

Legislative History for Connecticut Act

HB 6384 PA 110 1991

House 2161-2163, 3854-3857 (7)

Senate 1122-1131, 1179-1180 (12)

Judiciary 171, 231-232 (3)

Total-22p

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
and House of Representatives Proceedings

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H-591

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1991

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PART 6  
1988-2401

002161  
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House of Representatives

Wednesday, April 3, 1991

Thank you.

APPLAUSE

SPEAKER BALDUCCI:

Other announcements or Points? If not, we'll return to the Call of the Calendar.

CLERK:

Page 7, Calendar 127, Substitute for House Bill 6384, AN ACT CONCERNING NOTARIES PUBLIC.

Favorable Report of the Committee on JUDICIARY.

REP. MINTZ: (140th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Mintz of the 140th.

REP. MINTZ: (140th)

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

DEPUTY SPEAKER POLINSKY:

The motion is on acceptance and passage. Will you remark, sir?

REP. MINTZ: (140th)

Yes, thank you, Madam Speaker. This bill attempts to correct some of the mine field we laid out last year in the Notary Public Bill. It allows notary publics to notarize documents in which they might have an

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underlying benefit or being related to the person from whom it is notarized.

The bill also eliminates a notary's liability for the content of the document so they will, under the law as it's written, the might actually have to read the document and ask questions about it. That was never the intent of notarizing, taking acknowledgements and it allows Connecticut attorneys to take acknowledgements while out of state on documents that relate to real property in Connecticut and finally it allows notaries to do affirmations besides also swearing to a supreme being and I urge passage.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this bill? Will you remark further? If not, will all members please take their seats. Staff and guests to the well of the House. The machine will be opened.

CLERK:

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

DEPUTY SPEAKER POLINSKY:

Have all members voted? Have all members voted and is your vote properly recorded? If all members have voted, the machine will be locked. The Clerk please

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take a tally.

The Clerk please announce the tally.

CLERK:

House Bill 6384.

Total Number Voting 145

Necessary for Passage 73

Those voting Yea 136

Those voting Nay 9

Those absent and not voting 6

DEPUTY SPEAKER POLINSKY:

The bill is passed.

CLERK:

Page 8, Calendar No. 133, House Bill No. 6301, AN  
ACT CONCERNING THE APPOINTMENT OF DEPUTY CITY OR TOWN  
MANAGERS.

Favorable Report of the Committee on PLANNING AND  
DEVELOPMENT.

DEPUTY SPEAKER POLINSKY:

Representative Coleman of the 1st.

REP. COLEMAN: (1st)

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

DEPUTY SPEAKER POLINSKY:

The motion is on acceptance and passage. Will you

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Wednesday, May 1, 1991

DEPUTY SPEAKER POLINSKY:

Please proceed, Madam.

REP. COCCO: (127th)

Thank you. Seated also in the Gallery are visitors from Perth, Australia, who have come to Connecticut and have come to Hartford to observe the legislative process. They are Patty Anzalone and Serge Anzalone who are cousins of Bridgeport natives, Betty Bizzo and Tom Bottiglia. I'd appreciate my colleagues giving them a warm welcome to Hartford and to the process. Thank you. (Applause)

DEPUTY SPEAKER POLINSKY:

Are there any other announcements or points of personal privilege? Any other announcements? If not, will the Clerk please return to the Call of the Calendar.

CLERK:

Calendar 127, Substitute for House Bill 6384, AN ACT CONCERNING NOTARIES PUBLIC, as amended by Senate "A". Favorable Report of the Committee on Judiciary.

REP. MINTZ: (140th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Mintz.

REP. MINTZ: (140th)

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House of Representatives

Wednesday, May 1, 1991

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

DEPUTY SPEAKER POLINSKY:

Question is on acceptance and passage. Will you remark, Sir?

REP. MINTZ: (140th)

Thank you, Madam Speaker. We have visited this bill several weeks ago and the Senate has found a technical problem with the bill and has an amendment. I ask that the Clerk call and read LCO Number 4957.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO Number 4957 which is designated Senate Amendment "A".

CLERK:

LCO4957 previously designated Senate "A" offered by Senator Larson et al.

DEPUTY SPEAKER POLINSKY:

Did you wish to summarize, Representative Mintz.

