

Testimony of Judge Clarence Jones

Regarding Proposed Legislation

Bill No. 605

AN ACT CONCERNING JUDICIAL BRANCH OPENNESS

Good afternoon, Senator McDonald, Representative Lawlor, Senator Kissel, Representative O'Neill and honorable members of the Judiciary Committee

My name is Clarence Jones. I am a judge of the Superior Court in Connecticut and I have the privilege to serve as the Vice-President of the Connecticut Judges' Association, which consists of approximately 243 members.

Concerning Bill No. 605 – AN ACT CONCERNING JUDICIAL OPENNESS

Section 1

With respect to provisions in section 1: Court Rules, please know that the Superior Court has adopted the following resolution:

Resolved:

1) That each year the Superior Court Rules Committee shall make itself available to meet with the members of the Judiciary Committee of the General Assembly (the Judiciary Committee) as soon as practicable after the first Rules Committee meeting in September to advise the Judiciary Committee as to the Rules Committee's anticipated agenda for the upcoming year;

2) That as soon as practicable after the convening of each regular legislative session, the Chair of the Rules Committee shall invite the Senate and House Chairs and the Ranking Members of the Judiciary Committee, and such other members of the Committee as the Chairs may designate, to attend a meeting of the Rules Committee to confer and consult with respect to the rules of practice, pleadings, forms and procedure for the Superior Court and with respect to legislation affecting the courts pending before or to be introduced in the General Assembly.

3) That the Chair of the Rules Committee shall forward to the Judiciary Committee for review and comment all proposed revisions to the Practice Book and to the Code of Evidence which the Rules Committee has decided to submit to public hearing at least 35 days in advance of the public hearing thereon. If the Chair of the Rules Committee shall receive any comments from the Judiciary Committee with respect to such proposed revision, he or she shall forward such comments to the members of the Rules Committee for their consideration in connection with the public hearing.

4) That the agendas and minutes of Rules Committee meetings, and any proposed revisions to the Practice Book and to the Code of Evidence which the Rules Committee has decided to submit to public hearing, any comments by the Judiciary Committee with respect to such proposed revisions, and any proposed revisions that are adopted by the Superior Court judges shall be placed on the Judicial Branch website.

5. That the Superior Court Rules Committee shall consider submitting to the Superior Court judges for adoption a Practice Book rule incorporating appropriate provisions of this resolution.

6. That this policy shall become effective upon passage.

It should also be noted that the existing section 51-14 (b) allocates review of court rules by the General Assembly.

In light of the foregoing resolution, the authority provided in the existing statute, and the constitutional constraints imposed by the separation of powers, the Connecticut Judges' Association takes the position that the proposed statutory changes in Section 1 are not necessary and are not appropriate.

Section 13

With respect to Section 13 of the raised bill, the Connecticut Judges' Association sides with the Connecticut Supreme Court decision in Rules Committee of the Superior Court v. Freedom of Information Commission, 192 Conn. 234 (1984) which opined that

The Rules Committee of the Superior Court plays no role in the management of the internal institutional machinery of the Court system. It is charged, instead, with the responsibility of formulating rules of practice and procedure that directly control the conduct of litigation.

Id. at 246.

It is within that context that the Supreme Court ruled that the Rules Committee does not perform administrative functions within the meaning of the Freedom of Information Act.

For the foregoing reason, the Connecticut Judges' Association takes the position that administrative functions referred to in Section 13 can not include rule making by the Connecticut Judicial Branch.