

Legislative History for Connecticut Act

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<b>Act Number:</b> 200	2005
<b>Bill Number:</b> 6746	
<b>Senate Pages:</b> Senate: 3779-3781, 3799-3800	5
<b>House Pages:</b> House: 3515-3525, 8147-8216	81
<b>Committee:</b> Judiciary : 4169-4172, 4293-4294, 4326	7

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

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GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2005

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Senate

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Calendar Page 8, Calendar 542, File 578,  
Substitute for H.B. 6746, An Act Concerning Evidence  
Tampering, Perjury and False Statements by Police  
Officers, Favorable Report of the Committee on  
Judiciary and Public Safety.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

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

THE CHAIR:

On acceptance and passage, will you remark?

Senator McDonald.

SEN. MCDONALD:

Mr. President, this bill authorizes the Police  
Officer Standards and Training Council to cancel or  
revoke a police officer's certificate if that officer  
is found by his or her law enforcement unit to have  
been, committed a crime by tampering with or  
fabricating evidence, perjury, or second-degree false  
statement.

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And, Mr. President, I believe that the Clerk has in his possession LCO 7252. I'd ask that he call it and I be granted leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7252, which will be designated as Senate Amendment Schedule "A". It is offered by Senator McDonald of the 27<sup>th</sup> District.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Mr. President, I move adoption of the amendment.

THE CHAIR:

On adoption, will you remark? Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Mr. President, this amendment is intended to clarify, in one respect, and expand, in one respect, our current statutes on the ability of police officers who are serving in, serving in a capacity overseas in international peacekeeping operations and their ability to regain their

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employment status upon their return to the United States.

And in particular, Mr. President, this amendment would require that the Police Officer Standards and Training Council not cancel or revoke the certificate of a police officer during the period when that officer is serving in that international peacekeeping operation.

THE CHAIR:

On the amendment, will you remark further? On the amendment? If not, I'll try your minds. All those in favor, please say "aye".

SENATE ASSEMBLY:

Aye.

THE CHAIR:

Those opposed, "nay". The ayes have it. The amendment is adopted. Senator McDonald.

SEN. MCDONALD:

Mr. President, if there's no objection, might this item be placed on the Consent Calendar?

THE CHAIR:

Seeing no objection, the item will be placed on the Consent Calendar. Mr. Clerk.

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Mr. Majority Leader. Mr. Majority Leader, could you restate for the Clerk's benefit the item that you wish added the Consent Calendar.

SEN. LOONEY:

Yes, Mr. President. I believe it is Calendar Page 26, Calendar 554, H.B. 6771.

THE CHAIR:

So added to the Consent Calendar. It is now your wish that we vote the Consent Calendar?

SEN. LOONEY:

Yes, Mr. President. Thank you.

THE CHAIR:

Clerk will now read the items on the Consent Calendar.

THE CLERK:

Mr. President, there were two items placed on the second Consent Calendar. The first being on Calendar Page 8, Calendar 542, Substitute for H.B. 6746 and Calendar Page 26, Calendar 554, H.B. 6771.

Mr. President, that completes those items placed on the second Consent Calendar.

THE CHAIR:

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Thank you, Mr. Clerk. Clerk will please announce that a roll call vote is in process on the Consent Calendar. The machine is open.

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:

Senator McKinney. If all Members have voted, the machine will be closed. Clerk will announce the result of the vote on the Consent Calendar.

THE CLERK:

Motion is on adoption of the second Consent Calendar.

Total number voting, 35; necessary for adoption, 18. Those voting "yea", 35; those voting "nay", 0. Those absent and not voting, 1.

THE CHAIR:

All items on the Consent Calendar are passed.

Mr. Majority Leader.

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Is there any objection? Is there any objection?  
Hearing none, so ordered. Will the Clerk please call  
Calendar Number 476.

CLERK:

On Page 34, Calendar Number 476, House Joint  
Resolution Number 31, RESOLUTION PROPOSING A  
CONSTITUTIONAL AMENDMENT CONCERNING FUNDING OF THE  
CONNECTICUT TEACHERS RETIREMENT SYSTEM, Favorable  
Report of the Committee on Appropriations.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Mantilla.

REP. MANTILLA: (4<sup>th</sup>)

Madam Speaker, I move this item be referred to  
the Government Administration and Elections Committee.  
Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Is there any objection? Is there any objection?  
Hearing none, so ordered. This concludes the  
referrals for today's Session. Will the Clerk please  
call Calendar Number 412.

CLERK:

On Page 30, Calendar Number 412, Substitute for  
House Bill Number 6746, AN ACT CONCERNING EVIDENCE

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TAMPERING, PERJURY AND FALSE STATEMENTS BY POLICE  
OFFICERS, Favorable Report of the Committee on Public  
Safety.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Lawlor, you have the floor.

REP. LAWLOR: (99<sup>th</sup>)

Good afternoon, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Sir.

REP. LAWLOR: (99<sup>th</sup>)

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

DEPUTY SPEAKER KIRKLEY-BEY:

The question before the House is on acceptance of  
the Joint Committee's Favorable Report and passage of  
the Bill. Will you comment further?

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Madam Speaker, I will. First of all,  
by way of explanation, under our current law, there  
are a variety of categories, which disqualify  
potential and certified police officers from actually  
being certified as police officers, and those you can  
see listed in the actual Bill as the current law.

If it is determined that a certificate, well, first of all, I should say, Madam Speaker, that police officers, in addition to being hired by a local police department or by the State Police, also need to maintain their certification and this is in essence, a license to be a police officer.

So whether or not you are actually employed in a particular department is different from whether or not you're actually certified to be a police officer. If you move from one department to another, you still need to maintain your certification.

And just because you are hired doesn't mean you are certified. It's an Academy. It's a training process that prospective police officers need to complete in order to become certified and to maintain their certification. Over time there's additional training that needs to take place to maintain that certification.

However, Madam Speaker, from time to time there are circumstances which warrant the revocation of that certification, and the current law provides a number of categories.

For example, if it turns out that the original certificate was obtained through misrepresentation or fraud or there was some falsification on the part of the applicant with regard to the requirements for obtaining a certificate, and that type of thing, then a certificate can be revoked.

But one category that does not appear in the current law, which this Bill would actually add, is a situation, which I think every Member of the Chamber would agree ought to warrant revocation of a certificate to be a police officer.

So this Bill would add three separate new categories. Conduct, which would either constitute fabricating of physical evidence. Perjury for a false statement.

Now, in the Bill, Madam Speaker, reference is made to three criminal statutes, which currently define that conduct.

For example, perjury has a definition. False statement second degree has a definition, and tampering with or fabricating physical evidence has a definition. So reference is made to the criminal statute for purposes of obtaining a definition.

What this Bill, if it passes and is signed into law by the Governor would provide, is that for a current police officer, a certified police officer who engages in that conduct, who is fired by his or her local police department or by the State Police or other law enforcement agency in Connecticut, that person could have their certification revoked by POST, the Police Officer Standards and Training Board, which is our statewide agency, which certifies current and prospective police officers.

It wouldn't require that revocation. It would simply provide for it if this definition is met.

In addition, Madam Speaker, this Bill would add for the first time, an additional due process protection for police officers who are subject to revocation of their certification, and the Bill provides that if such a revocation is going to take place, that officer would be entitled to what they call a de novo hearing, or trial, before the Police Officers Standard and Training Commission and that there would be an evidentiary standard for the first time and that would be clear and convincing evidence.

So what that translates into, Madam Speaker, is that this Bill adds a new category to the circumstances under which your certificate as a police officer could be revoked and provides a hearing, a new hearing.

In other words, the evidence would all be brought in anew, and the board in order to revoke the certification would have to find by clear and convincing evidence, that an officer actually had violated these rules.

Now, finally, I should point out, Madam Speaker, the Bill does not require conviction of a crime involving those three types of conduct. Instead, whether or not there's a conviction. If there is a conviction already, they would automatically by force of law lose their certification.

This would govern the situation where for whatever reason, perhaps through a plea bargain in a criminal case, perhaps through use of accelerated rehabilitation, a police officer avoided an actual conviction, but where the evidence is still very clear, overwhelming, clear and convincing that they

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had engaged in the conduct, then they would be subject to a revocation of their certification.

And I think we can all understand, Madam Speaker, the reason for this. Although the overwhelming majority of police officers in our state do their job diligently and honestly, from time to time there are police officers who actually do manufacture and destroy evidence, or who actually do lie in their police reports, or lie when they're testifying in court.

