

# Legislative History for Connecticut Act

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<b>Public Act:</b> 01-13		4
<b>Bill Number:</b> 1383		
<b>Senate Pages:</b> 1164, 1186-1188		
<b>House Pages:</b> 1989-1992		
<b>Committee:</b> Judiciary: 2839-2840, 2917-2919, (3447-3448)		7

Page Total:

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

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S-453

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2001

VOL. 44  
PART 4  
874-1215

193 is PR.

Calendar 195, S.B. 1055 I move to the Committee on Appropriations.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 9, 196 is PR.

197, S.B. 1383 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

198, S.B. 438 I move to the Committee on Education.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Calendar 200, S.B. 1150 is to be marked Gø and I ask that it be made the order of the day and taken up first.

THE CHAIR:

Without objection.

SEN. JEPSEN:

202 is PR.

204 is PR.

Page 10, 205 is PR.

208, S.B. 1058 I move to the Committee on

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

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, the first Consent Calendar begins on Calendar Page 1, Calendar 229, H.J. 119.

Calendar 230, H.J. 120.

Calendar Page 2, Calendar 231, H.J. 121.

Calendar No. 232, H.J. 122.

Calendar 233, H.J. 123.

Calendar 234, H.J. 124.

Calendar 235, H.J. 125.

Calendar Page 3, Calendar 236, H.J. 126.

Calendar 62, Substitute for S.B. 289.

Calendar 69, Substitute for S.B. 1112.

Calendar Page 8, Calendar 188, S.B. 1194.

Calendar 192, Substitute for S.B. 1050.

Calendar Page 9, Calendar 197, S.B. 1383.

Calendar Page 12, Calendar 237, Substitute for H.B.

6605.

Calendar 239, H.B. 6556.

Calendar Page 15, Calendar 260, S.B. 1026.

Calendar Page 16, Calendar 266, S.B. 1365.

Calendar 268, S.B. 1396.

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

THE CHAIR:

Thank you, Madam President. Would you once again announce a roll call vote on the Consent Calendar. 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.

THE CHAIR:

Have all members voted? 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. 1.

Total number voting 35; necessary for passage, 18.

pat

39

Senate

Wednesday, April 25, 2001

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

THE CHAIR:

The Consent Calendar is adopted. Senator Jepsen.

SEN. JEPSEN:

Madam President, I would move for immediate transmittal of Calendar 62, S.B. 289 to the House of Representatives.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Madam President, at this time we're going to take a brief break, hopefully not more than 15 minutes or half an hour so that the Democratic Senators might caucus. And I would ask that all Democratic Senators caucus immediately. Republicans are excused from the Democratic Caucus.

THE CHAIR:

Thank you, Senator. At this time the Chamber will stand at ease subject to the Call of the Chair.

On motion of Senator Jepsen of the 27th, the Senate at 2:44 p.m. recessed.

The Senate reconvened at 3:06 p.m., the President

H-844

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
2001

VOL. 44  
PART 6  
1726-2025

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249

House of Representatives

Wednesday, May 2, 2001

The passes, as amended.

Will the Clerk please call Calendar 363.

CLERK:

On page 13, Calendar 363, S.B. 1383, AN ACT CONCERNING A PLEA OF NOLO CONTENDERE CONDITIONAL ON THE RIGHT TO TAKE AN APPEAL. Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER CURREY:

Representative Lawlor of the 99th.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. I move acceptance of the committee's joint favorable report and passage of the bill.

DEPUTY SPEAKER CURREY:

The question before us is on acceptance and passage. Please proceed, sir.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. This bill both narrows and expands an option available to defendants in criminal courts under certain circumstances.

It narrows their ability to take an appeal after a plea of no contest by inserting language that says they may only do so if the trial court determines that the ruling on a motion to suppress or a ruling on a motion to dismiss would be dispositive of the case.

House of Representatives

Wednesday, May 2, 2001

But it expands the ability to do this by eliminated the limiting language which currently exists in the statute limiting this option to situations where the motion to suppress dealt with evidence which was going to be offered during the trial where there may have been an unreasonable search or seizure or a motion to suppress statements or evidence based on involuntariness of the statement.

So those are two forms of evidence where motions to dismiss are routinely filed in criminal cases and under those cases where the pretrial motion is, in effect, denied by the judge, the current law gives the defendant the ability to waive their right to go to trial, but instead, take the issue of the judge's ruling on a motion to suppress up through the Appellate Court system.

The no contest plea is different from a guilty plea inasmuch as it's not a formal admission of guilt. Instead, it's basically a waiving of the right to contest the charges during a trial.

Madam Speaker, although it seems like the vast majority of cases in this category would deal with either a search and seizure motion or a statement, a confession-type motion, there actually are other motions to suppress which are taken up prior to trial and in the

case that one of those might actually be dispositive of the case, the thinking is that by allowing the option to waive the trial and go directly to the appeal, might free up some court time so that the court time can be expended on other cases.

I think it's a sensible change to the existing statute, Madam Speaker, and I'd urge passage of the bill.

