

Legislative History for Connecticut Act

SB 1066 PA 365 1981

House 7492-7496 (5)

Senate 2724-2726, 2759-2760 (5)

Judiciary 741, 766-771 (7)

LAW/LEGISLATIVE REFERENCE
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1981

VOL 24
PART 23
7432-7859

House of Representatives

Wednesday, May 27, 1981

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kjn

The House of Representatives is now voting by roll. Would the members please return to the Chamber. There is a roll call vote in progress in the hall of the House. Would the members return to the Chamber immediately.

Have all the members voted? Have all the members voted? And is your vote properly cast. If so, the machine will be locked. The Clerk will take a tally.

Would the Clerk please announce the tally.

CLERK:

Senate Bill 1425 as amended by Senate Amendment Schedule "C" and House Amendment Schedule "A".

Total number voting	143
Necessary for passage	72
Those voting yea	143
Those voting nay	0
Those absent and not voting	8

DEPUTY SPEAKER FRANKEL:

The bill as amended is passed.

CLERK:

Calendar No. 633. Substitute for Senate Bill No. 1066.
AN ACT CONCERNING COMPETENCY TO STAND TRIAL. (As amended by
Senate Amendment Schedule "A").

Favorable Report of the Committee on Judiciary.

House of Representatives

Wednesday, May 27, 1981

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REP. ONORATO: (97th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Onorato.

REP. ONORATO: (97th)

I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER FRANKEL:

The question is on acceptance of the Joint Committee's favorable report and passage of this bill in concurrence with the Senate. Will you remark?

REP. ONORATO: (97th)

Mr. Speaker, the Clerk has an amendment, LCO No. 6828. May it be called and read, sir?

DEPUTY SPEAKER FRANKEL:

The Clerk has an amendment, LCO No. 6828 previously designated Senate Amendment Schedule "A". Would the Clerk please call and read the amendment.

CLERK:

LCO No. 6828 designated Senate Amendment Schedule "A" offered by Sen. Owens of the 22nd District. In line 43, after "dependent" strike the following: "as a". In line 44, strike the following: "result of his mental condition".

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Wednesday, May 27, 1981

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DEPUTY SPEAKER FRANKEL:

The amendment is in your possession, sir. What is your pleasure?

REP. ONORATO: (97th)

I move adoption of the amendment, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of Senate Amendment Schedule "A". Will you remark on its adoption.

REP. ONORATO: (97th)

Thank you, Mr. Speaker. Mr. Speaker, the amendment removes some redundant words in the file copy. I would move its adoption.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of Senate Amendment Schedule "A"? Will you remark on its adoption? If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed, nay.

The ayes have it. The amendment is adopted and ruled technical. Will you remark further on this bill as amended by Senate "A"?

REP. ONORATO: (97th)

Mr. Speaker.

House of Representatives

Wednesday, May 27, 1981

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DEPUTY SPEAKER FRANKEL:

Rep. Onorato.

REP. ONORATO: (97th)

Mr. Speaker, this bill as amended would correct a constitutional defects in the statutes relating to incompetency to stand trial. It would give a determination of probable cause that the defendant has committed the crime for which he has been charged. The restrictive alternative of treatment is necessary and would review the hearings within a 90 day period. For purposes of determining whether there is probability that the defendant will attain competency to stand trial and we are reorganizing basically the structure and make minor changes into the statute to clarify this particular statute since the constitutional defects were points out by the U.S. Federal Court. I would move passage of the bill as amended, sir.

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended by Senate "A"? If not, would the staff and guest please come to the well of the House. Would the members please take their seats. The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber. There is a roll call vote in progress in the hall of the House. Would the members return to the Chamber immediately.

House of Representatives

Wednesday, May 27, 1981

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Have all the members voted? Would the members please check the roll call machine to determine if their vote is properly recorded. Would the members please check the roll call machine. The machine will be locked. The Clerk will take the tally.

Would the Clerk please announce the tally.

REP. FREER: (130th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Freer.

REP. FREER: (130th)

In the affirmative, please.

SPEAKER ABATE:

The Journal will so note, sir.

Would the Clerk please announce the tally.

