

Legislative History for Connecticut Act

PA 15-214

HB7003

| | | |
|-----------|----------------------|-----------|
| House | 4701-4706 | 5 |
| Senate | 3234, 3266-3268 | 4 |
| Judiciary | 3165-3168, 3343-3344 | 6 |
| | | 15 |

Transcripts from the Joint Standing Committee Public
Hearing(s) and/or Senate and House of Representatives
Proceedings

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2015**

**VOL.58
PART 14
4551 – 4902**

/am/rc
HOUSE OF REPRESENTATIVES

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May 26, 2015

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

Will the Clerk please announce the tally.

CLERK:

Senate Bill 917 as amended by House "A" -
excuse me, Senate "A" in concurrence with the
Senate

| | |
|-----------------------|-----|
| Total Number Voting | 145 |
| Necessary for Passage | 73 |
| Those voting Yea | 145 |
| Those voting Nay | 0 |
| Absent and not voting | 6 |

SPEAKER SHARKEY:

The bill, as amended, is passed in concurrence with the Senate.

Will the Clerk please call Calendar 400.

CLERK:

House Calendar 400 on Page 21, Favorable
Report of the Joint Senate Committee on Judiciary,
House Bill 7003, AN ACT CONCERNING THE VALIDITY OF
MARRIAGES.

SPEAKER SHARKEY:

Representative Baram, you have the floor, sir.

REP. BARAM (15th):

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Thank you, Mr. Speaker. Good afternoon.

SPEAKER SHARKEY:

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

SPEAKER SHARKEY:

Question's on acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark, sir?

REP. BARAM (15th):

Thank you, Mr. Speaker. This bill addresses foreign divorces in countries with different jurisdictional requirements than Connecticut. Mr. Speaker, the Clerk has Amendment LCO 8105. I'd ask that the Clerk please call the Amendment and that I be granted leave of the Chamber to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 8105, which will be designated House Amendment "A."

CLERK:

House Amendment "A," LCO 8105, as offered by Representative Baram and Rebimbas.

SPEAKER SHARKEY:

Gentlemen has sought leave of the Chamber to summarize. Is there objection? Is there

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objection? Seeing no objection, Representative
Baram, you may summarize.

REP. BARAM (15th):

Thank you, Mr. Speaker. This is a simple bill that has been agreed upon by both the family and immigration bar associations. It clarifies that a subsequent marriage will not be presumed invalid when one of the parties obtained a prior divorce that was legal in the foreign state or country where it was obtained.

This clarification will resolve an ambiguity that has currently prevented the United States Immigration Service from approving applications for permanent residency by U.S. citizens. It will ensure that Connecticut residents can sponsor a spouse born in a foreign country or their step-children as permanent residents and will promote family unity. This will not prevent one of the parties to the divorce from challenging it based upon fraud.

Mr. Speaker, I move for adoption of the amendment and passage of the bill.

SPEAKER SHARKEY:

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Thank you, sir. Question for the Chamber is for adoption of House Amendment "A." Will you remark? Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you. I too rise in support of the amendment that's before us, and I also want to thank Representative Baram for highlighting what the amendment does. This has been a concern that has been brought to our attention for several years now and it was voted out of the Judiciary Committee. And unfortunately, what was occurring, as was already indicated, is there was a lot of Connecticut residents that would have to re-file a second divorce because their foreign judgment, and whether that was from a different state or a different country, did not match the requirements - jurisdictional requirements for the State of Connecticut.

Therefore, they were able to say, "Well, we don't recognize it." And what we should be doing is honoring any valid divorce that was entered, again, under the laws of those different states, because we do have the ability to set our own standards, so we should also provide that right

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that other states have the right to set their own standards and recognize those standards.

But as certainly as Representative Baram had indicated, that still does not negate the opportunity that either party has to contest a divorce if they saw fit in their process. So I do rise in support of the Amendment that's gonna becoming the underlying bill.

SPEAKER SHARKEY:

Thank you, madam. Further on House "A?" Further on House "A?" If not, let me try your minds. All those in favor of House "A," please signify by saying aye.

SENATORS:

Aye.

SPEAKER SHARKEY:

Those opposed, nay. The ayes have it. The Amendment is adopted. [gavel]

Further on the bill as amended? Would you care to remark further on the bill as amended? If not, staff and guests to the Well of the House. Members take your seat. The machine will be open.

CLERK:

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[bell ringing] The House of Representatives
voting by roll. The House of Representatives
voting by roll. Will members please report to the
Chamber immediately.

[pause]

SPEAKER SHARKEY:

Have all the members voted? Have all the
members voted? Will members please check the board
to make sure your vote is properly cast. If all
the members have voted, the machine will be locked,
and the Clerk will take a tally.

[pause] Clerk, please announce the tally.

