

Legislative History for Connecticut Act

**PA 15-2
JuneSS**

HB7104

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H – 1226

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2015**

**JUNE
SPECIAL
SESSION**

**VOL.58
PART 25
8299 – 8664**

House will come back to order. Are there any announcements? Representative Perillo.

REP. PERILLO (113th):

Mr. Speaker, good evening. We have good news tonight in that one of our members is a grand - brand new grandfather, Representative Ferraro, as of this afternoon.

SPEAKER SHARKEY:

Congratulations!

(applause)

Congratulations, Representative Ferraro. Is it - Representative Perillo didn't give us much in the way of specifics. Boy? Girl? Boy! Congratulations. Thank you.

Are there any other announcements? If not, we will proceed to Emergency Certified Bill 7104, Mr. Clerk.

CLERK:

Emergency Certified Bill 7104. AN ACT
IMPLEMENTING PROVISIONS OF THE STATE BUDGET FOR THE
BIENNIUM ENDING JUNE 30, 2017 CONCERNING GENERAL
GOVERNMENT PROVISIONS RELATING TO CRIMINAL JUSTICE.

SPEAKER SHARKEY:

Distinguished Chairman of the Judiciary
Committee, Representative Tong.

REP. TONG (147th):

Good afternoon, Mr. Speaker.

SPEAKER SHARKEY:

Good afternoon, sir.

REP. TONG (147th):

I move passage of the Emergency Certified Bill.

SPEAKER SHARKEY:

Question is on passage of the Emergency
Certified Bill. Will you explain the bill, sir?

REP. TONG (147th):

Yes, thank you, Mr. Speaker. This is the Second
Chance bill that we took up in the waning hours of
the regular session. We had a extended conversation
about it, so I won't repeat my remarks that I made
there, although I'm happy to answer questions about
the bill.

The bill is substantially the same with some
technical changes that have been agreed to and
worked on since we adjourned Sine Die in the regular
session. I want to say again, though, that this
bill, like the previous one, is the product of a

great deal of work across the aisle. This - the version we have before us today reflects the agreement of the four caucuses and was the product of a meeting over in the governor's office where everybody, the Speaker, the Senate President, Representative Klarides, the Minority Leader here, and Senator Fasano all sat down with the Chairs, the ranking members, and worked cooperatively in what I think we would all agree was some very difficult subject matter to address.

So I want to specifically thank Representative Rebimbas for her work on this, Representative Klarides, Senator Coleman and Senator Winfield from upstairs, and all of our colleagues on both sides of the aisle in the Senate. I also want to thank the leadership again and the membership of the Black and Puerto Rican Caucuses - Caucus - and the leadership of the four caucuses and of course our governor, who spearheaded this effort.

Let me touch briefly on, again, what this bill does. This bill changes the way in which we handle the prosecution of drug possession. It reclassifies simple drug possession from felonies to misdemeanors. It eliminates mandatory - harsh

mandatory minimums for drug possession that have persisted in our statutes for many years.

It also provides that with respect to possession in a drug-free school zone - we're talking again only about possession in a drug-free school zone - that the penalty is a Class A misdemeanor punishable up to a year in prison, \$2000 fine as well as probation as well as community service. There is some conforming language here in the statute.

It also provides that if a person is convicted multiple times for drug possession, that on their third conviction, they're exposed to a felony as a persistent offender, which is something that was offered by many people in this Chamber, and particularly my friends in the minority as a way to address situations where somebody is a persistent possessor and, you know, treatment just isn't working and they need to be subjected to a more severe penalty.

Also, section nine of the bill provides that several changes to the Board of Pardons and Paroles. It goes from a 20-member board down to a 15-member board and also provides for a expedited process for

people who have committed nonviolent crimes for which there is not a victim.

Mr. Speaker, I will say quickly what this bill does not do, and I said this in the previous debate. This bill does not change any of our laws with respect to the sale or possession with intent to sell drugs. It does nothing to change the drug-free zone with respect to sale. In the sale context, there are felonies. In the sale context, in a drug-free zone there are felonies with mandatory minimum penalties. In the sale context, for certain quantities of certain drugs, once you pass those thresholds, you are subject to severe mandatory minimums and penalties.

None of that changes. None of that changes. But what we're doing today is we're saying that as a state we want to continue to fight against the scourge of drug abuse. We want to continue to fight against the trade and spread of illicit drugs. We don't want our children to use drugs, be introduced to drugs, or to become drug addicts.

But we're also saying that while we are every bit as tough on crime as we have ever been, we want to be smarter on crime, and we know that creating a

generation of felons and a strategy of mass incarceration of people for simple possession just isn't working.

Mr. Speaker, the Clerk has an amendment, LCO No. 9727. I ask the Clerk please call the amendment and I be given leave of the Chamber to summarize.