REP. MINTZ: (140th)

No, Madam Speaker, I asked that the Clerk read the amendment.

CLERK:

In line 38, after being, delete or and insert unless in lieu thereof.

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In line 39, after affirmation, insert is administered.

DEPUTY SPEAKER POLINSKY:

Representative Mintz.

REP. MINTZ: (140th)

I move adoption.

DEPUTY SPEAKER POLINSKY:

Motion is on adoption. Will you remark further?

Representative Mintz.

REP. MINTZ: (140th)

This is a technical amendment and cleans up the English and grammar and I would urge adoption.

DEPUTY SPEAKER POLINSKY:

Question is on adoption of Senate "A". Will you remark further? Will you remark further? If not, all those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed, nay. The ayes have it. The amendment is adopted and ruled technical.

Will you remark further on the bill as amended? Will you remark further? If not, will all members please take their seats. Staff and guests to the well of the House. The machine will be opened.

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House of Representatives

Wednesday, May 1, 1991

CLERK:

The House of Representatives is voting by roll call. Members report to the Chamber, please. The House is voting by roll. Members to the Chamber, please.

SPEAKER BALDUCCI:

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

The Clerk please announce the tally.

CLERK:

House Bill 6384 as amended by Senate "A".

Total number voting 146

Necessary for passage 74

Those voting yea 146

Those voting nay 0

Those absent and not voting 5

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 23, 132, Substitute for House Bill 7122, AN ACT ESTABLISHING A TASK FORCE TO STUDY THE PROBATE COURT SYSTEM, as amended by House "A" and Senate "A". Favorable Report of the Committee on GAE.

REP. MINTZ: (140th)

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Mr. Clerk.

THE CLERK:

Favorable Reports, Calendar Page 5, Calendar 128, File 129, Substitute HB6384, AN ACT CONCERNING NOTARIES PUBLIC. Favorable Report of the Committee on JUDICIARY. Clerk is in possession of two amendments.

THE CHAIR:

The Chair recognizes Senator Avallone.

SENATOR AVALLONE:

I move the Joint Favorable Report and adoption of the bill.

THE CHAIR:

Thank you very much, Senator. Mr. Clerk.

THE CLERK:

LCO4957 designated Senate Amendment Schedule "A" offered by Senator Avallone of the 11th District, et al.

THE CHAIR:

Senator Avallone would you care to comment on the amendment?

SENATOR AVALLONE:

Yes, I would move the amendment and waive its reading and ask permission to summarize.

THE CHAIR:

Please go forward, Senator.

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SENATOR AVALLONE:

This was a technical amendment, merely the wording, it didn't change the substance of the bill at all.

THE CHAIR:

Are there any other comments or questions for the Senator? On the amendment LCO4957, hearing none, then I would like to ask your mind on the amendment. All those in favor signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The amendment is adopted.

THE CLERK:

LC05549 designated Senate Amendment Schedule "B"  
offered by Senator Gunther of the 21st District.

THE CHAIR:

The Chair will recognize Senator Gunther for the purposes of discussing the amendment.

SENATOR GUNTHER:

I move adoption of the amendment and waive the reading, I will explain it.

THE CHAIR:

Thank you. Please proceed, Senator.

SENATOR GUNTHER:

This is a simple amendment. It really is very

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simple. It just deletes the brackets on Line 96 which is an opening bracket and deletes the bracket after 103 in Line 103. Actually what it does this particular bill says a notary is disqualified from performing a notarial act if the notary, number one, is a signatory or named in the document that is being notarized. Then the brackets come into play and the area that is bracketed out will receive directly from a transaction connected with inferial acts any commissions, fees, advantage, right, title, interest, cash, property or any other considerations that exceed in value the statutory fee permitted for performing a notarial act, or is legally related to a person for whom the notarial act is to be performed.

Now, Madam President, I think that is an area that I think we modified this about a year or so ago and here we are deleting that language. Now, I think that this should be left in the act. I think deleting that certainly is not proper and I think it is quite interesting that the notary viewpoint which is a publication by notary publics throughout the United States list in their bulletin here, Connecticut, HB6216 repealing this particular section and as classification of that it has "F", a total disaster...vital provisions protecting public will be removed for the convenience

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of attorneys and bankers. Now, I think this should be left in the law. There are areas I can see where notary publics if they notarize a particular signature and everything else on the paper is blank they are just notarizing that particular signature.

