

Legislative History for Connecticut Act

HB 5141	PA 506	1985
House 9048, 9491		(2)
Senate 4911-4913, 4917-4918		(5)
Judiciary 1385-1386, 1424-1426, 1435-1437, 1438-1444, 1446, 1484, 1485, 1498, 1500-1501, 1512-1521, 1585		(32)
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1985

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PART 24
8706-9055

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9048 222

House of Representatives

Tuesday, May 28, 1985

Calendar No. 862, Bill No. 5141, File No. 1124, AN
ACT ESTABLISHING A PSYCHIATRIC SECURITY REVIEW BOARD.

Calendar No. 863, Bill No. 953, File No. 639, AN
ACT CONCERNING APPOINTMENT OF ADMINISTRATIVE HEADS OF
STATE CORRECTIONAL INSTITUTIONS.

On page 19, Calendar No. 864, Bill No. 926, File
No. 351, AN ACT CONCERNING HOLDING COMPANIES FOR GAS,
ELECTRIC, WATER AND COMMUNITY ANTENNA TELEVISION
COMPANIES.

Calendar No. 866, Bill No. 875, File No. 864, AN
ACT ESTABLISHING A STATE APPROPRIATED WEATHERIZATION
ASSISTANCE PROGRAM.

Calendar No. 867, Bill No. 935, File No. 889, AN
ACT AUTHORIZING THE ESTABLISHMENT OF SPECIAL CAPITAL
RESERVE FUNDS BY THE CONNECTICUT HIGHER EDUCATION
SUPPLEMENTAL LOAN AUTHORITY.

On page 20, Calendar No. 869, Bill No. 889, File
No. 850, AN ACT TO ELIMINATE THE TENTATIVE BUDGET
REQUIREMENT EXCEPT WHEN THERE IS A GOVERNOR-ELECT.

Calendar No. 870, Bill No. 850, File No. 865, AN
ACT ELIMINATING THE REVOLVING FUND ELEMENT IN THE PROGRAM
FOR THE DEVELOPMENT AND REHABILITATION OF LOW AND
MODERATE INCOME HOUSING.

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GEN. ASSEMBLY
HOUSE

PROCEEDINGS
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House of Representatives

Wednesday, May 29, 1985

note complies with our anticipation. We have no objection to it going back on later, but we have not received the revised fiscal note at this time.

DEPUTY SPEAKER BELDEN:

Would the gentleman from the 137th restate his motion?

REP. ESPOSITO: (137th)

Yes, Mr. Chairman, I would like to move that we adopt the Consent Calendar as printed in the Calendar for the House today, May 29, 1985, excluding on page 1, Calendar No. 437, Bill No. 198, File No. 1078, AN ACT ESTABLISHING A PILOT PROGRAM TO PROVIDE ELDERLY PERSONS WITH TRANSPORTATION TO SHOPPING CENTERS. I'd also, Mr. Speaker, Calendar No. 507, Bill No. 7230, File No. 1107, AN ACT CONCERNING THE POWERS AND DUTIES OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES.

DEPUTY SPEAKER BELDEN:

The motion is to move for adoption of the Consent Calendar, excluding Calendar 437 and 507 as it appears in today's Calendar. Is there objection? Hearing none so ordered.

CLERK:

Page 9, Calendar No. 508, Substitute for House

Bill 6504, File No. 613, AN ACT CONCERNING THE PROCEDURES

SB882 SB119 SB162 SB180

SB494 SB532 SB573 SB742 SB757 SB805

SB847 SB850 SB869 SB875 SB877 SB889

SB198 HB7230

SB925 SB935 SB938 SB953 HB5141 HB5328

HB5973 HB6014 HB6130 HB6951 HB7388 HB7410

HB7466 HB7499 HB7576 HB7550 HB7678 HB7729

HB7760

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CONNECTICUT
GEN. ASSEMBLY
SENATE

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Regular Session
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SENATOR EATON:

Yes, Mr. President. At the risk of a point of order, that the main bill may be irrelevant to the amendment, I would like to move the bill to the consent calendar.

THE CHAIR:

Any objection? Without objection, so ordered.

THE CLERK:

Page 5, Cal. No. 860, Substitute for House Bill 5141, File No. 1124. An Act Establishing A Psychiatric Security Review Board. Favorable Report of the Committee on Appropriations.

THE CHAIR:

Senator DiBella apparently has a point...

SENATOR DIBELLA:

Thank you, Mr. President. I was out and missed two or three votes, and I'd like to, for the record, point out those votes. On Cal. No. 749, a yes. On Amendment Senate "A" on that calendar, a yes. On Cal. 807, on the reconsideration, yes. On Cal. 826, Senate "A", yes. On Cal. 851, Senate "A" and "B", yes. Thank you, Mr. President.

THE CHAIR:

Thank you. The record will so note. The Senate will stand at ease. Are we ready? The Clerk just called Cal. 860. HB 5141
Who's going to report this bill out, please?

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SENATOR RICHARD JOHNSTON:

Mr. President?

THE CHAIR:

You wish this passed? Senator Johnston, Richard
Johnston.

SENATOR RICHARD JOHNSTON:

Yes, thank you, Mr. President. I move acceptance of the
joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR RICHARD JOHNSTON:

Yes, Mr. President. This is an important piece of
legislation. This is in respect to establishing a psychiatric
security review board. This is in respect to the post
verdict disposition of persons found not guilty by reason of
insanity defense. This bill would establish a five member
independent board, called the Psychiatric Security Review
Board, to which all acquitees would be committed. And they
would be committed in respect to temporary release, conditional
release, or final release. Present law, insanity defense
acquitees are charged to the Commissioner on Mental Health
for confinement in accordance with an oversight function on
the part of the Superior Court. The major provisions of this
act, are that the Psychiatric Review Board would assume full

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jurisdiction of the acquitee, and make, as I mentioned, full decisions regarding confinement, conditional release, and recommendations to the Superior Court for discharge. The Psychiatric Review Board decisions would, however, be reviewable by the Superior Court in the same manner as other administrative agencies. And before any acquitee might be conditionally released, an outpatient treatment and supervision program would have to be established. And finally, an acquitee might only be finally discharged upon application to the Superior Court, and acting only on the recommendation of the Psychiatric Review Board. I think this is an important piece of legislation, in that I believe the public would find this as a protection of the public interest, and it would enhance the public's confidence in the fact that dangerous, or potentially dangerous mentally ill persons are not, and would not, be discharged in society. And if there is no objection, I would expect there be some unanimity on this measure, and I would urge that it be placed on consent.

THE CHAIR:

Will you remark further? Hearing no objection, the item is placed on the consent calendar.

THE CLERK:

Page 5, Cal. 861, Substitute for House Bill No. 5328,
File No. 1129. An Act Concerning the State Board of Accountancy.

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The machine is open, please record your vote. Has everyone voted? Senator Eaton, Senator Mustone. The machine is closed, Clerk please tally the vote.

Result of the vote: 23 yea, 11 nay. The bill is adopted.
Mr. Clerk, I'd like you to call the consent calendar.