And I think we'd all agree that when that happens, they have forfeited their right to be a police officer, and I think on balance, this is an appropriate addition to our current statutes. I move, I urge passage of the Bill.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative Lawlor.

(GAVEL)

Please bring your voices down. It was very hard for me to hear the ending of Representative Lawlor's presentation.

Will you remark further on the Bill?

Representative Farr.

REP. FARR: (19<sup>th</sup>)

Thank you, Madam Speaker. I, too, rise in support of the Bill. When the Bill was before us in the Committee, there were concerns expressed by some of the law enforcement community about the due process issues and making sure that they were adequately protected.

I think the Bill as finally drafted addresses all of those issues. I think this is a reasonable Bill, protects the community and also protects the rights of law enforcement community if they're in a situation where they have to defend their conduct. So I urge passage of the Bill. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Would you remark? Will you remark? Will you remark further on the Bill that is before us?  
Representative Ward.

REP. WARD: (86<sup>th</sup>)

Thank you, Madam Speaker. I also rise to support the Bill. I do think it makes absolute sense to indicate that if by clear and convincing evidence, frankly I probably could have been even a lower standard of preponderance of the evidence, but it's

acceptable to have the higher standard that if a law officer has committed either perjury or a false statement, the reality is, they're not much good in future law enforcement.

If they've done that once, and they're testifying in a trial and the first thing a defense lawyer will ask, well, do you have a conviction of making false statements, so they really won't be able to be effectively a witness in any case, which means they can't really perform their function.

More significantly, the public support of law enforcement, and for the action of the police are undermined by someone who would fabricate evidence or make a false statement or a false report regarding their work.

The great number of law enforcement officers I believe conduct themselves in a proper and fair manner and in a just manner in accordance with law, but we certainly shouldn't allow someone to stay certified as a law enforcement officer if they're in fact fabricating evidence or committing perjury or other false statement.

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And it is certainly reasonable, just as we would in a lot of other professions, as something that is so critical to the nature of the work you do, you've been found to have violated, you would lose your right to do that work.

I applaud the Judiciary Committee for bringing this Bill forward. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative Ward. Will you remark? Will you remark further on the Bill that is before us? Will you remark further? If not, staff and guests to the Well. 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 KIRKLEY-BEY:

Will Members please check the board to determine if your vote is properly cast. Will Members please check the board to make sure your vote is properly cast.

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The machine is now going to be locked at this moment. Will you please check the board to see that your vote has been properly cast.

The machine will be locked and the Clerk will prepare the tally. The Clerk will please announce the tally.

CLERK:

House Bill Number 6746.

Total number Voting	145
Necessary for Passage	73
Those voting Yea	145
Those voting Nay	0
Those absent and not voting	6

DEPUTY SPEAKER KIRKLEY-BEY:

The Bill passes. Will the Clerk please call Calendar Number 508.

CLERK:

On Page 19, Calendar Number 508, Senate Bill Number 1135, AN ACT CONCERNING THE ELECTRONIC TRANSMISSION OF PHOTOGRAPHS AND FINGERPRINTS, Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Dargan, you have the floor.

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Bill as amended is passed. Would the Clerk  
please call Calendar Number 412.

CLERK:

On Page 28, Calendar Number 412, Substitute for  
House Bill Number 6746, AN ACT CONCERNING EVIDENCE  
TAMPERING, PERJURY AND FALSE STATEMENTS BY POLICE  
OFFICERS, Favorable Report of the Committee on Public  
Safety.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor of the 99<sup>th</sup>, you have the  
floor, Sir.

REP. LAWLOR: (99<sup>th</sup>)

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

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor, one moment please.  
Representative Lawlor of the 99<sup>th</sup>, you have the floor,  
Sir.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I move acceptance of the  
Joint Committee's Favorable Report and passage of the  
Bill, in concurrence with the Senate.

DEPUTY SPEAKER ALTOBELLO:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the Senate. Will you remark, Representative Lawlor?

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. The House previously passed the underlying Bill unanimously. It was passed by the Senate, I think it's important under the underlying Bill, Mr. Speaker, to emphasize the intent of the Bill since some questions have arisen with regard to that.

But it is the intent that in the event a police officer's certification were to be revoked for the conduct outlined in this, in this Bill, there would of first had to have been a full disciplinary process at the local level, the type of process spelled out in the collective bargaining department, agreement for each department.

And the person subject to the disciplinary process must have been found by the law enforcement unit, in other words, the local department, to have committed the violations pursuant to the procedures established by the unit.

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And in other words, the police officer involved would have two hearings. First the local level where in effect, he probably would have been fired, and then there would be a subsequent hearing by the police officer Standards and Training Board, which would reaffirm that, but it would be a de novo, or from the beginning process.

So I think that was clearly explained the first time, but we just wanted to make that clear, because I know that some questions had arisen.

Mr. Speaker, the Senate adopted an Amendment, the Clerk has LCO Number 7252, previously designated Senate Amendment Schedule "A". I'd ask the Clerk call and I be allowed to summarize.

DEPUTY SPEAKER ALTOBELLO:

Would the Clerk please call LCO Number 7252, which shall be designated Senate Amendment Schedule "A".

CLERK:

LCO Number 7252, Senate Amendment Schedule "A",  
offered by Senator McDonald.

DEPUTY SPEAKER ALTOBELLO:

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Representative please, takes leave to summarize.  
Is there objection to summarization? Objection to  
summarization? Hearing none, please proceed,  
Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. This Amendment makes it  
clear that police officers who volunteer for  
peacekeeping activities cannot have their certificate  
expire while they are out of the Country on those  
peacekeeping activities.

And upon their return, under existing law,  
they're entitled have their positions reinstated, but  
this Amendment makes it clear that this only applies  
to peacekeeping activities after September 11, 2001.

And that they have an obligation to notify, to  
request the reemployment within six months of their  
return to the United States. I urge adoption, Mr.  
Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. The question is on  
adoption of Senate Amendment Schedule "A".  
Representative O'Neill of the 69<sup>th</sup>, you have the floor,  
Sir.

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REP. O'NEILL: (69<sup>th</sup>)

Yes, thank you, Mr. Speaker. I was wondering if the gentleman could indicate whether there is a fiscal note associated with this Amendment, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. Yes there is, I'm just trying to read it quickly here. Thank you, Mr. Speaker. It's somewhat complex.

It seems to indicate that there's a potential cost for keeping a position open, but it doesn't give a precise figure so, through you, Mr. Speaker, that's what the fiscal note appears to say.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Lawlor. Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

Yes, thank you, Mr. Speaker. At this time I would like to yield to the Minority Leader.

DEPUTY SPEAKER ALTOBELLO:

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Representative Ward of the 86<sup>th</sup>, you have the floor, Sir.

REP. WARD: (86<sup>th</sup>)

Yes, Mr. Speaker, I do. Just a note for the record that I'm going to exempt myself on this Amendment.

My office is involved in litigation that I think would be directly impacted by this, it appears to me. I'd been out of the Chamber when it was called, and I just stepped in so I could exempt myself from this matter.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Ward, without objection. Representative O'Neill, you have the floor.

REP. O'NEILL: (69<sup>th</sup>)

Yes, thank you, Mr. Speaker. The question that I would have is, is if this particular Amendment has an impact on pending litigation? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

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Thank you, Mr. Speaker. I know that there are several officers who did participate in peacekeeping activities who have been restored to their employment, others who are seeking it.

And I know there's at least one case where there's a person seeking reemployment under the existing law, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

Thank you, Mr. Speaker. When we talk about peacekeeping activities, are we talking about people who were serving in the Armed Forces of the United States? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. Under the existing law, it spells out that it refers to international peacekeeping operations sponsored by the United States Department of State.

There are quite a few mid career police officers who have volunteered to participate on behalf of the

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United States Department of State in peacekeeping operations in Iraq, and I believe in Afghanistan as well. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

Thank you. So I take it then that we're talking about people who were working for some sort of private contractor operating under a contract from the United States Department of State, is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. That's correct.

DEPUTY SPEAKER ALTOBELLO:

Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

Thank you, Mr. Speaker. I was wondering, when the existing Legislation, which this basically, Amendment seeks to change the date, when was the Legislation passed that we're now changing the date? Through you, Mr. Speaker.

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DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. The initial statute was enacted last year, but we're not changing the date, we're just clarifying this applies only to, the reason for it, there was a couple of concerns raised by police departments around the state.

Number one, how far back does this go, and it was clear the intent to deal with persons who volunteer in the war on terrorism.

And secondly, would there be any timeframe during which they'd have to request the restoration to their position following their return to the United States.