CLERK:

House Bill 7003 LCO as amended by House "A"

Total Number Voting 144

Necessary for Passage 73

Those voting Yea 144

Those voting Nay 0

Absent and not voting 7

SPEAKER SHARKEY:

The bill, as amended, is passed. [gavel]

Will the Clerk please call Calendar 200.

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CONNECTICUT
GENERAL ASSEMBLY
SENATE**

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2015**

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PART 10
2993 – 3245**

/kc
SENATE

89
June 3, 2015

Thank you, Madam President. On Calendar Page 16,
Calendar 598, House Bill 7003, I'd like to place that
item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR DUFF:

Thank you, Madam President. On Calendar Page 30,
Calendar 432, Senate Bill 1105, I'd like to place that
item on the Consent Calendar.

THE CHAIR: Without objection, so ordered.

SENATOR DUFF:

Thank you. And if the Senate stand at ease for a
moment.

THE CHAIR:

Will the Senate please stand at ease.

(Chamber at ease.)

THE CHAIR:

Chamber will please come back to order. Senator Duff.

SENATOR DUFF:

Thank you, Madam President. Would the Clerk please
call Calendar Page 21, Calendar 632, House Bill 6774.

THE CHAIR:

Mr. Clerk.

CLERK:

Page 21, Calendar No. 632, substitute for House Bill
No. 6774, AN ACT CONCERNING ADOPTION OF THE
CONNECTICUT UNIFORM POWER OF ATTORNEY ACT, as amended
- as amended by House Amendment Schedule "A," LCO

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CONNECTICUT
GENERAL ASSEMBLY
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SENATE

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June 3, 2015

SENATOR DUFF:

Thank you, Madam President. On Calendar Page 9, Calendar 503, House Bill 6117, I'd like to place that item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR DUFF:

Thank you, Madam President. On Calendar Page 8, Calendar 501, House Bill 6830, like to place that item on Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR DUFF:

Thank you, Madam President. We have a number of other items on the Consent Calendar from earlier. If the Clerk can call those items and the ones I just added. And we may have a vote on the first Consent Calendar of the day.

THE CHAIR:

Thank you, sir. Mr. Clerk.

CLERK:

On Page 9, Calendar 508, House Bill 7048. On Page 8, Calendar 501, House Bill 6830. Also on Page 9, Calendar 503, House Bill 6117. Page 10, Calendar 523, House Bill 6849. Page 11, Calendar 529, House Bill 6823. Page 12, Calendar 545, House Bill 7029.

Also on Page 12, Calendar 540, House Bill 6919. And on Page 13, Calendar 567, House Bill 6921. Page 13, Calendar 561, House Bill 6907. Page 16, Calendar 598, House Bill 7003. Page 16, Calendar 595, House Bill 6820. On Page 17, Calendar 600, House Bill 6855.

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Page 18, Calendar 613, House Bill 6899. Page 18, Calendar 615, House Bill 6737. On Page 19, Calendar 616, House Bill 6856. Also on Page 19, Calendar 622, House Bill 6186. On Page 20, Calendar 628, House Bill 7027. Page 20, Calendar 626, House Bill 7023.

Page 21, Calendar 632, House Bill 6774. Page 22, Calendar 643, House Bill 5780. On Page 22, Calendar 646, House Bill 7021. On Page 23, Calendar 649, House Bill 5793. Page 24, Calendar 651, House Bill 6987. Page 27, Calendar 408, Senate Bill 1030.

On Page 28, Calendar 517, House Bill 6498. Also on Page 28, Calendar 436, House Bill 5903. And on Page 30, Calendar 432, Senate Bill 1105.

THE CHAIR:

The machine will be opened. Clerk will announce a pendency of roll call vote.

CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call on Consent Calendar No. 1 has been ordered in the Senate.

[pause]

THE CHAIR: (The President in the Chair)

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

CLERK:

On Consent Calendar No. 1

| | |
|------------------------|----|
| Total Number Voting | 36 |
| Necessary for Adoption | 19 |
| Those voting Yea | 36 |
| Those voting Nay | 0 |
| Absent/not voting | 0 |

THE CHAIR:

/kc
SENATE

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June 3, 2015

Consent Calendar passes. [gavel] Good afternoon,
Senator Duff.

SENATOR DUFF:

Thank you, Madam President. Madam President, I would ask that the Clerk now please call from Senate Agenda No. 1, Emergency Certified Bill, House Bill 7061, please.

THE CHAIR:

Mr. Clerk.

CLERK:

House Bill No. 7061, AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2017, AND MAKING APPROPRIATIONS THEREFOR, AND OTHER PROVISIONS RELATED TO REVENUE, DEFICIENCY APPROPRIATIONS, TAX FAIRNESS AND ECONOMIC DEVELOPMENT.

THE CHAIR:

It will be a good afternoon and a good evening. But a good afternoon, Senator Bye.