THE CLERK:

An immediate roll call has been ordered in the Senate on the consent calendar, will all Senators please return to the Chamber. An immediate roll call has been ordered in the Senate on the consent calendar, will all Senators please return to the Chamber.

Page 2, Cal. 769 and 797. Page 3, Cal. 826, 845, and 848. Page 4, Cal. No. 850, 851, 852, and 853. Page 5, Cal. 855, 860, 862, 863, and 864. Page 6, Cal. 866, 867, 868, and 869. Page 7, Cal. 870, 871, 873, and 874. Page 10, Cal. 887 and 890.

HB 7620, HB 7478 HB 5110, HB 6859
HB 6060 HB 7534, HB 7676, HB 7797, HB 7801
HB 6468, HB 5141, HB 6014, HB 6930, HB 6951 HB 7499, HB 7550, HB 7729
HB 7516 HB 6275, HB 5858, HB 7388, HB 7410
HB 5335, SB 198

THE CHAIR:

Are there any items that you wish to be taken off the consent calendar? Senator Morano.

SENATOR MORANO:

Mr. President, I request that Cal. No. 855, Substitute for House Bill No. 6468, File No. 537, be removed?

THE CHAIR:

All right. Cal. 855, Substitute for House Bill 6468,

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File No. 537, will be removed from the consent calendar, and will be voted upon immediately after the vote on the consent calendar. Are there other items that you wish to have removed from the consent calendar? Senator O'Leary.

SENATOR O'LEARY:

Thank you, Mr. President. On page 6, Cal. 866, the second item from the top, File No. 1090. And at the bottom of page 6, Cal. 869, File No. 1125. I would request that those be taken off?

THE CHAIR:

All right. On page 6, Cal. 866 and 869 will be removed from the consent calendar, and will be the third and fourth votes that we will have. Are there other items that you wish to have removed from the consent calendar? If not, the machine will be open for the consent calendar. Senator Larson. Senator Johnston. The machine will be closed. Clerk, please take a tally.

Result of the vote: 36 yea, 0 nay. The consent calendar is adopted.

SENATOR EATON:

Mr. President?

THE CHAIR:

Senator Eaton.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 5
1385-1684

1985

State Capitol
Room E-53
April 1, 1985
12:00 NOON

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JUDICIARY

PRESIDING CHAIRMEN: Senator Johnston
Representative Wollenberg

COMMITTEE MEMBERS PRESENT:

SENATORS: Johnston, Avallone, Eads,
Upson, DiBella

REPRESENTATIVES: Wollenberg, Shays, Looney,
Rybak, Lugo, Blumenthal,
Dudchik, Coleman, Mills,
Daley, Nardini, McCavanagh,
Baronian, Wenc, O'Neill,
Fox, Ritter, Cunningham,
Nania

REP. WOLLENBERG: For the next hour, we will be entertaining
Cass. 1 evidence from the legislators and agency heads and persons
in the government who are interested in the topics that
are on the agenda today. I would ask that you try to
keep your presentations at a minimum. There are some
fourteen or fifteen people in this category so even five
minutes allows us to run over quite a bit so we will
try to limit our questions to you people and help along
also. Rep. Anderson.

REP. ANDERSON: Good morning. My name is David Anderson,
State Representative from the 45th District, five small
towns in eastern Connecticut. I'm here to testify on
three bills here today. I'd like to say my involvement
with these three bills is the result of working during
the summer and fall with a group who will be represented
here today called the Eastern Homicidal Survivors Group
who have deep concerns over some of our criminal laws
and are interested in supporting the sort of change that
we're asking you to consider here and very briefly,
starting with the least controversial, An Act Establishing
Psychiatric Security Review Board, that's House Bill 5141.

last several years. It really has to do with...
the State continues to have these factors...
this problem... the so-called...

REP. ANDERSON: (continued)

As I think most of you know, this is modeled on the Oregon Plan. I think it's receiving wide spread support and I would say the most important thing I think is that there is an item of eighty nine thousand dollars in the budget which would indicate there is strong support for this item but I won't spend more time on that. It is to provide a firm control and supervision over people who have been released or are to be released from the State Hospital and have been convicted on the insanity defense. As I say, Oregon has had good success with this approach.

The second bill has to do with the death sentence and (HB 5133) again, these are not radical changes that are being asked but I was interested in seeing an ORL Report of about a year ago for Sen. Murphy, I believe it was, in which he examined and compared our mitigating factor clauses with those of other states and pointed out that at least from this report that in most other states there is some balancing between the aggravating factors and the mitigating factors which we apparently don't really have that some of balance in the legislation. This would ask for this kind of balance to be instituted, a weighing of the aggravating factors with the mitigating factors, it would change the life sentence to a true life sentence and it does add and makes changes to two of the aggravating factors.

I would ask that the committee's consideration of these changes because I believe there is some evidence that as now written, the death sentence in the State of Connecticut is almost impossible to implement and I would say, you know, whether you're for or against the death sentence, if we have one that can't be used, that in a sense, it either should be workable or we shouldn't have one and I think it's up to this committee to concern itself with that issue.

The last bill is 6701, an Act Concerning the Defense of Insanity. This issue has been before you before over the last several years. It really has to do with whether the State continues to have these factors in weighing this problem that is, the so-called knowledge of right

REP. WOLLENBERG: Any other questions? Thank you very much.
Pat Stevens.

MS. PATRICIA STEVENS: My name is Patricia Stevens and I'm from the Office of the Chief Public Defender and I'm here to testify in support of Bill 5141.

I'm here to testify in favor of Bill 5141 which is an Act Establishing a Psychiatric Security Review Board. After the verdict in the Hinkley case, the Law Revision Commission studied the insanity defense in Connecticut. This bill is the last piece of recommended legislation by the Bar Revision Commission that has not been enacted.

This bill meets all the remaining concerns about the insanity defense in Connecticut and we urge you to report on it favorably. We have two concerns with it that we would like to bring to your attention. One is the right of appeal. There is no automatic appeal for the acquitee from a board recommendation not to discharge him. We believe that simple fairness dictates an automatic right to judicial review similar as provided in the other subsections, Section 5. It may be unconstitutional to make the acquitee take another step as outlined in Section 12, before an appeal is allowed.

Our second concern is that we feel that this bill has a fiscal impact on our division. In order to most effectively represent the indigent acquitees, we feel we are going to need another lawyer position and clerical position.

Any questions?

SEN. JOHNSTON: Patricia, what happens under existing laws and circumstances when a person is found not guilty by reason of insanity? What's the system that transpires psychiatric review board?

MS. STEVENS: My understanding is that this bill creates a board composed of varying members, doctors, a lawyer, a layperson and this board would have jurisdiction concerning conditional release, discharge and confinement and that this board would make recommendations to the Court so people could be brought before the board more

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MS. STEVENS: (continued)

frequently. There would be reports, status reports brought to the board every six months and there would be this other. It's a jurisdiction within the Department of Mental Health I believe.

SEN. JOHNSTON: So if I understand the process, right now, you can be found not guilty by reason of insanity, you'd be given over to the charge of the Commissioner of Mental Health and then you'd be committed to an institution and who would be responsible for bring to the Court's attention when that person might be released from the institution? Is it the superintendent of that institution or?

MS. STEVENS: I'm not clear on that. I believe so.