CLERK:

Senate Bill 1066 as amended by Senate Amendment Schedule "A".

Total number voting	145
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Necessary for passage	73
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Those voting yea	142
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Those voting nay	3
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Those absent and not voting	6
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SPEAKER ABATE:

The bill as amended passes.

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1981

VOL. 24
PART 8
2460-2761

Wednesday, May 6, 1981

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THE PRESIDENT:

Without objection, so ordered.

THE CLERK:

Cal. 432, File 666. Substitute for Senate
Bill 1066. AN ACT CONCERNING COMPETENCY TO STAND
TRIAL.

Favorable report of the Committee on Judiciary.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS: (22nd)

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

THE PRESIDENT:

There is an amendment. The Clerk please call
the amendment.

THE CLERK:

The Clerk has Senate Amendment Schedule A.
LCO 6828 offered by Senator Owens.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS:

Mr. President, I move adoption of the amendment
and ask for the waiving of the reading and permission to
summarize.

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THE PRESIDENT:

You may proceed.

SENATOR OWENS:

Very briefly, the amendment is technical in nature. It substitutes language for the words: result of his mental condition.

I move the amendment at this time.

THE PRESIDENT:

All those in favor of the amendment, signify by saying Aye. Those opposed Nay. The Ayes have it.

THE AMENDMENT IS ADOPTED.

Senator Owens.

SENATOR OWENS:

Mr. President, on the bill itself. This bill would add the following requirements for the testing, evaluation and treatment of persons who are suspected of not being mentally competent to stand trial: a finding of the board that there is probably cause to believe that the defendant committed the crime; an evaluation by the examiners, and a court order that the least restrictive placement possible of persons found to be incompetent.

The need of the bill is because of a problem in a case in the United States District Court - D'Angelis

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vs Plough and these changes would be made in order to correct these constitutional deficiencies.

I move, if there is no objection, that this bill as amended be placed on the CONSENT CALENDAR.

THE PRESIDENT:

Hearing none, so ordered.

THE PRESIDENT:

Cal. 433, File 667. Substitute for Senate Bill 1353. AN ACT CONCERNING THE CONTINUATION AND EXPANSION OF THE JURISDICTION OF THE APPELLATE SESSION OF THE SUPERIOR COURT.

Favorable report of the Committee on Judiciary.
The Clerk has an amendment.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS: (22nd)

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

THE PRESIDENT:

The Clerk please call the amendment.

THE CLERK:

Senate Amendment Schedule A. LCO 6678 offered by Senator Owens. Copies have been distributed.

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THE PRESIDENT:

Hearing none, so ordered.

The Clerk will please make an announcement for an immediate roll call on the Consent Calendar which you are about to read.

THE CLERK:

An immediate roll call will be called for in the Senate. Will all senators please take their seats. An immediate roll call will be called for in the Senate Chamber. Will all senators please be seated.

THE PRESIDENT:

Please give your attention to the Clerk who will read the second Consent Calendar for today.

You will recall that we did adopt a Consent Calendar, now this is another Consent Calendar that we have established.

THE CLERK:

The second Consent Calendar for today is as follows: Page nine - Cal. 411. Page eleven - Cals. 430, 432, 433 and 434. Page twelve - Cals. 435, 436, 437, 438 and 439. Page thirteen - Cals. 441, 442 and 446. Page fourteen - Cals. 447, 449, 450, 451 and 452.

That concludes this Consent Calendar.

SB268, SB826,
SB1066, SB1353,
SB1399, HB5328,
HB5357,
HB5394,
HB5764, HB7292,
HB5701, HB7318,
HB5345, HB7300,
HB7353, HB7365,
HB5913, HB6603

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THE PRESIDENT;

Are there any changes or omissions? The machine is open. Please record your vote. The machine is closed. The Clerk will please tally the vote.

Result of the Vote: 34 Yea - 0 Nay. THE
CONSENT CALENDAR IS ADOPTED.

Senator Schneller.

