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CONNECTICUT
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PROCEEDINGS
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Senate

Wednesday, June 9, 1999

Thank you, Madam President. I would ask that this
be pass retained.

THE CLERK:

Calendar 618, File 378, Substitute for HB6807 An
Act Concerning Access to Alcohol Records, as amended by
House Amendment Schedule "A". Favorable Report of the
Committee on Judiciary. The Clerk is in possession of
an amendment.

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 in concurrence with the House.

THE CHAIR:

The question is on passage. Will you remark?

SEN. WILLIAMS:

Yes, Madam President. This has to do when someone
has been arrested or investigated for drunk driving, in
that instance a person may make a written request to the
investigating police department as to the records
involving that investigation of the drunk driving.

Such person may be a person injured in an accident
caused by the alleged violation or any party to a civil
claim or proceeding arising out of such accident for

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which the police did investigate for drunk driving, and obtain regular or certified copies of any record concerning the operation of the motor vehicle by such defendant while under the influence of or impaired by the consumption of intoxicating liquor or drugs.

THE CHAIR:

The question is on passage. Will you remark? Will you remark? Senator Williams.

SEN. WILLIAMS:

Assuming there's a Consent Calendar, I would move this to the Consent Calendar, without objection.

THE CHAIR:

Without objection, so ordered.

Senator Jepsen.

SEN. JEPSEN:

Madam President, I would ask at this time we take about a five minute recess to consider other action.

THE CHAIR:

The Senate will stand in recess subject to the Call of the Chair.

On motion of Senator Jepsen, the Senate at 9:12 p.m. recessed.

The Senate reconvened at 9:37 p.m., the President

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Consent Calendar at this time.

THE CHAIR:

Mr. Clerk, would you first announce a roll call vote on the Consent Calendar and then call it.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

Consent Calendar No. 7 begins on Senate Agenda No. 5, Substitute for SB1352.

Substitute for SB801.

Calendar Page 1, Calendar 149, Substitute for SB995.

Calendar Page 5, Calendar 573, HB6666.

Calendar Page 7, Calendar 613, Substitute for HB6667.

And Page 8, Calendar 618, Substitute for HB6807.

Madam President, I believe that completes Consent Calendar No. 7.

THE CHAIR:

Thank you, Sir. Would you once again announce a roll call vote on the Consent Calendar. The machine

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will be opened.

THE CLERK:

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

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

THE CHAIR:

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

THE CLERK:

Motion is on adoption of Consent Calendar No. 7.

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.

SEN. JEPSSEN:

Madam President.

THE CHAIR:

Senator Jepsen.

SEN. JEPSSEN:

I move for immediate transmittal of all the items acted upon except for Calendar 149 from Page 1 to the House of Representatives.

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At this time, the Chair would like to appoint two Conference Committees. The first Conference Committee is for House Bill 7057. It will consist of Representative Fox, Representative Abrams, Representative John Ryan.

The second Conference Committee, House Bill 6975, will consist of Representative Dargan, Representative Lawlor and Representative John Stone.

(Speaker Pro Tempore Hartley of the 73rd District in the Chair.)

SPEAKER PRO TEMPORE HARTLEY:

Would the Clerk please return to the call of the Calendar? Calendar 342.

THE CLERK:

On Page 6, Calendar 342, Substitute for House Bill No. 6807, An Act Concerning Access to Alcohol Records. Favorable Report of the Committee on the Judiciary.

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor, you have the floor, sir.

REPRESENTATIVE LAWLOR: (99th)

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

SPEAKER PRO TEMPORE HARTLEY:

The motion is acceptance and passage. Will you

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remark, sir?

REPRESENTATIVE LAWLOR:

(99th)

Thank you, Madam Speaker. This bill solves a problem which has been identified in some civil suits which are the aftermath of drunk driving accidents. Madam Speaker, all this bill would do is to make it clear that in a situation where someone was a defendant, in other words, they're getting sued in a civil suit because they caused an injury in the aftermath of a motor vehicle accident where they were charged with drunk driving, and that person took advantage of the Alcohol Education Program, that the records reflecting the blood alcohol content and the other facts and circumstances surrounding the accident and its investigation, that that information would be available to the parties to the lawsuit, just as most information would be available through normal Discovery, notwithstanding the fact that the participation in the Alcohol Education Program generally results in the file being sealed and ultimately the records being erased once the case has been dismissed.

To make a long story short, Madam Speaker, this bill would make it possible for persons injured in drunk driving accidents to get access to the police investigation even if the drunk driver gets into the

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program and the file is ultimately sealed.

I think it's an appropriate safeguard and assures the rights of victims in drunk driving cases. And I'd urge passage.

REPRESENTATIVE TULISANO: (29th)

Madam Speaker?

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Madam Speaker, the Clerk has amendment, LCO 3887.

SPEAKER PRO TEMPORE HARTLEY:

The Clerk is in possession of LCO 3887, to be designated House "A". Will the Clerk please call?

THE CLERK:

LCO No. 3887, House "A", offered by Representative Tulisano.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano has asked leave to summarize.

You may proceed without objection, sir.

REPRESENTATIVE TULISANO: (29th)

Yes. Madam Speaker, this amendment sort of straightens -- sort of rewrites to some extent the underlying bill as explained by Representative Lawlor, maintaining the integrity of what he indicated to you.

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But it just indicates that police departments will keep records for two years that he was talking about.

Written requests go to the police department and the investigating police departments furnish certified copies and how much they could charge for any of the information that was being sought.

This sort of lays it out very simply. It gets the individual to be able to get it. It doesn't have to go to the court. We have the Court Clerk's records that get sealed and unsealed. You have the Motor Vehicle Department records that you have to deal with. This just says it's in the State Police Department where you would get it. And they normally have those records available. And I think those records -- it just makes it clear they have to keep them for two years. And all the information can be obtained.

I move its adoption.

SPEAKER PRO TEMPORE HARTLEY:

The question is adoption of House "A". Will you remark further? Will you remark --

REPRESENTATIVE LAWLOR: (99th)

Madam Speaker?

SPEAKER PRO TEMPORE HARTLEY:

Representative Lawlor.

REPRESENTATIVE LAWLOR: (99th)

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Madam Speaker, I'd urge adoption as well. I think it's an important addition to the bill.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Lawlor.

Will you remark?

Representative Belden.

REPRESENTATIVE BELDEN: (113th)

Thank you, Madam Speaker. Not being familiar with this activity, could somebody -- through you, Mr. -- Miss -- yeah -- Madam Speaker, through you, to Representative Tulisano.

SPEAKER PRO TEMPORE HARTLEY:

Speaker. Whatever.

REPRESENTATIVE BELDEN: (113th)

Yeah. Whatever.

Is there something magic about this two years? Is that when the statute of limitations runs out on ability to sue or --

REPRESENTATIVE TULISANO: (29th)

Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Exactly. There is a two-year statute of limitations for negligence cases or cases which arise.

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And that's where we kept it.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Representative Belden.

REPRESENTATIVE BELDEN: (113th)

Thank you, Madam.

SPEAKER PRO TEMPORE HARTLEY:

Will you remark further on House "A"? Will you
remark further on House Amendment "A"?

Representative Powers.

REPRESENTATIVE POWERS: (151st)

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

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, Madam.

REPRESENTATIVE POWERS: (151st)

Thank you, Madam Speaker. Through you, to
Representative Tulisano. The Section 1 in the file
talks about revealing the information to a person who is
injured or part of an accident as a result of this
person's drinking. In Line 20 of your amendment, it
says that the police department will provide copies to
any person. Through you, Madam Speaker? Is this any
person at all in the public or, through you, is this
still limited to someone who is involved in the accident

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or injured? Through you.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker. This keeps them, the police records, as public records, as which they are. So anybody can make that request. The purpose of the language, however, is -- the purpose of the design is so that, as I understand it, individuals who may be on the other side of the fence may want information, also. Predominantly insurance companies. But, yes, that's the reason why it's there. The original bill is sort of narrow. Narrower.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Representative Powers, you have the floor.

REPRESENTATIVE POWERS: (151st)

Thank you, Madam Speaker. And, yes, that was kind of where I was getting. So the use of the word "person" in Line 20 could also mean a corporation or a company? Through you, Madam.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker. Yes.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

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Representative Powers.

REPRESENTATIVE POWERS: (151st)

Thank you, Madam Speaker. Thank you,
Representative Tulisano.

SPEAKER PRO TEMPORE HARTLEY:

Will you remark further on House Amendment "A"?

Will you remark further on House "A"?

If not, I will try your minds. All those in favor
indicate by saying Aye.

VOICES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

Those opposed Nay? The Ayes have it. The
amendment is adopted.

Remark further on the bill as now amended? Remark
further on the bill?

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Madam Speaker, the Clerk has amendment, LCO 9664.
If the Clerk would call? And may I be allowed to
summarize?

SPEAKER PRO TEMPORE HARTLEY:

The Clerk is in possession of LCO 9664, to be
designated House "B". Will the Clerk please call?

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LCO No. 9664, House "B", offered by Representatives
Mushinsky, Dandrow, et al.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky has asked leave to summarize.

You may proceed, Madam, without objection.

REPRESENTATIVE MUSHINSKY: (85th)

Thank you, Madam Speaker. This amendment is a heavily revised version of a former bill, 5843, which the Children's Committee originated and the Human Services Committee held without acting on it.

The bill would have provided protection for children with severe medical needs. The Kids Committee wrote the bill. After we learned of some truly horrendous fates that befall certain newborns due to their special medical needs combined with the neglect by their parents, these infants present significantly more health and caregiver needs. But, ironically, they get less help, according to the folks that treat them, the pediatric nurses and the pediatricians of Greater New Haven, the nurses led by Rosemary Sullivan, one of my constituents.

We have substantially revised this bill. I'm going to move adoption and then go through the changes for you.

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SPEAKER PRO TEMPORE HARTLEY:

Thank you.

REPRESENTATIVE MUSHINSKY: (85th)

I move adoption of the amendment.

SPEAKER PRO TEMPORE HARTLEY:

The question is adoption of House "B". Will you remark further, Madam?