I think in the content of the things that they notarize I don't think they should be held responsible for that and this act takes care of that particular area. But I think that that is a dangerous area to delete this language which was recently put in and I believe should stay in the act. I think that is an area that would leave itself very vulnerable. I think this business of notarizing acts by persons whom you are related to and that type of thing, you have direct benefits. If it doesn't it almost takes some abuse, so I think that should be left in the act and when we have a vote on this Madam President, may we have it by roll call, please.

THE CHAIR:

Yes, sir. The Chair recognizes Senator Avallone.

SENATOR AVALLONE:

Yes, Madam President. Senator Gunther is absolutely correct. This bill that we are attempting to amend was passed in 1990. What it created was a nightmare. Not a nightmare for attorneys, but rather

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an nightmare for title searchers, real estate purchasers, and lenders, the probate courts and other persons who rely on the validity of a deed or an affidavit. Let me tell you why. A notary public and what we are talking about in this bill, is someone who takes an acknowledgement. Anyone who has purchased property they have gone to a closing, they have signed a deed selling the property or they have signed the mortgage or some other documents and then the attorney generally at the closing will say, and is your free act and deed. And that is the key thing that the notary is doing. It is making sure that the person who is signing and whose acknowledgement they are taking is in fact the person whose name is at the bottom of the deed.

So if Anthony Avallone is buying, selling a piece of property, he signs the deed and he swears to the person taking the acknowledgement that he in fact is Anthony Avallone and this is his or her free act and deed. So later one someone questions the validity of that signature you have an independent person saying I knew it was Anthony Avallone and I knew it was his free act and deed because he swore and that is what he is testifying to. Now, if you don't allow, for example, that attorney at a closing to do that because he is

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receiving a fee for representing somebody at that closing, or if it turns out to be a brother in law down the road, it would disqualify that deed from having validity.

Could you imagine banks, the lenders, the purchasers of that property having to rely on the fact that the person taking the acknowledgement had no relation to that person? It would wreak havoc with the system. Just as the other provisions in this bill when one doesn't understand them would potentially wreak havoc. This is not going to affect people as Senator Gunther has indicated. It would wreak havoc on purchasers, on lenders, on the probate court who has to rely on these very documents and again you have to understand what the notary public is doing.

He or she is not testifying as to the validity of the document or the truth of the document or the completeness of the document, they are merely saying that that person who signed is in fact the person...has identified himself as being the person and that that person acknowledges that it is his or her free act and deed in signing the document and I would ask that the amendment be rejected.

THE CHAIR:

Thank you very much, Senator. Senator Gunther.

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SENATOR GUNTHER:

Madam President, and first I thought I saw a light in the East and I thought it might be the second coming when Avallone told me I was exactly right. There is only thing, he said I was exactly right...we made these amendments a year ago. And I would disagree, you know, his explanation leaves a very broad area for interpretation. I happen to be around long enough to remember a simple thing like having a person present when you make that signature and witness that signature when a judge in the State of Connecticut had to get himself in court over notarizing a statement for a particular party, a friend of his family and that type of thing who didn't stand there and sign that particular thing. Very simple thing.

Even a layman can understand that language. Now, Senator Avallone mentioned an independent person. Now, mind you, how can you be an independent person for notarizing anything if they are a relative and how can you be totally independent if there are fees involved if you are going to take and be the recipient for the services involved in the other part of this. You know, it isn't as though notary publics are hard to find. They say throw a rock in the center here and I don't think we would be far from missing a notary public. I

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think keep the law so that people can have some confidence in it and that we don't have to worry about interpretation.

And incidentally the citing in a case where you might conceivably notarize a document now and a year or two later you find out the guy is your brother-in-law. Now, you know, I think that even the law would be interpreted that at the time you did that certification that the person was not a relative and certainly wouldn't be applicable. I think that this is a good section in the law. I think it was put in there for a purpose and I think for us to take and at this stage, one year later, we have an observation that is horrendous. I haven't had one complaint. I haven't heard from one of my constituents and I have a lot of lawyers in my constituency. I can't understand why they wouldn't get in touch with me and tell me it is so bad to have this in the law. Madam President, I think this should stay in the law. I think we should delete those brackets and I think for the protection of the public and certainly not to encourage people that might conceivably use this in some other ways than the legitimate reason that they might.

