

Legislative History for Connecticut Act

Public Act: 00-139

Bill Number: 5893

Senate Pages: 2092-2093, 2117-2118

4

House Pages: 4033-4037

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Committee: Government Administration: 651-657, 682, 683-684, 703-711, 717-719, 796

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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S-447

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2000

VOL. 43

PART 7

2083-2432

pat

Senate

Monday, May 1, 2000

Aye.

THE CHAIR:

Opposed, "nay"? The ayes have it. Senate "B" is adopted. Senator Williams. .

SEN. WILLIAMS:

Thank you, Madam President. Finally, I would like to thank Senator Maryann Handley for her assistance and the Human Services Committee. We jointly took this on as a project at the beginning of the session and I'm glad that we're moving forward on it now.

If there's no objection, I would move this to the Consent Calendar.

THE CHAIR:

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

Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. I'd like to add two items to the Go list.

Page 8, Calendar 517 should be marked Go.

Page 10, Calendar 149 should be marked Go.

And if there's time, we will turn to Page 4, Calendar 496.

THE CLERK:

Turning to the Calendar, Calendar Page 8, Calendar

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Senate

Monday, May 1, 2000

517, File 365 and 679, Substitute for HB5893 An Act Limiting Disclosure of Individuals' Photographs And Computerized Images By State Agencies, as amended by House Amendment Schedule "A". Favorable Report of the Committees on Government Administration and Elections, Transportation, Legislative Management and Judiciary. The Clerk is in possession of an amendment.

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

Madam President, thank you. I move for the bill, for the Joint Committee's Favorable Report and passage in the House. I move for the bill's passage.

THE CHAIR:

The question is on passage in concurrence with the House. Will you remark?

SEN. BOZEK:

Madam President, this bill here requires state agencies, or prohibits state agencies from disclosing individual photograph for identification or for sales. We had taken care of the motor vehicle requirement last week in a DOT transportation bill.

This prohibits the agencies from this and with limited exception, the bill prohibits state agencies from disclosing without the consent of the individuals

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Senate

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in writing.

And that's what the measure is. And I move for its adoption.

THE CHAIR:

The question is on passage in concurrence with the House. Will you remark further? Senator Bozek.

SEN. BOZEK:

Madam President, without objection, I would move this to the Consent Calendar.

THE CHAIR:

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

THE CLERK:

Calendar Page 10, Matters Returned From Committee, Calendar 149, File 113, Substitute for SB460 An Act Concerning Changes To Statutes Affecting The Department Of Public Safety. Favorable Report of the Committees on Public Safety, Government Administration and Elections.

The Clerk is in possession of amendments.

THE CHAIR:

Senator Penn.

SEN. PENN:

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

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THE CHAIR:

The amendment failed. Senator Bozek.

SEN. BOZEK:

Madam President, without any further discussion and any objection, I would move it to the Consent Calendar.

THE CHAIR:

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

Senator Jepsen.

SEN. JEPSEN:

Madam President, there is an item on Page 4, Calendar 496 which was previously marked Go. I would ask that this item be passed temporarily. I would ask at this time that the Clerk call the Consent Calendar.

THE CHAIR:

Mr. Clerk, would you announce a roll call vote on the Consent Calendar.

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.

Madam President, Second Consent Calendar begins on

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Calendar Page 2, Calendar 323, Substitute for SB343.

Calendar Page 4, correction, Calendar Page 5,
Calendar 498, Substitute for HB5692.

Calendar Page 6, Calendar 508, Substitute for
HB5684.

Calendar Page 7, Calendar 513, Substitute for
HB5635.

Calendar Page 8, Calendar 516, HB5852.

Calendar 517, Substitute for HB5893.

Calendar Page 11, Calendar 154, SB557.

Calendar 174, Substitute for SB569.

Calendar Page 16, Calendar 509, Substitute for
HJ142.

Madam President, I believe that completes the
Second Consent Calendar.

THE CHAIR:

Thank you, Sir. Would you once again announce a
roll call vote. The machine will be opened.

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.

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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. 2.

Total number voting, 36. Those voting "yea", 36; those voting "nay", 0. Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar is adopted. Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. I move for suspension of the rules for immediate transmittal of all items acted upon for today to the House of Representatives as appropriate.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

And I would ask that the Chamber stand in recess at this time. We need a little bit more time before running the Adriaen's Landing.

THE CHAIR:

The Chamber will stand recessed subject to the Call of the Chair.

On motion of Senator Jepsen of the 27th, the Senate

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
2000

VOL. 43

PART 12

3749-4116

House of Representatives

Thursday, April 27, 2000

Bill passes. Clerk please call Calendar 322.

CLERK:

On page 24, Calendar 322, substitute for HB5893, AN ACT LIMITING DISCLOSURE OF INDIVIDUALS' PHOTOGRAPHS AND COMPUTERIZED IMAGES BY STATE AGENCIES. Favorable report of the Committee on Judiciary.

DEP. SPEAKER HYSLOP:

Representative Knopp.

REP. KNOPP: (137th)

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

DEP. SPEAKER HYSLOP:

Questions on acceptance and passage will you remark?