DEPUTY SPEAKER CURREY:

Thank you, sir. Would you care to remark further on the bill before us? Would you care to remark further on the bill before us?

If not, staff and guests to the Well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER HYSLOP:

Have all members voted? If all members have voted, please check the machine to make sure your vote is properly record. The machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

S.B. 1383, in concurrence with the Senate

Total Number Voting	139
Necessary for Passage	70
Those voting Yea	138
Those voting Nay	1
Those absent and not Voting	11

DEPUTY SPEAKER HYSLOP:

The bill passes.

Clerk, please call Calendar 353.

CLERK:

On page 12, Calendar 353, Substitute for S.B. 122,  
AN ACT CONCERNING THE RETURN OF REGISTRATION OR DEPOSIT  
FEES BY DAY CARE CENTERS. Favorable Report of the  
Committee on Public Health.

DEPUTY SPEAKER HYSLOP:

Representative Eberle.

REP. EBERLE: (15TH)

Thank you, Mr. Speaker. I move acceptance of the  
committee's joint favorable report and passage of the  
bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you  
remark?

REP. EBERLE: (15TH)

Thank you, Mr. Speaker. This would allow parents

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 9  
2814-3185

2001

And I believe there should be affidavits. I think the Representative - you have to have something for the police to act on. So we support this bill. We believe it should be enacted and we'll do everything possible to have it enacted.

Ms. Rossi is going to testify on the --

JUDITH ROSSI: Good afternoon.

JACK BAILEY: S.B. 1483.

JUDITH ROSSI: For the record, I'm Judith Rossi, Executive Assistant State's Attorney to Mr. Bailey and we are here in opposition to raised S.B. 1383. That's AN ACT CONCERNING THE PLEA OF NOLO CONTENDRE CONDITIONAL ON THE RIGHT TO TAKE AN APPEAL.

We presently have a statute that provides the right for appeal after conditional nolo plea in certain limited circumstances. This bill purports to remove the limited circumstances and, in essence, make any pretrial ruling of the court subject to a conditional nolo plea and the right to take an appeal.

Thus, the bill would expand the scope of conditional nolo pleas and allow for more appeals from pretrial rulings. And this would not be a preservation of judicial resources as the statement of purpose asserts. Rather, it's a device for getting more review of rulings before having to go to trial. Thus, it could result in trial delays or interruptions while a defendant gets Appellate review of a particular ruling, comes back down; may go up again.

And, in fact, the statute that exists now doesn't create a substantial or substantive right for criminal defendants. The statute is really a tool for the defense, the prosecution, and the court to consider in the handling of a particular case.

The fact that this bill, as proposed, would allow for an appeal from any and all types of motions ruled on by the Trial Court, weights the tool too

heavily in favor of the - or toward the defense and allows them to delay things while it tries to wheedle away at the State's case and the Trial Court's rulings in a piece-meal fashion.

Also, any change to the existing statute must take into consideration the interplay between that statute and Practice Book Section 4003 which implements the statute and provides safeguards against abuse of the appellate process. It's similar to what exists in the federal procedure about conditional pleas.

It is the belief of the Division that the present statute and rule seems to cover all of the necessary territory and we should not tinker with what seems to be working.

Therefore, the Division of Criminal Justice respectfully requests and recommends that the Judiciary Committee reject proposed raised S.B. 1383.

Thank you.

JACK CRONIN: I'm just the bodyguard again.

REP. LAWLOR: Are there questions? Representative Farr.

REP. FARR: Just make the - I just wanted to welcome Mr. Bailey back. I'm glad to see he's looking well. I hope you're feeling well, Jack.

JACK BAILEY: Thank you very much.

REP. LAWLOR: Missed you.

REP. FARR: I told Representative Lawlor not to ask you any questions (INAUDIBLE-MICROPHONE NOT ON)

JACK BAILEY: To go down. Thank you very much.

REP. LAWLOR: And on the different topic that we had some preliminary discussions about the investigative subpoena bill and (inaudible) both agreed that we would try to reach out before putting it on the agenda for members of the

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March 19, 2001

The Hon. Eric Coleman, Senator  
The Hon. Michael Lawlor, House Representative  
Chairmen, Judiciary Committee  
Room 2500, Legislative Office Bldg.  
Hartford, CT 06106

Re: Raised Bill No. 1383, An Act Concerning A Plea Of Nolo  
Contendere Conditional On The Right To Take An Appeal

Dear Chairmen:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is an organization comprised of two hundred and eighty members. Founded in 1988, the organization serves to protect and insure those individual rights guaranteed by the Connecticut and federal constitutions. CCDLA supports Raised Bill No. 1383, which concerns pleas of nolo contendere conditional on the right to take an appeal.

General Statutes Section 54-94a authorizes the entry of a plea of nolo contendere conditional on the right to take an appeal from the court's denial of the defendant's motion to suppress or dismiss. Raised Bill No. 1383 amends the statute in two ways that promote judicial economy, while still preserving the individual rights and liberties of criminal defendants. First, Raised Bill No. 1383 eliminates the language of General Statutes Section 54-94a that had arbitrarily limited the circumstances under which an appeal could be taken. Under Raised Bill No. 1383, appeals can be taken from any ruling on a motion to suppress or dismiss that would be dispositive of the case, not just those rulings that concern 4th Amendment (unconstitutional searches or seizures) and 5th Amendment (involuntary statements) issues. The salutary effect of such a change is, of course, the elimination of the need to proceed to trial just to preserve appellate issues.

