No. 495, AN ACT CONCERNING THE MOTOR VEHICLE THEFT TASK FORCE.

On Page 19, Calendar No. 547, Bill No. 825, File No. 536, AN ACT CONCERNING PAYMENTS TO THE STATE

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REP. KRAWIECKI: (78th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

At this time I'd like to remove three items from the Consent Calendar.

They are Calendar No. 512, Calendar 522 and Calendar 534.

Thank you, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Just to clarify where we are at, I will repeat the Calendar numbers of the bills that have been proposed to be on Consent.

HB 7553 HB 7611 HB 7168
 Calendar No. 139, Calendar No. 309, Calendar 357,
HB 7798 HB 5898 HB 6310 HB 7560
 Calendar 384, Calendar 396, Calendar 398, Calendar 480,
HB 5643 HB 7770 HB 7429 SB 237
 Calendar 503, Calendar 518, Calendar 530, Calendar 539,
SB 669 SB 149 SB 825 SB 898 HB 7603
 540, 544, Calendar 547, Calendar 548, Calendar 550,
HB 5164 HB 5777 HB 5778 HB 7778
 Calendar 551, Calendar 552, Calendar 553, Calendar 554,
SB 214 SB 819
 Calendar 566, Calendar 567.

Motion is to place those items on the Consent Calendar for action tomorrow.

REP. STOLBERG: (93rd)

Mr. Speaker.

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to the Committee on Planning and Development?

DEPUTY SPEAKER BELDEN:

The motion is to refer Calendar No. 532 to the
Committee on Planning and Development. Is there objection?

Hearing none, so ordered.

CLERK:

Calendar No. 534, Substitute House Bill No. 7767,
File No. 656, AN ACT CONCERNING ADULT PROBATION. Favorable
Report of the Committee on Judiciary.

REP. WOLLENBERG: (21st)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

I move the acceptance of the Committee's Favorable
Report and passage of the bill.

DEPUTY SPEAKER BELDEN:

Nice to see a new face. Motion is for acceptance
of the Committee's Favorable Report and passage of the
bill.

REP. WOLLENBERG: (21st)

Mr. Speaker, under existing law, the defendant
who satisfactorily completes an AR or Alcohol Education

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program must return to court for the purpose of having the court enter the dismissal in accordance with the statute. This would allow that the individual did not have to return to the court and that it could be done pro forma by the court. From time to time now it's done that way. If someone were to go out of state, as you know, regular AR could run for two years. Someone could have moved or changed their lifestyle or something and so they are from time to time dismissing them without people being present.

This would just hurry or make for better efficiency in the courts as well as other things. I recommend that it be passed.

DEPUTY SPEAKER BELDEN:

Will you remark further on the bill?

REP. PRAGUE: (8th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Prague.

REP. PRAGUE: (8th)

Mr. Speaker, the Clerk has LCO 5738. Will he please read and I be allowed to summarize? 5738.

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DEPUTY SPEAKER BELDEN:

Will the Clerk please call LCO 5738, which will be designated House "A"?

CLERK:

House Amendment Schedule "A", LCO No. 5738.

Offered by Rep. Prague, Rep. Farr, Rep. Favreau, Rep. Kiner, Rep. Dudchik, Rep. , Rep. Shays.

DEPUTY SPEAKER BELDEN:

The representative has requested permission to summarize. Is there objection? Hearing none, Rep. Prague, please proceed.

REP. PRAGUE: (8th)

Mr. Speaker, this bill will make people, make people who drive while they are under the influence and commit personal, physical, well, commit physical injury ineligible for the pre-trial alcohol education program.

DEPUTY SPEAKER BELDEN:

What is your pleasure, ma'am?

REP. PRAGUE: (8th)

I move its adoption, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

The representative has moved adoption. Would you care to remark further on House "A"?

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REP. PRAGUE: (8th)

Yes, I would. Thank you. Currently, if somebody is arrested for driving under the influence, there are only two conditions that they have to meet to get in the pre-trial alcohol education program. One is no prior conviction and two is, no prior involvement in a pre-trial program.

Judges impose their own criteria and there is no criteria that says if you have injured someone you cannot go into the program. Often the judges overlook the impact of physical injury. We had a State employee who testified at the hearing that he and his wife and child were hit by a drunk driver. His wife had a punctured lung, a broken rib, a broken arm and a shoulder injury. He had 200 stitches, he had a concussion, his daughter had multiple cuts and abrasions and the drunken driver was sent to the pre-trial alcohol education program.

There is no established standard in our present statutes that would prohibit this. I urge passage of this amendment.

REP. DUDCHIK: (104th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Thank you, Ma'am.

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REP. DUDCHIK: (104th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Dudchik.

REP. DUDCHIK: (104th)

Thank you, Mr. Speaker. I rise in support of this amendment. In 1984 of the 11,000 cases of drunk driving arrests that went to court, only 2,000 were found guilty. The vast majority, almost two-thirds got off with educational rehabilitation, to the cost of \$250 and dismissed charges. A slap on the wrist. Boys will be boys, instead of a hard kick in the butt.

If we are to make a beginning to overcome the tragedy and travesty of drunk driving, this law must be strengthened, to signal to the public, to the drivers and the victims alike, that we in the State of Connecticut mean business. Otherwise, this blood bath of victims will continue and there will be even a louder cry for justice, because our current system which allows drunks to sit in class while their victims lie in hospitals, is a sham and a farce. I urge adoption of this amendment.

DEPUTY SPEAKER BELDEN:

Will you remark further on House "A"?

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REP. RITTER: (2nd)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Ritter.

REP. RITTER: (2nd)

Thank you very much. I think I'm more in accord with Rep. Dudchik than Rep. Prague. I mean I think you should either accept the fact that we have a program or we don't have a program. I think it's more intellectually consistent to abolish the program if that is what you want to do.

We are going to have the program but the program is designed to help get drunk drivers educated so that they no longer will be doing it. That's the purpose for the program. You either believe in the program or you don't believe in it. Again, I would think if you don't want it, rather than this ridiculous amendment, what you ought to do is vote to abolish the program.

The purpose of the program is facts, figures, public policy. We have decided that the best way to get these drunks off the road is to give them a shot, if the judge agrees, to go through this program. We either agree with that public policy or you don't agree with it.

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I happen to think that it's a very good way of getting people off the road. I think it's the probably the most important crime we have. It's proven that we're getting people off the road, we're getting them educated and it has been a really good rehabilitation. By saying that one drunk has certain, because he or she is lucky, it's crazy. I mean, that's not the purpose. Again, I would just ask you to think about it, that the program is a good program. It should be a good program.

Just cause some guy was lucky enough to hit a telephone pole rather than to hit another car. So I would hope that you would turn down this amendment, and if you really want to have a fruitful debate let's go into the program itself. But to have this narrow exception, again just because one person hit a telephone pole rather than another car, it's totally ludicrous as I see it, where the real discussion should be on the major issue. Thank you, Mr. Speaker.

REP. FAVREAU: (24th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Favreau.

REP. FAVREAU: (24th)

Thank you, Mr. Speaker. Mr. Speaker, I take

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exception to some of the comments we have just heard and ask the Chamber to support this bill. In any criminal proceeding, wherever we're going to give some, impose some kind of a penalty, there are always mitigating circumstances.

And what this amendment simply says is if you've been driving and have injured someone, have caused someone an injury, you deserve more than a slap on the wrist, more than a warning. If you have injured someone and now you've got to face the music. That's simply what the amendment does and I urge its adoption.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I rise to oppose the amendment. I really wish the amendment would do what the proponent indicated. I mean I suppose if the amendment did what Rep. Prague said it did, I'd probably vote for the amendment. If it included death, I'd probably vote for the amendment. Except, the opponents of the amendment cite, cause physical injury as defined in 53A-3 of the

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General Assembly. And despite what we've heard in the past about what we mean, we have to write what we mean. And physical injury is defined in 53A-3 as, sub-3 by the way, as impairment of physical condition or pain. That's a little less than what Rep. Prague said.

But 53A-3 sub-4 defines serious physical injury which in fact, the inclusion of one, may exclude serious physical injury. And so what we will have if we accept the arguments of the proponent, is a piece of legislation which would effectively make sure, at least not make sure, at least we could argue very well, that those who cause serious injury, those who did what Rep. Prague said, should in fact go into the program and those who in fact did substantially less, would be ineligible for the program.

And I understand good intentions, I understand what people want to do. I understand the desire. But this is the Connecticut General Assembly. We should write the laws to do what we desire. This would lead to the biggest inequity in the world. It certainly would lead to a situation in which people who probably should not go into the program, we once had that in our law. Serious injury occurred, a reason to be excluded, would in fact be allowed in the program, and those for whom it would

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do the most good, would probably be excluded from the program. I think this amendment is defective, and I think it should be rejected.

REP. MIGLIARO: (80th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Migliaro.

REP. MIGLIARO: (80th)

Thank you, Mr. Speaker. I rise in opposition to the amendment for many of the reasons that have been stated earlier. But I'd like to pose a question, through you, Mr. Speaker, to the proponent of the amendment, Rep. Prague. Can I?

DEPUTY SPEAKER BELDEN:

Please frame your question, sir.

REP. MIGLIARO: (80th)

Yes, Rep. Prague, what I'd like to know is according to the amendment that you would have persons be ineligible to get into a program. What would happen with the individuals if they are not in the program, there are no ways of more or less driving the person out. What would you suggest if an individual is not allowed to get into one of these programs, where does he go from there?

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DEPUTY SPEAKER BELDEN:

Rep. Prague, would you care to respond?

REP. PRAGUE: (8th)

Would you please ask the proponent of the question to repeat it? I was listening to another legislator.

DEPUTY SPEAKER BELDEN:

Rep. Migliaro, would you please repeat your question?