REP. KNOPP: (137th)

Yes, Mr. Speaker the file copy implements for both the Department of Motor Vehicles and other state agencies the federal standard that prohibits the release of an individual's photograph or digital image without the express consent of the person affected. This is a very good privacy protection matter. It implements federal law.

I will be offering an amendment that will remove the DMV portion from the bill because that will be taken

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care of under the DMV under this bill that we'll be considering later on. But again, the purpose of the file copy is to establish a strict standard requiring the express consent of any individual affected before the release of that person's photograph or digital image by the state can be done.

There are a series of reasonable common sense exceptions, for example for law enforcement proceedings, or court proceedings, that makes sense. The Clerk has what amounts to a clean-up amendment. The Clerk has LCO 4596 may he call and I be allowed to summarize?

DEP. SPEAKER HYSLOP:

Clerk please call LCO 4596, to be designated House "A" and the Representative has asked leave to summarize.

CLERK:

LCO 4596, designated House "A" offered by Representative Knopp and Representative San Angelo.

DEP. SPEAKER HYSLOP:

Representative Knopp.

REP. KNOPP: (137th)

Thank you. Summarizing Mr. Speaker, this amendment would strike section 2 of the file copy entirely. As I mentioned the implementation of this federal standard of expressed consent for the DMV will be taken care of in the DMV bill later on. And the rest of the amendment

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simply cleans up language in the file copy.

The only new provision is on line 6 of the amendment, which at the recommendation of Representative Farr in the Judiciary Committee yesterday. He wanted to clarify that if law enforcement authorities are undertaking an investigation they would be allowed to distribute a suspect's photograph even though there may not be a formal proceeding in court underway. Mr. Speaker, I move its adoption.

DEP. SPEAKER HYSLOP:

Question is on adoption of House "A" will you remark on House "A?"

REP. KNOPP: (137th)

Yes, Mr. Speaker, again the amendment is designed to remove all of the references to DMV, from the bill. Those will be taken care in a later piece of legislation under the same strict privacy standard, again requiring the express consent of any individual before the photograph or image can be released, subject to certain common sense exceptions.

DEP. SPEAKER HYSLOP:

Will you remark further on House "A?" Will you remark further on House "A?" If not I'll try your minds all those in favor signify by saying aye.

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Aye.

DEP. SPEAKER HYSLOP:

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

REP. KNOPP: (137th)

Mr. Speaker, just briefly, I want to say my good friend Representative San Angelo is ill today and could not be here. I want to say I appreciate his work on this matter in the GAE Committee very much.

DEP. SPEAKER HYSLOP:

Will you remark further on the bill as amended? If not will staff and guests to the well of the House, the machine will be open.

CLERK:

The House of Representatives if voting by roll call, members to the Chamber. The House is having a roll call vote, members to the Chamber please.

DEP. SPEAKER HYSLOP:

Representative Stratton, Representative Stratton, it's open. Have all the members voted? If all members have voted please check the machine to make sure that your vote is properly recorded. The machine will be locked and the Clerk will take a tally. The Clerk will

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announce the tally.

CLERK:

HB5893 as amended by House "A."

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	145
Those voting Nay	1
Those absent and not voting	5

DEP. SPEAKER HYSLOP:

Bill as amended passes. Any announcements or points of personal privileges? Representative Dyson.

REP. DYSON: (94th)

Thank you Mr. Speaker. Mr. Speaker for purposes of an introduction if I might to the members of this Chamber. I want the members of this Chamber to know that we have had the opportunity for the last ten years to have someone of enormous stature who has been about the business of trying to create in this state a mechanism by which health care for those who are mentally ill has been dealt with. It has been a joy for me to work in conjunction with that effort and I want to take this opportunity now for the members of this Chamber because the individual for whom I speak is retiring. His effective date of retirement is on tomorrow, and Doctor L. Sonit who is standing over in

JOINT
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PART 2
409-796.

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REP. KNOPP: Before you go, any questions for our good friend from Newtown? If not, thank you very much Julia, we appreciate your coming today.

REP. WASSERMAN: Thank you.

REP. KNOPP: John Yacavone.

JOHN YACAVONE: Thank you Representative Knopp, Senator Bozek who I believe may still be here and members of the GAE committee. My name is John Yacavone, I'm chief of the legal services division at the Department of Motor Vehicles.

I'm here this morning on one bill, HB5893. This is an act limiting the disclosure of individuals photographs and computerized images by state agencies. The Department of Motor Vehicles supports this bill.

During the past decade, new federal and state laws have been enacted to restrict the disclosure of personal information from Motor Vehicle records as well as other government agency records.

As an agency that maintains data and records on virtually every Connecticut citizen over 16 years old, namely the Department of Motor Vehicles, we have sought to keep current with all the changes in the laws and the new measures that have been enacted in order to insure that all of our offices and all of our employees apply the correct standards with respects to all requests for access and disclosure of information.

Because we are faced with these types of requests and decisions virtually on a daily basis, DMV welcome all efforts by the General Assembly to provide clear direction and guidance.

This bill follows a recent amendment to federal law known as the Driver's Privacy Protection Act as was made last October by Congress. The intent is to adopt the standard of express consent to disclosures of license photographs and images as well as other more sensitive categories of

information.