SEN. JOHNSTON: Because obviously this is the mechanism that would be put in place from whomever is doing the

MS. STEVENS: Well, the Court is clearly making the decision as to how it gets to the Court's attention, I believe it is through the

SEN. JOHNSTON: That's correct. The Board would make recommendations to the Court.

REP. WOLLENBERG: I just have one comment. The question is, if the death penalty is , the insanity bills were passed in conjunction with this, would there be a kind of balancing of dollars as far as people were concerned?

MS. STEVENS: I don't think I can answer that question. I think it might be better raised with Mr. Shortall.

REP. WOLLENBERG: I just, you mentioned the fiscal impact on your department one, but possibly you'd save some money on the others. We can look at that. Are there questions? Yes, Rep. Nardini.

REP. NARDINI: Good afternoon. We have a family reunion here today. The way I understand the bill, the proposed bill, I'm not quite clear and maybe you can help me, what

REP. NARDINI: (continued)

happens if someone pleads insanity and sentenced, would they have to go the hospital and evaluation is determined by a team of doctors at that hospital, that he is either competent to be out on his own or he is a danger to himself and society. Am I correct so far? Okay. The way I understand this bill is that it would be mostly a duplication and if I'm wrong, please correct me on this, of services. What we're saying here is we're going to establish a commissionary board to same evaluation that a team of doctors at the hospital just did. Am I correct in that or?

MS. STEVENS: My understaind of this bill is that it does more than that. It creates a more frequently

It will allow a forum for institutions to bring forth their recommendations and concerns and it'll allow more rights probably to both the community and the defendants to be heard in that of review.

REP. NARDINI: Okay, thank you very much.

REP. WOLLENBERG: Anyone else? Sen. Gunther.

SEN. GUNTHER: (inaudible) all things that I might say even previous I'm Sen. Gunther of the 21st District. I'd like to talk on both 957 and 959, both of which relate to the martial arts equipment. I don't think we should outlaw these things but this is the new sticks that you're talking about. high class. Most of them are made out of wood. They're a very aggressive weapon that shouldn't be outlawed. The reason that I say that is when they are talking instruction, they can teach them coordination and that type of but on the other hand, when you have these showing up in cars or getting more and more police departments that are seeing this type of equipment, that's in a car, a person has no business having it, they aren't taking any instructions. It's an aggressive killing weapon when it's used the way that they have been trained to do it.

Also, this is also called a dart and if you saw it,

SEN. SCHOOLCRAFT: (continued)

\$50.00 now would be able to handle by civil case. It would make it worthwhile for the small business to go out and stop these people that habitually do this, writing this false check. It would also be more attractive to a collection agency to go after these people.

I give you testimony. Each one has a packet. I'd be glad to answer any questions.

SEN. JOHNSTON: Any questions? Thank you, Senator. David Biklen, to be followed by Peter Nystrom, Rep. Nystrom.

MR. DAVID BIKLEN: Mr. Chairman, good afternoon and Members of the Judiciary Committee. My name is David Biklen and I'm Executive Director of the Connecticut Law Revision Commission and I'm testifying on behalf of House Bill 5141, an Act Creating a Psychiatric Security Review Board recommended by the Commission.

In 1983, the General Assembly adopted the Commission's recommended changes in the insanity defense and directed the Commission to study current statutory provisions regulating the post-verdict disposition of persons found not guilty by reason of insanity, known as insanity defense acquittees. The Commission, with the aid of a committee of professionals in criminal law and mental health has reviewed the present method of handling insanity defense acquittees and recommends establishment of a new system to assure greater control over and accountability for such acquittees.

Under current law, an insanity defense acquittee is temporarily confined for evaluation and after evaluation the Superior Court must either confine the acquittee to a mental hospital or other treatment facility or discharge him if the court finds that the acquittee has established that he is not mentally ill to the extent that his release would be a danger. If committed, the Court then makes all subsequent release decisions concerning the acquittee. The Law Revision Commission concluded that these current procedures are inefficient and are inadequate to provide for the proper reviews, supervisions and regulation of such acquittees.

MR. BIKLEN: (continued)

For example, neither the Judicial Department nor the Department of Mental Health knows the exact number of insanity defense acquittees currently under state jurisdiction. Noone has general authority over or is directly accountable for the proper functioning of the system. In short, the existing system provides too ample an opportunity for an acquittee to be lost in the system and improperly released or to be otherwise inadequately treated.

To address these problems, the Commission recommends establishment of a supervisory board called the PSRB or psychiatric review board. It's modeled on the board successfully in operation in Oregon since 1977. The primary function of the board would be to monitor the commitments, conditional release and discharge of all insanity defense acquittees so as to ensure the ongoing safety and protection of society. The major provisions of the act are, if committed, the PSRB assumes the jurisdiction of the acquittee and makes subsequent decisions concerning his confinement, his conditional release and recommendations to the Superior Court for final discharge.

The PSRB also conducts some more ongoing periodic reviews of the acquittee's status as part of more frequently than under current law. Before an acquittee is conditionally released an adequate outpatient treatment program and supervision must be developed. The board continues to have jurisdiction over a conditionally released person and monitors his progress and, if necessary, can have him immediately recommitted to the hospital.

Also, an acquittee can be finally discharged only on the final decision of the Superior Court. Several technical adjustments in the bill have been suggested to the Commission since it was drafted and these changes should improve the administrative workings of the bill and should be incorporated into the bill if it is going to be favorably reported by this Committee.

MR. BIKLEN: (continued)

The Commission will shortly be presenting those changes to the Judiciary Committee. I'd like to comment briefly on two other bills, Committee Bill 7791, the incompetency to stand trial. Under present law, only competent persons are tried in this State. Those are persons who understand that the charges against them or can assist in the defense. This is a legislation that was suggested to the General Assembly several years ago by the Commission and adopted by the General Assembly.

If the person is not competent to stand trial, the person is committed for eighteen months in an effort to restore the person's competency. If there is then no competency restoration, the person is then subject to civil commitment where the State has the burden of showing that he is dangerous. This bill would shift that burden to the individual to show that, in fact, the individual himself is not dangerous and this would be particularly inappropriate I think in this particular circumstance.

This individual has not been committed, convicted of a crime nor in fact, tried of a crime. Unlike the insanity defense acquittees where there's been a finding by the court that the person has in fact committed a proscribed act, and the person is not competent to stand trial, there's been no finding at all that that person has committed any proscribed act by the State.

Thus, we do not adopt that change. One other bill is the 6701 which is, deals with the changing of the test of insanity in the State. This is another bill that, statute the Commission recommends to the General Assembly several years ago and this particular bill, one of the two problems that current test insanity in the State, our current insanity defense is based on the ALI Test. It has two prongs and it says if the person is mentally ill, he can be found, can be acquitted of insanity if the person couldn't appreciate the wrongfulness of his act or second, that he couldn't control his conduct, irresistible impulse.

This bill would remove the second part of that test,

MR. BIKLEN: (continued)

irresistable impulse and I think we need to understand that that irresistable impulse portion of the test is based on our traditional values of American, in American justice that a person can be fairly and effectively punished for actions only for actions that result from an exercise of free will and that it is unjust to punish persons who lack that free will.