REP. MIGLIARO: (80th)

Through you, Mr. Speaker, my question to Rep. Prague is according to the amendment, a person should be ineligible for participation in such a pre-trial alcoholic education. If you prevent them from going to the different alcohol education seminars, whatever you want to call them, where would they go?

REP. PRAGUE: (8th)

Through you, Mr. Speaker, in answer to Rep. Migliaro, they would then go into court and be convicted of driving under the influence. I would like to also respond to the fact that people who injure other people, if there is serious injury according to Rep. Tulisano has just said, or if there is death, these are criminal offenses, and we have on the books criminal legislation

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to deal with those. There is nothing in the criminal legislation, assault with a motor vehicle, or manslaughter with a motor vehicle while under the influence, there is nothing in those statutes that allows people to go into the pre-trial alcohol education program.

It is when there is no serious physical injury, assault with a motor vehicle or manslaughter with a motor vehicle, that people are allowed to go into the pre-trial program. And I discussed this very thoroughly with the LCO. I knew that there was going to be some discussion on serious physical injury and death with a motor vehicle while under the influence. And let me repeat that there is nothing in either of those statutes that allows those people to go into the pre-trial --

REP. MIGLIARO: (80th)

Mr. Speaker, a point of order, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

I would encourage the --

REP. MIGLIARO: (80th)

I would just like the question answered.

DEPUTY SPEAKER BELDEN:

Rep. Migliaro raised a point of order that he would just like his question responded to, Rep. Prague

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and I believe you have responded to his question.

Rep. Migliaro, you have the floor, sir.

REP. MIGLIARO: (80th)

Yes, thank you. I won't ask any more questions, that's for sure.

REP. PRAGUE: (8th)

That's good.

REP. MIGLIARO: (80th)

Mr. Speaker, members of the House, we talk about pre-trial, a pre-prep programs for those who are incarcerated in our state to try to get them part back into society because of the mistakes that they have made. I do not deny the fact that under certain conditions, drunken driving is a very serious thing in the State of Conneticut and should be addressed. But when I see an amendment like this that says physical injury, it doesn't say to what magnitude that injury constitutes.

Number two, I don't think anybody should be denied the right or be ineligible, to use the word ineligible. That they should be denied the chance to dry out if you want to use that phraseology. In many cases you can say that a lot of people have maybe made one mistake and

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probably their only mistake and I think that like shutting the door on them is not the way that this state or the legislative acts or our statutes are intended to be.

There are many problems in drunken driving and I believe address them, mandatory fines and things of that sort. I'd like to see something done up here that has never been addressed as far as drunken driving is concerned, and the one thing that people don't seem to care about is when they lose a buck or they're fined and a dollar sign is put there. They can always come up with that and they're back on the road.

Why don't we turn around and come in with a bill that any individual drunken driving has to pay for drivers course and the manual over again in the State of Connecticut, before they can get back on the road and have their license reinstated. That will do more to stop drunken driving in this state and many others, such as reckless driving, evading responsibility. If we address it in that manner, the one thing these people don't want to do is to go back to school. They don't want to go out and be harrassed where they have to take certain hours of going back again to be re-evaluated on their driving habits. You see this is what we should be addressing

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instead of the dollar. That's one point.

The other point that I look at is that I would not shut the door on anybody that legitimately wants to go to any kind of a pre-prep program if you want to call it that, and try to direct themselves to be a better person in the society. And by doing this with this amendment, you're turning a lot of people maybe first persons, people who maybe the first time had a little bit too much who didn't know how to handle it, or got too much because a lot of people didn't know what to feed them when they were drinking. And these people will be condemned in this respect according to this.

I think we're going a little bit too far. I think there's a lot we can do, but let's be a little more realistic on our approach, let's make it tougher for an individual to have a driver's license. And the best way to do that is that when they are driving drunk, or when it's reckless driving or evading responsibility, make them take the test over, pull their license, let them go back to school, a driving school and let them get a certificate that shows that they're re-qualified to drive that vehicle. And I'll bet you dollars to doughnuts if we do that, we'll have a lot of less drunks driving on the road, a lot of less reckless drivers on the road as well,

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and I think we better start approaching that. We're making it look like every time somebody's caught with a bottle in their hand we're going to have to hang them high and let them dry. Well, some of them you do. Some of them you don't.

And I'll just qualify that hang them high and let them dry for you so you'll know what it means. Years ago in the old West, when they hung you out there, you used to sway in the wind. But if you took a wet towel and put it on the clothesline, it doesn't sway in the wind, so nobody notices it. But if you hang them dry and they're swinging back and forth you sure as hell know it's them. Maybe that's what we ought to do with them. Thank you, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Thank you, sir. Will you remark further on House "A"? We are now discussing House "A".

REP. KRAWIECKI: (78th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, I rise in support of the amendment.

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One of the things that has bothered me since the imposition of this statute if you will, has been in my opinion the gap when an injury occurs and the person can in fact have no record once they complete their participation in this program.

My own sense of value judgments tells me that's wrong. I think that perhaps some of the arguments that Rep. Tulisano has raised and perhaps others have listened to may or may not be accurate in that Section 53A-a, or -3 has a definition of physical injury and also has a definition of serious physical injury. But I think the serious physical injury is a far broader definition and it includes the infliction of pain.

Some members may or may not like that, but I frankly don't agree with Rep. Tulisano's analysis that we are excluding serious physical injuries. I don't think that's the case at all. I think we're using a much broader definition in this case, and for the members who were concerned about Rep. Tulisano's comments, I really don't think that they should be taken in the context that he's taking them in. There may be those who think that it may be overly broad and that's a different concern and perhaps if people are concerned about that item, the

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bill could be P.T.ed but I honestly believe that it could go forward and I will support the amendment.

REP. SHAYS: (147th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker, and members of the House. Members of the House, I would like to make sure you're aware of a few facts that somehow got lost in this debate. This is not an issue of whether you favor the pre-trial alcohol education program. It's a question of whether you think that people who cause injury to others should be part of a pre-trial alcohol education program. And what you should know by the words of the following. A pre-trial alcohol education program means that once an individual is arrested and he goes into this program, it's pre-trial. There is no evidence given on the case. He agrees to go into this program, or she, and take a certain number of courses, and after a year your record is erased.

Now the problem that we have encountered is that there have been some individuals, there have been some

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individuals who have been arrested who have caused injury. In fact, there's a State employee who knocked on my door and said that he and his wife were injured in a serious way in fact, and the individual was given the pre-trial education program, they were allowed to go into the program and they weren't charged for any of the injury.

And then what happened was, the record was erased. The record was erased. The offense was never committed, the individual who was alleged to have done the offense was never to have committed that offense. It disappeared. But the problem was these individuals were accorded a number of bills, and injury and loss of time on the job. And what we're saying is, it's one thing to go through this what really is an accelerated rehabilitation program where the record is erased, it's one thing to do that, but you can't go through it if you cause injury to someone. The case has to be heard. And I frankly come down on that side.

Now for the benefit of some of you, the issue as defined by Rep. Tulisano I think, is somewhat and I say this advisedly because I don't want him to have to send me flowers, I think it's somewhat distorted. The issue

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is not whether, it won't apply to serious offenders. The issue is as Rep. Krawiecki has described it, is it's too broad. And if you come down on that side, I can live with that. I don't think it's too broad, because we're still going to have so many people in the program. But if you think it should be just for the serious offenders then you may want to vote against this amendment. I hope you don't.

We have enough people going into this program, 12,000 cases a year are erased.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, first let me make these prefatory remarks. Let me say I was going to send Mr. Shays flowers anyway this week, because he asked for them. I was going to send them anyhow. Secondly let me just say that the record is not erased. The fact that one participated in the pre-trial program at least lasts, as I understand it, seven years. So it's not something like accelerated rehabilitation, which generally the most extensive I have ever seen, is two years. This is not a fair comparison

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of the programs. Three, the statement was made, it didn't occur. It occurred. And if you suffered damage and if you suffered medical bills and loss of time, you certainly have a civil course of action, which is the normal way to do that. So that those three that were just presented to you aren't really in fact the truth. It's a little different, a little less, a little grayer than black and white. A little different.

And you're right, maybe, maybe Rep. Shays is right and Rep. Krawiecki is right, but you noticed both of them said, maybe they're right, maybe I'm right. And as I said here before, if we're going to do it, you do it right.

The reasons for having this bill, let's get back to facts, are more serious physical injury. Those are the examples we are given, not pain. Pain is, there's an incident and you bend your shoulder. Pain is something else happened, whatever it may be, and you felt some pain. Very, very minor thing. Now the question may very well be, should we have it so broad. That is not how the issue was presented to this Hall of the House, however. The example presented by Rep. Prague, the example presented by Rep. Shays, were serious. I have no real problem with that, frankly. In fact, it was, it used to be in our law. And some advocate who thought

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that the law should be changed took it out. Well, that was, you know, things change every other year. I don't have a problem with that. I have no real problem if you said .25 and there was physical injury. But .10 with somebody who has a pain which may tangentially be involved with the incident? Should we not think twice of how we handle that individual?

RID testified, RID testified at the Judiciary Committee hearing on the per se bill and some other items and indicated that they thought 60 to 70% success rate for those going into the program. I think that's a testimony from people I never expected it to come from for that program. They recognize that there are a number of people, we all recognize that the accelerated rehabilitation program is ineffective for. This will take, I presume, a number of people and make them ineligible. That's the debate I think Rep. Shays and Rep. Prague really wants to talk about. And let's talk about it. Shall we narrow the people who are really wrong down to them?

Well, I have no real problem with and frankly I would accept Rep. Krawiecki's suggestion that it be PTed and we make it a serious physical injury or death. That really doesn't bother me, if some cop doesn't charge somebody with the proper crime, I really don't think

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they should go into AR either. And so, you know, I think he's right. But to narrow it to this number of people applied to, is really a disservice to the people of the State of Connecticut.

