

Legislative History for Connecticut Act

HB 7257 PA 83 SC01 1991

House 2906-2910 (5)

Senate 1109, 1179-1180 (3)

Judiciary 904-905 (2)

Total - 10p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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GEN. ASSEMBLY
HOUSE

PROCEEDINGS

1991

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PART 8

2823-3197

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House of Representatives

April 17, 1991

Necessary for passage	72
Those voting yea	143
Those voting nay	0
Those absent and not voting	8

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 7, Calendar 234, Substitute for House Bill 7257, AN ACT CONCERNING THE STRANGER TO THE ADOPTION RULE. Favorable Report of the Committee on Judiciary.

REP. MINTZ: (140th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Mintz of the 140th.

REP. MINTZ: (140th)

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

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. MINTZ: (140th)

Yes, Mr. Speaker. What this bill does is, it repeals the old common law rule of stranger to the adoption, thus allowing adopted children to inherit the same as natural children, even if the inheritance was through a will that was created prior to October 1st, 1959.

In 1959 we passed a piece of legislation saying that adopted children should be treated the same as natural children. We found, through some case law, that in fact, the courts were not treating it retroactive. What this bill does is make this retroactive.

A problem was brought up in the Judiciary Committee by Representative Ward that this should also apply to inter vivos trusts and in that regard, we have an amendment, LC05588. I ask that the Clerk read and I be allowed to summarize.

I ask the Clerk to please call and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LC05588, designated House Schedule "A".

CLERK:

LCO Number 5588, designated House Amendment Schedule "A", offered by Representative Tulisano et al.

REP. MINTZ: (140th)

Mr. Speaker.

SPEAKER BALDUCCI:

The question is on summarization. Is there

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objection? Representative Mintz.

REP. MINTZ: (140th)

Yes, Mr. Speaker. What this bill does is, what this amendment does is, it cleans up some of the language and it also adds inter vivos instruments to that section so the rule would now apply also to trusts created prior to October 1st, 1959.

I move adoption.

SPEAKER BALDUCCI:

Will you remark further on the amendment? Will you remark further on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

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

House Amendment Schedule "A".

Delete lines 102 to 112, inclusive, in their entirety and insert the following in lieu thereof:

"(11) THE PROVISIONS OF SUBDIVISIONS (1) TO (9), INCLUSIVE, OF THIS SECTION SHALL APPLY TO THE ESTATE OR WILLS OF PERSONS DYING PRIOR TO OCTOBER 1, 1959, AND TO INTER VIVOS INSTRUMENTS EXECUTED PRIOR TO SAID DATE AND WHICH ON SAID DATE WERE NOT SUBJECT TO THE GRANTOR'S POWER TO REVOKE OR AMEND, UNLESS (A) A CONTRARY INTENTION OF THE TESTATOR OR GRANTOR IS DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE OR (B) DISTRIBUTION OF THE ESTATE OR UNDER THE WILL OR UNDER THE INTER VIVOS INSTRUMENT HAS BEEN OR WILL BE MADE PURSUANT TO COURT ORDER ENTERED PRIOR TO OCTOBER 1, 1991;"

In line 121, after the word "INHERITANCE" insert "OR RIGHTS TO TAKE"

In line 124, after the word "INHERITANCE" insert "OR RIGHTS TO TAKE"

SPEAKER BALDUCCI:

Will you remark further on the bill as amended?

Representative Frankel.

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REP. FRANKEL: (121st)

Yes, Mr. Speaker. For legislative intent, a question through you, to the proponent.

SPEAKER BALDUCCI:

Proceed.

REP. FRANKEL: (121st)

Representative Mintz, we had a conversation before about the new section 12 providing immunity in connection with this statute. It talks about a fiduciary distributee of the estate or person whom a legacy has been paid.

For legislative intent, it's my understanding, and correct me if I'm wrong, that the immunity would apply whether it was a bequest, a legacy, or a devise. It's not restricted just to a legacy. Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Mintz, do you care to respond?

REP. MINTZ: (140th)

Thank you, Mr. Speaker. As always, Representative Frankel, you're absolutely correct.

REP. FRANKEL: (121st)

Thank you, that was for legislative intent, Sir.

SPEAKER BALDUCCI:

Will you remark further on this bill as amended?

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If not, staff and guests to the well. Members please be seated. 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.

SPEAKER BALDUCCI:

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

Representative Lavine of the 100th.

REP. LAVINE: (100th)

In the affirmative, Sir.

SPEAKER BALDUCCI:

Representative Lavine in the affirmative.

Representative Stolberg of the 93rd.

REP. STOLBERG: (93rd)

Mr. Speaker, in the affirmative, please.

SPEAKER BALDUCCI:

Representative Stolberg in the affirmative.

Representative Knopp of the 139th.