REPRESENTATIVE MUSHINSKY: (85th)

Thank you, Madam Speaker. The bill expands the definition of "child neglect" to include a custodial parent's failure to follow the hospital discharge plan for the medically needy infant and by such failure places that infant in danger. That's in Section 4.

It also allows any hospital or licensed health care provider to alert the Department of Children and Families regarding a newborn in danger because of a combination of the newborn's special medical needs and a reasonable belief by the hospital or medical provider that the newborn will be denied proper medical care and attention. That's in Section 3.

Section 3 also includes an instruction to DCF to complete an investigation prior to the hospital discharge of the newborn. DCF shall include an assessment of several criteria, including the failure of the parent to participate in services offered in the

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hospital to meet the special needs of the newborn and the willingness of the parent to access support services within their family or community. This is basically the DCF manual plus a new criteria regarding the hospital services that we added.

Section 3 also goes on to provide that not less than three days after a high risk of neglect newborn -- and there are about 500 a year in Connecticut -- is released from the hospital, DCF shall arrange for home visits to this family, which will go on for at least four weeks to ensure that the parent understands how to meet the infant's special medical needs.

And Section 4, as I alluded to, sets down a new category of neglect; a child who has been substantiated at high risk by DCF and their parents are not following the discharge plan and the failure to follow the plan places that child in danger.

On the Children's Committee, we believe this measure will address the concerns of the medical staff who labor long and hard to save these children's lives and wish to save them after they leave the hospital as well.

I'd like to thank everybody who helped rewrite the bill, including -- and especially Representative Kerensky, Al Wilson of DCF, Judy Blye and our attorneys,

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Saul Spiegel and Cathy Bernstein.

And I'd like to urge your support for this amendment and a second amendment which clarifies the timetable that I will call after this one.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Mushinsky.

Will you remark further on House "B"?

REPRESENTATIVE DICKMAN: (122nd)

Madam Speaker?

SPEAKER PRO TEMPORE HARTLEY:

Representative Dickman.

REPRESENTATIVE DICKMAN: (122nd)

Thank you, Madam Speaker. Through you, to the proponent of the amendment, a question please?

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, sir.

REPRESENTATIVE DICKMAN: (122nd)

Thank you. Would Representative Mushinsky tell me if there's a fiscal note on this --

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE DICKMAN: (122nd)

-- and share it with us, if she could? Through you, Madam Chairman.

SPEAKER PRO TEMPORE HARTLEY:

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Yes. Thank you, sir.

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Yes, I have the fiscal note. It says uncertain potential, indeterminate savings.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Representative Dickman.

REPRESENTATIVE DICKMAN: (122nd)

Thank you, Madam Speaker. And thank the lady for the information.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Will you remark further?

Representative Dandrow.

REPRESENTATIVE DANDROW: (30th)

Yes, Madam Speaker. I rise in support of the amendment. Frequently we always talk about denying medical care. We've all had those calls from constituents who weren't covered for their medical care.

And we now have a newborn baby born with a very special need as a result of their mother's addiction, needing medical treatment. They usually are not your typical cooey baby. In fact, many of them are very irritable

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and withdrawal for them is as dramatic as it is for an adult.

Usually, in many cases this has not been the first baby born of an addicted mother and they tend to deliver and leave rather quickly, within a few hours. This is, indeed, not good for the newborn baby.

This proposal allows a support plan, both to assist the mother or the parents both before discharge and after with home visitation. We have all heard about the success of the Healthy Family Program, which is a home visitation which gets at prevention before the abuse happens.

Many of these children have returned to the emergency room weeks later in dire medical need of medical treatment. And I urge support on the behalf of these newborn babies of my colleagues please.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Will you remark further on House "B"?

REPRESENTATIVE TULISANO: (29th)

Madam Speaker?

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Yes, Madam. Through you, Madam Speaker, a question

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to the proponent of the amendment.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, sir.

REPRESENTATIVE TULISANO: (29th)

As I understand the amendment, that DCF must conduct an investigation prior to discharge of an infant from the hospital? Through you, Madam Speaker. Is that correct.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Yes, that's what the amendment says. And I would alert my colleagues that there's a timetable problem with that line and we are going to correct it with the following amendment.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

And I gather -- I just wanted to know if the -- is

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there any mandate in here for hospitals to keep children until -- how do we force hospitals to keep children until that investigation is done, if it isn't done in a timely manner? Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. There is no force on a hospital. As a matter of current practice, the infants are often kept for a month if they are drug exposed and at least seven days, generally speaking. So the pediatricians do not see a problem with the timetable if the second amendment is called and adopted.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Mushinsky.

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Does high risk infant only relate to drug or alcohol or children who have some kind of withdrawal symptoms? Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

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No. Madam Speaker, through you. There could be other reasons. A baby could be premature. The mother could be very, very young. As folks in here know, we have some mothers that are only 12 and 13 years old. So there could be other special medical needs.

REPRESENTATIVE TULISANO: (29th)

So, Madam Speaker, another question.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Does this mean that the age of the mother who God and nature has given the ability to bear children may have their children taken away from them, the determination the child is at risk because of their age?

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Definitely not. There have to be the combination of the high risk category plus the parents are not following the discharge plan of the hospital and not participating in the program of supervision arranged by the department and, third, failure to follow that plan or participate in the program places the infant in danger.

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REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker. By definition --

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

By definition, does the age of the mother be one of the indicia by which -- Representative Mushinsky said that was what could be a high risk infant, born to a teenaged mother. That makes it risk in and of itself. Or is that not quite true? Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Existing DCF manual policy does flag very young moms because they tend to have more difficulties with dealing with child raising.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Then is the criteria the age or their ability -- or it's some kind of bureaucrat's determination of what's appropriate child raising? Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

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Through you, Madam Speaker. In this amendment, which I now have to get back -- in this amendment, it's the special medical needs of the infant plus a reasonable belief by the hospital or health care provider that the newborn will be denied proper medical care and attention.

So, in our amendment it's a combination of two things; the condition of the infant and a reasonable belief that the newborn will be denied proper medical care and attention.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Mushinsky.

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

So what standards are we going to impose upon the agency to determine what reasonable belief? Is it just the wrong color? Wrong age? Wrong ethnic group? Wrong culture? What are the kinds of indicia in addition to -- because, obviously, relationship between the mother and child is only one part of this. We have heard that if the mother doesn't do something for herself the hospital thinks is appropriate and then we've just heard some policy manual red-flags people. But now we're not

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red-flagging for help in this. We're red-flagging people so that we may remove their children from them because that's neglect and abuse.

So I'm trying to find out what standards we're establishing for the State to interfere in the family, if there are any standards, or just is it the parameters the agency determines it's going to have?

Thank you. Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. The easiest way to determine -- and this is the one that was brought to our attention by the medical team. The easiest way to determine is that the parent never, not once, appears in the hospital to either visit the newborn or to learn the proper treatment of a newborn undergoing withdrawal. The parent never appears, gets no information or training and just shows up on the final day and picks up the infant, with no information or training, even though the staff has tried to get this parent in to help instruct them in how to care for a child with special medical needs.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker.

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SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

So we're not limiting to children who are born high risk, only those who are to be discharged with special medical needs. Is that -- is it limited to only that now? Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. This first 3-A is only the phone call. This is the referral to DCF of any newborn in danger because of the medical needs of the infant and a belief by the practitioner that the newborn will be denied proper medical care. So those things trigger the first phone call to DCF. There's a long process that's involved here. That's the first step.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

I guess I'm still trying to find out what the criteria we're establishing with the agency to believe that they will not be providing adequate medical care. For a belief that in the future there will be -- this

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sounds like another debate we've had. This is a belief that in the future somebody may not act the way somebody thinks they should triggers a State DCF intervention in your family. Do I understand that correctly?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. We already have a reporting going on for these types of children. We have about 500 a year reported. That was where I got the statistic from initially. And --

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Have you finished, Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

And we are clarifying that there is a belief by the professionals who have saved this child's life that the newborn will be denied proper medical care and attention because, when they tried to bring in this parent for special training on how to keep this child -- how to maintain this child and help wean them off the substances and meet their nutritional needs and so on, the parent does not even appear to learn of this information, which is a very bad sign that when the

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parent goes home, this child will cease getting the proper medical care that they need.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker. So the question is --

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Again, I'm going back to it. It's not the actions of the parent with regard to the child, which I think is abuse and neglect as we understand it and as permeates our statute, but it is what somebody believes the future will hold and we're going to pre-empt that possibility.

Is that what I understand?

REPRESENTATIVE MUSHINSKY: (85th)

No, Madam Speaker. Through you. We are only talking right now about the referral phone call. Now, that triggers the DCF investigating prior to the discharge -- or we're going to change the timetable in the next amendment. And then they must substantiate that the newborn is at high risk of neglect. And how they do that is they check such information as whether the mother is willing to allow the visiting nurses to come in and help her, whether the baby is thriving, whether the baby is eating, whether the mother is willing to accept a parent aide, whether the mother has

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provisions for a sleeping place for the baby, whether the home is safe, whether there's formula in the house, things that a baby needs.

In other words, is the mother paying attention at all to the fact that there's a newborn in this house that's going to need some care and especially this type of newborn who, as the doctors know and have told us, requires extra attention to maintain this newborn.

Is there a safe place for this baby to sleep? Some of these parents have taken the newborn home and let them sleep on the sofa with them and then rolled over and killed the newborn because they smothered them. There was no preparation made to keep this child in the home. The parent was not equipped to keep this child in the home.

REPRESENTATIVE TULISANO: (29th)

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

Well, then the inability for a parent to equip themselves to keep a child in a home, this is a new standard by which we're going to let the State interfere in every home?

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Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. No. This is the investigation stage. Now, then there is a four-week -- if the stage is confirmed -- if these problems are confirmed by the investigation, then there's a four-week supervised visit program that's sort of a miniature version of Healthy Families that you hear Jack and I talk about all the time. This is the mini version of Healthy Families comes in to help this family take care of this child.

And after four weeks, if still this mother is incapable of carrying out the demands of this medically needy child, is ignoring the doctor's plan, and the failure to follow the plan places the infant in danger, then DCF can take them in on an abuse -- on a neglect -- excuse me -- on a neglect case. And then it would still have to go through all the very difficult court procedures. So there's a whole due process that happens at the end of all of this process.

