

PA13-29

SB0829

House	4409-4412	4
Judiciary	665-670, 700-701, 702-703, 706-708, 751-754	17
Senate	940, 1096-1098	4
		25

H – 1162

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 13
4177 – 4511**

hac/gbr
HOUSE OF REPRESENTATIVES

481
May 15, 2013

Total Number Voting	132
Necessary for Passage	67
Those voting Yea	120
Those voting Nay	12
Absent and not voting	18

DEPUTY SPEAKER GODFREY:

The bill, as amended, passes.

Will the Clerk please call Calendar 446?

THE CLERK:

Calendar 446, on Page 23, Favorable Report of the
Joint Standing Committee on Judiciary, Substitute
Senate Bill 829, AN ACT CONCERNING THE UNAUTHORIZED
PRACTICE OF LAW.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

I move for the acceptance of the Joint
Committee's favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

This is in concurrence with the Senate, sir?

REP. FOX (146th):

Oh, yes, Mr. Speaker. In concurrence with the
Senate.

DEPUTY SPEAKER GODFREY:

The question is acceptance of the Joint
Committee's favorable report and passage of the bill,
in concurrence with the Senate.

Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker.

This bill came to the Judiciary Committee,
primarily from the Division of Criminal Justice, who
felt that there was a need to expand the penalties for
-- that would enable them to have greater enforcement
over the issue of the unauthorized practice of law,
particularly those individuals who know that they are
not authorized to practice law, yet continue to do so
in our courts.

It's something that is a strong priority for our
Chief state's Attorney and their office and I do urge
passage of the bill.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Do you care to remark on the bill that's before
us?

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

And I do rise in support of the bill that's before us. As indicated by Representative Fox, this is a very good bill. If you're not supposed to be practicing law, it has increased penalties. There is also an exception that's made part of this bill and that's an exception for an attorney who is suspended merely for the sole purpose of not having paid the Occupational Tax. So that's a correction as well, that we wanted to make sure that was in this bill.

Thank you, Mr. Speaker.

And I rise in support of the bill.

DEPUTY SPEAKER GODFREY:

Thank you, madam.

Do you care to remark? Do you care to remark further on the bill before us?

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

THE CLERK:

The House of Representatives is voting by roll.

The House of Representative is voting by roll. Will the members please return to the Chamber immediately?

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted?

Will the Members please check the board to make sure your vote is properly cast?

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

Clerk please announce the tally.

THE CLERK:

Bill Number 829, in concurrence with the Senate.

Total Number Voting 132

Necessary for Passage 67

Those voting Yea 131

Those voting Nay 1

Absent and not voting 18

DEPUTY SPEAKER GODFREY:

The bill passes, in concurrence with the Senate.

Will the House --will the Clerk please call

Calendar Number 231?

THE CLERK:

On Page 43, Calendar Number 231, Favorable Report of the Joint Standing Committee on Transportation, House Bill 5278, AN ACT AUTHORIZING FIREFIGHTERS TO

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 2
365 - 727**

2013

5
jmf/gbr JUDICIARY COMMITTEE

February 13, 2013
2:30 P.M.

separated this year.

KENDALL WIGGIN: Thank you.

REP. FOX: At least for now.

KENDALL WIGGIN: Thank you, Representative Fox.

REP. FOX: Are there any questions? Thank you very much.

KENDALL WIGGIN: Thank you.

REP. FOX: Next is Kevin Kane.

KEVIN KANE: Good afternoon, Representative Fox, and Senator Coleman, and members of the Judiciary Committee. Thank you very much for inviting us here again at the beginning of -- of another session. I'm here to speak in support of Senate Bill 829, which made it out of this committee favorably last session and passed the House, actually, last session and then somehow got tied up with another bill and died at the last minute.

This is a bill which, actually, we've been seeking for four years now. This will be the fourth year, and it has been improved considerably. At present, the penalty for practicing law without a license is a \$250 fine and or not more than two months incarceration, which is a \$250 fine, if we're talking about a fine, that probably was good back in prior to 1920, but times have changed a lot.

And what we wanted to seek was, A, to make it -
- our past efforts had been to make it -- the penalty a felony. And also, very importantly, is the way the bill is present -- the statute is presently worded, it applies -- it makes it a crime for anybody who has not been admitted

to the practice of law to practice law.

