

Testimony of Brian Corbino in opposition to Raised Bill 7028 - AN ACT CONCERNING THE DEPARTMENT OF CORRECTION, ACCESS TO THE FIREARMS DATABASE BY PAROLE OFFICERS, AND PRESENTATION OF A CARRY PERMIT.

Honorable Representatives and Senators of the Judiciary Committee:

I am here today to express my utter disgust at the disregard for the intelligence of the voters represented by the hanging of sections 23 and 24 onto an otherwise utterly unrelated bill. Did you think we wouldn't notice?

I'll start with Section 23 – Granting direct access to the firearms licensure database to parole officers. I can think of no reason such information would enhance the safety of a parole officer. The presence of a permit is no guarantee of the presence of firearms, and should not be treated as such. We do operate from a presumption of innocence, after all.

The claim that such access would lead to officer safety is farcical. There were no officers killed in the line of duty in 2011, 2012, or 2013. And there were only 28 “incidents” total over those three years involving firearms for **all law enforcement in Connecticut**.¹

I urge you to strike this pointless section from the Raised Bill.

On Section 24 – requiring a Pistol Permit holder to present such permit upon request of a law enforcement officer: Again, we're casting aside the presumption of innocence. How do you imagine this would work? It is unlikely that a prohibited person is going to advertise his lawlessness by openly carrying a pistol. At best, this is simply a matter of harassing permit holders in the hopes of scoring a \$35 fine if one left his wallet in the car.

Perhaps it's merely a cynical attempt to gain through harassment what cannot be gained through legislation – and end to the open carrying of pistols and revolvers in the state of Connecticut. A right denied through harassment and intimidation is no less infringed than were it legislated away.

Or were you considering something a little more intrusive perhaps? Something like the “Stop and Frisk” program that was recently shut down by the Second Circuit?² Because if pestering those with openly-carried pistols is unlikely to change any outcome, then one would have to assume the intent of the legislature is to check if those with concealed firearms are properly permitted. That would require throwing *Terry v. Ohio* (among other things) out the window.

¹ Connecticut Uniform Crime Reports: Crime in Connecticut [2013, COMPLETE 2012, COMPLETE 2011] p. 422 at <http://www.dpsdata.ct.gov/dps/ucr/ucr.aspx>

² Decision stayed while case is assigned to a new judge, no indication that the outcome will change. <http://lawprofessors.typepad.com/conlaw/2013/10/second-circuit-stays-stop-and-frisk-opinion-and-removes-district-judge-.html> and <http://www.newyorker.com/news/news-desk/the-preposterous-removal-of-judge-scheidlin>

All of these possibilities, create an immense liability situation for the police officers who are expected to enforce this law, and the legislators who pass it.

*Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.*³ - 42 U.S. Code § 1983 - Civil action for deprivation of rights

There is no way that engaging in a prohibited search does not expose the officer to potential financial losses under Section 1983. The right to keep **and bear** arms is most certainly secured by the Constitution, and such harassment as an unwarranted stop and demand for papers cannot be anything but a deprivation of rights. Passage of legislation intended to cause such deprivation should also be considered a violation of Section 1983. Legislators who vote for passage could be found to be liable as well.

Furthermore, the requirement imposed by Section 24 of the raised bill would effectively create a "second-class" of citizen of those who hold a Connecticut State Permit to Carry Pistols and Revolvers. In the "Red Book", police are informed that "To be a consensual encounter, the police officer may in no way restrain the freedom of the individual in question or give the individual the impression that they will be detained if they fail to respond appropriately. The person approached may not be detained even momentarily without reasonable, objective grounds for doing so. His refusal to listen or answer does not, without more, furnish those grounds."⁴ Requiring the police to actively discriminate against a limited class of individuals is an affront to the very concept of civil rights.

Whether it's an attempt to milk the citizens of Connecticut for a few more pennies, or a desire to impose "Stop & Frisk" on gun owners is immaterial. You don't get to simply wish civil rights away because you're afraid of guns.

And so I must urge you to strike this section from the raised bill as well.

It is high time that the General Assembly stopped harassing and punishing gun owners in this state. We've done nothing to you, leave us alone. Strike these sections from Raised Bill 7028, and stop trying to pull a fast one on us by burying such things in unrelated legislation. It's unseemly.

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³ Cornell University Law School Legal Information Institute. <https://www.law.cornell.edu/uscode/text/42/1983>

⁴ Connecticut Law Enforcement Handbook Field Manual, 2015 edition. p. 233.