

PA10-068

SB167

House	4441-4444	4
Labor	396-401, 403-405, 767	10
Senate	2601, 2707-2708	3
		17

**H – 1086**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2010**

**VOL.53  
PART 14  
4246 – 4582**

rgd/mb/gbr  
HOUSE OF REPRESENTATIVES

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The bill as amended is passed.

Will the Clerk please call Calendar 481.

THE CLERK:

On page 25, Calendar 481, Substitute for Senate Bill Number 167, AN ACT CONCERNING INDEMNIFICATION OF CERTAIN POLICE OFFICERS, favorable report of the Committee on Judiciary.

DEPUTY SPEAKER O'CONNOR:

Representative Ryan.

REP. RYAN (139th):

Thank you, Mr. Speaker.

I move for acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER O'CONNOR:

The question is acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate.

Will you remark acquittal.

REP. RYAN (139th):

Yes. Thank you.

This is a bill that allows an officer to recover attorney's fees and costs from prosecution if the individual has been arrested because of some on duty

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incident and subsequently is vindicated by the courts. Currently, if the person goes to be made whole, he goes to court, he can get his money restituted to him, but the fact of the matter any money he spent on attorneys may actually eat up any of the many he may have been getting in back pay.

So what this bill says is that the individual can also sue for the cost of seeking justice, in other words, for the court fees and legal fees and, again, this would only apply in cases where the officer was found not guilty and the case was dismissed by the courts. It's an attempt to make the officer whole after this whole incident. And I ask for the support of my colleagues. Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Thank you, sir.

Will you remark further on the bill?

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of this bill. This bill came to us in the Labor Committee. We discussed it and there was a public hearing and testimony on it and we did vote it out of the Labor

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Committee unanimously. I wholeheartedly endorse it  
and I would urge my colleagues to support it as well.

Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Thank you, sir.

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

If not, will staff and guests please come to the  
well of the House. Will the members take their seats.  
The machine will be open.

THE CLERK:

The House of Representatives is voting by roll  
call. Members to the chamber. The House is voting  
the roll call. Members to the chamber.

DEPUTY SPEAKER O'CONNOR:

Have all the members vote and? Have all the  
members voted? Will the members please check the  
board to determine if your vote is properly cast.

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

Will the Clerk please announce the tally.

THE CLERK:

Senate Bill 167 in concurrence with the Senate.

Total number voting 148

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Necessary for adoption	75
Those voting Yea	148
Those voting Nay	0
Those absent and not voting	3

DEPUTY SPEAKER O'CONNOR:

The bill passes in concurrence with the Senate.

Are there any points of personal privileges or  
announcements?

Representative Abercrombie.

REP. ABERCROMBIE (33rd):

Thank you, Mr. Speaker.

Mr. Speaker, for a point of personal privilege,  
please.

DEPUTY SPEAKER O'CONNOR:

Please proceed, madam.

REP. ABERCROMBIE (33rd):

Thank you, Mr. Speaker.

Mr. Speaker, I have with me today Brianna, who  
came up last year and testified to have a Fibromyalgia  
Day. And because of her testimony and her advocacy,  
we now have May 12th is Fibromyalgia Day. So Joe  
Aresimowicz and myself would like to present her with  
a citation on behalf of her advocacy.

And it says, your help and dedication in

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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2010**

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SENATE

283  
May 1, 2010

Hearing and seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Calendar page 23,  
Calendar 68, Senate Bill 221 for consent.

THE CHAIR:

Hearing and seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Calendar page -- an  
item to be marked go -- Calendar page 29, Calendar  
194, Senate Bill 412.

THE CHAIR:

Is that for go?

SENATOR LOONEY:

That is for go, Mr. President.

THE CHAIR:

Thank you, sir.

SENATOR LOONEY:

And, Mr. President, two more consent items,  
Calendar page 32, Calendar 234, Senate Bill 167.

THE CHAIR:

Is there objection?

Hearing and seeing no objection, so ordered.

SENATOR LOONEY:

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SENATE

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192.

Calendar 219, Substitute for Senate Bill

402.

Calendar 220, Substitute for Senate Bill

325.

Calendar page 32, Calendar 234, Substitute  
for Senate Bill 167.