We have felt that it is more properly to protect society by confinement and treatment of those persons for his mental disorder than the imposition of criminal sanctions. The recent shift of the burden of proof to the Plaintiff which this General Assembly did two years ago, should in fact, make it less likely that the irresistable portion, irresistable impulse portion of the test be improperly used by a Defendant today.

If, in fact, the General Assembly does wish to remove that second prong, I would recommend that, in fact, that the present wrongfulness language be retained in the statute. Remove the one test but not use the proposed language in the bill which is an early form relation of the McNaughton test and it speaks, the problem with that test, that language has been proposed is that there's been a lot of unnecessary controversy and litigation over the meaning of the word, know, where a person's mental capacity is in question. The test as currently in the statute says appreciate the wrongfulness of his action.

I would suggest that if you do, in fact, leave one test, you, in fact, keep the other language.

SEN. JOHNSTON: One quick question. Thank you David. This HB 5141 psychiatric security review board bill that we have before you, the Law Revision Commission is in favor of this particular bill?

MR. BIKLEN: That's right.

SEN. JOHNSTON: It has a troublesome section here for me, one of them. The section regarding conditional releases. Can you describe how that might operate a little bit and what Number One and Number Two, what sort of situations

SEN. JOHNSTON: (continued)
that might attempt to address?

MR. BIKLEN: The Commission drafted this bill with the help of a number of expert advisors, mental health people, public defenders and prosecutors. This gave the Board some flexibility and some standards for releasing persons on a condition. If they have proper medication, it's also less expensive for society that these persons were released into society under strict controls rather than be held in the hospital if they were the sort that were subject for release.

I think a person cannot be released without the some set of standards already set up. It is questionable today by statute whether a judge can do that. There are no standards in this statute. This sets up a number of standards. This conditional release program standard is based on Oregon and they've had very good success with that. They haven't had problems with that particular provision.

SEN. JOHNSTON: Are there standards in this bill for

MR. BIKLEN: It says the same thing. You have to be not dangerous to himself or to society based on his conditional release if he's properly medicated for instance. Suppose every day you had to receive medication at an out-patient facility.

SEN. JOHNSTON: Now you mentioned the Court but it is my understanding from reading the bill that a conditional release would be possible without involving the Court in that process.

MR. BIKLEN: Yes, that's possible only, the Court would be involved on a final release decision.

SEN. JOHNSTON: Okay,

MR. BIKLEN: In fact, the Court could be involved on the conditional release. The State could, in fact, appeal to the Court in the administrative matter of the conditional release decision so a Court could review that

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MR. BIKLEN: (continued)

decision. All decisions of the Board are affected by the Court, can be reviewed by the Court.

SEN. JOHNSTON: Okay. But to answer my question, they're not necessarily involved?

MR. BIKLEN: Yes.

SEN. JOHNSTON: And you answered my next question of the right of appeal.

REP. WOLLENBERG: Any questions? Rep. Nardini.

REP. NARDINI: Good afternoon. How are you? Looking at Section 3, I believe it's a new section, at least it states it is and it says that the Court shall order the acquittee committed to the custody of the Commissioner of Mental Health. Does this not pose a potential liability problem for the State of Connecticut especially under the terms of a conditional release?

MR. BIKLEN: I'm not sure I quite understand the question. This is essentially what happens under the current statute.

REP. NARDINI: Alright, but now we're mentioning conditional releases. What happens to the, I guess it would be as an out-patient then, with that?

MR. BIKLEN: Yes.

REP. NARDINI: Okay. The person goes out under conditional release and commits another crime. Would this not be a potential liability to the State since the Commissioner of Mental Health is now overseeing this person?

MR. BIKLEN: Sure and in fact, no different than the liabilities that currently exist under our law, either the Commissioner can release a person temporarily as it is today. We view the particular a traditional release act as more restrictive than the current sets of standards and I could speak to some guidelines as to how this is done. We don't think, in fact, that the Court will be releasing people indiscriminately. That's not why that was put in

MR. BIKLEN: (continued)
that particular portion of the bill.

REP. NARDINI: Okay, thank you.

REP. WOLLENBERG: Rep. Shays.

REP. SHAYS: From your own studies that you presented to us last year, a number of states who had irresistible impulse have dropped them and a minority of states have that so-called irresistible impulse test. Now I'd like you to tell me since you feel it is a basic right of our citizens to be protected, would you tell me what is a impulse that is resistable and one that is not resistable? And would you tell me who has standards to even determine that since psychiatrists say they have no way of determining that? Who decides?

MR. BIKLEN: We had psychiatrists assisting us in drafting that bill and in fact, they felt, in fact, that was an appropriate thing to leave in the bill. There are a number of other national organizations that, in fact, support both prongs of that test who are assisted by psychiatrists and again professional prosecutors and defense attorneys who think it is an appropriate test and given the shift, and I understand your point about how difficult it is to prove, given that shift to the Defendant, in fact, a burden should make it more difficult for the Defendant to prove that aspect of the test.

REP. SHAYS: Can you tell me what is an impulse that is resistable and one that is not?

MR. BIKLEN: I'm not a psychiatrist.

REP. SHAYS: Is any psychiatrist able to tell us? Or wasn't it a fact, frankly, that a lot of the psychiatrists are able to come to Court and give their opinion and other psychiatrists come and gives his opinion, one says it's resistable, one says it isn't and they both have to acknowledge in Court that it's clearly a matter of their own judgment. There's no scientific basis. If there's no scientific basis, how is the Court and how is the jury going to be able to come to a conclusion?

MR. BIKLEN: The same as psychiatrists can come into Court today and disagree over whether he appreciates the wrongfulness of his conduct or the way engineers can testify and disagree over the reason the Myanus River Bridge collapsed or the Civic Center roof collapsed. That's what we have experts for, to assist the jury in their process. Experts do not necessarily disagree on all these difficult issues.

REP. SHAYS: Just this point. But it's clear that we take engineers and so on, that there is some scientific basis for, is that not true? There is an engineer who can give you certain laws of physics that describe it and there is a judgment call but there, this is clearly an art, not a science when you're deciding whether when someone's mind at the time, they had an impulse that they could resist and that, in fact, is why a lot of the states are dropping it.

I guess my last question to you, doesn't it bother you that with this irresistible impulse test, that we may have some people who are found not guilty by reason of insanity based on such a flimsy way of deciding whether someone is insane or not?

MR. BIKLEN: I've talked with the two psychiatrist and psychologists at Whiting that, and put essentially the same question that you asked me and asked them who many folks, and they in fact, do the evaluations of all persons who have been found not guilty by reason of insanity and asked them how many folks do you find have fooled the jury and they told me over the last forty or forty five, they only get twenty year to begin with, but the forty that they've looked at over the last two years, they found only one person that they didn't recommend to be committed and the judge, in fact, that person who was committed and in fact, the reason that that person they recommended not be committed was the result of plea bargain between the State and the judge and so forth and they used the insanity defense rather than something else because they couldn't convict him otherwise.

And so their experience was that folks were just not fooling the jury with the insanity defense.

REP. SHAYS: I mean, it just baits the question, how the Hell do they know? I mean frankly.