THE CHAIR:

Thank you very much, Senator. Would anyone else

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wish to comment on the amendment, Senator Gunther's amendment to Substitute HB6384? Are there any further remarks? Any further comments? Hearing none, a roll call has been requested. Mr. Clerk would you please make the necessary announcement.

THE CLERK:

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber.

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber.

THE CHAIR:

The issue before the Chamber is Senate Amendment Schedule "B" to Substitute HB6384, LC05549. The machine is open. You may record your vote. All Senators have voted. The machine is closed.

The result of the vote.

10 Yea

25 Nay

1 Absent

The amendment is defeated.

We now have before us Senate Calendar 128, Substitute HB6384 as amended. The Chair will recognize Senator Avallone for purposes of discussing the amended substantive bill.

SENATOR AVALLONE:

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Excuse me, did you say the amendment?

THE CHAIR:

Yes, but the first amendment...

SENATOR AVALLONE:

Oh, I'm sorry. Again, in 1990 we passed a bill dealing with notary publics. It made several inappropriate changes. The Law Revision Commission found those inappropriate changes, made the Judiciary Committee aware of it, we are now correcting them.

THE CHAIR:

Thank you. Does anyone have any questions or comments on this matter? Anything further?

SENATOR AVALLONE:

I would move it to Consent.

THE CHAIR:

Is there any objection to moving Senate Calendar 128, Substitute HB6384 as amended to the Consent Calendar? Any objection? Hearing none, it is so ordered. Mr. Clerk.

THE CLERK:

Calendar Page 7, Calendar 151, File 141, Substitute HB6381, AN ACT REQUIRING A WAIVER OF MOTOR VEHICLE PENALTIES RELATED TO RENEWALS AND INSPECTIONS FOR MILITARY PARTICIPANTS IN OPERATION DESERT SHIELD AND DESERT STORM AND PERMITTING WAIVER OF THE FEE FOR LATE

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1991. Would the Clerk please call the items that have been placed on the Consent Calendar up until now.

THE CLERK:

Madam President, the first Consent Calendar begins on Page 5, Calendar 127, HB5709. Calendar 128, Substitute HB6384. Calendar Page 7, Calendar 151, Substitute HB6381. Calendar Page 8, Calendar 170, Substitute SB436. Calendar Page 9, Calendar 175, Substitute SB706. Calendar 177, Substitute SB104. Calendar Page 10, Calendar 182, Substitute SB724. Calendar Page 11, Calendar 219, SB867. Calendar 220, SB871.

Calendar 221, SB832. Calendar Page 12, Calendar 224, SB941. Calendar Page 14, Calendar 238, Substitute SB385. Calendar Page 15, Calendar 245, Substitute HB7193. Calendar 246, Substitute HB7257. Calendar Page 17, Calendar 259, Substitute HB7225. Madam President, that concludes the first Consent Calendar.

THE CHAIR:

Thank you. You have heard the items on the Consent Calendar as read by the Clerk. The machine is open. You may cast your vote. Thank you very much.

The result of the vote.

36 Yea

0 Nay

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0 Absent

It was truly a Consent Calendar.

Mr. Clerk.

THE CLERK:

Calendar Page 11, Calendar 203, File 305,  
Substitute SB918, AN ACT CONCERNING ADMINISTRATIVE "PER  
SE" LICENSE HEARINGS BEFORE THE COMMISSIONER OF MOTOR  
VEHICLES. Favorable Report of the Committee on  
TRANSPORTATION.

THE CHAIR:

Thank you. The Chair will recognize Senator  
Meotti.

SENATOR MEOTTI:

Thank you, Madam President. For my last appearance  
today I would like to move acceptance of the Joint  
Committee's Favorable Report and passage of the bill.

THE CHAIR:

We will miss you. You have done an able job.  
Would you care to remark further?

SENATOR MEOTTI:

Yes, Madam President. This bill makes a number of  
changes, most of which are very technical, the  
administrative per se license suspension procedure.  
Perhaps the one worth commenting on is it will deal  
with an issue raised in a recent court case which says

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further than that, we would do it. We've never had a problem, having to go further than my office to correct the situation.

SEN. UPSON: Would you feel that this works and there's enough check?