Calendar page 35, Calendar Number 278,  
Senate Bill Number 400.

Mr. President; that completes the items  
placed on consent calendar number 2.

THE CHAIR:

Thank you, Mr. Clerk, the machine will be  
open.

THE CLERK:

Mr. President, there's one correction.  
Calendar page 2, Calendar 118 was not placed on  
consent, that was referred to Finance, Revenue  
and Bonding.

THE CHAIR:

Thank you, Mr. Clerk.

Senator Fasano.

Have all members voted? Have all members

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voted?

Please check the board to make sure your votes are properly recorded? Have all members voted?

The clerk will announce the tally.

THE CLERK:

The motion is on adoption of the consent calendar number 2.

Total number Voting	32
Those voting Yea	32
Those voting Nay	0
Those absent and not voting	4

THE CHAIR:

The consent calendar passes

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I believe the clerk is now in possession of Senate Agenda Number 5 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, Clerk is in possession of

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**LABOR AND  
PUBLIC EMPLOYEES  
PART 2  
353 - 682**

**2010**

cip/gbr LABOR AND PUBLIC EMPLOYEES  
COMMITTEE

2:00 P.M.

REP. RYAN: Senator Prague said she's heard enough from Senator Witkos, so we're going to go on to --

Following Senator Witkos will be Gretchen Rabber -- Raffer.

SENATOR WITKOS: The hot seat, huh?

Thank you. And if -- if -- with the Chair's indulgence, I'd like to invite Attorney Art Deygo to join with me in my testimony.

You have written copies of my testimony, so I'm not going to read them. The first one I wanted to talk about is Senate Bill 170. And what that does is it provides just cause termination for second in commands of a police department.

SB 170

The recruitment process to become a police officer is very, very involved -- written examination, psychological examination, polygraph examination -- and -- and these folks that -- that go through this year-long process in order to -- to be sworn in as a police officer is a -- is a day of reckoning, and they -- and they protect it once they -- they get that badge.

They go to the police academy. They -- they get out of the police academy after four months, and they do their on-the-job training back at their local police departments -- over 400 hours. Then they become -- automatically become a member of the union of the -- of the municipal police department.

So everybody that's in the police department is a member of the union. The chief is protected under state statutes. He cannot be

terminated without just cause. But the loophole in our law is the person that's the second in command isn't covered anywhere. By law, he can't be in the bargaining unit, and he's not protected under state statute.

So imagine you'd be getting your career as a rookie officer, and you want to work your way up to become chief someday, and you're just at that next step, and then you're told, well, we're not going to continue your services here for one reason or another. There's no protection, no recourse, for that second in command. So this Senate Bill 170 provides the same protection to a second in command as it does for the chief of police, and I ask for its support.

The second bill I'm here to testify on is Senate Bill 167, and this is to provide indemnification of police officers. It's very narrowly tailored. And what this bill does is if a police officer is arrested because of an official action that was taken during the course of his duties and goes to court, and the case is either dismissed or the officer is found not guilty, during that time that the officer was placed on leave, then he would be made whole for any economic losses he suffered because of that administrative leave.

And at this time, I'd like to ask Attorney Deygo if wanted to add some information.

ERIC DEYGO: Thank you to the committee for your indulgence.

My name is Eric Deygo. I'm an attorney. I currently have one of the only two cases in the state of Connecticut that I know, and I'm here on behalf of my client regarding this --

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COMMITTEE

2:00 P.M.

this Bill Number 167. The issue with the statute as -- as it currently is, and the statute, as Senator Witkos clearly stated, it's very limited in scope and it doesn't -- and the officer has to either -- the criminal case against the officer either has to be dismissed or the -- by the prosecutor -- or the officer has to go to trial and be found not guilty by a jury.

In the -- in the end of that, the officer then can claim indemnification for economic damages. Now there's only been a -- a -- as far as I've known since the last revision of this statute in '97, there's been five cases, two of them are currently pending in the system.

The -- what has occurred, though, as a result, though, is that the purpose of the statute as we read it is to -- for the officer to recover their economic losses. However, there's -- there's litigation that's needed in order to recover those losses which could go for -- for up to two years plus, at the end of that litigation when the officer is indemnified for their economic losses, the officer then has to turn around and pay a good portion of that economic losses, if not all of it, to the attorney who represented the officer during that process.

