

Legislative History for Connecticut Act

PA 14-233

HB5586

House	6061-6085	25
Senate	3462, 3476, 3480-3481	4
Judiciary	3177, 3178, 3472, 3473, <u>3543-3549</u>	11
		40

H – 1198

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
PART 18
5882 – 6232**

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

66
May 6, 2014

DEPUTY SPEAKER RITTER:

Please proceed.

REP. AYALA (128th):

I am hoping that the Chamber can welcome a fifth grade classroom from Barnum Elementary School in Bridgeport, Connecticut, one of the finest elementary schools that we have in Bridgeport, accompanied by their teachers, Gary and Mary. They do a great job and I am so happy to welcome them here joining the process here at the capital.

Thank you.

DEPUTY SPEAKER RITTER:

Are there any other announcements or introductions?

Will the Clerk please call Calendar 388.

THE CLERK:

On page 37, Calendar Number 388, favorable report of the Joint Standing Committee on Finance, Revenue and Bonding. Substitute House Bill Number 5586, AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.

DEPUTY SPEAKER RITTER:

- Representative Gerry Fox.

REP. FOX (146th):

Thank you, Madam Speaker.

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

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

67
May 6, 2014

DEPUTY SPEAKER RITTER:

The question is on acceptance of the Joint Committee's favorable report and passage of the bill.

Representative Fox, you have the floor

REP. FOX (146th):

Thank you, Madam Speaker.

This bill is a bill that was initially brought to us by the Office of the Chief State's Attorney. It does a number of -- makes a number of either clarifications or -- or changes to our criminal justice laws.

We, also, as part of the Judiciary Committee, did have several other bills that dealt in the area of criminal law and we are attempting to put them all into this bill.

And what I would ask, Madam Speaker, the Clerk does have an amendment, LCO Number 5506, if that could be called and I be given leave to summarize.

DEPUTY SPEAKER RITTER:

Will the Clerk please call LCO Number 5506, which will be designated House Amendment Schedule "A".

THE CLERK:

LCO Number 5506 designated House Amendment "A", an offer by Representative Fox.

DEPUTY SPEAKER RITTER:

The Representative seeks leave of the Chamber to summarize the amendment.

Is there objection to summarization? Is there objection to summarization?

Hearing none, Representative Fox, you may proceed with summarization.

REP. FOX (146th):

Thank you, Madam Speaker.

And although my name is the only one on this amendment, I should also be sure to thank the distinguished Ranking Member of the Judiciary Committee, Representative Rebimbas, as well as the distinguished Deputy Speaker, Representative Berger, for their assistance with this amendment.

Also, this amendment includes a bill that was -- that came to the Judiciary Committee from Representative Case, so he also had a -- a role in this bill. And what I would -- if I may, I would -- in order to summarize the bill, the -- the amendment, and then I'll summarize the bill.

The amendment addresses, first, the sections of our law dealing with asset forfeiture. The amendment specifically looks at those areas where police seize money, cash money, in the course of their arrest or investigation, and what it does is it allocates those funds, so that 70 percent of the funds collected would go to the local police

department, 20 percent would go to the Victim's
excuse me -- Criminal Injuries Compensation Fund,
and then 10 percent would be allocated to the
Division of Criminal Justice.

Now that was the language in the underlying
bill. The change with the amendment is that the --
the areas that would -- the funds that would go to
state agencies, whether it be the Division of
Criminal Justice or DESPEE, those would then be
deposited to the general fund. This does not change
the 70 percent of the underlying bill that would go
to the local police, so that still remains.

I should also point out that there is a sunset
provision in this amendment in that, on July 1st,
2016, the -- the -- if we do not make a change here
in the General Assembly, the funds -- the practice
would revert to the way things are currently being
done now.

And the reason for the sunset provision is so
that we can acquire enough information to determine
really just how much we're talking about because it
seemed to be somewhat of a moving target.

Also, Madam Speaker, in this amendment, there
are sections that clarify that, upon application for
certain diversionary programs, that the -- the
records are sealed upon application. Currently,
that is the practice in some of our programs, but

what this will do is make it clear that this is the practice in other specifically accelerated rehabilitation.

Also, Madam Speaker, the -- there is a provision here that deals with when a public official defrauds the community, defrauds the community under which oftentimes they are working, that that would be a crime that is ineligible for accelerated rehabilitation.

And, Madam Speaker, that is the section that was brought to us by -- to our attention by Representative Case. It was raised in a separate bill, but we combined it into this amendment, which will be hopefully part of the underlying bill should it pass.

Also, Madam Speaker, the -- the amendment also incorporates a bill with respect to search warrants that was brought to us by the Office of the Chief State's Attorney. This was a separate bill that we incorporated into this bill. And what it does is it sets out a procedure for obtaining a search warrant in order to place a tracking device on motor vehicles.

And it also makes reference to certain cases that both the Connecticut Supreme State -- Supreme Court case, The State versus Azari, as well as a U.S. Supreme Court decision, the United States

versus Jones.

This is something that the Office of the Chief's State's Attorney thought was important to them as far as how they can conduct their warrant process and it's one that we have made part of this amendment.

So, Madam Speaker, I think that summarizes the amendment. And I would urge adoption -- move adoption.

DEPUTY SPEAKER RITTER:

Thank you, Representative.

Will you remark on the amendment before us?

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker.

And I do want to thank Representative Fox for eloquently detailing the amendment. He did a wonderful job in that regard.

Certainly just a few questions, through you, Madam Speaker, just for clarification purposes.

DEPUTY SPEAKER RITTER:

Please proceed.

REP.. REBIMBAS (70th):

Thank you, Madam Speaker.

Through you, Madam Speaker.

