

Legislative History for Connecticut Act

SB 1369	PA 215	1999
SENATE: 2403-2406, 2540-2542, 3560-3586, 3594-3595		36p.
HOUSE: 5679-5693		15p.
Judiciary: 2071-2072, 2315-2317		5p.
		Total-56p

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

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1999

VOL. 42  
PART 7  
2174-2552

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002403

Senate

Thursday, May 27, 1999

FINANCE, REVENUE AND BONDING

SB No. 1148 An act Increasing Unemployment  
Compensation Dependency Allowances.

5/25 Senate Passed

5/25 House Passed with House A

End of Senate Agenda #1

THE CLERK:

Calling from Senate Calendar for Thursday, May 27,  
1999, Favorable Reports, Calendar Page 2. Calendar 323,  
File 488, 448, correction, Substitute for SB1369 An Act  
Concerning the Statewide Grievance Committee. Favorable  
Report of the Committee on Judiciary. The Clerk is in  
possession of amendments.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

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

THE CHAIR:

The question is on passage. Will you remark?

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SEN. WILLIAMS:

Thank you. Yes, Madam President. I'd like to call LCO9340.

THE CLERK:

LCO9340 to be designated Senate Amendment Schedule "A". It is offered by Senator Williams of the 29th District.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Madam President, I move adoption.

THE CHAIR:

The question is on adoption. Will you remark?

SEN. WILLIAMS:

Thank you, Madam President. This amendment strikes out the underlying bill and substitutes in its place a bill which is on our Calendar regarding court operations involving a number of technical changes to our court system, largely technical changes.

For example, it creates the Division of Court Support Services which will be a new division within the judicial department that will include the current Office of Adult Probation, Office of Alternative Sanctions, the Office of Bail Commission, the Family Division and the Juvenile Detention Services Division.

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It also will allow the judicial branch to make criminal and motor vehicle information that's already public information available electronic via the Internet.

It also includes provisions such that any three judge wire tap panel may grant extensions and be involved in the follow up administration of a wire tap order and not just the three judge panel that originally issued the order.

It allows a youth who becomes emancipated, access to his youthful offender records.

It establishes venue for housing matters in the Middlesex and Tolland Judicial Districts rather than in the GA courts.

It eliminates a requirement that senior judge designations and assignments be filed with the clerks and entered on the minutes of the assigned court.

It requires that the proceedings for custody, support, visitation and related orders and cases of parents who live separately be initiated by an application, summons and show cause order rather than a complaint and various other technical changes, Madam President.

I would move again, adoption of the amendment.

THE CHAIR:

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The question is on adoption of Senate Amendment "A". Will you remark? Will you remark? If not, I will try your minds. All those in favor indicate by saying "aye"?

ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? The ayes have it. Senate "A" is adopted. Will you remark further? Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. The amendment becomes the bill and if there's no objection, I would move this to the Consent Calendar.

THE CHAIR:

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

THE CLERK:

Calendar Page 3, Calendar 380, File 522, Substitute for SB1365 An Act Concerning the Judicial Review Council and the Appointment of Judges and Workers' Compensation Commissioners. Favorable Report of the Committee on Judiciary. The Clerk is in possession of two amendments.

THE CHAIR:

Senator Williams.

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Mr. President, the Consent Calendar begins on  
Calendar Page 2, Calendar 323, Substitute for SB1369.

Calendar Page 3, Calendar 380, Substitute for  
SB1365.

Calendar Page 4, Calendar 437, Substitute for  
SB113.

Calendar Page 6, Calendar 502, HB5194.

Calendar 503, Substitute for HB6853.

Calendar 508, Substitute for HB6974.

Calendar Page 7, Calendar 512, Substitute for  
HB5025.

Calendar Page 8, Calendar 531, Substitute for  
HB6587.

Calendar 533, Substitute for HB6753.

Calendar 534, Substitute for HB6803.

Calendar Page 9, Calendar 540, Substitute for  
HB7084.

Calendar Page 10, Calendar 89, Substitute for  
SB971.

Calendar Page 13, Calendar 255, Substitute for  
SB980.

Calendar 259, Substitute for SB1047.

Calendar Page 14, Calendar 304, Substitute for  
SB630.

Calendar 311, Substitute for SB558.

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Calendar 312, Substitute for SB1224.

Calendar Page 15, Calendar 317, Substitute for  
SB1372.

Calendar 318, Substitute for SB1373.

Calendar Page 17, Calendar 392, Substitute for  
SB371.

Calendar 420, Substitute for HB6973.

Calendar Page 19, Calendar 491, Substitute for  
SB1405.

Calendar Page 20, Calendar 151, Substitute for  
SB1229.

Calendar 299, Substitute for SB214.

Mr. President, I believe that completes the First  
Consent Calendar.

THE CHAIR:

Don't you just love the Senate? The machine will  
be opened. We are voting on the Consent Calendar.

THE CLERK:

An immediate roll call has been ordered in the  
Senate. 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.

THE CHAIR:

All members having voted, the machine will be

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closed. The Clerk announce the tally.

THE CLERK:

Motion is on adoption of the Consent Calendar No.

1.

Total number voting, 35; those voting yea, 35;  
those voting nay, 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted. Senator Jepsen.

SEN. JEPSEN:

Announcements? Any announcements?

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

Mr. President, I have an announcement that the Insurance Committee will meet following our adjournment, in the Committee area, and that the GAE Committee will meet in Room 1E tomorrow at 11:15. Thank you.

THE CHAIR:

Any further announcements? Senator Penn.

SEN. PENN:

Thank you, Mr. President. Earlier today, I'd like to have the attention of the circle and the guests. Earlier today I asked for a moment of silence for the Toledo family and I mentioned young Jose was still in the hospital. I have been informed a little after that

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Hearing no objection, it is so ordered. Mr. Clerk.