Mr. Speaker, I would like to yield at this point to Rep. Krawiecki.

DEPUTY SPEAKER BELDEN:

Rep. Krawiecki, do you accept the yield, sir?

REP. KRAWIECKI: (78th)

Yes, Mr. Speaker. After listening to the debate and listening to the direction this argument is going in, I think perhaps there are a good number of people who would want the opportunity of voting perhaps on a different amendment, one that defines the injury as a serious physical injury and for that reason I would like to have this item passed temporarily.

DEPUTY SPEAKER BELDEN:

The motion is to pass temporarily, Calendar 534.

Is there objection? Hearing none, so ordered.

House Amendment Schedule "A".

In line 80, after the period, insert the following:
 "A PERSON SHALL BE INELIGIBLE FOR PARTICIPATION IN SUCH PRETRIAL ALCOHOL EDUCATION SYSTEM IF HIS ALLEGED VIOLATION OF SECTION 14-227a CAUSED THE PHYSICAL INJURY, AS DEFINED

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IN SECTION 53a-3, OF ANOTHER PERSON."

DEPUTY SPEAKER BELDEN:

The House will recess for approximately one hour and fifteen minutes. The plan is to reconvene at 7:20 for the purposes of having a slight repast. The House will stand to recess.

DEPUTY SPEAKER BELDEN:

The Clerk please return to the Call of the Calendar.

CLERK:

Page 17, Calendar No. 536, Substitute Senate Bill No. 803, File No. 264, AN ACT CONCERNING HEALTH AND WELFARE SERVICES AND IN-TOWN TRANSPORTATION SERVICES FOR NONPUBLIC SCHOOL STUDENTS, as amended by Senate Amendment Schedule "A". Favorable Report of the Committee on Education.

REP. ROCHE: (142nd)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Marilyn Roche.

REP. ROCHE: (142nd)

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

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Wednesday May 8, 1985

7767, File No. 656, AN ACT CONCERNING ADULT PROBATION.

Favorable Report of the Committee on Judiciary.

REP. WOLLENBERG: (21st)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

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

SPEAKER VAN NORSTRAND:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill.

Will you remark sir?

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Mr. Speaker, presently in an AR program, an accelerated rehabilitation program or an alcohol education program, who is given a period of probation, the successful completion, at the end of this probationary period, if he completes it successfully, the charges may be dismissed.

Presently the individual must go into court to get the charges dismissed. This bill would allow that the court on its own motion could have the dismissal entered.

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This would save, we feel it would save court time and it's an administrative act in any event, and could be handled that way just as well.

Also, just a technical matter, would also require that reports, diagnostic reports made would now be in quadruplicate rather than triplicate and a copy would go to the Probation Department. I recommend passage of the bill.

SPEAKER VAN NORSTRAND:

The question is on passage. Will you remark?

REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Christopher Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. When we were debating this bill, we had an amendment, LCO 5738. I believe it was House Amendment "A", and I would like to withdraw that amendment if I might.

SPEAKER VAN NORSTRAND:

The gentleman from Stamford desires to withdraw the amendment, 5738, previously filed and designated House Amendment Schedule "A". Is there objection? Seeing

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none, the amendment is withdrawn, sir.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. If I might, I would like to request that the Clerk call LCO 5143, and that I might be allowed to summarize.

SPEAKER VAN NORSTRAND:

Is the Clerk in possession of LCO No. 5143, designated House Amendment Schedule "B"?

CLERK:

House Amendment Schedule "B", LCO No. 5143, offered by Rep. Prague, et al.

SPEAKER VAN NORSTRAND:

The gentleman desires to summarize. Is there objection? Seeing none, please proceed, sir.

REP. SHAYS: (147th)

Thank you. Members of the House, this amendment provides that a person who is arrested for driving while under the influence and causes injury to someone, serious injury, I'm sorry, causes serious physical injury, is not allowed to go into the pretrial alcohol education program. The debate, I have described the amendment, Mr. Chairman, Mr. Speaker, I move adoption of the amendment.

SPEAKER VAN NORSTRAND:

The question is on adoption. Will you remark, sir?

REP. SHAYS: (147th)

Yes, Mr. Speaker. During the previous debate, there was a very constructive discussion about whether someone should be allowed to go into this program if they caused injury to someone, or serious injury, and it was pointed out by Rep. Tulilsano and others that really the proponents were attempting to address the issue of serious injury and so we asked to have the bill PT'd and have provided that language.

Someone who causes serious injury would not be allowed to go into this program.

SPEAKER VAN NORSTRAND:

Will you remark further on the adoption of House Amendment Schedule "B"?

REP. WOLLENBERG: (21st)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Yes, Mr. Speaker, I rise to oppose this amendment. Some discussion was had on this amendment and to the, I think, the degree that, we

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were talking about the degree of injury to the individual yesterday. I have no problem with someone who seriously injured someone and is intoxicated being penalized for it. We have a statute for assault with a motor vehicle while under the influence that we have cleaned up this session to allow that an individual can be tried under that statute now if he injures someone seriously, so I believe that part of it is taken care of.

But what the proponents of the amendment would say is here's a problem person with a car. He drinks and drives. The last thing we want to do is to rehabilitate him. Don't give him the program. I don't see the logic in that. If you want to take his license for a year, if you want to do, not dismiss the charges, but you don't let him not participate in the program. I have no problem in taking someone's license. We have a bill coming up later that will talk about giving some a limited license to drive if it's required in their employment.

Take the license. Don't dismiss it. Make it real first time. Let it be in the program. What does this mean? The problem person, put him in jail. The problem person, don't let him drive. Drive him right to drink,

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that's where you'll drive him, or continue drinking.
Give him a chance. Demand that he go into the program if
you want, but don't prohibit it. Ridiculous. Thank you.

SPEAKER VAN NORSTRAND:

Will you remark further on the bill? I'm sorry.

On House "B".

REP. PRAGUE: (8th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Edith Prague.

SPEAKER VAN NORSTRAND:

Thank you, Mr. Speaker. Currently there are only
two conditions under which you can get to the program and
the two conditions are number one, that you have not had
a prior conviction, and number two is that you have never
participated in the program before. If you drink and
then you drive and you hit somebody, you break their leg,
you puncture their lung, the person has to have stitches,
and you get off with just going into the program for 8
weeks, you have a year to complete your program, which
only takes 8 sessions or 10 sessions, that isn't enough
to deter people from drinking and then driving.

People who are victimized by people who drink and

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drive are treated without any consideration if the person only has to go into a program. People in the State of Connecticut are saying hey, just a minute, lawmakers. Take care of us. We don't want to be hit by people who drink and drive. We want these drunk drivers off of our roads, and if they're going to hit us, if they're going to do us any injury, then they should not be allowed to get away with a slap on the wrist.

I support this amendment and I urge passage.

REP. METSOPOULOS: (132nd)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. John Metsopoulos.

REP. METSOPOULOS: (132nd)

Through you, a question to the proponent of the amendment. Two questions, actually.

SPEAKER VAN NORSTRAND:

Please proceed, sir.

REP. METSOPOULOS: (132nd)

With plea bargaining a reality in the state of Connecticut, isn't this amendment in fact going to allow the drunk driver who has caused serious injury the chance to get off with a lighter sentence and maybe a slap on

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the wrist and in fact then not even have gone through the rehabilitation program to correct his drinking problem and the question number two, if indeed he is sent to jail, he then is released and still has not gone through a program to correct his drunk driving, his drinking problem. Through you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Shays.

REP. SHAYS: (147th)

First, Representative, there is really no program that you could go through that would let you get away with more than a pretrial alcohol education program. A pretrial alcohol education program is before trial and basically you attend a few classes and after a year, your entire record is erased and then the next time around you are treated as a first-time offender.

Whether something is plea bargained or not is the decision of the prosecutor and the defendant's lawyer and the court, and quite frankly I understand from most of the attorneys here that our judges and prosecutors do a good job and would not plea bargain down.

SPEAKER VAN NORSTRAND:

Rep. Metsopoulos, do you care to remark further?

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REP. METSOPOULOS: (132nd)

No, Mr. Speaker, thank you.

SPEAKER VAN NORSTRAND:

Thank you, sir.

REP. PRAGUE: (8th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Prague, the second time.

REP. PRAGUE: (8th)

Thank you, Mr. Speaker. The serious injury that the Representative referred to, assault with a motor vehicle, is a criminal charge and there is no pretrial alcohol education program available to that person. Yesterday when we had this amendment before us with just physical injury, the body requested that we be more specific and Rep. Tulisano suggested that we deal with serious injury, which this amendment now deals with.

It is time that we treated people who drink and drive a little more seriously than we are now treating them. This amendment deals with injury, people who suffer broken bones, who suffer stitches, who suffer punctured lungs. I urge the body to consider this very carefully. Thank you.

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SPEAKER VAN NORSTRAND:

Will you remark further on House "B"?

REP. WENC: (60th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Wenc.

REP. WENC: (60th)

Yes, thank you, Mr. Speaker. First of all I want to congratulate Rep. Tulisano for changing the original amendment which was offered yesterday to modify the language from physical injury to serious physical injury. I think that was a rational move on his part. But I'm still perplexed by this particular amendment.

First of all, because of the gross inconsistencies I see in the criminal justice policy coming out. If you look at your file copy, we also have an amendment to the accelerated rehabilitation program for charges other than DWI, and I would submit to this body that that's a program which is similar to the alcohol education program. About 6:00 we voted on an amendment which retained the provision that unless good cause is shown, one would not be eligible for the AR program if he was charged with an A, B, or C felony, and that passed by a 2

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to 1 margin, to retain that sort of concept.