The diversionary program, just to clarify, that would be the -- also known as the AR program,

Accelerated Rehabilitation. I just wanted to clarify. Once that's utilized under the provisions of eligibility of this new amendment, is it a maximum that a person would not be able to exercise that more than two times in their lifetime under this amendment?

Through you, Madam Speaker.

DEPUTY SPEAKER RITTER:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker.

Yes, that is correct.

DEPUTY SPEAKER RITTER:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker.

And, Madam Speaker, through you, so usually when someone gets the AR program, they would not be eligible for a second time. But this amendment does allow it for a second time, in very limited circumstances, one of which is after 10 years of no arrests.

But also, it limits the type of crimes that the person convicted -- were convicted of for the second time or changed with, facing whether or not before a conviction that they're obviously exercising this program, what types of crimes are we talking about

that would allow them, after a 10-year span, to be able to reapply for the AR program?

Through you, Madam Speaker.

DEPUTY SPEAKER RITTER:

Representative Fox.

REP. FOX (146th):

Thank you, Madam Speaker.

If the -- if the individual had initially used the accelerated rehabilitation program for a misdemeanor, a crime punishable by one year or less, and then had not been arrested or been convicted of a crime during the course of a subsequent 10 years or more, then they would be eligible to use the program again.

These are programs that are -- this program, specifically, is one that the granting of which is within the discretion of the court. Prosecutors would have the ability to object. Victims are notified. It's required that they be notified and given an opportunity to appear as well.

But that -- those are -- so it would be if somebody was -- had used the program for a relatively low type of offense initially, they would then be eligible, after 10 years, to potentially use it again.

DEPUTY SPEAKER RITTER:

Representative Rebimbas.

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

74
May 6, 2014

REP. REBIMBAS (70th):

Thank you, Madam Speaker.

And I thank Representative Fox for detailing that.

This amendment before us; as much as sometimes the amendments certainly are smaller than the bills, it's an amendment that -- where there were many hands and voices that participated in the amendment which will be -- ultimately become the bill that's before us.

So we wanted to make sure, as the discussions even continued or any changes, that everyone was notified and informed of any of the potential changes in that regard.

And as Representative Fox had indicated earlier, I do want to also thank him for the opportunity to have been a part of that, and also Representative Berger, in making sure that the underlying bill, which again there was many interested parties, from the Police Chiefs Association to, obviously, public defenders, as well as the State's Chiefs' -- State's Attorneys Chief's Office, that we wanted to make sure that everyone had an input and were comfortable with the provisions, including OPM ultimately.

And I think we've accomplished that. Again, we did change to put the sunset provision, but simply

what that's going to do is, in 2016, it reverts back to current law. So, again, at that time, we could re-examine to see whether or not there's any changes that want to be made.

I also want to commend Representative Case for bringing a very important issue that occurred in his district to our attention, which was certainly supported as it moved forward in the Judiciary Committee, and there was some modifications, where again we did have to make sure that those public officials who are serving the communities are absolutely held accountable for any type of mismanagement, or quite frankly, even beyond mismanagement, but the actual theft of funds are held accountable.

And this will accomplish that, not only public, officials, but state or municipal employees. These people, again, do have the trust of the community and the residents. And it's very devastating when they take advantage of that trust because that will lead to financial consequences for the borough, which then the borough or the city or the municipality that then is then laid on the backs of the citizens.

So, again, this bill addresses that. So I'd like to thank Representative Case for bringing that to our attention and working hard on that portion as

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

76
May 6, 2014

well.

I also want to highlight the tracking devices. This is something that is timely. Again, Representative Fox had indicated that there was a case that led to this. And it's time because we need to then make sure that our laws are catching up to these different types of devices and protocols and requirements of what needs to be followed in order, again, to have the ability, not only to utilize them, but make sure we're doing it in the -- certainly the best interest of the public.

So I do stand in support of the amendment before us, and I'll reserve my comments for the bill.

DEPUTY SPEAKER RITTER:

Thank you, Representative.

Will you remark further on the amendment before us?

Representative Berger.

REP. BERGER (73rd):

Thank you, Madam Speaker, and good afternoon.

DEPUTY SPEAKER RITTER:

Good afternoon, Representative.

REP. BERGER (73rd):

I rise in support of the amendment that's before us, LCO 5506. And my comments will be directed, Madam Speaker, through lines 13

through 17. And before I talk on those lines associated with the amendment before us, again, I would just like to thank the leadership of Representative Fox and Representative Ritter, Representative Case, Representative Dargan, Representative Verrengia, Public Safety, and also Senator Hartley, and of course, Representative Rebimbas for her leadership in this bill.

If all the members in the Chamber will remember, last year there was a lot of discussion about this topic in lines 13 through 17, in this House Chamber. And, unfortunately, at that time, the Vice Chair Representative Ritter, was the butt of a lot of our questions in regards to this.

And the fruits of those labors, through the course of that discussion and through the work, through the course of the summer, and through the fall, have led to what -- the document that we have here before us.

And the importance of those specific lines are this. Even though, as the good Chairman of Judiciary stated, that there will be a sunset, oftentimes with legislation, we need to come with a compromise. And that is the compromise that's before us.

And that deals with the cash seizure of dollars by local law enforcement authorities when -- when

there's an arrest made previous to the language that's in this bill, which equates to 70 percent of seized money, seized money, in an investigation.

The local law enforcement agency receives zero dollars; or had to wait for a decision by a judge that potentially could give a portion of that money back to law enforcement.

So the importance of that for us here today is that we are reducing our costs of law enforcement's budgets on the municipal level by allowing the seizure of dollars within the jurisdiction of that department, under the arrest of that department, to then remain within the department.

By remaining those dollars, this leads to investigation, apprehension, prosecutions of persons for violation of criminal laws, thereby, helps reduce the budget and the mill rates in all our municipalities for law enforcement and the safety of all our citizens. So it's so very, very important what we do here today.

