

Testimony of Michael J. Daly of Simsbury in support of HB 6921,
AN ACT CONCERNING DISCRIMINATION BASED ON A PERSON'S CRIMINAL HISTORY.

LABOR COMMITTEE PUBLIC HEARING
TUESDAY, FEBRUARY 26, 2019
LEGISLATIVE OFFICE BUILDING 12:00 ROOM 1B

Good Afternoon Chairwoman Kusher, Chairwoman Porter, Vice Chair Osten, Vice Chair Hall, Ranking Member Miner, Ranking Member Poletta, distinguished members of the Labor Committee, for the record my name is Michael Daly of the Town of Simsbury and I am here to testify in support of HB 6921.

By way of background, I was an attorney and a bankruptcy trustee. In 2009, I deposited bankruptcy estate funds in the amount of \$10,100.00 into my personal account. At that moment, I co-mingled funds which was a breach of my fiduciary duty and of the public trust.

It took time for me to fully accept the violation of my duties as a fiduciary and violation of the public trust. I understand and accept the consequences of my actions. I made full restitution as soon as the error was discovered. I served 14 months of an 18-month sentence at Deven's Federal Medical Center and paid a \$15,000.00 fine. I have completed 3 years' probation, without any incident, and have been attempting to move forward and re-build my life.

At the time I plead to my offense, my spouse and I were in our mid to late 50's. We had worked for many years and managed our assets responsibly and looked forward a comfortable retirement. We maintained multiple accounts at Charles Schwab, Merrill Lynch and Bank of America.

After I pled guilty, we received notice from Charles Schwab Investments that it had closed our IRA accounts, my SEP account and liquidated all of the holdings in our joint accounts. The accounts were closed without any warning or deadlines. There were taxes and we were forced to pay them as an additional penalty of my plea, a penalty my family and I should not have had to endure.

Shortly after those accounts were closed, we received a letter from Bank of America that my individual accounts and our joint checking and saving accounts were being closed. We had automatic deposits and payments scheduled from those accounts. Due to the bank's action our mortgage payment was late, credit card, utility and other household expenses were late, and payments for legal fees bounced, causing fees and charges at a time we could least afford it.

Prior to my plea, our credit scores were in the excellent range, but that began to change. Despite the fact that during this time we were managing our finances, all of our monthly expenses were current, my legal fees and restitution in the amount of \$10,100.00 had already been paid, our credit scores declined solely because of the actions of the banks and brokerage houses. And we had no control over these actions.

It is also important to understand that these unilateral actions by the banks were not only affecting me but that it was having a negative impact on his credit score, his credit and his ability to conduct business. He became a victim of my crimes as well. Based on our joint banking and credit history of over 30 years, we should have been given the ability to manage our affairs. The financial institutions should have been required to give us adequate notice and an ability to conduct our affairs in a reasonable manner. We spoke to counsel but was told that there was no redress.

Our alternative was to open a single checking account for my spouse, leaving me with no ability to bank or conduct business. It caused us to use a single account with one password and debit card. I was unable to have any assets in my name.

When we thought we had things figured out, we were notified that Merrill Lynch had closed our accounts. This liquidation came complete with a new set of tax and financial consequences. Our account managers, who we had worked with for over 30 years advocated for us. This struck me as especially ironic since Merrill Lynch had itself been the subject of an investigation during the 2008 financial crisis and had to be bailed out by Bank of America. But the case and the accounts were closed.

Ultimately, we had to put all of our liquid assets in my spouse's name. I could not be listed as an owner. As a result of my plea, there was no way I could retain title and participate in the management of the assets we jointly owned. Fortunately, I had one IRA at Fidelity and was able to move my Merrill Lynch IRA's and SEP's, which could not be transferred to my spouse, to that account. Because I was on probation, the transfer of the funds to my spouse had to be approved by the Court and the office of probation. Additionally, any creditor could have filed a civil fraudulent conveyance action against my spouse if any obligation went into default. And of course having to keep probation advised just caused my legal fees to increase.

After my release, we began the process of reviewing our estate plan. The recommendation was that we make each other beneficiaries on many of the accounts, which had not been done in the haste of reacting to the confusion and change over the past several years. We met with the account managers and made me beneficiary.

Within 30 days, we received a letter that because of my conviction, I could not be the beneficiary on those accounts. Not only could I not be titled on the account, now I was told that I could not inherit. And if I remained beneficiary of the account, it would be closed. We could not accept the tax and financial ramifications of having the accounts liquidated again so we relented and I was removed as beneficiary.

In an effort to put our estate plan into effect, it was suggested we use a new manager. We went to TD Ameritrade to open new IRA and retirement accounts. We were told that it would not be a problem. We executed the paperwork to open the accounts and have the assets transferred.

Shortly after the transfer took place, we were contacted by TD and told that they would not be the Trustee of our retirement vehicles and the accounts were being closed. Fortunately, we were able to have the assets transferred back to the accounts they came from. However, there is no redress or appeal from these final decisions made by the bank.

During this process, I attempted to purchase an additional insurance policy. I passed all of the physical requirements, made the first premium payment and the policy was cancelled because I had a conviction and was not eligible to be insured.

I have accepted responsibility for my mistake. I served my sentence without incident. I made restitution, served my time, completed my 3 years of probation, all without a single incident. I have been the controller for a small startup company and after leaving that position, became the office administrator of a small not for profit. I have been responsible for handing funds in both of these

positions and have always made sure that those I work for are aware of my conviction and have made changes so that proper financial safeguards are in place. I have been able to get a real estate salesperson's license, and am taking classes to become a certified data-base manager and working toward my Master's Degree.

In addition to restitution, a fine, and a term of imprisonment, I am sentenced with a dark financial future, which also poses a threat to the financial future of my spouse and family. It is impossible for me to conduct business, plan, save for retirement or retain title to assets that are jointly owned. My spouse lost his ability to plan, manage our affairs and make sound economic decisions. Our assets were put at risk and we were sentenced to penalties and taxes. I plead in 2012 and almost 7 years later, we cannot plan as other couples would plan for asset preservation and providing for each other in the event of disabilities or death.

I am blessed that as a couple we have been able to weather the storm. The emotional toll that the plea, publicity and incarceration inflicted would have been enough to destroy a relationship. Given the emotion difficulties, we are still unable to move forward and this stress makes the re-entry process all the more difficult. Each person who completes their sentence and pays their debt to society should be given the opportunity to move forward constructively and responsibly. Not subjected to the kind of stress and uncertainty that the process currently subjects us to.

I support and applaud your efforts today with HB 6921. Re-entry is far more difficult than I ever imagined, more difficult I am defined by an accident on a single bad day at work. I have accepted responsibility, done what was required and am now asking the legislature to help me move on with my life. I hope that this legislation can help to eliminate some of these hurdles so that when individuals reenter society they can plan for the future they hope to have.