We have tried to prosecute people in the past who were disbarred. They had been admitted but were disbarred, or they had been admitted but were suspended for violations of serious ethical rules or rules of professional responsibility. The bill doesn't reach that -- that conduct, so we couldn't do any -- anything about that.

We did seek to amend it. Initially there was great opposition from certain -- certain people in the private bar who were concerned about the impact this would have on transactional lawyers, who are lawyers admitted from other states who came -- who were representing a client in a contract or something or things that I didn't understand, but it brought about great opposition.

And the Bar Association was against it; other elements were against it. So we worked out -- we worked very hard on arranging a compromise with the Connecticut Bar Association. Ralph Monaco, when he was president was instrumental in bringing that language. That language was approved by the Judiciary Committee last session and passed.

After it passed, the Judicial Branch suddenly recognized the problem. And we're going to suggest that -- and we -- at that time their concern was that it impinged on their ability to suspend lawyers who failed to pay their -- their occupational tax or their client security fund fee.

Now, we're not interested particularly in prosecuting those people. We're certainly not. We have other more important things to do. But Judicial was afraid it would take away

7
jmf/gbr JUDICIARY COMMITTEE

February 13, 2013
2:30 P.M.

Judicial's ability to suspend those people for failure to do it in order to get them to pay the tax. They drafted language which -- which was submitted. I'm not sure whether that language passed the House or not, but it is language which will suggest that this bill be amended to include that. Aside from that, we're in favor of this bill, and that's it. I think that's my three minutes.

REP. FOX: Thank you, Kevin. My memory of it is it did pass the House with the -- the notary bill, it was combined with.

KEVIN KANE: Yes.

REP. FOX: That's how we did it last year. Those -- those two bills are also separated this year.

KEVIN KANE: Right.

REP. FOX: Hopefully that will help.

KEVIN KANE: Thank you.

REP. FOX: Are there any questions for Attorney Kane?

Representative Smith.

REP. SMITH: Thank you, Mr. Chairman. Good afternoon.

KEVIN KANE: Good afternoon.

REP. SMITH: I recall speaking about this last year, and it came to mind we have transactional contracts in real estate where many real estate firms, not lawyers but agencies, are preparing contracts and sending them out to clients, buyers or sellers and having them signed. And I don't see any -- there's -- I see some

prohibitions on what is not considered a violation of the statute. It doesn't appear that that would -- that practice that's occurring now, which in my mind is unauthorized practice of law, is covered by this. Do you have any opinion on that?

KEVIN KANE: We did not try to get into the -- at least we, the division and the people who drafted the bill, did not try to get into defining practice of law. That's up to the Judicial Branch to do. I don't really have an opinion on that. I can -- or I don't have an opinion on that. This bill wouldn't change that. If -- if it's -- if that's unauthorized practice of law today, it will be after -- it will continue to be, I believe, after this bill is passed -- if this bill is passed.

REP. SMITH: All right. So, as I understand your testimony, that would be under judicial scrutiny or ruling as to whether that type of conduct would be --

KEVIN KANE: Is in fact unauthorized practice of law. We -- I don't know that we've been referred cases to investigate or prosecute in that situation.

REP. SMITH: Thank you. One other question. Here it talks about a town clerk is not prohibited from preparing or drawing deeds. And I think I understand the intent. They receive them; they file them. That's not to be considered the practice of law. But I'm just wondering whether we -- since we're dealing with this language, whether we want to clear that up at this point and clarify preparing or drawing deeds, because that, in my mind, is also -- you know, if the town clerk were to prepare a deed or create a deed, that's different than filing or accepting a deed in the recordings --

recordings office. So if we're going to tweak this at all, I would suggest that maybe we want to do that at this time.

KEVIN KANE: That might be something -- the last time we got into terrific opposition from a whole bunch of -- on the basis of a whole bunch of civil concerns that -- that we had nothing to do with, and it went beyond our interest. And that -- that kind of thing tied the bill up for four years. All we want to do is make the penalties more reasonable and be able to reach those lawyers who've been suspended or disbarred for serious misconduct. Those are the only two changes we made.

And this, believe me, has been torture on negotiating through these other interests to get through. And I kind of dread the thought of -- I don't know what kind of -- maybe everybody would agree to that and it would be fine. I would hate to see the bill die over this, but I certainly would -- don't have a position one way or the other on it.