SPEAKER SHARKEY:

Clerk is in possession of LCO No. 9727, which we'll be designating House Amendment Schedule A. Mr. Clerk, please call.

CLERK:

House Amendment Schedule A, LCO 9727, as introduced by Representative Tong and Senator Coleman.

SPEAKER SHARKEY:

The gentleman has the leave of the Chamber to summarize. Is there objection? Hearing none, Representative Tong.

REP. TONG (147th):

Thank you, Mr. Speaker. This makes a very technical change. The current draft references 53a-35. This amendment substitutes that for 53a-35a. The A is missing. It is a technical change. I move adoption.

SPEAKER SHARKEY:

Questions on adoption? Will you remark further on the amendment? Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker, and I rise in support of the amendment that's before us and as the Chairman had indicated, it is a technical change.

SPEAKER SHARKEY:

Thank you, ma'am. Will you remark further on the amendment? If not, let me try your minds. All those in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Opposed Nay. The Ayes have it. The Amendment is adopted [gavel].

Will you remark on the bill as amended?

Representative Rebimbas, the distinguished ranking member of the Judiciary Committee.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the legislation that's before us, and I too want to echo the sentiments that the Chairman had indicated that this was an amendment that was

certainly, once again a lot of hours and hard work went into it, and I also want to thank the governor's office for including members of all of the four chambers in having input and suggestions and changes to the second chance bill, and it has the product that we have before us.

Certainly we just had an amendment, Mr. Speaker, regarding a technical change, and during the last session we did go through this legislation pretty much almost section by section, if not close to line by line, in trying to understand the intent of it, the consequences of it, and again did examine the wording and its implications.

During that discussion, there was some concern regarding the section regarding certificates, that it was unclear whether or not it made any type of policy changes regarding that section of the bill. And after further discussions, we certainly all agreed that some clarification language could certainly be included, and I want to thank all of the individuals that were part of that process in crafting that language, so therefore, Mr. Speaker, there is, the Clerk has an amendment and it is LCO

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9739. Would you please ask the Clerk to call it and I be allowed to summarize.

SPEAKER SHARKEY:

Clerk is in possession of LCO No. 9739 which will be designated House Amendment Schedule B. Mr. Clerk.

CLERK:

House Amendment Schedule B, LCO 9739, as introduced by Representative Rebimbas and Representative Tong.

SPEAKER SHARKEY:

The gentlewoman has asked the leave of the Chamber to summarize. Is there objection? Hearing none, Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And again, Mr. Speaker, I rise in support of the amendment, and I want to thank all the individuals that were involved in the crafting of the language and what it really truly does is just highlight that section regarding certification that all the changes that we're doing and changing some violations regarding drug abuse and use and things of that nature and convictions, that we are not changing any policies of Connecticut

law regarding the eligibility or attainment or retainment of those certificates as the amendment states.

So again, Mr. Speaker, I move the adoption of the amendment.

SPEAKER SHARKEY:

Questions on adoption? Will you remark, Representative Tong.

REP. TONG (147th):

Yes, thank you, Mr. Speaker. I want to thank the ranking member for offering the amendment. I agree it's a good amendment. It's a friendly amendment, and it's technical in nature, and I urge adoption.

SPEAKER SHARKEY:

Thank you, sir. Will you remark further on House Amendment Schedule B? If not, let me try your minds. All those in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Opposed Nay. The Ayes have it. The amendment is adopted [gavel].

Will you remark further on the bill as amended?

Representative Harding.

REP. HARDING (107th):

Thank you, Mr. Speaker. Through you, Mr. Speaker, just a question to the good proponent of the bill if I may.

SPEAKER SHARKEY:

Proceed, sir.

REP. HARDING (107th):

Thank you, Mr. Speaker. Representative, on the, through you, Mr. Speaker, on the line 17 of the legislation it says, "If the court determines such person is a drug dependent person, the court may suspend prosecution of such person."

That's referring to the second offense. Is that the second arrest? Or is that the second conviction of the individual? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong, do you care to respond?

REP. TONG (147th):

Through you, it's the second arrest.

SPEAKER SHARKEY:

Representative Harding.

REP. HARDING (107th):

Thank you, Mr. Speaker. Through you, Mr. Speaker, if it's the second arrest, so, does this impact any of the diversionary programs? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, it does not impact any diversionary programs, eligibility for which are concurrent with the structure of this statute. Through you.

SPEAKER SHARKEY:

Representative Harding.