In the amendment before us, there is no such provision. For the first time, under the alcohol education program, we are attempting to put in a condition, a limit. There is no proviso here that is analogous to the unless good cause is shown provision in the accelerated rehabilitation program. If we can use the accelerated rehabilitation program as an analogy, let us turn the file copy in lines 34 through 41. In that particular piece of legislation, any condition, any limitation, is referenced to a specific provision of either a motor vehicle offense such as 14-227a, or an offense under our penal code, such as 53a-56b, which is manslaughter with a motor vehicle while intoxicated, or 53A-60D, which is assault with a motor vehicle while intoxicated.

What perplexes me about this particular amendment, if you look at it closely, and I think this is a substantial criminal justice policy change that is occurring here that nowhere in the present penal code, or the motor vehicle offenses as laid out in sections 14 of our general statutes, do we make it illegal to drive while intoxicated and to cause serious physical injury.

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The closest we get are to the provisions which are already pointed out to you, that is manslaughter with a motor vehicle while intoxicated and assault with a motor vehicle while intoxicated. The failure of this amendment to reference itself to a specific provision in the penal code or the motor vehicle offense portions of our statutes I think leaves the amendment open to criticism of being broad, vague, and inconsistent with a will to find criminal justice policy which we just voted on at 6:00 and we've retained since 1974 in its sister statutory provision of the accelerated rehabilitation program.

This is an ill-conceived amendment that, to my knowledge, has not had a debate or a public hearing in front of the Judiciary Committee. If it has, I will certainly stand corrected, but to my knowledge it hasn't. I think we've got to go back to the drawing board and defeat this amendment, and deal with this issue on a rational basis rather than an inciteful basis.

Thank you.

SPEAKER VAN NORSTRAND:

Will you remark further?

REP. KRAWIECKI: (78th)

Mr. Speaker?

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SPEAKER VAN NORSTRAND:

Rep. Edward Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, I rise in support of the amendment. I would argue that it is a good amendment. In light of the comments of the last speaker, I would argue that that is a fairly good presentation by a defense attorney and I think I've heard it before, because perhaps I've uttered it before. I would point out to the body that we are talking about two different alcohol education programs here. This amendment amends section 54-56g, which is the pretrial alcohol education program. You've heard enough discussion about those people. That is in advance of anyone pleading anything, that is in advance of anybody admitting to anything, that is in advance of anybody doing anything with regard to operating a motor vehicle while under the influence of alcohol or drugs, or both.

There is a second statute that you have to keep in mind, that is 14-227a, which is the statute which you are technically charged under when you are found to be driving under the influence of alcohol or drugs, or both. You've heard Rep. Wollenberg comment earlier that this amendment would deny someone, even the one who gets

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involved in a serious accident, from being allowed to participate in a program.

That is incorrect. There is a subsection of 14-227a which allows a judge to require, in addition to any penalties, participation in the alcohol education and treatment program, which is different from the pretrial alcohol education program. And that program, I would argue, would be levied against any individual, even with the passage of this amendment, so the people who we would like to have educated, the people who we would like to have participating in these kinds of programs so that they can learn from their mistakes, would in fact probably be sentenced as a secondary part of their sentence.

I think it's a good amendment and I think it ought to pass.

SPEAKER VAN NORSTRAND:

Will you remark further?

REP. NARDINI: (115th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Joseph Nardini.

REP. NARDINI: (115th)

Thank you, Mr. Speaker. Mr. Speaker, I have a few

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questions regarding the amendment and I guess I direct them to anyone who wishes to answer them, possibly Rep. Krawiecki, or Rep. Shays.

I believe that in the court of law, there are extenuating circumstances under certain conditions that might offer mitigating circumstance and I don't see where that's addressed in this amendment and if they could point that out to me through you, Mr. Speaker, I would wish that they would.

SPEAKER VAN NORSTRAND:

Rep. Nardini, you are inquiring of Rep. Shays?

REP. NARDINI: (115th) Speaker. I try to offer, and if

Whoever of the proponents who wishes to answer.

Rep. Shays would be fine, yes, thank you.

SPEAKER VAN NORSTRAND:

Rep. Shays, do you care to respond?

REP. SHAYS: (147th) Speaker. I try to offer, and if

I'd be happy to try, Mr. Speaker, through you. Representative, mitigating circumstances can be taken up when a case is heard. this has nothing to do with whether someone should be through a pretrial alcohol education program. If there are mitigating circumstances that, if they are charged with driving DWI, that means

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that are factors that would make them not guilty, that would be considered in a trial. What we are trying to avoid is someone passing the opportunity to even have a trial by going through a pretrial alcohol education program.

So the point is, if this amendment passes, there can be a trial and mitigating circumstances of whether they're guilty of DWI can be considered.

SPEAKER VAN NORSTRAND:

Rep. Nardini?

REP. NARDINI: (115th)

Thank you, Mr. Speaker. I beg to differ, and if I could be corrected, then I shall be, but it's my understanding that even under pretrial, evidence is submitted and is a part of the record, and I believe that if the evidence incriminating someone should be submitted, I believe that mitigating evidence should also be allowed to be submitted and this amendment does not do so. Therefore, I would be in opposition to the amendment, and might I say for the record, I am not a defense attorney, Mr. Speaker. Thank you.

SPEAKER VAN NORSTRAND:

We all have to look at the bright side, Rep. Nardini.

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REP. FUSCO: (81st)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Angelo Fusco.

REP. FUSCO: (81st)

Mr. Speaker, I rise in support of the amendment and commend those Representatives of both sides of the aisle that had the courage to present such an amendment. The citizens of Connecticut and the victims of this particular crime are tired, sick and tired, of the way the laws are in Connecticut, and it's time we got tough with those people who abuse the privilege of drinking and driving. Thank you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Fusco. Will you remark further?

REP. FOX: (144th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. John Wayne Fox.

REP. FOX: (144th)

Thank you, Mr. Speaker. We really are dealing here with a question of public policy and I am concerned somewhat about the nature and the extent of the debate.

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and the statement of facts, or what appear to be facts, that have been presented to this body. I think it's important to recognize that in any such application for this program, it is not automatic that you get into it.

As I sit here and listen to the debate, I am led to believe that you're arrested for drunk driving, you file your application, you pay your fee, and you're in the program. It doesn't work that way. It is within the discretion of the court as to whether or not you get in the program. I can tell you, as a matter of fact, there are some judges that will simply not allow one in the program if there is a blood alcohol test and it's above a certain level; there are prosecutors that will not allow one, or object to one, getting into the program if the blood alcohol content is above a certain level; there are prosecutors and there are judges that will not allow one into the program if, in fact, there is any injury or any serious injury.

The question that we have to decide with respect to this amendment is whether or not we want to leave that discretion in the hands of the court, or whether or not we want to make it automatic. And I think it's important for this body to recognize that. It's a question of the

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discretion within the hands of the court and whether or not we want to leave it there. Thank you.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Fox. Will you remark further?

REP. WOLLENBERG: (21st)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

For the second time, Mr. Speaker, yes. This is another example of the patchwork type law we're trying to manufacture here and put out into the community. There is a way to correct what the proponents of this amendment seem to think is wrong. But it should be done with more than just each individual bill and each individual amendment in mind.

The proponents here, and they're the same proponents, are reaching and grabbing a little bit here and a little bit there and we come up with a patchwork and what we call a drunk driving program, and we go home and pat ourselves on the back and say look what we did for the drunk driving victims. Well, we haven't done that much, and in practicality, this won't do it.

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But I just want to read to this body a notice that hangs on the door of a GA in our state. And it says for entry into the GAE program (1) if the BAC is under .20, the defendant can receive the program with general conditions; (2) if the BAC is over .20, the defendant can receive the program if he also agrees to surrender his license and driving privileges for 90 days; (3) if the BAC is over .25, the defendant can receive the program if he also agrees to surrender his license and driving privileges for 180 days; (4) if the BAC is over .30, the AE program should be denied; (5) if the defendant refused all BAC tests, he can receive the program if he also agrees to surrender his license and driving privileges for 180 days.

That's what's happening out there, not what you people seem to think is happening. Not the fabrication that you're telling us time and time again is happening. The judges are enforcing it; it's a good law, we ought to give it a little chance to show us that, instead of the few people who are the advocates of the victims, they claim. You're going to have lines standing out there. We'll get into this a little bit later, but you're going to have lines standing out there waiting for trials when

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you pass this package, as you call it. It's not a package. It's going to be a detriment to justice in the state of Connecticut. Please vote against this amendment.

SPEAKER VAN NORSTRAND:

Will you remark further? And I would hope we could find somebody who would say something that is not at all repetitive.

REP. FARR: (19th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Farr.

REP. FARR: (19th)

For the benefit of the House, I guess the question has been asked before on some of the previous debates about who would be affected and whether there are real cases out there. Let me just give you an example of a real case which I handled this year.

I had a 13-year-old girl who was riding down a street, a major thoroughfare in one of the surrounding communities with her father and her mother. She passed through an intersection and out through the intersection through a Stop sign came a drunk, driving an uninsured car, while he was suspended. He smashed into her car,

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demolished the car, the girl and her family were taken to the hospital. Fortunately, the father and the mother were not seriously injured. The girl had a broken cheekbone, had to have corrective surgery, plastic surgery. The drunk, who was under suspension, had to appear in court.

We went over to court that day to try to protest him being eligible for an alcohol education program. He didn't show up. The case was continued, he called in sick, he didn't show up, the case was continued about 4 times. Finally, on one day on which nobody was there representing the girl, the drunk showed up to court, the charge of driving under suspension was dropped, he was admitted to the alcohol education program, and we were informed the case is sealed and we no longer have any knowledge about what happened to that drunk driver.

There is a drunk, who was under suspensio, driving a car with no insurance, and we're told that we want to rehabilitate him. Fortunately, in this case, the girl only had a broken cheekbone. She could have been crippled for life, and I suspect that this would not have come out any differently. If I hadn't been able to track down the day in which this appeared and perhaps plead

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with the judge not to do this, the case would be sealed, the family would be told well, we're going to rehabilitate this individual and it's no longer going to be knowledge, you're no longer going to have the ability to find out what happened to this individual.

