

Legislative History for Connecticut Act

PA 16-33

SB349

Senate	1713, 1835-1836	3
Judiciary	1501, 1503-1504, 1506-1507, 1537-1539, 1647-1650	12
House Transcripts have not been received. They are available on CGA website, but are not the Official copy. Contact House Clerk for assistance (860) 240-0400		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
SENATE**

**PROCEEDINGS
2016**

**VOL. 59
PART 6
1704 – 2057**

/je
SENATE

10
April 29, 2016

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF (25TH):

On Calendar Page 32, Calendar 72, S.B. No. 76, I'd
like to place that item on our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF (25TH):

On Calendar Page 39, Calendar 402, S.B. No. 349, I'd
like to place that item on our Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR DUFF (25TH):

On Calendar Page 41, Calendar 463, H.J. Resolution
No. 37, I'd like to place that item on our Consent
Calendar.

THE CHAIR:

So ordered, sir.

SENATOR DUFF (25TH):

Thank you, Madam President. And if the Senate -- if
Mr. Clerk, if you can start with Calendar Page 75 --

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SENATE

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April 29, 2016

SENATOR DUFF (25TH):

Thank you, Madam President. If the Clerk can now please call the items on the Consent Calendar, followed by a vote of the Consent Calendar, please.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calling from today, Consent Calendar No. 1.
Calendar 75, S.B. No. 81. Page 5, S.B. No. 248.
Page 5, S.B. No. 379. Page 7, S.B. No. 142. Page
32, S.B. No. 76. Page 39, S.B. No. 349. Page 41,
H.J. Resolution 37.

THE CHAIR:

Mr. Clerk, will you please call for a roll call vote and the machine will be open with the Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the Consent Calendar. Immediate roll call has been ordered in the Senate on the Consent Calendar.

THE CHAIR:

If all members have voted? All members have voted?
The machine will be closed.

Mr. Clerk, please call the tally on the Consent Calendar.

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SENATE

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April 29, 2016

THE CLERK:

Total Number of Voting	36
Those Voting Yea	36
Those Voting Nay	0
Absent and Not Voting	0

THE CHAIR:

The Consent Calendar passes. (Gavel) Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. Madam President, is the Clerk in possession of Senate Agenda No. 2?

THE CHAIR:

Mr. Clerk.

THE CLERK:

Yes, Madam President, the Clerk is in possession of Senate Agenda No. 2 dated Friday, April 29, 2016.

THE CHAIR:

Mr. Clerk -- I mean -- sorry, Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. I move that all items on the Senate Agenda No. 2 dated Friday, April 29, 2016 be acted upon as indicated by -- and

**STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 4
1383 – 1765**

2016

I ask you to continue your advocacy. Thank you so much.

SENATOR COLEMAN (2ND): Thank you. Natasha Pierre is next.

NATASHA PIERRE: Good afternoon Senator Coleman, Representative Tong, and members of the committee. I'm Natasha Pierre, the States Victim Advocate and I'm here to speak on three bills; Senate Bill 324, Senate Bill 349, and Senate 363. Regarding Senate Bill 363, OVA supports sections 4, 5, 8, and 9 of this bill. Regarding section 4, in many cases the courts orders restitution as a condition of probation and or the court will enter a written order of restitution, which is enforceable by a judgment and civil action.

These orders those are 10 years only rather than the 20 years that are allowed in civil orders of restitution. So as the written order is issued by the criminal court, but enforceable in the civil court, in a civil judgment action we would like it to be at the same timeframe of 20 years.

The Governors Victims Reinforcement Advisory Commission identified this issue as a barrier for crime victims typically in cases where the defendant has been ordered to pay restitution then subsequently violated his or her probation and is sentenced to a term of imprisonment. The extension from 10-20 years consistent with other civil order judgements will ensure that victims are not penalized by time while the offender inadvertently benefits from time.

The OVA would like to thank the Division of Criminal Justice for including this proposal in the

necessary decisions and arrangements without worrying that the defender may return to the home.

As I was in the hallway before this hearing started it was brought to my attention that there is some concern that this violates defendants constitutional rights to bail and we would say in that area that this is a delay of bail not a denial of bail and there are circumstances when the states interest in protecting their defense silence victims outweighs private liberty interest. And we see this at our tape proceedings that deal with custody or requiring a person to vacate a home, and we see this as in line with that same principle of trying to protect a victim that we know is at risk.

Regarding Senate Bill 349 and this is my last bill by the way. Currently recordings or images captured by a police officer used [indiscernible 01:51:03:07] equipment of an incident involving a victim of domestic abuse, sexual abuse, homicide, suicide, or accidental death is exempt from disclosure under FOI and it's considered to be an unwanted invasion of a person or privacy.