REP. HARDING (107th):

Thank you, Mr. Speaker. Through you, Mr. Speaker, so how I understand this is that the first time an individual is arrested for possession of a narcotic, they will not have to go, undergo substance abuse treatment or an evaluation for substance abuse treatment. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, to answer my colleague's question, if the question is whether on the first offense, the accused person has to go through a drug treatment program, that would depend on whether they were granted leave by the court to participate in a diversionary program, and if they participate in a diversionary program, the court may set conditions on their participation in the diversionary program, which could include, I suppose, drug treatment depending on the circumstances. So I seem to recall us having this discussion earlier, and it depends on the particular circumstances of the defendant and how they come to participate - how they come to court, first of all, and then how they come to participate in the diversionary program. Through you.

SPEAKER SHARKEY:

Representative Harding.

REP. HARDING (107th):

Thank you, Mr. Speaker, and through you, Mr. Speaker, so on the second arrest for drug possession, if the court finds that the individual isn't addicted, could the good proponent please tell

me what then the court does? Through you, Mr.

Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, on the second arrest, if the court finds that the person is not a drug dependent person, the court could find the person guilty of a Class A misdemeanor and sentence them to jail or a fine or that person could apply to be, to apply to the court to participate in a diversionary program and at the discretion of the court, the court may determine that that person should go to a diversionary program, which is much like the AR analog, our Accelerated Rehabilitation that we see in criminal court. Through you.

SPEAKER SHARKEY:

Representative Harding.

REP. HARDING (107th):

Thank you, Mr. Speaker. Through you, Mr. Speaker, so how I understand this is if the, if an individual is found to be drug dependent on the second arrest, then the court then, he or she no longer has to apply to a diversionary program. Such

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diversionary program or such treatment program would be provided to them? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Tong.

REP. TONG (147th):

Through you, the person could be directed to the Community Service Labor program, which is what you're referring to as the diversionary program and administered by CSSD, and concurrent with that, the court could ar - could order that they undergo drug treatment. So I guess what I'm trying to explain is that there's a variety of different combinations, I think. I don't know that there's one absolute answer to your question. It depends on what the court decides with respect to that individual defendant. Through you.

SPEAKER SHARKEY:

Representative Harding.

REP. HARDING (107th):

Thank you, Mr. Speaker, and thank you to the distinguished Chairman for his answers and allowing me to flesh out some of the clarity on that particular issue.

I'm standing here today against this bill. I understand the reasons why we're doing it. I understand that substance abuse is a culture that we need to look at different avenues to treat this problem, but unfortunately I've seen too many people throughout this entire state - I've seen too many people that are residents of my district, even fellow classmates, fall into a bad path and onto addiction, and I feel that at this time in our state, we have to be creating laws and creating legislation which deters individuals from using substance abuse as opposed to the other way around, and I fear some of the implications of this particular bill.

As representative Tong, the distinguished Chairman, said in his statements in regards to having a chance, or to utilize substance abuse treatment on your second arrest, that is already practiced and throughout the debate on this particular bill, it was labeled as Second Chance, and I just want to clarify for the chamber here that, in practice, this is far from being a second chance. By the time an individual takes an actual conviction on a drug possessing crime, there are

three, four, or even five times before they actually have to take a conviction. There is the drug education program. There's something called the Community Service Labor program, which the defendant has two chances to get into, which means they get arrested once, utilize the program, come back again, and then utilize the program once again. And then there's, in addition to that, there's also a program called CADAC, which is a position where - a program in which an individual can utilize treatment, come out of treatment, and then once again walk out of the court without anything on their record. So this is really not a second chance, as I said before, this is really a third, fourth, or fifth chance.

In addition to that, I think there's implications in regards to drug sale crimes. As the good Representative stated, this does not have any direct impact on the drug sale laws, and he is exactly correct. But unfortunately what I fear is that this is gonna have some indirect impact on the drug sale laws. Because as a criminal defense attorney, when you walk into court, a lot of the times part of the plea negotiations is if an individual is charged with sale of narcotics or

intent to sell, part of the plea negotiation involves that individual then maybe taking a conviction on a lesser crime, which is possession of narcotics.

Now, by what we're doing here by lowering a simple possession from a felony to a misdemeanor, you will have defendants walking into court charged with dealing drugs and then walking out of court with a, just a misdemeanor conviction. I fear that's a consequence that we all need to consider when voting upon this legislation.

There, I, there are also some discussion in regards to the fact that this law is a positive thing because individuals are being arrested for simple possession and serving jail time and we could hopefully alleviate that problem through this bill. I have a hard time believing this bill will actually do that. The notion that individuals are being arrested on the streets for a simple possession with no aggravating factors and then being put into jail is just simply not the case.

The individuals that are in jail on a conviction of simple possession have much, many other aggravating factors for them being

incarcerated as opposed to just simply having possession of a narcotic, so I thank all the work that the Judiciary Committee has done, Representative Reimbias, in working and making this a better bill, but today I'm standing in opposition to this bill, and I will ask the members of my Chamber to be voting against it. Thank you very much, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Representative Kupchick.

