

S - 603

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2010**

**VOL. 53
PART 6
1609 - 1919**

cd
SENATE

107
April 28, 2010

Mr. Clerk.

THE CLERK:

Calendar 453, File Number 559, House Bill
5281, AN ACT CONCERNING AMENDMENTS TO THE
CONNECTICUT UNIFORM PRINCIPAL AND INCOME ACT,
favorable report of the Committee on Judiciary.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint
committee's favorable report and passage of the
bill in concurrence with the House.

THE CHAIR:

The question before the chamber then is
acceptance and passage in concurrence. Will you
remark further?

SENATOR MCDONALD:

Yes, Mr. President, just briefly. This bill
is necessary to conform Connecticut's Uniform
Principal and Income Act with federal IRS rules
governing the reporting of receipts and expenses
for income beneficiaries and remainder
beneficiaries in the absent of a trust. And I

cd
SENATE

108
April 28, 2010

should say, Mr. President, that again, this a --
the work product of a thoughtful group of
individuals in the Estate and Probate section of
the Connecticut Bar Association who have put in a
lot of time with respect to this legislation. I
know of no opposition to it.

THE CHAIR:

Thank you, Senator.

Will you remark further? Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Through you, a couple of questions to the
proponent.

THE CHAIR:

Please frame your question.

SENATOR KISSEL:

My understanding, through you, Mr. President,
my understanding is that this eliminates a
requirement that more payments are allocated to
income to obtain an estate marital -- a state tax
marital deduction. I'm just wondering what that's
all about. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

cd
SENATE

109
April 28, 2010

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I -- I can't profess to be an expert on this. It is, essentially, a federal estate tax issue under Title 26 of the United States Code and deals with -- with the qualifications for marital deductions for -- under federal law for life estate with the appointment of a -- with the power of an appointment in the surviving spouse.

I do apologize to Senator Kissel. It's not an area of the law of which I have a great deal of expertise. In fact, that's why we rely heavily on the very detailed and extensive collaboration by the Estates and Probate section of the Bar Association on issues such as this.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And I appreciate that very honest response. I certainly don't have a vast amount of estate and tax -- I had some -- I was happy to do well in some of my tax courses in law school but that was the last time tax law and

cd
SENATE

110
April 28, 2010

I ever met up.

I'm just wondering by way of just a generalized background question, what, indeed, is the Uniform Principal and Income Act, I mean, what -- what does it generally try to do and why are we even legislating regarding it?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Kissel, my understanding is that the Principal and Income Act, essentially, establishes ground rules for fiduciaries that are administering trusts, and the rules relate to how property is allocated between principal and income and how it's reported for federal tax purposes, how it's treated with respect to the trusts that might be created, and how be -- remainder beneficiaries under those trust can receive any of the residual assets of the trust, which are known as the corpus of the trust. When the trust expires, it creates a certain ground rules, if you will, for the fiduciaries to -- to follow, and it sets forth

cd
SENATE

111
April 28, 2010

their discretionary authority within the parameters of the act and how they can necessarily allocate between assets -- between principal and interest. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

I have no further questions. Clearly, this is an area where scholars and lawyers with great expertise drill down very deep to make their decisions. I'm sure that there's an awful lot of investment bankers and other such folks that pay close attention to some of these nuanced changes. And I think these are particularly fruitful areas to seek out the general wisdom of our colleagues in the Bar Association that work with this day in and day out. Sometimes these bills are difficult to get one's arms around, whether one's a practicing attorney or not, because it's such a specialized field of practice. And unfortunately, in our Judiciary Committee as much as we try to have laser-like attention to a variety of issues, when you get issues this nuanced and this

cd
SENATE

112
April 28, 2010

particularized, the public hearings are rather brief. There's not an awful lot of debate or discussion regarding these bills. Occasionally, though, they do come back to necessitate further changes down the road, but, in this instance, it appears that it's smooth sailing ahead unless we hear otherwise. And with that I'm happy to support the bill. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Are there any other remarks to be made? Do you care to remark further? If not, Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, if there's no objection, might this item be placed on the consent calendar?

THE CHAIR:

Without objection, this item may be placed on the consent calendar.

Mr. Clerk.

THE CLERK:

Calendar page 16, Calendar Number 455, File Number 550, House Bill 5542, AN ACT MAKING MINOR,

cd
SENATE

113
April 28, 2010

TECHNICAL AND CONFORMING CHANGES TO CERTAIN
STATUTES CONCERNING CRIMINAL AND CIVIL LAW AND
PROCEDURE, favorable report of the Committee on
Judiciary.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint
committee's favorable report and passage of the
bill in concurrence with the House.

THE CHAIR:

On acceptance and passage in concurrence, will
you remark further?

SENATOR MCDONALD:

Yes, Mr. President, just briefly. This
legislation is very similar to the Technical and
Revisor's Bill that we had just a couple of
moments ago. I want to compliment again our LCO
attorneys in their very cautious assessment of how
they make recommendations for changes in the
technical nature of our statutes. They sometimes
consider the items that they would like to have
reviewed by us to be more than completely

cd
SENATE

114
April 28, 2010

technical which they would consider to be minor or grammatical or for clarity purposes. I appreciate their caution. It is, ultimately, for us to make those determinations, but, in looking through this legislation, I think they would have been more -- more than within their rights to include this in the Technical Revisor's Bill. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

3. Thank you very much.

A few questions to the proponent of the bill.

THE CHAIR:

You may frame your question.

SENATOR KISSEL:

Thank you, Mr. President.

I am just wondering why this is a stand-alone bill when we have the other one which is the Technical Revisor's. And I believe that Senator McDonald indicated that they all probably could be within one bill. And I'm just wondering why we carve these out individually. Through you, Mr. President.

cd
SENATE

115
April 28, 2010

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, again, sometimes one person's technical revisor language would be somebody else's substantive policy language. I -- I've not been able to find anything in this legislation that would meet that level for my purposes but other legislators may -- may differ. But, just for instance, on lines 548, they're deleting the words, "Department of Motor Vehicles Inspector appointed" to "Motor Vehicle Inspector designated." So I -- maybe there's a difference between being a designated motor vehicle inspector or an appointed one, but it didn't -- at least in that instance, it didn't seem to be terribly substantive, although, I could see somebody arguing that there was a substantive difference. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. And I appreciate that response. And -- and as much as I

cd
SENATE

116
April 28, 2010

fancy that over the many years that I've had the great honor of serving on the Judiciary Committee and I have often thought that perhaps I've gleaned some modicum of understanding of the laws of the State of Connecticut, for the life of me I can't, off the top of my head, understand the difference between a designation and an appointment, but I'm sure there's some really clear cut distinction between designating someone to serve on something and appointing someone to serve on something.

Perhaps, when we have a brief recess, I can huddle with Senator Looney, who I'm sure knows that right off the top of his head because he has such knowledge about all these things having served in this circle for so many years, but that's a great example, and I'm sure that we have so many others in our statutes as well. So with that I have no further questions regarding this bill. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further? Will you remark further? If not, Senator McDonald.

SENATOR MCDONALD:

cd
SENATE

117
April 28, 2010

Thank you, Mr. President.

Mr. President, if there's no objection, might this item be placed on the consent calendar?

THE CHAIR:

Without objection, this item may be placed on the consent calendar.

Mr. Clerk.

THE CLERK:

Returning to calad -- calendar page 16,
Calendar Number 456, Substitute for House Bill
Number 5247, AN ACT CONCERNING COMPETENCY TO STAND
-- STAND TRIAL, favorable report of the Judiciary
Committee.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint
committee's favorable report and passage of the
bill.

THE CHAIR:

The question before the chamber is acceptance
and passage. Will you remark further?

SENATOR MCDONALD:

Yes, Mr. President.

Mr. President, this legislation comes to us as another department bill from the folks at the Department of Mental Health and Addiction Services and is intended to address certain circumstances that they have encountered in dealing with judges who have expressed concern that they are not notified when a defendant who's been deemed not competent or not -- or has been civilly committed is later released from the hospital, and there was a concern that they -- whether there should be notification to the court when that happened.

There is also a concern expressed that -- by some of the -- some judges that they wanted to know whether sexual offenses would qualify as -- as a serious physical injury for some purposes under DMHAS's jurisdiction. This, again, Mr. President, was legislation brought to us by the Department of Mental Health and Addiction Services. We had favorable testimony from Dr. Michael Norco at the Forensics Services Department of DMHAS. We also had testimony from the Division of Criminal Justice, and I know of no opposition to the proposal. And, through you, Mr. President.

cd
SENATE

119
April 28, 2010

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

It's my understanding that the nub of what this bill does is it expands the court authority to order periodic re-exams of those deemed incompetent to stand trial for those charged with sex offenses or specified crimes that result in injuries similar to the re-examination order for those who commit the -- a crime resulting in death. And I'm wondering what right now is the authority that the court has to order re-exam -- to order the re-examination of individuals being held who committed a crime resulting in death? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, can we stand at ease for one second?

THE CHAIR:

The chamber may stand at ease.

[Chamber at ease.]

cd
SENATE

120
April 28, 2010

SENATOR MCDONALD:

Thank you --

THE CHAIR:

Senate please be in order.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, there's nothing that prevents a court from ordering a re-examination, but they often times aren't notified about it. And so this would create an obligation to notify the court when -- when somebody has restored to competency. It would also, I should say, require that the Department notify the court if it releases the defendant before any statute of limitations has expired on the underlying conduct if the individual has been restored to competency. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

So this bill would cause the notification of the court. Does this bill also require a

cd
SENATE

121
April 28, 2010

notification of victims of the crime and, if not, is it the responsibility of the court upon being notified that at least the victims? And let me -- let me paint a picture, somebody commits a heinous crime, not guilty by reason of mental defect or deficiency. They're housed. They are then brought up to a period of time where they are mentally competent, restored. It is still within the statute of limitations period of time where these individuals could be pursued. I guess what this bill contemplates is that there would be some notice to the court, but let's say my constituent is a spouse or a child who's now gain majority of a victim of a crime that resulted in death or severe harm. I -- I don't -- I'm concerned about a situation where everybody in the judicial system knows about this situation except the victims. And all of the sudden they're -- they bump into the individual that has then released from custody. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

cd
SENATE

122
April 28, 2010

Through you, Mr. President, the -- once the court would be no -- notified of this development, the court would have the opportunity to order a competency hearing and at that time the order would go out to, not only the prosecutors, but would trigger the prosecutors' obligations for notification of victims as well. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

So even though an individual's mental health has been restored, they still would have to go through the process of a competency hearing and that in all instances compene -- competency hearings involve notification of victims. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

I believe that's correct.

THE CHAIR:

Senator Kissel.

cd
SENATE

123
April 28, 2010

SENATOR KISSEL:

Thank you very much.

That -- that answers my questions and my concerns. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Are there further remarks? Will you remark further?

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

If there's no objection, might this item be placed on the consent calendar?

THE CHAIR:

Is there objection? Is there objection?
Seeing none. This item may be placed on the consent calendar.

Mr. Clerk.

THE CLERK:

Calendar Number 457, File Number 494,
Substitute for House Bill 5406, AN ACT CONCERNING
THE COURTS OF PROBATE, favorable report of the
Committee on Judiciary.

THE CHAIR:

cd
SENATE

124
April 28, 2010

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint committee's favorable report and passage of this bill in concurrence with the House.

THE CHAIR:

The question is acceptance and passage in concurrence. Will you remark further?

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, this legislation is what I would consider to be a corollary to some of the issues we adopted last year in our Probate Court Reform system. In essence, Mr. President, this would eliminate the requirement that certain probate court regulations be adopted and approved by the Judiciary Committee of the General Assembly. There are in -- there are already procedural safeguards in place that under current law that we believe are sufficient under these circumstances.

It also allows a judge of probate to hold hearings anywhere in the state so long as the

cd
SENATE

125
April 28, 2010

matter that is the principle focus of the probate court judge's attention is a matter that originated in his or her district. Whether the judge is required to travel to a hospital or other institution outside of his or her district, shouldn't affect the jurisdiction of the judge's ability to do so.

There are other minor technical changes included in the bill before the chamber, and I believe that they are the result of some hard work by the Probate Court Administrator and his staff, and -- and I -- I'm looking...for the tally sheet, but I believe that this legislation went through the House on a unanimous vote prior to coming up to this chamber. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, Mr. President.

I'm actually surprised that in our major Probate Court Reform Bill that passed last year that we didn't have any provisions in there to let towns reach agreements on multitown court costs -- cost sharing. Is it -- is it my understanding

cd
SENATE

126
April 28, 2010

that we did not have any provisions regarding that, and, now with our major probate court consolidation efforts, we want to make it very clear that as towns negotiate where the courts are going to be located and how the business is going to be conducted that they have wide latitude as to negotiating costs amongst themselves regarding all aspects of this? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, as much as we tried to contemplate all aspects of the substantial reforms we were undertaking last year, we inevitably fell short of the mark on some of those areas. The cost-sharing aspects of it were -- were certainly among the issues that were left undone. So, yes, Senator Kissel, under this legislation, it would allow the towns who share a probate district to mutually agree on how those expenses would be paid.

In the absence of that agreement, those costs would be allocated on a proportional basis to the

cd
SENATE

127
April 28, 2010

towns within that district base on -- upon their most recent grand lists. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And I think that's an important change from what we have heretofore. And let me explain why, is that one of the points of contention and amazingly for whatever reason the consolidated probate districts in my neck of the woods and nearly everyone in my town is affected. They haven't really finalized how they want to work this out. It seems like there's a -- the strain of independence north of Hartford. And I think that's a healthy thing. Maybe sometimes that explains my concerns regarding various legislation in this chamber and my approach to legislation, but I think it's good that we give our municipalities wide latitude to hammer out financial arrangements amongst themselves. I can see how a straight population analysis wouldn't be fruitful if, indeed, certain municipalities say

cd
SENATE

128
April 28, 2010

that they would take on the added cost of having a probate court in their town and all the costs associated therewith, perhaps they should get a credit somehow for taking on other responsibilities.

Another question, through you, Mr. President, to the proponent of the bill. It has to do with the ability of judges to conduct business in any Connecticut location. And I know that Senator McDonald had pointed out the example of if a probate judge had to go to a hospital, nursing home or something else like that outside the four corners of the probate court district, the geographic boundaries of the district, and that makes an awful lot of sense. But I'm wondering if this would also if not explicitly implicitly allow -- and I'm not sure if any probate court district is thinking of this kind of situation, but my understanding historically is that we have circuit courts because historically judges would get on their horses and ride a circuit from place to place to conduct business. And, indeed, if we are affording probate judges this kind of latitude, would it also mean that if a probate district said

cd
SENATE

129
April 28, 2010

we are going to sit for one day in this town and two days in this town and the other two days in this town that they would have the ability to do that. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, if Senator Kissel would be kind enough to restate the question, I would appreciate it.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And -- and I just want you to know that my staff has brought me out the bottled water so don't let that mean anything one way or the other.

But -- my question was this, historically, I believe the appellation of circuit courts arose from the fact that in the early days of our judicial system judges would get on horses and ride from courthouse to courthouse to sit and hear cases. And they would essentially ride a circuit

cd
SENATE

130
April 28, 2010

and, thus, arose the notion of a circuit court which has appellate jurisdiction over a wide geographical area.

And I'm wondering if some of our probate courts, as they are now newly consolidated and covering a wider geographic area, that by allowing a judge to sit in a nursing home or in a hospital outside his or her district, outside the geographic boundaries, which this bill does and which I think is a really good thing, that the notion that within the geographic boundaries of the probate court jurisdiction that there's nothing prohibiting those towns from saying a judge could sit in one town on Mondays, another town on Tuesdays and Wednesdays, and another town on Thursdays and Fridays.

And my question is does this -- are they already allowed to do that because it's all within the same geographical parameters of their district? Or would this make it clear that you don't need to have one probate court location that the location can -- can move around both within the district and out -- actually, outside a district? Through you, Mr. President.

cd
SENATE

131
April 28, 2010

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, through you, I believe the answer depends on how sturdy a horse there is riding in -- in the district.

But, Mr. President, to answer Senator Kissel's question, a probate judge can -- can hold hearings anywhere in his or her district regardless of where the physical courthouse is. This would allow the probate judge to hold hearings outside of his or her district if the circumstances of a particular case warrant it as long as the original jurisdiction, if you will, arose within the -- the primary district of -- or the towns within the probate district. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

And regarding that, are there any reasonable limitations on that authority, and, by way of example, we just lost a wonderful woman from

Enfield, a member of our town committee and without mentioning her name or her love one, she lived in Enfield. She grew ill and for a number of years she was placed by her children in a nursing home at a location down in Fairfield County and then later on she reached a point in her life where she moved back to Enfield. So Fairfield County, the Greater Stamford area, is quite a long distance. It's all within the state of Connecticut.

I can -- can conceive of a case where a matter could arise in one part of the state and because of the -- of the frailty of an individual, their health, their children may live in a wholly different part of the state, so while the matter's pending in a probate court, let's say, in Enfield, and then all of a sudden the individual's down in a nursing home in Stamford, and let's say other parties to the -- to the matter are up in Enfield. I mean, would there ever be a grounds where someone could say, hey, that's just too far, we don't want to all go down that far? Or it's basically, anything within Connecticut, as we're essentially creating a legislative history here,

cd
SENATE

133
April 28, 2010

would that be deemed to be reasonable and would a corollary consideration be, it's just once -- it's one day or if it's a protracted series of hearings that may extend for several days, then all of a sudden distance might be more of a consideration? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, I believe any judge of probate would consider all of the relevant factors that are perhaps present in particular circumstance in making that decision. But under this legislation, the judge of probate could hold any type of hearing in any part of the state that was necessary to facilitate the attendance of a party. So it's -- it is specifically limited to parties, but it is not geographically limited in distance or in frequency.

So I think it would certainly be an issue that would have to be addressed, and I don't know of any judge of probate who wouldn't be sensitive to -- to the matter, but there would be no limitation

cd
SENATE

134
April 28, 2010

to the frequency with which the accommodation of a party could be considered by the probate court.

Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. So -- so it's really in the sound discretion of the probate judge. It's up to him or her to get as much information up front as possible, but once that decision's made there really is no grounds for an appeal in any way. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I -- I believe that -- that's correct. You know, it -- it -- we are fortunate to live in a relatively small state. I've yet to been -- be fortunate enough to have a session of the Senate convene in Stamford, but -- but I certainly don't think it's too hard to get from Stamford to Hartford. And I don't think it would be too hard for somebody to get from Stamford to Hartford or Enfield if a probate

cd
SENATE

135
April 28, 2010

matter required that. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And it wasn't that long ago I had a pleasure to visit at an event in Stamford, and it is a lovely city and not that far of a drive. And you're absolutely correct. And, indeed, occasionally this chamber has moved itself, although not too far, but we have in my recent recollection held a -- a session day at the Old State House, although still in the City of Hartford, but not in this chamber.

Are there any other -- other than the -- the things that I pointed out, Sen -- through you, Mr. President, the provision regarding -- okay, one more question, it allows the admin -- probate court administrator to enforce regulations regarding record maintenance, is my understanding is what's in the bill. Through you, Mr. President, are those regulations being promulgated as we speak, or are those already in existence? What kind of time frame are we looking for that --

cd
SENATE

136
April 28, 2010

looking to have happen there? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, there are already regulations in place dealing with the records maintenance of -- of the probate court.

Under this legislation, the probate court administrator or the Executive Committee of the Probate Assembly could propose any additional regulations. And there a process set forth in the legislation by which those regulations would be -- would be considered and adopted. Notwithstanding the best efforts of -- of some folks, you may recall recently there was a example of some probate court records that were inadvertently disposed of by a -- by a clerk of a probate court so I don't think any of these regulations are static, just like our laws, but this would provide a more streamlined process by which the probate court administrator or the Probate Assembly could address issues on an ongoing basis. Through you,

cd
SENATE

137
April 28, 2010

Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

I want to thank Senator McDonald for his cogent and thoughtful answers to my question. I know that his is an area that a lot of folks in my neck of the woods have concerns with. Indeed, there's still some jurisdictions that are sort of working out some of the bugs regarding the geographic boundaries that they have. It is a direction given our state's financial situation where I believe we're going to have to be moving regarding a variety of state agencies as well, but we have moved forward on consolidating the probate districts on -- in a different day in a different age having a probate court in every single municipality. We're going to look back and look at that as a -- a nice luxury but one that we could not sustain financially. But, hopefully, we're moving forward with the consolidated probated districts in a way that is sensitive to everyone concerned and most importantly to the

cd
SENATE

138
April 28, 2010

citizens of the state Connecticut who avail themselves of their probate courts each and every day to help take care of those in need.

So with that I'm happy to support the bill.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Do you care to remark further? Do you care to remark further? If not, Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, if there's no objection, might this item be placed on the consent calendar?

THE CHAIR:

Without objection, so ordered.

Mr. Clerk.

THE CLERK:

Calendar page 17, Calendar Number 464, Files Number 552 and 633, House Bill 5530, AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT, as amended by House Amendment Schedule "A," favorable report of the Committee on Judiciary.

THE CHAIR:

Senator McDonald.

cd
SENATE

139
April 28, 2010

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

On acceptance and passage in concurrence, will you remark further?

SENATOR MCDONALD:

Yes, Mr. President.

Mr. President, this legislation is yet another very thoughtful product that results from the folks at the Connecticut Bar Association and, in particular, their business law section. In 1994, Connecticut adopted the Model Business Corporation Act. And every few years, the model changes, if you will. And the CBA through its business law section closely tracks and monitors those changes and every few years recommends to us changes to bring our statutes into conformity with the Model Act, in particular, with some of the developing elements of the business corporation practice throughout the country. And there's a official commentary that proves very helpful to

cd
SENATE

140
April 28, 2010

practitioners in the area of corporate law.

Under this legislation, Mr. President, there would be several changes relating to written notices to corporation -- corporations, shareholder appraiser rights, authorizations for boards of directors to agree or submit matters to shareholders for their approval providing permissive rather than mandatory board consideration of certain interests.

I would be happy to explain that in great detail to anybody who's interested, but -- but they are fairly ordinary changes that are nevertheless significant for those who practice in the area of corporate law.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Just a que -- couple of questions, through you to the proponent of the bill.

THE CHAIR:

Please proceed.

SENATOR KISSEL:

There's a couple of areas that some of my

constituents had some questions regarding. First one is regarding changes to the corporate law regarding notices sent. I'm just wondering where we are as far as notices and where we're moving as far as the changes in the underlying bill?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, through you to Senator Kissel, the notices generally speaking that are required under this legislation deal with situations where there are mergers that are going to be undertaken or something called "share exchanges," where shares are exchanged for different types of shares or priority shares. Also the notices that would be required to be provided to shareholders for disposition of assets or any type of amendments to the articles of incorporation or the certificate of incorporation for the corporation that would trigger shareholder rights for the appraisal of the assets or obligations of the -- of the corporation. Through you, Mr. President.

THE CHAIR:

cd
SENATE

142
April 28, 2010

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And I understand that's the subject matter of the notifications, but the idea of the notification of the individual, is there anything regarding the substance of how an individual is notified. Has that changed at all? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I don't believe that the methodology for providing notices has changed. I'm looking through it quickly, but I don't believe that the methodology of providing the notice has changed. I think the -- the concern was providing notice in a -- in a wider range of areas of information but not the methodology for delivering the notice.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And I -- I think what we're seeing here with this change in this -- this act is similar to what we saw all the way going all the way back to Sarbanes-Oxley when it had to do with bringing light to what's going on within the corporate community, making sure that everybody in the chain of command takes responsibility for their actions and, indeed, that shareholders have adequate information to make decisions regarding the activities of a corporation.

I'm just wondering, though, with the change in corporate culture throughout the United States, one of things that corporations are striving to do is to do their jobs in a green-friendly way. By that what I mean is trying to use less paper, trying to be more cost efficient, trying to be more environmentally sensitive.. And indeed, it is not uncommon now for corporations to send out a notification to their shareholders as to whether they want, for example, annual reports provided via electronic mail or sent through traditional forums, large paper volumes, glossy photographs, charts, statistics, messages from the president, chief executive officer, chief operating officer,

cd
SENATE

144
April 28, 2010

and the like. And I'm just wondering if there are aspects of this bill that touch upon the movement in the corporate community from paper transactions and paper notifications to electronic transactions and electronic notifications. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Kissel, there's nothing in this legislation that requires that such notices be provided by alternative means. I can tell you, Mr. President, that, in many instances, the Article of Incorporation or -- or more likely the bylaws of the corporation would dictate the manner in which information is communicated.

There was a time when it was all by regular mail, then it moved to -- to facsimiles and now almost uniformly it's done by email. And I know that to be true with the corporations that I deal with, but -- but I don't know that it's -- it's necessarily something that needs to be included in our statutes: Most corporations have tried to

cd
SENATE

145
April 28, 2010

morph their operations into the electronic world and, in fact, have done a better job of it than the state of Connecticut oftentimes.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, President -- thank you, Mr. President.

I have to chuckle at that because quite often there are any number of times that I sit back and I wonder why we are putting something in statute when common sense would dictate that people should be doing it on their own. And, indeed, as Senator McDonald said, sometimes folks in the private sector are miles ahead of us when it comes to beneficial pro -- changes, and we just end up following suit, incorporating -- I mean, putting into statute otherwise already good evolutionary changes.

Regarding the corporate changes here, one of the other areas that seems to be touched upon is financial disclosures to shareholders. I'm just wondering what in this bill changes the law regarding financial disclosures to shareholders.

cd
SENATE

146
April 28, 2010

Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, and, again, I should note that this only deals with Connecticut corporations. Many of the large corporations that Senator Kissel may have been referring to would be publicly traded corporations that are subject to the provisions of Sarbanes-Oxley law, but this legislation only deals with Connecticut-based corporations. And the notices pertain to, again, as I indicated earlier, situations where they're going to be mergers or share exchanges or disposition of assets. Anything that's going to effect the -- the operations of the corporation and including changes to the articles of incorporation of the -- of the corporation in any issuance of rights or options or warrants for the corporation or other any -- other information relating to equity compensation or disposition of the corporation. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

cd
SENATE

147
April 28, 2010

SENATOR KISSEL:

Thank you very much. So it would be fair to state that even for solely Connecticut-based corporations that may not fall within the purview of Sarbanes-Oxley, this particular bill does not touch upon quarterly filings or annual filings or financial disclosures regarding boards of directors, chief finan -- chief officers of the corporation or anything else like that.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I don't believe that this legislation deals with the manner in which there are filings with the State of Connecticut or with the Secretary of State's Office. This deals more with internal operations. We don't track the ongoing business activity of corporations, such as the SEC does for publicly traded corporations. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And it's just that those folks that I know that are engaged in the active practice of corporate law are constantly making sure that they're staying on the cutting edge of any changes that occur both federally and as a state. And, also, we always want to be mindful that while we are incorporating changes that effect the business community and what they may or may not file both with their shareholders and with the Secretary of State's Office.