REPRESENTATIVE TULISANO: (29th)

Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Tulisano.

REPRESENTATIVE TULISANO: (29th)

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I hear -- I mean I hear two or three different things being stated by the proponent of the amendment. Now, mother rolls over on a couch. This is a high risk infant. We know of plenty of cases where children do sleep in beds with their parents and that has happened and not a high-risk incident. That may or may not be the smart thing to do. But people do it. There are cultural reasons why that occurs. But we in this country and our educated pediatricians don't happen to agree with it. But there may be some other people who think it's okay.

We also hear stories about not having a bed. Well, poverty -- a number of the issues that Representative Mushinsky has indicated as indicia for the State to investigate you. I mean that's what you're telling about. Do they have formula? Let me tell you, I buy formula for some babies almost monthly because they don't have formula in their house. I give somebody money to buy formula. They don't have it. Now, they're a loving mother as far as I'm concerned. They also don't like the government. And they're more apt to run away than be cooperative the minute people start doing this kind of thing because of exactly government interference in that.

I know we've done -- this is the continuing

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argument. But as we continue to intervene, unless we have some objective standard, not my fear about the future -- this isn't just reporting. This is intervention. It's not what the woman has done to her child. It's what she hasn't done to herself, to accept the education they have seen.

And so I'm not going to ask Representative Mushinsky any more about this particular area. But, you know, just to let DCF -- we're redefining what neglect is. Should the government intervene to make sure people get things is one thing. Should they go in and take your child away and under another set of circumstances seek permanent placement, another thing. Maybe we don't have enough babies for adoption and this is a way of getting them. But, you know, the reality is that there are a number of issues here that really are in, you know, detail of what kind of standards we're going to apply to the government intervention.

I'll have an amendment later on that we expect to debate talking about that same issue. But, you know, here we have a situation where we're not quite sure what a child at high risk is and we know -- we know when a child is high risk. But there are lots of cases we know what it is when we see it, but there's lots of times it's the same thing and we didn't anticipate it.

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I don't think this is clear enough. I don't think for my failure to go to classes or to provide what you think is appropriate, unless it is medically necessary, is necessarily neglect. I mean is it defense, through you, the ability that some other physician told me to do it another way or only the physician or pediatrician at Yale-New Haven, as an example, said that's the way I've got to do it?

Is it okay that my Christian Science minister said, "This is how you do it?" Or is it only -- if I abide by that and my religious beliefs, that that becomes a problem, that now the State will intervene?

I don't know. Those are the kinds of questions I have. And that's the kind of difficulty we have this kind of an amendment.

Thank you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Tulisano.

Will you remark further? Will you remark further?

REPRESENTATIVE FARR: (19th)

Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Farr.

REPRESENTATIVE FARR: (19th)

Madam Speaker. Madam Speaker, I'm someone who has

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had a number of experiences with the type of children we're talking about here. I have a niece who was a crack baby and a nephew who was a fetal alcohol syndrome baby. They were adopted. It wasn't as a result of anything my sister-in-law did.

But I've also been appointed in Juvenile Court and I've represented a number of these children.

Unfortunately, I've usually represented them later at life. And let me just tell you what happens. The national statistics and studies have shown that when children are born that are fetal alcohol syndrome, drug addicted children, 100 percent of those children will ultimately be involved in the Department of Children and Families.

The tragedy is -- the tragedy is that right now in Connecticut, we normally discharge those children into the arms of a mother who herself is an -- has a -- is an alcoholic or a drug addicted person. And the tragedy is that we put at risk the most vulnerable citizens in our state, newborn infants.

What this bill attempts to do and recognize -- and there was testimony from the nurses from the hospitals that deal with this. They're dealing with situations where mothers give birth to drug addicted children or fetal alcohol syndrome children and then the mothers

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don't participate in anything. They may come back and pick up the baby or they may not. And they discharge them out the door with somebody who has no plan for caring for that child and no likelihood of being able to care. And that's what discharge those children into.

What this bill attempts to do is not to take the child away from the mother because the child was born drug addicted or fetal alcohol syndrome but, instead, to intervene. And only by intervening at that earliest moment can we avoid some of the tragedies that have occurred, can we avoid some of the deaths that have occurred, can we -- and only by intervening at the very earliest moment do we have any hope of turning that mother around.

This is a terribly important bill. We're dealing with the lives of infants. It's a very, very real situation. We've tried to put all the protections we could into this bill. I think it's an important bill and I would urge passage of the amendment.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Will you remark further?

Representative Green.

REPRESENTATIVE GREEN:

(1st)

Thank you, Madam Speaker. Madam Speaker, I rise

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with some serious concerns and in opposition to this amendment. I'm not going to repeat what Representative Tulisano I think clearly outlined, that there's some problems in how we determine at risk. Representative Mushinsky mentioned a couple of things.

Just a couple of questions to the proponent of the amendment, through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, Representative Green.

REPRESENTATIVE GREEN: (1st)

I guess I heard withdrawal of the child as being medically at risk. Can you tell me whether or not you have documentation that there are, in fact, children who are having withdrawal symptoms from crack cocaine use of their mothers?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Can you repeat the question?

SPEAKER PRO TEMPORE HARTLEY:

Representative Green, would you kindly repeat the question for Representative Mushinsky?

REPRESENTATIVE GREEN: (1st)

Yes. Do you have any information that indicates that children have medical needs based on withdrawal

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symptoms of crack cocaine based on the use of their mother's use of crack cocaine?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Yes, they do. And I'll get the list for you. For starters, they have to have a withdrawal medication, which is called paregoric.

And that happens usually by the medical team while they're still in the hospital to gradually withdraw the child and try to reduce the stress of withdrawal.

But, in addition, the children have a greater incidence of apnea, anemia, asthma, frequent ear infections, smaller size, vision or eye muscle problems and sleep, feeding and behavior problems.

REPRESENTATIVE GREEN: (1st)

Thank you, Madam Speaker. Madam Speaker, again, if you --

SPEAKER PRO TEMPORE HARTLEY:

Representative Green.

REPRESENTATIVE GREEN: (1st)

Thank you.

If you have a mother in the hospital and you're trying to determine whether or not that child is medically at risk and you're going to do -- DCF is going

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to get involved, are we then to assume that the mother has been discharged? A question, through you, Madam Speaker. If the mother is still in the hospital -- let's imagine the child is in the hospital for four days. The mother happened to stay in the hospital for four days to get treatment. She has not gone home. The hospital is treating the child. Would that mother be considered to be not participating in the discharge plan of the hospital?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. No.

SPEAKER PRO TEMPORE HARTLEY:

Representative Green.

REPRESENTATIVE GREEN: (1st)

Thank you, Madam Speaker. Another question, through you, Madam Speaker. The mother that possibly may be at risk and a child has some medical needs, are we involving the father of that child in any determination as to whether or not there is provided care for that newborn child?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

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Through you, Madam Speaker. Yes.

SPEAKER PRO TEMPORE HARTLEY:

Representative Green.

REPRESENTATIVE GREEN: (1st)

Through you, Madam Speaker. Can you -- can the proponent tell me what would be the father's involvement in whether or not that child is being cared for?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. The hospital staff tries to reach both parents and sometimes additional caregivers. Some of these kids do require so much extra attention that the hospital will sometimes reach out to the extended family as well. But somebody has to -- has to be trained as to the additional problems that will accompany this child, that this child will need special attention and that the family should not turn away offers of help for the special attention, that it is detrimental to that child.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

REPRESENTATIVE GREEN: (1st)

Thank you. Madam Speaker?

SPEAKER PRO TEMPORE HARTLEY:

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Representative Green.

REPRESENTATIVE GREEN: (1st)

If you determine the father and there's a discharge plan or a plan by DCF and you are aware of the father, is the father also has to participate in whatever that plan to say that that child's parents are not participating in a discharge plan or the DCF plan?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Chair. The discharge plan is for the primary caregiver. Now, if the father is not involved in that household at all, he's not the primary caregiver. But many times, the father is involved. And then he would be one of the two caregivers.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Representative Green.

REPRESENTATIVE GREEN: (1st)

Thank you. No further questions. Just a comment.

I think that we have to again tread very lightly on whether or not we want to remove children from their parents and then have them under the custody of the State and then believe that somehow we're going to provide better services.

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I'm concerned that if a child needs medical treatment, it is the responsibility, I would hope, of our medical society to make sure that that child is treated. In terms of what the parent has to do, if the parent has a discharge plan -- one assumption, I could assume that if it's two or three days after the child is born, we have not given any parent an opportunity to even apply or comply with the discharge plan. It's just too soon. We don't know. And I think as Representative Tulisano said, we're sort of predicting those things that could happen. I think we're treading out some serious concerns if we do that.

I am not encouraging that we get involved in removing children from parents before they leave the hospital and then increase our caseload with DCF. I also am concerned that DCF, who I understand has numerous staffing problems as it is, probably -- we're talking about a possible increase -- I think I heard three to 400 new cases it's going to have. It may not say it in the fiscal note that it's going to have a fiscal impact. But you're going to need more social workers because we have consent decrees that talk about the relationship of social workers to clients.

So I think that we really fully haven't thought about this. I don't think at this point there's a need.

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There's a number of avenues that we can protect children. I don't think this is the way.

Thank you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Green.

Will you remark further on House "B"?

Representative Bernhard.

REPRESENTATIVE BERNHARD: (136th)

Thank you, Madam Speaker. Madam Speaker, I rise to support this amendment and I ask the support of the Chamber. I know from sitting on the Select Committee for Children that high risk in this instance, we're talking about drug addicted mothers. We're talking about alcohol fetal syndrome.

Madam Speaker, this amendment focuses on the most innocent of our citizens, the newborns, children who, because of the neglect, the oversight and the indifference of their parents, are born into a world with pain and suffering and, in all probability, a lifelong disability.

If our legislative hearts and concerns do not rush to help these poor and unfortunate citizens, then I suggest to you, Madam Speaker, that we have to regroup and rethink what we do here.