REP. SMITH: Since it's taken four years, maybe I'll just quell my suggestions for now. We'll get this passed because I agree this is a bill that should be passed, and so hopefully we'll get it passed and then we'll tweak it later.

KEVIN KANE: Thank you.

REP. FOX: Torture. Okay.

KEVIN KANE: Thank you.

REP. FOX: Well, we have -- I know we raised a few more bills that you're interested in, so I know we'll be seeing you again. Is there any other questions for Attorney Kane?

10
jmf/gbr JUDICIARY COMMITTEE

February 13, 2013
2:30 P.M.

Thank you, Kevin.

KEVIN KANE: Thank you.

REP. FOX: Is Representative Bacchiochi here? Well, if she comes in, we'll come back to her.

Senator Looney? If he comes in, we'll go to him.

I do see COMMISSIONER LEO C. ARNONE. Welcome, Commissioner. I think this is the first time I've seen you since you announced that you will be leaving the Department of Correction, so let me just say you were definitely a pleasure to work with, and we wish you the best.

COMMISSIONER LEO C. ARNONE: Thank you. Thank you very much.

REP. FOX: Now, you're here on some bills, so you might as well --

COMMISSIONER LEO C. ARNONE: Yeah. So, good afternoon, Senator Coleman, Representative Fox, and members of the Judiciary Committee. I'm Leo Arnone, the Commissioner of the Connecticut Department of Correction. I'm here to speak on three bills today. I'll be brief. They're -- also these bills were up last year. They -- they cleared committee last year; two of them died in the final hours of -- of the Legislature last year.

First one is one that has been near and dear to my heart even though, if it passes, it won't help me because I won't be here anymore, but it's AN ACT CONCERNING THE ADMINISTRATOR OF THE INTERSTATE COMPACT FOR ADULT OFFENDERS. Basically what this -- actually what this bill does is allows the state a Council for the Interstate Compact. The Interstate Compact is

HB5515
SB 238

HB5514

if passed, would address such concerns by mandating public accessibility and hopefully standardization.

Transitioning legal information to electronic format not only guarantees its authenticity -- authenticity and universal access to all people. Only enforceable standards arising from careful thought and planning can assure these goals. Passing UELMA would require that those enforceable standards are in place.

The Southern New England Law Librarians Association, therefore, asks your support in passing Senate Bill 235. Thank you very much.

REP. FOX: Thank you for your testimony. Are there any questions? Thank you for being here today.

Next is Laura Cummings.

LAURA CUMMINGS: Good afternoon, Senator Coleman, Representative Fox, and the members of the Judiciary Committee. My name is Laura Cummings, and I'm testifying today on behalf of the Connecticut Business and Industry Association. CBIA's 10,000 member companies represent the broad diversity of Connecticut's businesses, and the vast majority of our members are small companies with fewer than 50 employees.

I'm here today to testify in opposition to Senate Bill 829, AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW as it is currently drafted, and also in support of Senator Bill 235, AN ACT CONCERNING THE ADOPTION OF THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT.

Senate Bill 829 proposes amendments to Section 51-88 of the Connecticut General Statutes on the unauthorized practice of law. We believe

an additional amendment is necessary to make this section more consistent with Section 2-15(a) of the practice book. The proposed Subdivision (2) of Subsection (b) is an exemption from criminal -- criminal penalties for in-house lawyers. As such, it should mirror the rules for authorized house counsel under practice subsection 2-15(a) so that all duly authorized house counsel are protected by the same exemption.

Specifically, we believe that Subdivision (2) of Subsection (b) of the proposed bill should include reference to those authorized house counsel admitted to practice law before the highest court of the foreign jurisdiction under practice book subsection 2-15(a) in order to ensure that all lawyers registered as authorized house counsel are not subject to criminal penalties.

Foreign admitted lawyers provide legal service to their employers as in-house counsel, and should not be subject to criminal penalties in an era of global commerce and competition. In-house lawyers who are foreign admitted and duly authorized to practice under the authorized house counsel rule should not be exposed to criminal penalties, much less heightened criminal penalties. This problem can only be resolved by including all authorized house counsel, including foreign admitted authorized house counsel, in the exemption to criminal penalties.

Regarding Senate Bill 235, AN ACT CONCERNING THE ADOPTION OF THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT, CBIA is in support of this bill as it seeks to address important issues regarding information management and availability. In an effort to legislate the rapid rise in electronically published legal

materials, Senate Bill 235 ensures that state information, including the Constitution, statutes, and regulations, are accurately recorded, authentic, properly preserved, and accessible on a permanent basis.