MR. BIKLEN: That's the best information that I have.

REP. WOLLENBERG: How do you feel about Mr. Appleton's suggestion in the current statute if we kept the statute making it major psychiatric disorder or disease?

MR. BIKLEN: That issue wasn't raised by two years ago. It may could well be, I think if you were to make that change we should then talk with folks other than Mr. Appleton and I respect his judgment but talk with some psychiatrists, talk with some public defenders and other prosecutors. Mr. Appleton was not on our committee but let's look and see. Again, that's a good suggestion.

REP. TULISANO: With regard to how in fact the insanity defense operates in terms of what jury determines, Mr. Shays just asked some questions I guess, they were speeches, but just to , is any evidence, I mean, juries make those kind of value judgments all the time.

MR. BIKLEN: That's what the jury is for and we have the experts to assist them in that process.

REP. TULISANO: My problem is that the proposal before us and I want to ask you. Maybe you don't know the answer either. A case just came down in Connecticut in which it was said whether or not you used the insanity defense, all the evidence is now admissable. I guess it was generally excluded before or at least in the one case it was excluded. The evidence would be admissable to the jury for it to makes its own determination of the capacity of the individual to commit the crime, I guess the accused. It says after fifteen months, can continue to hold the person. Are you aware of that case?

MR. BIKLEN: I was surprised by that case also. My understanding was that even if we got rid of the insanity defense, you could still present evidence of your mental ability to intent.

REP. TULISANO: And I think that's what that case says, doesn't it?

MR. BIKLEN: Yes, that's what the case says. I was surprised that it had to be an issue. I thought that was a standing law.

REP. TULISANO: Okay, so in fact, all of these things that would be if we changing, I'm trying to determine just so we understand what might occur. Assuming we adapted this law, would it then be possible for an accused to decide not to use the insanity defense and bring all the same evidence it might have under the old fashioned insanity defense into the trial and all the potential confusion the jury may or may not have now, continue to exist in our system?

MR. BIKLEN: Sure, Rep. I believe the very same issues can be raised by the defense and would be raised. We have the very same sort of experts testifying as to their best ability.

REP. TULISANO: The next question deals with the other bill you testified on, the eighteen month one. What is that? HB 7791

MR. BIKLEN: The incompetency to stand trial.

REP. TULISANO: The incompetency to stand trial. Do you think it might be appropriate to either extend that period from eighteen months or do you have any opinion with regard to appropriateness or told in the statute of limitations pending some affirmative act on the part of the State or an individual. Have you ever studies that out?

MR. BIKLEN: Yes. After the eighteen months, I think that may be Court decision. It says after eighteen months, you can continue to hold the person.

REP. TULISANO: Okay.

MR. BIKLEN: That was the D'Angelo case versus case based on a number of other court cases. That was the case that gave this legislation the impudence to

REP. TULISANO: On a capitol crime. So in order to deal with a capitol crime issue, okay, it would be up to the State then to ask for it not to be done without prejudice.

REP. WOLLENBERG: Any other questions? After Rep. Nystrom, we will go to the public sector.

REP. NYSTROM: Thank you Rep. Wollenberg and members of the Committee. My name is Peter Nystrom and I am Representative from the 46th District. I am here to ask the Committee to report favorably on House Bill 5141, an Act Establishing a Psychiatric Security Review Board and House Bill 5133, an Act Concerning the Death Penalty.

I believe Rep. Anderson and other people have testified before me have covered this area so I will not address them. I would like to speak on House Bill 6701 concerning the defense of the insanity. I believe House Bill 6701 which adopts the McNaughton Test as the standard for determining a person's mental capacity and legal responsibility for criminal actions is a necessary move which I believe is needed. Originally I would have preferred however, that House Bill 5452, an Act which if adopted, would have removed the use of the insanity defense from the trial process and placed its application prior to sentencing. However, I recognize that change does not happen quickly hence, I do support 6701 as a positive move and I support its intent and I ask this Committee to report favorably on it. Thank you.

REP. WOLLENBERG: Any questions? Gary Lenk to be followed by Ray Beckwith.

MR. GARY LENK: Rep. Wollenberg, member of the Committee, my name is Gary Lenk and I live in West Hartford. I would like to speak to you regarding Proposed House Bill Number 6586, an Act Prohibiting the Sale and Use of Machine Guns. I'm an owner of several automatic weapons, commonly referred to as machine guns and I am very much opposed to this bill.

I realize full well the automatic weapons is not an activity which many of citizens participate.

MR. ROODE: (continued)

The State of Oregon has such a board and I submit this is the preventative for an act which was enacted just before the election and there's a number of things dealing with bail and whatnot.

SEN. JOHNSTON: Now Ray, what is this you gave me? This is a copy of a public act passed by the legislature.

MR. ROODE: By the Federal Government.

SEN. JOHNSTON: By the Federal Government. In light of that trial and once the statute that was adopted in the State where they put the burden of proof on the Defendant, in the Hinckley trial, the presiding judge never instructed the jury of that change. He never instructed the jury that the burden of proof is now on the Defendant to prove that beyond, you know, upon the ponderance of the evidence that he is operating on extreme emotional disturbance.

MR. ROODE: That is all I have to say.

SEN. JOHNSTON: Questions? Richard.

REP. BLUMENTHAL: Mr. Roode, thank you for coming today. Could you tell us what happened in the case in which you were involved personally. Was the assailant ever apprehended?

MR. ROODE: Oh yes, he is Michael Ross.

REP. BLUMENTHAL: Okay, thank you.

MR. ROODE: And she was murdered on Easter Sunday.

SEN. JOHNSTON: Thank you Ray for coming. Edwin Shelley.

MR. EDWIN SHELLEY: Mr. Chairman, gentlemen, Committee, my name is Edwin Shelley. On April 22, 1984 my fourteen year old daughter, Leslie Ann Shelley was murdered. I am here speaking on behalf of House Bill 5133, the death penalty, 6701, the insanity defense, 5141, the psychiatric

MR. SHELLEY: (continued)
security review board.

I'm here as a very prejudice person in that I am going through the trial and having had my daughter murdered but I also realize that there are a few prejudice people on the attorney's side and the psychiatrist's side who would also benefit by, would lose by changing the law.

In the death penalty, I was listening to Rep., Mr. Olds, HB 5133 I believe, and he had mentioned that there were, if we were to successfully defend the death penalty, we would have to put to death two people per day in this country. I believe while he was talking we already had two people murdered. There are 19,500 people murdered in this year, in this country every year that we know of.

The young lady spoke for to incarcerate a man or to sentence him to death would cost 1.8 million dollars. Is 1.8 million dollars worth perhaps the saving of one other life? For we do not nor can we comply the statistics that are generated or the lives that are saved by the imposition of the death penalty. We cannot count those times that someone has had a second thought because of the death penalty.

In regards to the insanity defense, I would perhaps like to HB 6701 see the charges tried first and then the insanity defense, if necessary, brought into play for whatever purpose. Under the psychiatric security review board, just this year alone HB 5141 we have had three homicide convictions walk away from the Norwich State Hospital. One, of course, everybody read about, he went to Pennsylvania and he took over the church. One just decided to take a seven hour walk. This Review Board would control these people and maintain them in a proper atmosphere instead of just the hospital being able to state that the man, if the man is capable of going to work, why then has he not been released from the mental institution?