And so this makes it clear that that request would have to within six months of their return. In other words, you wouldn't have it years later asking to be reinstated under the existing law, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

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Yes, thank you, Mr. Speaker. I will yield the floor to anyone else wishing to ask questions about this or speak on it at this point, Mr. Speaker. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Representative Farr of the 19<sup>th</sup>, you have the floor, Sir.

REP. FARR: (19<sup>th</sup>)

Thank you, Mr. Speaker. Mr. Speaker, through you to representative Lawlor.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. FARR: (19<sup>th</sup>)

How many police officers, I think the indication was that there is in fact some litigation going on concerning this.

How many police officers would be affected, or former police officers would be affected by this Amendment?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

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Thank you, Mr. Speaker. I know there was hundreds from around the Country. I know there was at least eight or nine from Connecticut who are currently, or have formerly participated in these peacekeeping activities. So I don't know the exact number, but eight, nine, ten, something in that area.

DEPUTY SPEAKER ALTOBELLO:

Representative Farr.

REP. FARR: (19<sup>th</sup>)

Yes, through you, Mr. Speaker to Representative Lawlor, had this matter ever had a public hearing in this session, or this particular proposal?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Well, the statute is on the books. This narrows the existing statute, but this did not have a public hearing.

DEPUTY SPEAKER ALTOBELLO:

Representative Farr.

REP. FARR: (19<sup>th</sup>)

Thank you. I guess I have some concern with passage of an Amendment that seems to have a fiscal

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impact, and affects ongoing litigation, and passing it in this fashion.

I don't know all the ramifications for it. I guess I'm just going to vote against the Amendment, because I didn't realize that was affecting current litigation.

And without a public hearing, it's very difficult to determine exactly what we're doing here, so thank you.

DEPUTY SPEAKER ALTOBELLO:

Would you remark further? Representative Cafero of the 142<sup>nd</sup>, you have the floor, Sir.

REP. CAFERO: (142<sup>nd</sup>)

Thank you, Mr. Speaker. Mr. Speaker, a few questions to Representative Lawlor, through you.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. CAFERO: (142<sup>nd</sup>)

Thank you, Mr. Speaker. Through you, Mr. Speaker to Representative Lawlor. Representative Lawlor I totally understand the concept of a police officer leaving to serve his or her Country, returning and

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being able to not lose their certification, and certainly not lose their employment.

The part of the Amendment before us that throws me, is the six-month reference in Line 20.

Am I reading this to understand that if someone were to leave their employment as a police officer, serve their Country, upon their return from the United States, they have six months, and I'm presuming they are out of service at this point, but they have six months whether or not to decide they want their old job back, is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. That's what the Bill would provide for.

DEPUTY SPEAKER ALTOBELLO:

Representative Cafero.

REP. CAFERO: (142<sup>nd</sup>)

And through you, Mr. Speaker, is there a rationale behind the six months? Is there a, I mean I certainly understand giving someone a chance to sort

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of get it all together upon return from service, but  
is there a specific reason for the six months?

Is this to accommodate a certain individual or  
individuals who might fall into that category, or  
what? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I don't know any  
particular rationale. I know the concern of the  
police chiefs who brought this to our attention was  
the fact that the existing statute seemed to be  
somewhat open ended.

There was no cutoff date where one would be  
required to request reemployment, and I think six  
months appeared to be a reasonable number in light of  
the fact that this is a very traumatic experience to  
participate in these peacekeeping activities.

I think it is analogous to the similar provisions  
for people participating in military deployments,  
etc., upon their return, that type of thing.

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So and it's also analogous to some of our various  
leave statutes in that respect. Through you, Mr.  
Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Cafero.

REP. CAFERO: (142<sup>nd</sup>)

Thank you, Mr. Speaker. Mr. Speaker, I fully  
recognize and appreciate the fact that oftentimes we  
do, and pass, Legislation for specific instances and  
therefore, specific people.

And I don't think there's anything wrong with  
that as long as we're all aware that's what we're  
doing.

Through the grapevine in the room you hear that  
this particular Amendment would affect at least one  
individual, who as I understand, there's litigation  
pending with, with regard to a particular  
municipality, who actually quit his or her job.

They went to serve in the Armed Services, came  
back, and now wants reinstatement, and that this  
particular Bill would allow that individual to regain  
their status. Through you, Mr. Speaker, to

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Representative Lawlor, are you aware of that scenario in particular?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I don't think that's an accurate statement. Actually, I think the current law is very clear, who is covered by it, and I think that in the particular case, which I am aware of, the issue is whether or not the statute was in effect retroactive.

And I think that almost everyone that's looked at it agrees that that's not really an issue. The existing statute explains a category of an individual who's entitled to be restored to employment.

It is identical to other, similar statutes we have protecting persons who participate in the Army Reserve, in the National Guard.

In fact, it's almost identical to the statutes we have that protect the employment of people who are members of the General Assembly, or who are called to jury duty, things of that nature.

So there's no question the current law applies to police officers who did volunteer for these peacekeeping activities.

I think if anything, this tightens it up, and it responds to a concern raised by police chiefs about whether or not it was so open ended that one could request reemployment at any time, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Cafero.

REP. CAFERO: (142<sup>nd</sup>)

Through you, Mr. Speaker, if indeed that does tighten up what was the original law, then I would agree that it needed tightening up.

I guess my concern is, and I'll listen to the rest of the debate, that six months after one has left their employment, excuse me, after one has returned from providing service to our Country, is an awful long time to keep an employer, frankly liable to keep that position open.

I think it is imperative that we support our servicemen and women when they defend our Country, and keep their jobs when they come back.

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And regardless of the hardship it puts on their employer to keep that job open, or keep the place going while they're gone.

The problem is, once they return, and a reasonable amount of time is given for them to sort of settle in, they have to make a choice as to whether or not they want to go back.

Six months after returning to the Country, seems like an extraordinarily long time, and if in fact this is a tightening up of the existing statute, I guess my concern is is that it might not have tightened it up enough. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Cafero. Representative Hamzy of the 78<sup>th</sup>, you have the floor, Sir.

REP. HAMZY: (78<sup>th</sup>)

Thank you, Mr. Speaker. Couple questions through you, to the proponent of the Amendment.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. HAMZY: (78<sup>th</sup>)

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Through you, Mr. Speaker, to Representative Lawlor, this is a Bill that we have already acted upon once, is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

The underlying Bill, that's correct, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

And through you, Mr. Speaker, the reason it's back here is because the Senate attached an Amendment to the Bill? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

That's correct, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

Can I ask, through you Mr. Speaker, why wasn't the Amendment offered the first time the Bill came through us? Through you, Mr. Speaker.

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DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I can't answer that question. I don't know the answer to that question.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

Through you, Mr. Speaker, was this an issue that we were aware of at an earlier point in the Session?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

I'm not, I can't speak for anyone else in the Chamber. I don't know.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

Through you, Mr. Speaker, is this an issue that Representative Lawlor was aware of prior to the Senate amending the Bill? Through you, Mr. Speaker.

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Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I guess I don't understand the question, if you could ask it again.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy, would you repeat or rephrase or a combination of both, your question, please.

REP. HAMZY: (78<sup>th</sup>)

Certainly, and I don't mean to embarrass or personally, I don't mean this as a personal question at all.

I'm just wondering why, when we acted on this Bill already, it goes up to the Senate, there's an Amendment that's put on the Bill that we've already acted on, and if it's an issue that we were already aware of, why are we revisiting this?

Why couldn't we have amended the original Bill when we took it up the first time? I guess that's the question I'm trying to figure out. And maybe there's not an answer for it, so I'll withdraw the question.

Through you, Mr. Speaker, to Representative Lawlor, is this different, is a police officer a

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member of the Reserves or the National Guard, in this type of situation? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. No, these are, the United States Department of State, I guess it was two years ago or so, determined that it was necessary to bring mid career police officers to Iraq and to Afghanistan to help maintain order, and to help train the Iraqi police, and solicited mid career police officers from around the Country to participate in that activity.

Obviously retired police officers might actually be too old and unable to perform these duties, so they were deliberately soliciting these police officers who had the appropriate experience and training, who would be willing to volunteer, to deploy to Iraq or to Afghanistan, under the aegis of the United States Department of State, and perform these responsibilities.

So police officers who did volunteer for these activities, had to either seek a leave of absence from

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police departments, and some were successful, some were not.

The underlying statute, that's already the law, protects their right to be reemployed upon their return.