This Act will make Connecticut's legal documents more accessible to our businesses seeking to stay compliant with the most up-to-date laws and various agency regulations. For the aforementioned reasons, CBIA urges the committee to support Senate Bill 235 and modify Senate Bill 829 as previous described. Thank you for the opportunity to testify before you this afternoon on these important issues.

REP. FOX: Thank you, and welcome. Are there questions?

Senator Kissel.

SENATOR KISSEL: You heard what Attorney Kane, chief state's attorney, said. Have you been in discussions with him because --

LAURA CUMMINGS: I have not. But I think --

SENATOR KISSEL: Because here -- he, you know, he's been trying for four years to get this fairly simple concept through, and now you guys are coming in, the biggest business lobby in the -- in the state, saying we want to change. We -- we could, you know, try to work that out here, but if you guys just got in the hallway and worked out a compromise, it will make our lives that much easier.

LAURA CUMMINGS: Sure. And I think it would be a very simple fix. And I'll attempt to do that. I don't think it would derail the entire process hopefully.

SENATOR KISSEL: Thank you.

REP. FOX: Thank you. I -- I would just add, to echo Senator Kissel's comments, that I think what Attorney Kane is trying to prevent or trying to penalize is not necessarily inconsistent with what you're trying to do. So I think you could work together, and it would certainly be helpful if you could -- if you could reach out to him. I'm not sure. I think he left, so just if you can come up with something, that would be terrific.

LAURA CUMMINGS: I agree and I will try.

REP. FOX: Thank you.

LAURA CUMMINGS: Thank you.

REP. FOX: Next is Jonathan Stock.

JONATHAN STOCK: Chairman Coleman and Chairman Fox and distinguished members of the Judiciary Committee, I am Jonathan C. Stock, Chair of the Connecticut Bar Association's Law Librarians Section. Our section supports the enactment of the Uniform Electronic Legal Material Act, otherwise known as UELMA. The CBA Law Librarians Section strongly urges this committee to approve S.B. 235.

This legislation will ensure that online state legal materials, designated official, meet the same standard previously demanded of print, authenticity, long-term preservation, and open public access. The Connecticut General Assembly is commended for being at the forefront of considering the authentication of legal information.

This Legislature created the Paperless Task Force. It then adopted Public Act 11-150

from any members of the committee?

JONATHAN STOCK: Thank you very much --

REP. FOX: Thank you.

JONATHAN STOCK: -- Representative Fox, members of the committee. Thank you.

REP. FOX: Next is Burt Cohen.

BURTON COHEN: Good afternoon, Senator Coleman, Representative Fox, distinguished members of the Judiciary Committee. My name is Burt Cohen. I'm a partner with Murtha Cullina. I practice in our New Haven office. I am privileged to serve on the Connecticut Bar Association's House of Delegates, Board of Governors, and in my second year on the Unauthorized Practice of Law Committee of the CBA.

As Senator Kissel mentioned earlier, this -- this bill, Senate Bill 829 regarding AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW has been before you for five -- five sessions now. I guess I've drawn -- I've drawn the short straw in having to try to push it up the hill, and, well, let me -- let me change the metaphor to push it over the goal line one final time.

I'd like to thank the members of this committee along with the State's Attorney's Office for working with the Connecticut Bar Association in crafting the legislation -- the language that is before you.

You heard from a representative of the CBIA a few minutes ago about the -- the house counsel issue. Let me just say to you that the safe harbor -- there are two safe harbor provisions in Senate Bill 829, Subsection (b)(2) and

Subsection (d). Those safe harbor provisions are the ones that are on the books as we speak. What this bill does, it modestly increases the punishment for the unauthorized practice of law. It's very modest. It basically makes it a Class A misdemeanor.

Keep in mind that the State of -- the State of New York, in December, made the unauthorized practice of law an enhanced felony of up to five years imprisonment and up to \$10,000 fine. I respectfully suggest to you that this Senate Bill 829 is a very modest proposal and one that we hope that this Judiciary Committee will unanimously support. I'm happy to answer any questions.

REP. FOX: Senator Kissel.