REP. KUPCHICK (132nd):

Thank you, Mr. Speaker. I just, I'm gonna stand in support of this bill. I did have some original concerns about the, some of the original language. I'm happy to see that we did have some change today. And I just wanted to stand up and say that I, that I think we're having a real crisis in the state of Connecticut with drug addiction, and as evidenced by most of the articles and news reports that we're seeing in the papers about so many of our young people dying, actually, of overdoses. And I think it's become a crisis in the state of Connecticut.

Two of my son's classmates were found dead of overdoses in the last two months. Young kids who

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were good kids who got hooked on drugs, and I would like to have seen something attached to this bill in a way that went a little farther to help these people who are getting caught up in this addiction with heroin and prescription drugs. I think they try it, you know, just for fun, and the next thing you know, they can't stop using it. And it just breaks my heart to think of these parents who are trying so hard to help their children.

I know there're some pieces about recovery programs, but frankly the only really good recovery programs are ones that people have to pay out of their own pockets. Those are the best programs, and I'd like to see our state do something that really attacks this issue, because as someone said earlier, people who have a drug addiction should not end up in a prison. They should be in a hospital. They're sick. And they need help. So I'm gonna support this bill, and I hope that my colleagues will as well. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Will you remark further on the bill as amended?
Will you remark further on the bill as amended? If not, staff and guests please come to the well of the

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House. Members take their seats. The machine will be opened.

(bell ringing)

CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will members please report to the Chamber immediately.

SPEAKER SHARKEY:

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

And Mr. Clerk, kindly announce the tally.

CLERK:

E-CERT 7104 as amended by House A and B

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	98
Those voting Nay	46
Absent and not voting	7

SPEAKER SHARKEY:

The bill is passed [gavel].

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Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker. I move we immediately transmit the previous item to the Senate.

SPEAKER SHARKEY:

Motion is on immediate transmittal? Is there objection? Hearing none, so ordered.

Will the Clerk please call House Bill 7102.

CLERK:

Emergency Certification 7102. AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS AND CONCERNING CHANGES TO THE STATUTES CONCERNING SCHOOL BUILDING PROJECTS. In concurrence with the Senate.

SPEAKER SHARKEY:

The distinguished Chairman of the Education Committee, Representative Fleischmann.

Just a minute, Representative Fleischmann.

[gavel]

Can we have it a little quieter in here, please? Just a tad. I guess not.

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agenda being incorporated by reference into the Senate Journal and Transcript.

THE CHAIR:

So ordered.

SENATOR DUFF:

Thank you, Madam President. If the Clerk can now call Emergency Certified Bill 7104.

THE CHAIR:

Mr. Clerk.

THE CLERK:

House Bill No. 7104, AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017, CONCERNING GENERAL GOVERNMENT PROVISIONS RELATING TO CRIMINAL JUSTICE.

THE CHAIR:

Senator Coleman, good evening.

SENATOR COLEMAN:

Good evening, Madam President. Madam President, I move the Emergency Certified Bill.

THE CHAIR:

Motions on adoption. Will you remark, sir?

SENATOR COLEMAN:

Thank you again, Madam President. Members of the Senate, this is another piece of legislation that was before us during the regular session and it unfortunately did not - while it passed the Senate, it did not pass the house during the regular session. And there was a bit of a question that was raised concerning a provision in the bill as it might relate to gun ownership and the ability to obtain a gun certificate or a gun permit. And I suppose that there

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was some assumption that the passage of this bill might change what is currently the law, and it in fact has no impact on current law. It doesn't change current lot all.

Current law has always had it such that the conviction for possession of drugs had implications concerning a certificate of eligibility to own a firearm, a pistol or revolver or long gun as well as implications regarding a permit, but as I probably indicated during the regular session, this particular bill in many ways marks a new approach to the administration of criminal justice in our state.

And for a long time I thought - in my observation of how the courts operate - that we should be more discerning insofar as concerns - really effectively dealing with people who may be extremely ill intentioned, if not evil, and people who maybe have committed nonviolent offenses and who may be engaging in misconduct as a result of some desperation or some circumstances in which they find themselves. And I think to a great measure this particular bill, which we are now considering, takes a significant step in that direction.

One of the things that I find significant about it is that there is actually a provision in the bill that encourages we as policymakers and we who are concerned about the administration of criminal justice in our state to treat mere drug possession as something that requires medical treatment rather than criminal sanctions.

I was sort of embarrassed to learn that as a country we incarcerate at a higher rate than any other country in the world. For me that's problematic, and I think that we should be taking steps to address that. And I think that this bill that's currently before us does that.

There are a lot of ramifications that come from the incarceration and the conviction of individuals that do not benefit families, do not benefit us as a society. There is a spiraling downward after a person serves a sentence that involves incarceration. There's a spiraling downward after a person is

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released from incarceration after having been convicted of a felony offense. We can take steps by passing this bill to, in a significant way, remove some of the stigma and some of the barriers that perhaps prevent people who are released from a sentence of incarceration from successfully reentering our society. So this bill does a few things. It does - first of all - make the mere possession of drugs a misdemeanor offense, generally speaking.