So the purpose of the bill is not being achieved. The officer is not made whole. The only one that's benefitting is the attorney who represented the officer during that process. We think that the bill would have some direct effect which would be that the -- it would increase, hopefully, the negotiation and settlement discussion between the counsel for the officer and the municipality to

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COMMITTEE

hopefully resolve this in a quicker manner in order to ensure that the attorney fees are less, that there would be no benefit to the lawyer, because hopefully we'd get rid of this case and hit a settlement on this matter earlier.

I will say that the only concern that I do have on the manner in which the -- and having just litigated this case through with a ruling and -- the fees -- the way that it's set up is -- just for clarification -- there's -- the initial bill has a provision for attorney fees to the attorney that represented the officer during the criminal case.

The request is in the -- in the amendment would be that the attorney fees for the attorney who defends -- who brings the litigation case to claim indemnification pursuant to 53-39A on behalf of the officer. So there is a -- there is a distinction there. The bill already covers attorneys fees and has been interpreted by the courts in Connecticut to recover attorney's fees for the criminal prosecution, but the process -- the part that we're addressing here is that the process of obtaining indemnification, which is a full litigation case, is not covered for attorney's fees, so it's taking off of the economic loss that the officer recovers in the end to pay his lawyer fees.

Thank you very much for your indulgence.

REP. RYAN: Thank you.

Senator Prague has a question.

SENATOR PRAGUE: So tell me why a police officer would get arrested.

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COMMITTEE

2:00 P.M.

ERIC DEYGO: Well, Your Honor, there's a -- there's -- there -- there are two cases that I'm aware of that are in the system right now. One would be where an officer was a -- was -- had shot and killed their individual -- individual in the line of duty, and there was claims that the officer's use of force was not justified.

I also have -- know of another case in where an officer was arrested for alleged assault during a course of an arrest. And the question is teamed to be -- deems to be justification. This issue, though, in my personal opinion, is there's -- in the investigation of these incidents, the facts are drawn together.

There could be issues within departments as to retaliation. There could be issues of employment that occur within a department. But the bottom line is the officer is arrested, and the officer has their day in court. And if the officer is successful, this is where the indemnification statute kicks in, Your Honor.

SENATOR PRAGUE: So when he (inaudible) pay up until that point? This is --

ERIC DEYGO: Just so it's not confusing, Senator, if -- if the officer is successful --

SENATOR PRAGUE: Yes.

ERIC DEYGO: -- and -- and not guilty by a jury, the attorney's fees as to the representation during the criminal trial are paid, yes.

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COMMITTEE

2:00 P.M.

SENATOR PRAGUE: Okay. And then after that, if he wants to go back and claim his lost wages, at that point, this is where this bill would come into play?

ERIC DEYGO: Yes. Yes, Senator Prague. The statute is the basis for the officer to bring another action in state court to recover his economic losses, and the request is to the -- the expansion of the statute before you is to place the recovery of attorney's fees separate from the economic losses while attempting -- while litigating the 53-39A standing.

SENATOR PRAGUE: Thank you.

ERIC DEYGO: Thank you, Senator.

REP. RYAN: Senator Gomes.

SENATOR GOMES: Senator Witkos, I want to go back to the first one where we talked about the police chief and the -- the system police chief. You're telling me the assistant police chief has a contract, so to speak, with the -- when he -- when he -- when he's chosen as a police chief, right?

SB170

SENATOR WITKOS: The second in command generally does not.

SENATOR GOMES: No. I'm talking about the police chief himself.

SENATOR WITKOS: The police chief is protected. There are statutes that define that -- that the chief of police cannot be terminated without a specific reason. It's called just cause, and those have to be enumerated in (inaudible).

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COMMITTEE

SENATOR WITKOS: That's correct, Representative.  
That's what's so --

REP. LAMBERT: And this is just now coming to focus. I mean, I was shocked when I read this -- I mean, because for any reason he could be terminated, he would have no protection under any law -- the union's negotiation or the state statute.