SENATOR KISSEL: Attorney Cohen, it's always great to see you. And it's just -- you've had thus far and many, many years to come, just an excellent, excellent legal career. And it's hard to believe that, once upon a time, you and I were in class together. I'm glad that you've done so well. And if Chief State's Attorney Kevin Kane needs any assistance, what I'm hearing is that you two guys can double-team the CBIA and try to work this out. I have -- I have my fingers crossed that this is the magic year and you can go on to other endeavors. But it's great to see you, and I wish you the very best.

BURTON COHEN: Great to see you too, Senator Kissel. As always -- it probably wouldn't help our cause to -- to disclose that Mr. Cafero was also in our law school class.

SENATOR KISSEL: I think Larry was a couple years ahead. We were all roaming the halls at the same time. Pretty scary.

BURTON COHEN: I'm going to plead the fifth on that, sir.

REP. FOX: Are there other questions? Well, Attorney Cohen, thank you for being here. I think you -- you did hear the CBIA testimony. The fact that they testified against it, I think it would be helpful if you just get together with them and try to -- it sounds like all of this can be -- can be resolved either by explanation or by just some minor tweaks.

BURTON COHEN: We'll be happy to do that. I just would hope that any tweaks that would be forthcoming would not in any way hinder the passage of this important piece of legislation, which again is a modest change.

REP. FOX: Okay. Well, thank you very much.

Next is Moira Buckley. Moira is not here? She did submit written testimony.

Darcy Kirk. Good afternoon.

DARCY KIRK: Good afternoon. My name is Darcy Kirk. And on behalf of the American Association of Law Libraries, I would like to thank you for the opportunity to testify in support of Senate Bill 235, AN ACT CONCERNING THE ADOPTION OF THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT.

AALL strongly urges the committee to approve the Act, UELMA, which will ensure that Connecticut's online state legal materials, deemed official will be preserved and made permanently available to the public in unaltered form.

I am AALL's immediate past president, a law librarian, and a constituent of both Senator

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 3
728 - 1039**

2013

PAGE 7
LINE 1430 Bank Street
PO Box 350
New Britain
CT 06050-0350
06051 for 30 Bank Street
P (860) 223-4400
F (860) 223-4488**TESTIMONY OF BURTON B. COHEN****Member of the Connecticut Bar Association Board of Governors, House of Delegates and
Committee on the Unauthorized Practice of Law****IN SUPPORT OF SB 829****An Act Concerning the Unauthorized Practice of Law**

Senator Coleman, Representative Fox, and members of the Judiciary Committee, thank you for this opportunity to appear before the Committee to comment on SB 829, *An Act Concerning the Unauthorized Practice of Law*. My name is Burton B. Cohen, and I am a delegate to the Connecticut Bar Association's House of Delegates and Board of Governors and also a member to the CBA's Committee on the Unauthorized Practice of Law. I have also recently chaired a CBA Task Force on the Unauthorized Practice of Law in Administrative Agencies. I practice law at Murtha Cullina LLP and am Partner-in-charge in our New Haven office.

SB 829 presents a well-balanced approach to clarifying the elements of the offense of the unauthorized practice of law set forth in General Statutes § 51-88. It also increases the penalty for a proven violation that is more consistent with the nature of the illegal activity.

The Problem. The unauthorized practice of law by individuals who are not duly licensed attorneys in the state of Connecticut is harmful to our citizens and preys upon those less privileged and more vulnerable. The issue of individuals masquerading as lawyers, along with the explosion of legal services offered through websites and by lawyers or firms that are not licensed to practice in Connecticut, has become a critical problem. The current penalty is so minimal that it does not serve as a deterrent to these illegal activities.

Most attorneys licensed to practice law in our State are residents of Connecticut. They pay State income and sales taxes; State and local property taxes; remit an annual attorney's registration fee to the State; and pay into the client security fund which reimburses those who suffer at the hands of an attorney who has violated his or her responsibilities to a client. Admitted attorneys are active in our State and local bar associations, our communities, our local municipalities and, as are most of you, in our State government. Those engaged in the unauthorized practice of law generally operate "under the radar." They typically do not pay taxes to the State. They certainly are not paying an occupational tax or into the client security fund. They have no professional or ethical constraints and are not concerned with the Connecticut Rules of Court or our Rules of Professional Conduct. The primary danger here is not to the attorneys admitted to the Connecticut bar, but to the "clients" of these unscrupulous practitioners who will ultimately be harmed. The victims can often be the poor and immigrants, and the consequences of erroneous or unprofessional advice can be devastating.

