

Act Number:	09-037	
Bill Number:	6598	
Senate Pages:	1906, 1935, 1937-1938	4
House Pages:	2290-2295	6
Committee:	Public Health: 1508-1515, 1871	9
	Page Total:	19

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2009**

**VOL. 52
PART 6
1667 - 2005**

Thank you, Mr. President. Calendar 584, House Bill 6336, Mr. President, I move to refer this item to the Committee on Public Health.

THE CHAIR:

Motion is to refer item to Committee on Public Health.

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Calendar 585 is marked go.

Calendar page 20, Calendar 586, House Bill Number 6636, Mr. President, I move to place this item on the foot of the calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. Calendar 587, House Bill Number 6598, Mr. President, I move to place this item on the Consent Calendar.

THE CHAIR:

Motion is on the floor to place item on the Consent Calendar.

Seeing no objection, so ordered.

SENATOR LOONEY:

ch/rgd/md
SENATE

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for House Bill 6643; Calendar 536, Substitute for
House Bill 6685.

Calendar page 15, Calendar Number 539, Substitute
for House Bill 6287.

Calendar page 17, Calendar 553, Substitute for
Senate Bill 885.

Calendar page 20, Calendar 587, Substitute for
House Bill 6598; Calendar 588, Substitute for House
Bill 6324.

Calendar page 21, Calendar 592, House Bill 6439.

Calendar page 27, Calendar Number 135, Senate
Bill 842.

Calendar page 28, Calendar 140, Senate Bill 872.

Calendar page 29, Calendar 175, Substitute for
Senate Bill 617.

Calendar page 30, Calendar 182, Senate Bill 973.

Calendar page 31, Calendar 206, Substitute for
Senate Bill 949.

Calendar page 37, Calendar Number 368, Senate
Bill 846.

Calendar page 38, Calendar 396, House Bill 5841.

Calendar page 42, Calendar 519, Substitute for
Senate Bill 1092; Calendar 375, Substitute for Senate
Bill 1021.

ch/rgd/md
SENATE

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items placed on the first Consent Calendar.

THE CHAIR:

Thank you. Clerk, if you could please call for a roll call vote, I will open the machine.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar, will all Senators please return to the chamber. The Senate is now voting by roll on the Consent Calendar, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be locked.

Mr. Clerk, please call the tally.

THE CLERK:

The motion is on adoption of Consent Calendar
Number 1:

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent/Not Voting	0

THE CHAIR:

ch/rgd/md
SENATE

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Consent Calendar Number 1 passes.

Senator Looney.

SENATOR LOONEY:

Thank you. Thank you, Mr. President. Mr. President, I would move for suspension for immediate transmittal to the House of Representatives of item on calendar page 42, Calendar 519, Senate Bill 1092, An Act Concerning the Client's Security Fund, that was included in the immediately preceding vote on the Consent Calendar.

THE CHAIR:

Motion is to suspend down to the House Calendar 519.

Without objection, so ordered, sir.

SENATOR LOONEY:

Yes, thank you, Mr. President. Mr. President, as the second order of the day, I would ask the Clerk to call the item on calendar page 22, Calendar 595, Substitute for House Bill 6648.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Turning to calendar page 22, a matter marked second order of the day, Calendar Number 595, File

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Will the Clerk please call Calendar Number 517.

CLERK:

On Page 23, Calendar Number 517, Substitute for
House Bill Number 6598 AN ACT CONCERNING THE RELEASE
OF BIOLOGIC MATERIAL FOR GENETIC TESTING. Favorable
Report of the Committee on Judiciary.

SPEAKER DONOVAN:

Representative Ritter.

REP. RITTER: (38th)

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

SPEAKER DONOVAN:

The question is acceptance of the Joint
Committee's Favorable Report and passage of the bill.

Will you remark, Madam.

REP. RITTER: (38th)

Thank you, Mr. Speaker. Mr. Speaker, this bill
allows in limited circumstances, the testing of
biological material of a deceased person for purposes
of determining paternity or diagnosis of a life-
threatening disease in a living individual.

Mr. Speaker, this bill came to us from the Office
of the Chief Medical Examiner, and is a request to

simply advance or to, excuse me, to expedite these procedures, and I'd like to emphasize again that it is only in circumstances for specific limited testing of an already deceased individual.

I move adoption.

SPEAKER DONOVAN:

Thank you, Representative. Will you remark further on the bill? Remark further on the bill? Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. A question, through you, to Representative Ritter.