One of the things we -- I believe we should always keep in the back of our minds is that we want to make sure to the greatest extent possible that Connecticut is a business-friendly state. And I appreciate the fact members of the bar have had input into this and that practitioners have had input into this. And certainly, I haven't heard that members of the business community have any problem with this legislation, but, occasionally, we pass things that don't look like they affect how difficult is to do business in the state of Connecticut and then I hear from my constituents and they say, Did you know how difficult you made this process or that something

cd
SENATE

149
April 28, 2010

where we had to file one form now we have to file 12, or, you know, we had to pay our attorney x, y, z to get business done last year and now it's costing us twice that because of these new rules and regulations that you put into effect.

So it doesn't strike me that this legislation has anything to do with those things, but, certainly, I think it's always good to have that as a consideration in the back of our minds whenever we touch upon any legislation that affects the business community here in the state of Connecticut. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Do you care to remark further? Do you care to remark further?

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Nourished by my own bottle of water, I would ask that if there's no objection might this item be placed on the consent calendar?

THE CHAIR:

Without object, so ordered.

cd
SENATE

150
April 28, 2010

Mr. Clerk.

THE CLERK:

Calendar page 18, Calendar 475, Number 496,
Substitute for House Bill 5408, AN ACT CONCERNING
PROBATE COURT OPERATIONS, favorable report of the
Committee on Judiciary.

THE CHAIR:

Senator McDonald.

Senator Looney, I'm sorry.

SENATOR LOONEY:

Mr. President, to give Senator McDonald a
break for a moment? I would ask that that item be
passed temporarily?

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Yes, and, also, Mr. President, if we might
return for a couple of changes in -- in calendar
notations. The first I -- I understand and the
Clerk may help clarify this -- under Senate Agenda
Number 1, previously adopted under Number 1
Introduction of Senate Resolutions, there was
Senate Resolution Number 16 that appears on the --
on that agenda with an indication of "Referred to

cd
SENATE

151
April 28, 2010

Appropriations" -- my understanding and I might inquire of the Clerk, would the appropriate motion to be to refer that item to the Legislative Commissioner's Office?

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, I think the proper motion, first, is to reconsider the referral to Appropriations after having adopted Senate Agenda Number 1. Once that resolution is reconsidered -- then to move to have it referred to the Legislative Commissioner's Office.

SENATOR LOONEY:

Thank you, Mr. President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Mr. President, I would make that motion for reconsideration of that item on Senate Agenda Number 1, Senate Resolution Number 16.

THE CHAIR:

The motion is to reconsider Item 1 of Senate Agenda Number 1. Is there objection? Is there

cd
SENATE

152
April 28, 2010

objection? Seeing none, so ordered.

SENATOR LOONEY:

Yes, thank you, Mr. President. Now that the item is before us again, would move to refer it to the Legislative Commissioner's Office.

THE CHAIR:

Motion's to refer it to LCO. Is there objection? Is there objection? Seeing no objection, so ordered, Senator.

SENATOR LOONEY:

Yes, thank you, Mr. President. Another calendar notation, calendar page 37, Calendar 342, Senate Bill 424, I understand that there was some error in the notation on that item in the way it was reported from the Committee on Public Health. It was originally a Government Administration Election Committee bill. There was an error in the reporting of the bill after it was referred to the Committee on Public Health. So at this point, Mr. President, I would just move to move to recommit that item to the Committee on Government Administration and Elections.

THE CHAIR:

Motion is to recommit, is that correct,

cd
SENATE

153
April 28, 2010

Senator?

SENATOR LOONEY:

Yes, Mr. President.

THE CHAIR:

Is there objection to recommittal of Calendar
Number 0342? Seeing none, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, if we might return to the call
of the calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 19, Calendar Number 472, File
Number 5 -- 549, Substitute for House Bill 5539,
AN ACT CONCERNING JUDICIAL BRANCH POWERS AND
PROCEDURES, favorable report of the Committee on
Judiciary.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint
committee's favorable report and passage of the

cd
SENATE

154
April 28, 2010

bill in concurrence with the House.

THE CHAIR:

The question before the Senate is the pass -- the acceptance and passage in concurrence.

Do you care to remark further?

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, this is a important piece of legislation for the operations of the Judicial Branch and is the result of a lot of discussion between the Judicial Branch and the Legislative Branch relating to its operations. I know that the Chief Court Administrator has had an opportunity to speak about these issues with the co-chairs and the ranking members of the Judiciary Committee.

A lot of this deals with internal operations of the branch and the timing and scheduling of court operations and the Supreme and Appellate Court caseloads and the movement of the business of the branch that are important to their operations.

Additionally, Mr. President, the legislation makes several changes relating to terminology and

cd
SENATE

155
April 28, 2010

operations for Housing Court specialists, deals with family relations counselors and trainees of family relations counselors, makes certain changes relating to the probation process and also eliminates some elements of the supervision programs where bail commissioner -- I'm sorry -- probation violators are supervised.

So I believe all of these have been considered to be fairly technical from -- 'from their operational perspective, but they are significant to their operations. I should also say that there are elements of this to increase the -- or allow for the Criminal Injuries Compensation Fund to receive money for the reimbursement of applicants who -- who are victims and also eliminates certain options for the Office of Victim Services to provide low interest loans to victims. But I believe that on the large part, Mr. President, these are pretty technical changes for the Branch's operations.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Technical though they be, I do have some questions, a few questions to the proponent of the bill, through you, Mr. President?

THE CHAIR:

Please proceed, sir.

SENATOR KISSEL:

Thank you very much.

I -- I do believe that the underlying bill is a very positive one. I know that a lot of folks -- Deb Fuller, in particular, but I -- Steve Mann, I guess has had some hand in this as well but -- a lot of the folks from the Judicial Branch they've been trying to get some of these things through our chamber for a couple of years. And I think a lot of these things would be very beneficial for the good operation of the Judicial Branch, but, by way of helping to secure a good legislative history and to help articulate what we're about here, I'd like to proceed section through section.

In Section 1 through 7, there's some minor changes to Supreme Court Statutes and, in particular, Sections 5 and 6. It's my understanding they would add some service requirements to the statutes, especially

cd
SENATE

157
April 28, 2010

authorizing electors and candidates aggrieved by a ruling of the elections officials to file a complaint with the Supreme Court. And given how sometimes elections can be very contentious and indeed we have more of contentious elections going on right now with primaries and everything else that we may ever see for another 20 years, I'm just wondering, through you, Mr. President, regarding Sections 5 and 6, what are some of these procedures that would allow electors and/or candidates aggrieved by a ruling of elections officials to file a complaint with the Supreme Court, through you, Mr. President?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, my understanding is that under existing law, an elector who is alleging certain violations can file a complaint with a -- with any judge of the Supreme Court regarding an election for US president, for senate or congress or any Superior Court judge regarding any type of primary, and requires that the person send a copy

cd
SENATE

158
April 28, 2010

of the complaint by first class mail.

Under this legislation, it would require a certification that a copy of that complaint was sent or delivered to the -- I believe, the Elections Enforcement Commission that was sent to the judge.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much and I appreciate that.

So rather than creating a new cause of action what it does is it changes what is already an existing cause of action where, again, an elector or candidate aggrieved by a ruling of an election official would be able to file a complaint with the Supreme Court.

I'm wondering what the term "elections official" might refer to. Is that State Elections Enforcement Commission? Is that the Secretary of State's Office? Is that a registrar of voters? Who would that -- who might be making that decision and what would be the grounds for that kind of a complaint? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, election officials are defined terms under Title 9 of our statutes and, typically, would apply to town clerks, town or city clerks, potentially -- forgetting the name at the moment -- the individuals who run -- the checkers at the polls --. I apologize it's escaping me at the moment -- but, certainly, could also include the Secretary of State's Office. And the commission that's referenced is, in fact, the State Elections Enforcement Commission which would be the entity which would receive a certified copy of the complaint. I'm sorry, sent by first class mail. I apologize.

THE CHAIR:

Moderators, challengers, checkers, perhaps?

SENATOR MCDONALD:

Thank you very much, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President, for coming

cd
SENATE

160
April 28, 2010

up with moderators, checkers. These are all good terms.

And is the notification to the Elections Enforcement Commission done so that they could possibly intervene in the matter, through you Mr. President?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

I'm sorry, Mr. President.

Would Senator Kissel be kind enough to restate the question?

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Sure. Is the notification for the State Elections Enforcement Commission done with an eye towards allowing them to or at least alerting them and anticipating that they would have an ability to intervene in the matter? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

cd
SENATE

161
April 28, 2010

Through you, Mr. President.

The amendments to the statute don't indicate that there would be anything further other than notification to the commission. The commission, certainly, would have the ability independent of the statute to file a motion to intervene if it could assert a basis for doing so whether by statute or by permissive intervention. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And I really appreciate Senator McDonald's expertise in this area.

I guess it would be an abil -- give them an ability to ascertain whether, A, they have a desire, and, B, they have grounds to get involved in that case.

Moving along to Sections 8 and 9 regarding emergency planning, it's my understanding that the bill would allow the Chief Justice and the Chief Court Administrator to take actions necessary in the event of a major disaster. And I'm sort of

cd
SENATE

162
April 28, 2010

surprised that they don't have that ability at this time already. Is it anticipated that they don't and/or that perhaps they do but this simply clarifies that? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, through you, the Branch believes that it does not have that Authority. And as Senator Kissel knows, I'm sure, we've both been to Rules Committee meetings of the court where they have wanted to deal with this issue on a prospective basis as opposed to reacting if a emergency did arise. So, in their estimation, this language would allow them to -- to prepare for an emergency or disaster and would facilitate ongoing judicial operations during the pendency of that emergency or disaster.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And God bless you, Senator Doyle.

cd
SENATE

163
April 28, 2010

Thank you very much.

Regarding Sections 10 and 11, participation in behavioral health partnership, I'm not exactly sure what the behavioral health partnership is, if the good Senator could explain. I think it has something to do with the Department of Social Services.

THE CHAIR:

Senator McDonald.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

This item might be passed temporarily?

THE CHAIR:

Without objection, this item is passed temporarily.

Mr. Clerk.

THE CLERK:

Calendar page 23, Matters Returned from Committee, Calendar Number 75, File Number 74, Substitute for Senate Bill 229, AN ACT CONCERNING THE PRETRIAL SUPERVISED DIVERSIONARY PROGRAM FOR PERSONS WITH PSYCHIATRIC DISABILITIES, favorable report of the Committee on Judiciary and Public

cd
SENATE

164
April 28, 2010

Health.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

On acceptance and passage, do you care to remark further?

SENATOR MCDONALD:

Yes, Mr. President.

Mr. President, just briefly, this legislation would narrow the scope of the Court Support Services Division, Pretrial Supervised Divisionary Program for defendants with psychiatric disabilities who have been charged with relatively minor offenses. Mr. President, under this legislation CCS -- CSSD makes eligibility recommendations to the court after consulting with medical and mental health professionals. And the defendants would be considered ineligible if they have participated in the program twice before or

cd
SENATE

165
April 28, 2010

were ineligible for the AR Program, the Accelerated Rehabilitation Program.

Finally, Mr. President, the -- under this legislation, it sets a two-year maximum period of supervision or probation for defendants participating in the program and permits CSSD to contract with service providers to assist in placement of defendants in appropriate treatment programs. Through you, Mr. President.

THE CHAIR:

Will you remark further?

.. Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Just a few questions?

THE CHAIR:

Please frame your questions.

SENATOR KISSEL:

Through you, Mr. President. First of all, is this bill about the Pretrial Supervised Diversionary Program for persons with psychiatric disabilities that was a new initiative that we just passed a couple of years ago? Through you, Mr. President.

cd
SENATE

166
April 28, 2010

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I believe that's correct, to the Senator.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you.

And one of the things that we were -- and I was involved in the working group that came up with this notion and, you know, there was a question asked that whether two bites of the apple was appropriate. But quite often with individuals that have these kinds of psychiatric or psychological infirmities, sometimes they would run afoul of the law for something as nominal as not taking their appropriate medications and that being in some kind of violation and -- and obviously these aren't regarding violent offenses where there's damage to victims. But I'm just wondering -- and, again, in relation to the underlying program, the last time we inquired about it was about a year ago and was having a

cd
SENATE

167
April 28, 2010

difficult time getting -- I wouldn't say a difficult time but the fact that it was available to members of the bar, was just becoming known and I'm wondering if we know how successful it has been thus far. If we have any kind of notion as to how many people are using it.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, I don't have any empirical data relating to the number of individuals who have gone through the program. I can tell you that in talking with -- in talking with folks in the judicial branch and with the prosecutors and attorneys who practice in the area -- they have considered the program to be a very successful one and yet another tool that allows prosecutors to deal with individuals who come into our criminal justice system with severe emotional or psychiatric problems. So I don't have any numbers to share with you, Senator Kissel, but I think the testimony before our committee made it clear that those who practice in this area on a consistent

cd
SENATE

168
April 28, 2010

basis have found it to be an extraordinarily --
extraordinarily helpful and useful tool in their
-- in their responsibilities.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

I'm happy to take a little bit of credit with
the other members of the Judiciary Committee for
moving forward with this initiative a couple of
years ago. We're all about trying to get people
out of that path towards a life of crime. And to
the extent these diversionary programs are
successful that means less people incarcerated at
a cost of about \$40,000 a year and more people to
become law abiding, tax paying citizens of the
state of Connecticut and also less victimization.
So I think it's a good program.

I do note that the bill is capped at two
years, the period of supervision or probation for
defendants with psychiatric or psychological
disabilities. I'm just wondering why we're
capping it at two years. Through you, Mr.
President.

cd
SENATE

169
April 28, 2010

[President in the Chair.]

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Good to see you.

THE CHAIR:

Good to be here, Senator.

SENATOR MCDONALD:

Wonder if that will be true in four, five, six or seven hours from now, but -- but we're moving along, Mr. President.

Through you, Mr. President, to Senator Kissel -- through you, Mr. President, I apologize to Senator Kissel. I'm trying to find where I had that information. I can't locate it at the moment.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. There -- there may be some assistance behind Senator McDonald that might be of assistance to him in that question.

SENATOR MCDONALD:

cd
SENATE

170
April 28, 2010

Can we stand at ease unless --

THE CHAIR:

The Senate will stand at ease.

[Chamber at ease.]

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. . Nothing substitutes like human experience and I've had the benefit of talking with some of the folks from DMHAS and am informed that the two years is really all that is needed for the adequate supervision of individuals in these types of programs that -- that everybody who would be participating would fully benefit from the program within that time period.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. May I also say it's great to see you.

THE CHAIR:

Thank you, sir.

SENATOR KISSEL:

And I don't know if it's a good or bad thing

cd
SENATE

171
April 28, 2010

that we've now gone through three presidents of the Senate, and we're still on handful of judiciary bills.

And, in fact, I actually believe that that answer to my last question comports with empirical studies that have been done for other folks regarding how long a probationary period should be for and that there comes a time where if an individual is meeting all the requirements of their probation and their supervision that they have obviously turned their lives around and that their risk to society drops dramatically and so I guess when you put those two things dovetailed together it makes an awful lot of sense and it's probably more cost effective, too.

I do believe that another aspect of the underlying bill allows Court Support Services to contract with private providers to assist in placement. I'm wondering if we have ongoing programs regarding that with private providers or there's anything new anticipated to be done going forward should this bill pass and be signed by the Governor into law and if there's any allocation in our budget or budget negotiations regarding this

cd
SENATE

172
April 28, 2010

to allow more private providers to participate through contract with this program. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Kissel, there are already servicers -- service providers. This language simply seems to clarify that -- that those would be -- could include the services for assisting and placing people pursuant to the provisions of the bill.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And one last question, it does seem that the bill indicates that Court Support Services would recommend who would be -- would benefit from this program. I'm just wondering who's been -- and, again, let me just double check my notes -- has Court Services recommended defendants who would benefit from this program? And I'm just wondering

cd
SENATE

173
April 28, 2010

who's been taking on that role so far. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President. I apologize, I don't -- didn't understand the question.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

My notes, it says that it has -- states that Court Services will recommend defendants who would benefit from this program. I'm just wonder -- first of all, I guess, are my notes accurate? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Well, through you, Mr. President, I haven't had the benefit of seeing Senator Kissel's notes so I can't vouch for the authenticity or accuracy of those notes.

cd
SENATE

174
April 28, 2010

THE CHAIR:

Senator Kissel, I'm sure they are, though.

SENATOR KISSEL:

Thank you. I appreciate that act of -- that statement in good faith.

Well, that's the extent of my notes so you know what the notes say. I'm just wondering -- why don't I rephrase the question.

Through you, Mr. President, who makes the recommendation right now in the program as to who would benefit from the program?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. I believe that a -- is, in essence, the -- well, can be the recommendation of the defense counsel. It can be the recommendation of the -- of the prosecutor's office and, certainly, could even be the recommendation of a judge who is pretrying the case. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

cd
SENATE

175
April 28, 2010

Thank you very much. And would it be anticipated through this bill that any other entity would make a recommendation or an evaluation as to whether this program would be a benefit to the defendant. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you. Through you, Mr. President, I believe it -- there -- my list wasn't intended to be exclusive. There could be mental health professionals or folks from DMHAS who could also make a recommendation that the individual would benefit from participation in the program. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And I thank Senator McDonald for answering all those questions.

Clearly, while we've been going through quite a few judiciary bills, it really looks like it's

cd
SENATE

176
April 28, 2010

DMHAS' lucky day here in the Senate because most of these bills seem to have to do with their initiatives. And I'm certainly pleased that we've seen success with our mental health diversionary program. I haven't heard any bad stories regarding negative outcomes regarding individuals placed in this program.

And I can only believe that we've actually, sort of, stopped at the pass individuals who may otherwise end up incarcerated that should not really need to be incarcerated in order to turn their lives around. And so I think in the long term for the people of the state of Connecticut, it's probably a very good initiative as far as reducing victimization but, also, as far as shepherding very precious revenue resources, tax resources, within our criminal justice system. And for those many reasons I'm happy to support the bill.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate Bill 229?

Will you remark further on Senate Bill 229?

cd
SENATE

177
April 28, 2010

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, if there's no objection, might this item be placed on the consent calendar?

THE CHAIR:

Motion on the floor to place the item on the consent. Seeing no objection, so ordered.

Mr. Clerk.

THE CLERK:

Calendar page 24, Calendar Number 98, File Number 93, Substitute for Senate Bill 312, AN ACT MANDATING THE RE -- REGIONALIZATION OF PUBLIC SAFETY EMERGENCY TELECOMMUNICATION CENTERS, A STUDY OF CONSOLIDATION, favorable report of the Committee on Public Safety, Planning and Development, and Appropriations.

THE CHAIR:

Senator Stillman.

SENATOR STILLMAN:

Thank you, Mr. President, good afternoon.

THE CHAIR:

Good afternoon, ma'am.

SENATOR STILLMAN:

cd
SENATE

178
April 28, 2010

Thank you. I move the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on approval and passage, ma'am, would you like to remark further?

SENATOR STILLMAN:

Yes, I would. Thank you, sir.

This bill addresses a -- an opportunity for municipalities to actually save some money by continuing the process of trying to -- of regionalizing public safety answering points throughout the state.

Fifteen years ago, Senator Roraback and I, when we were both in the House, addressed this issue about regionalization on a voluntary basis. And -- and as I said about 15 years has gone by and it's time to get a little more serious. Many departments and towns have regionalized but there are still some that are -- are having some difficulties.

So what this bill does is it brings in the Office of Statewide Emergency Telecommunications to help, in a sense, to mediate this process. And, with that, I do have an amendment to clarify

cd
SENATE

179
April 28, 2010

this bill. If the Clerk would kindly call LCO
Number 4100 and that I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4100 which is designated Senate Amendment
Schedule "A" offered by Senator Stillman of the
20th District.

THE CHAIR:

Senator Stillman.

SENATOR STILLMAN:

Thank you, sir.

What this amendment does --

THE CHAIR:

Do you move adoption?

SENATOR STILLMAN:

I do move adoption.

THE CHAIR:

Please proceed.

SENATOR STILLMAN:

Thank you for the reminder.

What this amendment does is to extend the time
frame to -- for regionalization to be accomplished
by 2016. It also addresses the concerns that have

cd
SENATE

180
April 28, 2010

been raised about municipalities with a population of 40,000 or more. So this does not -- this bill does not affect them. It doesn't change anything for those particular towns -- large towns or, I should say, cities.

And just as importantly in Section 3 of the amendment, it outlines the parameters of the duties of the Office of the Statewide Emergency Telecommunications in terms of giving them guidelines as they study this process. It will obviously include all those entities that have a stake in the outcome. And I believe that this amendment clarifies the bill and actually makes the bill better. And I move its adoption.

THE CHAIR:

Motion on adoption of Senate "A" on the floor. Would you like to remark further? If not, I will try your minds. All those in favor, please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nay.

The ayes have it. Senate "A" is adopted.

cd
SENATE

181
April 28, 2010

Will you remark further on Senate Bill 312 as amended by Senate "A"?

Senator Kane.

SENATOR KANE:

Thank you, Mr. President, good afternoon.

THE CHAIR:

Good afternoon, sir.

SENATOR KANE:

I do appreciate this bill, and I appreciate the work that Senator Stillman and the Public Safety Committee has done on this. And I do also believe that some regionalization is in order.

At the same time with the amendment that we just passed with populations of 40,000, we are protecting the cities and I can understand that. There are, however, some medium-sized towns, like mine, where I live, that we do a very good job of protecting the citizens with our telecommunications. And I'm fearful that if we consolidate a town like my own with some of the others it may become chaotic. It may become overwhelming. So I would ask that the Clerk, Mr. President, has an amendment, LCO number 3674. I ask that he call the amendment, and I be allowed

cd
SENATE

182
April 28, 2010

to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 3674 to be designated Senate Amendment
Schedule "B." It's offered by Senator Kane of the
32nd District.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I move adoption.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

Thank you, Mr. President.

What this amendment does in line 22, after the
year 2016, it changes the municipalities'
population to 15,000 or less. Again, a population
like my own -- in Watertown, we have 22,000 people
and our fire and our police do a great job in
handling the community there and keep our
residents safe. On any day you could have a motor
vehicle accident, you can have a domestic violence
dispute -- we've had bank robberies, as a matter

cd
SENATE

183
April 28, 2010

of fact. So what I'm fearful of is -- let's say you -- our contiguous towns, such as Middlebury and Thomaston to the north, that if we consolidate these towns that it would become very chaotic for these transport -- for these communication centers. So I guess, you know, I'm hoping through Senator Stillman that the process will take that into consideration as the study goes forward and not necessarily inhibit these small towns.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate "B"?

Senator Stillman.

SENATOR STILLMAN:

Thank you. Thank you, Mr. President.

Through you, I would like to make comment on the amendment that is on the floor. Senator Kane and I did talk about his concerns and they certainly are valid -- the ones that -- the concerns of his public safety folks. And let me make this clear. This bill has nothing to do with saying that they don't do a great job. They do the best job. They've got the best responders.

cd
SENATE

184
April 28, 2010

There's no doubt about that.

But I believe that the amendment and that -- and Senate Amendment 1 that has become Senate Amendment "A" addresses the concerns that his community has because it lays out four parameters that I believe will take into consideration what he has talked about on the floor. And so for that reason I would have to oppose the amendment and because I -- I believe that we are covered.

Thank you, sir.

THE CHAIR:

Thank you, ma'am.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

If I might, through you, a question for the proponent of the bill?

THE CHAIR:

Senator Stillman.

SENATOR KANE:

Is that possible?

THE CHAIR:

Sure, go ahead. For you, Senator Kane.

Senator Stillman.

cd
SENATE

185
April 28, 2010

SENATOR KANE:

Thank you, Senator Stillman. I appreciate those remarks, and I appreciate the -- the kind words because you're right. They do a great job. I think in all our towns, of course.

I guess my question to you then -- because I will withdraw my amendment if you feel that all the stakeholders will be at the table during this study and we'll be able to figure this out during this period. And so some of the smaller communities -- because I do believe in the regionalization part. I do believe that the smaller towns need this. It'll -- it'll be a cost savings and it'll be helpful in sharing of resources, but, also, there are some towns just caught in the middle there. So I just want to make sure that towns, like mine, will still have that benefit through this process. Through you, Mr. President.

THE CHAIR:

Senator Stillman.

SENATOR STILLMAN:

Thank you.

Through you, absolutely. I can assure that.

cd
SENATE

186
April 28, 2010

As a matter of fact having had a conversation in negotiating this amendment, which is now Senate "A" on the bill, we had OSAT at the table. We had some representation from the fire entities, the police entities, et cetera, and they agreed that this was the best way to approach it; that we'd have an objective viewpoint and that we'd take into consideration all the concerns and the stakeholders would have a say. And just as further reassurance, the report has to come back to the Public Safety and Security Committee before anything can move forward. So I do believe that we've covered all bases.

Through you, sir.

THE CHAIR:

Thank you, Senator.

Senator Kane.

SENATOR KANE:

Well, thank you, Mr. President.

I thank Senator Stillman for her answers. I hope that she will still be the chair of the Public Safety Committee in 2016; that we can possibly look forward to her help. So I will withdraw my amendment.

cd
SENATE

187
April 28, 2010

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further? I'm sorry. We have a withdrawal of a Senate Amendment "B" on the floor. Seeing no objection, Senate "B" is withdrawn.

We are now on the bill as amended by Senate "A." Would anyone like to remark further on Senate Bill 312 as amended by "A"?

Senator Stillman.

SENATOR STILLMAN:

Yes, sir. If there is -- isn't any further discussion and no objection, I'd like to ask that it be placed on the consent calendar.

THE CHAIR:

Motion on the floor to place the bill on consent. Seeing no objections, so ordered, ma'am.

Mr. Clerk.

THE CLERK:

Calendar page 25, Calendar Number 113, File Numbers 125 and 609, Substitute for Senate Bill 168, AN ACT CONCERNING WORKERS' COMPENSATION AND A POLICE OFFICER'S USE OF DEADLY FORCE ON A MAMMAL,

cd
SENATE

188
April 28, 2010

favorable report of the Committee on Labor, Public Safety and Appropriations.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President.