Madam Speaker, a few weeks ago we had a long debate

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on the issues of partial birth abortions because we said we had the responsibility to protect the fetus. I know that we can have no less concern for a newborn whose first days and weeks and months and years of life will be adversely impacted because their mothers chose to drink, smoke and otherwise abuse herself and her fetus during her pregnancy. Madam Speaker, this amendment is about protecting those children from any further abuse.

As a member of the Select Committee on Children, I heard the testimony of the pediatric nurses who described how many of the mothers of newborn children born with fetal alcohol syndrome, born with alcohol and drugs in their bodies, born undernourished and sick, how these mothers did not only not know what they had done but didn't follow even the simplest of instructions to come to the aid of their children.

This bill asks and then requires the mother to own up to the tragedy she has committed and to take minimal steps to address it. She must follow an approved medical plan to take care of her child. It is undoubtedly an intrusion into her life, but the intrusion is necessary if we are going to use the State's influence to ensure that the helpless and the innocents are protected from those who have already proven that they can be dangerous to their health.

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This bill goes out of its way to respect the rights of the mother without abandoning the protection the State must afford all of its citizens and, in particular, its children. I ask you to recall the impassioned pleas of those who reminded us of our responsibility in the youthful offender -- to the youthful offenders languishing in Long Lane and those who spoke emotionally about setting rules for using restraints on children and those who reminded us of our responsibility of protecting children from the sellers of tobacco and the many others who rightfully advocate for the children in our Chamber. Don't the newborns deserve our bias in their favor in this instance, when their mothers have inflicted them with addiction, pain, suffering and prenatal abuse?

I know that once we pass this law, we are imposing upon our administrative agencies yet another charge and on our society yet another child for whom we may have to find a suitable home. And I know our capacity for handling these wards is strained. But I say that if we're going to do meaningful work in this General Assembly, we must find the resolve to protect those children and then to allocate suitable resources to ensure that the hell into which they were born is lessened and mitigated and that these children have some

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chance for a decent life.

Thank you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, sir.

Will you remark further?

Representative Kerensky.

REPRESENTATIVE KERENSKY:

(14th)

Thank you, Madam Speaker. Let me just put it in this perspective. What we're talking about here are medically fragile, medically at risk children. The attempt is to provide, under circumstances that are less than ideal, a supportive, rather than a punitive, path so that if the child has substantiated needs that the DCF investigation will show, then when the discharge plan is crafted, the players in that plan will be not just the dreaded agency, but the medical people who have the expertise and the parents themselves.

Once the plan is crafted, then when the child goes home, the provision of services under the auspices of DCF will be provided for four weeks, twice a week, in the child's home. Okay?

I don't know how many of us have sat through a medical appointment or sat and listened to a professional giving us advice. We listen. We hear. We think we understand. We walk out the door and we can't

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remember what it was all about because of all the accompanying fears and emotions that were present during the meeting.

This is an opportunity to cast the safety net and then, in a supportive and hopefully trusting environment, somebody who may not have the skills may then learn initially, before there is a more disastrous situation, how to help themselves, help their child.

It's not a perfect world and it's not a perfect scenario. But with the knowledge that many of these children for medical and/or other reasons may then be further disadvantaged and revisit the system at a time where it's far more difficult to help, this is an attempt to begin that process.

You've heard the reference to Healthy Families and, in fact, the definition of the program at home is a mini-Healthy Families, a program that has had resounding success, aimed at helping to prevent abuse and neglect.

By giving this program an opportunity, we'll be able to track it and we will know, hopefully by the fact that the children do not re-enter the system with severe problems, that we've been able to provide a bridge at a positive, rather than a punitive time, in the life of the family.

I urge you to support this amendment. Thank you,

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Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Kerensky.

Will you remark further?

Representative Sayers.

REPRESENTATIVE SAYERS:

(60th)

Yes. Through you, Madam Speaker. I have some concerns about this amendment. First of all, I'm not really clear that it talks about drug addicted baby, which the proponent of the amendment has suggested. It talks about newborns at risk. Lots of times babies are discharged and the hospital staff has not had a real long length of time to assess the mother's ability to care for the baby. And initially, in that short period of time, I'm not really clear that they can make an adequate assessment.

Secondly, I would have some concerns as to who is making the determination of what is appropriate care because that varies from person to person. I can tell you many people that go to a pediatrician who tells them not to feed their baby solid food until the baby is four to six months of age or a year of age, and they will tell you that they gave that baby cereal or other things after the baby was a couple of weeks old. Does that mean you're not following the plan?

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I know of a number of other people that would not feel comfortable having someone come into their homes for visits. So, if they were offered that, they might deny those types of visits.

As a visiting nurse, I've been into homes where parents don't have all of the special accoutrements that some people might have when they have a newborn baby and they use a lot of makeshift or make-do types of equipment. But that's not to say those babies are any less neglected or receive less care than babies that have the special nursery waiting for them when they get home.

I think that this is something that really seems like a good idea. But I have some real concerns as to what the language actually says in the amendment. Part of a discharge plan means that the person being discharged, be that the mother and the baby, would sit down and agree to the plan. And it doesn't say anything about that in this amendment, where that the mother has agreed to the plan. If you have formulated a discharge plan that the mother has not agreed to, then it's probably not good discharge planning. So I have some real grave concerns. I think this is something that sounds like a very good idea, but I'm not really clear that it is a good idea.

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Thank you

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Sayers.

Will you remark further?

Representative Kirkley-Bey.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Thank you, Madam Speaker. A couple of questions, through you, to the proponent of the bill.

SPEAKER PRO TEMPORE HARTLEY:

Please frame your question, Madam.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Through you, Madam Chair. How many days are you allowed to stay in the hospital when you have a baby?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Normal delivery, I think we voted it in here, was two days.

REPRESENTATIVE KIRKLEY-BEY: (5th)

And caesarian section was --

SPEAKER PRO TEMPORE HARTLEY:

Representative Kirkley-Bey.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Through you, Madam Chair. And caesarian section is probably three?

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SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Chair. I don't know that one. You might have to ask the Public Health Chair.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Madam Chair, through you?

SPEAKER PRO TEMPORE HARTLEY:

Representative Kirkley-Bey.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Madam Chair, through you. So I am speculating that the reason that this child is being tested is because the mother is coming in showing symptoms of alcohol and drug dependency because there's no way in 24 hours or 48 hours you can tell that substantially. So you're going to do a battery of tests on the child as soon as it enters the hospital and it would be predicated on the mother's condition. Is that not true? Madam Chair, through you.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. It is correct that you cannot always distinguish the alcohol cases in that amount of time. The hospital will sometimes hold the

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infant for a longer period to determine whether alcohol is a factor based on the condition of the mother. The drug addiction can be determined right away.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Representative Kirkley-Bey.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Madam Chair, through you. Will every child that is born be tested?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. I'm not aware of the current hospital policy. All I can tell you is that they currently refer about 500 high-risk newborns per year in Connecticut.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Representative Kirkley-Bey.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Madam Chair, through you. I guess I will not oppose the amendment, even though I have a great deal of concerns about it. But my concern is based on the fact that I have had numerous conversations with the Commissioner of the Department at DCF. And I gave a

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census for you a while back that there are 750,000 children in Connecticut. 42,000 of them are under the care of DCF in one way or another. 8,000 of them are in some kind of out-of-home care. And 300 of them have been approved for adoption. I don't believe the Department of Children and Families can handle the number of children, if it's only 500, born in each one of our five major cities that may be affected with this problem. There are not enough foster homes.

I have always said, and I continue to say, if a child is born into a family that has a problem, the right of first refusal should go to family members. A child should not be taken away from its family because of the conduct of its parent. And I hope that DCF, when they get involved in this situation, because I'm assuming this amendment will pass and this bill as well, will look at that as a way of doing business because there are many -- as was stated earlier, there are many grandmothers who are raising children and siblings who are raising children. And they need to grow up and know their heritage and their culture. And we've been through all of this many, many times. And I hope the Department of Children and Families will be sensitive to that. And I really don't believe they can handle the caseload.

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SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Kirkley-Bey.

Will you remark further?

Representative Dillon.

REPRESENTATIVE DILLON: (92nd)

Thank you, Madam Speaker. This is a better version, this amendment is a better version of a bill that came before the Judiciary Committee. I assume a number of people have referred to that. And I guess I just want to restate some of my concerns about the approach we're taking here.

This is the sort of amendment that one cannot really oppose, I suppose, because it appears that you don't care about children. But I want to frame some of the questions. And I do so from a fairly rich background as a provider. I helped to start the battered women's shelters in this state. A lot of the families where the women were trauma victims who found themselves brought before the Department of Children and Families and sometimes lost custody to their violent husbands because of the effects of their abuse. It was a very, very complicated situation dealing with these families.

And I just want to raise a couple of question. I'm assuming that this is going to pass. And I guess I

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would just like to frame a series of questions about how we continue to deal with some particular issues. And I just -- I want to tell a story.

My sister-in-law lived in England when she was pregnant with her first child. My brother-in-law was there on a visiting fellowship. Under the National Health in England, every new mother had a nurse visit in the post-natal period. It was not a function of the police powers of the state or any coercive attempt to put your child into foster care. It was a health function. And the abuse and neglect in England is lower. And I would suggest that some of that happens because postpartum depression is lower, because the support system exists. And it was not done through any criminal justice measure or through any police powers measure. There was a nurse there telling you how to change the baby, how to feed the baby. And there was a support system there for the inevitable difficulties that ensue after you have a child. It happens to everyone no matter what their social class or their race.

However, I suspect, although I don't know, that the case finding mechanisms frequently will be targeted at the poor. And that's one of the things that troubles me. Neglect is not the same always as abuse. Neglect

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as a matter of statute and enforcement has always been a proxy of poverty. Always.

In the 1850's, the Child Welfare Society was founded in New York to take Irish children because the people who had come from the famine the New York people felt were not caring for their children well enough because they were so poor and they had been altered so much by the dreadful -- what they had gone through coming over here. And many children were taken from the streets when they were selling newspapers and shipped on trains to go to be adopted without the knowledge of their parents.

This is a complicated social policy we're talking about. And we need to understand when we rush in to save the children, one of the consequences, for one thing, is I fully expect as we expand the case definition of neglect that there will be a lot of anger and outrage that neglect cases are exploding when, in fact, we have expanded the definition. That's one.