SENATOR SCHNELLER:

Mr. President, I would like to announce that because we are adjourning tonight and we have a long day tomorrow and many members would like to leave at a reasonable hour, the Senate will convene at noon tomorrow rather than the one o'clock that was previously announced. Hopefully, we will get out by five thirty or six o'clock tomorrow.

The Democratic caucus will meet at eleven o'clock promptly. We will get in here as close to noon as possible so that we can work our way through the calendar.

Mr. President, I would move that we recess at this time at the Call of the Chair. There may be some business completed in the House that we might like read in later this evening. So we will recess rather than adjourn to the Call of the Chair.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 3
725-1118

1981

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kod

JUDICIARY

1 741
March 3, 1981

REP. TULISANO: It allows it to happen by Statute.

MR. DADDABBO: Technically it does, but it won't happen. I anticipated that question, but it won't happen.

REP. TULISANO: You're right.

MR. DADDABBO: Finally, it's Raised Committee Bill 1066. This is not a Judicial Department bill. It's an act concerning competency to stand trial. We were involved to some extent in reviewing this legislation, which was caused by the federal court decision which held then 5440 unconstitutional. We are in support of this bill and would like to see it enacted. Thank you very much.

SEN. OWENS: Mr. Dearington, if you can take 5 minutes. Is he here? Michael Dearington? Mr. Murov asked that you be substitute in his place. If you can take 5 minutes, fine. If you can't, I'm going to go to the public sector.

MICHAEL DEARINGTON: My name is Michael Dearington. I'm an Assistant State's Attorney in New Haven and I'm also Chairman of the Connecticut Association of Prosecutors. There is a bill before you today, Raised Committee Bill 7204.

It's my understanding that, I would ask you to consider two amendments to that bill. They have been filed and I understand that you will consider them at a later time. Those amendments deal with two issues.

Number one, increasing the maximum that a deputy and an assistant state's attorney may make. And number two, accelerating the time that it takes to accomplish that maximum. Presently assistant state's attorneys make anywhere from \$25,000 to \$36,000, deputy assistant state's attorneys make from \$21,000 to \$33,000. It takes 11 years for assistants and 14 years for deputies to accomplish that maximum pay. One of the amended bills submitted would increase the maximum pay for assistants to \$42,000, to deputies, to \$36,000. I would hasten to point out that it would take approximately 16 years to accomplish this maximum.

Also, a provision in the amendment is that an assistant

MS. BRASEL: (continued)
has no problem with the language in this bill, the substitute language that we provided.

REP. TULISANO: I'll contact Rep. Otterness and we'll work it out.

SEN. OWENS: Rep. Krawiecki has a question.

MS. BRASEL: Okay, she also -- go ahead.

REP. KRAWIECKI: We're a little bit confused about your comment that this would not require any new appropriation. Just to clarify it, I believe you said that if you were to remove the language in line, and it appears to be about line 38 or 39, if we were to remove the language that's there it would not require an appropriation but should the language remain as it is you would probably lose about \$125,000 or \$150,000 reimbursements.

MS. BRASEL: Correct. That's why that particular line has to be amended to add Sub-section D. It was purely an oversight on the part of the drafter of the bill.

REP. KRAWIECKI: Okay, I understand.

SEN. OWENS: Thank you very much. Dr. Zonana please.

DR. HOWARD ZONANA: Hello, I'm Dr. Howard Zonana, I'm the representative of the -- the legislative representative of the Connecticut Psychiatric Society and I'm also the Co-Director of the Lawrence Psychiatry Unit at the Connecticut Mental Health Center which performs competency to stand trial evaluations and I'm here testifying on Committee Bill 1066, the competency to stand trial bill.

This bill represents essentially the same bill which was introduced last year and for reasons which were not altogether clear to me because I don't think there was any substantial opposition to it. It was not dealt with in the last session. In the interim, as we had thought, the federal court declared the current competency to stand trial unconstitutional and this created a severe disruption in the courts --

SEN. OWENS: Is this the judgement of the ruling of Judge Allen Burns in the district court --

DR. ZORANA: -- in Deangelis vs. (inaudible) --

SEN. OWENS: -- did you get an opportunity to look at this bill 1066 so far as technical changes --

DR. ZONANA: Yes I have, and Attorney McCullough is here from the Commissioner's office has made a number of changes in the current bill to pick up some of the issues that were raised in Judge Burns' decision so that issues like probable cause which came up in that some defendants prior to arraignment have competency evaluations or that there should be probable cause that they committed a criminal act.