There are some circumstances where the possession of drugs, for example, on school property or the property of a daycare center where the person possessing the drugs is not a student at the school. It makes such an offense a misdemeanor. It may require some incarceration and it would require community service. Within the bill there are provisions for the evaluation of a person who possesses drugs and evaluation to determine whether or not that person is drug dependent. There are opportunities to suspend prosecution of a drug dependent person and require that that person receive treatment.

There are some - including those in this circle - who were concerned about multiple offenses of drug possession. And this bill addresses that by creating a persistent offender status whereby a State's Attorney can charge a person with a higher classification of offense than a misdemeanor.

For those who are concerned that this bill does nothing to lessen our disdain or our treatment of those that engage in selling drugs, it doesn't do anything to lessen the impact or the distances in connection with our drug-free zones.

As I indicated, there is no departure from current law insofar as concerns - convictions for possession of drugs and eligibility to own or possess firearms. The judges in the Superior Court would be relieved of the requirement to impose mandatory minimum sentences for mere drug possession.

And finally, the bill makes some reforms insofar as concerns are Board of Pardons and Paroles, specifically, reducing the number of members of the Board of Pardons and Parole from 20 to 15. Ten of

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those 15 would be full-time members, five would be part-time members. The terms of the members would be coterminous with that of the governor who would appoint the members or until a successor is chosen.

There is a departure from what is currently the case in that those that are appointed to the Board of Pardons and Paroles are currently appointed with a specific assignment to sit on parole hearings exclusively and others are appointed with the specific assignment to sit on pardons hearings exclusively.

The limitation of what hearings that members of the Board of Pardons and Parole can engage in or participate in is removed so that members of the Board of Pardons and Parole can sit on either parole or pardons hearings as long as two members are a part of a panel along with the Chair or a full-time member designated by the Chair.

The Chair is authorized with the executive director of the Board of Pardons and Parole to pursue regulations to be adopted in connection with expedited hearings for pardons review and that is - in certain circumstances - no hearings would be required for a pardons review and no hearing would be required as long as there was not a request by a victim for a hearing.

As far as membership on the Board of Pardons and Parole is concerned, members would have to bring a certain expertise in particular areas and would be required to participate in training on an annual basis.

The Board of Pardons and Parole decisions - whether it be the full board making a decision or a panel of the board - would have to be by a majority of the members that are present. There is created a pardon eligibility notice to be provided to a defendant at the time that the defendant is sentenced as well as at the time the defendant is released or completes a period of probation or parole.

So in short, there are - in short, there are a number of reforms that are made to the Board of Pardons Parole for the purpose of streamlining the process and

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making it more comprehensible, both by victims as well as by those who are seeking the benefit of the decision of a panel of the Board of Pardons and Parole.

With that, Madam President, I'd urge members to support the bill. Thank you.

THE CHAIR:

Thank you. Will your mark? Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President. Good evening. I would like to commend Senator Coleman for his leadership regarding this issue, Governor Malloy for putting the issue before us, and all the other folks that have worked so hard on this particular measure. Senator Winfield, members of the Black and Puerto Rican Caucus here in the legislature, the Governor's Attorney, Karen Buffkin, and others, Senator Fasano.

What I think this bill is about is redemption and our belief that most folks in our society may make a mistake, may make two, may make more, but fundamentally we believe people can turn their lives around. It doesn't undermine our get tough on crime stance. We're still tough on crime but we're trying to be smart about crime.

I had an opportunity a number of years ago to go and speak before a panel at John Jay University in Manhattan - far different world than where I live right now here in Connecticut - but part of my pitch was how can a law and order Republican want to break the cycle of recidivism. And I have six correctional facilities that house upwards of 7000 folks at any given time, and I don't need more prisoners in my district. I need more working, law-abiding individuals that feel good about living in Connecticut, pay their taxes, and raise a family.

Once upon a time, I also had the role of being a special public defender where I would receive a contract every year - sometimes 50 cases, 75, 100 - and while I didn't have a huge amount of cases

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involving simple possession - because be quite honest a lot of the case I had were far more complex than that - I do know enough of how the system is that if a young man was picked up and couldn't post bond, couldn't make the bail, and then you had an opportunity to go sit with that individual and they'd been sitting and incarcerated for a week, all of a sudden many of those individuals say, "What's it gonna take to get me out of here?" and the system knows that, States Attorneys know that.