Number two. Another thing that we need to understand, which is perfectly comprehensible, is the shop floor nature of a pediatric unit. I've worked there. What happens is -- and it's a richly medicalized environment. I met with some of the people who support this initiative. And what happens is many of the people

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who work there come to believe that they care more about those children than the parents do and some of them have contempt for the parents. It's not unusual for the pediatricians to be in an adversarial situation with advocates for the parents, even when the mother may be the victim of abuse or violence. It's a very complicated situation. And it's totally detached from the social conditions that help to create the problems.

That does not mean that I condone in any way neglecting your child. It does mean that sometimes you don't know what happened. I remember as a researcher going to a community health center in the Greater New Haven area and discovering that they had a 50-percent kept appointment rate and they counted an appointment as kept if the mother called and canceled. If a mother doesn't show up for post-natal care because she doesn't have transportation or because her partner beat her, does that -- is that something that means that she's not providing care for her child? And if that's true, is the police power the appropriate remedy? Should we be intervening with a shelter? Should -- what happened after 1989 when we discovered that New Haven had one of the highest infant mortality rates in this country was that we started projects at a number of hospitals throughout this state to intervene to reduce infant

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mortality. And we asked them to tell us what the greatest need was that they saw, the greatest gap in service. And what they told us then and what is still true now is the lack of slots for women who have addiction problems. It's too expensive. You can't bring your children in. You have to meet so many codes.

As we speak, we're trying to get funding for a program where you can bring your children. It's easier to serve men. But it appears that way if you're only providing substance abuse.

But the reality is we have not funded those slots for years. My freshman term, I worked with Norma Gyle, who was also a freshman, and Ann Dandrow to work on this particular issue. It's a long time since then and we're still at square one. That is a serious problem. So passing this amendment is not going to solve that problem.

There are not enough adoptive families in this state to handle that if we can't look at some of the problems of the mothers. We cannot continue rescuing children while demonizing the mothers and ignoring their needs. That's not because I think they're good or because I have an unmitigated belief that they should get a free pass because they're poor. I mean that if we are not providing the services that they need, either in

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mental health, if they're depressed, which we're not doing through Medicaid managed care, we're not doing through the Department of Mental Health and Addiction -- they deal with psychosis there. No one is dealing with depression. That's one of the reasons some of these women do not respond appropriately to care for their children.

So my problem is this. The remedy that's being framed is in terms of the police state and the police powers that we have through the Department of Children and Families. It would be much better, it seems to me, if we would look at this as a health function, recognizing there are some families that are beyond redemption. But we haven't even made the effort to try to identify who they are. That's my problem with the energy behind this and that's my problem with the solution.

Thank you.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Dillon.

Representative Feltman.

REPRESENTATIVE FELTMAN:

(6th)

Thank you, Madam Speaker. And through you, Madam Speaker, a question to the proponent of the amendment.

SPEAKER PRO TEMPORE HARTLEY:

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Please frame your question, Representative Feltman.

REPRESENTATIVE FELTMAN: (6th)

Representative Mushinsky, can you show us in the -- either in the underlying bill or in the amendment the definition of the term "special medical needs" as it's -- as appears on Line 4 of the amendment?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. I'm just going to -- well, for example, the most -- the two most common -- this is about 65 percent of the cases. It's either a positive toxicology for drugs or alcohol use by the mother. Those are the two most common. There are also some less common medical needs, such as premature birth, positive test for disease or other problems. But the two -- severe mental retardation might be another one. But the most -- the two most common, and this would be 65 percent of the DCF referrals, it's a substance abuse exposure by the infant.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Mushinsky.

Representative Feltman.

REPRESENTATIVE FELTMAN: (6th)

Yes. Thank you, Madam Speaker. What I've heard

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the speaker is her own opinion as to what special medical needs are. And the unfortunate problem that we're faced with is that when these mothers and these children are in the hospital, I'm not sure that Representative Mushinsky will be along to define for the families and the doctors what special medical needs are.

And I'm very troubled by the fact that we've omitted -- since the special medical needs is the gateway to the other provisions of this amendment which enables the State to intervene in a very serious and fundamental way in the privacy of the family, which may well be justified in certain cases, but this gateway is not defined in the statute. It's not defined in the bill.

I notice that on Line 122, we have a definition of what an alcohol dependent child is. In Line 126, we have a definition for what a drug dependent child is. But there is no definition of what a child with special medical needs is. And so I believe that we are opening a door that we don't know what's on the other side of it.

To the same degree, I have the same concern with regard to the definition that is provided with a newborn at high risk of neglect, which is contained on Line --

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which is cited on Line 9. And we have five factors that may be -- excuse me. Six factors that may be taken into account for -- to determine whether a newborn is at high risk of neglect in the opinion of the Department of Children and Families.

And I would to the proponent of this bill, which of these six factors are objective? Which of these six factors may be measured in some way that someone who is not emotionally involved or interpersonally involved in this particular case can cite to to determine that a child is at high risk of neglect? Please explain to me, where are the objective factors? What are the objective measures that are contained in this bill for determining that the child is a newborn at high risk of neglect?

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Feltman.

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. First I have to correct the question of the speaker, previous speaker. It is not the case that I did not define special medical needs. They are defined in the DCF intake and investigations manual. And I gave you some of them.

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They are defined. They are currently used. And these cases are submitted from the hospital to DCF now and are coded as high risk already.

What we are doing is now setting forth a series of steps that will happen after this report comes in. And that's what's different about this bill from current policy. But it is not correct to say these are not defined. They are defined. And I can give you some examples of each of the points that are investigated by DCF.

The extent of the mother's prenatal care, that is - - whether they've been going to appointments to their physician, HMO, whatever care that they have, have they been seeing a doctor at all. And that is able to be substantiated.

Two, the failure of the parent to participate in the services offered in the hospital, this is the training I was speaking of that the nurses and doctors attempt to train the parents. And in response to another point, they do do this with the parents. The discharge plans are in regulation and they are done with the parents. But what some of these hospitals are finding is they cannot even get the parent in to sit down with them to come up with a plan.

The third one, the ability of the parent to provide

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care to the newborn, including the provision of appropriate care, this is basic baby things. Are there basic baby things? Does this person act like they have a baby and do they have basic baby supplies? Do they have a place for the baby to sleep? Do they have a safe home, you know, with heat and so on? Is there food for the baby? Do they act as if they know there's someone there dependent on them? Do they have the provisions that a baby needs?

Four, the willingness of the parent to participate in appropriate services for the parent. Now, here is where the key question is is the parent dismissing all efforts to help them deal with their problem or is the parent willing to participate? When we try to send them Healthy Families or we try to send them visiting nurses, do they turn that help away? Will they refuse a parent aide? If we see that the mother is stressed because of her addiction and she needs some help, is she going to refuse the aid we offer her or will she accept it? And is the baby thriving? Is the baby gaining weight or losing weight? Those are things you can measure.

The support services within the family or community, that question is involved with if this person is completely overwhelmed because of their addiction, are they willing to ask their extended family for help?

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Have they been willing to ask their grandmother or their aunt or day care provider or anyone else that the worker offers to assist them? Are they willing to take that assistance?

And finally, the safety and adequacy of the home. Is the baby safe? The DCF has a regular list of things they look for for a safe home for a baby. But these are all things that are investigated by the DCF.

And the point here is the utter vulnerability of this little person. I agree with Representative Dillon.

This is a sad situation when the parent, the caretaker, is also sick herself and the parent is depressed or frightened or for whatever reason is not meeting this child's needs. But that does not mean that we should -- the legislature should write off that second person just because we feel bad for the mom. We have got to intervene and get some help for this other person who is at risk and who the nurses and doctors tell us in the Children's Committee that second person comes back abused, starving, neglected and occasionally even comes back dead. We had a couple of cases in the testimony where the doctors and nurses recommended against discharge. The baby was discharged. The baby came back dead in four weeks. That's the kind of thing the Children's Committee is trying to address.

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So we can either say, "This is too sad. We shouldn't interfere. Let's just forget about it" or we can say the current law is not protecting these children and that if these parents who are sick refuse to accept any help we are offering them and, thus, endanger their child, we should pursue it to the next step.

I would rather intervene and save this child sooner rather than later. And I would point out to you that members of the Finance and Appropriations Committee -- that when we wait until later, it's a much more expensive proposition. We send kids to Lake Grove. 60 or 70 percent of them are damaged due to substance abuse when they were infants. And the staff tells me their average grade school functioning level is third grade, even though they're 15 years old. So either --

SPEAKER PRO TEMPORE HARTLEY:

Representative --

REPRESENTATIVE MUSHINSKY: (85th)

-- we can do nothing about that or we can do this amendment. It's your choice.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Your choice.

SPEAKER PRO TEMPORE HARTLEY:

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Representative Feltman, has your question been answered, sir?

REPRESENTATIVE FELTMAN: (6th)

No. No, it hasn't, Madam Speaker, in my opinion. And I've got to say --

SPEAKER PRO TEMPORE HARTLEY:

You have the floor, sir.

REPRESENTATIVE FELTMAN: (6th)

And I've got to say that I'm really speaking from someone -- and I think everyone in this Chamber -- I think everyone in this Chamber is very sympathetic to the goal that is trying to be reached by this bill. And the question is are we getting there. And does the -- is the bill that's before us the right -- crafted in the correct way so that we arrive at the port that I think we're all trying to get to?

Representative Mushinsky will recall, I hope, that I voted for an earlier version of this bill in the Judiciary Committee. And there was a divided vote on that. But that was a different bill. And I'm troubled by the changes that have taken place in this bill since that vote and since the committee because in the committee my recollection is that these provisions were limited to children who were born with alcohol or drug dependence. And although this bill is entitled An Act

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Concerning Access to Alcohol Records and that is the bill that's being amended this evening, I don't see any link between special medical needs, between the children that are the -- excuse me. Let me take that back.

Between the children who are within the catchment of this bill, the parameters of this bill, and alcohol and drug dependence. I don't see where that prerequisite exists for State intervention. And that is what's troubling me.