Second, Raised Bill No. 1383 vests trial courts with the discretion to decide whether a ruling on a motion to suppress or dismiss would be dispositive of the case. If the ruling on the motion would not be dispositive of the case, an appeal cannot be taken. Such a provision has the effect of preventing a frivolous appeal from being taken.

Thus, for the foregoing reasons, CCDLA urges the enactment of Raised Bill No. 1383.

The Hon. Eric Coleman, Senator  
The Hon. Michael Lawlor, House Representative  
March 19, 2001  
Page 2

Thank you for your consideration.

Respectfully Submitted

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**TESTIMONY OF CHIEF STATE'S ATTORNEY JOHN M. BAILEY**

BEFORE THE JOINT COMMITTEE ON THE JUDICIARY -- MARCH 19, 2001

IN OPPOSITION TO RAISED BILL NO. 1383

AN ACT CONCERNING A PLEA OF NOLO CONTENDRE CONDITIONAL ON THE RIGHT TO TAKE AN APPEAL

Good afternoon, Senator Coleman, Representative Lawlor, Senator Kissel, Representative Farr and Members of the Judiciary Committee.

For the record, I am John M. Bailey, the Chief State's Attorney, and I appear before the Committee today on behalf of the Division of Criminal Justice to speak in opposition to Raised Bill No. 1383, *An Act Concerning a Plea of Nolo Contendre Conditional on the Right to Take an Appeal*.

Simply put, this legislation would not accomplish its stated purpose of preserving judicial resources. In fact, the bill would have the opposite affect by allowing for expanded "interlocutory" appeal of trial court rulings.

The bill seems to be a device for expanding the rights of appeal during the course of proceedings in the Superior Court before a jury is allowed to render its verdict. This expansion would needlessly result in trial delays or interruptions while a defendant gets appellate review of a particular ruling.

For these reasons, the Division of Criminal Justice respectfully recommends that the Judiciary Committee reject Raised Bill No. 1383.

Thank you.

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 10  
3186-3581

2001

Court in Hartford, you can't -- you're not eligible to go and provide those services. And, also, if you have a more serious case, you don't have an opportunity to use any of those services, either.

And it seemed to me that we would want to rebuild the community court model so that all of those services are available to every defendant in the G.A. I mean the fact that somebody committed a more serious crime doesn't mean he doesn't have a drug problem or he doesn't have a housing problem or any of these other things that the same services might not apply to and allow us to do some interventions earlier.

CECILIA WIEDERHOLD: Actually, as it stands now in New Haven, we do try to screen for mental health issues, substance abuse issues. The areas that we can't really address are issues of housing. We have no resources on-site to deal with that. We do do community mediation and we have that available wherever that's suitable.

I think the advantage that the Hartford Community Court has is it diverts cases that are less serious onto a different path very early on. There's that immediate diversion, allowing then the G.A. in Hartford to address sort of the more serious offenses.

But I do think it is important that all defendants be afforded the same screening to sort of identify, "Well, what's underneath? What's going on here? What is the problem that underlies the conduct?" And we do try to do that. But we do it with existing resources.

REP. FARR: Yes. Okay. Thank you.

CECILIA WIEDERHOLD: Thank you, sir.

SEN. COLEMAN: Further questions?

Attorney Rossi, I got a memo from you on a bill that's not on our agenda today. But can we -- because it's not -- I don't want to discuss it with you today because it's not on the agenda. But can

(SB 1383)

we try to remember to call one another? Because I think we're reading the language of the bill differently.

JUDITH ROSSI: Okay.

SEN. COLEMAN: My view is different than yours, obviously.

JUDITH ROSSI: May I ask, Senator, which bill?

SEN. COLEMAN: Nolo contendere pleas, conditional nolo contendere pleas.

JUDITH ROSSI: Conditional pleas? Okay.

SEN. COLEMAN: I think your interpretation was that it applies to all motions. And my interpretation was that it only applies to Motions to Suppress and Motions to Dismiss. I can't remember the number of the bill. But --

JUDITH ROSSI: I will take a look at it and I will call you, Senator.

SEN. COLEMAN: Thank you.

JUDITH ROSSI: Thank you.

CECILIA WIEDERHOLD: Thank you very much for your time.

JUDITH ROSSI: Thank you.

SEN. COLEMAN: I'm sorry. Cathy Fox.

CATHY FOX: Chairman Lawlor, Senator Coleman, good afternoon. In the interest of time, I'm going to shorten my remarks and allow a NAMI member, Loretta Duval, to join my testimony.

I am here today as a member of the Board of Directors of the National Alliance for the Mentally Ill in Connecticut. And I'm offering testimony in support of Raised Bill 1428 on behalf of the Board and the membership of NAMI Connecticut.

Today we submitted to you suggested language to