REP. STAFSTROM (129TH): I’d like to convene the Judiciary Public Hearing for Friday, February 22nd. I will start by turning it over to Representative Horn to read the safety instructions.

REP. HORN (64TH): Thank you, Mr. Chair and I am honored to be your guide to safety today. In the interest of safety I am asking you to note the location of and access to the exits in this hearing room. The two doors through which you entered the room are the emergency exits and are marked with exit signs. In the event of an emergency, please walk quickly to the nearest exit. After exiting the room proceed to the main stairs or follow the exit signs to one of the fire stairs. Please quickly exit the building and follow any instructions from
the Capital Police. Do not delay and do not return unless you are advised that it is safe to do so. In the event of a lockdown announcement please remain in the Hearing Room and stay away from the exit doors until an “All Clear” announcement is heard. Thank you and we in Judiciary believe in safety.

REP. STAFSTROM (129TH): Well done, thank you. All right, we are going to start with the first hour with our State Agency heads and Chief Elected Officials list. We have five individuals on that list the first being Kevin Kane the Chief States Attorney. Attorney Kane, three minutes.

STATES ATTORNEY KANE: It’s been a while. Thank you Chairman Stafstrom and Members of the Committee, Chairman Kissel. I am Kevin Kane the Chief States Attorney. We are here to talk on two Bills, first is Senate Bill 842, it is number four on the agenda, AN ACT CONCERNING MOTOR VEHICLE OFFENSES, the second one is number five on the agenda, Senate Bill Number 843 AN ACT CONCERNING THE UNLAWFUL DISSEMINATION OF INTIMATE IMAGES. I have two subject matter experts here I would like to testify. The first is, if Brenda Hans could come up and sit here, please. She is here to speak on the ACT CONCERNING MOTOR VEHICLE OFFENSES that has a couple of different subjects on it and these deal carefully, I think it is important for the Committee to understand some of the unintended consequences in this legislation which obviously has, looks good on the surface but you need to think about somethings and Brenda is our Traffic Resource Prosecutor. She works closely with the Federal Department of Transportation, the State Department of Transportation the Motor Vehicle Department and training, with regard to training and
prosecution of motor vehicle offenses. So, States Attorney Brenda Hans.

ATTY. HANS: Good morning Distinguished Members of the Judiciary Committee. My name is Brenda Hans and I am the Assistant States Attorney with the Division of Criminal Justice and a Traffic Safety Resource Prosecutor for the State of Connecticut. I would like to thank you for the opportunity to testify in opposition to Senate Bill 842 AN ACT CONCERNING MOTOR VEHICLE OFFENSES. Simply put this Bill will be harmful to the State of Connecticut. The Bill undermines our ignition interlock device law which requires those who have driven impaired to install an IID before returning to our roadways. It essentially undermines and makes optional the IID installation because if you neither own or have a motor vehicle to operate then you would only be suspended for two years. What the Bill would essentially do, if someone was very wealthy and decided to lease a motor for two years and transferred ownership of their car to their wife or their daughter or to their mother, they would essentially circumvent the IID Laws. We all know that ignition interlock devices are extremely effective is saving lives on our roadway. Every time someone gets into a car they have to blow into that device to assure that they are under a 0.0225 so we are preventing over 70,000 incidents of people getting on the road impaired every year when they blow into this device. An additional concern of the Division of Criminal Justice has in opposition to this Bill is that it provides for commercial driver’s license holders to access the diversion program, under the Alcohol Education Program or the
AR Program and this completely and expressively violates our antimasking laws of the Federal Government and will cost millions and millions of dollars to our taxpayers on this Bill.

REP. STALLWORTH (126TH): Questions from the Committee? Representative Smith.