So they are not in the United States military, they are working on behalf of the United States Department of State.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

And through you, Mr. Speaker, when the term volunteer is used, are we to assume that these are unpaid positions? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker! No they're not unpaid. I believe the salary is approximately \$75,000 per year.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

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Thank you, Mr. Speaker, and through you, there's no law that, there's nothing that compels these police officers to leave their current position to participate in this program? Through you, Mr. Speaker, is that accurate?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Other than a sense of patriotism and an interest in helping to protect the United States in the war on terrorism, no I don't think there is.

I mean, these are very brave men and women who have volunteered to go overseas, and put themselves directly in harm's way, at the request of the United States Government, because there was a special need for trained, mid career police officers to perform a function.

And I think based on the law that's already on our books, it's clear that we intend to protect their employment, just as we do with many other people who answer the call of the government to perform a variety of functions, whether it's Membership in the General Assembly, service in jury duty, or participation in

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the United States Armed Forces in the Reserves or the  
National Guard, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

Through you, Mr. Speaker, so the issue that this  
Amendment is trying to address, is when a police  
officer leaves his position, in other words, doesn't  
take a leave of absence, but actually quits his  
position as a police officer in order to participate  
in this program? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. No, that's not correct.  
The existing law governs that situation. The  
Amendment is only seeking to clarify that this applies  
only to police officers who have done so in the  
context of the war on terrorism.

And number two, that they have an obligation to  
make the town aware of their intention to return to  
their employment within six months of their return.

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Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

Thank you, Mr. Speaker. And it may help me to understand the Amendment if I can, I guess understand the underlying, the existing law.

Through you, Mr. Speaker, can Representative Lawlor just briefly explain what the existing law says?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. Well the existing law is set out in its entirety in the Amendment, and you can see the underscored language is the additions to it.

But the existing law indicates that sworn police officers who are employed either by the state or municipalities, who either take a leave of absence or resign their employment to volunteer for participation in international peacekeeping operations, and are subsequently selected for participation by a company which the United States Department of State has contracted with to recruit, select, equip or deploy police officers for such peacekeeping operation.

And participates in peacekeeping operations under the supervision of the United Nations, the Organization for Security and Cooperation in Europe, or other sponsoring organizations, shall be entitled, upon their return, to be restored to such officer's employer to the position of employment, held by the officer when the leave commenced, or if the original position of employment is not available, to be restored to an equivalent position, with equivalent employment benefits, pay and other terms and conditions of employment.

That's the existing law, so the intent is, of the existing law, is to ensure that police officers who had volunteered, or who will volunteer for this duty, are guaranteed employment when they return.

And I would point out that we have similar statutes covering jury duty, Membership in the General Assembly, and participation either through the National Guard or the United States Army, or the military reserve units, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

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Thank you, Mr. Speaker, and I thank Representative Lawlor for his responses. My question was, I didn't understand the clarifications that were made to the existing law.

It doesn't appear that there is much clarification that's made to the existing law, which seemed to be fairly clear. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Would you remark further? Would you remark further? Representative Green of the 1<sup>st</sup>, you have the floor, Sir.

REP. GREEN: (1<sup>st</sup>)

Thank you, Mr. Speaker. Mr. Speaker, a few questions to the proponent of the Amendment.

DEPUTY SPEAKER ALTOBELLO:

Please proceed.

REP. GREEN: (1<sup>st</sup>)

Thank you. Representative Lawlor, I guess my concern is not so much whether or not a police officer can have some time after returning from duty, and whether or not they should get their job.

But it's sort of on the front end. I'm concerned about whether or not there's any specific conditions

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on when a police officer can take a leave of absence, or resign, and possibly use as the reason, that they're going to volunteer for duty.

Let's say for example a police officer is under some internal investigation for maybe some violation of what we've talked about in the original Bill, and before that investigation is completed, that police officer volunteers for military service.

I'm concerned because in that Amendment, it talks about that a [inaudible] cannot revoke or cancel their certification.

One, how does this Amendment address that issue where someone might, a police officer might be under some internal investigation, they decide to volunteer or resign, join the service, would that have any affect on the investigation currently going on, and does it, does this Amendment guarantee that person a job back when they return?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. No, this doesn't. First of all, the existing statute and this Amendment don't

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apply to military service, they apply to actual participation in these peacekeeping activities as a police officer.

Number two, all the prohibition on revocation of certification only is based on the fact that the police officer wouldn't be available to contest it if there was such a revocation.

It could still take place once he had, or she had, returned from the mission, but it doesn't in any way prohibit it from happening, other than during the timelines indicated.

And number three, in order to be, this not only requires you to have volunteered, but it does require you to also have been selected and complete the mission in order to be eligible.

And I do know that in particular, this is a highly selective process, that the United States State Department employs.

It does include a rather high level security background check in order to participate, and it is literally impossible that anyone who is currently under investigation would pass such a background

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check, and receive a security clearance, and therefore be eligible for this employment in the first place.

So I would say that if an officer was seeking to participate in this, who was involved in any type of investigation, they would not be selected for this program until that investigation was complete, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Green.

REP. GREEN: (1<sup>st</sup>)

Thank you, Mr. Speaker. Mr. Speaker, based on that response, through you, could the Representative tell me if there's any particular statutes or guidance that a person cannot volunteer, or that a peacekeeping agency cannot accept anyone that is currently going through an internal investigation through their department? Through you, Mr. Speaker.

REP. LAWLOR: (99<sup>th</sup>)

Through you, Mr. Speaker--

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor, one moment please.

REP. LAWLOR: (99<sup>th</sup>)

Sorry.

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DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. There's no state statute that governs who can be accepted to a, by the United States Department of State.

But the federal security clearance that is required for this job would not, I mean assuming the allegations were of some type of serious misconduct, would not permit someone under those circumstances to be accepted in this particular, hired in this position, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Green.

REP. GREEN: (1<sup>st</sup>)

Thank you, Mr. Speaker. Mr. Speaker, through you then, could the Representative tell me whether or not this Legislative intent is that police officers that are currently under investigation cannot use this option of volunteering or asking for a leave of absence, or resigning for military service, that intent is that this would not allow a police officer

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to use that reason to get out of an internal  
investigation going on?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. That is correct, because  
this does not apply to military service, through you,  
Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Green.

REP. GREEN: (1<sup>st</sup>)

Thank you. I thank the Representative for his  
answers.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative Beamon  
of the 72<sup>nd</sup>, you have the floor, Sir. Go Huskies.

REP. BEAMON: (72<sup>nd</sup>)

Thank you. Thank you, Mr. Speaker. I really did  
not want to comment too much on this Amendment, but I  
just felt in some way that I have to put a few items  
on the record.

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So through you, Mr. Speaker, to Representative Lawlor, I have to pose just a few questions and move on.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. BEAMON: (72nd)

Thank you, Mr. Speaker. Representative Lawlor, can a police officer quit at will, or at any time? Through you.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker, yes.

DEPUTY SPEAKER ALTOBELLO:

Representative Beamon.

REP. BEAMON: (72<sup>nd</sup>)

Thank you, Mr. Speaker, and Representative Lawlor for his answer. When I read this Amendment, there should be some rules. There should be some rules on how you quit a job, for whatever reason it may be. I understand the empathy that people had surrounding that incident, and on our war on terror.

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According to this, that if an officer quits or resigns to go work for a company, not even the Department of State, they're working for a company that will provide services through the U.N.

Regardless of how they're contracted in order to work, the question here is, can you just up and leave because you got, you got the spirit, or you felt like you wanted to go?

I think that creates a flaw somewhere in, in relationships that other officers have with each other, because I would think that there are some rules in order to quit a job, to request an appropriate leave of absence.

Now let's not fool ourselves here. We know this is for an individual, and I again, I have no problems with changing the law for individuals.

Let's just tell it the way it is. When a man wanted to work, when a man wanted to work, in an earlier Amendment that we've had on this floor this Session, we were told that that man had made some mistakes in his life, and Representative Green asked a good question, because I do not think that that question was answered, because it's really not

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background checks that are being done by the  
Department of State.

It's being done by a company, contracted by the  
Department of State, so there really may not be any  
rules that would be standard rules that the Department  
of State would take in terms of the employees, the  
clearances that those employees may need.

So it is plausible to assume that there could be  
an instance where there was an officer that was under  
investigation for some way, for some misdeed, that  
could probably just quit, and ask this company to hire  
him or her to go to Iraq or Afghanistan and fight the  
war on terror.

There should be some rules in terms of permission  
to leave, but on that, with that scenario out of the  
way, I would then say that that person, if that  
happened, would have that opportunity to do that.