The existing law, we believe, strikes a fair balance between protecting the victims' rights to privacy, but also the public's rights to know through the FOI process. This bill would expand those privacy protections to minors. That's all it would do. It wouldn't change what goes on originally. We think this is important especially as we see a lot of youth being involved and being victims of violence within our society.

So we think it also might have a bad -- added benefit of getting minors to cooperate more if they think that their information won't be out in the

world and protect them from that harm that will cause. So we actually -- we respectfully request that you support the proposals mentioned and I can answer any questions if you'd like.

SENATOR COLEMAN (2ND): Any questions for the lady? Representative Rebimbas?

REP. REBIMBAS (70TH): Thank you Mr. Chairman and good afternoon.

NATASHA PIERRE: Good afternoon.

REP. REBIMBAS (70TH): Thank you for your testimony. SB 363
You did mention restitution so I just wanted to take an opportunity, also pick your brain on something. I absolutely support extending it to 20 years. I mean, it's consistent and in light of the fact that certainly you're representing advocacy for victims I think that they should be afforded the same amount of time.

What I've encountered has been many occasions when the perpetrator is unemployed or, for whatever reason at that moment in time, unable to make restitution a judge through the prosecutor, more often, pleads where they would be able to do community service in lieu of. Now, I'm thinking of situations where let's say it's vandalism and you still have the victim financially out and having to pay for the damages although the individual, understanding that at that moment at time, may not have the ability to pay is doing community service.

And I know that your voice as a victims advocate is heard in courts. What are your thoughts of advocating a little bit more of you've got the community service as a component of also a

financial interests that our clients can't let go in the interest of benefiting the community as a whole.

REP. REBIMBAS (70TH): Thank you for your testimony. Thank you Mr. Chairman.

SENATOR COLEMAN (2ND): Are there others with questions? See none. Thank you.

NATASHA PIERRE: Thank you.

SENATOR COLEMAN (2ND): Deborah Del Prete Sullivan and Tejas Bhatt.

DEBORAH SULLIVAN: Good afternoon Senator Coleman, Representative Tong, and members of the Judiciary Committee. Thank you for allowing us to be here today to present testimony from the Chief Public Defenders Office. My name is Deborah Del Prete Sullivan. I'm counsel to the Chief Public Defenders Office and we've submitted testimony -- written testimony on five separate bills. One of them is 324. We've written testimony in opposition to the temporary hold in that period. 5527, we have opposed the concerning crimes committed while on pretrial release and Mike Wagner is here if there are any questions pertaining to that bill.

HB 5473

HB 5532

And as to 349, an act concerning the privacy of minors we had concerns because we wanted to make sure that defense counsel would always have access to any of this information if they happen to be counsel for a minor who is a witness or who happens to be a defendant in a proceeding.

It was good to her Ms. Pierre because she was talking about minors if they were victims. I'm not sure the language is really clear in the bill as to

having minors exempted out here if they're victims. It's something I would like to talk with her after this hearing about to see if maybe we actually are on the same page regarding this testimony -- this legislation.

I'm here to testify briefly on 5473 and there's also written testimony on 5532 that I've submitted and Tejas will be here to address the concerns that we have and the opposition in those -- in that particular bill, but the 5473, an act concerning an investigation of fraud and corruption is an identical bill as was submitted last year to this Judiciary Committee and I believe there was no action taken.

It's been a bill that as long as I've been here as counsel has come up before the committee in various versions. Let me start first by just saying that the investigative subpoena power that has been sought through this bill that's been drafted is very broad. It is not limited. It is not limited to documents by the very language that's contained within the bill. And also, it is outside the scope of any grand jury at the federal or state level or any criminal or civil proceeding that is here.

This is totally outside the scope of that. I, as an attorney, have the power to subpoena documents and subpoena people into a hearing at which I represent a party, but I do not have the power to subpoena anyone to my office to bring any kind of document or property to my office to review that. When I issue a subpoena under Connecticut law and the practice rules as an attorney here in the state of Connecticut, I issue that subpoena. It could be to a hospital, it could be to an attorney, those are privileged issues, but to anyone, to a person for

MONICA VANDERHEI: Thank you very much.

SENATOR COLEMAN (2ND): David McGuire?

DAVID MCGUIRE: Senator Coleman and members of the committee I'm David McGuire, the Legislative and Policy Director with the ACLU of Connecticut. I've submitted testimony on three bills today. I'm going to focus on a body camera bill, but I want to know that I've submitted testimony in opposition to the administrative search warrant and investigatory subpoena bills that have been discussed today. Happy to answer questions about those.

HB5473

HB5532

I'm primarily here to speak in opposition to Senate Bill 349, an act concerning the use of body worn recording equipment by law enforcement. I want to start by thanking this committee for being instrumental in passing the excessive force bill last year. As everyone in this committee knows the hallmark of that bill, in many peoples mind, was the body camera piece, which provided funding for body cameras and mandated that the state police get equipped.