The federal act as some of you may know, was held up recently by the United States Supreme Court in a unanimous decision. And in the court's decision they made reference to the standard of express consent with regard to some of these information requests and disclosures.

Basically DMV believes that this is a workable standard and we support its being included in the present statute, Section 14-10, to once again give the clearest possible guidance to our offices and our employees in responding to these requests for information.

I'd be pleased to answer any questions regarding my testimony or any other questions that the members of the committee might have concerning this bill.

REP. KNOPP: Thank you very much John. This bill is a very big priority of mine, you may recall we did raise it last year and because it's such a complicated matter and because the Supreme Court case was still pending, what we did enact last year was a moratorium lasting until June 30, 2000 prohibiting the sale of photographs or digital images for private purposes.

If I could, let me, the Attorney General has submitted testimony I don't know if you have seen it or not.

JOHN YACAVONE: No I have not Representative.

REP. KNOPP: It's friendly testimony but he makes a couple of suggestions, I'm wondering if I might just run by some of his comments.

JOHN YACAVONE: Certainly.

REP. KNOPP: Do you have a copy of the bill there?

JOHN YACAVONE: Yes I do.

REP. KNOPP: Okay, fine. The first suggestion he makes is that, he says: I would encourage the committee

to consider an amendment that would require the commissioner of Motor Vehicles to disclose clearly to the drivers what information would be provided to marketing firms and to provide that such consent cannot be provided for more than one year. What's your response to those suggestions?

JOHN YACAVONE: Well, my first response Representative is that the Department of Motor Vehicles, by long stated policy we do not furnish information on a volume basis for purposes of marketing or solicitation, any such uses.

So that it's not, I would say for us at this time, it's really not a compelling issue. In regard to the second part of that proposal which I believe as you indicated would maintain the consent for the period of one year.

I believe that would cause some administrative burden on the department to have to keep checking in some fashion. So right now, I really don't think that's necessary.

REP. KNOPP: How long do you think, if that does seem too short of period, how long of a period should the consent, should it be for the period for which you have your license or your registration, would one of those seem a reasonable period?

JOHN YACAVONE: Well, Representative I'm not sure that we would favor that approach. I think maybe an approach that would perhaps be less burdensome would be just to specify, if it needs to be specified, that an individual can withdraw consent, if they wish to withdraw consent.

But to have any regular time period in the law it seems to me it would create a burden if for example by some oversight a person, we failed to notify a person there might be questions as to whether there was consent or there was not consent.

REP. KNOPP: Alright. As an alternative he suggests simply deleting the authority for the DMV ever to disclose information for marketing purposes. Would that be something you would consider?

JOHN YACAVONE: Well, I think our position Representative is that we want to follow the federal standards. I don't see a reason to go beyond the federal standards which now require express consent if information is going to be used for that purpose.

I know that as a matter of policy right now the department doesn't sell information for those purposes. But I can't say what the situation would be a few years from now. I don't know, again, that there's that strong of a need at this time to create such a ban.

REP. KNOPP: Alright. Another recommendation from the Attorney General in support of the bill is that there be an anti-disclosure provision by the private entity who received information for a profit purpose.

JOHN YACAVONE: I don't understand the purpose of that type of provision. There are certainly agents and contractors that obtain information from the department for legitimate purposes. All of the purposes that are expressly approved in the law, for example in the insurance industry checks driving history records, when employers check on driving records and so on and so forth.

Clearly in those types of cases the information is obtained by a contractor or an agent for the principle.

REP. KNOPP: I think what it may be suggesting is that obtaining information through an agent or an employee is permissible but then that entity, the principle, or the employer then could not disclose that to another party.

JOHN YACAVONE: Yeah, I think in a case like that. Let me clarify all of the disclosures that are made by the Department of Motor Vehicles on a volume basis, any type of disclosure that involves a quantity of information is only done by contract. You have to have a contract with the commissioner.

And in those contracts we specifically prohibit re-sell and re-disclosures an so forth. Anything that would be outside the scope of the specific purpose that is specified in the contract. So we think there is a control on that now Representative .

REP. KNOPP: Alright, thank you. I appreciate your comments, there may be other questions, I appreciate your working with me over the interim over this matter. Are there questions for Mr. Yacavone? If not, thank you very much John we appreciate your testimony this morning.

JOHN YACAVONE: Thank you.

REP. KNOPP: Could we have Representative Mikutel and his group from Preston come up and welcome our old colleague former state Representative Dave Anderson and we appreciate your being bound by the pledge of brevity in exchange for coming up together, which Representative Anderson always honored on the floor of the House as I recall. Good morning Steve.

REP. MIKUTEL: Yes, good afternoon Chairman Knopp, Chairman Bozek. I'm here to accompany my Preston town officials.

REP. KNOPP: Would you identify yourself for the transcript Steve?

REP. MIKUTEL: Yes, for the record my name is Steve Mikutel, state Representative 45th district. I'm here to accompany my Preston town officials, first selectman Bob Congdon to my left and as you mentioned David Anderson a former colleague of ours who served with distinction in the House for many years.

They're here to testify on Section 7 of HB5892, the deal, land acquisition to Preston. They can express their need for this bill better than I can, so I'll just refer to Mr. Congdon right now.