Now, do they have malicious intent? No. The system is can I move business. How do you move business? Will your client cop a plea? What does my client get? Time served. So will he cop to a felony? Cops to a felony, he's outta there - he or she. They feel that, "Okay, I'm done," but what they don't realize is that as soon as they go outside the courthouse, seemingly free, now they have that felony record that will weigh on their shoulders for the rest of their lives.

What this bill is about is for simple possession. We don't want that first bite of the apple to be a felony conviction that will undermine a person's ability to redeem themselves, get a job, raise a family, and feel successful about their lives.

This is not a novel idea. This is not a Democrat or Republican idea. This is an initiative that is happening throughout the United States. States like Utah, states like Connecticut go through - I've had an ability to go to different national Council of State legislatures, meetings on criminal justice, and this is an idea that's in kicking around for a while.

So we're gonna start off with possession. And in our statutes, if the amount reaches a certain level, that is automatically assumed to be a dealer. So we're not changing that either, but we're for saying - we're saying simple possession, misdemeanor, an analysis, counseling, drug treatment. We're going to try to afford individuals a different path, a better path, an ability to turn their lives around. And we wanna do it with folks earlier rather than later.

Now, we have programs - diversionary programs - where individuals might avail themselves and have their

records erased. I understand that, but what we're talking about is individuals that are immediately arrested and now are facing their first conviction. And we don't want that conviction to be a felony. We want that conviction - if it has to come, and this individual may have been arrested a couple of times and not figured out what's going on - but we want that first conviction to be a misdemeanor. Might it entail some limited incarceration? It might. But when you leave wherever you're incarcerated, that's behind you. That doesn't trail you. What trails you is the rap sheet, the record. And if it's got a felony there - in this difficult economy it's hard to get a job if you don't have any record, but it's nearly impossible if you're felon. If you're a misdemeanor, employers are gonna take a chance on you if you've proven yourself over a period of time.

And so we're trying a new path, a new methodology. And as part of this, as a critical part of this is an analysis - and we can't force people do this, but there's an opportunity - are you hooked on drugs and can we give you treatment and can we help you beat the habit?

You know, when we did Raise the Age in the last decade or so, we've been working on it, working on it, working on it and, believe me, we're still working on it - the details - but there're a lot of folks that were concerned saying, "Oh no, oh no, it's a bad -" and we were like one of two states that still were treating young people, 16 and 17, like adults. And one of the things we found is that people were falling into the system because the only way to get treatment, the only way to get counseling, the only way to get support services was to break the law.

Well, what we did in Raise the Age for 16 and 17-year-olds is we said we're going to intervene and there's various ways that we can intervene in a young person's life to see if they need support services prior to them feeling compelled or having no other option but to commit a crime. So all the terrible predictions did not come true and that reform is actually working out.

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I don't have a crystal ball. I don't know how this is going to work but I can say this, by just slapping a felony conviction on a simple possession for a young person, man or woman, that hasn't even realized the 2½ decades of their life - that hasn't worked out real good. And as I indicated, I don't need hundreds more inmates in my district.

So I say let's take a chance on this bill. Let's see how it goes. We can always circle back in a year, in two years, in three years and benchmark where we are now - because I think that's what we have to do when passing legislation. Let's sort of like benchmark where we are right now and where are we a year from now and where are we two years from now, and if we have to go back and tweak it and change it a little bit - we do that all the time. That's okay, but if in our initial analysis after a year or two we see young people's lives turned around, people availing themselves of being checked to see if they're addicted, utilizing programs and turning their lives around, and the number of folks getting these felony convictions or the number of folks in prison for simple possession dramatically going down, then we know that we're on the right path and we can feel good about doing that.

I'm not even talking about the cost of incarceration - \$40,000 a year to incarcerate someone up in one of my six correctional facilities. I'm setting that aside. I'm talking about human life and redemption and having law-abiding, productive citizens. That's what we need. We break the cycle of recidivism; we have less victimization. And it won't be immediately here, but unfortunately the sad tale is that the couple bites of the apple in the beginning that get you that felony rap sheet as your opportunities have dried up, then that's when other bad elements can start influencing an individual, driving them to a life of crime because it's hopelessness.

You never wanna be in a spot where no matter what you do you can never move forward. You need to be in a spot where if I do X, Y, and Z, I can at least creep forward. It may be a long path, it may be hard, but people need and ability to turn their lives around.

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So for those reasons, Madam President, I would commend Senator Coleman, all the others, Attorney Cronin, who worked on this and others, leadership and Senator Fasano, Senator Looney, Senator Winfield, and others, but I do believe that this is worth taking a chance on. And again, we'll check it in a year or two, see how it's working.

I don't think it will in any way, shape, or form diminish our dedication to maintaining the highest public safety standards in our state, but I think it has a great potential - like a seed, we don't know it's gonna grow, but I think it's like a seed - has great potential to help individuals help themselves turn their lives around and afford people a second chance to become law abiding, productive citizens.