REP. SMITH (108TH): Thank you, Mr. Chairman. Good Morning Counsel, Chief Attorney Kane as well. You know, scrambling here to get my computer up and running to take a look at this Bill, it’s kinda like a Monday morning computer, it’s not really responding quickly. So I am just wondering if you could dive in a little deeper into the effects of this Bill cause I don’t have the language in front of me. So I understand, I know this Committee has worked hard over the years to make sure those who have been arrested for DUI partake in the Interlock Program. Are you saying now this Bill would eliminate that process such that if you did not own a car, how does it work now, if you do not own a car and you get arrested for DUI, let me ask you that?

ATTY. HANS: Under our current law until you have an ignition interlock installed there is an indefinite license suspension period until that IID is installed into a vehicle. So that is our current law under General Statute 14-227-a subdivision g,c.

REP. SMITH (108TH): So if you are an owner, if you are arrested for a DUI and you do not own a car or say you lease a car or your vehicle is in a spouse’s name or someone else’s name or a corporations name, what is the requirement that the interlock get installed?
ATTY. HANS: The language of our current statute which is a very strong statute and frankly the envy of other states. Our IID laws are wonderful. It says if you either own or operate a motor vehicle you have to have an IID installed in it once you have been arrested and caught driving already impaired on our roadways.

REP. SMITH (108TH): So its own or operation them?

ATTY. HANS: Yes it is.

REP. SMITH (108TH): That’s the key. How is this, because I don’t have it in front of me, how does this law change that?

ATTORNEY HANS: Well essentially what it does, it sets a finite license suspension period for the first conviction of two years. Right now our current law is indefinite license suspension period because it acts as an impetus to encourage people to get those safety devices on their motor vehicles to prevent them from driving impaired on our roads. So it would provide a two year, up to two years, which that in itself should be very concerning to this Committee because it is an ambiguous license suspension period so right now we have an indefinite license suspension period until you get that safety device installed in your motor vehicle and keep all of the people in the State of Connecticut safe on our roadways from impaired driving which causes millions of dollars’ worth of medical costs and lives.

REP. SMITH (108TH): So up to two years would be left in the discretion of the court?
ATTORNEY HANS: As the Bill is drafted it is somewhat ambiguous.

REP. SMITH (108TH): Okay, well I am glad that you came and testified against this this morning to alert the Committee to this. I know we worked hard to make sure our roads are safer for our folds who are out there driving and Connecticut is now the envy of many other states in terms of this particular law, so I applaud you for bringing this to our attention and I hope the Committee takes notice of it as well. Thank you.

STATES ATTORNEY KANE: There is written testimony which I think clearly addresses the issues.

REP. STAFSTROM (129TH): Thank you, Representative. Let me dig a little closer into this because I think, I know we have some other folks who are going to testify after you and I think one of the intent of this law was how do you address this situation where somebody is indigent and doesn’t own a car and without the ability to go out an purchase a car and to install the interlocutory device on that car presumably could never get their license back under our current statutory framework. Is there a better way to address that concern which I believe is the main concern of the proponents of this Bill?

ATTORNEY HANS: Well last year the legislature did pass a Bill to say if you were indigent and meet the LAHEP [phonetic]requirement ID companies can offer reduced fees and costs and waivers to people who need a bill. If they don’t own a car obviously they own or operated a car because they were arrested for driving under the influence on our roadways, so they had access to a motor vehicle and to address that
issue, if they, at some point procure a motor vehicle and have an ignition interlock device installed they can get their license restored.

REP. STAFSTROM (129TH): Not necessarily because they could have been borrowing a friend’s car when they were arrested, they could have been driving a rental car. I mean there’s other ways people access a vehicle who don’t necessarily own it. I mean go back to your lease example you used from the get-go. So is it your testimony that right now if somebody leases a motor vehicle and they are arrested driving that leased motor vehicle can they put in an ignition interlock device on that leased motor vehicle now?

ATTY HANS: The statute here is very clear under 14-27 a,g,c. On each motor vehicle owned or operated by such person and ID must be installed. It is a safety mechanism; it is a safety precaution. It saves many, many lives on our roadways.