Now, because he had no insurance, they had to get coverage under Uninsured Motorist, they didn't get their deductibles, they were in a position where they have not been held harmless in terms of the cash outlays and they have a little girl that continues to have some permanent scarring, some permanent nerve damages, and they would like to know what the state is doing about this, and all they can find out is that the case is sealed because he was admitted to the alcohol education program.

This is not an unreasonable amendment. We're talking about over 10,000 arrests for alcohol for driving under the influence in the state of Connecticut. Very few of those are directly related to accidents concerning serious injuries. All this amendment says is that those people, those cases ought not to be sealed. Just as somebody who is involved in one that results in death cannot take advantage of the alcohol education program, someone whose case results in serious physical injury

ought not to be able to take advantage of that program.
Not an unreasonable amendment.

SPEAKER VAN NORSTRAND:

Will you remark further on House "B"?

REP. WOLLENBERG: (14th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Wollenberg.

REP. WOLLENBERG: (14th)

For the third time.

SPEAKER VAN NORSTRAND:

The gentleman requests permission to speak for the third time, on House "B". Is there objection? Seeing none, you may proceed, sir.

REP. WOLLENBERG: (14th)

Thank you, Mr. Speaker. I'll be very short. It's a tragedy, Rep. Farr. We all know of the tragedy and we can cite it, we can cite more than one or two or three; we read about them in the paper every day. This amendment, nor any other amendment you or Rep. Shays, Rep. Prague, ask us to pass here tonight is going to keep that drunk off the road who didn't have a license who was driving while under suspension.

I don't have the answer to that. If anyone in this House has the answer to that, let them stand up and give us the answer and we'll pass the law here tonight by acclamation. But you don't have that answer, and that's the example you use. And it's wrong to use that example, unless you have the answer to it. The answer is put them in jail and leave them there forever. If you want to do that, we have the ability to work up a bill here and we pass that law, that's our job.

Where is it? I don't see it. No one's brought that one to our attention. Bring it out. That's what we out to do with those people.

REP. SHAYS: (147th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Shays.

REP. SHAYS: (147th)

Thank you, Mr. Speaker. For the second time.

SPEAKER VAN NORSTRAND:

Yes, sir.

REP. SHAYS: (147th)

I've come to the conclusion that I can't always agree with everyone, but I have to be a little more

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tolerant, so I will try. But I will say to you that I think the previous speaker is slightly exaggerating in making it seem that we're very unreasonable in coming out with a proposal that says that if you cause serious injury while driving under the influence of alcohol or drugs, that you should not be allowed to participate in the pretrial alcohol education program.

We want this individual to be rehabilitated; we want him to go through a rehabilitation program, but not a pretrial rehabilitation program. I'd just like to read to you the definition of serious injury. It says serious physical injury in our statutes. And this is the definition. ~~by the way.~~

It means physical injury which creates a substantial risk of death or which causes serious disfigurement, serious impairment of health, or serious loss or impairment of the function of any bodily organ. It's not an unreasonable amendment, we're not talking about just injury, we're talking about serious injury, and I would like to just emphasize because I know Rep. Wollenberg did point out to you that what he read to you about guidelines was not throughout all the GA's; it was in one particular district.

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SPEAKER VAN NORSTRAND:

Will you remark further on House "B"?

REP. SHAYS: (147th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Shays.

REP. SHAYS: (147th)

Mr. Speaker, I'd like to request when the vote be taken, it be taken by roll.

SPEAKER VAN NORSTRAND:

The request is that when the vote is taken, it be taken by roll. All those desirous of a roll call, indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

Clearly the 20% rule has been satisfied. When the vote is taken, it will be taken by roll. Will you remark further on House "B"?

REP. GELSI: (58th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Gelsi.

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REP. GELSI: (58th)

Question to Rep. Shays.

SPEAKER VAN NORSTRAND:

Please frame your question, sir.

REP. GELSI: (58th)

Rep. Shays, what bills do you have in; before I ask that one, let me ask this one first.

Rep. Shays, people who commit crimes I have to believe by the last amendment on the other bill before supper, this amendment and a few more that are coming down the pike, that you believe that more people should be in jail, is that correct?

SPEAKER VAN NORSTRAND:

Rep. Shays, do you care to respond?

REP. SHAYS: (147th)

That's not correct, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Did you hear the answer, Rep. Gelsi?

REP. GELSI: (58th)

I would wonder if Rep. Shays has put any bills that build more prisons in the state of Connecticut?

SPEAKER VAN NORSTRAND:

I don't know the relevance, but Rep. Shays, do you care to respond?

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REP. SHAYS: (147th)

I do want to be responsive to the gentleman, but I have no bill that suggests we have more prisons, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Gelsi, perhaps you're trying to develop a line here that hasn't --

REP. GELSI: (58th)

Well, I'm going to be very curious in the next couple of three sessions when we bring out a bonding package that the people on that side of the aisle have cut \$7.1 million out for the women's prison in Cheshire and haven't left enough money in there to build that prison and we're going to continue to put people in jail and we don't have the jails to put them there. I think we're all being a little bit ridiculous and I think we've got to put the horse before the cart.

SPEAKER VAN NORSTRAND:

Will you remark further on House "B"? Will you remark further? If not, the staff and guests please come to the well of the House. Rep. Rybak?

REP. RYBAK: (66th)

Mr. Speaker, just one question to, I guess Rep.

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Shays is the proponent of the amendment. Very briefly, Mr. Speaker. The amendment says that if someone causes serious physical injury to another person they'll be denied entry into the program. Could that other person be a passenger in the car who consented to get in and ride with the person in the first place?

SPEAKER VAN NORSTRAND:

Rep. Shays, do you care to respond?

REP. SHAYS: (147th)

Through you, Mr. Speaker, I suppose it could be.

SPEAKER VAN NORSTRAND:

Rep. Rybak?

REP. SHAYS: (147th)

But I didn't want to say, sir, and to be entirely accurate, I'm not sure.

SPEAKER VAN NORSTRAND:

Rep. Rybak?

REP. RYBAK: (66th)

Thank you, Rep. Shays. As I read the amendment, I think it could be the person who consented to get in the car and ride home with the intoxicated driver in the first place. I think the problem with the amendment is the luck of the draw. The wrong place, the wrong time.

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the accident occurs, there is injury, you don't get into the program. You may not be heavily intoxicated, maybe the first offense, it just happens to be the luck of the draw.

On other occasions, someone could be heavily inebriated, multiple offense, happens to get pulled over because he's weaving, the accident's averted, he gets into the program. I see it as a luck of the draw type of amendment and therefore I question its value.

SPEAKER VAN NORSTRAND:

Will you remark further on House "B"? If not, will staff and guests please come to the well of the House. The machine will be opened. The Clerk will please announce the roll call for the benefit of those members who are not in the Chamber.

CLERK:

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

SPEAKER VAN NORSTRAND:

Have all the members voted and are your votes properly recorded? If so, the machine will be locked.

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The Clerk please take a tally.

REP. LUGO: (130th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Jose Lugo.

REP. LUGO: (130th)

In the negative, please.

SPEAKER VAN NORSTRAND:

In the negative, Rep. Lugo, of the 130th.

The Clerk please announce the tally.

CLERK:

House Bill 7767, House Amendment Schedule "B".

Total number voting 146

Necessary for adoption 74

Those voting yea 81

Those voting nay 65

Those absent and not voting 5

SPEAKER VAN NORSTRAND:

House "B" is adopted.

House Amendment Schedule "B".

In line 80, after the period, insert the following: "A PERSONAL SHALL BE INELIGIBLE FOR PARTICIPATION IN SUCH PRETRIAL ALCOHOL EDUCATION SYSTEM

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IF HIS ALLEGED VIOLATION OF SECTION 14-227a CAUSED THE SERIOUS PHYSICAL INJURY, AS DEFINED IN SECTION 53a-3, OF ANOTHER PERSON."

SPEAKER VAN NORSTRAND:

Will you remark further on the bill as amended?

REP. WENC: (60th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. David Wenc.

REP. WENC: (60th)

Thank you, Mr. Speaker. The Clerk has an amendment numbered LCO 7103. Will the Clerk please call the amendment and may I be allowed to summarize the amendment?

SPEAKER VAN NORSTRAND:

The Clerk is in possession of LCO No. 7103 designated House Amendment Schedule "C". Clerk, please call.

CLERK:

House Amendment "C", LCO No. 7103, offered by Rep. Wenc.

SPEAKER VAN NORSTRAND:

The gentleman seeks permission to summarize. Is

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there objection? If not, please proceed, sir.

REP. WENC: (60th)

Thank you, Mr. Speaker. What this amendment does is to improve on the amendment which we just passed. The nature of the improvement is that it would bring some consistency in our criminal justice policy with respect to the way we handle two similar programs, the pretrial accelerated rehabilitation program and the pretrial alcohol education program. It adds language unless good cause is shown.

I move the amendment at this time, Mr. Speaker.

SPEAKER VAN NORSTRAND:

The gentleman is moving adoption, I gather, of the amendment. Will you remark further?

REP. WENC: (60th)

Yes, thank you, Mr. Speaker. As I stated in my summary, this is an improvement on the amendment that we just passed. At 6:00 we voted on a piece of legislation which passed this Chamber retaining the good cause provision in the pretrial accelerated rehabilitation program. The intent and purpose of this amendment is to establish some consistency in the sister program which is the pretrial alcohol education program so that we can

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reach the goals espoused by Rep. Fox to maintain judicial discretion in the program.

Unless good cause is shown, a person would be ineligible for participation in the pretrial alcohol education program if he was accused of driving while intoxicated and caused a serious physical injury to another person. I think this brings rationality and consistency to our criminal justice policy with respect to these two programs.