BOB CONGDON: Good afternoon Chairmen, Representative Knopp and Senator Bozek and distinguished committee members. My name is Bob Congdon, first selectman of the town of Preston.

Thank you for giving us this opportunity to address your committee today. I'm here to speak on behalf of HB5892, Section 7. This section would transfer a small piece of land to the town of Preston for passive recreational purposes. I think this is the best use for this piece of land.

It would preserve the state's interest in preserving open space, the town is committed to investing the resources to develop trails and to maintain the property for the use and the pleasure of the public and it would create a buffer between the town's recreational fields and the DEP's Rosehill hunting preserve.

I think there really needs to be a buffer between the hunting preserve and our soccer fields and baseball fields. In a recent meeting we had with DEP and raised these concerns, David Anderson raised the issue that he'd be a little reluctant to walk his golden retriever in a hunting preserve.

An official from DEP said well if I was to walk my golden retriever in a hunting preserve I'd certainly put an orange vest on it. My question is, would we let our kids go in this hunting preserve without vests but we're going to put vests on our pets. Thank you.

REP. KNOPP: Thank you very much.

DAVID ANDERSON: Yeah, if I could say.

REP. KNOPP: David could you identify yourself for our transcript?

DAVID ANDERSON: Yeah. David Anderson, from the town of Preston. I'm on the parks and rec commission and I'm also chairman of the community park development committee and would like to say we really appreciate what the legislature did three years ago when they took the first half of this parcel that we're talking about today and conveyed it to us.

Since then we have made a community park out of it, we have soccer fields, we have walking tracks

that's used not only by our town but by other communities such as Ledyard. So this parcel is the other half of the first parcel that you gave us. We feel that we will make very good use of it. For our town it would be very important. This is the only community park area that we have in our town.

And as you know, our town does take a lot of traffic to the casinos and one thing or another. And we dearly need these recreation sources for our community. So I guess that's basically what I would say, because I always believe in brevity Mr. Chairman, so there you go.

REP. KNOPP: Thank you very much. Are there questions for our distinguished visitors from Preston? If not, thank you very much. We appreciate your coming up today. Bob Jaekle and Kevin Johnston are state auditors? All of our public official list before the deadline is up. Thank you.

BOB JAEKLE: To the co-chairs and members of the committee I'm state auditor Bob Jaekle for the record.

KEVIN JOHNSTON: And Kevin Johnston, state auditor.

BOB JAEKLE: We want to thank you for raising a few of the bills that actually had been recommendations in our annual report to the General Assembly. The first bill listed on your agenda for today is HB5868. This bill would actually implement one of our technical correction suggestions from our annual report.

To extend the conflict of interest provisions that apply now the members of the investment advisory council to all civil list funds of the state of Connecticut without being overly technical and respecting the desire to be brief. Right now the public members of the IAC are prohibited by statute from either directly or indirectly participating including through their business affiliations with providing any services for the investment of trust funds.

There are more funds than just trust funds in the

Representative Sauer for your comments.

The next witness will be Patricia Krupp followed by Mitch Pearlman.

PATRICIA KRUPP: Patricia Krupp from Watertown. I am HB5870
the etal on the original complain from Rosalie Loughran to the State Elections Enforcement Commission. Senator Penn was asking some questions, but I don't think he saw the document that was the orientation day agenda and item number two was non-incumbent candidates running for board of education in November election with three candidates and little one line bios, mentioned three candidates not.

So whether they were reached or not, I mean everybody has a period in their life or a day that they can't be reached and then they might not make a meeting the next day. But without being on the agenda it just sort of automatically proved that it wasn't even tried.

The fact is that there was a reprimand at the end of the decision from the State Elections Commission because they had no teeth. They didn't have a law that covered the situation where a town employee was using town funds to produce information (break in testimony - change cassette tape) That's all we're asking for, give them some teeth so that if this should happen again in any town, the State Elections has something that they can do about it.

REP. KNOPP: Thank you very much.

PATRICIA KRUPP: You're very welcome.

REP. KNOPP: You did it very succinctly, you get the prize today for succinctness. Any questions? Thank you very much. Mitch Pearlman followed by George Cody of the ROVAC, and I'm going to invite all the ROVAC representatives up together if they wish to come.

MITCHELL PEARLMAN: Senator Bozek, Representative Knopp, good afternoon members of the Committee. My name is Mitchell Pearlman I'm the executive director of

the Freedom of Information Commission.

SEN. BOZEK: You've been here, well every other Friday we saw you right?

MITCHELL PEARLMAN: I guess Friday and Monday.

SEN. BOZEK: It's getting to be a habit.

MITCHELL PEARLMAN: Senator Bozek, I appreciate all the time and effort that you done, so I'm going to try to be as brief as others have promised. I wanted to talk about three bills, HB5869, AN ACT CONCERNING DISCLOSURE OF RECORDS CONTAINED IN THE ORDERS OF PUBLIC ACCOUNTS, WORKING PAPERS RELATED TO INFORMATION AND SYSTEM AUDITS.

We see no problem with the bill as proposed by the auditors. I think they're entitled to what they're asking for. The second bill is HB5891, AN ACT CONCERNING FRIVOLOUS COMPLAINTS BEFORE THE FREEDOM OF INFORMATION COMMISSION. I addressed the members of the committee on Friday and I don't think there is any need to repeat my testimony there, suffice as to say there is a legitimate problem there.