And by the way, it mentions here, volunteer. But  
I would also think that if there's a company being  
contracted, there is some compensation for those who  
go.

I don't know what it may be, and we allow,  
according to this Amendment, we will allow people, or

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one person, to either do it right by getting permission to leave from their supervisors, or that one person, or hopefully more, could resign, or just leave at will and run away, and run away and do this.

I have no problems with that if the rules are the rules for all. We can't in one way carve out one specific law.

And I think Representative Hamzy was right when he asked that question. How'd this get here? We are carving out one rule, one rule for police officers, it says a police officer.

Well, I would think what we really mean to say is police officers, with an s on it, and maybe that will be corrected in the Technical Reviser's Bill that we'll have later on during this Session.

Maybe we'll say not a police officer, but police officers with an s on it, only because obviously one police officer quit and left.

Maybe one police officer felt that they couldn't take a leave of absence, because it says here leave of absence or resign.

You know, the circumstantial irony of this, for the purpose of Legislative intent, that troubles me a

bit, is we have a carve-out here. We're changing the rules to help a person get a job back. We're changing the rules.

Prior to 9/11, if officers went out, they had peacekeeping missions long before 9/11, you can go on the State Department's website or the U.N. website and you will see peacekeeping missions, and other police officers probably have done it.

They probably requested a leave of absence and they went. But we're saying something here that is a little different.

And believe me, I have no problems with voting for this Amendment. None at all, because I want to help people.

And I think we all want to help people, but I think we also would like to have rules which are equitable for all.

It's ironic to me that, we could deny a person, through a Department of Health, we deny a person a hearing on a license, and here we're telling another administrative agency, the Police Officer's Standard and Training Council, that they can't take someone's license away for six months.

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I hope the transcript and journal will note this feeling I have that we're changing the rule. Once again, I do not mind changing rules.

That's what we do here all the time, but let's be honest about it. Let's say exactly what this is quite clearly so we will understand, and those who interpret what we do will understand exactly what we mean by what we do here this afternoon.

DEPUTY SPEAKER ALTOBELLO:

Is there any Member that wishes to speak to the language contained in Senate Amendment Schedule "A"? Representative Hetherington of the 125<sup>th</sup>, you have the floor, Sir.

REP. HETHERINGTON: (125<sup>th</sup>)

Thank you, Mr. Speaker. If I may, I would like to direct a question or two to the proponent.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. HETHERINGTON: (125<sup>th</sup>)

With respect to the, to the law as amended by Senate Amendment Schedule "A", this speaks of the Department of State. Ordinarily we think of

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peacekeeping operations as being conducted by the  
Department of Defense.

As a matter of fact, there was some criticism in  
the restructuring in Iraq that the State Department  
was generally, played too little a role and the DOD  
played too large a role.

I'm wondering if someone in these same  
circumstances were working for a company employed or  
retained by the Department of Defense, would such  
person not be able to benefit from these provisions?  
Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. To my knowledge, the  
police activities are all being coordinated currently  
by the United States Department of State, through you,  
Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON: (125<sup>th</sup>)

I see. Now this, this pertains to an individual  
who was in the employ of a private company. What if a

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person who was employed by a private company to conduct security operations around the assets of that company, such as Halliburton in Iraq.

Would a security officer enjoy the same benefits if that security officer were employed by a company contracted for by the Department of State?

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I don't think they would fit under the language of the existing statute, and I think it's important to emphasize what the purpose of the existing statute is.

It is, and I'm sure this will be the first of many in the years to come, because unfortunately I think the war on terrorism will require, in the years to come, different types of expertise to fight it.

So at the moment it's mid-career police officers. In the future it might be nurses, or it might be physicians, or it might be schoolteachers or engineers. We don't know, because of the unique and unusual nature of this particular battle we find ourselves in.

And I think the public policy behind the existing law is that when the need arises, and if state employees and local employees wish to volunteer, to put their lives on the line to help in what is obviously a compelling need for our Federal Government, and for all of us for that matter, that we should accommodate them in the same way we accommodate others who put their lives aside temporarily to answer the call.

So whether it's jury duty, whether there's a statute that protects your employment there, or Membership in the General Assembly, there's a statute that protects your employment there, or volunteering for military activities through the National Guard or the Army Reserve, there are statutes that protect your employment.

And there's actually a number of others in the statute, so I think that public policy decision was clearly made last year.

The purpose of this Amendment is to tighten it up slightly, to put in, at the request of police chiefs who have mentioned this to me at least, over the past year or so, that they wanted it not to be open ended,

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and it needed to be clear that this is applying only to the current war on terrorism, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington, on Senate Amendment Schedule "A", please.

REP. HETHERINGTON: (125<sup>th</sup>)

Thank you, Mr. Speaker. So through you, Mr. Speaker, as a consequence of Senate Amendment Schedule "A", the benefits of this Legislation previously adopted would be available to only those persons employed by a company contracted for by the Department of State, to carry out police training functions, is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

That's correct, but only in connection with the war on terrorism. That was the concern that, although that was the intent last year, that it wasn't clear enough that we're talking about the war on terrorism, which I believe we all know began on September 11, 2001, through you, Mr. Speaker.

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DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON: (125<sup>th</sup>)

Well, thank you, Mr. Speaker. I can't help but note that the security system in Iraq seems to be not perfectly resolved as of this morning.

And I'm wondering how this essential services of this individual now seem to be no longer required. Was he on a contract, through you, Mr. Speaker, that expired after one year?

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington, is this question you ask, regarding Senate Amendment Schedule "A"?

REP. HETHERINGTON: (125<sup>th</sup>)

I beg your pardon, Mr. Speaker. I'm sorry, I missed that.

DEPUTY SPEAKER ALTOBELLO:

I said is this question you asked to the proponent of the Amendment regarding the language in Senate Amendment Schedule "A"?

REP. HETHERINGTON: (125<sup>th</sup>)

Yes.

DEPUTY SPEAKER ALTOBELLO:

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Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. The police program run by the Department of State seeks persons to volunteer for one year.

And there's obviously more than one person affected by it. There are literally hundreds throughout the Country, and I don't know, eight, nine, ten, current Connecticut police officers who have, or are currently participating, or currently are or have already participated in this one year commitment, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON: (125<sup>th</sup>)

Just one or two more through you, Mr. Speaker, thank you. When we say resigns or seeks a leave of absence, how do we determine what the intent was when the individual left employment?

Simply by the subsequent enrollment of that individual in one of these private programs? Through you, Mr. Speaker.

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Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. Under the current law, yes, that is the case, that typically there's a reason stated for either a resignation or a, especially for a request for leave of absence, and in those situations, this would apply.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON: (125<sup>th</sup>)

Thank you. Thank you, Mr. Speaker, and thank you to the Representative for his able explanation and response to my questions. I would simply say in concluding that I would urge my colleagues to reject this Amendment.

It seems to me that we are now extending, through this Amendment, a matter of law that is highly specialized to benefit very, very restricted category of individuals, where most of those calls to service that have been referenced require service in the military of the United States, and in many cases, not elective service.

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So I would, I think that this is a, this Amendment adds even further benefits to what seems to me to be an already special interest category. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Would you remark further on the language in Senate Amendment Schedule "A"? Would you remark to the language of Senate Amendment Schedule "A"? Representative Hamzy of the 78<sup>th</sup>, you have the floor, Sir.

REP. HAMZY: (78<sup>th</sup>)

Thank you, Mr. Speaker, for the second time. Mr. Speaker, just a couple other questions through you to the proponent of the Amendment.

DEPUTY SPEAKER ALTOBELLO:

Please proceed.

REP. HAMZY: (78<sup>th</sup>)

Through you, to Representative Lawlor. I understand that there is at least one pending court case with regard to this particular area of the law. Through you, Mr. Speaker, are you aware of any other court cases?

DEPUTY SPEAKER ALTOBELLO:

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Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I'm not. I don't think the pending court case is related to the language of this Amendment.

The pending court case, I think the allegation there is that, is as to who is covered by this. I don't think this particular Amendment affects that particular issue.

I think, well, I mean, the person involved here certainly participated after September 11, 2001, so I don't think this makes someone eligible who wasn't already eligible. I mean, it was clear when the law was passed that, who it applied to.

This is tightening up the existing law to say that persons who might have participated in some type of State Department thing prior to this, not in connection with the war on terrorism would not be eligible, and that only people who had made the request for return to employment after they returned to the United States, within a six month period would be eligible.