And for those reasons, Madam President, I would hope that my colleagues could join me in supporting this bill. Thank you.

THE CHAIR:

Thank you. Senator Winfield.

SENATOR WINFIELD:

Thank you, Madam President, and as slow as I was to rise on the last bill, it's as quick as I am to rise on this bill.

First, to Senator Coleman for his work, thank you. To Senator Kissel and others around the circle, thank you. To the governor for putting the bill out there, thank you.

I arrived in the General Assembly in the House in 2009 after winning an election in 2008. And a lot of my time here, at least initially - recognition was about the work I did on the death penalty, but immediately began working on the issue of the school drug zones. And in 2009, 10, 11, 12, 13, 14, and this year have worked on school drug zones.

It is an issue that is important to me because I represent - as one of the cities I represent, New Haven. And in the city of New Haven - like many of

our more dense, urban environments - there's not very many places where you can possess or deal drugs where you would not run afoul of the school drug zone penalty that is currently a statute.

It's called the School Drug Zone Law, right? That's how we refer to it. And we refer to it because the conversation is really about - not just some bad people doing some bad things anywhere - but about them dealing drugs to - or at least around - our children, but in my city if you're at my house, there's no school that you can see right there. There's no school anywhere near my home - from what I would consider near my home - and yet you would get this penalty.

So while I think this is a fantastic bill, it does at least part of what I want us to be doing, that's the problem with the bill. It does part of it. And the other part of it, the more difficult part, is something we really should be wrestling with. And so sometimes we get up to talk about this is not the policy we should be doing or this is the policy we should be doing, but sometimes we get up because it's an opportunity to remind us that there's more that we need to do.

So I will gladly push the green button on this bill today, but this General Assembly really needs to deal with the more difficult part because if we think to give people a second chance is to deal with those people who have a health issue, and to leave those people who have whatever issues drive them to deal drugs out to be thrown away - because kind of that's what you do when you don't get a second chance - you commit a bad act and you immediately are thrown away because that's what the felony does. You can't get a job and all of the things we talked about around this circle. If we think that that is creating a second-chance society, I would tend to disagree.

Creating a second-chance society would be dealing with those people it is difficult to deal with. Those people who we see as the bad guy, those people who we throw away - and by the way, if we're really concerned about the schools and the children - and I've said this before - then the law that we would create would take away my issue with school drug zones because the

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law that we would create would make the child the drug zone, and therefore you know any time that someone dealt drugs to a child - no matter where they were - 4000, 8000, 10,000 feet away, they would get the enhanced penalty. And you know what? We have that law on the books.

So the smartest thing that we could do that would ensure that all of our children were safe would be what we've already done. So there would be no issue with reducing the drug zones for the sale of drugs, the more difficult thing to do. And I implore this legislature to make sure that if we're concerned about all of the children in Connecticut - that the children in New Haven, Hartford, and the more densely populated urban centers - are just as safe as the children anywhere else, and we make no one less safe than they already are. That is what my hope is for the future. Thank you.

THE CHAIR:

Thank you, Senator. Will you remark? Senator Austin.

SENATOR AUSTIN:

Thank you very much, Madam President. Madam President, I'm very happy to support this piece of legislation, and I agree with many of the things that Senator Winfield just said.

I worked in the Department of Correction for 21 years and saw many qualified, capable people who spent most of their lives traveling in and out of our correctional systems, having had no ability to change that first error that they made.

I think that this is a beginning of us finally dealing with our ever burgeoning - in this United States - prison population, which incarcerates people at a level that no other industrialized country does. I think we need to do with this issue for a lot of the reasons that everyone around this circle has talked about.

Mostly, I think that we have to keep people out of our correctional environment to become responsible adults

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- whether male or female - that raise families and become good community partners. And I look forward to additional legislation as we move through time to further deal with who we incarcerate, how long we incarcerate them for, and what we do with people when they do make those initial errors. Thank you very much, Madam President.

THE CHAIR:

Thank you. Will you remark? Will you remark?
Senator Fasano.

SENATOR FASANO:

Thank you, Madam President. Madam President, the last bill I was unable to speak on, and I'm not gonna go into it except to say that both of these bills have a common denominator. And that common denominator is Republicans and Democrats getting together about a very serious issue, an issue facing the state. And I'm glad that we're going to lead the state, this country, in talking about these types of issues. And that's what open dialogue has.

And I agree with Senator Winfield. This is the tip of the iceberg. We have to do more. We have to do more for opportunities. We have to do more in education. We have to do more 'cause the future of our state depends upon the future of our cities. And until we roll up our sleeves as Republicans and Democrats at a common table and say, "How are we gonna tackle this together," and bring all sides to the table, we're not gonna do the right thing.