I'm sorry, excuse me. Senator Jepsen, I believe you needed to do a transmittal.

SEN. JEPSEN:

Thank you, Mr. President. I neglected earlier to move immediate transmittal of all items acted upon, which would be the previous Consent Calendar, and some other business, immediate transmittal to the House of Representatives.

THE CHAIR:

So ordered. Hearing no objection, so ordered.

SEN. JEPSEN:

Thank you, Mr. President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar No. 323. File No. 448, Substitute for SB1369, AN ACT CONCERNING STATEWIDE GRIEVANCE COMMITTEE.

As amended by Senate Amendment Schedule A, House Amendment Schedule A and B. Favorable Report of the Committee on Judiciary. Clerk is in possession of amendment.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

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Thank you, Mr. President. I move adoption of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

Motion is on adoption, will you proceed?

SEN. WILLIAMS:

Thank you, Mr. President. The underlying bill we've seen before and passed unanimously here, which establishes a court support services division. The reason it is before us again is two House Amendments.

One permits a senior appellate court judge to serve in the appellate court, or in the superior court in the same manner that senior state supreme court judges can serve the supreme court or the superior court.

In addition it permits the Office of the Attorney General to intervene in, or join or bring an action concerning the so-called commuter tax imposed by the State of New York on out-of-state residents travelling into New York City, where the state does not impose that same tax on their own citizens in New York travelling into New York City.

THE CHAIR:

Will you remark further on the bill? Will you remark further? Senator McKinney.

SEN. MCKINNEY:

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Thank you, Mr. President, and Madam President. I have an amendment at the desk. If the Clerk will call LCO-14031.

THE CLERK:

LCO-14031, which will be designated Senate Amendment Schedule B. It is offered by Senator McKinney of the 28th district, et al.

(LIEUTENANT GOVERNOR M. JODI RELL IN THE CHAIR)

THE CHAIR:

Senator McKinney.

SEN. MCKINNEY

Thank you, Madam President. I move adoption of the amendment and seek leave to summarize.

THE CHAIR:

Question is on adoption, please proceed.

SEN. MCKINNEY

Thank you, Madam President. What this amendment does is provides that when the Office of the Attorney General enters into a contingency fee contract, or proposes to enter into a contingency fee contract, the Attorney General must submit that contract, or proposed contract, to the Speaker of the House, and the President Pro Tem of the Senate within five days of the receipt of

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the proposed contract.

The Speaker and President will submit it to committees of cognizance in the legislature. That being the Appropriations and Judiciary Committees. Within thirty days of such receipt, those committees shall advise the Office of the Attorney General of acceptance, rejection, or modification of the proposed contingency fee contract.

If no action is taken within thirty days, the contract will be deemed approved. Those are the nuts and bolts of the amendment. Let me get into the purpose of why I've introduced it. It is my opinion that the Office of the Attorney General must seek approval of the legislature before entering into contingency fee contracts.

Which is, in effect, an appropriation of funds by the Attorney General from the General Fund. Let me discuss certain, what I believe are relevant and undisputed facts.

Money, either in the form of a verdict in favor of the state of Connecticut, or in a settlement in a case brought by the Attorney General on behalf of the state, is clearly General Fund monies.

This is money that belongs to the people of the state of Connecticut. A contingency fee contract

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diverts these monies. Usually in the amount of twenty-five to thirty-three percent to private attorneys representing the state.

It is clearly an appropriation of money from the General Fund without legislative approval. The Office of the Attorney General has over two hundred lawyers. The Attorney General's office, were it a private law firm, would be the largest law firm in the state.

And having worked with and against attorneys and assistant attorneys generals, I can say they are some of the best attorneys in the state. If the Office of the Attorney General with over two hundred lawyers cannot handle a case, I would submit that the Attorney General should come to the legislature and seek appropriations of more budget money in his budget to hire new attorneys, and look for our approval.

Contingency fee contracts, as we've seen recently in some highlighted cases, could award private attorneys huge sums of money. Our money. Money that belongs to the taxpayers of the state of Connecticut.

Indeed, private attorneys could end up with more money than the people of the state of Connecticut. This amendment, Madam President, is about legislative oversight and approval of an appropriation of potentially hundreds of millions of dollars by the

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Office of the Attorney General in certain cases brought by that office.

This is not about the Attorney General, or how his office handles cases. This is about an appropriation of General Fund money without oversight, without accountability, and without responsibility by the people elected by the people of the state of Connecticut to represent them and spend their money as we deem fit.

There was some talk in drafting this amendment that perhaps the oversight should be done by the entire legislature. It was thought that if we were not in session, the Attorney General may need to enter into contracts.

I think what we're doing here by having a proposed contingency fee contract approved by the Committees of Cognizance, is a fair step. It is certainly not a high hurdle. If no action is taken within, some people have said, well what if it's a small case, maybe you should cap it for large cases.

I would think if they were small cases, certainly the legislature and the chairs and ranking members of the Judiciary and Appropriation Committees would not deem fit to take action. In that case, within thirty days, such contracts will be deemed approved.

It is clear, Madam President, that there is no

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legal precedent or case law, at least at the appellate court or Connecticut supreme court level, that addresses whether or not the Attorney General has the power and authority to enter into contingency fee contracts.

It is my position that such contracts appropriate and divert money from the General Fund. And that is not within the constitutional powers of the Attorney General. That is power that belongs to us.

And the people expect us, as their elected representatives, to spend their money. And with that, Madam President, I would urge adoption.