I would urge the Chamber to adopt this amendment. Thank you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Wenc.

REP. FUSCO: (81st)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Angelo Fusco.

REP. FUSCO: (81st)

Mr. Speaker, I rise in opposition to this amendment. I think it's a hoax. If anyone would believe that this amendment would enhance the previous amendment. What this indeed would do it would destroy the intent of the previous amendment. This weakens it

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and I oppose it. Thank you, Mr. Speaker.

SPEAKER VAN NORSTRAND:

Thank you for your brevity, sir

REP. NYSTROM: (46th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Peter Nystrom.

REP. NYSTROM: : (46th)

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

SPEAKER VAN NORSTRAND:

Please proceed, sir.

REP. NYSTROM: (46th)

Thank you, sir. Rep. Wenc, could you please define good cause for me, please?

SPEAKER VAN NORSTRAND:

Rep. Wenc, do you care to answer?

REP. WENC: (60th)

Yes, thank you, Mr. Speaker. The definition of good cause would be the same definition that has developed through the case law under the pretrial accelerated rehabilitation program. The court would be given the opportunity, after an evidentiary hearing, to

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determine on a case-by-case basis what is good cause.

An example you may want to use is an example posed by Rep. Rybak at the end of the debate on the last amendment, wherein a passenger consented to get into a car with a driver who was intoxicated, and perhaps that's good cause to allow the driver to participate in the program.

Another example may be when the other person, the so-called victim, might have been an intoxicated driver himself and there was a head-on collision and the first driver perhaps can show good cause to be eligible for the alcohol education program.

SPEAKER VAN NORSTRAND:

Rep. Nystrom, you have the floor, sir.

REP. NYSTROM: (46th)

Thank you, Mr. Speaker. Based on the definition that I've just received, it is my opinion that we should not support this amendment. Thank you.

SPEAKER VAN NORSTRAND:

Thank you, Rep. Nystrom.

REP. KRAWIECKI: (78th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Edward J. Krawiecki, Jr.

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REP. KRAWIECKI: (78th)

C, Mr. Speaker.

SPEAKER VAN NORSTRAND: Well, we'll have to get a smaller person in front

of you. Rep. Edward C. Krawiecki, Jr.

REP. KRAWIECKI: (78th)

Members of the House, I'll be very brief. If you supported the amendment a moment ago to change existing law, then to remain consistent regardless of the comments that you've heard, which I think are rather confusing, by Rep. Wenc, you should oppose this amendment because this brings you full circle to the exact spot you were before we had a 2 hour debate.

SPEAKER VAN NORSTRAND: Will you remark further?

REP. WENC: (60th)

Yes, Mr. Speaker?

SPEAKER VAN NORSTRAND: Rep. David Wenc for the second time.

REP. WENC: (60th)

Yes, thank you, Mr. Speaker. I had neglected to

call for a roll call vote when I initially spoke and I would request a roll call vote on the amendment at this point in time.

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SPEAKER VAN NORSTRAND:

The gentleman has asked when the vote be taken, it be taken by roll. All those desirous of having a roll call vote, indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

Clearly the 20% rule has been satisfied, particularly concerning the dearth of members in the chamber. Will you remark further on the bill?

REP. TULISANO: (29th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I rise to support the amendment. I don't think, as Rep. Krawiecki said, that you have come full circle as to what occurred prior to the 2 hour debate. What you do have, however, is the opportunity for a judge, and as Rep. Shays had indicated earlier, state's attorneys who do not give the courthouses away to make some judgments with regard to the individuals who are before them.

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There can be exceptional circumstances in which one can show good cause to want to believe that the program would be beneficial to the individual before them, even though serious physical injury may have occurred to another. Or even to themselves. I suspect that an individual can be at .10 and cause serious physical injury to themselves, assuming you could prove the .10, and be ineligible for the program for some other reason, happened to be where they were, some other contributing cause.

The interpretation, as I understand it, there is the proximate cause doesn't necessarily have to be the sole cause of the injury to fall under this statute. So you could have an individual who happened to be charged and serious physical injury occurred, who the program could be helpful to and that evidence presented to the judge make a decision. On the other hand, you could have an individual who theoretically could be at least .30 not cause serious physical injury and may be allowed in the program.

Now, it's possible that both should be in the program, I'm not going to deny that. But it seems to me that we should pass laws that give that kind of

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discretion within the scope we set for judges. That kind of discretion to make judgments with regard to individuals. I don't think it brings it full circle. I think it's a substantial burden on the individual who is charged.

Let me just point out one thing to everyone in this room. It is only a person is charged with a violation, not proven, and there seems to be a continuing misunderstanding of what we're talking about. This is a charge only.

They may be innocent. You have to remember that the assumptions of the program to begin with were in fact a great net, assuming that people who were innocent and could not be proven guilty would go into the program.

And I think that judgment should still follow through, as we did in accelerated rehabilitation, and as the basic program exists.

I have yet to see someone who caused real serious injury allowed into the program, to be honest with you. But there could be a case where it would be fair and it would be just and I think it is important that we put into our law things that make our law fair and just.

The ability to respond to the circumstances before

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it, and I would urge adoption of this amendment.

SPEAKER VAN NORSTRAND:

Will you remark further on House "C"?

REP. SHAYS: (147th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Christopher Shays.

REP. SHAYS: (147th)

Mr. Speaker and members of the house, we have come full circle and I feel that we had a 2-hour debate and we are just re-debating the same issue. The old law said at the discretion, the court may, in its discretion, invoke such program on a motion of the defendant and so on. At its discretion, we're told that good cause has to be shown. Not everyone can get in the program and then we, as a General Assembly, at least the House, has decided we're not going to allow it for an individual who has caused serious injury and now we come around and say you can't do it unless good cause is shown.

It's the same debate, it's the same bill. Mr. Speaker, I'd just like to make one last point. The Governor last year invited a number of proponents, Republicans and Democrats, to come to his office to

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publicize the need to clamp down on drunk drivers. When I went into his office, I was met by an individual, a state employee, and his wife.

And they had one complaint and they said Mr. Shays, I was hit by a drunk driver, I was in the hospital for 4 weeks, my wife was in the hospital for a number of weeks, someone else had to take care of our kids, and we went to tell the judge our experience and he allowed them to get into the pretrial alcohol education program.

I don't know the experiences of some of the people who have spoken, but I had a real live example of someone who should not have gotten into the program and I had, it wasn't a constituent of mine, but I had a real live person tell me what happened to them, and I said to them the General Assembly will hear this issue and make sure it doesn't happen again.

SPEAKER VAN NORSTRAND:

Will you remark further on House "C"?

REP. WOLLENBERG: (21st)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Mr. Speaker, I think the people of this chamber

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know that discretion and good cause shown are not the same thing. I heard a minute ago that they were the same thing, and I don't want to belabor it, but they're not the same thing and we know that.

I don't have people coming up to me like some of the people in this Chamber do, and telling me of these horror stories. I read about them in the paper and some of you people have told me, and I know they're out there. I haven't made any promises and I haven't prayed to God that I can do something up here for those people. I am up here to do something for all the people of the state of Connecticut, even some of those who may have had that misfortune to have been in an accident where someone was seriously harmed. I'm sure they didn't plan it. I'm sure if they had it to do over, they would not have chosen that route.

I represent all of the people, not just one or two who happen to approach me. This amendment has not taken us full circle. It's put the burden where it belongs, with the judges. Let them make that decision. They should. This amendment should pass.

SPEAKER VAN NORSTRAND:

Will you remark further on House "C"? If not,

staff and guests please come to the well of the House.
 The machine will be opened. Clerk, please announce the
 pendency of a roll call vote for those members not
 presently in the Chamber.

CLERK:

The House of Representatives is now voting by
 roll. All members please return to the Chamber immedi-
 ately. The House of Representatives is voting by roll.
 All members please return to the Chamber immediately.

SPEAKER VAN NORSTRAND:

Have all the members voted, and are your votes
 properly recorded? Have all the members voted and are
 your votes properly recorded?

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

CLERK:

House Bill 7767, House Amendment "C".

Total number voting	146
Necessary for adoption	74
Those voting yea	78
Those voting nay	68
Those absent and not voting	5

SPEAKER VAN NORSTRAND:

House "C" is adopted.

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House Amendment Schedule "C".

In line 80, after the period, insert the following: "UNLESS GOOD CAUSE IS SHOWN, A PERSON SHALL BE INELIGIBLE FOR PARTICIPATION IN SUCH PRETRIAL EDUCATION SYSTEM IF HIS ALLEGED VIOLATION OF SECTION 14-227a CAUSED THE SERIOUS PHYSICAL INJURY, AS DEFINED IN SECTION 53a-3, OF ANOTHER PERSON."

SPEAKER VAN NORSTRAND:

Will you remark further on the bill as amended by House Amendment Schedule "B" and House Amendment Schedule "C"?

REP. DUFFY: (77th)

Mr. Speaker?

SPEAKER VAN NORSTRAND:

Rep. Stephen Duffy.

REP. DUFFY: (77th)

Thank you, Mr. Speaker. The Clerk has an amendment, LCO 7019. I would ask the Clerk to please call it and I be given permission to summarize.

SPEAKER VAN NORSTRAND:

The Clerk is in possession of LCO No. 7019, designated House Amendment Schedule "D". Will the Clerk please call the amendment?

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CLERK:

House Amendment Schedule "D", LCO No. 7019,
offered by Rep. Duffy.

SPEAKER VAN NORSTRAND:

The gentleman wishes to summarize. Is there an objection? Please proceed, sir.

