

Legislative History for Connecticut Act

HB 5491 PA 90 1996

Senate 2326-2329, 2396-2397

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House 1026-1030

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Jud. 1502-1504, 1877-1879

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GEN ASSEMBLY
SENATE

PROCEEDINGS
1996

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THE CHAIR:

Thank you Senator Penn. Senator Upson.

SEN. UPSON:

Yes, Madam President.

THE CHAIR:

Just a moment, Senator Upson. Would the Senate please come to order.

SEN. UPSON:

Yes, Madam President.

THE CHAIR:

Senator Upson, just a moment.

SEN. UPSON:

Calendar 365, may that be PR'd.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Page 7, Calendar 388, File 368, House Bill No. 5491. AN ACT CONCERNING COMPETENCY TO STAND TRIAL. This received a Favorable Report from the Joint Committee on Judiciary. The Clerk has an amendment.

THE CHAIR:

Senator Upson.

SEN. UPSON:

Yes, Madam President, I move acceptance of the Joint Committee's Favorable Report, passage of the

bill, and permission to summarize.

THE CHAIR:

Question is on passage, please proceed.

SEN. UPSON:

I yield to Senator Smith who has an Amendment.

THE CHAIR:

Senator Smith, do you accept the yield?

SEN. SMITH:

Yes, Madam President, I would ask the Clerk to call the Amendment with my name on it.

THE CLERK:

Madam President, the Clerk has Senate Amendment "A" LCO-4170, offered by Senator Smith.

THE CHAIR:

Senator Smith.

SEN. SMITH:

Thank you Madam President. This Amendment was designed to substantially modify the results of a Connecticut insanity defense. I believe that the insanity defense in Connecticut has been abused in a variety of situations with the most grotesque and egregious of results.

The proposal did not get a public hearing this year, although one was requested. A variety of concerns have been raised by people and deference to

some of those concerns, some of which have merit, others do not. I am going to request that the Clerk pull the Amendment, if they could. Thank you Madam President.

THE CHAIR:

I'm sorry Senator Smith, did you ask that that Amendment be withdrawn?

SEN. SMITH:

Yes.

THE CHAIR:

The Amendment is withdrawn.

SEN. UPSON:

And on the bill itself, Madam President.

THE CHAIR:

Senator Upson.

SEN. UPSON:

This deletes references to statutes that are inapplicable to civil commitment and unnecessary are referenced here. Apparently, along when there were some changes regarding incompetent and unrestorable defendants, the other statutes were not recodified, for all mental health and retardation. So this would do that, and delete those unnecessary references. Purely technical.

THE CHAIR:

Question is on passage of the bill. Will you remark?

SEN. UPSON:

If there's no objection, I'd place this on the Consent Calendar.

THE CHAIR:

Motion is to refer this item to Consent Calendar.
Without objection, so ordered.

THE CLERK:

Page 8, Calendar 418, File 596, Senate Bill No. 296. AN ACT CONCERNING THE PROBATE COURT ADMINISTRATION FUND. This received Favorable Reports from the Joint Committees on Judiciary and Appropriations. The Clerk has amendments on his desk.

THE CHAIR:

Senator Upson.

SEN. UPSON:

Yes, Madam President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill, and ask for permission to summarize.

THE CHAIR:

Question is on passage, please proceed.

SEN. UPSON:

Yes, Madam President. I would yield to Senator, oh no, excuse me, to Senator Looney.

Your attention please. An immediate roll call vote has been called in the Senate on the Consent Calendar. Would all Senators please report to the chamber. An immediate roll call vote has been called in the Senate on the Consent Calendar. Would all Senators please return to the chamber. Thank you.

Consent Calendar 1. Page 7, Calendar 388. HB 6491
Calendar page 9, Calendar 432. SB 440 Page 12, Calendar 461. SB 586
Page 13, Calendar 202. SB 303 This completes the call of the Consent Calendar.

THE CHAIR:

The machine will be open. Have all members voted?
Have all members voted?

SEN. FLEMING:

Madam President, I wonder if the Clerk could announce again outside of the Senate chamber that there is a Consent Calendar roll call.

THE CLERK:

Your attention please. There is a vote underway in the Senate on the Consent Calendar. Would all Senators please return to the chamber. There is a vote underway in the Senate on the Consent Calendar. Would all Senators please return to the chamber. Thank you.

THE CHAIR:

Have all members voted? If all members have

voted, the machine will be locked. Clerk please take a tally.