THE CHAIR:

Good afternoon.

SENATOR PRAGUE:

Mr. President, I move the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on approval and adoption, ma'am, would you like to remark further?

SENATOR PRAGUE:

Yes, I would. Thank you very much.

THE CHAIR:

Please proceed.

SENATOR PRAGUE:

Mr. President, this is the story of a police officer who confronted this chimpanzee -- I'm going to yield to Senator McDonald, through you, Mr. President -- but before I do I just want to say that the story of what happened is probably

cd
SENATE

189
April 28, 2010

worse than any Alfred Hitchcock terrorizing movie. This police officer came before the Labor and Public Employees Committee to tell his story, and we were all held speechless by what he had to say telling us what happened to him.

So having said that, I'd like to yield to Senator McDonald, Mr. President, this is Senator McDonald's bill and he will tell you the exact story of what happened to this police officer and the lack of Workers' Comp coverage.

Thank you.

THE CHAIR:

Thank you.

Senator McDonald, do you accept the yield?

SENATOR MCDONALD:

I do, Mr. President.

THE CHAIR:

Please proceed, sir.

SENATOR MCDONALD:

Through you, Mr. President.

And thank you, Senator Prague, for bringing this bill before the Labor Committee, for conducting a very respectful hearing before the Labor Committee, and listening to a very brave

officer who is in the service of the City of Stamford and has been for some time.

Mr. President, the story I relate to you and to the members of this chamber is not one that hasn't been heard before, at least in theory. But I have to say, Mr. President, that I have been disheartened to hear some individuals mischaracterize what happened on that fateful day in the City of Stamford and why it results in the legislation before this chamber today.

Mr. President, on that day there was a horrible, horrible accident in the City of Stamford where a chimpanzee who had been raised as a pet by a citizen went berserk. And, in that situation, he mauled a woman beyond recognition. She had her face torn off. She had her fingers eaten. She had her ears removed. She lost most of her scalp and she was left for dead by a chimpanzee in a driveway of a private residence.

The property owner, a good friend of the victim, took a knife and stabbed what she considered to be one of the most important things in her life, that 220-pound chimpanzee. She stabbed that chimpanzee four times and, yet, he

cd
SENATE

191
April 28, 2010

did not desist.

The police were called and they bravely responded. And, when they arrived, they found a gruesome sight. But police officers find gruesome sights every day and they deal with it. You don't see them grabbing headlines, but they have horribly, horribly hard jobs to perform. On this day, those police officers arrived and found Charla Nash in a bloody pool, grasping without hands towards the police officers, grasping without eyes toward those police officers. And they wanted to lend assistance to her but they could not because this wounded chimpanzee was charging at them.

They retreated to their police cruisers. And this chimpanzee, at 220 pounds with much more strength than a 220-pound human, ripped off the passenger side mirror of the police cruiser. The officer that we're talking about was able to retreat to his car and close the door. Now if anybody is familiar with police cruisers, you know that there's a grate, a chain-link grate, behind the police officer. And you know that there are consoles with electronic equipment that create a

cd
SENATE

192
April 28, 2010

confined space where the police officer has no real opportunity to move.

In this instance, Mr. President, this chimpanzee in a deranged state came around the car and with an opposable thumb opened the door of the police cruiser. With four stab wounds in his back -- and I pardon -- pardon the vivid description here but with the blood of Ms. Nash dripping out of his fangs, started to come into the police cruiser to attack this police officer.

Through some miracle that I still don't understand, he was able to unholster his service revolver and shoot the -- the chimpanzee as he was on top of the police officer. And he was able to discharge his weapon four times. Finally, the chimpanzee retreated, returned to the house into his cage where he died.

And certainly everybody was focused on the horrible, horrible situation that befell Charla Nash. And that's where everybody's attention needed to be then and needs to be even today as she struggles. But one of the very sad things that happened that day was to a second victim. This police officer was a -- was and is a very

private man. He did not want to talk about it. He just wanted to do his job. But, Mr. President, the trauma of this event, the trauma of having this chimpanza -- this chimpanzee imminently about to kill him resulted in severe emotional distress and damage to this police officer.

Over the ensuing weeks when he was unable to come to work, he was in a deep depression. He lost, I am told, approximately 40 pounds. He was unable to function. And he filed a Workers' Comp claim with the City of Stamford and it was denied because, according to our law, he was not eligible to receive any Workers' Compensation benefits for the very severe emotional distress and damage that resulted -- not from witnessing a horrible event but from bearing the burden of a horrible event that was about to befall him, his own imminent death.

Under our law; currently, a police officer who is faced with a situation such as this and is required to use deadly force against another human being to protect himself from imminent risk of serious physical injury or death can, in fact, file a claim for Workers' Comp benefits for that

mental or emotional impairment. And the City of Stamford read the statute and it was clear. This officer did not face imminent physical injury -- imminent serious physical injury or death from a human.

It was something worse than human. It was more powerful than a human and so that claim was denied.

Ultimately, the City of Stamford went outside of the Workers' Comp Benefit system and paid for some medical services for this officer. And that was the right thing to do. But they weren't the services -- they weren't the benefits that this entitle -- this officer, in my opinion, was entitled to.

And so, Mr. President, this legislation would make it clear that any police officer who is faced with imminent serious physical injury or death, whether from a human or from a mammal, would be eligible to apply for Workers' Comp benefits for mental or emotional impairment.

Now I have heard people minimize and diminish what this officer suffered. I've heard people snicker. It's disgusting. What this officer

cd
SENATE

195
April 28, 2010

faced, what he endured was something no human being should have to endure. This is not a situation where an officer had to discharge his weapon to shoot a rabid dog at 40 yards. This animal was about to kill him. There is a big qualitative and quantitative difference between those two things.

Mr. President, this test is a well-known test in our law. Imminent risk of serious physical injury or death is not new terminology. It is well tested. There is a well-defined body of case law. And it would be -- it would require anybody to objectively view the facts and appreciate that risk. It's not somebody saying, I hurt -- had personal hurt feelings. It's that anybody, who reasonably looked at those facts and circumstances, would come to the same conclusion.

And so Mr. President, I want to thank this chamber for bringing forth -- or thank Senator Prague for bringing forth this legislation. I want to be clear that this is not just about this police officer. It's about any police officer who has to face some kind of horrible situation, such as this, in the future. This legislation would

cd
SENATE

196
April 28, 2010

apply to the police officer in Stamford. It does apply to pending pain -- claims and his is under appeal. But it would also protect other officers in the future because nobody should have to face that kind of violence. Nobody should have to face that kind of emotional trauma and be without a legal remedy under our law.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

There's no question that this is a truly extraordinary set of circumstances. An incident that is just beyond being horrible. There really is no word for it. And it happened in my district. And I think that most of you followed this particular case. I think Senator McDonald makes a terrific case for passage of this law.

However, I will tell you who makes an even better case for passage of this law and that's the officer involved in the incident. If any of you were able to watch this on CTN, the news -- it was

cd
SENATE

197
April 28, 2010

on national news or were there in person, you'd know what I'm talking about.

I will be in favor of this because of the extraordinary circumstances here, however, I do want to caution everybody that when we do widen the net here, so to speak, of people who can be covered by Workers' Comp and disability and all the other benefit packages that may be available to someone in a terrible case like this, we do have to be very, very careful about what we are doing.

And to that end, Mr. President, I have one question for Senator McDonald.

THE CHAIR:

Senator McDonald.

Please proceed, sir.

SENATOR FRANTZ:

Thank you.

Mr. President, through you, the language says specifically that a mental or emotional impairment from such police officer's interaction with an animal in the line of duty regardless of whether such police officer is physically injured provided the animal displayed behavior during the

cd
SENATE

198
April 28, 2010

interaction that resulted in the police officer reasonably believing that he or she was in imminent danger of serious physical injury or death from such animal. That's about the midsection of the bill for those who have the bill without numbers on the side.

Senator McDonald, through you, Mr. President, you -- you referred to case law and precedents that have been set. My question is, could this -- could this be abused, based on your knowledge of the different findings in the courts over the years and -- and how many of these different cases there may be out there. To me, it might be 400, you know. To you, it might be 10. That sets a good precedent here in terms of where we're going with this. But could it ever be interpreted by a panel or a judge that the raccoon that's displaying rabid behavior in coming after someone -- you know, it's not going to kill a person on the spot but the rabid raccoon could bite that person and that person may have a greater sensitivity than the rest of us to rabies and die. Is that something that would be considered to be putting the officer in danger of serious injury or

cd
SENATE

199
April 28, 2010

death?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. And, through you to Senator Frantz, I appreciate the question.

I have yet to figure out the hypothetical where that would apply. I can't imagine yet the circumstance that somebody could talk to -- to justify the use of this type of legislation for that type of event. And just so we're clear I -- I would imagine that this would be an extraordinary -- extraordinary situation.

Under the test that I was talking about, the imminent risk of serious physical injury or death. Some case law has defined it to be both a subjective and objective test. Meaning that the individual would have to personally believe that -- the -- that they were faced with the imminent risk of serious physical injury or death and that the fact finder determined that the defend -- that the individual, in fact, was faced with that. So it's a -- it is, at first, a subjective analysis for the individual involved, but the fact finder

has to objectively be able to determine that any reasonable person would be similarly fearful of imminent serious physical injury or death.

So whether it is the rabid dog or the rabid raccoon unless that animal is right on top of the police officer, about to rip out his or her throat, I don't understand how it would ever apply.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you. That sufficiently answers the question, and I thank the good Senator for that.

So, as it relates to legislative intent, I think he's made it very clear to all of us in the circle today and the people of Connecticut that there is a very high standard, a high bar, to which a case has to go in order for there to be Workman's Comp awarded to someone in these kinds of circumstances where an animal puts an officer in imminent danger of serious injury or death.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

cd
SENATE

201
April 28, 2010

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

A few questions, through you to the proponent of the bill.

THE CHAIR:

Senator McDonald.

SENATOR KISSEL:

Right now, I'm wondering how far our Workers' Compensation statutes go in regards to similar claims. And so let me just walk through some examples and see where we are.

First of all, by way of trying to figure out what we're trying to achieve here, are we trying to compensate this individual or similarly situated individuals going forward because they were in fear of their life and that has caused them psychological damage, or are we compensating these individuals because of the very frightening experience that they had and, especially, in witnessing the dreadful, horrific injuries to Ms. Nash that in and of itself would cause anybody nightmares probably for -- for months if not years? Through you, Mr. President.

cd
SENATE

202
April 28, 2010

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you. Through you, Mr. President, and to Senator Kissel, I appreciate the question.

It would be the former not the latter. It is the -- it is the emotional and mental impairment suffered by the officer as a result of the risk of injury or death to him or herself not because the officer viewed or came upon a situation that was emotionally fraught that had nothing to do with that officer. It is a sad fact that police officers, firefighters, EMTs everyday come upon -- in the course of their duties, come upon very traumatic, gruesome scenes and they are not compensable injuries under Worker's Comp -- and nor would they be under this legislation.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. And so let me -- let me take a step back. Would this antic -- would this bill only apply to police officers or, let's say, there's a conservation officer out there policing

cd
SENATE

203
April 28, 2010 .

our state parks and they come across a black bear or a bear and the bear now charges that conservation officer, jumps that conservation officer. That conversation officer -- that conservation officer is in clear fear of his or her life pulls out their sidearm, shoots the bear, kills the bear. Would this protect them? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Kissel. You know one of the concerns was that in this leg -- in drafting this legislation, we wanted to make it clear that existing law which solely limits the -- the perpetrator to being a human, as opposed to an animal, would only be extending it to the situation where the animal was the perpetrator not a human. So to answer your question directly, we have not changed in any way the existing law with respect to the police officers that are covered under Workers' Compensation. And, under line 30 through 36, there's already a definition of police

cd
SENATE

204
April 28, 2010

officers that are covered for the purposes of this legislation and it includes any member of the division of the State Police within the Department of Public Safety, any organized local police department or municipal constabulary.

Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. So would it be fair to state that a conservation officer would not be included in this statute? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

I don't believe a conservation officer is -- is in the Department of Public Safety. I believe they're in -- under DEP so it would not be covered.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. And,

cd
SENATE

205
April 28, 2010

through you, if someone is in a gunfight with robbers or some kind of fleeing felon and one is a police officer. And so that police officer is in fear of her -- his or her life and, ultimately, after a gun battle, it's resolved. Can that individual if they're mentally suffering because of that make a Workers' Compensation claim?

Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you. Through you, Mr. President, to Senator Kissel. As I understood the question, the hypothetical would involve a police officer having a gun battle with another police officer. The question under existing law is whether the police officer was in -- reasonably believed that he was in imminent risk of serious physical injury or death. From -- and that is why he needed to use the deadly force. So if that fit that definition, then that officer would be eligible for the Workers' Comp benefits.

It is interesting to note that if -- that if a individual shoots at a police officer that could

cd
SENATE

206
April 28, 2010

be from some distance and the police officer might still be suffering from mental or emotional impairment which would come within the scope of this.

In the situation that I've shared with the circle, unless the -- unless the animal had a weapon such as -- such that could be used to create that same risk, then I couldn't imagine a situation where it would apply unless the animal was pretty much on top of the officer. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. So I'm -- I'm really -- I have to be honest. I don't know how I'm going to vote on this and that's why these questions are very important, at least from my perspective, because I'm trying to figure out what is fair here and the way I'm trying to get to that is what -- how far does our law already go, and it seems like -- it appears that you're trying to make a very modest step to -- to bring this particular kind of activity in.

cd
SENATE

207
April 28, 2010

So is it my understanding that if a police officer stumbles upon a bank robber, the bank robber pulls out a gun and starts shooting at the police officer, the police officer ducks behind his or her cruiser, calls in for support and for that moment was in fear of his or her life but later on that matter's resolved, the felon is apprehended and then taken into custody but, let's say, that man or woman then has nightmares about looking down the barrel of a gun and just God willing they -- they were able to get out of the path of the bullet, jump behind the cruiser and -- and not get hurt. Could that police officer under our current statutes file a Workers' Compensation claim for the emotional trauma of being in fear of his or her life? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

As I understood the hypothetical -- maybe I heard it wrong, but I think the answer is no. The police officer would have to have used deadly force himself in a situation where the officer was faced with imminent risk of serious physical

cd
SENATE

208
April 28, 2010

injury or death. So in the sit -- in the hypothetical I heard you say, the police officer didn't have to use deadly force against the perpetrator.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

So -- thank you very much. So it's becoming clearer. So in my example, now, let's vary it one degree. In current statutes would the police officer have to draw his or her weapon and fire a shot at the bank robber and then jump behind the "cruiser to avail themselves of our current Workers' Compensation laws?

Is the mere fact of shooting back at the felon who's shooting at you bring you within the ambit of our current Workers' Compensation statutes?

Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I don't think it's that simple of an analysis. It would have to require that the police officer was using deadly

force or res -- subjected to deadly force in the line of duty and the police officer reasonably believed that he was in imminent risk of serious physical injury or death. So it's not just one or the other, it's got to be both.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Well, I must not have done my example correctly because what I'm trying to say is that, you know, the police officer comes upon a bank robbery. They are proceeding towards the bank. Out comes -- out from the front door comes the villain. The villain has a weapon drawn and starts firing at the police officer. And, in my example now, the police officer draws his or her weapon, fires back at the bank robber and uses now that firing to gain enough time to go behind his or her cruiser, duck for cover. So that I think all of the elements are there. The fear of imminent death, bank robber shooting at the police officer; shooting with deadly force, police officer shooting bank at bank robber; and then going behind the cruiser until relief comes and

cd
SENATE

210
April 28, 2010

villain apprehended. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, I think it would -- under your hypothetical, the police officer would at least be able to file the claim and not have it dismissed. And so, under your hypothetical, the police officer would have met the threshold of filing the claim but would still have to withstand and prove, under the law, that the test was met. There would still have to be proof and a hearing and evidence submitted if -- if there was a challenge to the claim. But I think, under the hypothetical you've posed, if the police officer was using deadly force to protect himself from the use of deadly force against him or her that officer would, at least, be eligible to file the Workers' Comp benefit -- the Workers' Comp claim seeking the Workers' Comp benefits for mental or emotional impairment.

THE CHAIR:

Senator Kissel.

cd
SENATE

211
April 28, 2010

SENATOR KISSEL:

Thank you very much. So under -- and that helps me because I -- I really didn't understand the nuances of how these claims have to move forward.

But now the next question, do we afford the Workers' Compensation benefits primarily because of the mental distress of being in fear of one's life or is the crux of the Workers' Compensation benefits such that the fear, the mental anguish, caused by the being in peril necessitated actions which could have taken another human life? And what we're about to do with this bill is now change that from, I was so afraid that I was going to die that I was compelled to move into action to take another human being's life, versus now, I was so afraid I was going to die I had to take an animal's life. And I'm wondering if the decisions that have come down to give Workers' Compensation benefits factored into their analysis the extreme distress that I think any one of us would feel if we were so terrified that we were going to die that we felt compelled -- almost like we were on a battlefield -- that it's kill or be killed. And

that we have to take something which historically and philosophically has been sacrosanct in our society and that is human life. And now we're moving from taking human life or feeling compelled that I have to defend myself against another human being versus an animal.

And I don't want -- I'm not -- I don't want to diminish what happened to the individual that caused us to get to this because it -- there's no doubt this is scary. And if you want to analogize a mammal to something as close to a human being, this chimpanzee was that individual. It's cared for like a child, raised in a family, loved, completely, you know, as close an analogy as one can get.

But I just wondering in the court decisions, if you know, if it's that notion of feeling compelled to take another human life, or if it's more so scared that - I'm just -- I'm having a hard time drawing that or if it's some of combination. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

cd
SENATE

213
April 28, 2010

Thank you, Mr. President.

Through you to Senator Kissel. The law doesn't cover -- my understanding of the law is that it does not cover any emotional sympathy for the individual or, in this situation, the animal who had to die or any other circumstance that was witnessed. It is the debilitating effects of the risks to the officer, of the -- the loss of his own life or the imminent serious physical injury to the officer that results in mental or emotional impairment that is the compensable injury, if that helps.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you. And I'm just wondering are there other area -- I understand in the context of this situation -- I think I understand what the grounds would be. These are inherently, though, mind numbingly difficult jobs. You know I'm -- I'm always willing to talk about correctional officers where they're getting feces thrown at them and everything else and shanked and shivved and depending on how you extricate an inmate from a

cd
SENATE

214
April 28, 2010

cell that could be your last day on earth. I mean all they need is one quick cut across your jugular vein and you're gone.

I use the analogy of the conservation officer who in the woods stumbles upon a large bear -- even in my neck of the woods in Granby, East Granby, Windsor Locks, Windsor. Actually, all of my towns have had on occasion bear sightings. A person could find themselves on the wrong end of someone -- some animal that for whatever reason feels like taking a life at that moment, maybe they're protecting cubs, maybe they're just time of the season. Who knows?

A firefighter -- or how about this -- a police officer who's called to the scene and finds the horrific remains of a teen suicide. I can imagine that police officer having nightmares for the rest of his or her life from what they've seen. No imminent danger to that officer's life but certainly a horrific tragedy that one has to witness.

Do we comp -- allow Workers' Compensation claims for that kind of mental distress, or do we draw the line at when the officer feels in peril

cd
SENATE

215
April 28, 2010

him or herself? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, you're absolutely right, Senator Kissel. There are innumerable situations where officers are faced with unbelievable decisions on a daily basis. I could -- and they are not compensable. They are fraught with emotional difficulties, for sure. But under -- because of the concerns of many people, some of whom are opposing this legislation; that we are going to far this is very narrowly drafted legislation. It doesn't address many of the issues you've identified.

If you had a situation where a police officer came upon a hostage situation and -- and a gunman had already killed two people and had a gun to a third person's head and the police officer was required to use deadly force that would not result in a compensable injury for purposes of Workers' Compensation. Certainly, it would have an emotional impact on the officer, but it would not

cd
SENATE

216
April 28, 2010

be a compensable injury because the officer was not personally at risk of serious physical injury or death. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And -- and one last couple of questions.

Perhaps a scenario that might come to pass because my guess is that these are going to be few and far between but -- state trooper divers trying to do a rescue mission Long Island Sound shark attack. I could envision being in fearful for one's life and fighting with all due terror and fighting that back off. Would that particular scenario since I believe a shark is a mammal, would that fall into this so that all the -- all the psychological damage from that kind of encounter would be covered under this statute? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. I didn't know we

cd
SENATE

217
April 28, 2010

had introduced sharks into Long Island Sound, but you know it -- it the -- it fit the definition or it fit the requirements of the statute and the officer was -- we can't go beyond the language of the legislation. And the legislation is clear. It would only apply in situations where the office was put in imminent risk of serious physical injury or death as a result of the dangers imposed by the mammal. And -- and unfortunately, Senator Kissel, that's the best answer I can give to the question.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

Well, I think, you know, God forbid that ever happened, but I think it would probably would be covered and it would be one of the scariest things to befall any police diver, trooper diver, or anybody else like that that probably in their professional career.

I understand that this is probably as narrowly tailored as possible, and I understand that it's in response to this extraordinarily unusual and,

cd
SENATE

218
April 28, 2010

by all accounts, incredible tragedy by any stretch of the imagination. I mean there are -- there's just not one winning party in this entire situation and that is incredibly unfortunate.

I can't imagine -- I really can't -- as much this could be a mandate because it'll -- because it'll be reflected in everybody's Workers' Compensation fees. I guess my last question, through you, Mr. President, has there been any analysis as to whether this will have any kind of impact on Workers' Compensation fees because I've got to believe that the number of claims that would fall into this category would be less than five over several years? I just can't imagine this happening very much at all. And so for folks that might be against this bill saying it's going to result in Workers' Compensation rates going up, I'd be happy to learn that that's not the case. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I believe that -- that Senator Kissel is correct.

I should note for the record, by the way, that sharks are fishes not mammals so, unfortunately, because of the wisdom of the amendment that was placed on this bill in the Appropriations Committee, unfortunately, I don't think it would apply to Senator Kissel's scenario that he offered earlier.

THE CHAIR:

What if it was a whale?

Senator Kissel.

SENATOR KISSEL:

Of a whale shark, Mr. President. No, I was trying to run through my mind. I know that dolphins and whales are air breathing so they're mammals. The question I was just doing a qui -- check on sharks but apparently they just fall outside the ambit.

But, again, the last question to me was probably the most important. You know, I consider myself a sympathetic human being and I hate to see anybody wronged. And God forbid this happened to anybody that I knew or anybody just, you know, someone out there protecting -- to protect and serve the people of the state of Connecticut and

cd
SENATE

220
April 28, 2010

the great city of Stamford.

This gentleman woke up, regular day, had his coffee, went off to work never knowing that this was going to take place. Who could imagine these results? And to say that this somehow is an uncompensable, whereas if the assailant was a human being it would be compensable strikes to me as distinction without a difference. And given the fact that this should have no negative ramifications on Workers' Compensation rates, I will be happy to support the bill.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Good evening. Good to see you.

THE CHAIR:

Good evening, sir.

SENATOR DEBICELLA:

Mr. President, I stand in support of this bill for two reasons. First, I think we have to know

and it has been noted the utter bravery of this officer in this situation that I think when he probably became a police officer never expected that he would face. And the situation could have been a lot worse if it were not for the presence of mind and actions of this officer. So I think all of us in Connecticut should be proud of him. The Stamford police -- the Stamford Police Department should be very, very proud of him.

But, secondly, Mr. President, I think, as this discussion has shown, the legislative intent here is narrow and that could be evidenced by the actions of the Appropriations Committee as this has moved through the process. We actually narrowed the scope of this from "any animal" to simply "a mammal." And because the intent of this is not to open up a wide array of new Worker Compensation claims, the intention here is to deal with very unique and, hopefully, rare circumstances like this incident in Stamford. And my hope, Mr. President, is that we do not see another incident like this for many, many years. And, hopefully, some of the other actions that this legislature has taken in terms of banning

cd
SENATE

222
April 28, 2010

some of these exotic pets that can be dangerous will prevent situations, like this, from happening.

So, Mr. President, I think the bill before us today is not only just to the current situation and the bravery shown by this officer, but it is also balanced to ensure that Worker Compensation claims will not be exploding and going through the roof.

So, Mr. President, I stand in support of this bill and thank you.

THE CHAIR:

Thank you, sir.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, the longer I listen to this debate actually the more confused I get. On one hand, we're being told that this bill is being narrowly crafted, more specific to the situation, but, yet, when I read the language and we refer to mammals -- Well, human beings are mammals. It can refer to individuals as well as to large mammals, as well. And I would -- for me, it raises

cd
SENATE

223
April 28, 2010

concerns of the fact that this, in fact, is much more broad than was probably originally intended when this particular situation was -- was experienced and brought to light and, in fact, rises to the level of such a place that would probably beg to have some sort of legislative remedy.

However, through you, Mr. President, if I could ask, please, if, in fact, it -- this bill would then refer to any individual, human being, and the types of mammals that this probably would cover. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, human beings are already covered under existing law -- under the current law. And the original bill taken up by the Labor Committee applied to animals. The Appropriations -- Appropriations Committee saw fit that it was narrowing the scope of the proposal by limiting the class to animals -- to mammals rather than all animals. But to answer Senator Boucher's question, it applies to any type of mammal that

cd
SENATE

224
April 28, 2010

could -- that could yield the type of imminent danger of serious physical injury or death that would satisfy the test. And, as I indicated, it already applies to attacks or threatened attacks by human beings against a police officer.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

So through you, Mr. President, then this language is then identical to the language we currently have when it talks about actual human beings and it just extends the actual same language to mammals no matter the size or variety. Through you, Mr. President.

THE CHAIR:

Senat -- Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. The -- the real test is the type of risk associated with the danger and the potential death, but it would apply to any mammal who could otherwise pose that type of risk to the police officer.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. And, in the language before us, it talks about the sense of being in imminent danger for serious injury or death. And my concern in that is that any police officer and fireman, for that matter, should be trained to deal with that on an everyday basis and including some very difficult cases particularly when firefighters come upon the situation where there's been a terrible fire and there's been deaths associated through that. And it is very difficult and, in fact, a lot of our statutes do deal with that in -- in extenuating circumstances where it maybe goes far beyond what the actual training is.

There is probably no other job other than our soldiers, our policemen, and our fire that have to wake up every morning and have to be prepared for terrible circumstances. It is something that is extraordinary and we are all incredibly -- honored and admire those that are able to do that, as I said, and take those kinds of great risks. It's tremendous pressure on them and their families particularly.