REP. DUFFY: (77th)

Thank you, Mr. Speaker. This amendment will make two changes in the probationary system in the state. Any defendant who enters into the program of accelerated rehabilitation shall pay \$5.00 per month for each month of probation and any person who is committed to supervisory probation for either conviction or plea of guilty shall pay a fee of \$10.00 per week for each month of probationary service and this will enable the defendant to be making a payment towards the cost of the probation service.

This is a system we employ currently in the alcohol education program where the defendant who enters into the program pays a fee of \$250.00. This will enable the state to recover funds for persons who enter probation. Probation is a privilege. It is granted in lieu of service in prison and I think, Mr. Speaker, that

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when we have the scarce resources that we have in the state, that a person who enters probation should be required to pay a portion of the cost of the probation.

Analogous to this, Mr. Speaker, the Department of Public Utility Control is soon to be paid for by the utilities. The Department of Liquor Control is paid for by the liquor companies. The Insurance Department is paid for by the insurance companies. Mr. Speaker, I think this is a very fair amendment. It is in the way of a user charge, and I move its adoption and when the vote is taken, I ask that it be taken by roll.

SPEAKER VAN NORSTRAND:

The gentleman has moved adoption and has asked that when the vote is taken, it be taken by roll. All those desirous of having the vote taken by roll, indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

The 20% rule has not been satisfied. Will you remark further, Rep. Duffy. You have the floor, sir, you merely asked for a roll call. Will you remark further on House "D"?

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If not, all those in favor indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER VAN NORSTRAND:

All opposed, indicate by saying nay.

REPRESENTATIVES:

No.

SPEAKER VAN NORSTRAND:

The nays have it. House "D" fails.

House Amendment Schedule "D".

In Line 51, after the period insert the following:

"ANY DEFENDANT WHO ENTERS SUCH PROGRAM SHALL PAY TO THE COURT A FEE OF FIVE DOLLARS FOR EACH MONTH IN HIS PERIOD OF PROBATION, EXCEPT THAT NO PERSON MAY BE EXCLUDED FROM SUCH PROGRAM FOR INABILITY TO PAY SUCH FEE, PROVIDED (1) SUCH PERSON FILES WITH THE COURT AN AFFIDAVIT OF INDIGENCY OR INABILITY TO PAY, (2) SUCH INDIGENCY IS CONFIRMED BY THE OFFICE OF ADULT PROBATION, AND (3) THE COURT ENTERS A FINDING THEREOF. ALL SUCH FEES SHALL BE CREDITED TO THE GENERAL FUND."

After line 169, add section 4 as follows:

"Sec. 4. Section 53a-30 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant: (1) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will

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equip him for suitable employment; (2) undergo medical or psychiatric treatment and remain in a specified institution, when required for that purpose; (3) support his dependents and meet other family obligations; (4) make restitution of the fruits of his offense or make restitution, in an amount he can afford to pay or provide in a suitable manner, for the loss or damage caused thereby and the court may fix the amount thereof and the manner of performance; (5) if a minor, (a) reside with his parents or in a suitable foster home, (b) attend school, and (c) contribute to his own support in any home or foster home; (6) post a bond or other security for the performance of any or all conditions imposed; (7) refrain from violating any criminal law of the United States, this state or any other state; (8) reside in a residential community center or halfway house approved by the commissioner of correction, and contribute to the cost incident to such residence; (9) satisfy any other conditions reasonably related to his rehabilitation. The court shall cause a copy of any such order to be delivered to the defendant and to the probation officer, if any.

(b) When a defendant has been sentenced to a period of probation, the office of adult probation may require that the defendant comply with any or all conditions which the court could have imposed under subsection (a) which are not inconsistent with any condition actually imposed by the court. A DEFENDANT WHO HAS BEEN SENTENCED TO A PERIOD OF PROBATION SHALL PAY TO THE COURT A FEE OF TEN DOLLARS FOR EACH MONTH IN HIS PERIOD OF PROBATION, EXCEPT THAT NO PERSON MAY BE DENIED PROBATION FOR INABILITY TO PAY SUCH FEE, PROVIDED (1) SUCH PERSON FILES WITH THE COURT AN AFFIDAVIT OF INDIGENCY OR INABILITY TO PAY, (2) SUCH INDIGENCY IS CONFIRMED BY THE OFFICE OF ADULT PROBATION, AND (3) THE COURT ENTERS A FINDING THEREOF. ALL SUCH FEES SHALL BE CREDITED TO THE GENERAL FUND.

(c) At any time during the period of probation or conditional release, after hearing and for good cause shown, the court may modify or enlarge the conditions, whether originally imposed by the court under this section or otherwise, and may extend the period, provided the original period with any extensions shall not exceed

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the periods authorized by section 53a-29. The court shall cause a copy of such order to be delivered to the defendant and to the probation officer, if any."

SPEAKER VAN NORSTRAND:

Will you remark further on the bill as amended by House Amendment Schedule "B" and House Amendment Schedule "C"? Will you remark further on the bill as amended? If not, staff and guests come to the well of the House. The machine will be opened. The Clerk please announce the pendency of a roll call.

CLERK:

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

SPEAKER VAN NORSTRAND:

Have all the members voted? Have all the members voted and are your votes properly recorded? Have all the members voted?

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

The Clerk please announce the tally.

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CLERK:

House Bill 7767, as amended by House "B" and House "C".

Total number voting	146
Necessary for passage	74
Those voting yea	146
Those voting nay	0
Those absent and not voting	5

SPEAKER VAN NORSTRAND:

The bill is passed.

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. At this time, I'd like to move for suspension of the rules for immediate reconsideration of a bill passed earlier today. It was Calendar No. 470, Substitute for House Bill No. 6463, File 578.

SPEAKER VAN NORSTRAND:

The motion is for suspension of the rules for immediate reconsideration of Calendar item 470 acted

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1985

VOL. 28

PART 9

2823-3170

1985 GENERAL ASSEMBLY

SENATE

WEDNESDAY
MAY 22, 1985

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THE CHAIR:

Do you want to call that first?

SENATOR SMITH:

I have the Consent Calendar that's been agreed upon for Wednesday, May 22nd, Mr. President. If we could go to the Calendar, starting with page 3, Calendar 430, Senate Bill 953; same page, Calendar 451, Senate Bill 169. On page 5, Calendar 565, House Bill 7767; on page 6, Calendar 577, House Bill 6046; on page 8, Calendar 593, Senate Bill 850; also on page 8, Calendar 594, Senate Bill 757. On page 9, Calendar 598, House Bill 7616; page 10, Calendar 604, House Bill 6406. Page 11, Calendar 613, House Bill 5979; page 12, Calendar 614, House Bill 6305; also on page 12, Calendar 616, House Bill 7443.

Page 13, Calendar 620, House Bill 5565; also on page 13, Calendar 621, House Bill 7446; same page, Calendar 623, House Bill 7849; same page, Calendar 624, House Bill 5297; on page 14, Calendar 626, House Bill 5284; also on page 14, Calendar 629, House Bill 6052. Page 15, Calendar 632, House Bill 7836. Page 15, Calendar 633, House Bill 7706; page 16, Calendar 637, House Bill 7783; page 16, Calendar 638, Senate Bill 337, page 16, Calendar 639, Senate Bill 573; page 17, Calendar 641, Senate Bill 784 and turning to page 35, Mr. President, it's the final item on today's

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SENATE

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THE CLERK:

SB 800, SB 926, HB 7744
Page 2, Calendar 215, 265 and 316. Page 3, Calendar
SB 953, SB 980, SB 169 HB 7767
430, 435, 451. On Page 5, Calendar 565; on Page 6,
HB 6046 SB 850, SB 757
Calendar 577. On page 8, Calendar 593, 594. On Page 9,
HB 7616 HB 6406
Calendar 598. On page 10, Calendar 604; on Page 11,
HB 5979 HB 6305, HB 7443
Calendar 613. On 12, Calendar 614 and 616. On 13,
HB 5565, HB 7446, HB 7849, HB 5297 HB 5284
Calendar 620, 621, 623, 624. On Page 14, Calendar 626
HB 6052 HB 7836, HB 7706
and 629. On page 15, Calendar 632 and 633. On Page 16,
HB 7783 HJ 33
Calendar 637 and on Page 35, Calendar 619.

THE CHAIR:

Any changes, omissions? Senator Casey.

SENATOR CASEY:

Thank you very much Mr. President. Would you please
take off from the Consent Calendar, SB 980
Calendar 435. I would
like to vote against that.

THE CHAIR:

What page?

SENATOR CASEY:

Page 3.

THE CHAIR:

435? That may be removed. Any other changes? Omissions?
The machine is open. Please record your vote. Sorry, clear
the board please.

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SENATOR CONSOLI:

Sorry Mr. President. I would also like number 215 off the Consent Calendar.

THE CHAIR:

Which?

SENATOR CONSOLI:

That's Page 2, Calendar 215, Bill 800.

THE CHAIR:

Thank you. Any other changes? Any omissions? The machine is open. Please record your vote. Senator Avallone, Senator Kevin Johnston, Senator Daniels. The machine is closed. Clerk please tally the vote.

The result of the vote:

36 YEA

0 NAY

The Consent Calendar is adopted. We'll need separate votes now and the Clerk will call items that have been removed and will be voted separately.

THE CLERK:

Page 2, Calendar 215, Substitute for Senate Bill 800, File 838.

THE CHAIR:

This was removed from the Consent Calendar and requires a separate vote. Clerk please make an announcement for an

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MR. D'ALELIO: (continued)

could be expanded in the future to cover other similar situations.

This would lead to substantial accounting problems for the Department. Questions arise as to whether separate accounts are to be established for each case or all sums are to be deposited into one account. Either situation will greatly complicate record keeping and require the Department develop and implement a sophisticated accounting procedures.

Questions also arise as to the fiduciary duties of the custodians of these accounts. For example, what would be the duty of the custodian regarding the rate of interest which can be attained? There are other methods such as appointing receivers in specific situations to accomplish the same results which this bill seeks to accomplish.