And what's -- there were those who said at the time that they did not want to discriminate against mothers of alcohol or drug dependent children. And my feeling at that time was I do want to discriminate. I do want to discriminate because I want to make sure that those kids get off on the right track and I do want to make sure those kids get off on a healthy track. And if the child is born with drug or alcohol dependence, it seems to me that is a reason right there to intervene.

But we've retreated from that, perhaps in response to the reaction of some advocates. And now we've, it seems to me, we've eliminated that prerequisite and now any child -- and please correct me if I'm wrong. But any child, whether they are drug or alcohol dependent or not, may come within the purview of Department of Children and Families for this intervention.

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And my concern is about that -- my concern about that, about having any child who may not -- where their family may not be getting along with the maternity wing of the hospital is that I represent a district with many divisions. I represent a district that has Hartford Hospital, which we know was founded by the Protestant Church. And I won't say anything in disparagement of the Protestant Church. But it's a Protestant-based hospital. I represent a hospital that is serving a primarily Hispanic population who are having babies in my district. And there are different educations. There's different cultures. There's different languages. There's different classes. All mixing in the maternity ward of the hospital.

And I'm very concerned -- I'm very concerned that if there is no sharp definition of which children we're intervening with and which families the intervention is justified, that some of these other factors, these subjective factors, may creep into the process because these are not families and these are not mothers who necessarily know how to advocate for themselves.

And I think the goal is laudable of intervening in those problem cases for children who are born, through no fault of their own, with medical problems. But I think this legislation is too broad. And I'm not sure

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that we have limited it to those cases that we've expressed the most concern about. And I'm concern about abuse of this legislation.

Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Feltman.

Representative Cocco.

REPRESENTATIVE COCCO: (127th)

Thank you, Madam Speaker. I listened to Representative Dillon's speech on her experiences in New Haven. And, Madam Speaker, in the 60's, 70's and even 80's, when I worked for a visiting nurse association, we did what is called maternal and child health visits. And those visits were sort of divided.

City nurses delivered at that time birth certificates to every mother in the city. But, beyond that visit, we, as a visiting nurse association, visited those mothers who were clinic patients.

So even in those days, we divided the population. And we didn't say these are high-risk babies. But, evidently, looking back on it, that is what the thought was. These are babies who need perhaps some extra care.

These are babies who we should look at and mothers to whom we should talk.

But let me share with the Chamber that despite the

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fact that we felt that way, the mothers didn't always agree with us. And there were times that I knocked on a door and I could hear behind the door chatter, and what that chatter was saying "Oh, God. It's the nurse. Don't let her in." Now, did I think when I didn't get into those rooms where there was a new baby that that mother was not a loving mother? What I thought was that mother is afraid of the authority that I represented.

And there was no DCF out there breathing down my neck or their necks. There was no threat of that baby being taken away. We were a health service, pure and simple, there to look at the baby, there to give instruction as was needed, there to let the mother know when immunizations would be due, where to go for those immunizations, to check formula, to make sure that the baby was thriving, purely a health service.

And despite that fact, at that time, 30-plus years ago, there were people out there who were afraid to let me in, afraid to let me in. And I posed no threat to them at all.

Now, thinking about that and thinking about what we're attempting to do with this amendment -- and, ladies and gentlemen, it is awfully hard to stand up here and say that this amendment is flawed because what it's tried to do is heroic. But is it accomplishing it?

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And are we, in trying to accomplish it, putting aside the rights and the feelings of parents in this case? Because a mother or a father doesn't show up to the hospital for instruction may be simply that they are afraid of the authority figure that is represented in that hospital. Who decides whether or not the discharge plan is being followed? And how do we know that the discharge plan is being followed unless the child goes home?

Now, it reads "who the Department of Children and Families has substantiated to be a newborn at high risk of neglect, whose parents are not following the discharge plan of the hospital or participating in the program of supervision arranged by said department, and for whom the failure to follow the plan or participate in the program places such infant in danger."

Until the child is home, I'm not sure how we can make the judgment that the family will not follow the plan set forward or that the family does not have the capacity to do so.

And I question whether or not in adopting this amendment we are doing what we mean to do, which is protect the child. And while there are certainly cases out there of neglect and abuse, I have to believe in my heart that most parents are loving parents. And if we

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interfere in one of those families where there are loving parents, are we doing what we should be doing in this General Assembly?

I think that this amendment, while well-intentioned, needs some work. I don't think it is what was before the Judiciary Committee. And I will tell you that I certainly questioned what was before the Judiciary Committee. But this goes much further than that and certainly makes me worry about where we mean to go and how far we mean to intrude in people's lives.

Just a couple of hours ago we debated whether or not it was all right to go into somebody's home because we thought they were a danger, dangerous with guns. And that was okay. And some people said it wasn't. You can't go in and search for a gun if somebody might be a danger to society. And now we turn around and say, "But it's okay to take somebody's kid away." Think about what we're doing.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Cocco.

Representative Hamm, you have the floor, Madam.

REPRESENTATIVE HAMM: (34th)

Thank you, Madam Speaker. A question, through you, to the proponent of the amendment, if I might?

SPEAKER PRO TEMPORE HARTLEY:

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Please frame your question, Representative Hamm.

REPRESENTATIVE HAMM: (34th)

Representative Mushinsky, Section 3, the first one of the amendment, you indicate that "any hospital or licensed health care provider may refer to DCF." I notice it's not "must refer". I wonder if you could explain why that is.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. This is current practice by licensed health care providers who are mandated reporters. And they may -- actually, they must. But this is worded as "may" refer to the Commissioner any newborn in danger because of the combination of the special medical needs and the belief that the newborn will be denied proper care.

REPRESENTATIVE HAMM: (34th)

Through you, Madam Speaker?

SPEAKER PRO TEMPORE HARTLEY:

Representative Ham.

REPRESENTATIVE HAMM: (34th)

Isn't it true that any hospital or licensed health care provider could right now with existing law refer to the Department of Children and Families in the event

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there was such a concern as you state here?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Yes, it's true. And, yes, they do report. The problem is that after that, there is not necessarily a follow-through. And the reasons the doctors and nurses came to our committee is that the current law, in their opinion, is not working and there is not a follow-up to their reports to DCF and that they are then dealing with the human damage that results when these children are returned to them weeks later near death or dead.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

Representative Hamm.

REPRESENTATIVE HAMM: (34th)

Through you, Madam Speaker. Representative Mushinsky, beginning at Sub-Section B where "The Commissioner shall complete an investigation", is that the current DCF policy?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Yes, that is the

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current policy of investigation. The thing, the piece that we added is a new -- in Lines 11 and 12 and 13, an additional condition to determine the high risk of neglect, that because these children have special medical needs, it's all the more critical that they get some information from the hospital staff as to how to take care of a baby that has these special needs.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Mushinsky.

Representative Hamm.

REPRESENTATIVE HAMM: (34th)

Through you, Madam Speaker. Am I understanding that you said doctors are currently mandatory reporters in the event that they are suspicious of abuse or neglect?

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Yes.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

Representative Hamm.

REPRESENTATIVE HAMM: (34th)

And are nurses as well?

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. Yes.

SPEAKER PRO TEMPORE HARTLEY:

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Thank you, Madam.

Representative Hamm.

REPRESENTATIVE HAMM: (34th)

So if that's true and they both are statutorily mandated to be mandated reporters already, then how is Section 3 that is permissive and just "may refer" an improvement over current law? Through you, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. They're still covered under existing law as mandated reporters. This is a different way of phrasing this category as a combination. This is different from DCF slightly in that they determine as a combination. Their reasonable belief is based on the mother's condition, for example.

Whereas, we are basing this whole bill on the infant and that the infant will be denied proper medical care and attention.

Now, it can be that a mother has a substance abuse problem and still can be a very good mother. So we don't want to say de facto the mother is incapable of caring for this young one. But we think it triggers a look-see and an investigation and then a four-week

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visiting period. And then we can either sign off that case or continue that case.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Mushinsky.

Representative Hamm.

REPRESENTATIVE HAMM: (34th)

Through you, Madam Speaker. Representative Mushinsky, is it true that if hospital, licensed providers and doctors can currently report, must or may, depending on this, and they have done so, that this legislation is before us because they did not believe that DCF was properly investigating and following through on those referrals?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY: (85th)

Through you, Madam Speaker. They don't believe there's follow-through. It's not clear in all cases why is the reason. But DCF certainly has had their difficulties in these cases and they are looking for clarification. The physicians and nurses just feel frustrated that they call DCF, DCF will make some investigation of this case, but the follow-through is not happening.

So we are trying to set up a very specific sequence

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of events that will happen. First, the idea -- the identification of the problem. Second, the investigation. Third, the offering of help for four weeks. And fifth, if there is refusal to accept any of this help and thus an endangerment, then it becomes a neglect case. And a specific neglect case is spelled out. Then we hope that this will lead to a faster process of DCF to subsidize guardianship or an adoption.

But the point is to intervene sooner rather than let this thing drag on.

SPEAKER PRO TEMPORE HARTLEY:

Thank you.

Representative Hamm.

REPRESENTATIVE HAMM:

(34th)

Through you, Madam Speaker. Now, on Line 30, when you discuss the discharge plan, am I understanding that the discharge plan that is developed is developed by the hospital and not by DCF?

SPEAKER PRO TEMPORE HARTLEY:

Representative Mushinsky.

REPRESENTATIVE MUSHINSKY:

(85th)

Through you, Madam Speaker. Yes, it's developed by the hospital with the family, if they can find them.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Madam.

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Representative Hamm.

REPRESENTATIVE HAMM:

(34th)

Thank you, Madam Speaker. I would just like to make the Chamber aware, for whatever or not it might be, the reality of DCF and removal of children that my 20 years of experience may bring. I am extraordinarily concerned with this amendment that's before us precisely because of the discharge plan that is shown on Line 30 because what this is going to do different in a very practical way, instead of a helpful way, which I know is clearly the intention of the proponent, is the discharge plan is now going to be the documentary written medical evidence by physicians that something is wrong and DCF, instead of offering the services and the four weeks and the follow-up, is instead going to use that discharge plan as an order of temporary custody and they're going to go in and they're going to take the children. And it will then be a matter of a 14-day hearing and trying to get the children back.