SENATOR BYE:

Good afternoon, Madam President. Nice to see you today.

THE CHAIR:

It's good to be seen and good to see you, ma'am.

SENATOR BYE:

Madam President, I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

The motion's on acceptance and passage in conjunction with the House. Would you remark?

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 6
3108 – 3800**

2015

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lgg/mcr JUDICIARY COMMITTEE

March 16, 2015
12:00 P.M.

SENATOR COLEMAN: Jennifer Rodriguez.

JENNIFER RODRIGUEZ: Good afternoon, Senator Coleman, Representative Tong, and members of the Judiciary Committee. My name is Jennifer Rodriguez. I currently serve as the chair of the Connecticut Chapter of the American Immigration Lawyers Association. We are a nonprofit organization with approximately 170 members of the immigration lawyers and law professors across the state of Connecticut. We are part of the national organization, The American Immigration Lawyers Association. Connecticut AILA supports House Bill 7003 with two changes, which I'd like to read at this time, I believe this has been submitted to the committee already. It is the public policy of the state of Connecticut that all marriages are presumed valid.

No marriage shall be presumed to be invalid or bigamist, because of prior divorce of one of the parties that was entered legally in another state or country, does not meet the jurisdictional requirements of Connecticut law. The purpose of this bill is to ensure federal agencies recognize legally valid marriages in the state of Connecticut. This bill is necessary because of the following typical scenario, a Connecticut resident marries an immigrant who is previously married and terminated that marriage in a foreign country. If neither of the spouses was present in the foreign country at the time of the divorce, United States Citizenship and Immigration Services, USCIS, relies on a Connecticut Supreme Court case (inaudible) versus (inaudible), to find that the divorce and

subsequent remarriage are invalid. If the marriage to the Connecticut resident is not legally valid than the immigrant is denied legal status. USCIS does not engage in any further analysis. It does not look to see if the jurisdictional requirements in a foreign country were met, it does not look to see if the parties to the divorce were aware of the divorce and wanted the divorce, it does not look to see if the party to the divorce relied on it and subsequently remarried. Connecticut AILA attorneys have argued that USCIS is misapplying the law of (inaudible) and other relevant precedents decisions from the State of Connecticut. But USCIS has held fast to its position.

Their position requires the immigrant to re-divorce their first spouse, and then remarry the Connecticut resident. Something which is not only time consuming and expensive for all parties involved, but often results in a loss of legal rights under immigration law. The most devastating example of such a loss of rights is the denial of residence to the dependent child who due to the time involved in navigating this legal morass become too old to qualify for legal status. This bill fixes the problems because it mandates a rebuttable presumption that a Connecticut marriage is considered valid despite a prior divorce which may not have complied with Connecticut's jurisdictional requirements. It takes the discretion out of USCIS's hands as to whether a subsequent marriage is valid why still allowing the parties to the divorce to contest its validity in the Connecticut courts. The bill does not impact the rights of individuals to recover alimony and child support, or to

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12:00 P.M.

dispute proper allocation from a prior marriage.

Thank you and I'd be happy to answer any questions.

SENATOR COLEMAN: Are there any questions for Miss Rodriguez? Representative Adinolfi.

REP. ADINOLFI: Thank you, Mr. Chairman. I just want to make a comment. I am familiar with one individual that was married three times and never got a divorce. He was a World War II veteran, got married before he went into the service, got married in Texas, and then got transferred to Europe and got married in Europe and he's still remains in Europe, but he had two wives in the United States that he never divorce. And would this prevents something like that from happening?

JENNIFER RODRIGUEZ: I don't think this would prevent something like that from happening. This bill is more focusing on how federal agencies view marriages that are celebrated in the state of Connecticut.

REP. ADINOLFI: Okay. That's a -- I'll tell you another story about 10 years ago, here, I had a constituent who sent me a letter that her marriage was performed by an illegal clergyman. So theoretically her marriage was not legal. And what we did -- I shouldn't even say -- in the implementer bill, we put the date of the marriage in and we said it should be made legal. So there are ways to move around some of this stuff. I thought I'd mention that and the last part is funny any way.

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lgg/mcr JUDICIARY COMMITTEE

March 16, 2015
12:00 P.M.

Okay, thank you.

JENNIFER RODRIGUEZ: Thank you.

SENATOR COLEMAN: Are there other questions for Miss Rodriguez?

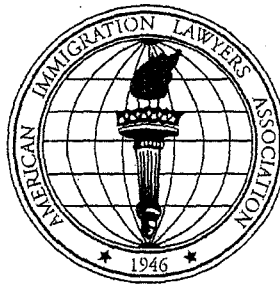
If not thank you so much for being with us.

JENNIFER RODRIGUEZ: Thank you.

SENATOR COLEMAN: Randall Wallace.

