

Oral Testimony raised SB1151

My name is Lawrence Jezouit. Senator Coleman, Representative Fox, Vice Chairs, Ranking Members and Members of the Judiciary Committee, thank you for this opportunity to testify.

I request that the Committee vote in favor of Senate Bill 1151 AN ACT CONCERNING THE RECORDING OF TELEPHONIC COMMUNICATIONS. My written testimony is stored in the General Assembly's database with 1151's files.

Before I offer a few comments, I would like to take this opportunity to advise the committee that your legal staff has reached out to me to ensure that the bill will be structured in a manner that will benefit the state's telecommunications users. On a personal note, I want to advise the committee that the staff have proved themselves to be very knowledgeable on the subject matter and have acted in a courteous and professional manner.

1151 cures several unintended detrimental consequences that resulted from section 52-570d that was codified in 1990. 52-570d created disharmony between it and an Eavesdropping subsection 53a-187(a)(1), Wiretapping that was passed in 1969 and section 52-184a, Evidence Obtained Illegally that was passed in 1967. See OLR Report 99-R-0987 October 1, 1999 titled Recording Phone Calls to verify that disharmony.

Although as unlikely an event as was the Sandy Hook School tragedy, consider the following scenario. You possess knowledge that a set of criminals plan and burglarize a gun store to acquire numerous pistols, revolvers, and various types of long guns as well as large quantities of ammunition. Criminal A was tasked to organize a meeting with a second set of criminals who had agreed to buy the stolen goods. Exercising your civic responsibility, you convince Criminal A to call so you can set up to record A's account of the theft. Criminal A calls to brag and that the stolen goods will be transported to site X at a specified date and time certain. You, as a party to the call, either secretly record it or give consent to a non-party to record. Then you provide the recorded evidence to law enforcement. They act upon it. Under 52-184a and the "fruit of the poisonous tree" doctrine, the evidence is excluded and the criminals are free. 1151 provides the cure.

For authorities see ~~*Rivera v. Rivera*~~, 15 Conn. App. 529; 1988; ~~*FINERTY v. FINERTY*~~, Conn. Super. LEXIS 3363, 1992; ~~*Richards v. O'Neil et al.*~~, Conn. Super. LEXIS 1152, 2000; ~~*Robinson et al. v. Robinson*~~, Conn. Super. LEXIS 1008, 2005.

In 1976, the CT Supreme Court noted that under 53a-187(a)(1) you were permitted to make that recording at will. Then you provide it to law enforcement and the evidence would be admissible. (See *State v. DeMartin*, 171 Conn. 524, 544 FN 13. Note that the citation is set out in the Criminal Jury Instruction 10.8-4 Eavesdropping.) The codification of 52-570d in 1990 turned that on its head.

Please close the loophole that the 1990 General Assembly unwittingly created. It is possible to prevent another tragic event like Sandy Hook. Pass this bill or repeal 52-570d and revert to the 1969 scheme that was set out by 18USC2510 et seq. in 1968 and followed by more than thirty-three states. I have a large set of computer based subject matter files that support every one of 1151's language changes. Your legal staff has perused many of them and made adjustments to 1151's language.