So I just don't want the Chamber to be misled and to believe that this is going to be very deliberate and sooner, rather than later, services are going to be offered. What's more likely is that the children are going to be removed first, based on the hospital's evidence, which is very probative in court, and it will

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be very difficult to offer services.

So, for those reasons, I'm going to be opposing the amendment. Thank you.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Hamm.

Will you remark further?

REPRESENTATIVE KIRKLEY-BEY: (5th)

Madam Speaker?

SPEAKER PRO TEMPORE HARTLEY:

Representative Kirkley-Bey for the second tie.

REPRESENTATIVE KIRKLEY-BEY: (5th)

Yes, Madam Speaker, for the second time. I'm concerned and I think the most poignant case that's happened to date to show what can happen to a family when Social Services and other agencies get involved is the Toledo family; the mother and her four sons who were on the railroad tracks late at night who were all killed because she was informed that Social Services and other agencies were coming in to look at her home and her children and she was afraid that they would take them away from her. And everyone that talked about her talked about her great love for her children. And what happened to them was a tragedy. That probably wouldn't have happened if she understood the systems and the mechanics of what happens in this country.

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The other thing that was stated by Representative Mushinsky is that if the parent doesn't have the proper things in their home, the proper bedding, this, that and the other thing, that that could be a determination that maybe the child is in an inadequate environment.

My question -- it's not a question. The Department of Children and Families, when we did welfare reform, will give you \$553.00 if you're a family of three. They give you not one penny above that if you don't have twin beds, if you don't have towels, if you don't have sheets, if you don't have anything. You can get a little bit of WIC and the Department of Children and Families gives you nothing.

So just because a child is in a humble place -- and we had a very great person who was born in a manger -- doesn't mean that you cannot turn out to be something great. So I wish people would give strong consideration when they decide on how they're going to vote on this bill.

Thank you very much, Madam Speaker.

SPEAKER PRO TEMPORE HARTLEY:

Thank you, Representative Kirkley-Bey.

Will you remark further on House "B"?

REPRESENTATIVE DANDROW:

(30th)

Madam Speaker?

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SPEAKER PRO TEMPORE HARTLEY:

Representative Dandrow.

REPRESENTATIVE DANDROW: (30th)

Yes, Madam Speaker. I will be very brief. I think we have all talked about a lot of the frustrations we have all shared throughout the years and so many of the social ills that we have worked on and have not been able to be able to be successful or victorious in. But sometimes we just have to look at the reality and the picture as it is.

And for the following, I would just like to have it part of the record. Addiction is an illness, a real illness. It crosses all economic/social classes. Rich and poor share that illness. All colors and all kinds, because it really is one of the worst illnesses.

We are referring to a newborn who was born because of their mother's addiction, when the umbilical cord is severed goes into immediate addiction withdrawal. All of you that have dealt with any of the addiction, the methadone clinics and all of -- many of the constituents who have called who have been in the agony of addiction withdrawal know the pain and the agony they go through.

We are talking about perhaps the mother, because of her addictions at this time, wants to take the child and leave the hospital, which has been done before. Because

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the child is being denied the special medical need care that is required at this time of birth, the child will probably die or come back in a very severe medical risk.

We certainly can't cure all the social needs and we can certainly understand, all of us. But when we are talking about a reality, we should talk about a reality of some of the discharge plannings that go on in the hospital.

I have visited and spent the day with many visiting nurses. I've spent the day over at St. Mary's Hospital in Waterbury where high-risk babies were referred to the clinic down there and were followed up through a similar program of Healthy Families with a visitation. The visitation, the home visitations. These people became a friend. They not only talked about how their childhood never prepared them for the parent effectiveness and all the things they didn't know, but replaced the family they never had. Taught them the medical treatment. Took them to the pediatrician. Took them everywhere.

My dear colleagues, tonight we are talking about a mother who has an illness, sending her home with a sick baby and denying medical care. And perhaps next session we can deal more with the rest of our social needs. I ask your support.

SPEAKER PRO TEMPORE HARTLEY:

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Thank you, Representative Dandrow.

Will you remark further on House "B"?

If not, I will try your minds. All those in favor please indicate by saying Aye.

VOICES:

Aye.

SPEAKER PRO TEMPORE HARTLEY:

Those opposed Nay?

VOICES:

No.

SPEAKER PRO TEMPORE HARTLEY:

Nays have it. The amendment fails.

Will you remark further on the bill? Will you remark further on the bill?

If not -- if not, staff and guests please come to the well. Members kindly take your seat. The machine will now be open.

THE 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 the roll machine so that your vote is recorded properly. The machine will now be locked. The Clerk will please take

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a tally. The Clerk will please announce the tally.

THE CLERK:

House Bill 6807 as amended by House "A". Total number voting, 149; necessary for passage, 75; those voting Yea, 149; those voting Nay, zero; absent, not voting, two.

SPEAKER PRO TEMPORE HARTLEY:

The bill as amended is passed.

Will the Clerk kindly return to the call of the Calendar, Calendar 608?

THE CLERK:

On Page 13, Calendar 608, Substitute for Senate Bill No. 1014, An Act Concerning Brownfields, Including Recommendations of the Program Review and Investigations Committee. Favorable Report of the Committee on Finance, Revenue and Bonding.

SPEAKER PRO TEMPORE HARTLEY:

Representative Wasserman, you have the floor, Madam.

REPRESENTATIVE WASSERMAN: (106th)

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

SPEAKER PRO TEMPORE HARTLEY:

The motion is acceptance and passage. Will you

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 3
735-1051

1999

Groher and Merit Lajoie.

NEIL SUTTON: Good afternoon, Senator Williams, members of the Judiciary Committee. Thank you for allowing me to address you on behalf of the Connecticut Bar Association regarding HB6807.

Victims of drunk driving should be able to prove that the drivers who injured them were, in fact, drunk.

Let me tell you about an experience that is representative of that problem.

Jill, a 19 year old student at UConn was driving back to school on a Sunday afternoon after spending the weekend, the Thanksgiving weekend with her parents. She was driving along a straight stretch of the Post Road when suddenly a drunk driver who I will refer to as Mr. R. pulled out from a side street, crashed into the side of her car and sent it toppling over on to its side.

She was taken by ambulance to the hospital, treated and released for a crushed injury to her elbow. The drunk driver, Mr. R., was unhurt. He was arrested for drunk driving. Because it was his first time he was granted and completed the alcohol education program.

A little over a year after the crash, Jill, who still had pain and problems with her elbow was told by her doctor that she would need surgery and would be left with a permanent problem in that elbow even after surgery. That's when she came to see me. Unfortunately, Mr. R., the driver had already completed the alcohol education program so his records, which may have included breathalyzer results, statements he made about what he drank, and the arresting officer's field sobriety tests, were all unavailable because by law those records had first been sealed and then erased.

As a result, Jill did not get fair compensation for her injury and her medical expenses. And justice was not done.

From the history of the legislation that created the alcohol education program it is clear that the statute was not intended to shield participants from the legal responsibility to pay compensation to the people they injure. Unfortunately though, the statute, 54-56g requires the drunk driver's records to be sealed and does not provide an exception allowing victims access to the records.

Another statute which deals with the disclosure of erased records makes those records unavailable unless they're requested within a year of the disposition of the case.

The Connecticut Bar Association is asking for this committee's help to eliminate the injustice that now exists and by doing so, to bolster the state's policies in favor of victims' rights and against drunk driving.

While in our view, HB6807, as presently written, would give a victim access to the records of a drunk driver who has completed the program up to two years following the disposition of the case. The bill should be amended to be absolutely clear. As set forth on page two of my written remarks in line 103 and 106 of the bill, the phrase, "or who has participated" should be inserted between the words "participating" and "in".

With this amendment the Connecticut Bar Association respectfully requests that the committee act favorably on this bill.

That's all I have unless there are any questions.

REP. DOYLE: Thank you. Senator Upson.

SEN. UPSON: Just -- I'm not arguing for or against it, just some questions.

How long does it take someone to complete the AE course, the alcohol education course?

NEIL SUTTON: They're required to attend 8 sessions. I think it's typically about 3 months. They're entitled to get extensions.

SEN. UPSON: But within a year. Is that correct?

NEIL SUTTON: Yes.

SEN. UPSON: Within a year from the date of the accident?

NEIL SUTTON: From within a year of the date that they are entered into the program by the court.

SEN. UPSON: And then what happens?

NEIL SUTTON: After that year --

SEN. UPSON: If they don't attend the course, they don't do the course within that year?

NEIL SUTTON: They're subject -- they have to come back to court and the State's Attorney continues the prosecution. If they don't complete the program and they're not successful, they're subject to other penalties provided in the statute.

SEN. UPSON: So they're out of the program, they start over again - so you know that problem here. You don't have that problem, correct?

NEIL SUTTON: We don't have really any problem except for first time arrestees who go into the program.

SEN. UPSON: Yeah, they go in. Now, and if they finish within a year, then whenever they finish then the year starts tolling?

NEIL SUTTON: The year for requesting the records?

SEN. UPSON: Correct.

NEIL SUTTON: That's correct.

SEN. UPSON: So, --

NEIL SUTTON: Whenever they're finished which is typically under a much shorter time than a year.

SEN. UPSON: But for most cases, almost two years.

NEIL SUTTON: I would say in most cases the people in the program will complete it in the normal time which is about three months.

SEN. UPSON: Alright. And the only trouble is we got this out of this committee here last year. Am I correct?

NEIL SUTTON: Some version of it.

SEN. UPSON: My only problem is the idea, I guess, behind the program, that is the program to get people into education is then to -- it's like one (inaudible) it's like accelerated rehabilitation. You then want to erase it. There's no way you can find out anything. Is that correct? You can't find out -- you know that man was arrested or woman was arrested. You know that. And you don't know who the policeman that arrest him was?

NEIL SUTTON: You do know that.

SEN. UPSON: Can you get that information from the policeman what the results of the test were?

NEIL SUTTON: You can't get the results of the breathalyzer test. To the extent that the police officer recalls what happened in that arrest, you can obtain that by speaking with the officer.

SEN. UPSON: Well, wouldn't he have to -- what about notes and records at the police station?

NEIL SUTTON: You have no access to that if the person has been granted the program - has begun the program.