And I know there's a sunset, and we have an agreement with OPM to look at this in the out years, and that's very, very important. Because at the end of the day, we need a solid -- solid operating procedure and regulation for the -- for the ability to be able to obtain these dollars and put those back -- back into the communities.

And -- and what we could say about those dollars is that, when we look at the -- the fiscal impact, it's almost a million dollars, and that is just in cash that is potentially seized in investigations throughout the entire state of Connecticut. So a million dollars back to our communities is significant in helping reduce their budgets and helping reduce our mill rates and ultimately protecting our citizens.

So, again, I stand in strong support of this document. And I noticed that, in line 17, it does state, after July 1 of 2016, that those monies were to be deposited back in the General Fund. And I know Representative Rebimbas had stated -- made a comment to those -- those regards.

But for legislative intent, Madam Speaker, if I could direct a question to the esteemed chair of the Judiciary Committee.

DEPUTY SPEAKER RITTER:

Please proceed.

REP. BERGER (73rd):

Representative Fox, in line 17, you had stated along with Representative Rebimbas, July 1, 2016, such monies shall be deposited in the General Fund, such monies being the cash seized in investigations.

Under current law, does -- does that situation currently exist without what we do here in this

document today?

Through you, Madam Speaker.

DEPUTY SPEAKER RITTER:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker. It is my understanding that is what exists under current law.

DEPUTY SPEAKER RITTER:

Representative Berger.

REP. BERGER (73rd):

And thank you, Madam Speaker, and thank you, Representative. It's important that that note be made, that we will not revert back to a system that deprives municipalities of the money because it is our intent to have regulations and procedure in place that will allow for that 70 percent to continue.

So thank you to the Representative.

Thank you, Madam Speaker, for allowing me the opportunity to speak on this amendment.

DEPUTY SPEAKER RITTER:

Thank you, Representative Berger.

Will you remark further on the amendment before us?

Representative Case.

REP. CASE (63rd):

Thank you, Madam Speaker.

At this time, I'd like to thank the good Chair, Chairman Fox, and Representative Rebimbas and Representative Berger for their work and working with me to get a part of this amendment put in here.

I'm in strong support of this amendment. As some people know, I come from one of the towns that I represent. Approximately, maybe six months ago, our finance director was put away, put in jail.

He was -- embezzled over more than \$2.3 million in a short period of time. They could only go back five years. He worked for the town for over 31 years. It put our small town of 11,000 people in dire straits.

I worked with the good Representatives and testified in front of them to try to get something started here. So we work with municipal employees to try to stay out of the taxpayers' dollars and let them do the work of the community.

So, once again I rise in -- in high support of this amendment, and I thank all those on the Judiciary Committee and others that have worked on it.

Thank you, Madam Chair -- Madam Speaker.

DEPUTY SPEAKER RITTER:

Thank you, Representative.

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Madam Speaker.

I, too, want to commend Representative Fox and Representatives Rebimbas and Berger for their work on this bill, which contains important changes to our criminal laws. I want to thank Representative Case for that portion which he has championed and just spoke on as well.

In the town of Oxford that I represent, we, too, had a public official who was found guilty of embezzlement and is currently serving a sentence in jail. So I believe that's an important new reform to our -- to our laws.

I had a couple questions to the Chairman of the Judiciary, if I may, through you.

DEPUTY SPEAKER RITTER:

Please proceed, Representative.

REP. LABRIOLA (131st):

Thank you, Madam Speaker.

With regard to the changes of the accelerated rehabilitation laws, I understand that that program will now be available after a 10-year period has elapsed, provided that the first use of accelerated rehabilitation was for a case where the underlying crime was a misdemeanor. Have I got that correct?

Through you.

DEPUTY SPEAKER RITTER:

Representative Fox.

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

83
May 6, 2014

REP. FOX (146th):

Through you, Madam Speaker.

Yes, that is correct. And, actually, I should -- I was remiss in my opening remarks, because Representative Labriola was also a -- important addition to the discussions that went on with this bill. His experience and expertise played a valuable role. And I think without him, I don't think we'd have this amendment or bill as it is currently constructed, so I also do want to thank him.

But as far as this question, the answer is, yes, it is.

DEPUTY SPEAKER RITTER:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Madam Speaker.

And I thank the Chairman for his response and for those remarks.

A question with regard to the GPS, the search warrant component of this bill.

You cited the Supreme Court decision which allowed this type of tracking to occur. And I'm just wanting to make sure that this bill narrowly comports with those requirements and doesn't open up the floodgates, as it were.

Could you speak to how it actually comports

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

84
May 6, 2014

with that decision?

Through you, Madam Speaker.

DEPUTY SPEAKER RITTER:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker.

What -- what it does is it amends the existing search warrant statutes to add GPSs to -- as an investigative tool when the use requires the issuance of a search warrant. All the current protections -- and this is from the State's Attorney's testimony -- all the current protections still apply to the use of these tracking devices as well.

So while it does give the Office of the Chief State's Attorney what they were looking for, it doesn't -- it does nothing to change people's underlying rights.

DEPUTY SPEAKER RITTER:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Madam Speaker.

Well, those are the magic words. I wanted to make sure that they wouldn't possibly infringe upon people's rights. And as the jurisprudence for this type of tracking develops in the courts and through our criminal law enforcement, I'm sure that we will

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

85
May 6, 2014

be monitoring the way this rolls out, given new technology, and that, if necessary, we will make adjustments accordingly.

So given that, I do support the bill. I do think it adds a lot to our criminal justice system; and for all those reasons I ask my colleagues to support it.

Thank you, Madam Speaker.

DEPUTY SPEAKER RITTER:

Will you remark further on the amendment before us? Will you remark further on the amendment before us?