I am concerned about this language in that, in fact, it can be broadened. It can be used beyond what is the intention of this. It is -- seems to be something that we do often when there is a just an extreme situation. We try to deal with that extreme situation. It's unfortunate that the Town had to step in to actually provide the kind of benefits that should have been absolutely provided for this particular circumstance, and we did not have to address this bill. My guess is that if the right thing was done, we wouldn't be discussing this or debating this today.

I am a bit concerned that this goes a little bit too far for me. It's not very narrow. It could be very broad. It could put any police officer, fireman in a situation where there's another human being where there might be a potential for injury, potential for death, which could be an almost an everyday occurrence in that particular field, and then maybe allude to this particular provision.

If there are other remarks that the proposer of this bill would like to make to more assure that it -- it might not be used in this manner, it

cd .
SENATE

227
April 28, 2010

would go a long way to giving me a little more comfort as supporting to this particular bill we have today.

Thank you, Mr. President.

THE CHAIR:

Thank you, ma'am.

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President.

Mr. President, perhaps there is question in the minds of some of the Senators around this circle whether this is a good bill or not.

Let me tell you that if you had been at the hearing and heard this officer's story. Facing this man and listening to what he has to say, as Senator Guglielmo heard and Senator Gomes, you would have no doubt in your mind that this is a -- an appropriate piece of legislation. How often would a situation like this happen?

Secondly, we have a Workers' Comp system in place for injured workers. Certainly, this police officer was an injured worker. Our system is there to protect injured workers and that's what this bill does. This man was out of work for

weeks and weeks and weeks. He lost substantial weight. He couldn't go back to work; he was under such stress. Imagine yourself in a situation like this.

The real test of the value of legislation is how would you react in a situation that's similar to what we're trying to do in legislation. Would you not have fired a shot at that 220-pound chimpanzee to protect yourself when this chimpanzee is standing over you with bloody claws and you had no place to go? So I am hard pressed to think that there would be members in this chamber that think that this is a misuse of the Workers' Comp system. It is not. The system was put in place many years ago because of the recognition of the need of injured workers.

So I ask this chamber to seriously consider yourself in this situation and judge whether this legislation would be good for you under the circumstances.

Thank you.

THE CHAIR:

Thank you, Senator Prague.

Will you remark further on Senate Bill 168?

cd
SENATE

229
April 28, 2010

Will you remark further on Senate Bill 168? If not, Mr. Clerk, please call for a roll call vote. The machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber? An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber?

THE CHAIR:

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

THE CLERK:

Motion is on passage of Senate Bill 168.

| | |
|-----------------------------|----|
| Total number of voting | 33 |
| Those voting Yea | 29 |
| Those voting Nay | 4 |
| Those absent and not voting | 3 |

THE CHAIR:

The bill passes.

Mr. Clerk.

THE CLERK:

cd
SENATE

230
April 28, 2010

Calendar page 30 -- 7 -- calendar page 37,
Calendar Number 347, File Number 523, Substitute
for Senate Bill 225, AN ACT CONCERNING THE DUTIES
OF A MORTGAGEE IN A FORECLOSURE ACTION ON
RESIDENTIAL REAL PROPERTY, favorable report of the
Committees on Judiciary and Banks.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint
committee's favorable report and passage of the
bill.

THE CHAIR:

Moving on adoption and passage, sir, would you
like to remark further?

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I believe the Clerk is in
possession of LCO 4388. I ask that it be called,
and I be granted leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

cd
SENATE

231
April 28, 2010

LCO 4388, which will be designated Senate
Amendment Schedule "A" is offered by Senator
McDonald of the 27th District, et al.

THE CHAIR:

Move adoption, sir?

SENATOR MCDONALD:

I move adoption.

THE CHAIR:

Please proceed.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President and members of the circle, we have seen some extraordinary developments in the state of Connecticut with this very long recession and, perhaps, one of the most enduring problems we have witnessed are an unprecedented number of foreclosures in the state of Connecticut, and some of that we can't do anything about. There is, however, something we can do with respect to the unprecedented number of foreclosures ongoing in this state. And I know that my office is probably inundated, just like yours, with telephone calls from constituents who are having unbelievable problems trying to get information from their

cd
SENATE

232
April 28, 2010

mortgage companies or those who service those mortgages.

And, all too often, we have heard of situations where individuals are seeking to modify mortgages, seeking to refinance mortgages, seeking to work out solutions to the mortgage problem to avoid foreclosure. And, all too often, we have heard that our constituents get bounced around from individual to individual never having the benefit of talking to the same individual twice. Oftentimes submitting documents to the -- to the bank for its consideration only to find out that they're lost, misplaced, never received, apparently, and oftentimes told afterwards those weren't the right documents, we need a different set of documents. And they get bounced around like ping-pongs. And, at the end of the day when the foreclosure is complete, they've never gotten a meaningful response from the mortgage company.

So, Mr. President, we have in the Judiciary Committee crafted a solution or at least a partial solution to that problem, and I want to thank Senator Kissel as the ranking member of the Judiciary Committee. I want to thank

Representative Lawlor and Representative O'Neill who have -- who have both worked on this legislation with myself because, under this legislation, Mr. President, whenever a mortgage company seeks to foreclose on a property, they would be required under this legislation to provide a name of a real live human being -- the name, the mailing address, an email address and other contact information of an individual who would functionally serve as the case manager of that mortgage foreclosure process. So that the property owner could actually email somebody, get the same person and have somebody in the bank be responsible for obtaining the information and conveying it back to the property owner.

Mr. President, this seems like a common sense solution to a very real problem, but I have to tell you it will be a first-in-the-nation opportunity to help property owners in foreclosure. I've shared this proposal -- and I know Senator Kissel has -- with many housing advocates and they are thrilled. I have a housing advocate in my district who shared it with her colleagues at a national conference and they were

thrilled. Because this is a looming problem not only in our state but across the country.

So, under this legislation, this case manager would be required to respond in a prompt manner to the reasonable inquiries of the property owners. And if they didn't -- if they didn't, a judge in considering whether to enter a judgment of foreclosure would be able to delay the entry of that foreclosure until such time as the property -- until such time as the mortgage company complies with the requirements -- the notice requirements, complies with the reasonable requests of the property owner and in any other way to delay the foreclosure if the court determines in its judgment that the conduct of the mortgage company was in any way unfair or deceptive as those terms are construed under our CUTPA, our Unfair Trade Practices Act.

I do want to be clear, Mr. President, that when I talk about CUTPA, it relates to the conduct that is considered under our Unfair Trade Practices Act which is typically conduct that is unfair, unscrupulous, immoral or oppressive conduct. We are not creating an independent cause

cd
SENATE

235
April 28, 2010

of action under this legislation that wouldn't already exist under CUTPA. Under this proposal, no independent basis would -- would derive -- Let me restate that. No independent claim for a CUTPA violation would derive from a violation of these requirements.

It would be merely the type of conduct that would trigger the -- the authority of the court to delay the granting of a foreclosure and that delay could be indefinite if the circumstances warrant. Each case depends on its own circumstances. And the same requirements would -- would hold true, Mr. President, for the entry of a deficiency judgment if a mortgage company failed to comply with the requirements.

Again, Mr. President, there is not a lot we can do to stem a national crisis, but there is something we can do to help our constituents. And this, in my opinion, is one of the very important things we can do to benefit them.

And with your indulgence, Mr. President, I would like to yield to Senator Kissel.

THE CHAIR:

Senator Kissel, do you accept the yield, sir?

cd
SENATE

236
April 28, 2010

SENATOR KISSEL:

I certainly do, Mr. President.

THE CHAIR:

Please proceed.

SENATOR KISSEL:

Thank you.

And how nice after the long colloquies that I've had with Senator McDonald on a variety of bills throughout this afternoon that we arrive at a point where we are absolutely in harmony in moving direction to try to help the people of the state of Connecticut. And I wish to thank Senator McDonald for his leadership regarding this, as well as my friends and colleagues in the House of Representatives, Representative Michael Lawlor and Representative Arthur O'Neill.

Indeed regarding this particular proposal, earlier in the year, it was to our recollection the first time that Republicans and Democrats, as chairs and ranking members of the Judiciary Committee, came forward with a bill proposal and had a joint press conference. That's how important this measure was to us and as how important it was to set aside partisan

differences.

Ladies and gentlemen, there are financial institutions in the United States of America that we have felt are too big to fail. My constituents do not understand the term "too big to fail," but they do understand this. Many of these large lending institutions, whether they're mortgage brokers or banks, can be callous, cold and extraordinarily unresponsive, especially if this recession has hit home causing one individual to lose their job or to have reduced employment opportunities.

What this bill is about is utilizing an existing program that is the first in the nation. Our foreclosure mediation program which seeks to use our judges, our bench, to bring parties together to hammer out a productive resolution to these problems.

Certainly, there are individuals that became over extended through obtaining a mortgages when probably they didn't have the wherewithal to own a home. But in many of those instances, it wasn't their fault. They were afforded an opportunity that seemed too good to be true. And people,

looking for that great American dream, home ownership, took that opportunity.

But I would suggest to you that we're just not talking about individuals that overextended in that situation. There are many individuals, our constituents, that otherwise were doing very well until this great recession took place that now all of a sudden find it very difficult to make ends meet. And, unfortunately, if they were depending on a two-income set of dollars to pay for that mortgage, as well as the other household costs, and somebody lost their job that is a dramatic shift in circumstances. And, in many instances, sometimes those circumstances lead to foreclosure actions.

What does this amendment do? What is this bill about? Well, it brings some human accountability to these large financial institutions. And I want to let everybody know in the circle that we're not talking about your local community banks. We're not talking about your local credit unions. By large -- by the great majority of opinion, the local banks in the state of Connecticut have been tremendously responsive

to the needs within their community. They have not needed to take TARP money. They haven't needed to be propped up. And they haven't hidden behind the mantra of too big to fail. They've been responsive and if you call them up, your local banker, he or she, will communicate with you and try to work things out.

Why is it important public policy to have a Foreclosure Mediation Program? Well, I would suggest that there are many reasons. And indeed we are the first in the nation, and we are still leading the nation in this program. First and foremost, it is not good for -- I hate to see any family thrown out of their homes, but when people are financing -- facing these financial perils above and beyond that if their house is in foreclosure and the people have just given up, typically those homes go into disrepair. And there are statistical studies that show that the surrounding neighborhood property values go down as well. But it's actually quality of life, also. A lot of these families have children. Think of the emotional turmoil there. In many of these cases where people have fallen behind

necessitating a foreclosure action, there is a way out. It's not that there isn't a revenue stream. Indeed they may have a balloon mortgage, they may have a 15-year mortgage. And if they could just get a living body on the other side of that phone to talk to them, they could work it out. They could draft new terms, iron out new indicia that criterion that would have to be followed. A 15-year mortgage could be turned into a 30-year mortgage. The principal and interest payments could be reduced so that that homeowner could stay secure in their home.

What does our Foreclosure Mediation Program do? It allows a judge to bring both parties, both sides, together and see if there's some way to remedy the situation. And I want to let you know in talking to Roberta Palmer, who I had the great benefit of working with when I was in small practice in Enfield, not -- actually many years ago -- when I was working cases in the Housing Court for my client. She was a Housing Court specialist. And what that meant was before someone was evicted, or something like that, the court directed you to try and iron out that

problem with a specialist and she was wonderful. Well, over the course of her career, now, she is in charge of this housing -- this foreclosure mediation for the entire state of Connecticut.

We had a Joint Housing Committee with Senator Gomes and myself and others where we learned that thousands of individuals in Connecticut have already been helped but, unfortunately, there's thousands of individuals and families already in the pipeline where it's difficult to get resolution. What this bill, this amendment, does is say, Okay, you mighty bankers, you too big to fail entities, at least when you bring your foreclosure action, put down the name of an individual who has the authority to discuss the case. Because what we have found, what the courts have found is you can't get someone to answer your question. Superior Court judges, who act as the mediators, the first, the second meeting, even the attorneys for the plaintiffs say -- they shrug their shoulders and say, I don't have the authority to negotiate.

The judge says, Well, find someone in authority.

They come back a half hour later. I can't get anybody in New York; I can't get anybody in Boston; I can't get anybody in North Dakota; I can't get anybody in India -- or wherever the person is that has that authority.

Indeed what has been brought to light is that as much as there are a lot of downsides to the TARP program, you know, those toxic assets and too big to fail and bailing out the banks. What the federal government actually did do, though, is that they said that if you are one of these lenders and you accepted this money, even if you are in the process of paying it back, you have got to work with states that have these kinds of programs and negotiate in good faith.

So if the lender that's bringing the foreclosure action -- and not a lot of people know this -- took any federal dollars, they have an -- they are duty bound to allow the borrower to try to work it out. But if no one picks up the phone, if no one discusses the case, the borrower, the householder, the pers -- the entity being foreclosed on gives up, shrugs their shoulders and either walks away from the property or signs away

cd
SENATE

243
April 28, 2010

the property at a huge loss paying penalties and interest and all these other kinds of bad things.

Indeed the lenders are clever enough to send these cases to agents whose -- it's in their interest to delay the situation. So we're trying to get around all of this. We're trying to say there needs to be parity and equity in the system and that starts with something as simple as if you're going to bring a foreclosure action, the law that we just passed a couple of years ago with alerting homeowners we have this mediation program and now we're passing this law saying you also have to put down the name of a party associated with the lender and a phone number so that the homeowner can begin getting the right information to them, back from them so should they avail themselves of the mediation program from the very first meeting, the judge has all the appropriate information so that they can start carving out a deal for everybody.

It sounds simple. And, by the way, I agree with Senator McDonald. It sounds innocuous but there have been entities in this building that have been fighting it tooth and nail, which leads

me to believe as much as they've been accommodating at this point in time that we're on the right track. Nobody pushes back on a bill unless there's probably some merit to it or it makes some kind of difference. I'm not saying that all bills through this building are good but to have people say, oh, that bill does nothing but we want to kill it, to me, doesn't make sense. Think about that. We're all legislators here. Oh, that bill won't do anything, but there's a bunch of people getting paid a lot of money to try to kill it. Well, if that bill doesn't do anything? Who's paying somebody a lot of money to try to kill that bill. That bill must be doing something good. There must be somebody out there that would prefer to see that law not passed. And my guess is it's these giant lenders, the banks and the mortgage lenders, that are too big to fail. They don't want to be hassled with having to try to partition their caseload amongst people to negotiate. They don't want to have to face the fact that, oh, we may have to negotiate this with the borrowers earlier rather than later and not incur some of these penalties and other kinds of

cd
SENATE

245
April 28, 2010

fees from the poor homeowner who is just trying to make ends meet and get by and keep a roof over their head.

I applaud the efforts of Senator McDonald and my colleagues on the Judiciary Committee, as well as our colleagues on the Banks Committee. I'd like to believe at the end of the day that the free marketplace takes care of everyone equally, but that's not the case.

You know a lot of my constituents say what does it take to be too big to fail? I think the whole notion of too big to fail should fail. I'd like to see a lot of these institutions carved up a little bit so that we can manage them. And if they do crazy things and put too much money at risk, they fail. They don't get bailed out by the federal government and our tax dollars so that they can give themselves bonuses for playing fast and loose with our lives. I'm sorry. I've lost faith in that system. I do believe in regulation. I do believe that we need to monitor these practices and the least that we can ask from these institutions that took tax dollars to keep themselves afloat is that you've got to put down

the name and telephone number of someone who will talk to our mediators, who will talk to our homeowners and allow them to work through these problems and stay in their homes.

We're not asking them to take money off of their principal. We're not even necessarily asking them to take money off of their interest. But they can change some of the penalties and other things such that they may not make a windfall off of the particular foreclosure action, maybe they'll get a little less. But the public policy of the State of Connecticut is that people should be able to remain in their homes if they can continue to make reasonable payments on these mortgages.

I think this is a great bill. I think it -- it can go a long way to changing lives that we don't even know who's out there that's going to be befallen with this misery. I can't imagine a worse circumstance than losing your job and three months later being foreclosed on. And, again, if we think that it can't happen to us, let me tell you, bad things can happen to anybody at any time. These are our friends. These are our neighbors.

cd
SENATE

247
April 28, 2010

These are our constituents. If any time we, as legislators, could step in to do anything, it's when other people are in times of desperate need. To leave it to the hands of these large, multistate organizations, who basically are working towards the bottom line and only the bottom line, is not in the best public interest of the people of the state of Connecticut.

We need balance and all we're asking for is someone to be on that other end of the phone line to discuss with the mediators what's fair, what's doable, what's not doable. It's a small price to pay. We're asking very little to try to turn around a lot of lives, to try to save a lot of neighborhoods and to try to give a lot of people some hope where otherwise it may appear hopeless.

And, for those reasons, Mr. President, I stand in strong support of this amendment, urge my colleagues to vote in favor of it, and I certainly support the underlying bill.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Kissel.

Will you remark further?

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I have to say that I am quite surprised that we are even doing a bill like this and if I can get it straight through our good Senator Kissel which, again, he so articulately and clearly explained this bill. I do believe, and I want to get it straight that -- that simply this bill does not change the mediation process, extend the mediation process, favor one side of the mediation process or the other, but it simply is requesting that there is a person identified that would answer the phone on the part of the lending institution. Through you, Mr. President.

THE CHAIR:

Thank you, Senator Boucher.

And I will remind members that we are on Senate "A." We are not on the bill. We're on LCO 4388, Senate "A."

With that, Senator Kissel, do you care to respond to Senator Boucher's question?

SENATOR KISSEL:

Thank you, Mr. President.

As much as my friend and colleague, Senator McDonald brought the bill out.

But, Senator Boucher, sometimes we have to legislate common sense. You are exactly correct. All we are asking of the lending community is that they put the name and phone number of someone that can discuss these matters with our mediators. That's all we're asking. It doesn't seem to be happening now, asking them nicely, so we have to legislate it. Through you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

THE CHAIR:

You're welcome.

SENATOR BOUCHER:

I must say it is quite remarkable what is being done here today, and it's obvious that this is not going to change, necessarily, the financial picture for either side or party necessarily and that they are still able to negotiate freely. But, in fact, this is just an attempt to provide

cd
SENATE

250
April 28, 2010

communication and a contact person.

Thank you for that clarification, Mr.
President.

THE CHAIR:

Thank you, Senator Boucher.

Will you remark further? Will you remark
further on Senate "A"? If not, all in favor
indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nay.

Ayes have it. The amendment is adopted

Will you remark further?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, through you to Senator
McDonald.

THE CHAIR:

Please proceed, sir.

SENATOR FASANO:

Thank you.

Senator McDonald, with the bill, as amended,

cd
SENATE

251
April 28, 2010

it is my understanding that first part about this bill requires that the mortgagee initiating the foreclosure let the mortgagor know the contact information with respect to who can negotiate the underlying obligation, is that correct, through you, Mr. President?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

It would require them to identify an individual who would be assigned for purposes of internally processing information about the mortgage that -- or requests from the mortgagor, yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Could that person also be the attorney representing -- could the bank or the mortgagee name the attorney who's representing the bank in the legal proceeding as the contact person? Through you, Mr. President, if they so desired.

cd
SENATE

252
April 28, 2010

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, it would have to be an individual who was authorized to provide the answers. So, under the language, it would have to be somebody who had the authority, the real authority, to process the requests. And it's contemplated there it's -- to process it internally within the mortgagee. So I don't think that the attorney would be the person. It's not intended to be that. It would be an individual who is an employee of either the bank or the servicer of the loan.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And, then, through you, Mr. President, the mortgagor -- could the mortgagor who's requesting the information -- could it be the mortgagor's attorney who could then ask the questions to the mortgagee? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

cd
SENATE

253
April 28, 2010

SENATOR MCDONALD:

Through you, Mr. President, again, this is intended to be a direct line of communication between the mortgagor, the individual who owns the property, and the mortgagee, the bank or loan servicer. It's not intended to interfere with the legal arrangements that might be existing between attorneys, but this is intended to actually facilitate face-to-face or email-to-email contact between the property owner and the bank. Through you.

THE CHAIR:

Senator Fasano..

SENATOR FASANO:

Thank you, Mr. President.

I guess -- thank you for that, and let me just sort of -- knowing that you are, as I am, a practicing lawyer. Just attorney-client issue is what I'm concerned about and the breach of that obligation. I understand what you're saying the intent is but would this prohibit -- under our rules of ethics, perhaps there's a prohibition -- but would that be the prohibition that would prohibit a mortgagor counsel talking to a

cd
SENATE

254
April 28, 2010

mortgagee bank personnel, or would this prohibit it? If you understand the question.

SENATOR MCDONALD:

I think I do.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Oh, I'm sorry, Mr. President.

Through you, Mr. President, to Senator Fasano.

I think I understand it.

Here's the problem. We've -- we've got a situation right now where an individual property owner who might be representing him or herself tries to communicate directly with the lawyer for the bank and gets absolutely nowhere except into the wall. This is intended -- and then oftentimes that attorney says if you want to communicate with the bank, call them directly. And then they go into a black hole of information at the bank and never get any meaningful response.

On the flipside of the situation, if a property owner is represented by counsel that property owner's attorney does have the ability to contact the attorney for the bank but oftentimes

cd
SENATE

255
April 28, 2010

runs into the same stonewall.

SENATOR FASANO:

Absolutely.

SENATOR MCDONALD:

And, unfortunately, the reality is that the attorneys representing the bank don't get paid to do side negotiations. They get paid to foreclose on properties. And, as you've noted, the lawyer for the property owner is ethically prohibited from communicating directly with the bank if the bank has counsel handling the case.

So it's a long way of answering your question, but we are trying to create a direct line of communication to -- between the property owner and the bank to facilitate workouts or modifications or refinances when the system we have right now is failing the property owners miserably.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Senator McDonald, I appreciate the answer to that particular question, and I think that when you combine this bill with our ethics bill you end

cd
SENATE

256
April 28, 2010

up with an individual talking to an individual, emailing to an individual, and, with respect to this bill, I think that's a very noble aspect of this bill to that part.

Just as a -- by an exchange, it would also be that a mortgagee -- this would not include municipal tax foreclosures; is that correct? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, under the definition, it pertains only to loan originators or servicers of a mortgage. It wouldn't impact on municipal liens in any way.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you.

And the second part of the bill -- and I want to make sure I do have this correct -- is that a court can delay either the judgment of strict foreclosure or foreclosure by sale. Let me

cd
SENATE

257
April 28, 2010

reverse that, say, foreclosure by sale, a strict foreclosure deficiency judgment if four certain criterias are not met: one being the mortgagee failed to give the appropriate contact information; the second being failed to respond within a reasonable time to the request of the renew or refinance or restructure of the mortgage; third, failed in good faith to really -- to reasonably negotiate a forbearance agreement or similar document; or, four, engaged in oppressive, unethical or unscrupulous conduct with respect to the foreclosures..

Number four's gone? Okay.

Through you, Mr. President --

So correct the record.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, I believe that was the language of the underlying original bill. The amendment made it, hopefully, much more coherent and only has three situations where it would apply. It would be under the situation where the mortgagee

cd
SENATE

258
April 28, 2010

failed to provide the notice, at all; or failed to respond within the reasonable amount of time to a request from the mortgagor to refinance or modify the mortgage agreement in order to avoid foreclosure; or, third, engaged in conduct with respect to the mortgagor that the court determined would constitute an unfair or deceptive act or practice that would be construed under CUTPA.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

And, in a strict foreclosure, just take that example, that is a particular time when the value of the debts exceed the equity that's in the property such that there's no equitable interest in that property for the homeowner is my understanding. Would you basically concur with that general statement, through you, Mr. President?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President.

cd
SENATE

259
April 28, 2010

That's correct.

SENATOR FASANO:

And as I read item 2 and 3, a reasonable time in which to get back to a request and/or a reasonable time or a -- and/or good faith enter into a reasonable forbearance agreement, one could argue, may be in the eyes of the beholder. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

First, Senator Fasano, the good faith and forbearance language has been removed in the amendment. So it only deals with the reasonable time to respond to a request to modify the mortgage or refinance the mortgage. It doesn't deal with forbearance agreements at all.

But, ultimately, to answer your broader question, it is intended to be a fact-bound determination of what's reasonable under the circumstances of any particular case. It's obviously a well-known use of terminology. We have probably hundreds, if not thousands, of

statutes that talk about reasonableness.

Through you, Mr. President.

THE CHAIR:

Senator Fasano, you have the floor.

SENATOR FASANO:

Thank you. I thank you, Mr. President.

And I thank Senator McDonald for his answers.

Thank you very much.

This bill, if I may, is very well-intended. And I think that the first part of the bill makes a lot of sense. In my view, there are two major firms in this state that do 90 percent of the foreclosures. And what I have found is very frustrating, as a lawyer, over the past -- I'm going to say 12 or 13 years that I've been dealing through these two particular law firms, both for individuals unrepresented and for individuals represented, the total inability to talk to a human being, the total disregard for any circumstances and the total brushing off of any reasonable request to rework a mortgage. And that's what's really breeding this law. It's not because judges. It's not because the Practice Book. It's because 90 percent of the foreclosures

cd
SENATE

261
April 28, 2010

go through two particular law firms who just don't return phone calls. You go into a black hole. And it doesn't matter if you're a lawyer. It doesn't matter. They don't care. And that's why we end up with this. And I think having to notify a person, a human being, makes sense and is logical, and I like that bill as far as that goes.

It's sad we have to do this. It really is. As a lawyer, I'm embarrassed that we have to do this. As a lawyer in the bar, I'm embarrassed for our profession to think we have to do this, but I get it.

On the other hand -- the second part. We have a situation that I think is a very difficult mistake and I think we took a large step by having a mediation process. I think that's helped. I will tell you, in our firm, we represent both sides of the fence more on the defendant than on the plaintiff. And I found this -- that the mediation process has worked. It's brought people to the table, has stopped attorneys' fees and come to a resolution.

But what this does, I think, is add a problem. First of all, what one would deem a reasonable

time is always up to question. You're going to end up with delays and sometimes that's what lawyers get paid to do. So you've got a mediation process which delays on a judgment that's an appealable process, delayed. Then you can argue that, either at the time of judgment, after the judgment, before the deficiency, that you gave an offer that was unreasonably denied.

And the judge can say, Well, tell me how?

So, okay, your Honor, I need a trial because I want to bring in the bank officer. I want to bring in my accountant. I want to bring in someone to testify to the interest rates. I want to bring in someone to testify to the mortgage rates. I want to bring someone in to testify as to the value of the property.

And I get to do that, I don't know? . In a week? Now you could take an appeal on that?