SEN. OWENS: You know this bill came to us, and obviously I was concerned because it had an impact and effect of the courts, particularly with respect to the 5440 hearings. I suggested that the people who were interested in the changes sit down with Austin McQuiggan from the State's Attorney's Office and come up with a bill--do you know whether there's been any input by them on this bill?

DR. ZONANA: Yes, I think there has been. I'm talking more from both working on these from the front line in contrast to the insanity defense which gets a lot of publicity. The number of people effected by the competency to stand trial is substantially more and creates a greater impact. I would just like to say that in terms of the changes that are recommended in this bill, which Attorney McCullough will detail for you, I would say that our group who does these evaluations, both as a team and as a psychiatrist individually, that basically I think most of these changes are all ones that we both support, have participated in and can live with and they basically cover the areas of probable cause and least restrictive alternatives that someone if found incompetent does not necessarily have to be incarcerated if it is deemed feasible that they can respond to out-patient treatment and the issues of bail should not overlap with issues of treatment. The only things which raise some question have to do with the number of people who can observe and sit in on these evaluations and recommendations which would change from the bill here so that

DR. ZORANA: (continued)

it is now said that a psychiatrist or physician specializing in psychiatry can witness the evaluation or the defendant's attorney may also be present. Now, with the team, this can get to be maybe five people in the room which can undercut it, but I think it's basically something again that we can live with as long as it does not go beyond that.

It also raises the burden of proof to a clear and convincing standard which I think stems from the clear and convincing standard that the Supreme Court raised in civil commitment. I would prefer to answer questions to see where the hang-up in the bill came from last year so that hopefully we will not have a repeat of this because it certainly did create a difficulty in the court with just sending patients home with attorneys.

SEN. OWENS: Any questions of the Doctor? Thank you, Doctor, Let's go to Mr. McCullough please, since we're talking about this bill.

WILLIAM MC CULLOUGH: My name is William McCullough, I'm an Assistant Attorney General and I represent the Department of Mental Health. I'm here to speak in behalf of Senate Bill 1066, An Act Concerning Competency to Stand Trial.

As Dr. Zonana mentioned, this bill is at this point a direct result of the DeAngelis vs. Plaut decision which declared portions of then Section 54-40 unconstitutional last fall.

SEN. OWENS: DeAngelis vs. ? --

MR. MC CULLOUGH: Plaut -- Commissioner Plaut of the Department of Mental Health. And also as the Dr. mentioned, this was the basic draft that was created some three years ago, although there have been many changes since then. I have participated in the drafting of this bill and --

SEN. OWENS: Who else worked with you on the drafting? Any other agencies --

MR. MC CULLOUGH: Okay, the original draft came out of a committee that Commissioner Plaut had created consisting of people

MR. MC CULLOUGH: (continued)

from various agencies. That has undergone tremendous revisions since then. At this point, I have been trying to keep the State's Attorney's office involved --

SEN. OWENS: Who have you been working with in the State's Attorney's office?

MR. MC CULLOUGH: Okay, I have been sending all of the changes and all of the proposed drafts to I think it's Mr. Sabo of the State's Attorney's office, the Deputy State Attorney, and also to Mr. McQuiggan --

SEN. OWENS: Mr. McQuiggan's here. Did you talk to him today?

MR. MC CULLOUGH: I have not talked with him personally, no, but I have sent him drafts of all of the proposals.

SEN. OWENS: Now, really, this bill shouldn't -- this bill obviously what we're trying to do is clear up a constitutional question that has resulted as a result of Judge Burns' decision. And I just want to make sure that the people that will be defending the bill, you know, the problems as they come up, will really be people from the prosecutor's office from the Chief State's Attorney's office. So, I would like to have -- I thought that there had been a consensus and that you would have been able to sit down and say, this is a bill that the law enforcement people agree to and so forth and it meets all of the criteria and all of the changes as suggested by Judge Burns' decision. I just don't want to get into the committee -- you know what you're going to do? I'll put it on the table for you. You're going to end up losing the bill unless you come in here and you say that it's been worked out, that the State's Attorney can agree to this, I can agree to it and so forth. Otherwise, if you can't, then it's going to be very hard for laypeople to sit down and put it together also.