RANDALL WALLACE: Good afternoon. My name is Dr. Randall Wallace. I'm a licensed psychologist, specializing in the evaluation and treatment of sexual offenders for the last 25 years. My previous position was as the director of the Center for the Treatment of Problem Sexual Behavior that is the agency that now does the risk evaluations throughout the state. I am currently the director of Clinical and Forensic Services for the Justice Resource Institute. I'm also the President-elect of the Connecticut Association for the Treatment of Sexual Offenders, and I'm the person who developed the risk protocols that are used throughout the state.

I'm testifying in opposition to Bill Number 1087. And in specific as a slight tangent and the specific comment to Representative Tong's statement, which is, what is the answer? And the answer is essentially what Connecticut lacks is a risk-based system. Risk-based system would address almost all of the issues that we have in a much more comprehensive way that would ensure much more community safety in a much more cost-effective manner.



CONNECTICUT CHAPTER

RE: H.B. 7003 AN ACT CONCERNING THE VALIDITY OF MARRIAGES. (JUD)

| |
|-----------------------------------|
| Recommended Action: Pass the Bill |
|-----------------------------------|

The Connecticut Chapter of the American Immigration Lawyers Association [CT AILA] is a nonpartisan, nonprofit organization comprised of immigration attorneys and law professors who are members of the national organization American Immigration Lawyers Association [AILA]. AILA was founded in 1946 to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members.

The Connecticut Chapter has approximately 170 members who represent U.S. families seeking permanent residence for close family members, as well as U.S. businesses seeking talent from the global marketplace. CT AILA Members also represent foreign students, entertainers, athletes, and asylum seekers, often on a pro bono basis.

CT AILA supports H.B. 7003.

The purpose of this bill is to ensure federal agencies recognize legally valid marriages in the State of Connecticut.

This bill is necessary in cases where a Connecticut resident marries an individual who is not a U.S. citizen or lawful permanent resident in Connecticut. Either the Connecticut resident or the spouse had previously been married. The prior marriage was terminated through a divorce in a foreign country. Neither party to the foreign divorce was physically present but did comply with all of the jurisdictional and legal requirements of the foreign jurisdiction. The Connecticut resident files for an immigration benefit for the spouse and/or step-child. U.S. Citizenship and Immigration Services [USCIS] finds that this divorce does not comply with Connecticut law and therefore, holds that the subsequent Connecticut

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marriage is invalid. USCIS denies the immigration benefit because there is no legal marriage to the Connecticut resident. USCIS bases its decision on an erroneous reading of Connecticut law. USCIS states that the Supreme Court of Connecticut has held that the domicile of at least one of the spouses in the foreign country is essential to give a foreign court jurisdiction to grant a divorce. USCIS cites to *Litvaitis v. Litvaitis*, 162 Conn. 540, 295 A2d 519 (1972). However, a careful reading of *Litvaitis* shows that this is not accurate. *Litvaitis* holds that "ordinarily, our courts will not recognize a divorce obtained in a foreign country if neither spouse had a domicile in that country... the courts of this country will not generally recognize a judgment of divorce rendered by the courts of a foreign nation as valid to terminate the existence of a marriage unless, by the standards of the jurisdiction in which recognition is sought, at least one of the spouses was a good faith domiciliary in the foreign nation at the time the decree was rendered." *Litvaitis*, at 545-546. (emphasis added) Domicile by at least one party is not a requirement for recognition under Connecticut law. Subsequent case law in Connecticut makes clear that the court's priority is due process and public policy and when these elements are satisfied, Connecticut courts will recognize foreign divorces and separation agreements notwithstanding a lack of domicile by either party. See *Baker v. Baker*, 39 Conn Supp 66 (1983) and *Bruneau v. Bruneau*, 3 Conn App 453 (1985).

The effect of USCIS's error is that it improperly denies immigrant petitions. This has a terrible adverse effect on the residents of Connecticut: their spouses and step-children are denied legal status in the U.S. USCIS's suggestion to couples with this problem is for them to get a divorce from their prior spouse in Connecticut and then remarry the current spouse. Some judges in Connecticut have refused to do this because the prior marriage was already terminated. Furthermore, this recommendation can have a devastating effect on step-children because they may age-out of the immigration benefit altogether.

This bill fixes the problem because it mandates a rebuttable presumption that a Connecticut marriage is valid despite a prior foreign divorce which may not have complied with Connecticut's jurisdictional requirements. It takes the discretion out of USCIS's hands as to whether or not to consider the subsequent Connecticut marriage valid, while still allowing parties to the divorce to contest its validity in the Connecticut courts. This bill does not impact the rights of individuals to recover alimony and child support or dispute a property allocation from a previous marriage.

This bill will provide certainty for Connecticut residents who marry after a prior divorce in another state or country that their marriage will not be declared invalid by USCIS due to a difference in jurisdictional requirements in the prior divorce proceedings.