THE CHAIR:

Question is on adoption of Senate Amendment B. Will you remark further? Will you remark further? Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. First, I'd like to request a roll call. And also, rather than plow through a series of questions. I know that time is of the essence at this point, so I would just simply say that I oppose this.

Essentially when the Attorney General's Office is utilizing a contingency fee service, we're contracting out for services. And if we were to require every department of government in the state of Connecticut to

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go through this kind of micro-managing oversight when contracting out for any service, that would certainly tie up both the departments.

And if we were to fulfill that oversight obligation, the pertinent standing committees in the legislature. Further, I think it's important to note that we don't have an explosion of contingency contracts through the state Attorney General's Office.

As a matter of fact, the department can only recall in their institutional memory, three such contingency contracts. One, in the notable tobacco litigation where Connecticut joined with many other attorneys general.

And there were specific lead attorneys who were expert in their fields who assisted in that case. The two others, one was a contested will in the state of Florida, where a gentleman there had left a sum of money to the state of Connecticut.

We actually recovered \$250,000. It was contested because he didn't want his wife to get the money. He wanted the state of Connecticut to get the money. For better or worse, we got \$250,000, and paid \$65,000 in legal fees. Not a bad deal.

The only other case was in the collection of a pollution fine for an offender located in the state of California. We spent \$75,000 in legal fees. We.

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obtained \$1.4 million. The entire fine amount that we were seeking.

So, I think, Madam President, that (a) it's not necessary cause there's not a problem. And (b) it would be too much of a cumbersome oversight that we do not impose on other departments contracting out for services.

And we certainly do not impose on the Bureau of Collection Services when they employ debt collection agencies. So, again, I would oppose the amendment.

THE CHAIR:

Thank you, sir. Senator Cook.

SEN. COOK:

Thank you very much, Madam President. Through you, a question to Senator Williams.

THE CHAIR:

Please proceed.

SEN. COOK:

Thank you. Senator Williams, you noted the contingency fee that the state received for the two cases. I wondered if you could tell me some how, within a hundred million dollars, what the contingency fee was for the tobacco settlement?

THE CHAIR:

Senator Williams.

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SEN. WILLIAMS:

Thank you, Madam President. I don't have that information.

THE CHAIR:

Senator Cook.

SEN. COOK:

I'll be happy to stand at ease.

THE CHAIR:

Senator Williams, is that information readily available?

SEN. WILLIAMS:

I still don't have that information.

THE CHAIR:

Senator Cook.

SEN. COOK:

Through you Madam President. Was it more than a hundred million?

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Madam President, here again, I don't have that specific information. I would be willing to wager that in comparison to what the state of Connecticut is supposed to receive under the tobacco settlement, which is a staggering sum of money, that the contingencies

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paid in legal fees are probably similar to the other contingencies, given the amounts of money that we recovered that I just recounted.

THE CHAIR:

Senator Cook.

SEN. COOK:

Through you Madam President. I'm just trying to get a ball park here. So the staggering amount of money that was received in the settlement, and the typical contingency fee is thirty percent or so. Could you give me some sort of a ball park figure, what was the total settlement? Do we have a ball park figure on that? And then we could extrapolate thirty percent of that for the contingency fee.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Madam President, again, it can vary from case to case. In the cases where I do have the numbers for you, where we obtained \$1.4 million in a fine, and it was a legal fee of \$75,000. --

SEN. COOK:

Madam President, excuse me.

SEN. WILLIAMS:

If you could do some quick math there, that is

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substantially less than one third. It's also my understanding that the Bureau of Collection Services, when they employ debt collection agencies, typically the collection fee there is one third.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much, Madam President. I appreciate the extra information. But my point of the question, perhaps I didn't frame it correctly. I'm more specifically interested in the total amount of the tobacco settlement in a ball park figure, within a hundred million or so.

And then what would be a typical thirty percent contingency fee that would have gone to a contracted-out attorney that did not come to the state of Connecticut, but rather went to private attorneys.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Madam President, thank you. I've been informed that the attorneys fees will not come from the state's share in the tobacco matter. So, I thank Senator Cook for bringing this up and clarifying that.

In point of fact, none of the state's share of the

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tobacco settlement will go toward any tobacco fees.

Through you Madam President. Thank you, Senator Cook.

THE CHAIR:

Senator Cook.

SEN. COOK:

I just want to make sure I understand the answer that Senator Williams just gave. Are you stating that there were no fees that went to a contracted-out attorney for the tobacco settlement?

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Madam President, I think the question has been asked and answered. And I stated before that according to the information that I have been given, the attorneys fees will not be paid out of the state share.

SEN. COOK:

Thank you very much, Madam President.

THE CHAIR:

Senator Cook.

SEN. COOK:

That was not the question that I framed. I framed a question asking, how much was the total tobacco settlement fee to the state of -- total tobacco settlement amount of money to the state of Connecticut.

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And then could we please have an estimate of what would have been fees that went to an attorney outside of the Attorney General's Office for the litigation.

I did not ask if the money came out of the money that would have gone to the state. I asked how much money went to the private attorneys.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. Through you, I believe, it's my own personal opinion, and I have great respect for Senator Cook, but I don't believe that that specific question is relevant to my objections to this particular amendment, on this particular bill.

I believe that in conveying as I have, the fact that, (a) we've only had three contingent cases in anyone's institutional memory, in the state Attorney General's Office.

The fact that we are, in fact, contracting for services as other state departments do. That whether it's collection of debt or settlement, other state departments, in particular the Bureau of Collection Services, does this currently.

And currently pays a fee of approximately one third on all collections where debt collection agencies are

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used. That is the basis of my opposition for the amendment.

And, with all due respect, since we're not on the tobacco bill, or any tobacco settlement issue, I would refrain from wading further into the tobacco issue. I believe my objections to the amendment are clear, and clearly set forth.