REP. KNOPP: (139th)

Mr. Speaker, in the affirmative.

SPEAKER BALDUCCI:

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Representative Knopp in the affirmative.
The Clerk please announce the tally.

CLERK:

House Bill 7257 as amended by House Amendment
Schedule "A".

Total number voting	139
Necessary for passage	70
Those voting yea	139
Those voting nay	0
Those absent and not voting	12

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 10, Calendar 252, Substitute for House Bill
Number 7123, AN ACT EXTENDING THE TIME FOR THE TOWN AND
CITY OF MILFORD TO RENEW CERTAIN TEMPORARY NOTES.
Favorable Report of the Committee on Finance, Revenue
and Bonding.

SPEAKER BALDUCCI:

Representative Looney of the 96th.

REP. LOONEY: (96th)

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

SPEAKER BALDUCCI:

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SENATE

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HB6913, I refer to the Committee on Human Services?

THE CHAIR:

Is there any objection to referring Calendar 242, Substitute HB6913 to the Committee on Human Services? Any objection? Hearing none, it is so ordered.

SENATOR O'LEARY:

243 is marked Go. 244 is Go. Page 15, I am going to move two items to the Consent Calendar. Calendar 245, Substitute HB7193 and Calendar 246, Substitute HB7257 to the Consent Calendar.

THE CHAIR:

Is there any objection to moving Senate Calendar 245, Substitute HB7193 and Calendar 246, Substitute HB7257 to the Consent Calendar? Is there any objection? Hearing none, it is so ordered.

SENATOR O'LEARY:

The following are marked Go. 247, 248 and 249. Page 16, Calendar 250 is marked Passed Retaining. Calendar 251, HB5899 I refer to the Committee on Environment.

THE CHAIR:

Is there any objection to referring Calendar 251, HB5899 to the Committee on Environment? Any objection? Hearing none, it is so ordered.

SENATOR O'LEARY:

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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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of children who might not have been at one point in time and many of these children have a lot of problems.

SUSAN HANNE LEONARD: Uh-huh.

REP. BOLSTER: Thank you.

REP. TULISANO: Thank you, ladies.

SUSAN HANNE LEONARD: Thank you.

SUZANNE BROWN WALSH: Good evening, Representative Tulisano, Senator Avallone and Members of the Judiciary Committee, my name is Attorney Suzanne Brown Walsh. I'm here to speak favorably about Raised HB7257, AN ACT CONCERNING THE STRANGER TO THE ADOPTION RULE.

I practice law in Hartford at the law firm of Copp Berall Wellette Carta & Sluis and specialize in estates and trusts.

REP. TULISANO: (inaudible, mic not on).

SUZANNE BROWN WALSH: That's right. The one and only.

REP. TULISANO: (inaudible, mic not on).

SUZANNE BROWN WALSH: He's down in Hilton Head, where I should be.

Along with Frank, I'm a member of the Executive Committee of the Estates and Probate Section of the Connecticut Bar Association. I'm telling you that only to create the erroneous impression that I'm an expert on probate matters and not to suggest or imply that I'm testifying on behalf of this section of the bar.

Raised --.

REP. TULISANO: (inaudible, mic not on).

SUZANNE BROWN WALSH: Raised HB7257 would completely abolish something called the Stranger to the Adoption Rule. That rule treats adopted children as strangers to their adoptive relatives for purposes of our inheritance laws.

Now the Stranger to the Adoption Rule was partially abolished in 1959 when the Legislature enacted what is now codified as 45a-731. I say partially because although the statute says that adopted children are to be treated the same as natural ones for purposes of our inheritance laws, that statute does not apply to trusts which were irrevocable on October 1, 1959.

As a result, we still have a situation where adopted children are treated unequally under our laws. For example, in a recent case involving a pre-1959 trust, two adopted brothers were allowed to inherit from a family trust, I believe established by a grandfather while their two adopted sisters were not. This result occurred because the testator knew the brothers who were adopted before he died, but did not know the two daughters who were adopted after he died. Thus, we have a situation where you had four siblings, two were allowed to inherit in the trust and two were not.

REP. TULISANO: We have provisions in the statute now (inaudible, mic not on).

SUZANNE BROWN WALSH: Oh, okay. I'll end my spiel then and say that for the reasons cited, I urge you to approve the bill and thank you for your time.

REP. WOLLENBERG: It was a real bad case.

SUZANNE BROWN WALSH: Terrible.

REP. WOLLENBERG: Bad result.

SUZANNE BROWN WALSH: How would you like to be one of the daughter?

REP. TULISANO: Don't worry. He wouldn't be.

REP. TULISANO: Nick Civitello. Elizabeth Gara.

ELIZABETH GARA: Good evening, Senator Avallone, Representative Tulisano, Members of the Committee. My name is Elizabeth Gara. I'm a staff attorney