SPEAKER DONOVAN:

Please proceed, Sir.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Through you, Sir, Representative Ritter, just so I understand the bill. Does this require any permission of the deceased's family or is this a random choice or random request? Who initiates the request, I guess, that's what I'm sort of, the kind of information I'm after.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Ritter.

REP. RITTER: (38th)

Thank you, Mr. Speaker. Yes, Representative Cafero. This would occur only upon receiving the written consent of a deceased person's next of kin, or in the case where a deceased person's next of kin does not provide this, an interested party may petition to the Superior Court in the appropriate judicial district for an order involving the release, and then only upon the consideration of the judge would that order be granted.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, is there any pecking order of next of kin, meaning that if there is a dispute, say, the deceased has two surviving children. One would like the procedure done, the other doesn't. How would that be worked out? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Ritter.

REP. RITTER: (38th)

Thank you, Mr. Speaker. Mr. Speaker, the bill defines the next of kin as the deceased person's spouse, adult child, adult sibling or grandparent.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. Through you, Mr. Speaker, once again. In the event that say there was no surviving spouse and the individual had one or more children, two or more children, and there was a dispute between the children as to whether or not this procedure would take place, how would that be resolved? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Ritter.

REP. RITTER: (38th)

Thank you, Mr. Speaker. Mr. Speaker, it is my understanding that if that were the case, then the interested parties would petition to the Superior Court and go through that process to resolve the dispute that the Minority Leader has raised.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO: (142nd)

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Thank you. And through you, Mr. Speaker, my understanding then would be that nothing would take place until that was resolved by the Superior Court.

Is that correct? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Ritter.

REP. RITTER: (38th)

Yes, Mr. Speaker, that is also my understanding and the intent of the legislation.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Thank you, Representative Ritter for establishing that for legislative intent.

SPEAKER DONOVAN:

Thank you, Representative. Will you remark further on the bill? Will you remark further on the bill?

If not, staff and guests please come to the Well of the House. Members take their seats. 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.

SPEAKER DONOVAN:

Have all the Members voted? Have all the Members voted? Please check the board to make sure your vote's been properly cast.

If all the Members have voted, the machine will be locked and the Clerk will please take a tally.

Will the Clerk please announce the tally.

CLERK:

House Bill Number 6598.

Total Number Voting	138
Necessary for Passage	70
Those voting Yea	138
Those voting Nay	0
Those absent and not voting	13

SPEAKER DONOVAN:

The bill is passed.

Are there any announcements or introductions?

Representative Floren.

REP. FLOREN: (149th)

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Thank you, Mr. Speaker. We have in the Gallery, now, today, members of the League of Women Voters who are here on a field trip to see exactly where all of their emails arrive on a daily basis, and we're so excited to welcome them there, including Jara Burnett, who is the Connecticut President of the League of Women Voters.

So will you please join me in giving them a rousing welcome. Thank you.

(APPLAUSE)

SPEAKER DONOVAN:

Thank you, Representative. Will the Clerk please call, lucky number, Calendar Number 84.

CLERK:

On Page 28, Calendar Number 84, Substitute for House Bill Number 6324 AN ACT CONCERNING THE INSPECTION OF ELEVATORS, THE AUTHORITY OF THE STATE AND LOCAL FIRE MARSHALS, THE REGULATION OF EXPLOSIVES AND OTHER TECHNICAL CHANGES. Favorable Report of the Committee on Planning and Development.

SPEAKER DONOVAN:

Representative Dargan.

REP. DARGAN: (115th)

**JOINT
STANDING
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HEARINGS**

**PUBLIC
HEALTH
PART 5
1238 - 1555**

2009

Avon boys' basketball were both regular season and tournament champions last night.

And if you scrutinize The Hartford Courant, you will see that some kid came off the bench named Rob Carver and scored four points.

(Laughter.)

WAYNE CARVER: Okay.

REP. RITTER: Congratulations to the Carver family.

WAYNE CARVER: Now the real business. I'd like to talk about House Bill 6598, An Act Concerning Release of Biologic Material for Genetic Testing.

Rather than read this, just to give you some background, at least once, and usually twice, a week we receive requests from mothers of infants for DNA from decedents to test the paternity of the baby, almost always so that the child can receive the father's Social Security survivor benefits.

This has grown exponentially over the years. Almost always the next of kin of the dead male are more than willing to participate and give us written permission to send the material to a genetic testing laboratory.

Every once in a while, the parents or next of kin are either not available or are in an unpleasant relationship with their almost daughter-in-law.

In the past, since courts have the ability to order me to talk in public and really so the records -- we've accepted a court order to do this, we've had two courts do that successfully, and then a court opined that

they did not have the authority to do it and did not issue the order.