THE CHAIR:

Senator Cook, you have the floor.

SEN. COOK:

Thank you very much, Madam President. I was pursuing this line of questioning specifically because, Senator Williams offered a reason for two of the three outside cases. And he did not offer any kind of number of dollars for the third.

And I was asking for him to provide for me, at least a reasonable estimate, for how much the contingency fees were, for the third time that we contracted out for those legal services.

I did not receive an adequate answer.

THE CHAIR:

Will you remark further on Senate Amendment B?  
Senator Aniskovich.

SEN. ANISKOVICH:

Thank you, Madam President. Madam President, for

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the purposes of one question through you to the  
proponent, to Senator Williams.

THE CHAIR:

Please proceed.

SEN. ANISKOVICH:

Senator Williams, in an effort to frame a question  
that Senator Cook didn't ask, I think I did understand --

THE CHAIR:

Just a moment, please, Senator Aniskovich. Make  
sure we have your attention. Please proceed.

SEN. ANISKOVICH:

Thank you, Madam President. Madam President,  
through you to Senator Williams. Senator Williams, I  
think I did understand your response to Senator Cook.  
And your response was that, the fees paid to attorneys  
in the tobacco settlement litigation will not come out  
of the state's share.

My question to you, through you, Madam President,  
if the fees paid to lawyers in connection with the  
tobacco litigation will not come out of the state's  
share, where will those fees come out of? What monies  
will be used to pay the lawyers in that litigation?

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Senator Williams.

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SEN. WILLIAMS:

Thank you, Madam President. Through you to Senator Aniskovich. Senator McKinney has informed me, apparently he's knowledgeable as to this litigation, that apparently there was a contingent fee contract between the state of Connecticut and attorneys, or proposed contract as to the tobacco litigation.

But that, that contract was rescinded. So, if he's correct in that regard, then there is no contingent fee contract between the state and those attorneys.

THE CHAIR:

Senator Aniskovich.

SEN. ANISKOVICH:

Madam President, through you. I understand there the response. Does the response suggest that there will be no lawyers, no outside lawyers paid in connection with any services rendered with respect to the tobacco litigation?

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Through you Madam President. I have no knowledge as to that. Again, I think I stated clearly my reasons for opposing this. Nor do I have knowledge as to the specific contracts, or firms that are employed by other

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departments where we contract to collect debt.

In simply being able to stand up and oppose this, because I believe it's unnecessary. I believe it's the imposition of additional bureaucratic oversight that's not needed.

Inasmuch as apparently there have only been, not three as I'd indicated before, but only two contingent fee contracts that have been seen through to completion, I don't think it's a problem and an issue. Certainly if we'd had the time to take this up in terms of the normal committee process, to have fleshed this out at a public hearing, to have heard testimony, to have had the background, to have heard not only from the Attorney General's Office, which we've not been able to do so, except just very briefly before this discussion started.

Because that's the nature of having to deal with amendments here at the last minute. We could have had the opportunity to have done the research. Heard from not only the agencies and departments, but the public as well.

And to have perhaps obtained the answers to these questions. But we're not able to do that in this forum, because this is raised at literally the eleventh hour. And in the limited research that I have been able to do, it's quite apparent and clear to me that this amendment,

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while perhaps well intentioned, is simply not necessary.

THE CHAIR:

Senator Aniskovich.

SEN. ANISKOVICH:

Thank you, Madam President. Madam President, no further questions to Senator Williams. I do rise to speak in favor of this amendment, for precisely the reasons I think elucidated by the conversations that have just gone on.

The uncertainty that surrounds the tobacco litigation. The uncertainty with respect to the rationale for rescinding the contingency fee arrangement that was in place. All go to, I think, the rationale that moved Senator McKinney and others, to offer this amendment for our deliberation here today.

But let's, as Senator Williams suggested, move away from the tobacco litigation and just talk about the reasons why we should have this amendment in place. I reject, as unpersuasive, although I respect the analogy that Senator Williams made, to other service contracts entered into between the state and outside vendors.

We do not, in other departments, enter into agreements pursuant to which providers provide service on a contingency basis in the Department of Mental Health and Addiction Services, in the Department of

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Social Services.

This amendment goes merely to those contingency based agreements, and not to all contracts entered into between the Attorney General's Office and lawyers for the purposes of rendering legal services to the state. But merely those arrangements pursuant to which the lawyers are paid a percentage of what they secure for the state.

Which, historically has been a means by which we provide an incentive for the provider of services to get more for the state. Because the more the provider gets for the state, the more he or she will get in terms of a fee.

And so, I think the analogy to other service contracts is misplaced. Number two, I think the fact that there have only been, in the institutional memory of the Attorney General, three such contingency based arrangements, is precisely a supportive indication of why we need this kind of legislation.

If only in three cases, have we entered into contingency fee based arrangements, then it suggests that they are very seriously entered into. They are not lightly entered into by the Attorney General.

And, therefore, all of the public policy and accountability arguments with respect to public dollars,

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that Senator McKinney made, is precisely in place with respect to this amendment.

It is in those rare instances when the Attorney General wishes to enter into a contingency fee based arrangement, whereby public dollars will be used to reimburse lawyers, that we should have heightened scrutiny and heightened accountability standards, with respect to those times.

Finally, with respect to the analogy to debt collection, I certainly don't think that debt collection is analogous to a situation in which a lawyer is paid a percentage of what he or she will collect.

The damages or the amount in those instances are uncertain, unlike in a debt collection action, where we know certainly what the debt is that's owed. And what a reasonable fee in the industry would be to collect that debt.