If not, let me try your minds.

All those in favor of the amendment, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RITTER:

All those opposed, nay.

The ayes have it, and the amendment is adopted.

DEPUTY SPEAKER RITTER:

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

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker.

Now that the amendment has been added to the

bill, I would also point out that the underlying bill, which the parts of the underlying bill that are still included in this -- in the bill, also makes certain clarifying changes to the harassment in the first degree statute.

Right now it's -- it can be harassment when a phone call originated or was -- or was received, and what this would extend -- would do is extend the possibilities for a charge of harassment when an e-mail or other type of message is -- is sent or received.

Also, there is a section that deals with the Eyewitness Identification Task Force. This is one that's been extremely successful over the last several years, and it's -- a great amount of work has been done, and a great amount of data is being collected. And the task force, through the leadership of Justice Borden, is seeking to compile this information so that it can be accessible to the citizens of Connecticut. So that's something that they will be doing over the course of the next, maybe, two years.

Also, there's a provision in here that deals with the fraudulent use of an ATM. It just increases the penalty from a Class C to a Class A misdemeanor. And there's also a -- a section that increases the penalty for issuing back checks by

doubling the threshold for certain penalties.

So, Madam Speaker, I would once again thank everybody for all of their work in this -- in this bill, and I would urge my colleagues to pass the bill as amended.

DEPUTY SPEAKER RITTER:

Thank you, Representative Fox.

Will you remark further on the bill as amended?

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker.

Madam Speaker, I rise before you to support the bill as amended -- as amended before us. And just some clarification questions, through you, to Representative Fox.

DEPUTY SPEAKER RITTER:

Please proceed.

REP. REBIMBAS (70th):

Thank you, Madam Speaker.

Representative Fox, I understand that, in this legislation, of course, we're making a provision for the forfeiture of money, but that's only when an application is made by this Chief State's Attorney's Office for the forfeiture that triggers this particular provision.

Regarding forfeiture of funds or -- prior to any type of application being made, the normal

course of business, it's my understanding, that there may have been during the course of the case or the end of the case, communications of how to allocate those funds.

Does this bill interfere with any of that process that currently took place? Does it have any effect whatsoever?

Through you, Madam Speaker.

DEPUTY SPEAKER RITTER:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker.

No, it does not.

DEPUTY SPEAKER RITTER:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker.

And, through you, Madam Speaker.

We have other provisions in law that has to do with forfeiture of properties, and/or expansions. Certainly this also expands the properties that are able to be forfeited in human-trafficking type of cases.

Again, are those provisions going to be kept separate and apart and not affected by the legislation we're passing here today?

Through you, Madam Speaker.

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

89
May 6, 2014

DEPUTY SPEAKER RITTER:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker.

Yes, that is correct.

DEPUTY SPEAKER RITTER:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker.

And I'd like to thank the Representative again for all of his responses. I do rise in support of the bill as amended that's before us. Certainly, everything that was numerated in the bill is something that we want to support, and again, continue the good work of the Eyewitness ID Task Force. And I do rise in support and ask that my colleagues do the same.

DEPUTY SPEAKER RITTER:

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

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

THE CLERK:

The House of Representatives is voting by roll.

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

gdm/cah/cd/gbr
HOUSE OF REPRESENTATIVES

90
May 6, 2014

Chamber please.

DEPUTY SPEAKER RITTER:

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

Will the members please check the board to determine if their vote has been properly cast.

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

The Clerk will please announce the tally.

THE CLERK:

Madam Speaker, House Bill 5586, as amended by House "A."

Total Number Voting	148
Necessary for Passage	75
Those Voting Yea	148
Those Voting Nay	0
Those Absent and Not Voting	3

DEPUTY SPEAKER RITTER:

The bill as amended passes. The bill as amended passes.

All set?

Will the Clerk please -- Representative Aresimowicz, for what purpose do you rise, sir?

REP. ARESIMOWICZ (30th):

Thank you very much, Madam Speaker.

Madam Speaker, I move we immediately transmit to the Senate all act -- items acted upon in the

**S - 679
CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2014**

**VETO
SESSION**

**VOL. 57
PART 11
3246 – 3508**

pat/gbr
SENATE

277
May 7, 2014

580, House Bill 5310, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Second, Calendar 584, House Bill 5334, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

And Calendar 585, House Bill 5586 move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

And the fourth item on Calendar Page 28, Calendar 583, House Bill 5289, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President. Moving to Calendar Page 29 where there are three items. The first, Calendar 589, House Bill 5550, move to place on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

pat/gbr
SENATE

291
May 7, 2014

On Page 27, Calendar 574, House Bill 5564.

House Bill 578, House Bill 5220.

On Page 28, Calendar 580, House Bill 5310.

Calendar 584, House Bill 5334.

Calendar 585, House Bill 5586.

Calendar 583, House Bill 5289.

On Page 29, Calendar 586, House Bill 5402.

Calendar 589, House Bill 5550.

Calendar 590, House Bill 5262.

Calendar 587, House Bill 5377.

On Page 30, Calendar 593, House Bill 5526.

Calendar 592, House Bill 5476.

On Page 33, Calendar 215, Senate Bill 243.

On Page 39, Calendar 387, Senate Bill 432.

On Page 40, Calendar 475, House Joint Resolution
Number 20.

Calendar 476, House Joint Resolution Number 26.

Calendar 532, House Joint Resolution Number 42.

THE CHAIR:

Mr. Clerk, can you please check on Consent Calendar
House Bill 5593. I don't see if you called that, on
the top.

THE CLERK:

That's on the previously adopted Senate Agenda House
Bill 5593.

THE CHAIR:

pat/gbr
SENATE

295
May 7, 2014

SENATOR LOONEY:

If we might pause for just a moment to verify a couple of additional items.