REP. STAFSTROM (129TH): I understand that, what I’m trying to get at is I didn’t quite understand the hypothetical you gave before if the wealthy person who owns a car decides to transfer ownership of that care and go out an lease another motor vehicle and then could skirt the law if this became, if this proposed Bill became law to then not have to install an interlocking device on that leased vehicle. I thought that was the scenario you were trying to point out. Wouldn’t if they were operating that subsequently leased vehicle they would have to install an interlock device on that vehicle?

ATTY HANS: It still allows then to transfer ownership and possibly. It says, “own or have a
motor vehicle to operate” I would just submit to you it is a way to circumvent and undermine our very effective and very strong IID laws because the language on each motor vehicle owned or operated by such person own or have a motor vehicle to operate is slightly different and I guess my grave concern with the passage of this Bill would be that it would give many defendants who have been caught impaired driving and end run or a way to circumvent our IID Laws.

STATES ATTORNEY KANE: I don’t think that answers your question.

REP. STAFSTROM (129TH): It doesn’t answer my question.

STATES ATTORNEY KANE: The question you had if I understand it, and if Brenda doesn’t have it, we’ll get the answer, your question is can you install an interlock device on a leased, if you lease a vehicle.

REP. STAFSTROM (129TH): Under current law. If you own a vehicle.

STATES ATTORNEY KANE: Can you install an interlock device on your leased car that you’re driving?

ATTY HANS: And yes, because you are operating that motor vehicle. Many people have long-term motor vehicle leases on their cars and they have to.

REP. STAFSTROM (129TH): And that lease may expire during the term which somebody has to have an interlock device on that vehicle and they may turn in one leased vehicle and lease another vehicle during the term of that presumably they would have
to install the interlock device on that new leased vehicle under current law. Correct?

ATTY HANS: Correct. Under current law you will never get your license restored unless you have an IID. This Bill gives you two years on a suspension, a finite term, and up to two years, so they could be suspended for one day. We know that people drive. As a prosecutor I can tell you they drive on suspended license all the time so I would submit to you that this Bill undermines the IID Law because people will drive on suspended license and the impetus behind getting an IID installed in our current Bill is to say you will get your license restored. This Bill, you know, puts a definite administrative license suspension on your first offender and people will drive without a license for two years. People drive on suspended licenses all the time.

STATES ATTORNEY KANE: We will submit a letter answering. I’ll send you a letter saying whether or not you can install and interlock device on a leased vehicle.

REP. STAFSTROM (129TH): Okay because like I said, I think my concern, my concern is under the current law, is like I said, if somebody is indigent, doesn’t own a vehicle. Maybe they did own a vehicle before they’re arrested and given legal fees and court fines and the like, they traded that vehicle and two years later, three years later, four years later, they decided to go out and they would like to get their license back but they don’t own a car. Maybe they borrow a car from a friend, maybe they use their wife’s car to get to work, whatever it may
be but they don’t hold title to a car in their name. It would be leased or owned. How would someone go about getting their license back in that scenario?

ATTY HANS: Under our current Statute, you know, if you at some point own a car you can get your license restored but under our current law, if you don’t own or operate a motor vehicle why would you ever need to have a license restored. Driving is a privilege so you can get your license restored and operate a motor vehicle if you have access to a motor vehicle or if you gain ownership to the motor vehicle.