MR. MC CULLOUGH: I've been attempting for the past year and a half to get the State's Attorney's office to give me some of their suggestions or objections. I've gotten some information from various people in the staff. I have attempted to keep them up-to-date as to what I have done. We have had meetings with the Judicial Department. They have made recommendations

MR. MC CULLOUGH: (continued)

that have been incorporated in what I'm going to give you. And as I said before, the Attorney General's office and the Department of Mental Health have also been helpful.

The case, the DeAngelis vs. Plaut case, was my case. I was involved with that and as far as --

SEN. OWENS: I didn't mean to cut you off -- go ahead.

MR. MC CULLOUGH: To answer your question, I think that I've done everything I could to get the State's Attorney's office involved. Now, if they have -- they have not given me any information other than a letter that I got today with some objections which I got straightened out with Attorney Derrington, who has testified earlier, he's still here by the way and would like to testify on this bill.

SEN. OWENS: Oh, he is going to testify -- Derrington, Mike Derrington? Is he still here?

MR. MC CULLOUGH: Was here. The bill clarifies and simplifies the language of the statute. It also incorporates all of Judge Burns' requirements. Now, the State's Attorney's Office I believe has some question about a couple of provisions dealing with the placement of certain things in the bill. I have no objection to their interpretation as to how that should be.

I would like to point out that the clear and convincing standard that is in the proposal came out of the Supreme Court's decision in Mattington vs. Texas dealing with the standard that's required for civil commitment. I have, by the way, the proposal that you have was based on an earlier draft. I have changes since then which I have highlighted as to what should be in the bill as it now should read.

SEN. OWENS: I wonder, could you sit down with Mr. McQuiggan or a representative of his office sometime and come up with a draft that's suitable to the prosecutor's staff and to the agency that you represent?

MR. MC CULLOUGH: I would be happy to. I've offered to do that in the past and nothing's come out of it.

REP. TULISANO: We'll get somebody from the legislature (inaudible)

MR. MC CULLOUGH: By the way, I've worked with the Law Revision Commission on this also.

SEN. OWENS: Yeah, I sent over a letter to them and they said it was going to take another month to get the, you know, they were still looking into the thing.

MR. MC CULLOUGH: Mr. Dickland is here from the Law Revision Commission and I've been working with him on this. Any questions? I'll be happy to get together with anybody that wants to. I think this is important, and --.

SEN. OWENS: Mr. Gouer. Excuse me, Warren, do you have a copy of Judge Burns' decision with you?

: I don't have it with me, no, but I can get it.

WARREN GOUER: Mr. Chairman, members of the committee, my name is Warren Gouer and I am an Assistant State's Attorney with the Chief State's Attorney's office. I'm presently in charge of the Medicaid Fraud Control Unit of that office and in that capacity I wish to speak on behalf of passage of Raised Committee Bill 1206, An Act Concerning the Penalty for Violation of the Medicaid Vendor Act.

My office is a federally funded office which receives 90% of it's funds from the Department of Health and Human Services, formally HEW. We are limited by the terms of the federal regulations setting up these Medicaid Fraud Control offices to investigation and prosecution of vendor fraud committed against the Medicaid system. Our jurisdiction includes vendors such as doctors and dentists, nursing homes, pharmacies, and medical laboratories. Now, the bill I'm speaking on behalf of would amend Section 17-83k of the Connecticut General Statutes. This Section deals with vendor fraud committed against the State of Connecticut. The statute, as presently written, refers to the larceny statutes in order to establish the penalty. This means that the penalty for violation of Section 17-83k depends upon the amount of money involved. The intent of Raised Committee Bill 1206 is to make violation of Section 17-83k a Class D felony regardless of the amount of money involved. Passage of the bill would simplify prosecution of vendor fraud cases and this can be illustrated by an example.