Why is he out on a conditional day by day release? If they feel he is no longer a threat to himself, turn him lose or to society, turn him lose. As Rep. Nardini brought up before, it is placing the State in great jepody.

MR. ISRAEL: (continued)

evidence first and I've read my grandfather's police report and I'd like to read you a piece of the report right now.

This is from the murderer. I picked up a large rock that was in the yard and hit him in the back of the head. Johnson said he hit three more times with the rock because started to get up after the first blow. Johnson said he then picked up a lead pipe in the yard and hit five or six more times. was pronounced dead at the scene.

This was the crime that was committed. Mr. Johnson was innocent by reason of insanity. I don't believe he is innocent. He's just stated in the police report that he committed the crime. I believe that we should evaluate the crime first and then, if he is mentally incapable, send him to an institution.

The other bill I would like to address is Bill Number 5141, establishing a Psychiatric Security Review Board. Because Mr. Johnson is now serving, not serving time but because he is in Whiting Forensic Institute, he will be evaluated every six months. I believe by establishing a Psychiatric Review Board, that we will not only get a psychiatrist or psychologist review but also a person with substantial experience in the process of probation, a member of the general public, an attorney who is a member of the Bar of this State. I think that we really need this not only because we have those five people but because a member of the family will be able to speak at the review.

And that this person will not run on the streets again without be cured. That's my only fear. This man can be let go too soon and he's not cured and that he will cause a crime again. Hopefully, it won't be any of your families and suffering through the same mental anguish my family's suffering through.

SEN. JOHNSTON: Thank you. Rep. Shays.

REP. SHAYS: I understand that very shortly after your grandmother also passed away?

MR. MERTON: (continued)

Insanity, McNaghten Test; House Bill 5133, an Act Concerning the Death Penalty and true life sentence; and House Bill Number 5141, an Act Establishing a Psychiatric Review Board.

On House Bill 6701 concerning the defense, I feel the insanity plea in this State as well as other states is being abused. Too many murderers get off on the insanity plea, are put in a mental hospital for a short time and released only resulting in a loss of another peron's loved one.

Lawmakers and society must create the proper laws putting insane people in hospitals and sane criminals in prisons and not releasing them out to kill again.

In reference to House Bill 5133, the death penalty and true life sentence, when speaking for our organization which is now Survivors of Homicide in Hartford and myself, I must state that even after all our families have lost loved ones through murder, not all of us believe in the death penalty. I do unless a convicted murderer could be kept in prison for the reaminder of his natural life.

There will be conflicts when weighing aggravating factors against mitigating factors. We also do not want to make it that easy for a person to be put to death. Many cases in our State would have resulted in the execution of murderers if that crime was committed in another state.

Many other states, referring to House Bill 5141, Psychiatric Review Board, many other states are presently using this method with great success such as Oregon. It sets up hopefully the final safeguard needed to protect society which should be of primary concern. I also am glad to see that victims and victom's families will be able to have some input during the review hearings along with notification to victims and victim's families.

Also, it is about time that psychologists be part of this process as I have never heard testimony from any of them. Only psychiatrists which I presently have no faith in. After seeing the same psychiatrist testify in many important cases across this State saying about the same thing

MR. MERTON: (continued)

which most of the time results in a lower sentence of the accused, I feel the crime must be evaluated first by the evidence and not by his mental state.

Once found guilty, then proceed to the next phase with mental testimony which would result in being sentenced to a mental hospital or prison.

I thank the Committee for proceeding in the right direction. With your support, I feel these three bills will be accepted. I sincerely believe that these proposals and many others just might make it a little easier for the next victim and victim's family because we all know there's always the next victim. Thank you.

SEN. JOHNSTON: Rep. Shays.

REP. SHAYS: I'd just like to thank you for being here. I'd like to thank you for having to wait because I know it is not easy for you to have to come and make a statement to this Committee and I know there were other victims who were here who left because they couldn't wait.

SEN. JOHNSTON: Thank you, Gary. Dr. Borden. Steven Deedon.

MR. STEVEN DEEDON: Mr. Chairman, members of the Judiciary, my name is Steve Deedon and I represent Amnesty International and I'm here to ask you to reject Bill 5133. I'm asking you to reject this bill because 5133 would greatly increase the likelihood that the death penalty will be applied in a capricious and arbitrary way in Connecticut, requiring jurors to weigh mitigating factors, mitigating against aggravating factors after they've already weighed the mitigating evidence against all the other facts in a case greatly widens the area in which jurors must make a life or death determination subjectively without guidance from the law.

5133 would ask jurors to play God and would demand they try to balance contrasting types of evidence that are essentially not . . . Let me add that the inclusion of felony murder as an aggravating factor undermines that fundamental element of American Law that makes guilt dependent upon attempt and I say this regardless

MR. SHELDON: (continued)

serious physical injury. Do they mean the same thing? I don't know but I guess what I'm suggesting to you is this. People should not live or die based upon this kind of discrimination and I'm talking about discrimination in the telling apples from oranges sense, not discrimination in the sense of race blindness or sex blindness.

It seems to me that before changes are made in the death penalty statute, yes, it should be given a chance to work if at all, but more attention should be paid to what we have now rather than inventing new and even more imaginative categories which may or may not bring in additional people, which may or may not be capable of clear enforcement and which certainly will leave to judges the ultimate questions that ought to be those for a legislator to decide.

I think that this is a very badly flawed statute, no matter which way you cut it.

SEN. JOHNSTON: Thank you. Gerald Hance. Dr. Zonana.

HOWARD ZONANA, M.D.: I'm Dr. Howard Zonana. I'm an Associate Professor in the Department of Psychiatry at Yale and run the Law and Psychiatry Unit in where we do some two hundred to three hundred Forensic evaluations on defendants from competency to stand trial to pre-sentence to release after not guilty by reason of insanity. I've also been a consultant to the Law Revision Commission and worked at the Law School as well trying to train and investigate these areas.

I mainly want to comment on two of the bills, the Psychiatric Security Review Board, 5141 and the Insanity Defense, 6701, and I won't give a long speech about this. I will try and pick up what I think has been some of the discussion issues. I think in contrast to the standards which I'll talk about shortly, the major public concern has not primarily to do with whether people are found not guilty by reason of insanity or not but how long they are held and whether their release poses a danger and how that danger is monitored.

As a physician, I am perfectly happy to acknowledge that the release of someone is not just a medical decision but

DR. ZONANA: (continued)

ought to be a decision that is reviewed both by non-medical judicial or otherwise kind of review. The factors involved are complicated and deserve that kind of scrutiny. The problem right now is that there is no coordinated kind of review and is one of the questions that came up before about concerns about liability to the State. Right now all a hospital has to do is now initially go back to the Court and say that they think someone is ready for temporary visits or conditional release and then they make all the decisions that go on afterward.