REP. STAFSTROM (129TH): I think there are plenty of folks out there who live paycheck-to-paycheck who don’t own a motor vehicle but may from time-to-time borrow a friend’s motor vehicle, they may take a bus to get to their place of employment and then drive a car of their employers or drive a truck of their employers or the like, they don’t own a car in their own right but after a certain passage of time, especially from a first offense for DUI, you know, how is it that we are basically preventing that person from ever getting their driver’s license back based on their financial status. And if there is a better way to address that issue than through this current legislation I am happy to hear it. But I think that is the underlying intent of this Bill is how do you address that scenario and I think as well intentioned and as great as our current laws are, you know, that is I think one sort of short-coming of our current Statute that I think the proponents of this Bill are attempting to figure out a solution to.
STATES ATTORNEY KANE: I think that is the issue and you hit it. Take the example of somebody who works for a nursery company in the summertime and is driving, at lunch time drives the truck, has too many beers and gets caught drunk driving after lunch in the nursery company’s truck. Doesn’t own his own car, later on he is clearly drunk driving, and he loses his license but he doesn’t own a vehicle and maybe can’t work for the nursery company anymore. That is the cutting edge of this and that’s the issue that the court, I mean the legislature has to decide, if it jeopardizes the $22 million dollars of Federal Highway Safety money and I wouldn’t take a gamble on losing that without fully knowing that may be one of the consequences here. Whether or not there is another solution to deal with that I don’t know how. I imagine that employer could work with the nursery company and have an interlock device installed on the nursery company’s truck if they could get the money but this is a balance that I don’t know if it’s possible to find.

REP. STAFSTROM (129TH): But what that person lost their job working for the nursery company, they are out of work, unemployed for the better part of three years, four years whatever, right. They have never had another run-in with the law, they have never had a subsequent DUI arrest. They are out trying to apply for another job and part of that application process is you have to submit that you have a valid Connecticut driver’s license before you can even go in and interview for that job. But they can’t get a valid Connecticut driver’s license because they don’t have a car or access to a motor vehicle to install an interlock device on, and I’m not sure.
Maybe there’s other states that have found a better way to deal with that issue but to me, like I said, I think that is the underlying intent of this Bill and maybe the statutory language in front of us is not the best way but if, you know, when you send us the letter on the leased vehicle, of you could give that some thought and if there is a proposal from your office on how to best address that indigency issue because I agree with you. We did take the first step last year which is allow a waiver of cost for the actual interlock device itself which is helpful but that doesn’t get to the issue of somebody who doesn’t have and doesn’t own a motor vehicle in their own right. So, thank you.

STATES ATTORNEY KANE: We will do that. We would be glad to try to work with language. I mean if it was easy to do we would have done it last year. Cause I do, it is a problem, you don’t want to cause people to be unable to go to work. On the other hand we don’t want people to be killed by drunk drivers.

REP. STAFSTROM (129TH): I completely agree.

STATES ATTORNEY KANE: That’s where we find the right balance. Hopefully there are better minds than mine to work at it because so far this is the best we have been able to come up with up but we will try.


REP. SMITH (108TH): Thank you for the second time. It’s more of a comment than anything else and I’m lookin at the proper language is why I went with, it
says, “the suspension basically shall not exceed two year” which was to counsel’s point that it could be getting up to two years so maybe we can change the language to make it at least a mandatory two-year suspension without incident. In terms of the leasing issue, you know, some of the problems that we’ve heard in the past is that the leasing companies have basically prohibited the drive of the vehicle from actually installing the interlock device because it is not their vehicle, it’s the leasing company’s vehicle, so I’m not sure what we can do to require a leasing company to allow the interlock device. If that is something we could do, perhaps we can do it but I think that was an issue in the past.

REP. STAFSTROM (129TH): Thank you, Representative. Further questions? Seeing none, thank you guys.

STATES ATTORNEY KANE: One more Bill and we’ll make it quicker. [Laughter] If you don’t mind.

REP. STAFSTROM (129TH): You know Kevin, you’ve sort of exceeded your three. Can we have them testify, is it somebody else from your office?

STATES ATTORNEY KANE: One other person, Lou Luba is here.

REP. STAFSTROM (129TH): All right. What’s, I mean, I just.

STATES ATTORNEY KANE: He’s submitted written testimony and I think basically the whole purpose of the Bill is to make an unlawful dissemination of an image like this to multiple people a Class B Felony rather than a misdemeanor.
REP. STAFSTROM (129TH): Yeah, you know what Attorney Kane he’s actually signed up on the public list so we will get to his testimony later once the other folks who are signed up get a chance to testify. All right?