The commission has been aware of the problem, and has been working hard to address it. Finally I'd like to testify with respect to HB5993, AN ACT LIMITING DISCLOSURE OF INDIVIDUAL'S PHOTOGRAPHS AND COMPUTERIZED IMAGES BY STATE AGENCIES.

HB5893

The only thing I would do is point the committee's attention to the fact that there might be some conflict with the language in this bill with Megan's law. Otherwise the commission has no position on it. Thank you very much and I'll be happy to entertain your questions if you have any.

REP. KNOPP: Thank you very much Mr. Pearlman, we appreciate your testimony and you're extra time here on Friday which was very helpful. The point you raise about Megan's law is one that we'll make sure that the cross referencing is appropriate. Are there other questions for Mr. Pearlman? Thank you very much we appreciate your testimony, sorry you had to wait.

MITCHELL PEARLMAN: Oh, that's quite alright, have a good week.

REP. KNOPP: Oh, Mr. Pearlman, I'm sorry. Do you have any information for us about the status of the Governor's proposal and language on DECD and the quasi public local development corporation.

MITCHELL PEARLMAN: Yes, sir, I believe that language should be forthcoming today, by the end of the day to the committee from the Governor's counsel's office. I have seen the draft of the bill, it's fine with us, and I think they're going to just fix it up and go with it.

REP. KNOPP: Alright, thank you very much. There are 3 representatives here from Registrars of Voters Association of Connecticut, George Cody, Barbara McInerney and Mary Mourey, I would like to invite all three of them up together if they would like to come.

You may sit at the table George. Why don't you sit and that way your remarks will be picked up by one of the microphones. And just before you speak please identify yourself for the transcript.

GEORGE CODY: My name is George Cody, I am the registrar of voters in New Canaan. Senator Bozek, Representative Knopp and members of the committee. Again, my name is George Cody, registrar of voters in New Canaan and co-chair of the Registrar of Voters Legislative Committee.

I'd like to speak very briefly in favor of HB5890, AN ACT CONCERNING THE NUMBER OF AVAILABLE PAPER BALLOTS WHEN VOTING MACHINES ARE DAMAGED OR FOR ELECTORS WITH DISABILITIES. This bill is intended to assure that any voter in the face of machine problems would be able to cast a vote in a timely fashion.

No voter can or should be turned away from the poles without being able to cast a vote, nor should they be required to wait until a machine is repaired or additional ballots can be delivered.

agreement.

SEN. BOZEK: Thank you. Good luck.

REP. KNOPP: Any other questions? We appreciate your testimony, hope all my colleagues come down to visit.

EDWARD MUSANTE: Thank you very much.

REP. KNOPP: Our next witness is Mr. Lloyd Kaufman. Do you have written testimony Mr. Kaufman?

LLOYD KAUFMAN: No, I do not. Good afternoon Mr. Chairman, Representative Knopp, Senator Bozek and members of the committee. My name is Lloyd Kaufman and my colleague is Lorna Christy, we represent the company called Image Data, LLC out of Nashua, New Hampshire, a technology innovator of high performance transaction processing services that protects consumers and businesses from identity based crimes. HB5893

The purpose of our being here today is to address the disclosure of photo and computer images for the Department of Motor Vehicles for the sole purpose of identity verification and fraud preventions. A year ago we addressed this committee regarding identity crimes.

Identity crimes as you may recall is the fastest growing crime in the United States, growing at approximately 17% a year. We not estimate that it's costing American citizens and consumers over \$25 billion a year.

In the state of Connecticut it's costing over \$300 million a year. During the last several months we've actually spoke with victims from the state of Connecticut who have been victimized by this crime.

And we'd be more than happy to furnish their names and they have told us that they would be more than pleased to address this committee at some future date, at an opportune time in the future.

Last year we discussed with you the, what we call our first generation in trying to obtain the photos

from the Department of Motor Vehicle. What we tried to do last year we tried to bulk purchase all the photos from the state of Connecticut in order to validate and verify identities of individuals at the time of a purchase or a transaction.

Through discussions with members of the legislature including the chairmen of this committee as well as other privacy advocates and consumer advocates we determined that it was not in the best interest of the consumer to bulk purchase these photographs. Instead, what we decided to do was to give the consumer the choice.

Directly allow the consumer to make the choice, an informed choice as to whether they want to participate in protecting their identity. So we came up with a new service if you will. And that service would be that we would, at the time of the transaction, the individual could have the option to enroll in our service, at the point of sale.

That enrollment process would be simply to scan in their driver's license, including the photo. That photo and information would then be down loaded and encrypted to our database in Nashua, New Hampshire.

The next time that individual would go into a store that had our service called, True ID, that individual would no longer have to present their ID that is their driver's license or photo ID for that particular sale. Instead, that photo that was in our database would then appear at the point of service.

That would eliminate any further exposure of any further information by the consumer to a store clerk or a bank clerk, therefore enhancing the privacy of the consumer. Once again, this would be voluntary, this would be done by choice.

Also at the point of service, there would be a notice of disclosure explaining the very purpose for which they would be submitting their photo ID driver's license. They would be given that choice. The consumer could choose to participate or not to participate.