SENATOR WITKOS: Correct.

REP. LAMBERT: I -- I wholly support this law, and I think -- I'm just shocked that it hasn't come to our attention before this.

Thank you.

SENATOR GOMES: It's discriminatory. (Inaudible).

SENATOR WITKOS: Basically.

SENATOR PRAGUE: Representative Noujaim.

REP. NOUJAIM: Thank you, Senator.

Good afternoon, Representa -- Senator,  
first -- I almost called you Representative,  
wow. Demotion.

Senator Witkos, would you help me understand one thing, if I may. This is in reference to Senate Bill 167. Every time there is an issue with a police officer, even if there is a altercation or there is any problem, I always hear that the police officer has been assigned to desk duty -- administrative -- or administrative leave or different position with pay while the investigation is taking place. I hear that all the time.

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COMMITTEE

2:00 P.M.

So if I am correct, it seems to me that the police officer continues to receive his or her salary while the investigations are -- are ongoing until they are concluded. So in this case, are we asking when the officer is indemnified to provide the officer what insofar as compensation?

SENATOR WITKOS: Well, Representative, to be -- the -- the amount of officers -- while you may see numerous reports in the newspaper or on the TV of an officer being placed on administrative leave while an internal investigation is being conducted, this particular statute only applies to those officers that were arrested because of the nature of -- of an on-duty incident that they were involved in.

REP. NOUJAIM: So if an officer is arrested, then he or she is not receiving their salary, or they continue to receive salary and payment -- and insurance.

SENATOR WITKOS: Well, that -- that depends on the agency themselves. Some agencies may terminate the officer. Some agencies may keep them on administrative paid suspension until the outcome of the court case -- that's for each municipality to determine on their own volition.

REP. NOUJAIM: But if they remain -- if they remain on administrative leave and aren't paid, and their case is concluded, then what would happen monetarily? Do the amount that -- that compensation -- the compensation that they have -- that they have taken during the time when the investigation is ongoing -- is also considered in the lump sum payment at the end when the settlement is -- is concluded.

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COMMITTEE

SENATOR WITKOS: What I think you're trying to do is -- it -- they would not -- that money that they would have -- that they're receiving now would not be part of that. It would be basically any overtime or an average of overtime if they would have missed because of their inability to work those extra hours because of the administrative criteria placed upon them.

REP. NOUJAIM: So their current pay is taken into consideration --

SENATOR WITKOS: Yes.

REP. NOUJAIM: -- when the settlement is concluded.

SENATOR WITKOS: That is correct.

REP. NOUJAIM: Okay. Thank you so much. I appreciate it.

SENATOR PRAGUE: Any other comments from committee members?

Well, thank you.

SENATOR WITKOS: Thank you, Senator.

SENATOR PRAGUE: You're welcome.

Our next speaker is Jackie Caron from the Norwich City Council.

And Jackie will be followed by Gretchen Raffa.

JACQUELINE CARON: Good afternoon, Senator Prague, and members of the Labor Committee.

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**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**LABOR AND  
PUBLIC EMPLOYEES  
PART 3  
683 – 1027**

**2010**



**State of Connecticut**

**SENATE**

STATE CAPITOL  
HARTFORD, CONNECTICUT 06106-1591

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February 25, 2010

Senator Edith Prague  
Representative Kevin Ryan  
Senator Tony Guglielmo  
Representative Selim Noujaim

Thank you all for hearing SB 167 today.

Senate Bill 167 would provide an expedient manner to apply the intent of the law that municipalities use against police officers. This statute is very narrowly drafted and historically affects a minimal amount of police officers compared to the thousands of employed law enforcement officers. When the unfortunate instance of a police officer getting arrested because of an on-duty incident and subsequently placed on administrative duties is vindicated by the courts, the police officer should be made whole for the economic losses incurred during the length of his/her administrative sanctions. Municipalities have opted to fight the officer on the wages owed to them causing significant legal costs that the officer must bear. Ultimately the cost of seeking justice causes most of the award to be consumed by legal fees. Again this would only apply in cases wherein the officer was found not guilty or the case was dismissed by the courts.

I thank the committee for its time and urge the favorable passage of this bill.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Kevin D. Witkos".