So talking to the AGs, we said the relief to be to legislative authority for the courts to release material when petitioned, and we thought that was great.

We also included in this not only paternity but also diagnoses of potentially life-threatening diseases. When we first wrote this three years ago, there really weren't any diseases, but we were anticipating there are. We've actually been involved in two cases or two different diseases since then.

So I would ask that this be given favorable consideration. It's not going to effect us frequently; but for those children who need the support of the Social Security Administration, it's 18 years of substantial benefits and of very important --

I noticed some of you picking these up and wondering what they are. I did a little flashy visual aid. These are the cards that we actually save blood on. And this is a Sharpie marker; this is not blood.

They're called FTA, or Flinders Technology Associates. Flinders is a university in New South Wales that invented this technology and then patented it, and now we have to pay them to buy these.

And we have one of these on everybody who's got a blood when they come in to visit us. Don't fall asleep in the lobby. And when required, we can sniff one of these out, and they can do the DNA analysis on them.

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jr PUBLIC HEALTH COMMITTEE

10:00 A.M.

So I just did that as a little visual aid to remind you what I'm up to.

REP. RITTER: Thank you, Dr. Carver, and congratulations again to your family.

Are there questions from the committee?
Representative Heinrich.

REP. HEINRICH: Thank you, Madam Chair.
Good morning.

WAYNE CARVER: Good morning.

REP. HEINRICH: I'm over here. Quick question.

Can you tell me what kind of criteria a judge would use to decide whether or not to grant this petition if they were given the ability to do so?

WAYNE CARVER: I would assume that the petitioner was saying I'm claiming that this guy is the father of my baby, and the Social Security Administration will -- and they do, by the way. They accept this for benefits. And, you know, I have potential to get benefits for my kid. And I would expect a judge to think that's a good reason.

Or on the genetic thing, as I said, there are now at least two diseases that I've personally -- my personal cases. One is a defect in the way the heart muscle handles electrolytes and can lead to sudden death. There's a genetic marker for that.

And, you know, if a family says, you know, I have no other way to determine whether this stuff is floating around in our gene pool -- so things like that.

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I'm -- in the cases where the purported grandparents -- and they -- very frequently I hear yes, if it's our grandson, we want to be there. These are not the problem ones. These are the ones where the next of kin are not available.

As I said, my personal cases, I know it's happened three times, and there may be others, where the courts have, in fact, granted this. But I -- it goes through so routinely, I'm not aware of it.

REP. HEINRICH: So from what you just said, it would be necessary if there is no next of kin to give the permission, this would be an alternative way, then, to see --

WAYNE CARVER: Absolutely. If the next of kin have your permission, that's far preferable.

REP. HEINRICH: And just for being thorough, is there some sort of way that one can be ensured that this isn't used frivolously, just to obtain --

I'm not familiar with the process, and this does bring to mind concerns about releasing biological materials and genetic materials, and I'm just looking for checks in balances in the system.

WAYNE CARVER: Right. That's why we -- that's why in the past I have -- if I didn't have permission from next of kin, I didn't do it on my own authority.

REP. HEINRICH: Right.

WAYNE CARVER: Please, don't give me discretionary authority for stuff like that.

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I just remember an old cartoon that said, you know, judge -- not unless you happen to be a judge, I would -- that's my vision. The judiciary is there to consider things and look for frivolous stuff.

REP. HEINRICH: Okay.

WAYNE CARVER: And again, there's a parallel thing when paternity is contested while the decedent is still alive. There's a whole body of law for what they do there.

And, in fact, this arose from a guy who had a court order to deliver DNA for paternity testing and didn't do it before he died and showed up on my service.

We asked the AG's office does the order still stand, and they said no, it dies with the individual. And then they got involved and with representatives in an adversarial situation and came back and said congratulations, you won. Don't give them the DNA.

I said, well, that's what Kipling called the worst of all treasons, but -- do the wrong thing for all the right reasons.

REP. HEINRICH: Thank you, Madam Chair.

REP. RITTER: Representative Esty.

REP. ESTY: Thank you, Madam Chair.

I have one quick question. I see there's a release provision at the end. I wonder whether we shouldn't limit release to the petitioner in the cases only where there is determined to be paternity --

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10:00 A.M.

WAYNE CARVER: This --

REP. ESTY: -- because --

WAYNE CARVER: The release petition is for the known next the kin of the dead person.

REP. ESTY: Oh, okay.

WAYNE CARVER: Okay. Which is what we've always done. And, you know, they have the right to release the records. They have the right to determine the disposition of the cadaver for burial.