Madam President, to verify an additional item, I believe it was placed on the Consent Calendar and Calendar Page 30, on Calendar Page 30, Calendar 592, Substitute for House Bill 5476.

THE CHAIR:

It is, sir.

SENATOR LOONEY:

It is on? Okay. Thank you. Thank you, Madam President. If the Clerk would now, finally, Agenda Number 4, Madam President, Agenda Number 4 one additional item ask for suspension to place up on Agenda Number 4 and that is, ask for suspension to place on the Consent Calendar an item from Agenda Number 4.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President, and that item is Substitute House Bill Number 5566 from Senate Agenda Number 4.

Thank you, Madam President. If the Clerk would now, if we might call for a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk. Will you please call for a Roll Call Vote on the Consent Calendar. The machine will be opened.

THE CLERK:

An immediate Roll Call has been ordered in the Senate.

pat/gbr
SENATE

296
May 7, 2014

An immediate Roll Call on Consent Calendar Number 2 has been ordered in the Senate.

THE CHAIR:

If all members have voted, all members have voted, the machine will be closed. Mr. Clerk will you please call the tally.

THE CLERK:

Consent Calendar Number 2.

Total number voting	36
Necessary for adoption	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

The Consent Calendar passes. Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Two additional items to take up before the, our final vote on the implementer. If we might stand for just, for just a moment.

The first item to mark Go is, Calendar, to remove from the Consent Calendar, Calendar Page 22, Calendar 536, House Bill 5546. If that item might be marked Go.

And one additional item, Madam President, and that was from Calendar, or rather from Agenda Number 4, ask for suspension to take it up for purposes of marking it Go, that is House Bill, Substitute for House Bill 5417. Thank you, Madam President.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

are advised that it is safe to do so. In the event of a lockdown announcement please remain in the hearing room and stay away from the exit doors until an all-clear announcement is heard.

As is usually the case, we have two lists, and we will hear from state agency heads, legislators and chief elected municipal officials first. That would be during our first hour. At the conclusion of the first hour we will hear from members of the public who have signed up to address the committee.

Generally speaking, each person on the public list will have approximately three minutes to address the committee. I'd ask that members of the public please be aware that some of the members are attending other meetings, but those members who are not present during the time that you testify will have access to your written testimony as well as any replays of this public hearing.

Turn our attention first to the state officials list. The first person signed up on that list is Kevin Kane Chief State's Attorney.

SB488
SB489
HB5586 HB5587
HB5588 SB487
HB5585
HB5589

CHIEF STATE'S ATTORNEY KEVIN KANE: Thank you, Senator Coleman, Representative Fox, members of the committee. My name is Kevin Kane. I'm here to testify on behalf of the Division of Criminal justice, which is the 13 state's attorneys and myself here. And we've submitted written testimony Friday afternoon and earlier today concerning some many bills that are on today's agenda. I'll just go through them quickly and point them out.

We've submitted written testimony first in support of the following bills. 461, the bill dealing with correction officers, giving them -- making them law enforcement officers

particularly when they're assigned a task force such as the shooting task force that exists in Hartford and New Haven and Bridgeport.

488, grand jury reform which I'll mention it in a minute in more detail, we're in favor of.

489, revenge porn, it's a bill that it's been submitted or raised by this committee recently. We are in support of that.

5586 which is a bill, primarily technical, with amendments to many different sections of the general statutes. We're in favor of that.

And 5587, a bill to amend the search warrant statute so it can appropriately deal with the installation of GPS devices and so that search warrants can reach computer records and phone records of companies that do business in the state of Connecticut, but their records are actually stored in another state.

And finally, we're in support of 5588 which proposes, the portion at least -- that's a bill that proposes a study to reduce the cost of extradition in cases where people have posted bond and left and gone to another state, and we have to extradite them back.

We've also submitted written testimony opposing three bills. We're opposed to 487 which is a statute -- that would amend the statute providing for civil remedies for recording telephone communications. We're also opposed to 5585, a bill entitled Surveillance of Cellphone Communications by Police Officers. And we're opposed to 5589, AN ACT CONCERNING CUSTODIAL INTERROGATIONS.

The bills I'd like to talk about -- are actually just two that I want to talk about in

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 8
3361 – 3940**

2014



Connecticut Sexual Assault Crisis Services, Inc.

96 Pitkin Street East Hartford, CT 06108 · Phone 860-282-9881 · Fax 860-291-9335 · www.connsacs.org

Testimony of Connecticut Sexual Assault Crisis Services
SB 489, AAC Unlawful Dissemination of an Intimate Image of Another Person
HB 5586, AAC Revisions to Various Statutes Concerning the Criminal Justice System
 Jillian Gilchrest, Director of Public Policy and Communications
 Judiciary Committee, March 24, 2014

Senator Coleman, Representative Fox, and members of the Judiciary Committee, my name is Jillian Gilchrest and I am the Director of Public Policy & Communication for Connecticut Sexual Assault Crisis Services (CONNSACS). CONNSACS is the coalition of Connecticut's nine community-based sexual assault crisis services programs. Our mission is to end sexual violence and ensure high quality, comprehensive and culturally-competent sexual assault victim services.

During our last fiscal year, certified sexual assault victim advocates provided hospital, police and court accompaniment, support groups, individual counseling, 24/7 hotline support, information and referrals to over 7,000 victims and survivors of sexual violence throughout the state.

SB 489, AAC Unlawful Dissemination of an Intimate Image of Another Person
 CONNSACS supports SB 489, and applauds the Committee for raising a relatively new issue that has large consequences. What is often referred to as "revenge pornography", "non-consensual pornography" or "cyber rape" is socially and emotionally damaging to its victims and, in cases where victims' personal information is attached to the offending material, can be physically threatening¹.