Other states have recognized the danger and have strengthened their unauthorized practice of law statutes. Rhode Island, for instance, has long had very stringent rules to prevent non-admitted out of state attorneys from practicing in that state. In December 2012, New York passed a measure that increased the penalty for engaging in the unauthorized practice of law to a felony (from up to one year in jail to up to four years imprisonment under the new statute).

The Statute. SB 829 amends existing law by further clarifying what is and is not the unauthorized practice of law. For instance, a lawyer who neglects to pay the occupational tax on attorneys will not be in violation of the law. If, however, a person provides legal services without being admitted to practice in Connecticut, unless authorized pursuant to a court order or statute, that person will be engaging in the unauthorized practice of law in violation of General Statutes § 52-88. The proposal will make the unauthorized practice of law a class A misdemeanor, which is a modest increase that subjects the perpetrator to imprisonment for a term of not more than one year imprisonment and a fine of no more than two thousand dollars. While not a felony, it certainly will give the enforcement authorities such as the State's Attorney's Office and the Office of Statewide Grievance Counsel further leverage in enforcing the law and prosecuting the unauthorized practice of law. The penalty would be reduced if the violator was a member in good standing of another jurisdiction's bar in the U.S., in which case the violation would only be a class C misdemeanor. SB 829 limits any prosecution for soliciting, requesting, commanding, importuning or intentionally aiding in the unauthorized practice of law to those cases where the state can prove beyond a reasonable doubt that the defendant had actual knowledge that the violator was not admitted to practice law in any jurisdiction at the time such the violation occurred.

SB 829 leaves in place many of the safe harbors in subdivisions (b)(2) and (d), which are unaffected by the bill. In short, the bill before you is a modest, but essential, step in ensuring that the practice of law in Connecticut remains in full conformity with applicable legal requirements and rules of court.

Conclusion. The CBA and the State's Attorney's Office fully supports SB 829, which clarifies the elements of the offense of the unauthorized practice of law in Connecticut and imposes a modest increase in the penalty for any such offense. The proposal is consistent with protecting Connecticut citizens from unscrupulous individuals and ensures that the penalty for the unauthorized practice of law is increased as a further measure of deterrence.

Thank you for the opportunity to address the Judiciary Committee. I am pleased to answer any questions.

PAGE 1
LINE 8

State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN SUPPORT OF:

S.B. NO. 829: AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW

JOINT COMMITTEE ON JUDICIARY
February 13, 2013

The Division of Criminal Justice respectfully recommends the Committee's **Joint Favorable SUBSTITUTE Report** for S.B. No. 829, An Act Concerning the Unauthorized Practice of Law. The Division wishes to express its appreciation to the Committee, the Judicial Branch, the Connecticut Bar Association and all others who have devoted so much time and effort to developing legislation on this issue.

S.B. No. 829 would strengthen the penalty and clarify the language of the law regarding those who practice law without ever having been admitted to the practice or law or whose right to practice has been suspended or revoked for serious breaches. The need for this bill is as acute today as it was a year ago when the Division of Criminal Justice and the Connecticut Bar Association joined in a concerted effort to draft the legislation before you. The right to practice law carries with it tremendous responsibility. It is a position of public trust. The legal profession can and must be held to a higher standard for the protection and benefit of the public and to protect the integrity of our judicial system. S.B. No. 829 would provide for meaningful penalties for those who violate this public trust by either falsely posing as a lawyer or by continuing to engage in the practice of law when the right to do so has been suspended or revoked for serious breaches of the law or professional conduct.

The bill in no way affects whether or to what extent a lawyer admitted in another state can practice in our state, whether as "in-house" counsel or in some other capacity. What it would prohibit - and more appropriately punish - is the New York man who tried a case in Stamford after falsely identifying himself as having been admitted to the New York bar. His victim was an immigrant who had very little knowledge or understanding of our legal system. In fact the victims in such cases are typically those who are especially vulnerable. Nor would this bill punish those who have been suspended solely for not having paid any occupational fees or taxes to Connecticut. But it would address the former Connecticut attorney who continued to practice after his right to practice was suspended for other ethical violations and who subsequently surrendered his Connecticut license under threat of disbarment. These are actual incidents that have identified the obvious shortcomings in the existing law and the need for S.B. No. 829.