Now if there's equity in the property, maybe even that makes sense because at the end of the day the property owner is saying I want to protect my equity, I want to protect my investment. If there's not equity in the property, what are you protecting? You're not protecting anything. So

cd
SENATE

263
April 28, 2010

what does that mean in real life? By going this far -- and I understand to some circumstances why we look at this -- what that means in real life is, I think we're going to hurt people who are marginally able to get credit because if you're a bank and you're going to say, You know what, you're really border line if you get this loan or not.

You're a young family. You're fixed income. Maybe you're in an area that the employment rates are down. You're -- you're really in that gray area.

But the risk I run, as a bank, is if I loan it to you and you default in a year, it's going to take me four or five years to get that property back. So one, I'm not going to loan you 80 percent loan to value. I'm not going to loan you 75 percent loan to value. I'm not going to loan you 70 percent loan to value. I'm going to do 60 percent because I'm going to treat this as a reverse mortgage. I'm going to treat this that if it takes me five years to get the property back, then I have, as a bank, have to soak up that equity while I fight you on all these issues.

Now, what I'm -- sort of have an issue about is I understand why this is here. It's because my profession caused it to come here. We caused the problem. So I understand why it's here. But I think, in the long run, it's not going to help. It's not going to help those people who'll find it tart -- hard to get mortgages. It's not going to help those people who they feel are marginal and they want to take a risk on. It's not going to help those people who have very little money to put down because a bank is not going to say, 20 percent, you put down, or 10 percent, you put down; we'll finance the risk -- the rest because the risk is too high. And we saw what happens when a bank ends up with a lot of bad debt. We saw what happens.

If you think about the history of mortgages in this state, let's go back. Years ago all the small banks, in the nineties, held on to all the loans and then the housing market dropped and all these small banks went out of business. They all went FDIC. Every other day you heard about a bank going FDIC. So then the banks said, Well, okay, we learned our lesson. Let's wrap them up and

cd
SENATE

265
April 28, 2010

sell them. And that's what we did. All the banks said, I don't want to hold them.

The date when you did a closing, as a lawyer, the very same day that lawyer signed an assignment of that debt to some conglomerate someplace -- who the heck knows where. That person held onto all these mortgages, we had a down market and all heck broke loose with the economy because of it.

Now we're, in Connecticut, where it's very tough to get a loan. Housing prices are high. I know -- my daughter's moving back this way after college and she's going to want a home -- not for a little while -- but she's going to want a home and it will be very difficult for her to get a starter home. And, clearly, I think with college credit -- not much there in college credit -- this is going to be an issue. And now I think we're going to hurt her chances even more.

Doesn't matter your race. Doesn't matter what you do for a living. It is a business deal to a bank. Is this risk worth this reward? And what do I have to play with. So I think we're going to hurt people in the long run. That's what I honestly think. I -- as I say, I understand the

foundation of it.

So I'm going to vote against this bill not because I don't think that part of it is good. I do. And not because I think -- I don't think that some lawyers who are doing the foreclosure practice has hurt people because I think they have. But because in the conglomerate of all how this works, I think it poses a problem in the future more than it solves.

We did a great job with mediation, and we've done a great job with having our judges look at equity principals on foreclosures and they can look at equity principals. There's nothing that precludes a judge from hearing a plaintiff say, Your Honor, continue the foreclosure. I've got money. And a judge usually does that. Even if it's strict foreclosure. You say, Your Honor, I need 60 days to get a refinance but I'm going to pay so that the bank is no worse off 60 days from now.

A judge can say, Status quo, status quo, certified check. A judge has a right to do that now, currently, law today. This brings a whole different dimension. So I must apologize for my

cd
SENATE

267
April 28, 2010

profession. I have to deal with this bill, but I think in the long run it is a problem so I'll be voting no.

Thank you, Mr. President.

Once again, I thank Senator McDonald.

THE CHAIR:

Thank you, Senator Fasano.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, when I first rose to talk about this bill after listening to the various remarks, I was surprised that we had to do a bill that required any entity that is a business entity to answer their phones and respond to questions. But there was something about this bill, there was a concern, something in my gut that said to be cautious. And when my colleagues mentioned that there was quite a bit of resistance to this bill. It didn't make sense.

Well, now it does make sense after listening to Senator Fasano's remarks because my intuition told me that somehow this was going to cause cost increase or there would be a limitation on access

to loans by others because if the process is extended, if it drags out further, someone is going to recoup the cost. And if that drives the cost of these loans to go up for a group of people beyond those that we're talking about or if it restricts the number of loans that are being left for new homebuyers that is a cause for concern. So I thank the good Senators for their remarks. I've learned quite a bit this afternoon. It does raise a cautionary flag for me.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Boucher.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, just briefly and with all due respect to my good friend, Senator Fasano.

This is not a problem of all banks. I want to be clear, and I probably should have said this at the outset. The community banks in Connecticut aren't doing this problem. The community banks in Connecticut are picking up their phones. The community banks in Connecticut are responsive to

cd
SENATE

269
April 28, 2010

their customers.

The ones who are complaining, the ones who are opposed to this legislation are the multinational banks headquartered in North Carolina, headquartered in states outside of here who have no investment in the community, who don't really see these people as neighbors. In truth, they don't really see them as customers. This is not -- when you're talking about a large bank oftentimes they don't even own the loan. They've package them up. They've shipped them out, and you are an account number. You're nothing more than an account number. And, by the way, you're an account number that came up in a queue in a telephone system that they can just as easily say I'm going to transfer you to another department, and the next thing you hear is a ringtone or a dial tone because you've gotten disconnected. That's assuming, of course, that the phone call is even being handled in this country.

Folks, this is not about people who want to be good to their customers. This is about people who churn the system and they make money by driving the case to foreclosure. That's how they make

cd
SENATE

270
April 28, 2010

money. The servicers get paid by closing out the loan. The servicers get paid when the property is sold after the foreclosure. They get first priority in getting paid. They don't have an incentive to work out the loan. They don't have an incentive to modify the loan. They have a centive -- an incentive, a direct monetary incentive to drive it to the finish line. That's why they're not returning phone calls.

Mr. President, I think that the fact that I haven't received one phone call from any community bank in my district or one phone call from any community bank in this state speaks volumes about this. The only phone call I've had is one that was arranged by an industry individual who got a bunch of people on a phone call from all points of the country other than the state of Connecticut who complained. And when I tried to nail them down about what their actual problem was, could they articulate to me that the organizational systemic problem, they couldn't do it. I gave them multiple chances. They couldn't do it. And as I stand here today, at six o'clock, they've yet to do it.

cd
SENATE

271
April 28, 2010

Mr. President, this legislation whose time is now.

Thank you.

THE CHAIR:

Thank you, Senator McDonald.

Will you remark further on the bill as amended?

Senator Fasano, for the second time.

SENATOR FASANO:

For the second time, thank you, Mr. President.

I appreciate the comments by Senator McDonald.

And had it gone just for a notice requirement, to me, I agree that's a no-brainer. It is the other requirements that I think just add too much to this issue. And I think -- I agree with Senator McDonald that having a notice makes all the sense in the world, having a person and having the mortgagee responsible say that is the person; that is the phone call; you can get attention. I'm with them 100 percent. No doubt, no doubt.

It is the other part of the bill that gives me great anxiety because I practice this, I do this. I see what's going on, and it is -- as I say, I'm on the defendant's side, as well, so I understand

both sides, and I'm not going to -- I know we want to move things along so I'll end the debate there.

Thank you, Mr. President.

THE CHAIR:

Thank you very much, Senator Fasano.

Will you remark further on the bill as amended?

Senator Gomes.

SENATOR GOMES:

Thank you, Mr. President.

I just wanted to comment because of the -- some of the things that Housing has been concerned with on the foreclosures. We have mediation now and the mediation process is working. Last year when we told people about how much foreclosure is going to affect this country, we told them that it was going to be real bad. And we told them at that time next year it will be worst. And now we're standing here and we're telling them it is even going to be worse next year than it is now. When we talk about mediation, notwithstanding all of the things that Senator Fasano has pointed out and a lot of them are true, but we're -- we're concerned with right now is the mortgagor being

cd
SENATE

273
April 28, 2010

able to relay the problem that is bothering them or is causing them to possibly lose their home.

The only thing that I am concerned about this bill is trying to protect the person who has the most to lose and who has the least amount of chance of communicating with anybody to help them in the mediation process.

And I think that this bill would do it. I think that this is something that we need to vote on. If it's not perfect -- nothing has been perfect in the whole foreclosure procedure. But we're working towards it and we need everything we can to get things moving whether or not it is perfect or not this bill here helps the mortgagor to have a chance to talk to somebody. Everybody knows that anything you deal with nowadays, you call, you buy a product, you want to complain about it, you call, they give you a number to call, you get to that number, they give you another number to go here, to go there, and pretty soon, like Senator McDonald said, you're talking to a dead phone. We're trying to loosen up an area of communication and that's all we're working on, and I want to thank you.

cd
SENATE

274
April 28, 2010

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Gomes.

Will you remark further on the bill as amended? Will you remark? If not, Mr. Clerk, would you please announce the pendency of a roll call vote. The machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber? An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber?

THE CHAIR:

Have all the members voted? Have all the members voted? Please check the board and to make sure you vote correctly. If all the members have voted, the machine will be closed.

Mr. Clerk, please announce the tally.

THE CLERK:

Motion is on passage of Senate Bill 225 as amended.

Total number of voting 35

Those voting Yea 34

| | |
|-----------------------------|---|
| Those voting Nay | 1 |
| Those absent and not voting | 1 |

THE CHAIR:

The bill, as amended, passes.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, I believe the Clerk is in possession of Senate Agenda Number 3 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, the Clerk is in possession of Senate Agenda Number 3 for Wednesday, April 28, 2010. Copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, I move all items on Senate Agenda Number 3, dated Wednesday, April 28, 2010, to be acted upon as indicated; that the Agenda be incorporated by reference into the Senate Journal

cd
SENATE

276
April 28, 2010

and the Senate transcript.

THE CHAIR:

Seeing no objection, so ordered.

Senator Looney.

SENATOR LOONEY:

Yes, Mr. President, for a change in calendar marking?

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

Yes, Mr. President, thank you.

Calendar page 18, Calendar 468, House Bill 5463, if that bill may be referred to the Appropriations Committee?

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, if the Clerk might now call the consent calendar.

THE CHAIR:

Thank you, Senator.

Mr. Clerk, would you please call the consent calendar?

cd
SENATE

277
April 28, 2010

THE CLERK:

Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber? Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber?

Mr. President, the items placed on the first consent calendar begin on calendar page 1, Calendar Number 485, Senate Joint Resolution Number 45; Calendar 486, Senate Joint Resolution Number 46.

Calendar page 8, Calendar Number 299, House Bill number 5251.

Calendar page 9, Calendar 372, House Bill 5252.

Calendar page 10, Calendar 383, Substitute for House Bill 5249.

Calendar page 11, Calendar 402, Substitute for Senate Bill 447.

Calendar page 15, Calendar 452, Substitute for House Bill 5376; Calendar 453, House Bill 5281.

Calendar page 16, Calendar 455, House Bill 5542; Calendar 456, Substitute for House Bill

cd
SENATE

278
April 28, 2010

5247, Calendar 457, Substitute for House Bill

5406.

Calendar page 17, Calendar 464, House Bill

5530.

Calendar page 23, Calendar 75, Substitute for
Senate Bill 229.

Calendar page 24, Calendar Number 98,
Substitute for Senate Bill 312.

Mr. President, that completes those items
placed on the first consent calendar.

THE CHAIR:

Thank you, Mr. Clerk.

If you would announce the vote again, the
machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the
consent calendar. Will all Senators please return
to the chamber? The Senate is now voting by roll
on the consent calendar. Will all Senators please
return to the chamber?

THE CHAIR:

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

Mr. Clerk, please call the tally.

cd
SENATE

279
April 28, 2010

THE CLERK:

Motion's on adoption of Consent Calendar
Number 1.

| | |
|-----------------------------|----|
| Total number of voting | 35 |
| Those voting Yea | 35 |
| Those voting Nay | 0 |
| Those absent and not voting | 1 |

THE CHAIR:

The consent calendar passes.

Are there any points of personal privilege or
announcements?

Senator Gomes.

SENATOR GOMES:

I'd just like it -- thank you, Mr. President.

I'd just like it to be noted that I missed a
vote today on Senate Bill 168, and I was out of
the area. And if I'd been here, I would have
voted in the affirmative.

THE CHAIR:

Thank you, sir. The Journal is so noted.

SENATOR GOMES:

Thank you.

THE CHAIR:

Any further points?

cd
SENATE

280
April 28, 2010

Senator Stillman.

SENATOR STILLMAN:

Thank you, Mr. President, for the purpose of an announcement.

THE CHAIR:

Please proceed.

SENATOR STILLMAN:

Thank you, sir.

The Public Safety and Security Committee will be meeting tomorrow a half hour before either the House or the Senate, whichever one goes in first, in Room 1A.

Thank you.

THE CHAIR:

Thank you, Senator Stillman.

Senator Daily.

SENATOR DAILY:

Thank you, Mr. President.

I rise for purposes of announcement.

THE CHAIR:

Please proceed, madam.

SENATOR DAILY:

The Finance Revenue and Bonding Committee will meet one-half hour before the first session is

cd
SENATE

281
April 28, 2010

called, probably, 10:30 in Room 2E.

THE CHAIR:

Look forward to it. Thank you, Senator Daily.

Senator DeFronzo.

SENATOR DEFRONZO:

Thank you, Mr. President, for the purposes of an announcement.

THE CHAIR:

Please proceed, sir.

SENATOR DEFRONZO:

Actually two announcements, first, I just want to remind the members of the Transportation Committee that a photo will be taken in the Hall of Flags immediately following our dismissal here. And tomorrow morning, 15 minutes before session, we'll be holding a meeting in the Transportation Conference Room to take up a bill. I want to just advise members that we will not be -- we're required to have a meeting, but we are not actually going to be moving any action in the committee. So if there is a problem getting there or difficulty making that meeting, I wouldn't worry about it too much.

Thank you, Mr. President.

cd
SENATE

282
April 28, 2010

THE CHAIR:

Thank you, Senator. That's the kind of meeting announcements we like.

Any further announcements or points of personal privilege? Seeing none --

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President. Before moving for adjournment, would first move for suspension for immediate transmittal to the House of Representatives of any items acted upon today requiring additional action by that chamber.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, it's our intention tomorrow to have a Democratic Caucus at eleven o'clock and to be in the session at noon tomorrow.

So with that, Mr. President, I move the Senate stand adjourned.

Oops, Mr. Clerk.

THE CHAIR:

Senator Looney.

cd
SENATE

283
April 28, 2010

SENATOR LOONEY:

Yes, Mr. President, having -- having moved for immediate transmittal for all items to the House, would move the Senate stand adjourned subject to the call of the Chair.

THE CHAIR:

Senate stands adjourned subject to the call of the Chair.

On motion of Senator Looney of the 11th, the Senate at 6:11 p.m., adjourned subject to the call of the Chair.

law/gbr
SENATE

April 29, 2010 1

THE CONNECTICUT GENERAL ASSEMBLY

SENATE

April 29, 2010

The Senate was called to order at 12:18 p.m.,
Senator Williams of the 29 in the Chair.

THE CHAIR:

Good afternoon. The Senate will come to order.
Will all Senators rise and please give their attention
to the Reverend Barbara Headly.

REV. DR. BARBARA HEADLY:

Let us pray. Eternal God, our Creator and
Sustainer, we seek Your presence and guidance as our
Senate continues its work today. Enable our Senators
to work for the common good of all the citizens of our
State and to do what is just in Your sight. Guide and
direct all the decisions and actions that will take
place here today as the work of this session draws to
a close.

We acknowledge the hard work and diligence that
your Senate, that our Senate has put forth to address
the issues of our State and to provide the best
governance for all the people of Connecticut. We pray

law/gbr
SENATE

April 29, 2010 2

that all that is done here will enhance our lives together, bring justice and equality to all in our State.

We also pray for the support staff and the workers of our State government and the families of our legislators. In Your name we pray. Amen.

THE CHAIR:

Thank you, Reverend Headly.

Senator Doyle, would you please lead us in the pledge.

SENATOR DOYLE:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

THE CHAIR:

Senator Looney, what is your pleasure? Should we take up the agenda at this point or return to caucus?

SENATOR LOONEY:

Yes, Mr. President. Good afternoon, Mr. President.

THE CHAIR:

Good afternoon.

SENATOR LOONEY:

law/gbr
SENATE

April 29, 2010 3

The Clerk is in possession of Senate Agenda number one for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President.

The Clerk is in possession of Senate Agenda numbered one, dated Thursday, April 29, 2010. Copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I move all items on Senate Agenda number one, dated Thursday, April 29, 2010 to be acted upon as indicated and that the Agenda be incorporated by reference into the Senate Journal and the Senate Transcript.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I would yield the floor to any members for purposes of announcements or points of personal privilege before calling for recess for a brief caucus.

law/gbr
SENATE

April 29, 2010 4

THE CHAIR:

Are there announcements or points of personal privilege? Seeing none, Senator Looney.

SENATOR LOONEY:

Yes, Mr. President. Thank you. If we might stand in recess for a brief caucus before reconvening.

THE CHAIR:

The Senate will stand in recess for a brief caucus. Thank you.

(Recess.)

THE CLERK:

There will be an immediate Senate Democratic caucus. Will all Democratic Senators please report to their caucus room. There will be an immediate Senate Democratic caucus. Will all Democratic Senators please report to their caucus room.

THE CHAIR:

The Senate will come to order. I will entertain, well points of personal privileges are announced before we start the marking of the calendar.

Senator LeBeau.

SENATOR LeBEAU:

Mr. President, I'd like to take a, for a point of personal privilege.

law/gbr
SENATE

April 29, 2010 5

THE CHAIR:

Please proceed, Sir.

SENATOR LeBEAU:

And for an introduction actually. I'd like to introduce Danielle Acebedo. Danielle, if you'd come over here please. I was lucky enough to have two interns this year.

They're both in the UConn Law. And Danielle is also just finishing up at UConn Law and has done a great job working with the Commerce Committee and with myself and our office. Even today I was asking her for some data and yesterday and she puts it in my hand today. And I've got all the data I need to help debate a bill later to the associates. The kind of work she's done.

Danielle is a unique person. She's able to speak four languages; Portuguese, French, Spanish and English. I almost forgot English. And she didn't learn Italian. I don't know. But I think she will. And so she's been a terrific asset to our office and I really appreciate her help on everything that she's done. I have a citation for her.

I'm not going to read the citation but I want to proceed a citation to her today as a thank you for all

law/gbr
SENATE

April 29, 2010 6

the work she's done. And I hope she's had as good experience working with us as that I had working with her. Thank you, Danielle.

And so if the Senate would give her a warm welcome. Thank you very much.

THE CHAIR:

Thank you, Sir. Senator Handley.

SENATOR HANDLEY:

Thank you, Mr. President. I rise for an introduction.

THE CHAIR:

Please proceed.

SENATOR HANDLEY:

Thank you.

I'd like to introduce to the circle, Glastonbury Police Officer, Bobby Dibella and his friend who is standing over there, Trudy White. Bob Dibella has recently been honored for his work particularly in standing guard in front of the South Congregation or the First Congregational Church in Glastonbury for 42 and a half years. For 2,242 consecutive Sundays Bobby stood in the crosswalk in front of the church and helped the parishioners get back and forth across the street. It's a most remarkable accomplishment and it

law/gbr
SENATE

April 29, 2010 7

made the front page of the Glastonbury Citizen and was an occasion for a very happy day at the church in Glastonbury. I want to also comment that Bobby was involved in the work that I did many years ago which finally came to fruition to do the reverse 911 system here in Connecticut so that police and civil, well they're not civil defense now, homeland security can tell folks in their houses that there is a danger which they need to pay attention to.

So I want to thank him for that work as well. Anyway, will you please welcome this most remarkable man.

THE CHAIR:

Welcome to the Chamber.

Thank you, Senator Handley.

Senator Williams.

SENATOR WILLIAMS:

Thank you, Mr. President. I rise for the point of personal privilege.

THE CHAIR:

Please proceed, Sir.

SENATOR WILLIAMS:

Yes. I'd like to introduce to the circle the intern who has helped me in our Senate Democrats

law/gbr
SENATE

April 29, 2010 8

Office, Jessica Silber. She is from Trumbull and is a Senior at the University of Connecticut. Now we've had a tremendous amount of correspondence and research requests and all sorts of things come through our Office this session and Jessica has been a tremendous help for us. And she is a dual major at the University of Connecticut in French and political science.

So for any companies or governmental entities that happen to be watching this on CTN, that could just, you know, really use somebody with a background in political science and French. Ultimately I think we'll see Jessica at some point in the foreign service serving this country in Paris. That would be terrific.

But in the interim, in the interim she has developed a wealth of knowledge and information from her education at UConn and from serving the people of Connecticut here at the Capital. And so I know that she will do very well in the future. But if the Senate could please give her a round of applause for her efforts for us.

Thank you, Mr. President.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 9

Thank you, Senator Williams.

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. I have an announcement.

THE CHAIR:

Please proceed, Sir.

SENATOR DOYLE:

Thank you, Mr. President.

Tomorrow, April 30 the Human Services Committee will meet a half hour before the first chamber goes in.

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Are there any other announcements or points of personal privilege at this time? If not, we will proceed with the marking of the calendar.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, good afternoon.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 10

Good afternoon, Sir.

SENATOR LOONEY:

Yes. Mr. President, to begin with on the calendar has, there's an error at the top of page one. Those items listed at judicial nominations which are in fact claims should be listed as favorable reports resolutions rather than judicial nominations.

THE CHAIR:

It will be noted, Sir.

SENATOR LOONEY:

Good. Thank you, Mr. President. And then proceeding on page one, Mr. President, calendar, I will be noting all of the action items today that is will be noting goes and committee referrals and some PTs, items not mentioned would be in effect past retained.

So beginning, Mr. President, calendar page one, Calendar 497, House Joint Resolution or rather before I begin that I would ask for suspension, Mr. President for purposes of placing on the consent calendar the claims actions which are listed on pages one and two of the calendar. They are not starred but would ask for a suspension to take them up.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 11

There is a motion on the floor for suspension of the rule to take some items up. Seeing no objection, so ordered, Sir.

SENATOR LOONEY:

Thank you, Mr. President.

Now moving forward, calendar page one. Calendar 497, House Joint Resolution number seven, would move to place that item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar 498, House Joint Resolution number 14 would move to place this item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

On calendar page two, Calendar 499, House Joint Resolution number 15. I move to place this item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

law/gbr
SENATE

April 29, 2010 12

Thank you, Mr. President.

Calendar page two, Calendar 500, House Joint Resolution number 19. Would move to place this item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar 501, House Joint Resolution number 27,
would move to place the item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar 502, House Joint Resolution number 45
would move to place this item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

And thank you, Mr. President.

Calendar 503, House Joint Resolution number 48,
would move to place this item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

law/gbr
SENATE

April 29, 2010 13

SENATOR LOONEY:

Thank you, Mr. President.

Moving now to favorable reports, beginning calendar page three, Calendar 78, Senate Bill 265, was marked go. Calendar 112, Senate Bill 264, is marked go. Calendar page four, Calendar 116, Senate Bill number 60, marked go. Calendar page five, Calendar 168, Senate Bill number 361, is marked go. Moving, Mr. President, to calendar page eight, Calendar 269, Senate Bill number 391 is marked go and will be the first order of the day.

Second, Mr. President, also on calendar page eight, Calendar 272, Senate Bill number 199 is marked go. Moving to calendar page ten, Mr. President. Calendar 344, Senate Bill number 431 is marked go. Moving to calendar page 11, Mr. President, calendar 386, Senate Bill number 441 is marked go. Calendar page 12, Calendar 422, Senate Bill number 438 is marked go.

Also, calendar page 12, Calendar 423, Senate Bill number one marked go. Calendar page 13, Calendar 432, Senate Bill number 25 is marked go. Moving to Calendar page 15, Calendar 450, House Bill number 5529 is marked go. Calendar page 16, Calendar 459, House

law/gbr
SENATE

April 29, 2010 14

Bill number 5351 is marked go. Continuing calendar page 16, Calendar 463, House Bill number 5352 is marked go.

Moving, Mr. President to calendar page 18, Calendar 474, House Bill number 5286 is marked go. Calendar page 22, Mr. President, Calendar 45, Senate Bill number 31 is marked go and second order of the day. Moving, Mr. President to calendar page 26, Calendar 133, Senate Bill number 54 is marked go. Moving to calendar page 27, Mr. President, Calendar 135, Senate Bill number 59 is marked go.

Continuing on calendar page 27, Calendar 150, Senate Bill number 301 is marked go. Moving to calendar page 29, Mr. President, Calendar 179, Senate Bill number 67 is marked go and third order of the day. Mr. President, moving to calendar page 32, Calendar 218, Senate Bill number 302 is marked go. Calendar page 33, Calendar 223, Senate Bill number 380 is marked go.

Mr. President, moving to calendar page 36, Calendar 268, Senate Bill number 315 is marked go and fourth order of the day. Moving, Mr. President, calendar page 38, Calendar 337, Senate Bill number 433 is marked go. And Calendar 338, Senate Bill 434 is

law/gbr
SENATE

April 29, 2010 15

marked go. And Mr. President, calendar page 40,
Calendar 429, Senate Bill number 379 is marked go.

Mr. President that will, that concludes our
markings at this time. We will have additional items
to mark later including a few committee referrals.
Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Mr. Clerk, would you please call the first order
of the day.

THE CLERK:

Calling from the Senate Calendar for Thursday,
April 29, 2010, favorable reports calendar page eight,
matter marked order of the day Calendar 269, file 402,
Senate Bill 391, AN ACT CONCERNING CHILD CARE
SUBSIDIES FOR THE UNEMPLOYED UNDER THE CARE FOR KIDS
PROGRAM, favorable report of the Committee on Human
Services.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

law/gbr
SENATE

April 29, 2010 16

SENATOR DOYLE:

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

THE CHAIR:

Acting on acceptance and adoption of the bill.

Sir, would you like to remark further?

SENATOR DOYLE:

Yes. Thank you, Mr. President.

This bill deals with, the file copy deals with our current Care for Kids Program. The file copy sought to expedite the processing of the application and providing other services. Before I get into the final version of the bill, I'd like to call an amendment because it supersedes some of the file copy.

So the Clerk has an amendment, LCO 4268. Would the Clerk please call and I be allowed to summarize?