THE CLERK:

Total Number Voting	34
Necessary for adoption	18
Those voting Yea	34
Those voting Nay	0

THE CHAIR:

The Consent Calendar is adopted. At this time the Chair will entertain points of personal privilege or announcements. Seeing none, Senator Fleming.

SEN. FLEMING:

Yes, thank you Madam President. Madam President, the Senate has completed its business for today. I'm not sure if Senator Sullivan has any announcements for his caucus. I will yield to him if he wishes. I would like to announce for the Senate Republican caucus that we will meet immediately after the session. Tomorrow the Senate will be in at eleven. You all should mark your calendars for that. And I would yield to Senator Sullivan.

THE CHAIR:

Senator Sullivan, do you accept the yield?

SEN. SULLIVAN:

Thank you Madam President. We will announce at

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House of Representatives

Wednesday, April 10, 1996

articles of organization.

Thank you very much.

SPEAKER PRO TEMPORE PUDLIN:

Representative Godfrey, good afternoon, sir.

REP. GODFREY: (110TH)

Good afternoon, Mr. Speaker. There is a -- I am told there is an amendment on the way on this bill. So at this time, I would request that this bill be passed temporarily.

SPEAKER PRO TEMPORE PUDLIN:

There is nothing worse than a tardy cemetery situation, sir. On request, this bill will be PT'd.

Clerk, please call 302.

CLERK:

On page 9, Calendar 302, House Bill Number 5491,
AN ACT CONCERNING COMPETENCY TO STAND TRIAL. Favorable Report of the Committee on Judiciary.

SPEAKER PRO TEMPORE PUDLIN:

Good afternoon, Representative Scalettar.

REP. SCALETTAR: (114TH)

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

SPEAKER PRO TEMPORE PUDLIN:

On acceptance and passage, remark please.

House of Representatives

Wednesday, April 10, 1996

REP. SCALETTAR: (114TH)

Thank you, Mr. Speaker. This bill deletes incorrect citations in the statute authorizing the commissioners of Mental Health and Addiction Services, Children and Families, or Mental Retardation to apply for civil commitment of a defendant who is incompetent to stand trial. It is a technical amendment. There are incorrect citations in the statute and it seeks to address and correct those inaccurate citations, Mr. Speaker. I move passage of the bill.

SPEAKER PRO TEMPORE PUDLIN:

The question is on adoption. Will you remark?
Good afternoon, Representative Radcliffe.

REP. RADCLIFFE: (123RD)

Good afternoon, Mr. Speaker. A question to the proponent of the bill, if I may, sir.

SPEAKER PRO TEMPORE PUDLIN:

Your question, sir?

REP. RADCLIFFE: (123RD)

Thank you. Through you, Mr. Speaker, the bill eliminates certain criminal provisions regarding a criminal commitment, presumably to the Whiting Forensic Institute that are contained in the existing law. Through you, Mr. Speaker, are these provisions retained within our criminal commitment statute?

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SPEAKER PRO TEMPORE PUDLIN:

Representative Scalettar.

REP. SCALETTAR: (114TH)

Through you, Mr. Speaker, yes they are. This -- by having the references that are currently in the bill, we created an unintended avenue of admission to Whiting, but this does not affect the intended admissions, which are still on the criminal statutes.

REP. RADCLIFFE: (123RD)

Thank you. Then through you, Mr. Speaker, and for purposes of legislative intent, then by removing these sections from the civil commitment statute, and thus not allowing the commitment to Whiting in these statutes, we have not effected the ability to effectuate a criminal commitment under the companion statutes on criminal commitments. Through you, Mr. Speaker.

REP. SCALETTAR: (114TH)

Through you, Mr. Speaker, the Representative is correct.

REP. RADCLIFFE: (123RD)

Thank you.

SPEAKER PRO TEMPORE PUDLIN:

And thank you. Will you remark further? Will you further? If not, staff and guests to the well of the

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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.

SPEAKER PRO TEMPORE PUDLIN:

Have all the members voted? Please check the roll
call machine to make sure your vote is properly cast.

The machine will be locked.

Representative Lyons.

REP. LYONS: (146TH)

Mr. Speaker, in the affirmative, please.

SPEAKER PRO TEMPORE PUDLIN:

Our distinguished Majority Leader cast a vote in
the affirmative.

The Clerk will please take a tally and
Representative Martinez?

REP. MARTINEZ: (95TH)

In the affirmative.

SPEAKER PRO TEMPORE PUDLIN:

In the affirmative.

The Clerk will announce that tally.