And I think in both of these categories, the one lawsuit that's pending is certainly covered by the current law, with or without this Amendment, through you Mr. Speaker. That was clearly the intent last year, in any event.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

And through you, Mr. Speaker, is it, is it the proponent's position that this Amendment would not affect any current court cases that are pending?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. Yes, that's my position. I think the law is clear. It does apply to everyone who volunteered for this, whether they had volunteered prior, or after the enactment of the law last year, I think that is clear, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hamzy.

REP. HAMZY: (78<sup>th</sup>)

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Thank you, Mr. Speaker, and I thank the Representative for his answers.

DEPUTY SPEAKER ALTOBELLO:

Further on the Senate Amendment Schedule "A"?  
Further on Senate Amendment Schedule "A"?  
Representative Dargan of the 115<sup>th</sup>, you have the floor,  
Sir.

REP. DARGAN: (115<sup>th</sup>)

Thank you, Mr. Speaker. I rise in support of the Amendment. I know the Country and the world has changed dramatically since September 11th.

And I think that we should do everything in our capacity as elected officials, for anybody in the military or law enforcement, whether called to duty or in a volunteer capacity, with respect to a federal agency.

And with the understanding of municipal law, and the rights of the local management component of the police department, that they work in a collaborate effort to protect any individual that does want to serve, to protect the freedom for which we all stand here today for, Mr. Speaker.

So I think that this Amendment goes a long way. I've heard questions and I've heard other law enforcement people call me around the state in referencing prior law, and how that would impact that individual, man or woman, if in fact they were called to duty, or they volunteer in that capacity, and how they would be protected underneath the law when they came back from any conflict that the United States is involved in.

So I stand here and ask for my colleagues to support this Amendment, not only for the few individuals that this does impact, but to show that the General Assembly is behind men and women, not only of the military, but in some form of capacity, even if it's in a volunteer with a private contract through the Department of Justice, Department of State, or any other federal agency, Mr. Speaker. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative O'Neill of the 69<sup>th</sup>, would you care to comment, Sir?

REP. O'NEILL: (69<sup>th</sup>)

I'm sorry, Mr. Speaker, I didn't hear what you said.

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DEPUTY SPEAKER ALTOBELLO:

I said did you care to comment, Sir?

REP. O'NEILL: (69<sup>th</sup>)

Yes, Mr. Speaker. I think I would rise to a  
Point of Order under Mason's 402.

DEPUTY SPEAKER ALTOBELLO:

Please proceed.

REP. O'NEILL: (69<sup>th</sup>)

It appears to me that this relates to restoring  
people to positions that they held within police  
departments, whereas the underlying Bill relates to  
removal of certification of officers who have been  
convicted of crimes.

And while they are in somewhat related Sections,  
they are not in the same Subsection, and it seems that  
the subject matters are distinct from one another. So  
I would make the Point of Order that it is not  
properly before us because it is not germane.

DEPUTY SPEAKER ALTOBELLO:

It seems that someone has finally gotten around  
to reading the Amendment. The House will stand at  
ease.

(CHAMBER AT EASE)

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DEPUTY SPEAKER ALTOBELLO:

House will come back to order. House will come back to order. To determine whether an Amendment is germane, Mason's Section 4022, provides that it be relevant, appropriate, and in the natural and logical sequence of the subject matter of the original proposal.

The underlying Bill has a provision providing that the Police Officer's Standard and Training Council shall not cancel or revoke a certification of police officers who serve in international peacekeeping operations.

As a result, the Amendment is related and follows the natural and logical sequence to the underlying Bill dealing with cancellation or revocation of police certification.

Representative O'Neill, I was interrupted. Let me start from the top. It turns out I skipped a whole paragraph.

To determine whether an Amendment is germane, Masons' Section 4022 provides that it be relevant, appropriate and in a natural and logical sequence to the subject matter of the original proposal.

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The underlying Bill has a provision providing that Police Officers Standards and Training Council have a de novo review in the cancellation or revocation of a certification of a police officer.

The Amendment provides that the Police Officers Standards and Training Council shall not cancel or revoke a certification of police officers who serve in the international peacekeeping operations.

As a result, the Amendment is related, and follows a natural and logical sequence to the underlying Bill dealing with cancellation or revocation of police certification. Consequently, Sir, your point is not well taken, and the Amendment is germane.

REP. O'NEILL: (69<sup>th</sup>)

Thank you, Mr. Speaker. Well a few more days left, I'll try a few more Points of Order. One of these times I'm sure we're going to agree. I have a couple of questions, if I may, to the proponent of the Amendment.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. O'NEILL: (69<sup>th</sup>)

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Thank you. As I read the Amendment, it appears that if a police officer retired on September 12, 2001, and they then went off to Iraq, say on May 30, 2004, and they remained outside of the United States until sometime in 2007 or 2008, but then returned to the United States at that point in time, they would be eligible to get their former position back, am I correct in my reading of the Amendment? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. No, I don't think so, for two reasons.

First of all, I think it's not the Amendment, but, well, the Amendment's adding in the date, but I think the existing statute, which was clear on its face that the purpose for the request for leave of absence or resignation has to be for the purpose of participating in these peacekeeping operations.

So that would have had to have been the purpose for the resignation, and that presumably would have

had to been stated clearly at the time of the notification to the authority.

Also in your hypothetical, I think the certification would have already lapsed at the time the officer, if he had resigned, and then a couple years had gone by, his certification would have already lapsed prior to his participation, so he would no longer be eligible in any event that way.

But I think the intent of the law, the actual statute, the existing statute, is clear that the purpose for the resignation or the leave of absence has to be the participation in peacekeeping activities as described in the statute, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

Thank you, Mr. Speaker. A follow up question I had earlier asked and I believe another Representative had asked a similar question, and I'm not entirely clear in my mind now at this point as to what the answer was, so I will repeat the question, and I hope it's not too repetitive.

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But just so I get it clear in my head, is, does this Legislation, plus the law that was passed last year apply to the pending litigation that is currently going on in the State of Connecticut, in regards to a police officer who retired and then went off to Iraq, and came back? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. It's my opinion that the existing Legislation, the current statute 7-294AA, does apply to the officer involved in the actual litigation.

I don't think the Amendment affects the litigation one way or the other. I mean, the substance of the Amendment narrows the scope, but with or without the Amendment, the existing officer would already be within that scope.

I mean, so it doesn't change eligibility, it narrows, it doesn't expand eligibility, it narrows it. I think the existing statute clearly applied to that officer. This doesn't change, the language of this Amendment doesn't change that.

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It's not intended to affect that pending litigation. I don't think it does affect that pending litigation. So for whatever the value of Legislative intent is, there's a Legislative intent, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

Thank you, Mr. Speaker. Let me direct the proponent's attention to Line 14, and the language that's bracketed out, which seems to be the trigger for the person being entitled to get their job back.

The old language says upon return, and the bracketed part now is, from such leave, and the new language is, to the United States.

The existing statute had, does contain the words from such leave, which appears to relate back to leave of absence.

As I'm looking at it, and I would ask, was it the understanding of the proponent that the words from such leave applied equally to resignations? Through you, Mr. Speaker.

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Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. Yes, I think that was the intent of the original Bill. I do not think, I don't know all the details of the pending litigation.

I know some of them. I don't think the language on 14 or 15 is, or should be interpreted to in any way affect that, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor. Thank you, Representative Lawlor. Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

Thank you, Mr. Speaker. An additional question, and it is tangentially, but I think still falls relatively close to the substance of the Amendment.

I believe there was a question raised earlier relating to whether or not the individuals were volunteers, and thereby not compensated for the time that they were working in Iraq.

And I heard, I thought, a statement of how much that compensation was. So again, I would perhaps ask if the proponent is aware of what the amount of compensation being paid to those individuals who were

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working for this private corporation, sub contracting,  
or contracting with the Department of State. Through  
you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. I believe that the  
approximate compensation for police officers who  
participate in this peacekeeping operation is \$75,000  
per year, which is approximately what a veteran police  
officer would earn.

Not including overtime, I think a typical officer  
with the kind of experience required to participate in  
this would probably earn more by remaining in his or  
her job, including the overtime, than they would if  
they participated in this peacekeeping operation,  
which does not afford overtime. It's sort of a 24 7  
obligation, through you Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative O'Neill.

REP. O'NEILL: (69<sup>th</sup>)

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Thank you, Mr. Speaker. I would, one of the great things about the internet is the ability to call up esoteric bits of information fairly easily.

And for the benefit of the Chamber and the proponent, apparently the corporation that the State Department hired to do this kind of work is called Dyn Corporation, and on a website called the International Police Programs Information Resource, or Source, they indicate that the compensation level for the police officers who seem to meet the criteria, eight years of work experience, five years being a sworn officer, and so on, sounds like the mid career type of police officer that we were talking about.