For all those reasons, Madam President, I would argue that those of us who are concerned with the public trust, especially with respect to the appropriations of dollars, that are the public's monies, ought to take a look very seriously.

And if this amendment fails today, then I hope to take up Senator Williams' suggestion and have a public hearing on an initiative like this in the next session,

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so we can get the kind of answers that will enshroud the mystery surrounding, not only to the tobacco litigation, but the nature and use, and the extent to the use of contingency-fee based arrangements by the Attorney General, and anyone else employing legal services in the state of Connecticut.

Madam President, I urge adoption of this amendment.

THE CHAIR:

Thank you, sir. Will you remark further? Senator Genuario.

SEN. GENUARIO:

Thank you, Madam President, very briefly. Just to clarify one distinction. It may be a little bit technical, but I think it goes to the point. With regard to other contractual services that a variety of departments, including the Attorney General, contracts out for, we do appropriate those funds.

If you look in virtually every department budget, there is an OE line item. That OE line item that we appropriate usually includes a contract of services, depending upon the nature of the complexity, or the amount of the contract.

Sometimes they are specifically discussed before the Appropriations Committee. For example, this year we specifically discussed a brokerage contract with regard

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to Medicaid services.

Because that contract involved an amount of somewhere in the area of two to \$3 million. So, in the distinction that Senator Williams attempted to draw, I would beg to differ in that contracted services are specifically appropriated for.

That is the rule. The contingency fee services that have been entered into here, seem to be the exception, and a rather unusual one. Thank you, Madam President.

THE CHAIR:

Thank you, sir. Will you remark further? Senator McKinney.

SEN. MCKINNEY:

Thank you, Madam President, for the second time, and very briefly. Madam President, I did have a conversation with Senator Williams. And I have great respect for his arguments. Although I do disagree with him.

Madam President, and members of the Circle, I specifically chose not to bring up the issue of the tobacco lawsuit, because I did not want to cloud the debate on this amendment with that.

The Office of the Attorney General did an exceptional job on behalf of the people of the state of

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Connecticut in that case, as did the private attorneys hired by that office.

There was a contingency fee entered into in that matter that was not approved by the legislature. That was later rescinded. If you looked at what would have happened in the hypothetical had that contingency fee contract remained, I believe it was for twenty-five percent.

Now, the state of Connecticut received somewhere around 3.5, or we are supposed to receive. Hopefully we will receive, \$3.5 billion in a settlement. At my math that would be about \$900 million of attorneys fees that would have been given to private attorneys through a contingency-fee contract, had that contract remained.

It is clear that the time and effort, and investment by the private attorneys at the most generous, would have amounted to about \$2 million worth of effort. It is my opinion, and I believe it is undisputed, that settlement funds, verdict funds, won by the Attorney General, belong to the General Fund.

If we are diverting those funds before they get there, that is an appropriation of state money. I do not want to cloud that with one case in particular. Whether this is, whether it's that case, or Microsoft, or whatever other cases that are brought by the Attorney

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General, I just believe it's a matter of legislative oversight, and our authority to appropriate funds, not the powers of the Attorney General to appropriate funds.

Thank you, Madam President.

THE CHAIR:

Thank you, sir. Will you remark further?

SEN. WILLIAMS:

Thank you, Madam President. Again, there are some questions as to the actual amendment here. There are some things I think would, should be clarified. But I don't want to get into that.

What I want to just say is, let's assume that all the arguments of the proponents are good arguments. I think that what this really means, is that if that is the case, even if we assume that this is something that should go forward at some point, the point is not today.

The fact of the matter is, we would need to hear from the Attorney General's Office. We would need to hear from various different departments. We would need to hear from the legislators who support this to get some of the facts and figures that people have talked about, and be able to fully think this through as opposed to taking this step at this point in time in our session.

So, again, I would ask for opposition on this

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amendment. And I have asked for a roll call vote.

THE CHAIR:

Will you remark further? Will you remark further?

If not, would the Clerk please announce a roll call vote. The machine will be open.

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:

Have all members voted? If all members have voted, the machine will be locked. Clerk, please announce the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule B, LCO-14031.

Total Number Voting	36
Those voting Yea	17
Those voting Nay	19
Those absent and not voting	0

THE CHAIR:

The amendment fails. Will you remark further on the bill? Senator Williams.

SEN. WILLIAMS:

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If there is no objection to the underlying bill,  
Madam President, I would move this to the Consent  
Calendar.

THE CHAIR:

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

THE CLERK:

Calendar page 17. Calendar No. 523, File No. 536.

Substitute for HB6975, AN ACT CONCERNING LASER

POINTERS. As amended by Senate Amendment Schedule A.  
Favorable Report of the Committees on Public Safety,  
Judiciary, and Education.

The House rejected Senate Amendment Schedule A on  
June 7th.

THE CHAIR:

Senator Penn.

SEN. PENN:

Thank you, Madam President. I move the adoption of  
the Joint Committee's Favorable Report and passage of  
the bill and rejection of House A, and readoption of  
Senate A.

THE CHAIR:

Question is on passage. Will you remark? Senator  
Penn.

SEN. PENN:

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SEN. JEPSEN:

Thank you, Madam President. This concludes an initial Go list. I would ask at this time if the Clerk call the Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the first Consent -- second Consent Calendar begins on Calendar page 7. Calendar No. 587, Substitute for HB6466.

Calendar page 15. Calendar No. 147. Substitute for SB942.

Calendar No. 278. Substitute for SB1363.

Calendar page 16. Calendar No. 314. Substitute for SB1299.

Calendar No. 323. Substitute for SB1369.

Calendar page 17. Calendar No. 550. Substitute for HB6924.

Calendar page 17. Calendar No. 266. Substitute for SB400.