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4268 to be designated Senate Amendment
Schedule A as offered by Senator Doyle of the 9
District.

THE CHAIR:

Senator Doyle.

law/gbr
SENATE

April 29, 2010 17

SENATOR DOYLE:

Thank you, Mr. President.

First I move adoption of the amendment.

THE CHAIR:

Please proceed, Sir.

SENATOR DOYLE:

Thank you, Mr. President.

What the amendment does is it adds new language that basically requires the Department to publish and to send notice to the program participants and providers and post on its website any major changes to the Care for Kids Program which really means if there are reductions or changes to the program. It also revises the file copy language in terms of the processing of the applications.

The file copy required DSS to process it within or its agents to process within five days. This deletes the section of five days but does basically request or order DSS to after qualification of the Care for Kids Program the current law is you're qualified for six months. This amendment would extend it to eight months.

It also provides that the commissioner shall provide a report after a certain time to provide

law/gbr
SENATE

April 29, 2010 18

details to Human Services and Appropriations regarding how the new eight month period operates. And I urge the Chamber to accept the amendment.

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Will you remark further?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Through you a question to the proponent of the bill.

THE CHAIR:

Senator Doyle.

SENATOR DEBICELLA:

Through you, Mr. President, just looking at the fiscal note to this amendment it seems to say that there is a potential impact to the State budget for 2011. And I'm kind of reading this real time. If the good Senator could address the fiscal impact of the amendment. Through you.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

law/gbr
SENATE

April 29, 2010 19

Yes. Through you, Mr. President. While I do recognize that the fiscal note does say that I really think that could be superseded by the ability of the DSS Agency to operate. And actually the costs were to exceed the budgeted amount they could ultimately, you know, stop the program or curb the program.

So really, I think although it's true it's possible it could rise up but with proper management by DSS and proper planning they would be able to close the program if the money's no longer there. Through you, Mr. President.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And through you. It seems that the first section of the amendment would not have any fiscal impact. It just has to deal with actually posting things on the internet. And it seems that it's the frequency of redeterminations from one year to eight months that may have the impact. So, I think I'm satisfied in looking at this that Senator Doyle's correct.

Depending on the specific actions of DSS this may have a fiscal impact to the State but won't

law/gbr
SENATE

April 29, 2010 20

necessarily. I think he's correct in that. And I thank the good Senator for the answer to my question.

THE CHAIR:

Thank you, Senator.

Will you remark further on Senate A? Will you remark further? If not, let me try your minds. All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay.

The ayes have it. The amendment passes. Will you remark further on Senate Bill 391 as amended by Senate A? Will you remark further?

Senator Doyle.

SENATOR DOYLE:

If there's no objection, I'd recommend the bill be placed in the consent calendar, Mr. President.

THE CHAIR:

There's a motion on the floor to place this item on consent. Without objection, so ordered.

Mr. Clerk, please call the second order of the day please.

THE CLERK:

law/gbr
SENATE

April 29, 2010 21

Calendar page 22, matters returned from committee. The item marked second order of the day. Calendar number 45, file number 21, substitute for Senate Bill 31, AN ACT IMPLEMENTING THE BUDGET RECOMMENDATIONS OF THE GOVERNOR CONCERNING THE EDUCATIONAL PLACEMENT OF CHILDREN IN THE CARE AND CUSTODY OF THE DEPARTMENT OF CHILDREN AND FAMILIES, favorable report of the Committees on Human Services, Appropriations, and Education.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. I move adoption of the joint favorable report and passage of the bill.

THE CHAIR:

Acting on approval adoption of the bill. Sir, would you like to remark further?

SENATOR DOYLE:

Yes. Thank you, Mr. President.

THE CHAIR:

Please proceed.

SENATOR DOYLE:

This bill deals with implications by the federal government that require us in order to continue to

law/gbr
SENATE

April 29, 2010 22

receive federal funding we have to allow our DCF children, our children that are placed in DCF we have to try to maintain that they can stay in the same schools even if they're moved to another location for housing.

So that's the purpose of the underlying bill. Before is speak further I would like the Clerk to please call an amendment. The amendment is LCO 3977. And would the Clerk please call and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 3977, which has been offered by Senator Doyle of the 9 District.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President.

What this bill does is.

THE CHAIR:

Do you move adoption, Sir.

SENATOR DOYLE:

Sorry. I move adoption of the amendment.

law/gbr
SENATE

April 29, 2010 23

THE CHAIR:

Please proceed, Sir.

SENATOR DOYLE:

Thank you. This bill clarifies the age of the children we're talking about that are in DCF's custody. And also it clarifies that if we have a child that now has been moved from the town where he's currently going to school and DCF moves the child to another town that the original home does not receive the State aid for, basically for the, you know, for the educational cost sharing grant because the State is picking up the tab. I move adoption of the amendment.

THE CHAIR:

There's a motion on the floor for adoption. Will you remark further on Senate Amendment A? If not, let me try your minds. All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay.

The ayes have it. The amendment's adopted.

Senator Doyle.

law/gbr
SENATE

April 29, 2010 24

SENATOR DOYLE:

Thank you, Mr. President.

So with this bill as amended what it does is it basically it achieves a requirement that the federal government has imposed on DCF and the State of Connecticut that we provide and try to maintain the educational stability for our children in the custody of DCF Agency. And I urge the Chamber to support the underlying bill.

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Good afternoon.

THE CHAIR:

Good afternoon, Sir.

SENATOR KANE:

Through you, Mr. President, a question to the proponent of the bill.

THE CHAIR:

Senator Doyle.

SENATOR KANE:

Thank you, Mr. President.

law/gbr
SENATE

April 29, 2010 25

In Committee, Representative Gibbons made note and I think, I believe an amendment and I'm just hoping that this is still part of the bill where the school of origin may not be the most appropriate school for the individual, that the Department would work with that individual and work through the school department. Is that still in this bill? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President. Yes. This bill does not mandate, you know, a specific school. It really has flexibility. It has the standard language best interest of the child. So basically the goal of the bill is to preserve the home school. I should not say home school but the original school but, you know, but it also has flexibility when it's inappropriate.

So, the overriding goal is to maintain the existing school but there are circumstances, if it's not appropriate it will not be used. Mr. President. Through you, Mr. President.

THE CHAIR:

Senator Kane.

law/gbr
SENATE

April 29, 2010 26

SENATOR KANE:

Thank you, Mr. President. Through you, who will be involved in that discussion when it is to be determined what the appropriate setting is for that individual child. Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President. Just one second please. I believe, through you, Mr. President, I believe the answer is DCF will make that decision.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Okay. Thank you, Mr. President. And I appreciate the Senator for his answers. I just wanted to make sure that that was still in there and that, you know, Representative Gibbons if you remember made that point during Committee process. So I wanted to make sure, which I thought was a very valid point and did not want to be lost.

So I wanted to make sure that was still in there. But I as you know am on this amendment and encourage

law/gbr
SENATE

April 29, 2010 27

my colleagues to vote in favor. Thank you, Mr.

President.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Bill 31 as amended by Senate A? Will you remark further?

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President. I move this bill to the consent calendar.

THE CHAIR:

Motion on the floor to put this item on consent. Seeing no objections, so ordered, Sir.

Mr. Clerk, could you please call the third order of the day.

THE CLERK:

Calendar page 29, item marked the third order of the day. Calendar number 179, file number 236, Senate Bill number 67, AN ACT CONCERNING ANNUAL BENEFITS AVAILABLE UNDER THE CHARTER OAK HEALTH PLAN, favorable report of the Committees on Human Services, Insurance and Appropriations.

THE CHAIR:

Senator Doyle.

law/gbr
SENATE

April 29, 2010 28

SENATOR DOYLE:

Thank you, Mr. President. I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on approval and acceptance, Sir, would you like to remark further?

SENATOR DOYLE:

Yes.

THE CHAIR:

Please proceed.

SENATOR DOYLE:

Thank you, Mr. President.

What this bill does is it deals with our current Charter Oak Health Plan that was created a few years ago. And this addresses a concern by Senator Prague that under current law the plan has an annual maximum coverage of \$100,000 and a lifetime maximum coverage of \$1 million.

In this case we're addressing a concern where an individual had a particularly difficult year health wise and the actual costs were over \$100,000. And after consultation with the Commissioner of DSS and others this bill basically addresses what were the

law/gbr
SENATE

April 29, 2010 29

Commissioner makes a determination that the need to go above the \$100,000 annual cap is in the best interest of the patient or the participant and also basically there is a medical reason for it.

It's medically necessary that the \$100,000 annual cap can be exceeded. And that's the importance of the bill but it also will provide care and redress a few of the problems out there with some of our constituents. Thank you, Mr. President.

THE CHAIR:

Thank you, Sir. Will you remark further?

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President.

First of all, through you, I want to thank Senator Doyle for bringing this bill before the Chamber. With the Charter Oak coverage as Senator Doyle said, there's \$100,000 limit on medical care.

I had a constituent who was up in Boston at the Dana Faber Institute having cancer treatment and he had used up the \$100,000 and a managed care organization called Dana Faber and said, you know, stop the treatment. He's used up the annual maximum and we're not going to pay for any more care. I tell

law/gbr
SENATE

April 29, 2010 30

you, it was so outrageous I couldn't believe my ears. Anyhow, with the help of the Commissioner from the Department of Social Services my constituent was allowed to stay there and continue treatment. This bill that Senator Doyle brought out will allow that transfer automatically.

If you've used up your \$100,000 you can go into the \$1 million lifetime benefit without having the stress of having to get approval or having to wait because it has to go through the proper channels. This is a good bill. People who are sick don't need the added stress. And I'm very happy to see this bill before the Chamber. Thank you.

THE CHAIR:

Thank you, Ma'am.

Will you remark further on Senate Bill 67?

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

Through you, a couple of questions to the proponent of the bill.

THE CHAIR:

Senator Doyle.

SENATOR KANE:

law/gbr
SENATE

April 29, 2010 31

Thank you, Mr. President. In the Committee process Commissioner Starkowski had some concerns about completely removing the annual cap. Can you speak to that at all? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President. Yes. The language does not completely remove the cap because basically in order for the cap to be, in order for the annual cap to be exceeded the DSS Commissioner has to make a determination based on medical evidence that the, to exceed the cap is medically necessary.

So it's not an automatic but it will go across the Commissioner's desk to determine that in fact a person is very sick and it's needed for the person's medical care. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

And do we have an idea of how many times this can take place and what the potential fiscal note is. I

law/gbr
SENATE

April 29, 2010 32

haven't had an opportunity to look at that but do we have that in here?

Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes.

Through you, Mr. President.

It's my understanding this happens very rarely or I should say the whole Charter Oak is as you know a new program but it's only happened a few times over the past few years. And Senator Prague had the experience through her constituent to raise it. So it's our anticipation it will not be, you know, a common practice because 100,000 is such a large amount but it was determined that in a certain very difficult situation it is appropriate.

But really the fiscal note says that there might be a minor change in terms of the premiums but it does not say and it does not have a large fiscal note to the State of Connecticut.

Through you, Mr. President.

THE CHAIR:

Senator Kane.

law/gbr
SENATE

April 29, 2010 33

SENATOR KANE:

Thank you, Mr. President.

And one last question. Part of the debate I guess if you will was about an actuarial analysis. Has that been done or will that be done for the plan overall?

Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President.

I think a complete actuarial analysis has not been done but it's my understanding that actuaries were consulted, you know, in an abbreviated fashion to determine it. They determined it wouldn't be large scale. But after, if this bill does become law they would step in and, you know, have to do an analysis at the end of the year. But the preliminary analysis was because it's so few people, the impact will not be large.

Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

law/gbr
SENATE

April 29, 2010 34

Thank you, Mr. President.

I thank the Senator for his answers. Again, I did vote for this bill in the Committee and will be voting in favor of it here today. And I thank Senator Prague for bringing it to the Committee's attention.

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Bill 67? Will you remark further on Senate Bill 67?

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President.

I move this bill to the consent calendar.

THE CHAIR:

There is a motion on the floor to move this item on the consent calendar. Seeing no objections, so ordered.

Mr. Clerk, would you please call the fourth order of the day.

THE CLERK:

Calendar page 36, item marked the fourth order of the day. Calendar number 268, file number 394, substitute for Senate Bill 315, AN ACT CONCERNING THE

law/gbr
SENATE

April 29, 2010 35

SEXUAL ASSAULT OF PERSONS WHOSE ABILITY TO COMMUNICATE
LACK OF CONSENT IS SUBSTANTIALLY IMPAIRED, favorable
report of the Committee on Human Services and
Judiciary.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President.

I move acceptance of the joint committee's
favorable report and passage of the bill.

THE CHAIR:

Acting on approval and acceptance of the bill.

Sir, would you like to remark further?

SENATOR DOYLE:

Yes. Please, Mr. President.

THE CHAIR:

Please proceed, Sir.

SENATOR DOYLE:

Thank you. This bill deals with, this bill is
actually the result of a recent Supreme Court case
dealing with a criminal statute that had, which our
State's Attorney's Office presented to us here.

The bill was originated from them and the problem
was one of our current statutes was determined to be

law/gbr
SENATE

April 29, 2010 36

vague and legally deficient. Therefore we have a bill here that clarifies two of our current statutes, sexual assault in the second degree and sexual assault in the fourth degree. And what it does is it really defines basically if the person who is being violated, being sexually violated or the recipient of the criminal act.

And basically it better defines the mental state and status of the person that is being violated in the two different, so the standard is the same in the sexual assault in the second degree and the fourth degree but it clarifies and makes it a broader term which is, you know, is more appropriate for this case. And we think this, our new language will address the concerns by our Supreme Court.

In addition, Mr. President, the Clerk has a clarifying amendment, LCO 3940. May the Clerk please call and I be allowed to summarize.

THE CLERK:

LCO 3940, which will be designated Senate Amendment Schedule A as offered by Senator Doyle of the 9 District.

THE CHAIR:

Senator Doyle.

law/gbr
SENATE

April 29, 2010 37.

SENATOR DOYLE:

Thank you, Mr. President.

I move adoption of the amendment.

THE CHAIR:

Seeing no objection, please proceed, Sir.

SENATOR DOYLE:

Thank you, Mr. President.

This simple amendment clarifies an issue at the Committee level. When we JF'd this bill we added these two words or permanently. It turns out that was inappropriate because this deals with the definition of the term mentally incapacitated. At the Committee level it was inappropriately put in or permanently. This amendment deletes that.

And this definition of mentally incapacitate does not relate to criminal sanctions or charges in the file copy before us but relates to another type of criminal act commonly known as the date rape situation. And it's a common sense and reasonable amendment. And I urge the Chamber to support the amendment, Mr. President.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Amendment A?

law/gbr
SENATE

April 29, 2010 38

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

Through you, a couple of questions to the
proponent of the bill.

THE CHAIR:

Senator Doyle.

SENATOR KANE:

This came to our attention through the State's
Attorney Office. Through you, Mr. President, is that
correct?

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, just a question for
the President, this we're dealing with the amendment?

THE CHAIR:

We're dealing with Senate A right now.

SENATOR KANE:

My apologies, Mr. President. I'll wait until we
pass the amendment first. Thank you.

THE CHAIR:

Not a problem.

law/gbr
SENATE

April 29, 2010 39

Will you remark further on Senate Amendment A?

Will you remark further? If not, let me try your minds. All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay.

The ayes have it. The amendment's adopted. Will you remark further on the bill as amended by Senate A?

Senator Kane

SENATOR KANE:

Thank you, Mr. President.

I apologize for that. Going back to my original question, this came to us through the State's Attorney's Office. Correct? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President, yes.

THE CHAIR:

Senator Kane.

SENATOR KANE:

law/gbr
SENATE

April 29, 2010 40

So, prior to this bill there was a loophole if you will or a, you know, no safety net if you will for this particular population or this crime with this particular population. Or how did it come about? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

I characterized a little differently. It's really, it's a question of the language of the criminal statute had to be corrected or clarified because, you know, in criminal court this particular statute was, a defendant was charged with it and the language was challenged in our court system and went all the way up to the Supreme Court.

So really it's a question of the drafting of the language of the statutes before us were invalidated or in question. The Supreme Court ruled them not clear. So we're basically really clarifying the statute. But prior to this bill the language is in effect and it's worked fairly well through the years. We're just clarifying it today because it was challenged in the courts. Through you, Mr. President.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 41

Senator Kane.

SENATOR KANE:

And the, thank you, Mr. President. And the definition of a developmentally disabled person or physically disabled person, has that been changed or altered? Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

That actual definition I do not believe has been changed. The main import to the bill is because it's really saying it's not a specific person. It's saying, it defines who the victim is really, the victim of the crime. And it clarifies the language, you know, if the other person's unable to communicate, unable to communicate and the ability, the lack of consent to the sexual intercourse and is substantially impaired because of mental or physical condition.

But it's not really a true definition of two words. It defines the defendant, the victim which the conduct was imposed upon. Through you, Mr. President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

law/gbr
SENATE

April 29, 2010 42

Thank you, Mr. President.

I thank Senator Doyle for his answers and appreciate his work on this bill. And I will be voting in favor of the bill.

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Will you remark on Senate Bill 315 as amended by Senate A? Will you remark further?

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President.

I move this bill to the consent calendar.

THE CHAIR:

There's a motion on the floor to place this item on consent. Seeing no objections, so ordered.

Mr. Clerk, will you return to the calling of the calendar.

THE CLERK:

Returning to calendar page three, favorable report. Calendar number one or actually Calendar number 78, file number 77, Senate Bill 265, AN ACT REQUIRING A HEALTHCARE PROVIDER TO DISPLAY

law/gbr
SENATE

April 29, 2010 43

PHOTOGRAPHIC IDENTIFICATION BADGES, favorable report
of the Committee on Public Health.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. Good afternoon.

THE CHAIR:

Good afternoon, Sir.

SENATOR HARRIS:

Mr. President, I move acceptance of the joint
committee's favorable report and passage of the bill.

THE CHAIR:

Acting on approval and acceptance. Sir, would
you remark further?

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, this is
a consumer protection bill in the healthcare setting.
It requires certain healthcare providers to wear
badges that identify who they are and in what field of
practice they're in.

Mr. President, the Clerk is in possession of an
amendment, LCO number 4341. I ask that it be called
and be granted permission to summarize.

law/gbr
SENATE

April 29, 2010 44

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4341 which will be designated Senate
Amendment, Senate Amendment Schedule A sought by
Senator Harris.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. Clerk and Mr. President.

I move adoption.

THE CHAIR:

Please proceed, Sir.

SENATOR HARRIS:

Mr. President, this makes the bill a stronger bill because what we're trying to get at here is healthcare providers. And essentially this bill strikes out those types of providers which really are not providing healthcare such as homemaker companion agencies which deal more with assistance of activities of daily living.

It also just clarifies how the file could be read initially that seemed to indicate that a corporation

law/gbr
SENATE

April 29, 2010 45

would have to wear a badge. So I urge adoption of the amendment, Mr. President.

THE CHAIR:

Thank you, Sir.

Senator Debicella.

SENATOR DEBICELLA:

Mr. President, just for purposes of legislative intent, a question through you to the proponent.

THE CHAIR:

Senator Harris.

SENATOR DEBICELLA:

Mr. President, through you, just to be clear what will be included with this amendment in the scope of a bill. It is basically hospitals and other medical professionals who are in a hospital environment. Is that my understanding of the scope of what would be included through this amendment? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

That is true. It would include certain things like outpatient dialysis facility but again, healthcare providers.

law/gbr
SENATE

April 29, 2010 46

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

I thank the Senator for the clarification.

THE CHAIR:

Will you remark further on Senate A?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, to the proponent of the bill, if I may.

THE CHAIR:

Senator Harris.

SENATOR FASANO:

Through you, Mr. President, so in following up on Senator Debicella's questions, if you're in a hospital this would be a law that would require you to wear those badges as well? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes. Once DPH works out the specifics of the content of the badge.

SENATOR FASANO:

law/gbr
SENATE

April 29, 2010 47

And.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Through you, Mr. President. Currently is there a State law requiring healthcare professionals to wear badges? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. There is not State law. There are, in the hospital setting for inst there are some JCAHO standards that have to be met. But they don't meet the level of identification that this bill gets at. So it is truly a consumer protection bill.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And then through you, Mr. President, not only would this provide a law to say that hospitals and I also understand that healthcare facilities that send employees out of their

law/gbr.
SENATE

April 29, 2010 48

building to, for home healthcare. Did the amendment now change that? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. No, it left in nursing home, rest home, home healthcare agency and homemaker health aid. Again, trying to get to those professions that actually provide healthcare.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And through you, Mr. President, to the proponent of the bill, is there, I understand the general consumer protection issue that you raise is a particular problem or incident that, in the healthcare industry that has risen to this concern? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes. As we know, when people are in healthcare situations, we'll take a hospital for example. People come. They're often

law/gbr
SENATE

April 29, 2010 49

injured physically. There are psychological issues potentially as a result of the trauma of the injury. It can be a period of mass confusion as far as getting admitted. People circulating around them.

I mean, just think of even some of the television shows like ER, not to use that as the pure basis. But we know from our own circumstances that there is a lot of activity going on in a lot of these settings with a lot of confusion. This will help clarify to the patient who they are dealing with.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Through you, Mr. President, and if I were affiliated with several hospitals as a doctor maybe even the doctor at several hospitals as well as a nursing home or some other institution, does this bill deal with multiple relationships with multiple facilities or would it be one badge or do I have to have five badges for the five different institutions that I may have certain privileges with. Through you, Mr. President.

SENATOR HARRIS:

law/gbr
SENATE

April 29, 2010 50

Through you, Mr. President, a lot of those specifics would be left to be determined as DPH goes through the process of saying what actually has to be on the badge, the font size, et cetera.

I would imagine that if you were a doctor and you were working in a couple of different settings, to the extent they had to have the name of the facility on there, you might have to have several different badges. If they didn't specify the facility in the end, perhaps one would work.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you very much, Mr. President.

I thank Senator Harris for his answers to his questions and I appreciate his efforts on this bill. Mr. President, you know I think we work pretty well without this law.

Currently I go to a number of healthcare facilities as I'm sure all of us do on those occasions that we have to visit a friend or a loved one and there seems to be no problem with the badges. I see everybody with a badge even in this building we have badges.

law/gbr
SENATE

April 29, 2010 51

I don't fully understand why we feel State government needs to come in and determine what you have to have for badges. We've got a lot of issues in this State. We have a lot of health issues in this State. We have a lot of care issues in this State. We have fiscal issues in this State.

For us to say we're going to put together a committee to discuss and come up with regulations with respect to badges that people are already wearing in hospitals and institutions doesn't seem to me to be all that critical to government. The badges that I see displayed in hospitals are coded with colors and magnet strips so that certain healthcare professionals could either get into supply cabinets, medicine chests or certain areas of the hospital.

But there doesn't seem to be a problem with having these badges around. The hospitals can deal with them. The institutions can deal with it. The worst thing we can do is to come in and say we got a cookie cutter way of doing it. This is the information and maybe they say minimally, this is the information you need to have on it. You can put other information on it. Well in that case, why do we need that committee to say that? Sure DPH could say to

law/gbr
SENATE

April 29, 2010 52

hospitals, hey we'd like you to have this information on it. Do we really have to pass a law? Do we really have to establish a committee to talk about this? There's not like 1,000 hospitals in Connecticut.

So, Mr. President, I won't be supporting this bill only because I don't see the need. I appreciate the work the Committee did and I appreciate the work Senator Harris did. And I appreciate his belief and coming out with this bill and I understand that.

I disagree with the importance of this bill, the foundation of the bill. And once again, I just disagree government does not need to be every place.

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

With respect to Senate Amendment A, would anyone like to remark further on Senate Amendment A?

Senator DeBicella.

SENATOR DEBICELLA:

For the second time, Mr. President. Forgive me. One other question on scope, through you to the proponent of the bill.

THE CHAIR:

Senator Harris.

law/gbr
SENATE

April 29, 2010 53

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President, through you, one question that came to mind during the last discussion. If you are a solo practitioner. If you are a doctor in your own office, you will not be required to wear a badge under this bill. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. It looks like no, because of the lists to do not appear to cover that setting in the list. I also want to clarify if I can, Mr. President, with your indulgence for Senator Fasano.

I actually misread something. It does include; the standard package would include the name of the healthcare facility. So for the record I wanted to straighten that out.

THE CHAIR:

Thank you, Sir.

Senator Debicella.

SENATOR DEBICELLA:

law/gbr
SENATE

April 29, 2010 54

Thank you, Mr. President. I just wanted to make sure again for legislative intent on the record that we're not requiring that if you go to your doctor and the doctor is the only medical professor there, professional in his office that he has to wear a badge. I just wanted to make sure that that was on record. Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Amendment A? Remark further? If not, I will try your minds. All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed.

The ayes have it. Will you remark further on Senate Bill 265 as amended by Senate A?

Distinguished Minority Leader from Fairfield,
Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. If I could a few questions to the proponent of the bill now amended.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 55

Senator Harris.

SENATOR MCKINNEY:

Thank you, Mr. President.

Senator Harris, as I've listened to the questions there's been reference made I believe by Senator Fasano to a committee that's going to put together rules and regulations as to how this badge identification wearing bill is going to work. But as I read the bill I see no such reference to the committee.

As I read the bill it says that all of the institutions and facilities which are named in the bill must come up with a badge identification program in consultation with DPH. And the effective date of this bill is October 1.

So through you, Mr. President, should DPH not be interested in consulting with these facilities. They would still be required to have this policy in place by October 1, 2010. Through you, is that correct?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. First of all an apology if I mislead the distinguished Minority

law/gbr
SENATE

April 29, 2010 56

Leader. I don't think I referenced a committee or that DPH actually was going to be getting this done. DPH is on board with this bill so I don't think at this point they're going to not consult.

But yes, if they said no, I think it would, I think there could be a problem. But it does say that they shall develop policies. I think that that shall encompass DPH's requirement to participate in the process.

SENATOR MCKINNEY:

Well.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And through you, Mr. President. I don't see the bill as requiring the Department of Public Health to develop policies. Through you is that, is the bill intended to require the Department of Public Health to create this policy or just the private facilities. Through you.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

law/gbr
SENATE

57
April 29, 2010

Through you, the facilities working in consultation with DPH together to develop the policies and procedures.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And through you, Mr. President, if a hospital say Saint Francis Hospital were to already have a policy in place where their employees were required to wear badges, would that policy already in existence serve as good standing under this bill? Through you.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. The idea is to have standard badges. That's where while Senator Fasano made some very good points, I disagree with him. That the idea here is to have a standard ID badge so that people who now visit multiple healthcare settings can have an easy, quick way during the often confusing, traumatic times that they're having getting their healthcare to be able to identify the professional providing the care.

law/gbr
SENATE

April 29, 2010 58

So at the end of the day the intent of this bill is to have policies and procedures which make one standard badge, lay out font size and content so that that consumer protection goal can be best accomplished.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. And with all due respect I do not read the language although I appreciate the intent. I do not read the language of this bill as amended as in any way shape or form requiring one standard badge for all of the aforementioned healthcare facilities.