CLERK:

House Bill 5491

Total Number voting

147

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House of Representatives Wednesday, April 10, 1996

Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	3

SPEAKER PRO TEMPORE PUDLIN:

The bill passes.

Clerk, please call 239.

CLERK:

On page 6, Calendar Number 239, Substitute for House Bill Number 5321, AN ACT DESIGNATING A SEGMENT OF INTERSTATE ROUTE 95 AS THE JEWISH WAR VETERANS MEMORIAL HIGHWAY, DESIGNATING A SEGMENT OF INTERSTATE ROUTE 384 AS THE STATE TROOPER RUSSELL A. BAGSHAW HIGHWAY, NAMING THE BRIDGE OVER THE YANTIC RIVER ON ROUTE 82 IN NORWICH THE THOMAS F. SWEENEY BRIDGE AND REQUIRING THE ERECTION OF A SIGN FOR THE TERRYVILLE FAIRGROUNDS. Favorable Report of the Committee on Transportation.

SPEAKER PRO TEMPORE PUDLIN:

Representative Malone.

REP. MALONE: (47TH)

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

SPEAKER PRO TEMPORE PUDLIN:

On acceptance and passage, remark sir.

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and others take. I am not claiming that these bills are gender bias in any particular way. I am just familiar with a population of single moms and kids who get caught in this net.

REP. SCALETTAR: Thank you.

REP. LAWLOR: Further questions? If not, thank you very much.

LESLIE BRETT: Thank you.

REP. LAWLOR: Next is Doctor Carl Chi from the Department of Mental Health and Addiction Services.

DR. CARL CHI: Good morning, Representative Lawlor and members of the committee. I am Doctor Chi. I am the medical director of the Whiting Forensic Division of Connecticut Valley Hospital and I am testifying in place of Doctor Norco, the director who had a scheduling conflict.

If you will excuse me for a moment, a sign of middle age. I actually have three pairs, one for my computer.

On behalf of the Department of Mental Health and Addiction Services, I respectfully request a favorable report on raised HB5491, AN ACT CONCERNING COMPETENCY TO STAND TRIAL.

CSG 54-56d9(n) provides for civil commitment procedures of criminal defendants found incompetent to stand trial for whom the court determines that there is not a substantial probability that the defendant can be restored to competence within the time allowed by law. That is the 18 month period.

Raised HB5491 clarifies these civil commitment procedures by deleting references to statutes that first, are inapplicable to civil commitment and are unnecessarily referenced here and secondly, in the case of CSG 17a-560 to 17a-576, describe a unique criminal commitment to Whiting unrelated to competency to stand trial or civil commitment, which by its included reference here, creates the possibility of an unintended avenue of admission to

Whiting.

And you have the statutory references that we think are unrelated to civil commitment for you in the testimony. To save time, I won't repeat those.

Finally, HB5491 deletes the reference to 17a-560 to 17a-576. These statutes describe a procedure for obtaining post-conviction pre-sentence mental health evaluations of criminal defendants as in-patients at Whiting. They further describe a commitment that may follow the evaluation of convicted felons who require psychiatric hospitalization at Whiting.

The reference to these statutes in 54-56d(m) creates a possibility of the confusing scenario in which an individual is found incompetent to stand trial and un-restorable within the 18 month period allowed by law and is then committed to Whiting under a statute for criminal convicts. We don't believe that this was the intention of the Legislature.

This same codification process -- actually what happened was, when we looked at the legislative history, we saw that the current statutory references that are deleted by HB5491 were not a result of substantive intent, but rather a result of a codification process several years ago when Chapter 306 was transferred to section 17a. And this same codification process created similar unintended references to the Psychiatric Security Review Board in CSG 54-56d(m). Those references to the PSR were deleted two sessions ago in Public Act 94-27. And favorable action on raised HB5491, we believe, will complete the necessary corrections to CSG 54-56d(m). Restoring the section to its originally intended civil commitment purposes.

Thank you.

REP. LAWLOR: Thank you, Doctor Chi. Are there questions? If not, I just wanted to say thank you publicly. A few months ago you provided me and others with a tour of Whiting Forensic and I was very impressed with the level of professionalism

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March 15, 1996

that the staff there demonstrates. Not just the medical staff, but also the custody staff. It is quite a place and I would encourage members of the committee, if they have the opportunity to visit, I know Director Chi and Doctor Norco encourage that and I do appreciate it.

DR. CARL CHI: Thank you. That's very kind of you and I will certainly convey your remarks to the staff there and indeed, I would like to extend the invitation to any members of the committee. We would be more than happy to show you the facility. Thank you.