The problem with that is there is no coordinated system in the Department of Mental Health about the follow-up of that person. When he's released and say goes to an out-patient mental health center, there's no kinds of formal agreements that the mental health center has to report back to the hospital or has to report back to anyone so that the following of that person, if he doesn't show up for appointments, is not coordinated in any meaningful way and a lot of people slip through the cracks that way.

I think the question about whether or not the hospital should decide whether someone is ready for release or not is unrealistic. You're trying to make a very complicated judgment about whether someone is dangerous when he is spending full time in a hospital. That's not a very good setting in which to make that kind of judgment. That's why most hospitals want to have some opportunity to let somebody out gradually over increasing periods of time to see how they handle that responsibility especially after they've been either hospitalized or incarcerated for long periods of time.

And it seems to me that the experience of the Board in Oregon, what happens is that the director of that board literally will call the treating clinicians once a month or whatever to make sure that they have the reports and know what's going on and if something is not going well, somebody is not showing up, the board has the capability of putting that person back in the hospital right away.

What's happened in Oregon in fact, is that that system has gotten so attractive that in some ways it may go

DR. ZONANA: (continued)

in the opposite direction. More people have successful not guilty by reason of insanity pleas. Twenty five percent of the cases there are not guilty by reason of insanity for misdemeanors. People see it as a way of getting into a more tightly controlled kind of treatment system and that's one of the issues and one of the problems.

I think the only thing I would say, I think in spite of that, I think it's the kind of system that we need to effectively monitor the people who while maybe not crimeally responsible in terms of our notions of guilt clearly have committed dangerous acts and are and can be quite dangerous and I don't think we physicians are happy with that kind of responsibility either without the kind of backup and the kind of system that let's us do the kind of monitoring that needs to be done and that position is clear.

The Board clearly has the mandate to use a standard that factors of dangerousness and safety to the community take primary concern over issues of even treatment or what may be in the person's best interest.

Okay, the only other problem with the Board as and the main difference that this Board has in contrast to the Oregon Board is that this Board leaves open always the question of appeals back to the Superior Court. In Oregon the Board runs autonomously and runs as basically, as you might expect, a very tightly conservative Board. I think the concern is here is would the Board let people lose too soon and can we go back to the judge to review that.

That's all well and good except if the State's Attorney can go back to the judge and any time a Board makes a decision, it's also possible for the Defendant or for the to go back to the Court and if all this turns out to be is running back to the Court every time you get an adverse decision one way or the other, I think you undermine the function of the Board.

Okay, I'll be happy to answer questions about the follow-up of people if there are, I'd just like to say a couple of words about the Insanity Defense Stand. I think bascially that to adopt a McNaughton standard at this point and what

DR. ZONANA: (continued)

is a strict McNaughton standard is probably both unnecessary and unhelpful at this point. I think it's unnecessary given the fact that in our State, I don't think we have the kinds of problems where we see wide spread abuse of that and I don't think the change in the standard is going to necessarily mitigate the small amount that already is.

We have something like, and again, just to point out, contested insanity defenses, the kind that hit the papers and give everyone's attention are an extraordinary percentage of criminal cases, a half of one percent of criminal trials have successful insanity defenses, 80% of them are agreed upon by both prosecution and defense prior to getting into the Courtroom and of the 20% that are contested, most are unsuccessful in those contested settings.

So we're dealing with a very small proportion of cases and yet, because I think our system of punishment is predicated on the fact that we have rational choice, and that if we choose to do wrong we deserve to be punished and acknowledgement of the exceptions focuses on that rule and that moral judgment and I think that's an important thing to be focused on and I think that the fact while people may disagree about what happened in the big trials, whether Hinkley or Wood, it focused attention on that kind of question, that crime is more than just an act but involves some kind of mental state.

The problem with McNaughton has always been as it doesn't cover the kinds of cases that most of us would probably agree deserve to be covered but I understand a strict McNaughton kind of defense, the kind of questions that I usually get is, did someone know he had a gun in his hand? Did he know when he pulled the trigger a bullet would come out? Did he know that the gun was pointing toward somebody? The person would die? That kind of know, or that kind of cognitive understanding is such a superficial understanding and most people who are overtly and very psychotic will still be able to tell you they have a gun so a mother who believes that she has to sacrifice her child to save mankind and kills the child, knows that she's killing the child and if you have that kind of standard, then you're basically going back to what was the 18th, 17th

DR. ZONANA: (continued)

Century wild beast standard that someone had to be so crazy that they functioned no better than a wild beast.

I think the cognitive standard doesn't cover the kind of people that we want to cover and I think the problem with what's called the irresistible impulse prong or the voluntary prong, it's not really, it doesn't say irresistible impulse. If someone cannot conform one's behaviour. The problem is again most, a lot of cognitive tests don't cover again some of the people that you would like to cover in an insanity defense and I think there's no question that the voluntary arm of the insanity defense is less reliable than the appreciation arm but again, I think the kind of people that I see in that regard are the kind of people who say a manic depressive that are so racing, who will go in red shorts and a white hat and hold up a store and stand outside waiting for the police to come without thinking about that they can be caught but they know what they're doing is wrong.

If you ask them, and yet when someone becomes manic, they will literally buy the Brooklyn Bridge and people have done so and I think the problem is where you balance the risk of error in these kinds of cases. I don't see the kind of abuse in that although I think it's certainly true that it's more likely in that area of the test.

Okay, let me hold it there.

REP. WOLLENBERG: Rep. Shays.

REP. SHAYS: In regards to that analogy, going back to McNaughton in the 1800's, the fact was isn't it, that we went to this irresistible impulse test in the '50's. So what did we do in the '40's? We want to go back to what we did in the '40's, not what we did in 1850's.

DR. ZONANA: The irresistible impulse test was added in the Nineteenth Century in about 1850, 1860.

REP. SHAYS: I'm talking about the State of Connecticut. In the State of Connecticut, we added it in the 1950's, correct?

DR. ZONANA: That's true.

REP. SHAYS: Yeh. So we would be going back to what we did in 1940's, not what we did in the 1850's.

DR. ZONANA: Well, you would be going back to the 1850's because you have also, the ALI Test says that someone is not guilty by reason of insanity if it's a result of mental disease or defect they lacked substantial capacity to appreciate the wrongfulness. You're going back to know (inaudible) the act. That is different.

REP. SHAYS: Okay, so what you're saying to me is if we went back to know, were unable to appreciate the In other words, like your compulsive gambler know it's wrong. He just can't conform and in this case, without the exemption we put in, under the irresistible impulse they were found not guilty by reason of insanity but under what I hear you saying is they could appreciate it was wrong.

DR. ZONANA: Yes. I'm not saying that I would even agree with you that compulsive gamblers can't conform but that's the kind of thing I know that has been more open to abuse and that's why the legislature passed that cavier.

REP. SHAYS: Well, I had a judge who told me to my face exactly how he had to rule based on what he thought was an idiotic statute. I mean, you know.

DR. ZONANA: Every other state in which that has come up in has not held that in the Federal Court and this State has not adopted it.

REP. SHAYS: How do you know as a psychiatrist whether someone has the ability to control his impulses or not?