I have to say that the ACLU of Connecticut is concerned that law enforcement in Connecticut has not truly embraced the body cameras. In fact, we've seen some departments that have pushed back since that law came into place. This bill is certainly well-intentioned and I think we can strike the right balance on it. It seeks to exempt out footage of minors when the police feel that it undermines a person's privacy; it's an unwarranted invasion of privacy.

We do understand that there are increased privacy concerns when minors are involved, although we don't think the proper response is a completely exempt these clips from public viewing. We think, instead, people would be best served, including minors, if the footage is redacted in a way so as to not identify who the minor is by blurring the faces and distorting the voice.

As we've seen in South Carolina this summer, most of you probably saw the clip of the young African American girl that was body slammed in her chair. We've also had incidents in Connecticut. A few years back a student at Middletown High School was tasered five times for a disruption in the cafeteria. These are all issues where having body camera footage could've helped transparency. Students are vulnerable not only from a privacy perspective, but also in terms of being a vulnerable population that need to be treated humanely and respectfully by police.

I also note that the footage can also exonerate police who are dealing with children appropriately in a school setting, for example, and are unfairly mischaracterized and accused of abuse. So I'm happy to answer any questions about this bill or the other two. I appreciate your time today.

SENATOR COLEMAN (2ND): Are there questions for Mr. McGuire? David, can you give me an example of an effective way to redact the images of a minor?

DAVID MCGUIRE: Sure. So there currently exists software that is marketed to law enforcement. It's essentially a software program that you can run the footage through that automatically identifies the faces of people in a recording and blurs them out.

So contrary to a lot of concerns that law enforcement have put out there that it would be expensive or time consuming to redact footage. That's absolutely not the case. This software is readily available and works very, very well.

SENATOR COLEMAN (2ND): And has your response to the bill contemplated that, let's say the example you used in South Carolina, what if that student wanted to be clearly depicted in that -- whatever image was captured?

DAVID MCGUIRE: That's a good point Senator Coleman and I think that that student should be able to opt to allow that to be put out there. There have been some proposals floated this session not in statute, but in conversations in the halls here about first requiring the person to give consent before it's released in any form. I think that is too burdensome and it makes it difficult for, you know, a watchdog group, to get the access to things. They'd have to track down the per -- every person in the footage, but if a particular young person wants that put out there for advocacy reasons, whatever it be, they should absolutely be able to agree to that. So that would be a helpful addition to the statute I think.

SENATOR COLEMAN (2ND): Okay. Any -- Representative Dubitsky?

REP. DUBITSKY (47TH): Thank you Mr. Chairman. Thank you for coming. In your initial remark you indicated that you were going to talk about the administrative warrant bill and then I don't think you did.

HB 5532

DAVID MCGUIRE: Well, I ran out of time on that, but I rely on my testimony. But we do have real concerns about that. We think that the bill will be used as a



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COMMITTEE ON THE JUDICIARY
MARCH 7, 2016

RAISED BILL 349 AN ACT CONCERNING THE PRIVACY OF MINORS

TESTIMONY OF OFFICE OF CHIEF PUBLIC DEFENDER
Christine Perra Rapillo
Directory of Delinquency Defense and Child Protection

The Office of Chief Public Defender has concerns that **Raised Bill 349, An Act Concerning the Privacy of Minors** would have unintended implications in the defense and prosecution of juvenile delinquency and other criminal matters. The statute addresses video from law enforcement body cameras and adds minors to the list of individuals whose images are not public records subject to disclosure under the Freedom of Information Act as defined by C.G.S. Sec. 1-200. This proposal exempts records that could "reasonably be expected to constitute an unwarranted invasion of personal privacy in the case of any such victim". The Office of Chief Public Defender is concerned that the current proposal could be used to block the disclosure of use of video evidence in the defense of a criminal case. Failure to provide body camera video of an alleged criminal investigation violates an accused's right to under the 6th amendment United States Constitution and Article 1 Section 8 of the Connecticut Constitutions to confront and cross examine witnesses. This Agency requests that specific language be added to this bill that makes clear that body camera video will always to available to criminal matters, subject to normal rules of discovery.

Raised Bill 349 proposes to amend C.G.S. Section 29-6d. The purpose of C.G.S Section 29-6d was to protect the public from being recorded while interacting with police officers in non official capacities. The underlying legislation also aimed to limit the public and thus the media's access to video of victims that could cause pain or embarrassment if broadcast or published. Adding minors to the list of protected individuals goes far beyond the purpose of the original legislation.