RALPH LUKENS: Yes. We've never had a problem that it hasn't resolved.

SEN. UPSON: Thank you.

RALPH LUKENS: That doesn't mean that it always will, Senator, but at the moment it hasn't created a problem.

I'd like to comment just briefly on the ACT CONCERNING NOTARIES PUBLIC, HB6384. It's an amendment to a bill which was passed last year, and I would like to recommend that it be passed. The bill in effect, the primary purpose of the bill is to allow attorneys who have been notarizing wills, notarizing deeds, under the present act it would make that notarization, in our opinion, it would make that notarization void, since he would receive a fee for it, which would exceed that fee, the fee of a normal notary public fee. This is not our bill. This is a Law Revision Commission bill, but I speak in favor of it.

SEN. UPSON: You're right. I'm a notary and an attorney, so a notary can't accept more than \$2.40 or whatever it is.

RALPH LUKENS: That's correct.

SEN. UPSON: So what do you want to do?

RALPH LUKENS: What it does it allows that document to be notarized and a fee be charged. If you're drawing a will, drafting a will for example for someone and you sign it as a notary public, you would not charge a fee in excess of \$2.40 for it.

SEN. UPSON: Oh, I see. Technically, right.

RALPH LUKENS: I think it was a technical error and I don't think that's what was intended and it's designed to correct that.

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WILLIAM WHOLEAN: They aren't very well enforced.

REP. TULISANO: sometimes discriminantly. If they are not being enforced at all I suppose that is one standard but if you enforce against some and not others don't you create a discrimination against who the defendant is or who the complaintant is?

WILLIAM WHOLEAN: I think that would be the job of the counsel to prove in court, if there is such a situation.

REP. TULISANO: Oh, okay. You proved it to me already. Thank you. Anyone else. Helen Cyr.

HELEN CYR: Good afternoon members of the Judiciary, Chairman. My name is Helen Cyr. I am the secretary of Connecticut Catholic Alliance. I speak in opposition to HB5082 which if passed will abolish adultery as a crime. The well being of the state in large measure depends upon the well being of the family. The family is the fundamental unit of the state. It is the task of the state to safeguard it's citizens against injustices and moral disorders.

At times economic structures, state laws, mass media and systems of life are factors which negatively impinge on people. Christian education takes note of this and indicates guidelines for responsible opposition to such influences. Positive laws should state more explicitly the precepts contained in the natural law. No difficulty exists where civil, positive law merely repeats the prohibition of the natural law which is the case in adultery.

Connecticut Catholic Alliance therefore requests the Judiciary Committee to leave adultery on the books as a crime. Thank you very much.

REP. TULISANO: David Hemond.

DAVID HEMOND: Good afternoon. I'm David Hemond, staff attorney for the Law Revision Commission. I'm submitting written testimony so I'll be very brief on two bills. We support HB6384 which is an act concerning notary public and that act addresses a

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real minefield of problems that were created by PA90-154 last year. The particular problem is that if you need to rely on an instrument that has been notarized this act last year disqualified notaries in a number of circumstances which were in fact very common practice under the law prior to that time.

The act also made notaries liable for possible falsehoods in the document which since they are not parties to the transaction that really is an inappropriate liability. In any case I think that this particular bill is very important. It needs your attention.

The second bill that we favor is SB672 AN ACT CONCERNING VOLUNTARY CONSERVATORSHIP. This bill would clarify the status to some degree of what a voluntary conservator is. The powers of a voluntary conservator. A voluntary conservator is somebody who is appointed by the Probate Court at the request of the person of the ward who is going to become the ward of this conservator and in this situation there is no finding of incapability of the person so that the current statutes which address incapability in some cases are not clear with respect to the status of the conservator in those cases. If you have any questions I'd be happy to try and answer them.

REP. TULISANO: Matt Fulton.

MATT FULTON: Good afternoon. I'm Matt Fulton. I'm the manager of Wholesaler Marketing for BP Oil and this is Wendy Hamond, she is with our state government affairs group. BP is here to testify in opposition of HB5081 which authorizes the imposition of price restrictions on petroleum products during declared emergency situations. BP opposes price restrictions on any products, services or wages. The years experience with price controls has not been a happy one. It has proven during the 70's the result of supplier inefficiency, customer dissatisfaction and a lessening of normal competition which leads to fair market prices.