



Written Testimony

General Assembly

Raised Bill No. 6367

January Session, 2011

LCO No. 3267

03267_____JUD

Referred to Committee on Judiciary

Introduced by:

(JUD)

See text box on next page.

AN ACT CONCERNING THE FAILURE OF A WITNESS TO REPORT A SERIOUS CRIME.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2011) (a) A person is guilty of failure to report a crime when such person **witnesses** what the person knows or reasonably should know is the murder, assault or sexual assault of another person or the physical abuse of a child, or the attempt thereof, and does not, as soon as reasonably practicable, report that crime to a law enforcement agency.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the defendant (1) did not, as soon as reasonably practicable, report the crime because the defendant reasonably believed that (A) doing so would have exposed the defendant or another person to a substantial risk of physical injury, or (B) another person had already reported the crime to a law enforcement official, or (2) acted to stop the commission of the crime and stopped (A) the commission of the crime, or (B) the completion of the crime being attempted.

(c) Failure to report a crime is a class A misdemeanor.

(C) the reporting of such crime would cause the person to be in violation of in conflict with any given law of the General Statutes of Connecticut or preemption by a federal statute, or

This act shall take effect as follows and shall amend the following sections:

As an example, suppose "witnesses" includes "knowledge of" and that knowledge is possessed by a person who has privileged interaction with the perpetrator, e.g., a clergy, an attorney, etc. The Judicial Branch is overly busy now, why exacerbate with even more litigation because of possible faulty language?

Section 1	October 1, 2011	New section
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Statement of Purpose:

To require a person who witnesses a serious crime to report that crime to a law enforcement agency.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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The question: What is the Judiciary Committee's intent for the meaning of the word "witnesses?"

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See General Statutes of Connecticut §§**Sec. 1-1. Words and phrases.** (a) **In the construction of the statutes**, words and phrases shall be construed according to the **commonly approved usage of the language**; and technical words and phrases, and **such as have acquired a peculiar and appropriate meaning in the law**, shall be construed and understood accordingly.

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Definitions:

(a) Source: copied from online Encarta Dictionary: English (North America): witness (verb) (...*wit.ness.es*) **1. see something happen transitive verb to see something happen, especially a crime or an accident**

(b) Source: Black's Law Dictionary Abridged Seventh Edition at page 1294: **witness, n. 1.** One who sees, knows, or vouches for something <a witness to the accident>

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If the Judiciary Committee's intent is the broader meaning, i.e., not only seeing; but also knowing, then the Judiciary Committee could prevent justice from being denied by ensuring that the General Statutes of Connecticut **Sec. 52-184a. Evidence obtained illegally by electronic device inadmissible.** that reads: "No evidence obtained illegally by the use of any electronic device is admissible in any court of this state." does not come into play.

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The Judiciary Committee has before it the raised SB1149, that includes proposed changes to the existing **Sec. 52-570d. Action for illegal recording of private telephonic communications.** that would read: "(b)(10) Any party who records a telephonic communication provided the intent of the recording is to memorialize evidence of a crime before, during, or after the fact and the unaltered and undisclosed recording must be submitted to law enforcement within a reasonable amount of time." and "(b)(11) Any recording that results from any automatic or automated system that may be reasonably categorized as a voice mail, call center, phone answering or such similar system and where the calling party was acting under informed consent in the telephonic communication."

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As an example: Consider that a crime, as enumerated in raised HB6367's Section 1. (NEW) (*Effective October 1, 2011*)(a) above, has been committed and accept as a fact that there was no **eye** witness. However, during a telephonic communication, the perpetrator admits to the commission of the crime while calling a "friend's" phone answering system. Assume that the "friend" is aware of an enacted HB6367 and reports the crime. However, the resultant recording could not be used pursuant to §52-184a unless §52-570d(b) was amended to include the proposed changes that are set out in SB1149.