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Madam President, that completes the second Consent Calendar.

THE CHAIR:

Mr. Clerk, would you announce a roll call vote on the Consent Calendar, the machine will be open.

THE CLERK:

The Senate is now voting by roll call 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.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. Clerk, please announce the tally.

THE CLERK:

The motion is on adoption of Consent Calendar  
No. 2.

Total Number Voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

The Consent Calendar is adopted.

THE CLERK:

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Conference Committee adoption of SB1048 as amended  
by Senate "A" and House "B."

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Those absent and not voting	5

DEPUTY SPEAKER HYSLOP:

Committee of Conference report is adopted. Clerk  
please call Calendar 593.

CLERK:

On page fourteen. Calendar 593, substitute for  
SB1369, AN ACT CONCERNING THE STATE-WIDE GRIEVANCE  
COMMITTEE. As amended by Senate amendment "A."  
Favorable report of the Committee on Judiciary.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

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

DEPUTY SPEAKER HYSLOP:

Questions on acceptance and passage in concurrence  
with the Senate, will you remark further?

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REP. LAWLOR: (99th)

Thank you Mr. Speaker. The Senate adopted Senate amendment "A" which was a strike all amendment eliminating the contents of the bill as originally JF'd by the Committee. Mr. Speaker, the Clerk has LCO 9340, previously designated as Senate amendment "A" I'd ask that the Clerk call and I be permitted to summarize.

DEPUTY SPEAKER HYSLOP:

Will the Clerk please call LCO 9340, previously designated Senate amendment "A" and the Representative has asked leave to summarize.

CLERK:

LCO 9340, designated Senate "A" offered by Senator Williams.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. The amendment is, consists of all of the provisions that were originally in another bill favorably reported out by the Judiciary Committee, SB1219, AN ACT CONCERNING COURT OPERATIONS. Mr. Speaker, I think it's fair to say that the court operations bill contained a number of technical and clarifying issues that the Judicial Branch had raised.

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I don't know that much of it was very substantive, most of it relates to court support services, personal liability of officers and employees of the Judicial Branch, search warrants, electronic access to criminal record information and other issues Mr. Speaker. I would urge adoption.

DEPUTY SPEAKER HYSLOP:

Questions on the adoption of Senate "A" will you remark on Senate "A?" Will you remark on Senate "A?" If not we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed. The ayes have it Senate "A" is adopted. Will you remark further on the bill as amended? Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. The Clerk has LCO 3885, I would ask that the Clerk call and I be permitted to summarize.

DEPUTY SPEAKER HYSLOP:

Clerk please call LCO 3885, to be designated House "A." The Representative has asked leave to summarize.

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CLERK:

LCO 3885 designated House "A" offered by  
Representative Lawlor.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. This provides the authority where apparently the authority may not exist currently for the chief judge of the Appellate Court to assign senior judges of the Appellate Court to sit not just on the Appellate Court but also as judges of the Superior Court.

If they're going to sit as judges of the Superior Court that designation would have to be made by the Chief Court Administrator. Just to emphasize Mr. Speaker, these are judges who are fully qualified to sit in those positions and this simply clarifies that the authority that everyone already assumed they already had was to sit as normal Superior Court Judges even though they've reached Senior Judge status, I would urge adoption.

DEPUTY SPEAKER HYSLOP:

Questions on adoption of House "A" will you remark on House "A"? Representative Powers.

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REP. POWERS: (151st)

Thank you Mr. Speaker. A quick question through you to the proponent of the amendment please.

DEPUTY SPEAKER HYSLOP:

Proceed.

REP. POWERS: (151st)

Thank you Mr. Speaker, through you. Is this codifying existing practice? Through you Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. Through you, yes it is.

DEPUTY SPEAKER HYSLOP:

Representative Powers.

REP. POWERS: (151st)

Thank you and was this practice instituted to move business through the courts more quickly and more efficiently? Through you.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. Yes, it was. And I think it's just important to emphasize that a normal Senior Judge is -- in other words not Senior Judge of the

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Appellate Court -- but Senior Superior Court Judges have the authority, are able to be assigned these tasks. Ironically we'd never specifically address the issue of Senior Appellate Judges -- there's not many of them -- but some of them are more than willing to sit on cases at the moment and this just makes it clear that they have the right to do that. Through you Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Powers.

REP. POWERS: (151st)

Thank you Representative Lawlor and thank you Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on House "A?" Will you remark further on House "A?" Representative Belden.

REP. BELDEN: (113th)

Thank you Mr. Speaker. Do I, through you Mr. Speaker, do I understand now we're going to let the Chief Court Administrator designate Superior Court Judges to be Appellate Court, to handle Appellate Court business, is that the intent of the amendment? Through you Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

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REP. LAWLOR: (99th)

Thank you Mr. Speaker. No, that's not the intent. The intent is simply to allow, all of this relates to the powers of Senior Appellate Court Judges. Currently, the Chief Court Administrator has the ability to assign Senior Judges to sit in normal, in regular cases. There is a practice where Senior Appellate Judges have also been similarly assigned.

It's not crystal clear that that authority exists in the statute, so this would clarify it. But this would allow this, the Chief Court Administrator to assign a Senior Appellate Judge to sit as a judge in a Superior Court case. Through you Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Belden.

REP. BELDEN: (113th)

Okay, I guess the word on line nine, Senior means, that essentially means a judge who has retired? Through you Mr. Speaker. An Appellate Court Judge who has retired.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker, yes. There's two

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designations, senior judges -- a Superior Court Judge can become a Senior Judge which means they're not, they don't have full time responsibilities at age 65 if they so choose. And they may serve in that capacity until they're 70 at which point, if they would like to continue they're considered to be referees. Through you Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Belden.