As I read the language it requires that a healthcare provider as defined and the certain employees who have direct care responsibilities, it says that these facilities or institutions in consultation with the Department of Public Health shall develop policies and procedures concerning the size, content and format of the badge required through this subsection.

That leads me to believe that each healthcare facility or institution is required on their own to

law/gbr
SENATE

59
April 29, 2010

come up with a badge identification. And if Saint Francis were to come up with a badge identification different than Bridgeport Hospital, under the language of this bill they would be justified in doing that. And so I don't see as this bill is written how the intent would trump the plain, the unambiguous language of this bill.

And that's my question. Because my guess is that many hospitals and healthcare facilities already require their employees to wear badges. If that's the case then why wouldn't we want that system to maintain. And then impose the facilities that don't have badges to come up with a badge system. The intent of this bill actually makes the bill worse than what it already is.

I don't understand why employees at Saint Francis Hospital would have to have the same badge as an employee at Saint Vincent's who has to have the same badge as an employee at Yale New Haven. It makes no sense. Especially if those hospitals have already gone through the expense of having badges for their employees.

But I guess I would, and I have great respect for Senator Harris. I think he knows that and I

law/gbr
SENATE

April 29, 2010 60

understand his intent. But perhaps he could explain to me how that language in the bill requires one badge to be the same size, type, format, picture, et cetera for all facilities. The language simply does not say that. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. I can understand the issue that Senator McKinney is raising. But if you read the language it does say that the healthcare facilities, all of those required under the bill to be wearing badges, those that have them currently and some that don't shall in consultation with Department of Public Health will develop policies and procedures. Those will be standard policies and procedures. They will contain according to the words of the bill the size, content, format of the photographic identification badge.

Now, it is possible I assume in reading that that the result of this work by the healthcare facilities in consultation with DPH could result in some sort of policies and procedures that have a floor that say for instance your name has to be in 18 point Arial font.

law/gbr
SENATE

April 29, 2010 61

And maybe some facility will want to do 20 point Arial font and will go above that.

I suppose in that way there could be differentiation. But the intent is to set a floor standardization so that everybody can clearly identify their healthcare provider and do it across settings.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And through you, Mr. President. If there is an inability for any reason for every single hospital and healthcare facility in this State, which the hospitals are not large in number but when you include all these facilities you get into a larger number.

If they are unable to get DPH and the group to come out with one standard set of policies by the effective date of this law what happens? Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Unfortunately probably what happens too often when we pass laws, sometimes they're not done in a timely fashion. And I can give you a list of those

law/gbr
SENATE

April 29, 2010 62

that we have passed that haven't been followed. But the intent here is for everybody to work together and DPH, Department of Public Health is onboard with this to be able to sit down.

And it doesn't seem like we're not asking this group of facilities and DPH to come up with a treatise on identification. There are some specific things it would appear to me that between now and October 1 there's more than enough time to get that done. And if there isn't we maybe have a larger problem with State government than what we're talking about here today.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Well, and I understand that and I respect it. But if you are a healthcare facility or a hospital who has already paid for badges for your employees and you're being told that your badge doesn't have the same typeface that another hospital wants.

And maybe there's five hospitals that want one typeface and two that want another. If you've already gone through that expense you're not so interested in negotiating to have a new system. And so if the

law/gbr
SENATE

April 29, 2010 63

hospitals don't come up with a badge system, this bill is silent. Nothing happens. There's not enforcement mechanism for DPH. There's no fine. There's no penalty. None.

We're requiring employees with direct care of patients to wear a badge so that we can protect those patients. If that employee fails to wear their badge what do we do? Nothing. So it would make sense to me to say, if you're a hospital or healthcare provider and you currently have a policy within your hospital or healthcare facility that your employee wear badges, you're good.

And make sure your employees wear them. And if an employee doesn't wear them, complaints can be lodged within the hospital administration and disclosed to the Department of Public Health and when you get a certain number of violations perhaps there will be a State penalty for that. Maybe you get on a warning list or something like that. None of that is in this bill.

And so I think, you know we've passed a law that we're going to say is consumer protection yet there's no requirement that the law be done. If the law is

law/gbr
SENATE

April 29, 2010 64

done there's no requirement that the people required to wear badges wear badges.

And someone can fail to wear their badge every single day of their life at work and we'll do nothing about it. But we've required them to wear badges. I think sometimes if we're going to pass laws because we want to do the public good and help people, we should actually require that those laws do what they're supposed to do. But we continue to pass laws around here that have no teeth, no punishment, no enforcement, nothing.

By the very words of this bill it requires a facility to provide badges. It does not say that all facilities have to have the same badges. I understand that's the intent but that is not the language of this bill. And if a hospital out there likes the badge system they have, they should keep the badge system they have because nothing in this law will require them to do otherwise.

And if someone who's in a home healthcare facility wants to go into a badge and take advantage of one of our senior citizens and they don't wear the badge, they haven't committed any fine or penalty or anything. So if we're about protecting people we

law/gbr
SENATE

April 29, 2010 65

should have language in a bill that actually promises those protections. And this falls, with all due respect, far short. And for that reason I intend to vote no.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Bill 265 as amended by Senate A? Will you remark further?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

Mr. President through you a question through to Senator Harris. I actually had a constituent who contacted me this winter who was in a nursing home, was maltreated by an employee. And he didn't for the life of him know who that person was. They came and went like the night and he was very upset with the treatment he had received.

And through you, Mr. President to Senator Harris, the question that I had was does this bill obligate a badge that would be common among healthcare facilities or would each healthcare faculty have a separate badge?

THE CHAIR:

law/gbr
SENATE

66
April 29, 2010

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President, the intent is to develop policies and procedures to have standard badges so that your constituent with at least a floor of how large they should be, the content, format, so that your constituent for example would have had something that clearly was on the person probably not providing the appropriate healthcare from what it sounds like, to be able to identify that person.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

And would it be the case that all nursing homes would have the same badge or would they, the fear would be that people could use a badge in once facility would they be able to get their way into another facility because the badge that they had was the same. There was the same badge at Hartford Hospital as they had at Saint Francis Hospital, as they had at Yale New Haven Hospital?

THE CHAIR:

Senator Harris.

law/gbr
SENATE

April 29, 2010 67

SENATOR HARRIS:

The intent behind the bill is to develop policies and procedures to have standardized badges.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. The concern I have is that if you had a badge that was the same for all hospitals in the State of Connecticut that you might have people using these badges for unauthorized entry into a facility and that wouldn't be a good thing. And if the bill creates a risk that there would be this one badge that would allow people to sneak in and out of facilities that they don't have any business being in that would not be a good thing.

But, Mr. President, I guess I heard what Senator McKinney had to say and Senator Fasano. And I think it is regrettable that there's no mechanism for enforcing the failed, that there's not penalty for the failure to wear a badge. There's really no place for a person to turn if there's a violation of this law.

So, I'm not convinced. I'm supportive of the idea but I'm not convinced that this is the best way to get there. Thank you, Mr. President.

law/gbr
SENATE

April 29, 2010 68

THE CHAIR:

Thank you, Sir. Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Just for clarification for Senator Roraback, one of the pieces that needs to be on the badge in standardized form we hope through these policies and procedures is the name of the healthcare facility. So the particular nursing home at which your constituent was residing would be on the badge based on the language in the bill.

THE CHAIR:

Thank you, Sir. Will you remark further on Senate Bill 265 as amended by Senate A? Will you remark further?

If not, Mr. Clerk please call for a roll call vote. The machine will be open.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 69

Have all Senators voted? If all Senators have voted please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

The motion is on passing Senate Bill 265.

Total number Voting 35

Those voting Yea 30

Those voting Nay 5

Those absent and not voting 1

THE CHAIR:

The bill as amended passes.

At this time I will entertain a point of personal privilege. Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President. I rise for a point of personal privilege.

THE CHAIR:

Please proceed, Sir.

SENATOR McLACHLAN:

Thank you, Mr. President. I was very happy to participate this year again in the Capital Intern Program that we have here at the State legislature. And I'd like to introduce to the circle today Zachary

law/gbr
SENATE

April 29, 2010 70

April who is a junior at Eastern Connecticut State University.

Zach is majoring in political science with a minor in pre-law. He resides in Senator Maynard's district in Mystic, Connecticut. He's done a fine job for my office during this legislative session and we want to celebrate the work he's done and more importantly celebrate the Legislative Intern Program here at the State Capital.

I want to thank the Internship Committee for their hard work in bringing us some terrific candidates like Zachary April to participate in the program. Please join me in thanking and wishing Zachary April the best of luck in his future endeavors.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Thanks, Mr. President. For a point of personal privilege.

THE CHAIR:

Please proceed, Sir.

SENATOR MEYER:

law/gbr
SENATE

April 29, 2010 71

Thank you, Mr. President. You know, my office probably like most of yours, the amount of emails increases as we continue to serve here in the General Assembly. And I think we're now over, we average over 100 emails a day. And my office would never have been able to service all those constituents who write us without the remarkable and conscientious services of Garrett Bloughbell who has been my intern.

Garrett is a senior at the University of Connecticut. He majors in political science. He's got a great flare for public matters and public issues and obviously many of us are trying to encourage him to stay in public life.

Maybe he'll come back in a staff position here some day. Maybe he'll come back in elective office here or even a higher office. I just want to publicly thank him for all of his work and ask that you give him a warm welcome. Thank you.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. Mr. President, I also rise for the pleasure of an introduction of a wonderful intern that I was fortunate enough to have

law/gbr
SENATE

April 29, 2010 72

from the University of Connecticut, Emily McDunna.

Emily who is a senior this year at UConn, my alma mater as well and from the school of business as well who had a minor in political science.

This was one terrific intern. We were very fortunate, my aid and I to have her expertise and her assistance. She was excellent. Very diligent and very helpful in all endeavors. And we wish her well as she graduates this year and goes on to do greater things in her future.

Emily, we all thank you and I hope you will all give her a round of applause for her good work. Thank you.

THE CHAIR:

Thank you, Senator. Are there any other points of personal privilege or introductions before we turn back to the call of the calendar.

Mr. Clerk.

THE CLERK:

Turning to calendar page three, Calendar number 112, file number 130. Senate Bill 264, AN ACT PROHIBITING SMOKING IN LICENSED CHILDCARE FACILITIES, favorable report of the Committee on Public Health.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 73

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I move adoption of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on approval and passage of the bill. Sir, would you like to remark further.

SENATOR HARRIS:

Thank you, Mr. President. We've talked a lot in this circle about the effects of second-hand smoke in particular on kids. A 2006 report of the Surgeon General said there really is no way except for elimination of second hand smoke to protect children against the bad effects, the damaging effects of second-hand smoke.

Mr. President, this just fills in a hole in our law and it prohibits smoking in family daycare centers, family childcare centers. Those are the types of childcare that are run out of people's homes and licensed by the Department of Public Health. Mr. President, the Clerk is in possession of an amendment, LCO number 4262. I ask that it be called and be granted permission to summarize.

law/gbr
SENATE

April 29, 2010 74

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4262 which will be designated Senate

Amendment Schedule A is offered by Senator Harris of
the 5 District and Senator Debicella of the 21
District.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. This amendment that
Senator Debicella.

THE CHAIR:

Will you adopt this, Sir?

SENATOR HARRIS:

Move adoption.

THE CHAIR:

Please proceed.

SENATOR HARRIS:

Thank you, Mr. President. This amendment the
distinguished Ranking Member and I worked on just
clarifies that what we're trying to prohibit is
smoking within the confines, the licensed part of the

law/gbr
SENATE

April 29, 2010 75

childcare facility during the hours that the children are there.

And it does not include the grounds. So if somebody were out at the front lawn at one of these houses, smoking, that would not be a violation. It cannot happen where the kids are inside the facility. I urge adoption.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate A? If not, let me try your minds. All those in favor signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay.

The ayes have it. Senate A is adopted.

SENATOR DEBICELLA:

Will you remark further, Senator Debicella. Mr. President, just briefly on this bill, this just strikes me as complete common sense. I was actually surprised that smoking was allowed within licensed childcare facilities. I think almost everyone would agree that if you drop your child off at a childcare

law/gbr
SENATE

April 29, 2010 76

facility you don't want the employees smoking in the childcare facility itself.

I think the amendment we just made strikes a reasonable balance for smokers but protects the children from secondhand smoke. I urge adoption.

THE CHAIR:

Thank you, Sir.

Will you remark further?

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President. I applaud the proponents of this bill. And Senator Harris, I have a quick question through you, Mr. President.

Thank you. Thank you, Mr. President.

Is it currently legal to drop a child off at one of these daycare centers by a parent or whoever's transporting that child to smoke in the car with that child?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes. Although I believe there's one Representative in the building that wants to change that.

law/gbr
SENATE

April 29, 2010 77

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Fair enough. I think you're right about that. And is there any, I have reviewed the law, the language of the law of the bill but not recently. Is there any coverage in there of that particular situation?

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. No. Again, it's only in the family daycare home during the hours that care is being provided to children.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you. And just to finalize. I think this whole idea falls into the category of no brainer. It's long overdue and I also along with Senator Debicella was surprised to find out that in fact this was permissible in advance of this bill being proposed and hopefully before it's passed. Thank you very much.

law/gbr
SENATE

April 29, 2010 78

THE CHAIR:

Thank you, Sir.

Senator LeBeau.

SENATOR LeBEAU:

Thank you, Mr. President. A question to the proponent of the bill.

THE CHAIR:

Senator Harris.

SENATOR LeBEAU:

Through you, Mr. President. Just a clarification on that Senator Harris, does the no smoking rule in a sense go into effect upon the arrival of the first child or is it a times that are posted for the opening and closing of the center.

And the reason I raise this question is because I know that many daycare centers are operated out of homes. Like my neighbor has a daycare center. And I'd be concerned that. And their smokers which I think is horrible but if there is no children there I don't see a problem. Respond to that please. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

law/gbr
SENATE

April 29, 2010 79

Through you, Mr. President. Just to clarify, under current law DPH regulations actually prohibit smoking in childcare centers and group daycare homes. And even in the outdoor areas in those homes. But they can designate smoking areas. This is, as Senator LeBeau says, specifically tailored for a family childcare center, one that is in one's home. And it only covers the hours that the child is there being cared for.

Customary business hours is defined as the hours that a family day care home is in operation caring for children. We had attempted to see if we could, to clear out the atmosphere so to speak, an hour before and try to do something in advance. It became difficult because of the way these operate where kids can be picked up and dropped off at staggered times; sometimes in an emergency. And so we just went with the hours that the children are on the site.

THE CHAIR:

Senator LeBeau.

SENATOR LeBEAU:

Through you, Mr. President. Thank you.

law/gbr
SENATE

April 29, 2010 80

Thank you, Senator Harris. And this certainly sounds like a step forward and I applaud your efforts. Thank you very much.

THE CHAIR:

Thank you, Sir.

Will you remark on the bill as amended by Senate A? Will you remark? Senator Harris.

SENATOR HARRIS:

Mr. President, if there's no objection I'd ask that this no brainer item be placed on consent.

THE CHAIR:

There is a motion of the floor to put this item on the consent. Seeing no objections, so ordered.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Mr. President for marking some additional items. First of all the next go item would be another committee from, the bill from the Committee on Public Health. And it's calendar page 18, Calendar 474, House Bill 5286. Again on page 18.

I have several other items to mark at this time. The next bills to be taken up in order after that Public Health Committee bill would be returning to

law/gbr
SENATE

April 29, 2010 81

calendar page four, Calendar 116, Senate Bill number 60 from the Banks Committee.

Calendar page five, Calendar 168, Senate Bill 361 also from the Banks Committee. And then moving to calendar page 26, Mr. President, Calendar 133, Senate Bill 54 also from the Banks Committee. And calendar page 27, Calendar 135, Senate Bill 59 also from the Banks Committee. So we will do a sequence of Banks Committee bills following the next bill from the Committee on Public Health. Also, Mr. President, for some calendar markings for committee referrals.

First, Mr. President, on calendar page 12, Calendar 428, Senate Bill 313, Mr. President would move to place that item on the foot of the calendar.

THE CHAIR:

Motion on the floor to place this item on the foot of the calendar. Seeing no objections, so ordered, Sir.

SENATOR LOONEY:

Thank you, Mr. President. And Mr. President, on calendar page 15, Calendar 448, House Bill number 5215, Mr. President, would move to refer this item to the Appropriations Committee.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 82

Motion on the floor. Seeing no objection, so ordered.

SENATOR LOONEY:

And, Mr. President, calendar page 25, Calendar 121, Senate Bill 186, would move to refer this item to the Judiciary Committee.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 18, Calendar 474, file number 134, substitute for House Bill 5286, AN ACT CONCERNING LICENSURE OF MASTER AND CLINICAL SOCIAL WORKERS, favorable report of the Committees on Public Health and Appropriations.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. I move acceptance of the joint committee's favorable report and passage of the bill.

law/gbr
SENATE

April 29, 2010 83

THE CHAIR:

On approval and passage would you like to remark further, Sir?

SENATOR HARRIS:

Yes, I would, Mr. President. Thank you. Very simply, Mr. President this bill creates an interim license, a new level of licensure I should say, a license master social worker so that those that have achieved their master's in social work, taken the test, after graduating and are receiving their master's can have a licensure category when they are pursuing their 3,000 hours of clinical work; supervised clinical work before they take another test and are able to earn the rank of licensed clinical social worker.

Mr. President, this bill is important because it provides protection to consumer's again through the licensure having redress through that license. If somebody has a complaint against one of these licensed master social workers. And it also allows people to work in certain hospital and other medical settings where now they cannot work when they are trying to obtain their licensed clinical social worker status. So, Mr. President, I urge passage of the bill.

law/gbr
SENATE

April 29, 2010 84

THE CHAIR:

Remark further on House Bill 5286?

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. Speaker. Mr. Speaker, I'd be remiss to, Mr. President. Excuse me.

THE CHAIR:

That's okay. I got a promotion there.

SENATOR PRAGUE:

I'd be remiss if I didn't stand and support this bill as a MSW myself this kind of next step for social workers is critically important. And I am hoping that without any problems at all that this bill will pass this chamber. Thank you.

THE CHAIR:

Thank you, Ma'am.

Will you remark further on House Bill 286?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President, as we've been discussing this bill for the last two years we've gone through a number of iterations on it. And I believe Senator Harris has quite successfully dealt with a number of the concerns that people have brought

law/gbr
SENATE

April 29, 2010 85

up throughout our two year discussion on this, including the fact that in previous versions of the bill there were different standards for licensure between public employees and private employees that no longer exists in this bill.

And through you, Mr. President, just a couple of questions to Senator Harris to clarify this in people's minds to just let them know the discussion that we've been having.

Through you, Mr. President, a lot of the debate we had was around are we either lowering the standards to allow more people to practice and therefore possibly putting consumers at risk or are we artificially constraining the actual supply of social workers through having this additional level of licensure agreement.

Those have been the two concerns that have been addressed throughout the debate. And through you, Mr. President, if Senator Harris could just describe how we have addressed those in this bill. Through you, Mr. President.

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

law/gbr
SENATE

April 29, 2010 86

Through you, Mr. President. I guess we'll take the latter one first since I at least remember that one at this point.

We're not constraining master's of social work because there is no requirement that they actually pursue this level of licensure. You could graduate with a master's of social work and you could take your test and then you could practice under supervision as you can under current law without trying to achieve this license.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

And on the prior one there was a concern that there was possibly a lowering of standards to allow folks to actually come in and practice. There was kind of two debates that were going on simultaneously. And I believe our concerns were adequately addressed with that.

Through you, Mr. President to Senator Harris, just to describe, just to give comfort to the circle that those concerns have been addressed in this bill. Through you.

law/gbr
SENATE

April 29, 2010 87

THE CHAIR:

Senator Harris.

SENATOR HARRIS:

Through you, Mr. President. Yes. All those concerns have been addressed. And maybe if I just give you a quick snapshot of current law and the change you can see how it works. Currently again you want to go and get a master's of social work like Senator Prague did, graduate from school, achieve that degree, take a test.

Under current law to become a licensed clinical social worker you have to work for 3,000 hours under supervision. A hundred of those hours must be under the supervision of a licensed clinical social worker and then the remaining can be by a licensed clinical social worker or a psychiatrist, an APRN, there's some other supervisors defined in statute.

And then at the end of that 3,000 hour period you take another test and could be granted a license of clinical social worker status. Current - this bill changes only one thing. It allows you to get a license for that 3,000 hour period. Everything else stays the same. You've still got to have your

law/gbr
SENATE

April 29, 2010 88

master's, take that test. You still have to be supervised in the same way.

Everything else remains the same and to become a licensed clinical social worker at the end of that 3,000 hour period with that other level of licensure you then still have to take a test to become a LCSW.

SENATOR DEBICELLA:

And thank you.

THE CHAIR:

Senator Debicella:

SENATOR DEBICELLA:

Through you, Mr. President. Thank you. Thank you to Senator Harris for that. And based on the description I think folks can see that. We are actually addressing a chicken and the egg problem that social workers face in terms of getting that three hour, 3,000 hours of training when they don't have a license to actually practice.

This bill's going to actually address that problem and hopefully make it a little smoother for our social workers to get that proper training they need to hit the full licensure that we desire. So I urge passage of this bill. And thank you, Mr. President.

law/gbr
SENATE

April 29, 2010 89

THE CHAIR:

Thank you, Sir.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

I had some serious concerns about this bill, as you know, Senator Harris and others around the circle, last year. And I brought these concerns up during the Committee public hearing process as well. I am one of those people who believe that we are lowering the standards here. And the reason for that, during testimony and I apologize, I don't remember the gentleman's name but he certainly was from the industry.

They mention how there are social workers who cannot pass the exam. And they came right out and said that during the public hearing process. But we're giving them a license. So to me it was contradictory that, you know, you come out of school and we're going to give you a license prior to those 3,000 hours. I believe it's 3,000 hours of supervision and working under a licensed social worker and or psychologist, psychiatrist, and the like. Secondly, there was an argument that there were no

law/gbr
SENATE

April 29, 2010 90

jobs for these individuals which is also not true because there are many organizations, nonprofit organizations that are hiring these individuals. So I don't know if I bought that argument either. I don't believe that we should be lowering the bar for a lot of these type of jobs.

I believe a social worker is equally important as any other type of medical care provider and we should give the consumers the benefit of having trained and certified individuals. However, going through this process I learned that more importantly than this bill, that an individual with a bachelor's degree in anything regardless of what it is can become a social worker for the Department of Children and Families without any further education, exam or industry standards. So to me finding that out made this more palatable.

So, Mr. President, I won't thwart this bill any longer. I will intend on voting for it. But I hope, and through you, Mr. President, I'd like to ask a question to the proponent of the bill. I hope that the Public Health Committee will take this new circumstances, new problem, this new situation into consideration next year. So through you, Mr.

law/gbr
SENATE

April 29, 2010 91

President, I'd like to ask a question to the proponent of the bill.

THE CHAIR:

Senator Harris.

SENATOR KANE:

Thank you, Mr. President.

Through you, as I just mentioned it's come to my attention and I believe it's come to your attention as well and some of the advocates have talked to us about this as well but I think more important than this bill because I am going to vote in favor of the bill, is the fact that there are DCF workers who are practicing as social workers without a degree in that particular field.

So for example they could come out of any school with a degree in art, with a degree in agriculture, with a degree in anything and become a social worker. So I'm asking, through you, Mr. President to the Chair of the Public Health Committee that we can take this issue up next year because I think that's even more important.

Thank you, Mr. President. Through you.

THE CHAIR:

Senator Harris.

law/gbr
SENATE

April 29, 2010 92

SENATOR HARRIS:

Through you, Mr. President.

While I won't be here I will obligate my successor to be here. But, yeah, Senator Kane, you raise a good point. There are State employees who have the title of social worker but we have to be careful because these State employees aren't providing clinical services. They're not providing therapy. But advocates for a while have tried to change the situation.

So I do agree that it's something that needs to be looked at to make sure that those holding themselves out as social workers actually have the training, the skill, the credentials to be able to do so. But, again, they're not providing clinical services. They're not providing therapy.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

And you're right, Senator Harris. You won't be here so that's true. But I do appreciate your comments on that part because I think that is

law/gbr
SENATE

April 29, 2010 93

something that the Public Health Committee should take up next year.

And I look forward to that debate because I think that's a very serious issue that we have social workers practicing at DCF without that particular license and or degree.

Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

Through you, if you may, if Senator Harris could just briefly go over the explanation he gave about the jobs. I didn't quite follow that colloquy.

THE CHAIR:

Senator Harris..

SENATOR HARRIS:

Yeah, Senator Kane raised an important issue with respect to the ability to work if you just have your master's of social work and have taken that first test. In certain settings, hospitals and other medical settings where there are federal requirements you are not able to actually perform that work as a

law/gbr
SENATE

April 29, 2010 94

social worker without having a license. Because there's a federal certification I believe it is.

So we actually find ourselves in a situation where someone who ultimately wants to work say in a hospital setting cannot do their 3,000 hours, be under the supervision of someone in that very setting that they want to ultimately work in because they don't have a license.

So by passing this bill we will give them the credential that they need to be able to actually work and train in the setting in which they ultimately want to be in. So it wasn't that no jobs were available to social workers. It was that in certain settings they weren't able to get the jobs.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And then so once they're in that arena and they do those hours of OJT is there another level or a test that they take to make them quote certified or license or able to perform those skill sets that they've been learning prior to? Through you, Mr. President.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 95

Senator Harris.

SENATOR HARRIS:

Through you, yes, Mr. President. After the 3,000 hours under current law and still after this bill passes if it does, there would still be a test that would have to be taken based on that clinical experience to achieve the status of licensed clinical social worker.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you.

I thank the gentleman for his answers.

THE CHAIR:

Will you remark further on House Bill 5286? Will you remark further on House Bill 5286?

Okay. Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

The roll call has been ordered in the Senate.

Will all Senators please return to the chamber.

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the chamber.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 96

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

THE CLERK:

The motion's on passage of House Bill 5286.

Total number Voting 35

Those voting Yea 34

Those voting Nay 1

Those absent and not voting 1

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, if the Clerk might call the first consent calendar at this time.