When individuals are in a relationship, there is an unwritten understanding that private moments and intimate exchanges will be kept within the confines of that relationship. While relationships don't always last, the intimate moments that occurred within that relationship should remain private.

According to a national campaign organized by the Cyber Civil Rights Initiative, one in ten ex-partners have threatened that they would expose risqué photos of their ex online and 60% of those who threatened to expose intimate photos followed through on their threats. In addition to explicit images, perpetrators post other identifying information to websites dedicated to posting such photos, resulting in harassment of victims. 93% said they have suffered significant

¹ <http://www.endrevengeporn.org/>

emotional distress due to being a victim and 49% said they have been harassed or stalked by users who saw their material.

SB 489 will make unlawful dissemination of an intimate image a class A misdemeanor and will bring attention to an issue that must be addressed.

HB 5586, AAC Revisions to Various Statutes Concerning the Criminal Justice System CONNSACS supports section 3, of HB 5586, regarding changes to the voyeurism statute. According to the Mayo Clinic, voyeurism is defined as "sexually arousing fantasies, sexual urges or behaviors involving the act of observing unsuspecting persons who are naked, in the process of disrobing or engaging in sexual activity"².

HB 5586 expands the crime of voyeurism to include simple trespass done to arouse or satisfy the sexual desire of such person, and photographs, films, videotapes or otherwise records of genitals, pubic area or buttocks of another person or the undergarments or stockings used to clothes the genitals, buttocks or pubic area. The current statute only accounts for photographs, films, videotapes of the image of another person.

Additionally, HB 5586 increases the penalties for voyeurism and makes an adjustment to the statute of limitations to five years from the date of offense or five years from the date the subject of the offense discovers the existence of the photograph, film, videotape or other recording.

Thank you for the opportunity to submit testimony.

Sources:

Cyber Civil Rights Initiative, <http://www.cybercivilrights.org/>

End Revenge Porn, <http://www.endrevengeporn.org/>

McAfee's Love, Relationships, and Technology Report <http://www.mcafee.com/us/about/news/2013>

/q1/20130204-01.aspx 2. Cyber Civil Rights Initiative's "Effects of Revenge Porn" Survey*

Seared by a Peeping Tom's Gaze, http://www.nytimes.com/2012/07/22/opinion/sunday/seared-by-the-gaze-of-a-peeping-tom-william-green.html?pagewanted=all&_r=0

*CCRI survey results were achieved from a survey that was hosted on endrevengeporn.org from Aug 2012-Dec 2013. Participants self-selected into the study by visiting our website and filling out the survey on their own accord. Results depicted are reflective of a female-heavy sample, due to most of our site visitors being women

Jillian Gilchrest, Director of Public Policy and Communications

jgilchrest@connsacs.org

² <http://www.mayoclinic.org/diseases-conditions/compulsive-sexual-behavior/basics/tests-diagnosis/con-20020126>



JUDICIARY COMMITTEE

March 24, 2014

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 92% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

HB 5586, "An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System"

The bill would, among other things, modify the procedure for forfeiture of items seized due to the violation of a criminal offense. In addition, when the property is money, the proposal adjusts the distribution of the funding.

CCM supports these provisions that are specifically detailed in Section 1 of HB 5586. They provide reasonable clarity to the process. Specifically, when such property is money, the proposal ensures that the law enforcement agency responsible for the investigation of the criminal violation receives a portion of those funds to advance future law enforcement activities.

For these reasons, CCM asks the Committee to favorably report HB 5586.

★ ★ ★ ★ ★

If you have any questions, please contact Mike Muszynski, Senior Legislative Associate, at mmuszynski@ccm-ct.org or (203) 500-7556.



**Connecticut
Sentencing
Commission**

www.ct.gov/opm/csc

**TESTIMONY IN SUPPORT OF SECTIONS 14 & 15
OF HB-5586**

**AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING
THE CRIMINAL JUSTICE SYSTEM.**

**By Attorney Robert Farr
Chair, Sentencing Commission Classification Working Group**

Good morning Senator Coleman, Representative Fox, Senator Kissel,
Representative Rebimbas and members of the Judiciary Committee.

I am attorney Robert Farr, Chair of the Sentencing Commission's Classification Working Group. The Working Group consists of Executive Assistant State's Attorney Brian Austin and Legal Counsel/Executive Assistant Public Defender Deborah Del Prete Sullivan. Over the past two years, we have brought you consensus recommendations from the Sentencing Commission to help improve Connecticut's criminal statutes. In 2013 the Commission recommended the classification of the unclassified felonies in the penal code (PA 13-258) and clarification the elements incorporated in the false statement statutes (PA 13-144). In 2012, the Commission recommended the classification of all unclassified misdemeanors (PA 12-80). Sections 14 and 15 of HB-5586 are consensus recommendations of the Sentencing Commission and continue in the spirit of improving the penal code. I want to be clear that the Sentencing Commission ONLY supports Sections 14 and 15 of this bill, the other sections have not been evaluated by the Commission and do not represent a consensus recommendation.

Sections 14 and 15 address an inconsistency in the treatment of simple Larceny: obtaining money by bad checks, and obtaining money through stealing from an ATM machine. At the present time, our Larceny statutes have six different levels of seriousness, ranging from Larceny in the first degree for stealing over \$20,000 down to Larceny in the sixth degree for stealing less than \$500. Similarly, our bad check statute has four penalties for writing bad checks, from the least serious for checks under \$250 to the most serious for checks over \$1,000. Further, our fraudulent use of an ATM machine statute doesn't differentiate between levels of fraudulent withdrawals.

As a result of this inconsistency, if an individual fraudulently withdraws \$501 from an ATM machine, he or she could be charged with a C Misdemeanor. Whereas, if they wrote a fraudulent check for \$501 they would be charged with an A Misdemeanor. And if they simply stole \$501 in cash, they would be charged with Larceny in the 5th, which is a B Misdemeanor.