REP. BELDEN: (113th)

Thank you Mr. Speaker. I thank the gentleman for his response.

DEPUTY SPEAKER HYSLOP:

Representative Dickman.

REP. DICKMAN: (132nd)

Thank you Mr. Speaker. Through you a question to the Chairman of the Committee please.

DEPUTY SPEAKER HYSLOP:

Proceed.

REP. DICKMAN: (132nd)

Through you Mr. Speaker to Representative Lawlor. These Senior Judges are they serving an appointed term?

Is there a term involved or are they -- just automatically get there and does term expire?

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DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. All judges, whether they're Superior, Appellate or Supreme Court or whether they're senior or referee status serve eight year terms. So if a person is appointed to an eight year term at age 59 for example they would normally finish it at age 67. Once they turn 65 they have the option within their eight year term to become Senior Judges in which case they would have two more years left if they wished to continue as a senior judge they'd need to be reappointed by the governor, reconfirmed by the legislature and I they get eight more years that would last into their referee status if they chose to continue acting as a referee. Through you Mr. Speaker. DEPUTY SPEAKER HYSLOP:

Representative Dickman.

REP. DICKMAN: (132nd)

Thank you Mr. Speaker. Through you I thank the gentleman for his wonderful answers.

DEPUTY SPEAKER HYSLOP:

Will you remark further on House "A?" Will you remark further on House "A?" If not, we'll try your

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minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed? The ayes have it, House "A" is  
adopted. Will you remark further on the bill as  
amended? Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. The Clerk has LCO 8189. I  
would ask that the Clerk call and I be permitted to  
summarize.

DEPUTY SPEAKER HYSLOP:

Clerk please call LCO 8189 to be designated House  
"B."

CLERK:

LCO 8189 designated House "B" offered by  
Representative Lawlor.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. This amendment gives the  
Attorney General specific authority to bring an action  
or intervene in an action in the name of the state and  
on behalf of the taxpayers within the state who are

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adversely affected by the imposition, the change in New York state law which allows New York City to collect income taxes from its own residents who are employed in the city of New York and persons who are residents of the state of Connecticut or New Jersey or other states, but not to collect New York City income tax from New York state residents who do not reside within the city of New York. I think everyone agrees that this an outrageous and extraordinarily unfair action. I think the Governor and the Attorney General concur in this regard as do I think every member of the General Assembly.

This would give the Attorney General specific authority to bring this action in case that authority is ever questioned. I urge adoption.

SPEAKER PRO TEMPORE HARTLEY:

Will you remark further on House amendment "B?"  
Will you remark further on House amendment "B?"  
Representative Prelli, Representative Farr.

REP. FARR: (19th)

Madam Speaker, I concur in support of this amendment. It is pretty clear that the actions of the state of New York will not withhold Constitutional scrutiny by the federal court. Clearly for them to tax

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people and to exempt people from taxation people who are residents of the state of New York from the New York City taxes and then attempt to tax residents of the state of Connecticut and New Jersey will not stand. This is a very easy case to prevail on.

But the only issue is whether or not the Attorney General had the standing to bring the action. Because the action is not brought on behalf of the state of Connecticut it is being brought on the behalf of some residents of the state. And so this legislation will simply clarify that he does in fact have the authority to do that. And I would assume that he will prevail very quickly with this action and I would urge passage of the amendment. Thank you.

SPEAKER PRO TEMPORE HARTLEY:

Thank you sir. Will you remark further on House "B?" Will you remark further on House "B?" Representative Prelli.

REP. PRELLI: (63rd)

Thank you Madam Speaker. Madam speaker, through you a question to the proponent.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question sir.

REP. PRELLI: (63rd)

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Representative Lawlor could you, is this strictly drawn so that it will only be this one case or will there, could there be future cases that might fall under this that we don't foresee now? Through you Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Madam Speaker. This would apply in this particular situation. We can only hope that the New York state General Assembly and Senate and their governor learn their lesson this time and don't try this again. But if they tried it again they would, the Attorney General would have the authority to bring another action against it. I think everyone would agree that it's about time they stop wasting the New York state taxpayer's money on this type of stuff as well and just repeal the law. Through you Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you sir. Representative Prelli.

REP. PRELLI: (63rd)

Thank you Madam Speaker. And I thank the gentleman for his answers. I think that whenever we do this, I think that sometimes we just have to be very specific

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and I just wanted to make sure that we weren't making this so broad that a lot of other things could fall under it. Thank you Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you sir. Will you remark further on House "B?" Representative Powers.

REP. POWERS: (151st)

Thank you Madam Speaker. I rise in support of this amendment. This directly affects a number of my constituents who travel to and from on Metro North every day. And they will be delighted that we're doing this.

Thank you.

SPEAKER PRO TEMPORE HARTLEY:

Thank you madam. Will you remark further? Will you remark further on House "B?" If not I will try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

Those opposed nay. The ayes have it the amendment is adopted ruled technical. Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, staff and guests please come

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to the well, members kindly take your seats the machine will now be open.

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 HARTLEY:

Have all the members voted? Please check to see that your vote is recorded properly. The machine will now be locked. The Clerk will please take a tally. The Clerk will please announce the tally.

CLERK:

SB1369 as amended by Senate "A," and House "A" and "B."

Total Number Voting	150
Necessary for Passage	76
Those voting Yea	150
Those voting Nay	0
Those absent and not voting	1

SPEAKER PRO TEMPORE HARTLEY:

Bill as amended is passed. Will the Clerk please return to the Call of the Calendar. Calendar 224.

CLERK:

On page eighteen. Calendar 224, substitute for

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PART 6  
1791-2127

1999

In addition, the proposal would ensure that the Governor has all the available information relative to judges' reappointments.