For these reasons, we are opposed to the bill.

The last bill I would like to address is House Bill Number 7767, an Act Concerning Adult Probation. With me today is Jack Fay, the Manager of Planning and Research for the Department of Adult Probation who will be glad to answer any questions you may have.

This act deals with several duties associated with the Department of Adult Probation. The first area dealt with in the Act provides that diagnostic reports furnished pursuant to Section 17-244 are to be filed in quadruplicate with the Clerk and then a copy given to the Probation Department. This will enable the Probation Department to better evaluate a Defendant who is to receive probation by the Court pursuant to the provisions of Section 17-244.

Next the bill will allow the Court under accelerated rehabilitation and alcohol education programs to on its own motion make a finding that the Defendant has satisfactorily completed the probation program and dismiss the charges. This will alleviate the necessity of the Defendant being present in all cases as is now required.

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hew

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MR. D'ALELIO: (continued)

The bill also extends the period of time by thirty days in which the Probation Department can apply for a warrant for a violation of probation. Presently, a warrant can only be issued during the period of probation. A violation of a condition of probation can occur on the last day of the probationary period.

For example, failure to make a final restitution. Under present procedures it is virtually impossible to obtain a warrant for that type of situation.

The next provision of the bill requires the employer of a probationer, present or former, to disclose to Adult Probation information about the Defendant's income and gives to Adult Probation subpoena power when there is a failure to disclose such information. This information is necessary in cases of restitution ordered by the Court as well as when employment is a condition of probation.

Finally, the bill allows the Department of Adult Probation to disclose, erase youthful offender record information when authorized by the Defendant. Non-disclosure of this information presents serious problems with military and potential employers of the Defendant.
Thank you.

REP. WOLLENBERG: Any questions?

SEN. JOHNSTON: Forgive me, Who's the gentleman with you?

MR. JOHN FAY: My name is John Fay.

SEN. JOHNSTON: So you're not with the Department of Adult Probation?

MR. FAY: Yes, I am.

SEN. JOHNSTON: Okay. A quick question. Do you have a figure for how many adults are presently on probation in the Connecticut system?

MR. FAY: There are approximately forty six thousand people

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MR. FAY: (continued)
on probation.

SEN. JOHNSTON: Forty six thousand. How many probation
officers are there?

MR. FAY: One hundred and sixty seven.

SEN. JOHNSTON: One hundred and sixty seven probation officers
servicing forty six thousand?

MR. FAY: Yes.

SEN. JOHNSTON: Is that adequate?

MR. FAY: No, it's not.

SEN. JOHNSTON: How do they do it?

MR. FAY: They do the best they can as the Judge just said.
We make an attempt to divide cases into risk, evaluate
the scale and supervise those that they find in more
need.

and the others we give a superficial evaluation and
supervision to. Basically once a month.

SEN. JOHNSTON: Could you identify of those adults on proba-
tion that would require more supervision?

MR. FAY: Well, I'd say the felony offenders and the persons
between the ages of sixteen and twenty seem to be those
that could require more supervision. It depends on the
combination of age and the crime for which they were
placed on probation.

SEN. JOHNSTON: Do you have a feeling for how many probation
officers should be servicing forty six thousand people
on probation?

MR. FAY: Well, I think there's a criteria of about seventy
five to one hundred cases per probation officer. There's
a recommendation used over the years since I've been
servicing and at the present time, we're carrying case
loads in excess of two hundred and fifty per probation
officer so nearly double the staff, this is pie-in-the-
sky question, double the staff would help.

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SEN. JOHNSTON: Actually we should triple.

MR. FAY: Could be.

SEN. JOHNSTON: Is intensive program presently a program?

MR. FAY: Yes it is.

SEN. JOHNSTON: How many people presently are on the intensive probation program?

MR. FAY: Well, there's not very many. As you know, it's a brand new program and we're having some difficulties getting cases that are qualified to come out on probation division. Exactly how many there are right now, I don't know. We have seven probation officers probably carrying about forty some cases.

SEN. JOHNSTON: Now these probation officers involved with that program, strictly involved with the intensive probation?

MR. FAY: Yes they are so they know, also service the

SEN. JOHNSTON: Did you take those out of the count of the two sixty, one sixty seven?

MR. FAY: No I didn't.

SEN. JOHNSTON: So taking those out, you've got less of the work load for the others is even more than the two fifty.

MR. FAY: Yes it is.

SEN. JOHNSTON: So you would certainly be in favor of this act for more probation officers.

MR. FAY: Yes, I would.

REP. WOLLENBERG: Any further questions? Rep. Tulisano.

REP. TULISANO: Can I just get some clarification of that last statement and compare the intensive probation unit

- REP. TULISANO: (continued)
and there seems to be some implication that by, because of that you increase the burden on the remaining probation officers?
- MR. FAY: Yes. The intensive probation officers, former, if you will, regular probation officers, we had to take those officers off the line so that they could give their attention to more difficult cases.
- REP. TULISANO: But they were replaced?
- MR. FAY: They were replaced, replaced with new people which required training and further, those new people are not carrying full case loads as the agency requirements dictate.
- REP. TULISANO: You mean in the transition period?
- MR. FAY: Yes.
- REP. TULISANO: That's not a long term problem. You can hire new people under that bill. You only brought in experienced people, replacement people. What's the budget reflect? Experienced people or new people?
- MR. FAY: I'm sorry.
- REP. TULISANO: Where you had the increased budgeting for this intensive probation, did that, were there figures contemplating levels at new hires or moving people?
- MR. FAY: To be honest with you, I wasn't involved in the budget but if my memory reflect correctly, it afforded us the opportunity to hire new people only.
- REP. WOLLENBERG: There was some discussion that they would be experienced people in that program..
- REP. JOHNSTON: Rep. Blumenthal.
- REP. BLUMENTHA: My impression, Mr. Fay, was that the shift of people, experienced people, was going to be to the intensive probation program but that those people would be

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REP. BLUMENTHAL: (continued)
replaced normal duties by new people
and that was the purpose of the additional budget re-
quest.

MR. FAY: I wasn't in on the original budget plan. That is
actually what happened. That was the intention, that's
exactly what happened.

REP. BLUMENTHAL: Well, if new people were hired to replace
experienced people who were shifted to intensive proba-
tion, why is it that you say there was a loss of people
and that increased the burden.

MR. FAY: I didn't say there was a loss of people. There was
a loss of opportunity for the replaced people to spend
time on probation cases and new people are not brought
in and given a full case load. They're only given a
partial case load, a partial training period.

REP. BLUMENTHAL: So that should be a temporary phenomonan
then.

MR. FAY: For a year.

REP. BLUMENTHAL: Let me just ask you, what are the difficul-
ties that you have encountered in getting people into
intensive probation and making the selection?

MR. FAY: Well, there's been a number of them. Some of which
is the inmates, themselves, whether or not they really
want people to help them in intensive probation. As the
name indicates, intensive probation requires a great
deal of supervision, analysis and breath testing for
alcoholic drug and reporting schedule is once a week
appointments. I think we've received some
indication that some inmates would rather do some of
their time as opposed to being released on probation.

There are a few other things I suppose that enter into
it, but that's one of the areas and of course, the
Department of Corrections has its own formula on re-
leasing prisoners early.

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REP. BLUMENTHAL: Is the main reason the reluctance on the part of the inmates?

MR. FAY: I don't think that's the main reason. I think it's a combination of various reasons.

REP. BLUMENTHAL: Well, what are the others?

MR. FAY: One is the opportunity to get out by as a result of work release, meritorious release, or early time and things of that sort. They have to calculate whether or not it's worth coming out on probation for a period of time.

REP. BLUMENTHAL: Let me ask Mr. D'Alesio with respect to Bill Number 958, Safety in the Court Rooms, what exactly is vague about that statute?

MR. D'ALELIO: Rep. Blumenthal, it does not specify who authorizes who can carry a weapon. Who is authorized to carry a weapon or a dangerous weapon or dangerous instrument in the courtroom.

REP. BLUMENTHAL: If there were an amendment that took care of that ambiguity, would you favor it?

MR. D'ALELIO: We would support it.

REP. BLUMENTHAL: Who, in your judgment, would have to be authorized to allow someone to carry a weapon into the court room?

MR. D'ALELIO: Most likely either the administrative judge or the judges in that area.

REP. BLUMENTHAL: Thank you.

SEN. JOHNSTON: Rep. Shays.

REP. SHAYS: Sir, when we are asked to determine sentencing HB 7767 bill which eliminated parole, and so now, there are only people in the system now, there are no new parolees, potential parolees, they're going to be phased out over time, did you, did your, number first question, did your

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REP. SHAYS: (continued)
case load increase or has it increased because of that, because now are more people going on probation as opposed to parole?

MR. FAY: I don't know whether that was the reason for the increase but there certainly has been an increase in probation since that time.

REP. SHAYS: Now the second question, have you received any parole officer who now don't have the same work load because it's shrinking, if there's no shift from parole to probation?

MR. FAY: No.

SEN. JOHNSTON: Rep. Coleman.

REP. COLEMAN: With respect to intensive probation, you mentioned there were seven new probation officers involved with the intensive probation office and I believe you mentioned a figure of probation errors in the intensive probation office and I wasn't sure whether that was forty per officer or forty in the entire program.

MR. FAY: It would be forty in the entire program. The number of probationers is limited by statute.

REP. COLEMAN: So it works out to, does it work out to about six probationers per officer?

MR. FAY: Well, it does. The only thing is that we have is some have more than six and a few that have less than six.

REP. COLEMAN: Thank you.

SEN. JOHNSTON: One final question Mr. Fay. You may not know the answer to this. In the Governor budget proposals relative to the criminal justice system specifically, anything you have for the probation system?

MR. FAY: I really don't know the answer to that.