The Division would respectfully request that the Committee amend S.B. No. 829 to make a violation a felony rather than the Class A misdemeanor included in the bill as raised.

The Division believes the unauthorized practice of law is so serious offense that a felony penalty and its ramifications are appropriate. The Division would also request that the Committee consider adding language proposed in the 2012 session by the Judicial Branch to clarify that the legislation does not apply to those whose right to practice is suspended solely on account of the failure to pay the occupational tax on attorneys imposed pursuant to Section 51-81b or the client security fund fee imposed pursuant to Section 51-81d.

In conclusion, the Division expresses its appreciation to the Committee for your consideration of S.B. No. 829. We would be happy to provide any additional information the Committee might require or to answer any questions you might have.

S - 655

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 4
911 - 1212**

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, moving to Calendar Page 12, the fourth item on that page, Calendar 190, Substitute for Senate Bill Number 829, previously marked go, would move to place that item also on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to Calendar Page 13, third item on that page, Calendar 199, Substitute for Senate Bill Number 11; Madam President, would move to place that item on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, moving to Calendar Page 15, at the bottom of that page, Calendar 218, Senate Bill Number 996; Madam President, move to place that item on the Consent Calendar.

THE CHAIR:

So ordered, sir, seeing no objection.

SENATOR LOONEY:

Thank you, Madam President.

mhr/gbr
SENATE
Opposed?

186
April 24, 2013

The amendment passes.

Senator Looney.

SENATOR LOONEY:

Yes. Yes; thank you. Thank you, Madam President.

Madam President, would move that the bill as amended
be referred to the Committee on Planning and
Development.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, before calling for a vote on the Consent Calendar, there's one item that needs to be removed from the Consent Calendar, and that was Calendar, from Calendar Page 9, Calendar 1 -- 162, Senate Bill 318, placed on Consent earlier. That needs to be removed from -- from Consent at that point, and if the Clerk would then move to list the items on the Consent Calendar and call for a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 1, Calendar 401, Senate Joint Resolution Number 53, also Calendar 402, Senate Joint Resolution Number 54.

On Page 2, Calendar 415, House Joint Resolution Number 89; Calendar 416, House Joint Resolution Number 90; Calendar 417, House Joint Resolution Number 91; Calendar 418, House Joint Resolution Number 92; Calendar 419, House Joint Resolution Number 93.

mhr/gbr
SENATE

187
April 24, 2013

On Page 3, Calendar 420, House Joint Resolution Number 94; Calendar 426, Senate Resolution Number 26.

On Page 10, Calendar 166, Senate Bill Number 752.

Page 12, Calendar 190, Senate Bill Number 829.

On Page 13, Calendar 199, Senate Bill Number 11.

Page 15, Calendar 218, Senate Bill Number 996.

On Page 16, Calendar 220, Senate Bill Number 1001.

Page 24, Calendar 292, Senate Bill Number 692.

On Page 34, Calendar 382, Senate Bill 466.

On Page 43, Calendar 150, Senate Bill Number 815.

And on Page 45, Calendar 249, Senate Bill Number 806.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote, and the machine will be open on the Consent Calendar.

THE CLERK:

Immediate roll call has been ordered on -- in the Senate. Senators please return to the Chamber.
Immediate roll call, today's Consent Calendar, in the Senate.

THE CHAIR:

Have all members voted; all members voted? The machine will be closed.

Mr. Clerk, will you please call the tally.

THE CLERK:

On today's Consent Calendar.

Total Number Voting	34
Those voting Yea	34

mhr/gbr

188

SENATE

April 24, 2013

Those voting Nay

0

Absent and not voting

2

THE CHAIR:

The Consent Calendar passes.

Senator Welch, do you have a -- a point of personal privilege?

SENATOR WELCH:

Thank you, Madam President.

I do rise for a point of personal privilege, and I'd just like to take a second to recognize a very special group, I think, to all of us here, and that is the Parent Leadership Training Institute. Today we have with --

THE CHAIR:

Excuse me.

SENATOR WELCH:

-- us --

THE CHAIR:

Excuse me a minute, sir.

Can I ask for a little bit of quiet in the, in the Circle, please? Senator Welch does have the floor.

SENATOR WELCH:

Thank you, madam.

THE CHAIR:

Please keep the voice down.

SENATOR WELCH:

Thank you.