The excessive force and this bill both starts that conversation. It can't be the end of the conversation, not in terms of thoughts, ideas, or progress. But in the number of years that Senator Winfield has pushed this drug-free zone issue and the number of years that we've talked about these type of issues, this is the year we made a difference. This is the year we can be proud and say as Republicans and Democrats we stepped forward, but this is the beginning. And I look forward to this type of legislation in the future. Thank you, Madam President.

THE CHAIR:

Thank you. Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Madam President, speaking in support of the bill. This, like the Excessive Use of Force Bill, is a critically important bill.

And I wanted to begin by commending the governor for his leadership in offering this - that he himself, a former prosecutor, understands the criminal justice system so well. But I would like to point out that one of the things that is so important about this bill is that it recognizes - as Senator Kissel so aptly said - so many people have been victimized in our system by coming into court and being offered a quick plea, finding themselves in a situation, traumatized by being in court, fearful of the outcome, often being told that the case can end today if you enter a plea, but not knowing what the lifetime consequences are of that plea, especially if it is a felony plea.

And that is more likely to happen with lower income people than it is with anyone else, but it's not the lowest income people because the lowest income people are actually fortunate enough to generally be represented by very high quality public defenders in our system who do a good job for their clients and point out for them programs that might be available and other options. And obviously affluent people are able to afford a private attorney without much difficulty. But those who, I think, suffer the most in our system - and I've seen this over the years - are low income, working people who are slightly above the income threshold for representation by a public defender but far below the income where they can comfortably afford to hire an attorney.

And they are often the ones who come into court self-represented and the ones who often come out with the worst results because they will be most likely to enter a quick guilty plea and so worried about the possible consequences that when they are offered a guilty plea in exchange for a suspended sentence and

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probation - or sometimes just a suspended sentence and perhaps nonreporting probation - it sounds initially like a good deal to them given what the consequences are when they know that they are facing a charge that carries a potential prison sentence. And they consider themselves fortunate perhaps if they don't get actual prison time, but they are still labeled with that felony conviction that blights their prospects forever.

And I think that this bill now recognizes the equity of that situation. We also, I think - as Senator Kissel, I think, aptly said - we'll continue to work on these issues.

Another significant issue that I think we'll need to take another look at is bail reform. To look at the level of bail that is set for certain kinds of offenses that sometimes may be higher than it should be.

We were made aware a couple of years ago by the Public Defender's Office that there were actually some people in our system in pretrial detention who were charged with class B or C misdemeanors, but for whatever reason a high bail was set. They were not able to make that bail, and they had actually served more time in pretrial detention than they could have been sentenced to if they had been convicted or pled guilty to the underlying charge. That is a terrible anomaly that should not exist in our state. So there are other things that are left to do, but this bill is an important step, I think, in creating greater equity in our system.

And again, I wanted to commend Senator Winfield for all of his work since he first became a member of the General assembly on the issue of the drug-free zones and the inequity of that in urban and suburban areas. Senator Coleman for his leadership on so many of these issues, and certainly Senator Kissel, Senator Fasano - he is absolutely right. This has been a bipartisan work product. This and a few other bills and the health care bill that we were so proud to support this year, Senate Bill 811, was a bipartisan effort too. So we have, I think, a number of bipartisan successes

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to point to in 2015. And this is among the most important. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark Senator Coleman, for clarification, please? Senator Coleman.

SENATOR COLEMAN:

Madam President, when I first moved the bill I wasn't sure whether I moved in concurrence with the House or not, but I should have. So just for purposes of clarification, could the motion be treated as a -

THE CHAIR:

So moved, sir.

SENATOR COLEMAN:

Acceptance of the Emergency Certified Bill and passage in concurrence with the House.

THE CHAIR:

So moved, sir.

SENATOR COLEMAN:

Thank you, Madam President.

THE CHAIR:

Will you remark further? Will you remark further? If not, Mr. Clerk, will you please call for a roll call vote, and the machine is open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call has been ordered in the Senate.

[pause]

THE CHAIR:

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Will all the members in the Chamber please vote - cast their votes.

[pause]

All members have voted. All members have voted. The machine will be closed. Mr. Clerk, will you please call a tally.

THE CLERK:

House Bill 7104

Total Number Voting	36
Necessary for Passage	19
Those voting Yea	23
Those voting Nay	13
Absent/not voting	0

THE CHAIR:

The bill passes. [gavel] Senator Duff.

SENATOR DUFF:

Thank you, Madam President. If the Chamber could stand at ease for a moment.

THE CHAIR:

Chamber will stand at ease.

THE CHAIR:

Senator Duff. Can they - [gavel] Senate come back to order, please. Thank you. Senator Duff.

SENATOR DUFF:

Thank you, Madam President. As we know, flexibility is the key here in the circle, and I certainly appreciate everybody's flexibility today. We're going to recess -

THE CHAIR:

Ladies and Gentlemen - [gavel]