DR. ZONANA: I don't think you know any more than you know when someone has to rest or has made a mistake. I think what we do is look at what kind of mental illness someone has and couple that with kinds of behaviour that have either been previously demonstrated when someone else has wandered around the country for three years because they felt the Marfia is after them and gone up to policemen and told them

DR. ZONANA: (continued)

to put them in a hospital and then two years later comes and shoots their best friend because they think that plot is still going on, I've got three years of history to base some kinds of data on and three other hospital reports that I can have some better judgment about that.

REP. SHAYS: Now would you need the irresistible impulse in that case in order to find a person not guilty by reason of insanity?

DR. ZONANA: I would say in some cases I would and I think that's the problem and the question is whether the risk of abuse is balanced off the people who would have a much harder time who deserve it and I think that's the hard legislative question.

REP. SHAYS: Thank you.

SEN. JOHNSTON: Thank you Doctor. Dr. Zeman.

PETER ZEMAN, M.D.: Members of the Committee, my name is Dr. Peter Zeman. I'm a psychiatrist on the staff of the Institute of Living, Hartford, Connecticut and serve as Chairman of the Advisory and Review Board of Whiting Forensic Institute and Vice-Chairman of the Connecticut Psychiatric Society Legislative Committee.

I wish to testify in favor of Committee Bill 5141, an Act Establishing a Psychiatric Security Review Board. The problems are complex of determining the readiness of individuals found not guilty by reason of mental disease or defect, to leave the structured confinement of an inpatient treatment facility and to proceed to a less closely supervised transitional or outpatient treatment program.

Some of these mentally ill people may never be able to make such a transition but others after a period of treatment in a hospital setting will have recovered sufficiently to be considered for treatment programs in less structured environments. However, society has a legitimate and compelling concern that the safety and welfare of public be protected by preventing the premature release of those judged not guilty by reason of mental disease and defect

DR. ZEMAN: (continued)

who still present a danger to others and by ensuring proper outpatient supervision and treatment of those who are ready for discharge from a hospital environment but who still require close supervision and active psychiatric treatment.

Over the past decade, the nature of in-hospital psychiatric treatment has changed in that greater emphasis is now placed upon treatment of patients with more effective combinations of medications. However such treatment, while fairly helpful in reducing overt signs and symptoms of mental illness, does not mean necessarily that a cure has been achieved or that a patient's non-dangerousness is assured.

Continuing psychiatric treatment, often compelled by the Courts or by another body such as the proposed Psychiatric Security Review Board is often required for this population after hospital discharge. Although some insanity acquittees may recover completely in such inpatient facilities, there can be no guarantee of this. Therefore, the presumption must be that after initial hospitalization a long period of conditional release with careful supervision and outpatient treatment will be necessary to protect the public and to complete an effective treatment program.

The creation of Psychiatric Security Review Board is a positive step in the direction of achieving the best possible disposition and treatment of those found not guilty by reason of mental disease or defect and in protecting the safety and welfare of the general public.

It will be a multidisciplinary board composed of a psychiatrist and a psychologist, both of whom have experience with the criminal justice system, a person with substantial experience in the process of probation, an attorney, and a member of the general public. Each member can bring his or her own area of expertise to bear on reaching a considered and careful decision in each case.

The proposed Board is large enough to allow diverse points of view to be expressed in arriving at the best possible conclusion yet small enough to permit careful and focused

DR. ZEMAN: (continued)
consideration of the problems inherent in the cases coming before it. The Board would have the opportunity and expertise to consider questions and concerns which the Court often does not have the time or resources to evaluate. For example, at a hearing that is considering the conditional release of an insanity acquittee, the following questions among others should be reviewed. Has a coherent and well structured plan of supervision, management, and treatment been put into place? Does this plan have a high likelihood of assuring the public safety while maximizing chances for rehabilitation of the acquittee? Are there necessary staff and resources available to carry out the plan of treatment? Is there in place a procedure and mechanism to rapidly reconfine the insanity acquittee who fails to meet the expectations of the treatment plan or who again appears to present a danger to others? In the interest of time, I won't read the next paragraph but it is a position statement of the American Psychiatric Association in support of the concept of the Psychiatric Security Review Board and cites the Oregon Board as an example.

The Psychiatric Security Review Board proposed by Committee Bill Number 5141 would be a step forward in the handling of cases of those judged not guilty by reason of mental disease or defect by making possible a careful and thorough consideration of readiness for discharge from hospital and of closely supervised follow-up treatment.

I urge the Judiciary Committee to vote in favor of this bill. Thank you for your time and consideration.

REP. WOLLENBERG: Thank you, Doctor. Any questions? Connie Diaz.
MS. CONNIE DIAZ: My name is Connie Diaz and I'm with the Victim Assistance Program of the United Social and Mental Health Services. I've been employed there for four years

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MS. DIAZ: (continued)

as a Victim Advocate and I have shared many of the frustrations although not as a victim but as an advocate for the clients that I have served for many years. Many of them have been survivors of homicide. Many of them have been sexual assault victims and the frustrations that we share are the lack of rights for victims.

The bill that I'm here to speak on in behalf of is House Bill 5141, an Act Establishing a Psychiatric Security Review Board. Section 20, sub-section 20, part B, specifically allows victims to have input within that system and specifically allows the victim to make a statement to convey what has happened to them as a result of the crime. It will allow them before a committee to be heard within the hearings with regarding an accused or a person who's been found not guilty by reason of insanity and allow them to consistently to have input.

It would also be an establishment of a Psychiatric Review Board, would also provide better supervision of those persons who have committed violent crimes. It would specifically allow for better coordination which is not provided now. That's the end of my statement.

REP. WOLLENBERG: Are there any questions? Thank you.

Zaiga Antonetti. My name is Zaiga Antonetti and I represent the Connecticut Members of the National Federation of Independent Business. We are an association of small and independent business owners with more than 4,200 members in the State.

MS. ZAIGA ANTONETTI: Good afternoon. My name is Zaiga Antonetti and I represent the Connecticut Members of the National Federation of Independent Business. We are an association of small and independent business owners with more than 4,200 members in the State. It is on behalf of our Connecticut members that we're here to urge you to strongly, to strongly urge you to take favorable action on Senate Bill 390, a bill establishing civil damages for bad checks. On top of that is to say that we strongly support it and I'll answer any questions but I think I should make one statement more and that is it's really is an issue that the strong business community feels very, very strongly on. On a survey we conducted in January of this year, more than 80% of our members responded that they strongly favored enactment of a bill.



STATE OF CONNECTICUT
DEPARTMENT OF MENTAL HEALTH

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April 1, 1985

THIS IS A STATEMENT FROM COMMISSIONER AUDREY M. WORRELL, M.D. OF THE DEPARTMENT OF MENTAL HEALTH IN SUPPORT OF COMMITTEE BILL #5141, AN ACT ESTABLISHING A PSYCHIATRIC SECURITY REVIEW BOARD.

The Department of Mental Health supports passage of Committee Bill #5141, An Act Establishing a Psychiatric Security Review Board. Several representatives of the Department of Mental Health worked with members of the Law Review Commission in formulating and drafting the concepts and language of this bill. The proposed board, which is modeled after a successful program in Oregon, has as its primary function the ongoing protection of society through its supervisory function over insanity defense acquittees. The Department, therefore, supports passage of this bill.