THE CHAIR:

Mr. Clerk.

THE CLERK:

The roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber.

law/gbr
SENATE

April 29, 2010 97

Mr. President, those items placed on the first consent calendar begin on calendar page one. Calendar number 497, substitute for House Joint Resolution number seven.

Calendar 498, House Joint Resolution number 14. Calendar page two, Calendar 499, House Joint Resolution number 15. Calendar 500, House Joint Resolution number 19. Calendar 501, House Joint Resolution number 27. Calendar 502, House Joint Resolution number 45. And Calendar 503, House Joint Resolution number 48. Calendar page three, Calendar 112, substitute for Senate Bill 264. Calendar page eight, Calendar number 269, substitute for Senate Bill 391. Calendar page 22, Calendar number 45, substitute for Senate Bill 31. Calendar page 29, Calendar number 179, Senate Bill 67. Calendar page 36, Calendar number 268, substitute for Senate Bill 315.

Mr. President that completes the items placed on the first consent calendar.

THE CHAIR:

The machine will be open.

THE CLERK:

The Senate is now voting by roll call on the consent calendar. Will all Senators please return to

law/gbr
SENATE

April 29, 2010 98

the chamber. The Senate is now voting by roll on the consent calendar. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of consent calendar number one.

| | |
|-----------------------------|----|
| Total number Voting | 35 |
| Those voting Yea | 35 |
| Those voting Nay | 0 |
| Those absent and not voting | 1 |

THE CHAIR:

Consent calendar one passes.

At this time I will entertain a point of personal privilege.

Senator Kane.

SENATOR KANE:

Thank you; Mr. President.

A few minutes ago when we were doing points of personal privilege a number of Senators recognized their interns. Well my intern was hard at work. So,

law/gbr
SENATE

April 29, 2010 99

he was unable to participate earlier. So I wanted to just bring the circle's attention to Tom Fazio. Tom is a senior at my alma mater of Central Connecticut State University. Go Blue Devils.

He is a resident of Senator Doyle's district in Cromwell. He is a political science major and is applying to graduate school. Tom was a great asset to our office, did a wonderful job during the session, as been doing an excellent job for our caucus. And I'd just like the chamber, the circle to give him a warm welcome.

THE CHAIR:

Thank you, Sir.

Are there any other points of personal privileges or announcements before we proceed with the additional call of the calendar?

Mr. Clerk.

THE CLERK:

Calendar page four, Calendar number 116, file 161, Senate Bill 60, AN ACT CONCERNING A STUDY OF CERTAIN PROGRAMS ADMINISTERED BY THE CONNECTICUT HOUSING FINANCE AUTHORITY, favorable report of the Committee on Banks.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 100

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on acceptance and approval, Sir, would you like to remark further?

SENATOR DUFF:

Thank you, Mr. President.

THE CHAIR:

Please proceed.

SENATOR DUFF:

Mr. President, I have a strike all amendment. If the Clerk could call LCO number 4296 and I'd be granted leave to summarize it.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4296 which will be designated Senate Amendment Schedule A. It is offered by Senator Duff of the 25 District.

THE CHAIR:

Senator Duff.

law/gbr
SENATE

April 29, 2010 101

SENATOR DUFF:

Thank you, Mr. President.

I move adoption.

THE CHAIR:

Please proceed.

SENATOR DUFF:

Thank you, Mr. President.

Mr. President, this bill is a strike all. It takes the place of what we fondly call around here a placeholder bill. And what it allows is actually ideas from CHAFA. Backing up, we, this chamber and this legislature two years ago passed a very comprehensive piece of legislation, an act concerning the responsible lending and economic security which we had asked to CHAFA to develop a program where they could purchase foreclosed properties and sell those properties using a variety of ways to do that.

And there was some federal money to do that but those were specific areas. Currently, they are looking to study how to do that better. We have some funds available to us through the CT Families and HERO Program and they are looking to potentially help out in the purchase of foreclosed homes that are in some of our neighborhoods.

law/gbr
SENATE

April 29, 2010 102

I'd like to remind the chamber that foreclosed homes in our neighborhoods do no good for anybody. They tend to lower property values but about one to two percent. They tend to increase crime.

So, the faster we can get homes that are boarded up and foreclosed with homeowners who can then rehabilitate those homes, I think the better off it is for our neighborhoods and for our economic situation in general.

So, Mr. President, I urge passage of the amendment. And I thank CHAFA for bringing this forward to us.

THE CHAIR:

Thank you, Sir. Will you remark further on Senate A? Will you remark further on Senate A? If not, let me try your minds. All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay.

The ayes have it.

Will you remark further on Senate Bill 60 as amended by Senate A?

law/gbr
SENATE

April 29, 2010 103

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Through you, a couple of questions to the proponent of the bill.

THE CHAIR:

Senator Duff.

SENATOR KANE:

Thank you, Mr. President. And I'm glad Senator Duff, you mentioned the work we did two years ago. It was very important and vital to the communities that we serve in the State of Connecticut in this foreclosure programs that we instituted have been a model for other states across the country.

Just to clarify a few things in this bill, the HERO program that we're talking about did not cover foreclosed properties previously. Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

I'm sorry.

SENATOR KANE:

I'll repeat my question. I'll repeat my question. Through you, Mr. President, the HERO

law/gbr
SENATE

April 29, 2010 104

Program that we're talking about in this bill did not cover foreclosed properties previously. Is that what this change does for us? Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President.

Through you, that is correct. The HERO Program had about \$20 million budgeted and currently has only closed one loan.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And do we have an idea of how many foreclosed properties and how many individuals this particular bill and the HERO Program will now help? Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Through you, we don't know at this point because we're going to allow CHAFA the ability to study that and to develop programs that

law/gbr
SENATE

April 29, 2010 105

would be, that would, that may help in the
foreclosure process.

But I couldn't say right now because we just
don't know. It's going to give them the flexibility
that they would need to hopefully be able to spend the
money in a responsible way which I believe that they
will do.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Through you, this
study that we're going to undertake will be finished
in what kind of timeframe do we have in that portion
of the bill? Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. The legislation it
says for them to develop and implement programs. It
doesn't give them a timeline. I would imagine that it
would go as long as the money's available.

THE CHAIR:

Senator Kane.

SENATOR KANE:

law/gbr
SENATE

April 29, 2010 106

Thank you, Mr. President.

And, the reason I ask is are foreclosures right now steady? Are they on the rise? Are they on the decline? Do we anticipate going through this money quickly? Do we see it lasting a good period of time? Is it, you know, still the major issue that's affecting our communities? Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Through you, I believe that, you know, we've seen many foreclosures in the State of Connecticut. We probably will still continue to see them and as the Bank's Committee usually does we will do our due diligence with the Connecticut Housing and Financing Authority and make sure that our committee receives periodic updates from them so that we understand what they're doing and if we need to continue to make changes or further implementations we will do that.

THE CHAIR:

Senator Kane.

SENATOR KANE:

law/gbr
SENATE

April 29, 2010 107

Thank you, Mr. President. I thank Senator Duff for his answers. I do believe this is a worthwhile piece of legislation. Having worked on the original bills two years ago in a bipartisan fashion as we have. And I will be supporting this bill. Thank you, Mr. President.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Bill 60 as amended by, Senator McKinney?

SENATOR MCKINNEY:

Thank you, Mr. President. If I could, through you, a couple of questions to the proponent of the bill before us.

THE CHAIR:

Senator Duff.

SENATOR MCKINNEY:

Mr. President, if I could yield to Senator Duff please.

THE CHAIR:

Senator Duff, do you accept the yield, Sir?

SENATOR DUFF:

Yes, Sir. Thank you, Mr. President. Mr. President I move to reconsider the amendment. I

law/gbr
SENATE

April 29, 2010 108

called the wrong LCO. So I'd like to call the correct one.

THE CHAIR:

Okay. There's a motion on the floor to withdraw, reconsider the amendment. Seeing no objection, so ordered.

So, Sir, you have another LCO you'd like to call.

SENATOR DUFF:

Yes, Sir. Thank you, Mr. President. I apologize for that and ask the chamber's indulgence on LCO 4440.

THE CHAIR:

Four, four, four, zero. Mr. Clerk.

SENATOR DUFF: \

No, that's the wrong one. I'm sorry. We called the right one.

THE CHAIR:

The Senate will stand at ease.

(At ease.)

SENATOR DUFF:

Mr. President.

THE CHAIR:

The Senate will come back to order.

Yes, Senator Duff.

SENATOR DUFF:

law/gbr
SENATE

April 29, 2010 109

Thank you, Mr. President. Mr. President, I think I actually was correct the first time and LCO 4440 is part of another bill that I'll hopefully be calling after this. So I'm not quite sure why I was told I called the wrong amendment. So I'm going to recall LCO 4440.

THE CHAIR:

So Senator Duff, you're saying that LCO 4296A which you prior called out and explained so elegantly is the correct amendment that you'd like to recall out and explain elegantly again the second time.

SENATOR DUFF:

I would love to.

THE CHAIR:

Please do so.

Mr. Clerk, could you please call 4296 again.

THE CLERK:

Mr. President, the Clerk is in possession of LCO 4296 introduced by Senator Duff. And it was designated as Amendment A.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

law/gbr
SENATE

April 29, 2010 110

Thank you, Mr. President. Mr. President, again
I'll refer back to the remarks I made earlier.

THE CHAIR:

Do you move adoption on that, Sir?

SENATOR DUFF:

I move adoption.

THE CHAIR:

Please proceed.

SENATOR DUFF:

Thank you, Mr. President.

I refer back to the remarks I made earlier which
allows the authority, Connecticut Housing and Finance
Authority to develop and implement programs for home
mortgage refinancing in which they have already
including making mortgage loans to borrowers who are
deemed eligible to purchase foreclosed or distressed
properties for the HERO and the Connecticut Families
Program.

THE CHAIR:

Thank you, Sir.

Will you remark further on LCO 4296 as noted as
Senate Amendment A? Will you remark further? If not,
I will try your minds. All those in favor please
signify by saying aye.

law/gbr
SENATE

April 29, 2010 111

SENATORS:

Aye.

THE CHAIR:

Aye. Aye.

All opposed nay.

The ayes have it. The amendment is adopted.

Will you remark further on Senate Bill 60 as amended by Senate A?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. Mr. President, I rise first to comment that the work that has been done through CHAFA and the HERO Program is excellent. And the extension of this, or possible extension to foreclosed properties is also, I think good policy for the State of Connecticut. And would agree with the Banking Committee Chair and Ranking Member that foreclosures are still a problem. And having foreclosed properties only weakens the value of the homes around it. But having said that, through you, Mr. President, I would like to ask Senator Duff a question or two.

THE CHAIR:

Senator Duff.

law/gbr
SENATE

April 29, 2010 112

SENATOR MCKINNEY:

Thank you, Mr. President. Senator Duff, as I understand the proposal here there is going to be put together a proposal to see whether HERO money could be used for foreclosed property. And I guess my question is, as a matter of policy were we to offer money for people buying foreclosed property would we want to limit that lending of State dollars to buyers who will be occupiers of those buildings? Is that part of the program going forward?

Obviously a lot of people; developers and other speculators and business people will buy foreclosed properties, perhaps fix them up, turn around and flip them for a profit. I understand the goal is to eliminate, you know, foreclosed properties to get them back and on the market but I think it's a debate that we should have as to whether or not these dollars should be used for owner occupiers.

So, through you, Mr. President, is that part of the program going forward?

THE CHAIR:

Senator Duff.

SENATOR DUFF:

law/gbr
SENATE

April 29, 2010 113

Thank you, Mr. President. Mr. President, back two years ago we did, this chamber passed legislation that basically directed CHAFA to come up with a program. This allows them to use the HERO and CT Families money for that. I believe for legislative intent but it though is not clear in the language that it would be appropriate for CHAFA to look at this for homeowners who live in the property.

Though, there may be circumstances where it could be a multifamily or other that might be non-owner occupied but I believe that in our committee we would be looking at using the precious resources that we have for those who need owner occupancy first. But I don't think we're going to limit it. At this point it does not limit it in the language.

But it is something that going forward I believe when we do our due diligence in our committee, an oversight, that it is something we'll be looking at a little bit more closely.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

law/gbr
SENATE

April 29, 2010 114

I thank Senator Duff for his answer. And I would at least like to state for the record that I hope that is what we do, that the limited resources we have are used for owner occupiers.

With respect to multifamily dwellings perhaps we should also require that the owner at least occupy part of the multifamily dwelling as well. I think that would be the best use of our limited resources. I appreciate Senator Duff indicating that also is his intent and urge passage of the bill.

Thank you.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Bill 60 as amended by Senate A? Will you remark further on the bill as amended? If not, Mr. Clerk.

Yes, Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, if there's no objection we may move this to the consent calendar.

THE CHAIR:

There is a motion on the floor to place the item on consent. Seeing no objections, so ordered.

law/gbr
SENATE

April 29, 2010 115

Mr. Clerk.

THE CLERK:

Calendar page five, Calendar number 168, file number 256, substitute for Senate Bill 361, AN ACT CONCERNING IMPLEMENTATION OF THE SAFE MORTGAGE LICENSING ACT, favorable report of the Committee on Banks.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Please proceed, Sir.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, the implementation of the Safe Mortgage Licensing Act is a bill that we had passed last year. It was a ominous bill that was very long and technical. This year's version is equally as technical as well and it just keeps us, our standards up to the same standards that the federal government requires of us.

law/gbr
SENATE

April 29, 2010 116

So it is again one that is technical. One that allows Connecticut to continue working through our mortgage licensing, through the standards that the federal government has set up. And I do urge passage of the bill.

Mr. President, I also have an amendment. If the Clerk would now call the LCO, the famous 4440 and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4440 to be designated Senate Amendment

Schedule A. It is offered by Senator Duff of the 25 District.

THE CHAIR:

Senator Duff, for you.

SENATOR DUFF:

Thank you, Mr. President. I move adoption.

THE CHAIR:

Please proceed.

SENATOR DUFF:

Thank you, Mr. President.

This amendment is technical in nature and has been written by the Department and has been reviewed

law/gbr
SENATE

April 29, 2010 117

by the Chairs and also the Ranking Member I believe
and again is one that is again technical in nature.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate A? Will you
remark further on Senate A? If not, let me try your
minds. All those in favor please signify by saying
aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay.

The ayes have it. The amendment is adopted.

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. If there's no
objection I'd like to place this item on the consent
calendar.

THE CHAIR:

Is there any further discussion on Senate Bill
361 as amended by Senate A? Seeing none, there is a
motion on the floor to place the item on consent.
Seeing none, the item can be placed on consent.

Mr. Clerk.

law/gbr
SENATE

April 29, 2010 118

THE CLERK:

Calendar page 26, Calendar number 133, file number 186, substitute for Senate Bill 54, AN ACT CONCERNING CONSUMER CREDIT LICENSES, favorable report of the Committee on Banks and Public Safety.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on approval and acceptance of the bill, Sir, would you like to remark further?

SENATOR DUFF:

Thank you, Mr. President. Mr. President this is another proposal by the Department of Banking that moved out of the Committee unanimously. And again continues keeping in line with standards by the federal government to make sure that when we're looking at consumer credit licenses that it conforms to federal law as they relate to criminal history and background checks.

law/gbr
SENATE

April 29, 2010 119

Again, it's fairly simple and intense, more technical in nature in its length but nonetheless an important bill for the Department.

THE CHAIR:

Thank you, Sir. Will you remark further on Senate Bill 54?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, a question to the proponent of the bill if I may.

THE CHAIR:

Senator Duff.

SENATOR FASANO:

Mr. President, in the bill as I understand it there's, places restriction on mortgage brokers charging excessive prepaid finance charges. I was wondering if Senator Duff can just explain to me how these figures came about.

Is this the average? Was there a study? How these limits were generated? And does it matter whether or not it is a commercial or a residential or does this only apply to a residential loan? Through you, Mr. President.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 120

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Through you, I believe this has all been determined by the Commissioner and his staff and they are regulations that have been determined. Also, well actually, more specifically, Senator if you can, if you have a line number or an area that I can look at but I believe this has been determined through the Commissioner. Through you, Mr. President.

THE CHAIR:

Senator Duff. I mean, Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Yes, Mr. President, in particular it talks about five percent or \$2,000. Can I just go back to my notes that I wrote on this. It was five percent or \$2,000 of the principal. And I'm wondering whether or not that is true whether it is a commercial or a residential mortgage.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Through you, I believe that would be a residential.

law/gbr
SENATE

April 29, 2010 121

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And I'm wondering then with respect to that first mortgage, the greater of five percent of the principal or \$2,000, that is for, as I understand this bill.

Through you, Mr. President, is that for the mortgage broker fee or is that the, is that included when we say fee? Does that include points and fees? Is that excluding points I'm a little bit confused on the language of the bill. Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. If Senator Fasano could just point to a line number I can try to find out for you.

SENATOR FASANO:

Sure.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

law/gbr
SENATE

April 29, 2010 122

Thank you, Mr. President. If you'd just give me. If we could stand at ease while I just look up that line item.

THE CHAIR:

The Senate will stand at ease.

SENATOR FASANO:

Thank you.

(At ease.)

THE CHAIR:

Senator Fasano. I mean, Senator Duff. You'd like to speak.

SENATOR DUFF:

Yes. Thank you, Mr. President. Mr. President, I believe it's just for fees not points.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

I thank Senator Duff for that answer. For some reason I couldn't find the line that I had read that earlier in. Mr. President, through you to Senator Duff, just another question with respect to the bill. How, that five percent or not more than \$2,000 for a first mortgage, other than was that derived by virtue

law/gbr
SENATE

April 29, 2010 123

of the public hearing that you had in Banks? Was that arrived by the suggestion of the Banking Commissioner? How was that number derived?

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Through you, that was derived through the Banking Commissioner.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And are you aware of the input that came with that number? Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, I believe it would be through his communications that he has through the, with the various members of the Connecticut Bankers who have business in the State with mortgage officers in the State as well.

And I don't believe that this Committee had complete input on that but the Banking Commissioner is one who does tend to be one who listens and does

law/gbr
SENATE

April 29, 2010 124

gather a lot of information before making his
decisions. Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Moving to a different
topic, with respect to the background check of certain
people with respect to their criminal history, it is
my understanding that this bill expands that pool of
people. Through you, Mr. President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. I believe so. Yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. I'm curious when it
expands and their partners and associates are, just so
I understand the bill. If their partners and
associates, if I am a broker and I have outside
business transactions. Just for legislative intent,
if I have outside business transactions.

law/gbr
SENATE

April 29, 2010 125

Let's say I do a broker's license. I have a LLC, sole owner of the LLC. But individually I also have a partner who is in real estate. Would that go to that particular individual or entity or is it only as to my LLC and the people associated with the LLC? Through you, Mr. President.

SENATOR DUFF:

Thank you.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Through you, I believe it would be for just your LLC not everyone else.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I appreciate that answer. That's my understanding of the bill but I wanted to make sure that that is accurate. As I read through it one way I thought it perhaps could be read in two different lights so I just wanted to be sure. Mr. President, I thank Senator Duff for his answers.

Mr. President, I appreciate this bill and I think it makes sense to open up the criminal investigation.

law/gbr
SENATE

April 29, 2010 126

I'm a little concerned over the limiting of fees. I just believe that in the notices that are given and in our day and age free marketplaces the free marketplace. And some loans are more difficult than others and some abilities to receive loans in some financial circumstances are more difficult than others.

I think that once again like many of the bills that we've talked about that either affect banks or tangentially affect banks. I think we run into a problem because those people who are difficult to get loans for because they're a credit risk require an awful lot of work, an awful lot of care, an awful lot of detailing including and not limited to significant amount of financial information if they have bad credit or zero credit.

So what happens is these folks have to work a lot harder and I'm afraid that some limitations may cause someone to say look, you know, I can't get you this loan because frankly their value is what they make on that business transaction and if they're putting a lot more time on one loan they're better off putting less time on seven loans and make the same figure. So that part gives me some pause with respect to this bill

law/gbr
SENATE

April 29, 2010 127

however I do agree with the criminal background part of it.

And I just want you to be aware that this may have a negative, one of those unintended consequences because it looks good on paper or on computer. It looks good but in real, practical sense it hurts those very people that I think we're trying to protect.

So I thank you, Mr. President for allowing me to have these comments.

THE CHAIR:

Thank you, Sir.

Will you remark further on Senate Bill 54? Will you remark further on Senate Bill 54?

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. If there's no objection, that this item be placed on a consent calendar.

THE CHAIR:

There's a motion on the floor to place this item on the consent. Seeing no objections, so ordered.

Mr. Clerk.

THE CLERK:

law/gbr
SENATE

April 29, 2010 128

Calendar page 27, Calendar number 135, file
number 188, substitute for Senate Bill 59, AN ACT
CONCERNING BANKS AND CREDIT UNIONS, favorable report
of the Committee on Banks and Public Safety.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. I move acceptance of
the joint committee's favorable report and passage of
the bill.

THE CHAIR:

Acting on approval and acceptance of the bill,
Sir, would you like to remark further?

SENATOR DUFF:

Thank you, Mr. President. Mr. President.

THE CHAIR:

Please proceed.

SENATOR DUFF:

This is another bill from the Department of
Banking. And this actually, we believe through the
Committee is a good bill that should pass. Provides
flexibility and accountability and efficiency to the
Banking Department's procedures for reorganization of
financial institutions.

law/gbr
SENATE

April 29, 2010 129

For example, if a bank were to close, had multiple branches, another bank, a few other banks came in, wanted to purchase those branches. This would allow that and make the process simpler and easier and less redundant.

I believe that especially in the world in which we live in right now in our economic conditions that whatever way we can make sure that money is perceived as safer and better and that we can if we needed to have other ways in which banks could come in if others were going to close then this would certainly make this process much better.

So, Mr. President, I urge passage of the bill.

THE CHAIR:

Thank you, Sir. Will you remark further on Senate Bill 59? Will you remark further on Senate Bill 59?

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. If there's no objection that this item be placed on the consent calendar.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 130

There's a motion on the floor to place this item
on the consent calendar. Seeing no objections, so
ordered.

Mr. Clerk.

THE CLERK:

Mr. President, the Clerk is in possession of Senate Agenda number two dated Thursday, April 29, 2010. Copies have been distributed.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I move all items on Senate Agenda number two, dated Thursday, April 29, 2010 to be acted upon as indicated and that the agenda be incorporated by reference into the Senate journal and the Senate transcript.

THE CHAIR:

There is a motion on the floor to incorporate Senate Agenda number two. Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. For several more items to mark go at this time. The first, Mr. President, is on calendar page 16, Calendar 459, House Bill number

law/gbr
SENATE

April 29, 2010 131

5351 that item might be marked to go. Second item also calendar page 16, Calendar 463, House Bill 5352 also marked go.

And then, Mr. President; after that going back to calendar page eight, Calendar 272, Senate Bill number 199 is marked go. And then, Mr. President, calendar page 27, Calendar 150, Senate Bill 301 is marked go. And Mr. President, calendar page 32. Calendar page 32, Calendar 218, Senate Bill 302 is marked go.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Returning to the calendar. Calendar page 16, Calendar number 459, file number 151, House Bill number 5351, AN ACT CONCERNING PRESCRIPTION DRUG BENEFITS FOR VETERANS IN NURSING HOME FACILITIES, as amended by House Amendment Schedule A, favorable report of the Committee on Veterans and Public Health.

THE CHAIR:

Senator Maynard.

SENATOR MAYNARD:

Yes. Thank you, Mr. President. I move the joint committee's favorable report and passage of the bill.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 132

Acting on approval and passage of the bill. Sir,
would you like to remark further?

SENATOR MAYNARD:

Yes. I would, Mr. President. This bill would allow our veterans who are in nursing home facilities throughout the State to take advantage of the VA prescription drug benefit that is not currently under State law allowable to them. They, the manner in which drugs are prescribed in nursing home facilities right now prohibit that use and this bill would require that nursing home facilities allow that choice for our veterans. It could result in a savings for those portion of our nursing home patients who are veterans. So, I urge passage. Thank you.

THE CHAIR:

Thank you.

Will you remark further on House Bill 5351?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. If I could, a question through you to the proponent of the bill.

THE CHAIR:

Senator Maynard.

SENATOR MCKINNEY:

law/gbr
SENATE

April 29, 2010 133

Thank you. And obviously, Senator, not being a member of the Veterans Committee oftentimes the first time we get to see a bill is when we're in the circle. Obviously our nursing homes are struggling and I'm just curious as to why they have had this policy of prohibiting our veterans from accessing a VA prescription drug program. Through you, Mr. President.

THE CHAIR:

Senator Maynard.

SENATOR MAYNARD:

Yes. Through you, Mr. President. It wasn't so much the veterans were singled out. It is simply that under certain nursing home guidelines often less skilled workers are unable to distribute drugs and a safety measure that was put in place, distribute these drugs with bubble packs for daily prescription.

It was purely a safety measure but because of that prohibition it wasn't possible to get the lower priced drugs available to our veterans. So this would allow simply for those nursing homes, the patients to choose this rather than the in-house facility for the distribution of drugs.

THE CHAIR:

law/gbr
SENATE

April 29, 2010 134

Senator McKinney.

SENATOR MCKINNEY:

Thank you. So this would not have any financial impact on a nursing home. This would simply just have a benefit to our veterans in nursing homes. Through you, Mr. President.

THE CHAIR:

Senator Maynard.

SENATOR MAYNARD:

Yes. Through you, Mr. President. That's correct.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you. And my last question, and this is an excellent bill. Thank you. I guess my last question, just one of curiosity is, how, do we have an understanding of how many, what the population is of veterans in our State, in our nursing homes? Through you, Mr. President.

THE CHAIR:

Senator Maynard.

SENATOR MAYNARD:

law/gbr
SENATE

April 29, 2010 135

Through you, Mr. President. No, unfortunately the report does not contain the number of veterans. We know that there's approximately 17,300 Medicare clients in facilities but a goodly number of those it can be assumed are veterans.

SENATOR MCKINNEY:

Thank you, Mr. President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

I thank my friend Senator Maynard for his answers and for putting forth an excellent bill. Thank you, Mr. President.

THE CHAIR:

Thank you.

Will you remark? Will you remark further on House Bill 5351? Will you remark further?

SENATOR MAYNARD:

Yes. Mr. President, if there's no objection I'd ask that it be placed on the consent calendar.

THE CHAIR:

There's a motion on the floor to place this item on consent. Seeing no objection, so ordered.

(Senator Handley of the 4th is in the Chair.)