That the compensation level is up to \$120,000 for their one year contract. On a related web page site for the same company, for folks in Afghanistan, they list out some of the other features, among which are that there is no income tax or other taxes deducted from that \$120,000 compensation.

And I'm not sure if overtime work for a local police department would bring you up to that kind of level of compensation, or not.

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But it does cast a somewhat different light on the nature of the activity that was involved here.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. The gentleman from Shelton, Representative Belden of the 113<sup>th</sup>.

REP. BELDEN: (113<sup>th</sup>)

Thank you, Mr. Speaker. I'll try not to go over old ground here if I can, but a couple of questions if I might to the proponent of the Amendment.

DEPUTY SPEAKER GODFREY:

Of course, Sir. Please frame your questions.

REP. BELDEN: (113<sup>th</sup>)

Representative Lawlor, the existing Legislation, when that was passed, would that Legislation override existing municipal contracts that were in place at that time, or would that law only go into effect at a point in time when a new municipal contract would be negotiated and signed? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Lawlor, do you care to respond?

REP. LAWLOR: (99<sup>th</sup>)

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Thank you, Mr. Speaker. I don't think the  
Legislation overrode any contract. To the contrary, I  
think, I mean, I'm not an expert on contract law.

But I don't think the contracts contemplate  
exactly how, other than eligibility for pension  
benefits, I don't know your opportunity to resign for  
any particular purpose is covered in a contract. I  
don't think there's a contractual issue here, through  
you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Belden.

REP. BELDEN: (113<sup>th</sup>)

Appreciate the gentleman's answer. I'm not quite  
sure what it was, but--

REP. LAWLOR: (99<sup>th</sup>)

I can clarify, Mr. Speaker. I don't think this  
applies to a contract. I don't think this affects  
contractual obligations or responsibilities at all.  
Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Is that any better, Representative Belden?

REP. BELDEN: (113<sup>th</sup>)

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Yes that's very clear, and I appreciate that, because I don't know in any of these towns what the contracts may or may not say with regard to leave of absence or resignation. As I look at this Amendment, I'm kind of torn between whether it's good or bad.

Clearly we're trying to tighten up the situation and if a, if we pass this Amendment, through you, Mr. Speaker to the gentleman, if we pass this Amendment, and I look at Lines 20 to 23, and an individual returned to the U.S. a year and a half ago, would they be covered under that language? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

Thank you, Mr. Speaker. No, they would not.

DEPUTY SPEAKER GODFREY:

Representative Belden.

REP. BELDEN: (113<sup>th</sup>)

So essentially, I think I'm getting to the point, if we pass this Amendment, we are essentially saying that in the future, anyone on or after September 11, I'm not quite sure why we're even putting that in

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here, it's actually irrelevant, if in fact the other terms of the Amendment are in place.

An individual takes a leave of absence or resigns, goes, volunteers for a year, and I'm assuming here volunteers doesn't mean without pay, that in fact means that a person volunteers to take on this police duty outside the United States, that when they come back, and it doesn't retroactively go back, when they come back, they have six months to notify the employer, if they resigned or if they're on a leave of absence.

This does not, if I understand it correctly, this is not retroactive, and so as of today, it would only apply to an individual who has been back in the United States for less than six months. Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

I think, Mr. Speaker, the correct interpretation would be that if you had not requested or sought reemployment within six months of your return, you

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would no longer be eligible to do, to make, to have your employment restored under those circumstances.

And this was the concern that was brought forward by a number of police chiefs who were concerned that the way the original statute was written, it was completely open ended.

And they weren't sure whether or not they should continue to at least contemplate the possibility of someone who had left for that purpose, and maybe had retired for example, would want to come back later on.

There was, I guess, some confusion by that, and in order to rectify that confusion, this would put a clear time limit on that.

So that if one hasn't requested reemployment within the six months, then you would no longer be eligible to take advantage of the statute, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Belden.

REP. BELDEN: (113<sup>th</sup>)

I thank the gentleman, through you, Mr. Speaker. The statute would not apply to anyone who has in fact retired? Through you, Mr. Speaker, is that correct?

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DEPUTY SPEAKER GODFREY:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

If, it would not, no one who had, who would otherwise have already met the requirements of the statute.

In other words, they left and they participated, and they completed their service and returned, if they hadn't requested reemployment within the six month window, they would not longer be eligible to do so, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Belden.

REP. BELDEN: (113<sup>th</sup>)

Thank you, Mr. Speaker. I'm going to refer back to the earlier language.

Under existing law, and under this Amendment, as I understand it, it either applies to those who take a leave of absence, and are active employees, or for an active employee who is an active employee who resigns. Through you, Mr. Speaker, is that correct?

DEPUTY SPEAKER GODFREY:

Representative Lawlor.

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REP. LAWLOR: (99<sup>th</sup>)

I'm sorry, if I could get the question one more time, Mr. Speaker, I'm not sure--

DEPUTY SPEAKER GODFREY:

Representative Belden, if you could please repeat it.

REP. BELDEN: (113<sup>th</sup>)

Thank you, Mr. Speaker. I'm trying to just clarify existing law, and what this Amendment pertains to the subject of.

I take this Amendment, and the existing law to read that, the statute only applies to employed police officers who either take a leave of absence, or resign. Through you, Mr. Speaker, is that correct?

DEPUTY SPEAKER GODFREY:

Representative Lawlor.

REP. LAWLOR: (99<sup>th</sup>)

That's correct, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Belden.

REP. BELDEN: (113<sup>th</sup>)

I thank the gentleman for his response.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on Senate Amendment Schedule "A"? Will you remark further?

If not, let me try your minds. All those in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay.

REPRESENTATIVES:

Nay.

DEPUTY SPEAKER GODFREY:

The Ayes have it. The Amendment is adopted.

Will you remark further on this Bill as amended? Will you remark further on this Bill as amended?

If not, staff and guests, please come to the Well of the House, Members take your seats. The machine will be open.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER GODFREY:

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Have all the Members voted? Have all the Members voted? Is your vote properly recorded? If so, the machine will be locked, and the Clerk will take a tally. And the Clerk will announce the tally.

CLERK:

House Bill Number 6746, as amended by Senate  
Amendment Schedule "A", in concurrence with the  
Senate.

Total Number Voting	136
Necessary for Passage	69
Those voting Yea	83
Those voting Nay	53
Those absent and not voting	15

DEPUTY SPEAKER GODFREY:

The Bill is passed in concurrence with the  
Senate. Will the Clerk please call Calendar Number  
233.

CLERK:

On Page 17, Calendar Number 233, Substitute for  
House Bill Number 6727, AN ACT CONCERNING THE  
GOVERNOR'S COMPETITIVENESS COUNCIL RECOMMENDATIONS,  
Favorable Report of the Committee on Finance, Revenue  
and Bonding.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 14**

**2005**

**CONNECTICUT  
GENERAL ASSEMBLY**

THOMAS FLAHERTY: Good evening, Representative Lawlor and Members of the Committee.

REP. LAWLOR: Did you have an enjoyable day?

THOMAS FLAHERTY: Yes, Sir. The Chief Public Defender and I are wondering what we did to lose this lottery.

Good evening. My name's Tom Flaherty, and I'm currently the Executive Director of the Police Officer Standards and Training Council in Meriden at the Connecticut Police Academy.

And I'm here this evening to speak in favor of Raised House Bill 6746 AN ACT CONCERNING EVIDENCE TAMPERING, PERJURY, AND FALSE STATEMENT BY POLICE OFFICERS.

This bill would permit the Police Officer Standards and Training Council to revoke or cancel the certification of the police officer or the law enforcement instructor if the holder of that certification has been found by a law enforcement unit, pursuant to procedures established by that unit, to have committed any act which would constitute tampering with or fabricating physical evidence, perjury, or false statement in the second degree as defined by the Connecticut General Statutes.

The Council does currently not have that authority to cancel or revoke one's certification for this misconduct. And the irony is, is that the Council currently by regulation has the authority to preclude a candidate from being a police officer in the

first place who had engaged in that very same conduct.

We've discussed this issue in the past in various occasions, but it really took ok some urgency in September of 2004, where we were notified by virtue of a copy of a letter from a State's Attorney to a Chief of Police of a major city, advising the Chief that an officer in that agency had been convicted by reason of an offered plea on a charge of false statement in the second degree, and notifying the Chief that that particular officer would be prohibited from testifying and that State's Attorneys court or in meeting with any of his employees without expressed permission.