**The Honorable
David M. Borden, Chair**

**Undersecretary
Mike Lawlor, Vice Chair**

**Andrew J. Clark, Acting
Executive Director**

This inconsistency should be corrected. Under the proposed legislation the new monetary levels for bad checks are adjusted to match those for Larceny, and all fraudulent use of an ATM machine penalties are made Class A Misdemeanors. This proposal was supported by the Public Defenders and the State's Attorneys Office and the Full Sentencing Commission.

MEMBERS

Garvin G. Ambrose

Vivlen K. Blackford

The Honorable
Patrick L. Carroll, III

The Honorable
Robert J. Devlin, Jr.

William R. Dyson

James Dzurenda

Stephen Grant

Peter M. Gloia

Kevin Kane

Tracey L. Meares

Mark A. Palmer

Susan E. Pease

Maureen Price-Boreland

Patricia Rehmer

John Santa

Dora B. Schrio

David Shepack

Susan O. Storey

Erika M. Tindill

Thomas J. Ullmann

The Honorable
Gary White

We recommend the adoption of the changes contained in sections 14 and 15 of HB-5221.

Thank you for your consideration of this testimony. I would be happy to answer any questions you may have.



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN SUPPORT OF:

**H.B. NO. 5586: AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM**

JOINT COMMITTEE ON JUDICIARY
March 24, 2014

The Division of Criminal Justice respectfully requests and recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT for H.B. No. 5586, An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System. The basis of this bill is legislation offered as part of the Division of Criminal Justice 2014 legislative recommendations. The bill is best explained by its various sections:

SECTION 1 of the bill revises the procedures utilized for *in rem* proceedings governed by Section 54-33g of the General Statutes to bring them in line with the procedures utilized in drug asset forfeiture proceedings. The *in rem* process is an important but greatly underutilized tool that allows a civil action to be brought seeking the forfeiture of property used to facilitate crimes other than drug offenses. An example might be a motor vehicle used as the "getaway car" in a bank robbery or a vehicle driven by the repeat drunken driver who injures someone. The shortcomings of the current *in rem* procedure and the limited scope of the law have resulted in this procedure being used in only a very small number of cases. Among those shortcomings is the requirement that an *in rem* case must be brought within ten days of the seizure of the property. This is a very short period within which the police must conduct additional investigation and draft a summons, serve it and advise prosecutors of the action. The court then must schedule a hearing within six to twelve days of service of process. These deadlines and ad hoc scheduling have made it difficult to utilize the *in rem* procedure.

Section 1 revises the 54-33g *in rem* process to mirror the drug asset forfeiture process outlined in Section 54-36h of the General Statutes, which provides for a 90-day filing envelope, allowing notice by certified or registered mail and establishing more appropriate scheduling provisions. Additionally, the bill expands what constitutes nuisance property to include the proceeds of criminal activity. In one notable case the Division was unable to proceed with an *in rem* action against prostitution enterprises involving the seizure of hundreds of thousands of dollars because the law only allows forfeiture of property used as the instrumentality or means of committing the crime and not the proceeds of the criminal activity. Additionally, S.B. No. 871 allows the court in an *in rem* proceeding involving the seizure of money to make a discretionary award to law enforcement, providing an incentive for police departments to invest the time and effort required to prove a proceeds case.

There also would be a positive fiscal impact to the state in those cases where proceeds are deposited to the general fund.

SECTION 2 of the bill makes a largely technical, but significant change to Section 54-36p of the General Statutes, which now limits asset seizure based on the sale or exchange of child pornography to cases where the sale or exchange takes place "for pecuniary gain." The experience of the Connecticut Computer Crimes Task Force confirms that the majority of child pornography cases involve private collectors as opposed to commercial enterprises operating "for pecuniary gain," as was also recognized by the United States Supreme Court in *United States v. Williams*, 553 U.S. 285, 128 S.Ct. 1830 (2008). We would further note that the inclusion of the wording "for pecuniary gain" appears to have been inadvertent and the result of an oversight in the drafting of Section 54-36p (Public Act No. 10-112, An Act Concerning the Forfeiture of Money and Property Related to Child Sexual Exploitation and Human Trafficking, the Possession of Child Pornography and the Siting of Residential Sexual Offender Treatment Facilities).

SECTIONS 3 THROUGH 5 of the bill strengthen the laws dealing with the crime of voyeurism. The present voyeurism statute prohibits only the photographing or video recording of another person. It does not prohibit merely watching, such as a "peeping tom" might do. This bill would expand the crime of voyeurism by covering such conduct as intentionally observing private conduct while trespassing (i.e. going into someone's backyard to watch someone in his or her bathroom or bedroom). Additionally, and this is an addition from the language proposed in past versions of this legislation, the bill addresses what the media has referred to as "upskirting." The inadequacy of our current statutes was identified following a recent ruling by the Massachusetts Supreme Judicial Court that found "upskirting" was not prohibited by that state's laws. The Massachusetts legislature has passed corrective legislation, and H.B. No. 5586 proposes the same course of action for Connecticut.

In addition to addressing the "peeping tom" and "upskirting" issues, Sections 3 through 5 provide stronger, more appropriate penalties for repeat voyeurism offenders and for incidents of voyeurism where the victim is under age sixteen. Additionally, the bill revises the statute of limitations in voyeurism cases to allow for prosecution for incidents where the photographing, filming, video or other recording is not discovered until more than five years after the actual act occurred. The Division is aware of specific incidents where victims did not learn that they had been recorded until the five year statute of limitations had expired. The bill still requires prosecution within five years of the discovery that the incident had occurred.