REP. LAWLOR: Thank you. Next is Attorney General Blumenthal. I understand you are going to be testifying together with Commissioner Rossi.

ATTY. GENERAL RICHARD BLUMENTHAL: Yes. With your permission, Mr. Chairman, I will testify with the Commissioner, if we maybe heard together?

REP. LAWLOR: Sure. It is an economy of scale. It is great.

ATTY. GENERAL RICHARD BLUMENTHAL: I want to thank the committee for having this hearing and for hearing from us on a bill that for my office and I think for state government in general, has to be regarded as one of the paramount measures to be considered during this session of the Legislature and perhaps, in the past several years. SB 404

As you well know, my office has submitted suggestions for these kinds of reform in the past. For the past five years, I have worked on this issue, even arguing myself, in juvenile court and then in the State Supreme Court a case involving abuse and neglect of children and establishing a Blue Ribbon Commission that some years ago, proposed a number of these kinds of measures, essentially with the objective of putting first and foremost the interest and well being of our children and changing the law in a fundamental way to help the professionals and care givers and foster families and countless interested citizens around the State of Connecticut who want to improve

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STATE OF CONNECTICUT
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

TESTIMONY BEFORE THE JUDICIARY COMMITTEE ON HB 5491, AN ACT
CONCERNING COMPETENCY TO STAND TRIAL
PRESENTED BY MICHAEL A. NORKO, MD,
DIRECTOR OF THE WHITING FORENSIC DIVISION OF
CONNECTICUT VALLEY HOSPITAL

Senator Upson,
Representative Lawlor and
Members of the Judiciary Committee:

On behalf of the Department of Mental Health and Addiction Services (DMHAS), I respectfully request a favorable report on Raised Bill No. 5491, An Act Concerning Competency to Stand Trial. CGS 54-56d(m) provides for civil commitment procedures of criminal defendants found incompetent to stand trial for whom the court determines that there is not a substantial probability that the defendant can be restored to competence within the time allowed by law. Raised Bill No. 5491 clarifies these civil commitment procedures by deleting references to statutes that: 1) are inapplicable to civil commitment and unnecessarily referenced here; and 2) in the case of CGS 17a-560-17a-576, describe a unique criminal commitment to Whiting unrelated to competency to stand trial or civil commitment, which by its included reference here creates a potential unintended avenue of admission to Whiting.

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The statutory references which are unrelated to civil commitment and should therefore not be referenced in 54-56d(m) are:

17a-450 to 17a-484, which deal with the establishment of the structure of DMHAS;

17a-540 to 17a-550 which enumerate patients' rights;

17a-615 to 17a-618, which describe the Interstate Compact (for transferring patients)

46a-11a to 46a-11g, which deal with Protection and Advocacy.

The statutory references that will remain under HB5491 are appropriate to civil commitment proceedings. They are the following:

17a-75 to 17a-83, which govern the commitment of children,

17a-270 to 17a-283, which govern the commitment of mentally retarded citizens;

17a-495 to 17a-528, which govern the civil commitment of psychiatric patients.

Finally, HB 5491 deletes the reference to 17a-560 to 17a-576. These statutes describe a procedure for obtaining post-conviction/pre-sentence mental health evaluations of criminal defendants as inpatients at The Whiting Forensic Division of CVH. They further describe a commitment that may follow the evaluation of convicted felons who require psychiatric hospitalization at Whiting. The reference to these statutes in 54-56d(m) creates the possibility of the confusing scenario in which an individual is found incompetent to stand trial and unrestorable within the time allowed by law and is then committed to Whiting under a statute for criminal convicts. This scenario was obviously never intended by the legislature.

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The legislative history shows that the current statutory references that are deleted by HB 5491 were not a result of substantive intent, but rather a result of a codification process several years ago when Chapter 306 was transferred to Section 17a. (The previous statute regarding incompetent and unrestorable defendants read that the commissioner shall "apply for civil commitment according to Chapter 306 or 368t." When the statutes were re-codified, all mental health and mental retardation statutes in Chapters 306 and 368t were enumerated here, rather than only those that were applicable to civil commitment.) This same codification process created similar unintended references to the Psychiatric Security Review Board in CGS 54-56d(m). Those references to the PSRB were deleted two sessions ago in Public Act 94-27. Favorable action on Raised Bill No. 5491 will complete the necessary corrections to CGS 54-56d(m), restoring the section to its originally intended civil commitment purposes.

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