And that is the fundamental difference between when we came to you last year versus when we're coming to you this year. We believe that this enhanced, the ability to enhance the privacy while protecting the consumer's identity is the objective of our service.

We have come to you today in brief, to work with you the members of the committee as well as the Department of Motor Vehicles and the state of Connecticut to work with you to come to some form of legislation that would be acceptable so that we can implement this service -- enhanced service if you will -- in the state of Connecticut. Any questions, we'd be more than happy to answer any questions that you may have.

REP. KNOPP: Let me ask you about two situations if I could. One of them is this. In the initial contact with somebody so that their photo and license are not in your system. And the person is an imposter. And the imposter has committed identity fraud and somehow has managed to substitute the imposter's face for the licensee's face on the license.

Under the statute the only way to write it is that the person who owns the information, the license, gives you permission to access the DMV record. Now, you know, probably in most cases the imposter is going to see the system set up and high tail it out of there you hope.

What if, it was a dumb imposter, and the dumb imposter gives you the fraudulent license and says I give you my consent to access my DMV record. Now under the law, you need the express consent of the licensee to do that. Now the imposter stupidly and we hope for the last time gives you their license. What happens under that circumstance?

LORNA CHRISTINE: Chairman Knopp, if i may answer that question. For the record my name is Lorna Christine, vice president of public affairs for Image Data. Two situations can occur. As you correctly stated, for the most part the disclosure

notice that's at the point of service acts to protect consumer privacy by letting you know what's happening.

It also acts as a very effective deterrent. Our early pilots of True ID we had (break in testimony - change cassette tape) at the installation of the service, even though a check fraud ring was operating in the area. Secondly, what would happen if in fact you had already protected yourself, if someone stole your information, your license, put their photo on that license and tried to enroll in True ID, if you had already chosen to participate in the service, your image would pop up at the point of service, effectively stopping the criminal from doing that. And then in the situation in which you may not have enrolled in the True ID service the ability to verify that data with the state would allow us to detect the problem very early on.

As you may know, in identity crimes the victims don't know that this crime is taking place often times months or years after their credit rating and their credit histories and employment histories may have already been ruined. In this particular situation we would have an early warning system, in which we could detect someone was perhaps trying to assume your identity to make false purchases.

In that situation Image Data is committed to notifying the true owner of that identity that they need to check with the credit bureaus and the other agencies because an identity fraud may be taking place.

REP. KNOPP: Just the reason I ask is it seems like an odd circumstance and that the purpose of the bill would require a licensee to give his or her express consent to access the DMV records and the imposter comes along and gives the imposter the express consent which is not the licensee's express consent.

LORNA CHRISTINE: Well, again, in that situation the ability to verify the data with the state would allow us to detect the problem very early on in the

cycle. The end result is that Representative Knopp would be notified that perhaps someone is trying to assume his identity.

As opposed to the criminal being able to do it for months at a time.

REP. KNOPP: The second situation is this. After you obtain someone's express consent to enroll in your system is there any problem with prohibiting your bulk sale to a third party of that information.

LORNA CHRISTINE: Well, if I may answer that question as well. Image Data above all else, understands that the key to our success as a business is consumer trust. We've built in a number of protections into the True ID enrollment process. First and foremost of course is we provide consumers with choice. We use our technology to enable consumers to make that choice to enroll in our process.

Secondly, we have the disclosure notices. We also provide the consumers the opportunity to opt out if in fact they enroll and then choose at a later date not to participate with the service any longer. So even after they've consented or provided their choice to participate they control that data.

We also make, I guess assurances, through our disclosure notices and our public statements. That we use information only for identity verification and fraud prevention, again that's closely tied in to consumer trust and consumer trust is really the key to our business.

REP. KNOPP: The Division of Motor Vehicles and the State Attorney General have submitted testimony in favor of this bill. The Attorney General did raise this issue which I think is user one. I guess the question then is, do you use this information only for fraud prevention within your own company or do you disclose it to third parties for their fraud prevention programs?

LORNA CHRISTINE: Our goal is to use the information for identity verification and fraud prevention. In those situations in which a transaction may have

failed, in other words a fraud criminal actually perhaps penetrated the system and was able to pass a bad check.

We will return information to that company, and authorized law prevention officer under tightly controlled circumstances, for the purposes of resolving that transaction only. We have our contracts with our business subscribers to insure that the information is only used for identity verification and fraud prevention.

REP. KNOPP: So you wouldn't have a problem with something in the law that said that once you obtained expressed consent to enroll a consumer that your company may not bulk sell that information to another company, even though that other company may also be engaged in fraud prevention activities.

LORNA CHRISTINE: I can't speak for the entire company at that point, but it's certainly that would contradict our business model. We understand we have a very unique opportunity to protect consumers and businesses from identity fraud because of the unique aspect of our service.

To sell that information to another company would seem to contradict our purpose for being in business.

REP. KNOPP: So if I may say, the answer to my question is yes.

LLOYD KAUFMAN: Sorry, I don't see any reason why we wouldn't, why we would have a problem with that provision sir.