SEN. UPSON: Alright. So you can find out if he's arrested or she's arrested. You can find out who arrested them.

NEIL SUTTON: Correct.

SEN. UPSON: You can't find out the results of the test. What if they remember? They're not going to remember that.

NEIL SUTTON: Well, the officer may, in a spectacular case, remember the smell of alcohol or somebody stumbling, and that will be useful evidence. It's certainly not what you're after and since I don't think it really ever was the intent of the program to affect the civil side, but simply to give someone a one bite of the apple on the criminal side --

SEN. UPSON: Would you want -- one way of doing this is then is you could just say within two years of the time of the program instead of erasing it automatically. You want to be able to have this information available so you can sue somebody from the date of the accident and use the two year statute of limitations. Correct?

NEIL SUTTON: That's correct.

SEN. UPSON: Another way of going about this is that these should not be erased until for two years?

NEIL SUTTON: That is correct. We --

SEN. UPSON: Am I correct --

NEIL SUTTON: - put in the process -- Senator, in the process of dealing with this legislation we can further the judicial. This was the language that they suggested.

SEN. UPSON: Well, that doesn't make it right.

NEIL SUTTON: I'm not saying it necessarily does.

SEN. UPSON: They don't destroy anything any way.

NEIL SUTTON: Excuse me.

SEN. UPSON: The records aren't destroyed any way. You know that?

NEIL SUTTON: Correct.

SEN. UPSON: They're just not made available. Interesting if you could get them through a freedom

of information records.

NEIL SUTTON: That's always another --

SEN. UPSON: Not that we shouldn't have this legislation. I'm just thinking aloud with you.

NEIL SUTTON: I don't -- my understanding is that freedom of information would not override the provision in the alcohol education statute that requires sealing and secondly, the non-disclosure of the "erased records".

SEN. UPSON: But you know that records are not erased, don't you?

NEIL SUTTON: They're not physically destroyed, but they do us no good if we can't use them in court.

SEN. UPSON: Alright. Thank you very much.

NEIL SUTTON: Thank you.

REP. LAWLOR: Further questions? Representative Jarjura.

REP. JARJURA: Thank you, Mr. Chairman. And again, not arguing either way, but just for clarification. Is it your opinion or is it factual that your client was inadequately compensated strictly because you couldn't get the records?

NEIL SUTTON: I don't know if there's any objective way I could say it was factual. I can tell you that as compared to a situation where I would have been able to have proved the actual facts, to have proved the alcohol level of this individual, I am certain that she was inadequately compensated.

REP. JARJURA: But you were able to establish that the tort fees was found guilty and went through this process?

NEIL SUTTON: No.

REP. JARJURA: You were not?

NEIL SUTTON: I was able to establish that he failed to grant a right of way.

REP. JARJURA: But you couldn't submit evidence that they went through the alcohol program?

NEIL SUTTON: That is correct.

REP. JARJURA: You were not allowed to submit that evidence?

NEIL SUTTON: I don't believe that under this legislation we'd be able to necessarily admit evidence if they went through the program. But to prove what their alcohol - what, for example, their breath, blood or urine test might show as to their alcohol level. To show if they said I was at Joe's and I had 8 scotches over the last two hours. That kind of statement we would probably never be able to duplicate after the police investigation is done.

REP. JARJURA: That's my question. Were you able to establish that they went through the program either through -- you were not?

NEIL SUTTON: No.

REP. JARJURA: Okay. Thank you, Mr. Chairman.

REP. LAWLOR: Thank you. Are there further questions? If not, thank you.

Next on the list is Andrew Groher. Andrew will be followed by Merit Lajoie and then Elizabeth Manke, Beverly Breakman-Colbath, and Tim Phelan and John Martin.

ANDREW GROHER: Good afternoon, Representative Lawlor and members of the committee.

My name is Andy Groher and I'm the president of the Connecticut Trial Lawyers Association. And I will be very brief because I'm here to testify in support of the same bill as Mr. Sutton, HB6807.

And basically I'm here just to let you know the

Trial Lawyers favor the passage of this bill and primarily it is -- you have a situation where the law allows, in civil cases, often times double or treble damages or punitive damages for injuries caused while driving under the influence. Often times the only way you are able to get the information needed to prove that is through the court file on the criminal side and this bill would allow that.

So basically we're in support of this bill and I'm here to lend our weight through that of the Bar Association.

Thank you.

REP. LAWLOR: Thank you and I think it should be pointed out that this committee has supported the bill in the past. It just didn't get all the way through the process and it's very analogous to something we did a few years ago where we said in cases where in a criminal case someone was found not guilty after a trial, the transcripts needed to be preserved, among other things, in case someone had committed perjury of whatever that there are other relevant factual proceedings which can take place in the aftermath even if a not guilty or a dismissal.

So, I think it's consistent with that.

SEN. UPSON: Just to pick his brain for a minute.

REP. LAWLOR: Senator Upson.

SEN. UPSON: The treble damages though, can only go after someone -- you can only get them from somebody personally, not from their insurance carrier.

ANDREW GROHER: Well, that's -- the treble damages, possibly. But there's also common law punitive damages and that's an open question whether or not the -- there are cases that go both ways as to whether or not the insurers are going to be responsible for that. But even so --

SEN. UPSON: For punitive, but not for treble.

ANDREW GROHER: Yes. But even so, often times it's not only indigent people who drive drunk.

SEN. UPSON: Understood. Thank you.

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

ANDREW GROHER: Thank you.

REP. LAWLOR: Next is Merit Lajoie. Welcome back, Merit.

MERIT LAJOIE: Thank you. Good afternoon, Representative Lawlor and members of the Judiciary Committee.

My name is Merit Lajoie. I'm here today to strongly urge your support for former HB5095, currently raised HB6718, AN ACT CONCERNING THE SALE OF FIREARMS IN DEPARTMENT STORES.

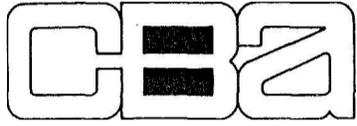
This is my third appearance before the Judiciary Committee regarding the sale of firearms in department stores. Many of you have come to know me and the reasons that I am here.

My mother was returning home from work on April 30, 1996. A co-worker of hers shot her in the head seven times while she was waiting for her garage door to open. The gun, a hunting rifle, that was used to murder my mother, was the result of an improper firearm sale from the same department store that she was employed by.

The employee responsible for the improper sale of the firearm that killed my mother was a manager, a manager. He started his career stocking shelves on third shift. Five months later he became a sales associate in the automotive department. A month later he became the department manager of the automotive department. Within a year he became a sales manager responsible for the automotive department and the sporting goods department.

The extent of his training as he quickly proceeded up the managerial ladder, consisted of brief

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Connecticut Bar Association

Testimony of Neil W. Sutton, Member, Litigation Section,
Connecticut Bar Association Concerning House Bill No.
6807, An Act Concerning Access to Alcohol Records
Before the Judiciary Committee
Monday, February 22, 1999

Senator Donald E. Williams, Jr., Co-Chairman
Representative Michael P. Lawlor, Co-Chairman
Members of the Judiciary Committee

Thank you for the opportunity to appear before you to address House Bill No. 6807, **An Act Concerning Access to Alcohol Records**. The Connecticut Bar Association supports House Bill 6807 and I am here, on behalf of the CBA, respectfully to ask you to act favorably on the bill.

The Connecticut Bar Association seeks to provide access to the court file of participants in the pretrial alcohol education system ("program") arrested for driving under the influence to the victims of their drunk driving.

Upon application to the program, records pertaining to a first-time drunk driving offender are sealed. Thus, the records are beyond the reach of a victim injured by a DUI offender participating in the program and an attorney who represents such victim in litigation. Also, the court clerk is not permitted to disclose erased records pertaining to a case in which a person in the program was arrested for drunk driving after one year following the disposition of the case. A person injured by a DUI offender participating in the program, who then seeks compensation in a civil action after one year from the accident, is deprived of information essential to prove his case and therefore may be unjustly denied compensation for his injuries.

The current state of the law is unjust and inconsistent with two important public policies supported by the General Assembly:

- the rights of victims, as shown by overwhelming voter approval of the Victim's Bill of Rights in 1996 and
- the justified intolerance of drunk drivers and the damage they cause.

The Connecticut Bar Association seeks to bolster these policies by guaranteeing that evidence of intoxication of a person who has caused injury or death as a result of drunk driving be available to victims.

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The court file contains the information that persons injured by a drunk driver need to show that the drunk driver acted negligently or recklessly. The file contains scientific evidence, observations made by the arresting officer and any statements made by the accused. These items are contained in the court file and presently may be inaccessible to victims and their attorneys. The police accident report, which is routinely available to persons at the arresting police department, typically indicates the violation of the driver, the section of the general statutes authorizing the charge and, perhaps, the general condition of the driver, but does not provide detailed information containing evidence of the physical condition of the driver. Such detailed evidence is contained in forms such as the Breathalyzer form, Alcohol Influence Report, the Officer's DWI Arrest and Alcohol Test - Refusal or Failure Report, the Police Department Incident Report and the Police Department Narrative Report. House Bill 6807 would provide access to and disclosure of this information.

Legislative history on the original bill establishing the program evidences an intent to educate and rehabilitate first-time DUI offenders. These aspects of the program would continue if House Bill 6807 is enacted. The bill would not deter participation in, or diminish the beneficial aspects of, the program. Persons would continue to be admitted to the program and be educated on the dangers associated with excessive drinking and driving under the influence. The legislation was not implemented to shield individuals from compensating persons whose injuries they caused.

While it is our position that, under House Bill 6807, a victim would have access to the records in the court file of a person who has completed the program for up to two years following the accident, the bill should be amended to make it clear that that is the case. Thus, in lines 103 and 106, the phrase "or who has participated" should be inserted between "participating" and "in".

House Bill 6807, if enacted, would help address what has been an unjust result for persons injured by drunk drivers.

Again, thank you for allowing me to address the committee concerning House Bill 6807. And, I want to thank you on behalf of the Connecticut Bar Association for raising the bill. **The CBA respectfully asks that the committee act favorably on House Bill 6807, An Act Concerning Access to Alcohol Records.** I would be pleased to answer any questions you may have.