SECTION 6 of H.B. No. 5586 extends the authority to set bail in the course of serving a warrant for Violation of Probation to the probation officer(s) serving the warrant. It is probation officers, who are employed by the Judicial Branch, who prepare these warrants and who in many cases are responsible for their execution. However, due to a narrow interpretation of Section 54-63c of the General Statutes there are situations where probation officers are not being allowed to either put a bond on a warrant or allowing release on a promise to appear in instances where the judge who signed the Violation of Probation warrant leaves the bond/release issue to law enforcement. Almost every court has a probation officer who serves as the warrant officer and serves Violation of Probation warrants on individuals who are either brought to court for that specific purpose or who are in court for another reason. Probation officers should have the authority to set bail on Violation of Probation warrants, as police officers already do.

SECTION 7 of H.B. No. 5586 conforms Section 53a-182b (Harassment in the First Degree) to changes made to Section 53a-183 (Harassment in the Second Degree) pursuant to section 13 of Public Act 12-114, An Act Concerning Domestic Violence. The bill (1) replaces an obsolete and limiting reference to a "telephone call" with the more generic "communication" and also states that prosecution can be initiated based upon where the communication originated or where it was received. These changes are necessary with regard to Harassment in the First Degree for the same reasons for which they were made last year with regard to Harassment in the Second Degree. The new language reflects the ongoing development of technology, which unfortunately has provided additional means of harassment beyond the telephone (e-mail, for one example). It also recognizes the complications that can arise in prosecution of these cases given the nature of the modern telecommunications system where state and even national boundaries are meaningless in terms of where the actual data that constitutes the communication may have originated.

SECTIONS 8 THROUGH 13 of H.B. No. 5586 deal with the timing of blood alcohol tests in cases of suspected drunken driving and boating under the influence of alcohol and drugs. In Public Act 10-124, the General Assembly provided for an exception to the two-hour time limit for blood alcohol tests in intoxicated boating cases, but only when expert testimony is provided to establish that the test was a reliable determinant of the blood alcohol content at the time of operation.

As proposed by the Division of Criminal Justice, H.B. No. 5586 would extend the same exception to driving while intoxicated, i.e., results of tests conducted after more than two hours would be admissible but only if expert testimony was provided. This change is necessary to provide for the effective prosecution of DUI cases and the adjudication of administrative per se cases in the small number of instances where testing cannot be completed within two hours of vehicle operation. The reason that this may occur is simple: emergency personnel are focused on saving lives, not collecting evidence. In attending to the seriously injured, the emphasis must first be on emergency medical care and protecting public safety, which may prevent personnel from conducting blood alcohol testing. Again, tests conducted beyond the two-hour period would only be admissible when expert testimony was provided to establish the reliability of that test. This bill recognizes the need for emergency personnel to focus first on protecting the public health and safety while allowing for the effective prosecution and administrative disposition of DUI violations while providing adequate safeguards for the rights of the accused.

The Division would respectfully request the Committee's JOINT FAVORABLE SUBSTITUTE REPORT for H.B. No. 5586 to eliminate the proposed change to the wording adopted through Public Act 10-124 regarding boating while intoxicated and to apply the current wording of 15-140r to the DUI statutes, appropriately adjusted to reflect the operation of a motor vehicle as opposed to a boat or other vessel. Specifically, we would ask for the deletion of Section 7 in its entirety and that the language now slated to be deleted on lines 482 to 484 of section 7 replace the proposed new DUI language on lines 357 to 361, again adjusting to reflect the operation of a motor vehicle as opposed to a vessel.

The Division objects to the change proposed for the boating while intoxicated statute (and applying the same concept to driving while intoxicated) because the proposed language is both legally unclear and logically imprecise. First, the term "accurately indicate" has no established legal meaning, leaving courts without guidance as to the standard to be imposed. By contrast, the existing provision of 15-140r, which provides that the evidence is admissible if "expert testimony establishes the reliability of [the] test," establishes a familiar and workable standard.

Second, the test never establishes the "blood alcohol content at the time of the alleged offense," as the proposed language would require. The test establishes only the blood alcohol content at the time of the test. The issue really is one of relevancy, an issue which the courts are used to dealing with under the traditional rules of evidence. Expert testimony is needed to extrapolate the test results back to the time of operation to establish impairment. The existing provision in 15-140r, which specifically adopts this familiar legal standard, provides clear guidance to the court and the litigants.

SECTION 14 of H.B. No. 5586 would amend Section 53a-127b of the General Statutes to classify the fraudulent use of an automated teller machine as a class A misdemeanor, as opposed to its current status as a class C misdemeanor. This section is a recommendation from the Connecticut Sentencing Commission. The Division of Criminal Justice fully concurs in the Sentencing Commission's position that the change to a class A misdemeanor provides a more appropriate penalty for the conduct involved.

SECTION 15 of H.B. No. 5586 would revise the statutes governing the issuance of a bad check to correspond to revisions already made to the larceny statutes. This section also is a recommendation of the Connecticut Sentencing Commission. Public Act 09-138 increased the thresholds for the various degrees of larceny. There was no change made at that time, however, to the thresholds and corresponding penalties for issuance of a bad check, which is essentially a form of larceny. At present, for example, a person can commit Larceny in the Fourth Degree by the dollar amount, which is a class A misdemeanor, but if the same person commits the same crime by check and the state proceeds on the bad check count it is a class D felony. Historically this has always tracked the other degree of offense. Section 15 of this bill would raise the thresholds and corresponding classifications and penalties much in the same fashion that P.A. 09-138 did for the larceny statutes.

In conclusion, the Division would respectfully recommend and request the Committee's JOINT FAVORABLE REPORT SUBSTITUTE REPORT for H.B. No. 5586. We would be happy to provide any additional information or to answer any questions you might have.