Minors often end up on police videos because they are witnesses or defendants in criminal proceedings. The statute as proposed does not limit the invocation of the exemption to the victim of an alleged crime. A young witness or his or her parents could claim that he video should not be disclosed because its potential availability to the public could invade a victim's privacy. This could be a particular problem if an accused delinquent or criminal defendant needed access to body camera video in a case that was being tried. These are situations where the privacy rights of victims could be protected by the court at the time of the disclosure under the rules of evidence for criminal proceedings. Language should be added to make clear that body camera video will always be available to counsel in a criminal proceeding, regardless of exemptions related to privacy concerns.



NATASHA M. PIERRE, ESQ.
State Victim Advocate

Testimony of Natasha M. Pierre, Esq., State Victim Advocate
Submitted to the Judiciary Committee
Monday, March 7, 2016

Good morning Senator Coleman, Representative Tong and distinguished members of the Judiciary Committee. For the record, my name is Natasha Pierre and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Senate Bill No. 349, *An Act Concerning the Privacy of a Minor*

Currently, recordings or images captured by a police officer using body-worn recording equipment of an incident involving a victim of domestic or sexual abuse, homicide, suicide or accidental death are exempt from disclosure under the Freedom of Information Act (FOIA) if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy. The existing law strikes a fair balance of protecting a victim's privacy and the public's right to know under FOIA.

Senate Bill No. 349 would expand these privacy protections to minors. Additionally, the bill may have the added benefit of encouraging minors to cooperate in the investigation and prosecution of crimes, while protecting them from the harm that may otherwise result.

The Office of the Victim Advocate fully supports Senate Bill No. 349 which will undoubtedly provide meaningful protections to minors and urges the Committee's favorable report. Thank you for consideration of my testimony.



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**Testimony in Support of Senate Bill No. 349,
An Act Concerning the Use of Body-Worn Recording Equipment
By Law Enforcement**

Good afternoon Senator Coleman, Representative Tong, and distinguished members of the Judiciary Committee. My name is David McGuire. I am the Legislative and Policy Director at the American Civil Liberties Union of Connecticut (ACLU-CT), and I am here to testify in opposition to Senate Bill 349, An Act Concerning the Use of Body-Worn Recording Equipment by Law Enforcement. In Connecticut, we have enough experience with this technology to know that with appropriate standards and safeguards in place, body cameras serve as a powerful mechanism for police oversight. We also recognize that this type of equipment has the ability to impede upon the privacy of citizens. The ACLU-CT appreciates the caution and concern for privacy and safety that motivated this bill but disagrees with the bill's proposed pathway toward protecting minors.

Recording police encounters using police body cameras will promote police accountability, deter officer and civilian misconduct, and provide objective evidence to help resolve complaints against police without significantly infringing on officers' or residents' privacy. At a time of heightened tensions surrounding police, body cameras can also help to restore the public's trust in law enforcement.

While police body cameras can protect both the public and police officers from misrepresentations about police encounters, Connecticut also needs guidelines to protect the privacy of all of those whose images are captured by the cameras. This is especially important when applied to minors, including schoolchildren. Although this bill seeks to protect minors' privacy rights, it would do so at the expense of the very purpose of body cameras: increasing police transparency and oversight. The bill is misguided in its effort to deem police body camera recordings to be confidential under the Freedom of Information Act, as it would hinder police accountability efforts.

For these reasons, the ACLU-CT believes that rather than exempt recordings of minors from public view, recordings should instead be edited to remove minors' identifying features. This could be accomplished, for instance, by blurring faces and/or altering voices. This solution would protect children's privacy while still allowing for police transparency and oversight.

Several cases of extreme police brutality in schools prove that oversight is pivotal in order to protect minors. In October 2015, for instance, a police officer in South Carolina was caught on camera slamming

a teenage girl to the ground and dragging her out of the classroom. In addition to arresting the girl on video, police also arrested her classmate for recording the situation. Had this recording been considered confidential information, the public would not have had access to the video, and the officer's actions may have gone unpunished. Likewise, if the officer had been wearing a body camera, perhaps the girl's classmate would not have been the only person recording the incident, and her video evidence would not have been the only footage with which to analyze the officer's actions.

Closer to home, an incident at Middletown High School also demonstrates the need for open records that include video footage from police body cameras. In 2011, a school resource officer Tased a student five times after the child engaged in an argument with a cafeteria employee. Again, with proper and publicly available body camera footage of the incident, the student could more easily seek justice in court to hold the officer accountable for his actions, just as the officer could more easily respond to false allegations of misconduct.

In order to defend minors from potential police brutality, it is imperative that recordings from police body-worn equipment are accessible and available to the public. Children are some of the most vulnerable members of our society, and so we should strive to protect them from police brutality and privacy violations, not one or the other. This bill, however, would serve one at the expense of the other. By instead protecting minors' privacy through voice alteration and image blurring while keeping recordings from police body cameras accessible, we can more effectively do just that.

I encourage you to oppose Senate Bill 349.