REP. KNOPP: Alright, thank you. And you may wish to consult, because I'm sure that your able representatives in the Connecticut Lobbying Association will help you review Attorney General Blumenthal's testimony. I think there are a number of points there I'd be curious to get your reaction on. Thank you. Are there any other questions? Representative Adinolfi.

REP. ADINOLFI: A couple of questions. This did come up last year and I did have some concerns on it. And right now keep thinking that these three commercial enterprises that I use that have taken a picture of me and given me an identity card. And I see no reason, I agreed to do that with them, I just don't like government getting involved in these things with private business.

I don't think that's what we're there to do. I find it difficult to understand why it's needed when it's being done privately out there by the individual businesses. You go to one of the supermarkets they give you an ID card they take your picture. Now they could put that on the system, and I don't think it's fool proof.

I can go out right now and get somebody, and come back in a half hour who would look exactly like you. How do you get around it? Do you have a finger print image too? That would make no sense.

LLOYD KAUFMAN: Well the reason we'd like to go to the state is for validation and verification of the record that has already been established with the state. You're right you can go into the supermarket and you can get a credit card with your picture on it right now.

The problem with that is there is no database that's there to validate or to verify that that picture is really the true owner of that device.

REP. ADINOLFI: I'm sure they can get it, they can create their own database. I don't want to mention any particular commercial enterprise. But they could if they're taking your picture, just do them digitally and store them on a file and bring them up every time you go in there at the cash register. Why do we need the state government to get involved in that.

LLOYD KAUFMAN: The state government isn't really getting involved here. What we're saying is that we would like to use those images that are in the state data base, for the sole purpose of identity validation, identity verification and fraud

prevention. It is not a matter of the state participating in any other way than just saying this is the picture that we have on file, and it's matching the picture that we obtain after getting consent from the true owner.

So all we're doing is taking information that exists already and validating with information that's out there, the individual himself linking it to their credit card, their check or their courtesy card.

LORNA CHRISTINE: May I also address that issue. You're bringing up a very interesting scenario. You've essentially stated that you as an individual don't really see a need for this system. And that's really the beauty of the True ID system. Particularly the second generation. We provide an opportunity for consumers to make that choice, whether they want to participate in the system.

We are asking for the ability to verify the data only on a per record basis. If I decide that I want to avail myself with the protection offered by True ID I read the disclosure notice, I provide the license for scanning at the point of service.

At the same time that disclosure notice will let me know that the data may be verified by state information from the DMV. If I choose to participate in that system, then I have the opportunity to do so. And again that is the beauty of the True ID system as it currently exists.

REP. ADINOLFI: Thank you, I just don't see a need for it. Thank you.

REP. KNOPP: Are there other questions? If not, thank you very much. And again I would appreciate your comments about Attorney General Blumenthal's testimony if you wouldn't mind before you leave today.

LLOYD KAUFMAN: We'll provide that.

REP. KNOPP: Thank you very much. Our distinguished colleague Representative Sonny Googins.

REP. GOOGINS: Good afternoon Senator Bozek who I know will be back shortly, Representative Knopp and fellow members of the legislature. Thank you so much for letting me testify this morning and please accept my apologies for ducking out.

I have spent the morning with some representatives from China who have come here to do business with Connecticut. So they were down in the private dining room and we were trying to find a cuisine in Connecticut adequate enough and they in fact did, with teriyaki and a few other kinds of things that managed to fill the bill.

REP. KNOPP: I haven't had lunch yet, so please don't go on.

REP. GOOGINS: Neither have I, neither have I. Mine is sitting upstairs getting cold as we speak.

REP. KNOPP: Can we share it later?

REP. GOOGINS: And after that nice introduction in the previous testimony I thought another good thing to do would be to come here and assume somebody else's identity, which I could do of Representative Knopp's identity.

The reason I'm here is to testify on HB5870 and you've heard some, I don't know how much in my absence as I was entertaining our guests --

REP. KNOPP: Quite a bit.

REP. GOOGINS: Pardon me?

REP. KNOPP: We've had quite a bit of testimony.

REP. GOOGINS: And I was here witnessing that for most of the time. There would be two things, you have written testimony. There would be two things that I would stress. With the addition of more information one of the things that's important is not only that the legislative body of the municipalities approve this information, but also the town attorney approving the information.

very much Ms. McCarthy, thank you for your testimony. Our next witness will be Tim Phelan and then we'll have the panel from South Windsor and followed by Jeff Garfield and respond to the comments that have been made on the referendum issue.

TIM PHELAN: Thank you Representative Knopp, Senator Bozek, Senator Kissel, Representative Christ, Representative Ferrari. For the record my name is Tim Phelan, I am the president of the Connecticut Retail Merchants Association.

I am here today to testify in favor of HB5893, AN ACT LIMITING DISCLOSURE OF INDIVIDUAL'S PHOTOGRAPHS AND COMPUTERIZED IMAGES BY STATE AGENCIES. I'll be very brief because I know that the time is late. The Connecticut Retail Merchants Association is supportive of this bill because for some pretty obvious reasons.

But loss prevention issues is a major concern to retailers. For that reason and the reasons of ID theft we think that the proposed technology that would be used under this bill would be an additional asset to us to help us combat that.