I urge your support of that bill.

Also, I would like to testify with regards to HB7077 and SB1136, both of which concern sheriffs.

The issue of courthouse security is one of vital importance to the judicial branch. The branch, as you know, has the responsibility for operating all court facilities including repair, renovation, ADA codes, and other code compliance. Security is a primary function in the operation of court facilities.

The current system where the judges preside -- presiding judges oversee the duties of the sheriffs in the courtrooms and the sheriffs generally are in charge of security for the building under the existing statute. As a whole, this has resulted in a lack of coordination and inconsistency.

It has long been the judicial branch's position that judges should oversee security of the entire courthouse. Should the Legislature so decide and provide that we are given the opportunity with appropriate resources, we stand ready to assume full responsibility for this important function.

On the other hand, if it is the decision of the Legislature that a study should be taken under the provisions of Section 7 of the bill, the judicial branch would be pleased to participate in any such study.

Thank you for the opportunity to appear here this afternoon. I'd be glad to answer any questions.

REP. LAWLOR: Thank you, Judge. Are there questions? If not, thank you very much.

Attorney Fuller.

DEBORAH FULLER: Good afternoon. My name is Deborah Fuller. I'm here today on behalf of the judicial

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JUDICIARY COMMITTEE

March 29, 1999

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branch. I've submitted written testimony and I will just briefly summarize.

Three of our bills are before the committee today and we would urge the committee's support of those bills. SB1366, AN ACT CONCERNING ELECTRONIC MONITORING; SB1368, AN ACT CONCERNING SUPPORT ENFORCEMENT; AND SB1369, AN ACT CONCERNING THE STATEWIDE GRIEVANCE COMMITTEE.

The Statewide Grievance Committee - I have attached an amendment to that which would basically take a lot of the procedures out of statute and leave them to the rules. Currently, they're inconsistent and we believe it would be better to have them in one place.

There are a few other bills that I would like to address. HB5432, AN ACT CONCERNING THE GOVERNMENT ATTORNEY CLIENT PRIVILEGE, we supportive of that bill, but we are suggesting an amendment to it so that it would cover attorneys and employees of the judicial branch a little bit more broadly than it currently does.

SB1350 and HB7002, those two bills both have to do with juvenile matters and review by the prosecutors. We are opposed to those bills because we think that one, they would change the nature of juvenile court, and secondly, it would create a backlog because we don't think that the prosecutors who are currently in the court could absorb that additional task of reviewing all of the referrals.

HB7076, AN ACT CONCERNING ADOPTION OF CHILDREN IN STATE FOSTER CARE. We are asking that Section 14 of that bill be deleted and it's our understanding that the proponents of the bill have agreed to that.

And finally, HB5966, AN ACT CONCERNING SURROGATE MOTHERS, etc. We are suggesting that the procedure be put in Probate Court because we think it's more suitable.

Thank you.

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**State of Connecticut**  
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**Testimony of Deborah J. Fuller**  
**Judiciary Committee Public Hearing**  
**March 29, 1999**

**Senate Bill 1369, An Act Concerning the State-Wide Grievance Committee**

My name is Deborah Fuller and I am pleased to testify in support of *Senate Bill 1369, An Act Concerning the State-Wide Grievance Committee*, which was submitted as part of the Judicial Branch's legislative package.

The purpose of the bill is to conform the statutes and rules pertaining to the attorney grievance process. Unfortunately, the statutes and rules that delineate the process for filing a grievance against an attorney are inconsistent. I would like to take this opportunity to respectfully request that the committee consider the substitute language that I have attached to my testimony. This amendment would go further than the bill before you by repealing the specific procedures that are currently in statute, thus leaving it to the judges of the superior court to adopt rules to delineate the process and procedures regarding grievances filed against attorneys. These rules, which are currently referred to in section 51-90 of the general statutes, already exist and are being followed. The deletion of the statutory procedures will make the process more understandable because it will eliminate the confusion that results from two inconsistent processes. Therefore, I would urge the committee to support the substitute language.

Thank you for the opportunity to testify.

Proposed Amendment to

Senate Bill 1369, An Act Concerning State-Wide Grievance Committee

Delete lines 21 through 25 and insert in lieu thereof:

Section 2. Section 51-90a of the general statutes is repealed and the following is substituted in lieu thereof:

In addition to any other powers and duties set forth in section 51-90 [to 51-91b, inclusive] the State-Wide Grievance Committee shall have the power and duty to: (1) Adopt rules for procedure not inconsistent with the general statutes or rules of court; (2) investigate and present to the court of proper jurisdiction any person deemed in contempt under section 51-88 and (3) adopt rules for grievance panels to carry out their duties which are not inconsistent with the general statutes or rules of court.

Section 3. Section 51-90b through and including 51-90h are repealed and the following is substituted in lieu thereof: The Superior Court, in accordance with rules established by the judges of the Superior Court, may (1) establish grievance panels in each judicial district, (2) appoint an attorney to act as State-Wide Bar Counsel, (3) appoint attorneys to serve as grievance counsel for grievance panels, (4) appoint one or more investigators to serve the State-Wide Grievance Committee, (5) establish the procedures for filing a complaint alleging attorney misconduct; (6) establish the procedures for referring a complaint to a grievance panel; (7) establish the process for investigating and determining complaints of attorney misconduct by the grievance panels; (8) establish reviewing committees for each determination made by a grievance panel on a complaint; (9) establish the procedures to hold hearings on the issue of the eligibility of an attorney who has been convicted of a felony to continue the practice of law in this state and (10) establish procedures to reinstate attorneys.

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Section 4. Sections 51-91a through and including 51-94 are repealed.