In addition, routinely when officers are expected to testify in a federal criminal case, Chiefs of Police in Connecticut receive inquiries from the United States Attorney's Office advising of the responsibility to make the courts aware of any materials possessed by an investigative agency of findings or substantiated allegations that call into question the credibility of a government witness.

And then asking the municipality's city attorney to review the personnel files and disclose that information.

Furthermore, the section of the bill dealing with tampering or fabricating physical evidence, perjury, or false statement, is identical in form to that already included in the section prior to that for improper use of a

firearm, which results in death or serious physical injury of another person.

The Council believes that safeguards are built into the language, and that despite a finding by a law enforcement unit, POST cannot revoke or cancel the certification without holding its own hearing in a timely manner, consistent with the Uniform Administrative Procedures.

And nothing in the statutory language requires POST to revoke or cancel the certification merely because a law enforcement unit has made that requisite finding. POST would retain the discretion and make its own independent determination, based on the facts.

And for all of these reasons, I as Executive Director of POST and on behalf of the entire Council ask your support for this bill.

Thank you for the opportunity to be here.

REP. LAWLOR: Thank you, Chief. Just one technical question. It makes perfect sense to have such a provision in the law, because obviously we don't want police officers who are in effect disabled because they have been caught lying under oath or elsewhere, fabricating evidence, whatever.

But just I'm assuming that perhaps people on the other side would argue that there ought to be some due process protections in case a person disagreed with such a determination.

So how does it work if you cancel a certification like this, do they have any right to appeal that or how does it work?

THOMAS FLAHERTY: The individual will be notified and advised of a hearing date and given the opportunity to appear before a hearing officer of the Council, or a subcommittee actually, with representation.

And provide whatever information he or she chose to provide to the Council. Whatever the recommendation of that subcommittee would be, would then go to the full Council for their determination.

And if it was adverse to the individual, they could still bring a civil litigation under the administrative procedures section. There's several layers built in and feel confident that it's an important issue.

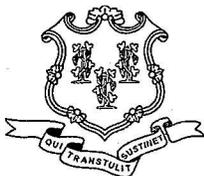
REP. LAWLOR: But right now it doesn't appear you have the authority to do this.

THOMAS FLAHERTY: We do not.

REP. LAWLOR: Okay, thank you. Any other questions? If not, thanks again for staying with us. Hopefully it was at least interesting.

THOMAS FLAHERTY: Thank you. I have.

REP. LAWLOR: Is there any other member of the public who wishes to testify who hasn't already testified? The Chief Public Defender Gerard Smyth is here.



**State of Connecticut**  
**Police Officer Standards and Training Council**  
**Connecticut Police Academy**



**Comments in Support of Raised Bill No. 6746**  
**An Act Concerning Evidence Tampering, Perjury**  
**and False Statements by Police Officers**

March 28, 2005

Good afternoon, Senator McDonald, Representative Lawlor and Members of the Judiciary Committee. My name is Thomas E. Flaherty and I am the Executive Director of the Police Officer Standards and Training Council at the Connecticut Police Academy in Meriden.

I am here this afternoon to speak in favor of Raised House Bill No. 6746, An Act Concerning Evidence Tampering, Perjury and False Statements by Police Officers.

This Bill would permit the Police Officer Standards and Training Council to revoke or cancel the certification of a police officer or a law enforcement instructor if the holder of that certification has been found by a law enforcement unit, pursuant to procedures established by that unit to have committed any act that would constitute tampering with or fabricating physical evidence, perjury or false statement in the second degree as defined by Connecticut General Statutes 53a-155, Sec. 53a-156 and Sec. 53a-157b respectively.

The Council does not currently have the statutory authority to cancel or revoke one's certification for this misconduct. The irony is that if a probationary candidate had committed any act which would constitute perjury or false statement, they would be precluded from being a police officer by virtue of POST Regulation entitled "Entry Level Requirements," Sec. 7-294e-16 (h) but we do not have the authority to revoke or cancel the certification of an incumbent police officer for the very same conduct.

The POST Council has discussed this issue in the past however; a documented incident in September of 2004 motivated the Council and staff to consider this Bill a priority. In September, 2004 the Council was notified by virtue of being copied on a letter from a State's Attorney to a Chief of Police of a major city in Connecticut notifying the Chief that a police officer in his agency had been convicted by reason of an Alford plea on the charge of False Statement in the second degree in violation of Sec. 53a-157b(a). The communication also advised that the particular State's Attorney's Office would neither "consider nor review any reports or documents prepared" by that Officer. That Officer's value as a credible witness has been negated.

In addition, routinely when their officers are expected to testify in a Federal criminal case, Chiefs of Police in Connecticut receive inquiries from the United States Attorney's Office:

1. Advising of their responsibility to make the courts "aware of any materials possessed by an investigative agency of findings or substantiated allegations that call into question the credibility of a government witness" and
2. Asking that the agency's attorney review the personnel files of such potential witnesses to determine if such materials exist and if they do, to forward them to a member of the United States Attorney's staff for further evaluation.

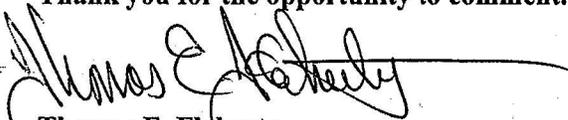
Furthermore, this section of the Bill dealing with tampering with or fabricating physical evidence, perjury and false statement is identical in form to that already included in the section immediately prior to this, i.e. (I) for improper use of a firearm which results in "death or serious physical injury of another person."

The Council also believes that safeguards are built into the language in that despite a finding by a law enforcement unit that an individual officer has engaged in such conduct, POSTC cannot revoke or cancel a police officer's certification without holding its own hearing in a timely manner consistent with the Uniform Administrative Procedures Act consistent with the requirements of due process.

Nothing in the statutory language requires POSTC to revoke or cancel a police officer's certification merely because a law enforcement unit has made the requisite finding. POSTC retains the discretion to make its own independent determination concerning whether an individual officer's certification should be considered for revocation.

For all of these reasons, I as Executive Director of POST and on behalf of the entire Council ask you to favorably consider this Bill.

Thank you for the opportunity to comment.



**Thomas E. Flaherty**  
Executive Director



## CONNECTICUT POLICE CHIEFS ASSOCIATION

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Testimony to the Judiciary Committee, March 28, 2005

Chiefs Anthony Salvatore & James Strillacci, Connecticut Police Chiefs Association

We support #6939, AN ACT CONCERNING THE LIABILITY OF AN OWNER OF A MOTOR VEHICLE FOR VIOLATION OF A TRAFFIC CONTROL SIGNAL, and #5744, AN ACT CONCERNING ENFORCEMENT OF SPEEDING AND TRAFFIC CONTROL SIGNAL VIOLATIONS. Both are intended to deal with dangerous traffic violations; the latter is more comprehensive.

Both add a presumption that a car's owner is the driver when runs a red light. #5744 goes further, allowing municipalities to use automated devices to detect speeding and red-light violations, and allowing enforcement by ordinance--in the manner used for parking violations—rather than by infraction.

This is a far-sighted measure which will let towns use technology to curb dangerous driving, without further burdening a busy state court system.

We support #6744, AN ACT CONCERNING POCKET BIKES, which would prohibit the use of miniature motorcycle-types on public highways and sidewalks. Designed for race tracks, these machines have only recently become widely available, and no law yet regulates them. Consequently, they have hit the streets in quantity, unregistered, uninsured, and unequipped with basic safety equipment, often ridden by unlicensed and underage operators, barely visible in traffic. It's time to get them off our streets.

We support #6746, AN ACT CONCERNING EVIDENCE TAMPERING, PERJURY AND FALSE STATEMENTS BY POLICE OFFICERS, which would allow the Police Officer Standards and Training Council to cancel or revoke the certificate of a police officer or law enforcement instructor who engages in conduct constituting these criminal offenses. Integrity is vital to our profession, and dishonesty cannot be tolerated.

We admire the intent of #6974, AN ACT CONCERNING THE COLLECTION AND ANALYSIS OF FORENSIC EVIDENCE AND THE REVIEW OF WRONGFUL ARRESTS, but have reservations about its expansion of the definition. "Wrongful arrests" now means convictions followed by exoneration; the bill would add arrests followed by dismissals. Today's dockets are so busy that many cases are dismissed for reasons unrelated to the defendant's innocence. To consider these cases wrongful would offer a distorted evaluation of the legal system; to review them all will keep the panel very busy indeed.