This bill last session, the legislature adopted a bill that increased the penalty for stealing somebody's identification, which is a growing problem as we move into cyberspace and the year 2000.

Many of the information technology exchanges that take place, identity theft is a growing problem. This year in fact the General Law Committee has reported out a bill that allows a private right of action for someone who has their identification stolen.

So we think that this bill in combination with the bills that were passed, the bill that was passed last year and the one that's pending this year, is a good effort to try to combat the problem of stolen identification.

It's also great assistance to the retailers in

their efforts to verify who a person says they are so that we can hopefully close down, close another loophole in our loss prevention efforts.

I might also add that hearing testimony of Johnny Yacavone from the Department of Motor Vehicles brought back some old memories as John and I used to work together. I have the ultimate confidence that if Mr. Yacavone has reviewed this legislation and has worked with members of the private industry in crafting it, that it's well thought out.

As well as the efforts that Representative Knopp has put into this bill as I have worked with him on many issues over the years. So, our industry is supportive of this. We take into consideration the Attorney General's testimony and try to hopefully craft a bill at the end of the day that everybody is satisfied with.

REP. KNOPP: Thank you very much Tim for your testimony. Questions for Mr. Phelan? Thank you very much.

TIM PHELAN: Representative Knopp before I leave may I just one comment, Representative San Angelo is not here and it had been reported earlier that he has had some health problems. I would just like the record to note that the Retail Merchants Association wants to extends its thoughts to Representative San Angelo, he is a good friend to retailing, he is helpful on many of our issues and we would hope that he has a speedy recovery.

REP. KNOPP: I'm sure he appreciates it thank you. I'm now going to ask up Matt Galligan, Bill Aman, and Attorney Guliano. And I am going to ask you that we have heard a lot of testimony today. I'm going to ask you not to repeat everything, but if you want to add something that's not been added, we're sort of at the end of the day here, and we appreciate your assistance, as an alternative to me putting on the clock, so.

ATTY. BARRY GULIANO: Absolutely, absolutely.

REP. KNOPP: And I say that because I've talked I think to one of you before, I know this is an important

and deeply felt and emotional matter in your town, but we have had a lot of discussion about it.

ATTY. BARRY GULIANO: I understand. Senator Bozek, Representative Knopp, and other members of the committee, my name is Barry Guliano and I'm the town attorney for the town of South Windsor.

I'd first like to thank you for this opportunity to testify in support of HB5870, especially Section 2 which would amend the statutes on referenda on local questions. There is a point that I don't think has been made, that I'd like to make. And that is to call this really an amendment of the existing statute is somewhat of a misnomer. In my humble opinion, it merely clarifies the apparent intent of the legislature from the start.

I'd just request that you take a look at the statute first of all as it exists, which first of all provides for the approval of what is called a concise explanatory text, regarding any particular local question that goes to referendum.

The provision then states that such text shall not advocate either approval or disapproval. Later in the same section there is another reference to the fact that no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.

I would submit that if that section is going to mean anything, it means that essentially your intent was that there be an explanatory text that did not approve or disapprove, that was neutral. But that did not keep municipalities from publishing other information or using local funds to publish other information as long as it was neutral.

As long as it didn't advocate one way or the other. Again, I don't know what else that language means or what else it's doing in there unless it means that. But clearly this amendment would take all doubt away and would specifically state that a municipality can go beyond the explanatory text to



STATE OF CONNECTICUT

DEPARTMENT OF MOTOR VEHICLES

60 STATE STREET WETHERSFIELD, CONNECTICUT 06161
<http://dmvct.org>



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 Giaccone

Testimony of the Department of Motor Vehicles
 Government Administration & Elections Public Hearing
 March 13, 2000

Raised Bill No. 5893

AN ACT LIMITING DISCLOSURE OF INDIVIDUALS' PHOTOGRAPHS AND COMPUTERIZED IMAGES BY STATE AGENCIES

The Department of Motor Vehicles (DMV) supports House Bill 5893, 'An Act Limiting Disclosure of Individuals' Photographs and Computerized Images by State Agencies'.

During the past decade, new federal and state laws have been enacted to restrict the disclosure of personal information from motor vehicle and other government agency records in the interest of personal privacy and security of our citizens. As an agency that maintains data and records on virtually every Connecticut resident over 16 years of age, DMV has sought to keep current with all relevant changes in the laws in order to ensure that our offices and employees apply the correct standards with respect to all requests for access to and disclosure of information.

Because we are faced with these types of requests and decisions on a daily basis, DMV welcomes any efforts of the General Assembly to provide clear direction and guidance. This bill follows a recent amendment to the federal law, known as the Drivers' Privacy Protection Act, as made last October by Congress in order to adopt the standard of "express consent" with respect to non-governmental disclosures of individual's license photographs or images, as well as other types of disclosures. The federal Act was upheld recently by the U.S. Supreme Court and, in its unanimous decision, the Court endorsed the use of the "express consent" criterion, as adopted by Congress for disclosure of images, and other, more sensitive categories of personal information.

As noted, DMV believes that this is a workable standard and we support its inclusion in the state statute (Section 14-10) that we are responsible to administer. Passage of this bill also will maintain Connecticut's compliance position with the federal Act, which Congress now has deemed necessary for state eligibility for receipt of federal highway funds.