And the AG sort of helped us draft this. You know, you might as well throw this in and make sure it's formal.

REP. ESTY: Well, no, but my question actually goes to the way it's drafted now, I would read it that the petitioner might petition based on assumed paternity or asserted paternity. But imagine that the test results come back negative, it is not -- the decedent was not related by blood.

Shouldn't we disallow the release of genetic material beyond on just simply was this person related or not in that case. Because it would seem to me release -- this is a follow-up to Representative Heinrich's question -- other more detailed information -- I imagine they also have information about genetic markers.

It would seem to me quite inappropriate to release additional information to a petitioner where the answer is no, this person is not related to you, or that the person in question or child or whatever the case may be.

Do you see the distinction that I'm making?

That if it turns out that the answer back that there is no blood relation, then that point --

WAYNE CARVER: They have no further access anyway.

REP. ESTY: They would have no further access. So I wonder if we shouldn't fix this language to --

WAYNE CARVER: This is where I come up with "I'm not a lawyer and I don't even play one on TV."

You know, our intention was to say paternity and life-threatening disease in one who's still alive

REP. ESTY: Uh-huh.

WAYNE CARVER: And our intention when this was drafted because we mentioned those that defined the limits of it.

REP. ESTY: Sure.

WAYNE CARVER: Whether that holds legal water, I need a --

REP. ESTY: And I understand that. I just worry about genetic material beyond the paternity if it turns out there is not a blood relation.

Therefore, the person petitioning would have no interest in additional information about that individual beyond paternity and whether -- I just -- and you may not be the person to ask that question, but I wonder for us whether we need to look at that.

WAYNE CARVER: I understand that.

REP. ESTY: And that concern.

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WAYNE CARVER: But if paternity is not proven, then the petitioner who represents the baby -- but the baby's not the child of the dead person, then that person has no more -- the baby has no more rights to it either.

REP. ESTY: Correct.

And that would be my point, that they shouldn't. But if they release -- if all of that is done at once and you've got a bundle of information, the way it's written now, I would read that that information can be released to the person who petitions if they pay costs, and that would be my --

WAYNE CARVER: I would -- I would have no qualms about it being tightened up.

REP. ESTY: Thank you.

REP. RITTER: Are there further questions from the committee?

Thank you very much for your testimony, and we'll be apparently taking another look at this or looking further at it.

Our next speaker is Dr. Galvin, and he's followed by Commissioner Thomas Kirk, followed by Gary Richter.

J. ROBERT GALVIN: Good morning, Senator Harris, Representative Ritter, distinguished committee members. I'm Bob Galvin. I'm the Commissioner of Public Health.

HB6539
SB845
SB847

And we have four acts that I would like to briefly go over with you. I will read some testimony on the two Senate bills, House Bill 6391, An Act Concerning Revision to the HIV Testing Consent Law. This is an effort to

**JOINT
STANDING
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HEARINGS**

**PUBLIC
HEALTH
PART 6
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2009

STATE OF CONNECTICUT
OFFICE OF THE CHIEF MEDICAL EXAMINER
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March 4, 2009

To: Senator Jonathan Harris, Representative Ritter and distinguished members of the Public Health Committee

From: H. Wayne Carver II, MD, Chief Medical Examiner

Re: House bill 6598: An Act Concerning the Release of Biologic Material for Genetic Testing

Good morning and thank you for allowing me the opportunity to provide my input on this bill. At present, the Office of the Chief Medical Examiner retains material suitable for genetic testing on all individuals examined at the OCME. Several times per month, a parent or guardian of a minor child requests a DNA sample in order to establish paternity and almost always so that the minor child is granted rights to the biological father's social security survivor benefits.

These benefits are provided to the child of a deceased father, who was not married to the child's mother, if biologic paternity can be proven through DNA. Benefits extend until the child reaches the age of eighteen and are therefore of considerable value.

We release this material with permission of the deceased's known next of kin. On three occasions, the next of kin have been unavailable or unwilling to grant permission. In two of these, a court ordered the release. In one case, the court opined that it did not have the authority to so order.

This proposal codifies granting the court the authority to order the OCME to release biologic material for the purposes of determining paternity or for determining a diagnosis of a life threatening illness or genetic disorder in a living individual. The latter is not a problem right now, but the number of diseases subject to such analysis is rapidly rising and this is included in this bill anticipating that we will inevitably face this problem in the near future.

I strongly support this bill becoming a law and anticipate that it will have no financial impact on our agency. I do anticipate that providing clear cut guidelines will avoid confusion.