CHIEF ATTORNEY KANE: Thank you.

REP. STAFSTROM (129TH): Thank you. Attorney Christine Rapillo, the Chief Public Defender is next.

ATTY. RAPILLO: Good Morning Members of the Judiciary Committee. My name is Christine Rapillo. I am the Chief Public Defender for the State of Connecticut. Thank you for raising Senate Bill 842, AN ACT CONCERNING MOTOR VEHICLE OFFENSES. This Bill reflects concepts proposed by the Office of Chief Public Defender. Also here with me are my subject matter experts Attorney Marc McKay, of our Danielson office, and Ben Daigle, our assistant legislative liaison, who have done the research on these issues. They will be available to help me answer questions.

I think rather than, my written testimony is before you but I think rather than go through it, I will address the issues that were raised in the questioning of the States Attorney’s Office.

The purpose of the proposal relating to the IID and folks setting a definite period of suspension for folks goes directly to this idea that the Bill created a lifetime suspension for folks who are too poor to even put the device even on their car or who don’t own a car and I don’t believe that was the intention. It’s good policy to have the IID, there
is no question about that but it was never the intention that people would never be able to get their licenses back. The Bill that was passed last year to allow the companies to give a waiver to folks, you know, our research is that nobody has gotten a waiver. I mean it’s not a mandatory waiver. The companies have the discretion to be able to do it and Ben did some research with the DMV and we’ve determined that nobody has used it and again as it was pointed out, really only impacts people who are able to access a car. So one of the things people were concerned about is that people with means would use this as a way to try to dodge using the IID on cars that they have and an easy fix would be to tie this waiver, to tie this to your suspension to people who qualify for federal assistance. When we negotiated to get, and this legislature passed the waiver provision last year, it was tied to people being eligible for SNAP or something set by the federal government, not the indigent although our indigency guidelines are also based on federal guidelines. This isn’t something determined by us, it’s something the federal government set. Now with regard to federal money being at stake again Ben did some research. We did an outreach to NHTSA and although the federal law does say that states are supposed to require the ignition interlock device they also clearly said to us in our communication that it wasn’t intended to result in a lifetime suspension for people and that their, our summary of the Bill, this was last year’s reach out, we will do this again and get them to look at it again, indicated their initial look at it was that we wouldn’t be in violation because it would be tailored to people who couldn’t afford to
put it on their cars and who would otherwise result in a lifetime suspension. So again there was a lot of discussion. Nobody wants anybody out on the road drunk driving. Nobody wants people driving under a suspended license. What we found was, DUI, although a very serious terrible crime does tend to be something that we see people who don’t have lots of other contact with the criminal justice system. They are not the folks that we see every day coming into court with lots of other problems. The goal of the justice system, and we’ve really moved it this way, it to try to get people in, do something to make them better and get them back out into the community where they’re gonna be productive and if folks can never get their licenses back it is very difficult for them to be able to reintegrate and become productive taxpaying citizens and, you know, our clients come to our office as poor folks. We try to help them. We have a holistic model; we try to set them up the services but if they can never on their own go out and get a job that makes it very difficult for them to stay out of the criminal justice system.

Just very briefly, the other provision that was mentioned by the States Attorney’s Office was the provision proposed by the commercial driver’s license which would allow people who were driving their personal vehicles, even though they had a CDL to be able to access the alcohol education program. Again what the proposal does is try to tailor the Bill to the circumstances that it was designed to address, not wanting people in trucks out driving drunk. I will stop and my colleagues will take questions.
REP. STAFSTROM (129TH): Thank you, I’m sure there will be questions. Questions from the Committee? Representative Horn.

REP. HORN (64TH): Thank you for your testimony. Do you have a sense of how many people were affected by this particular concern that this Bill aims at which is to say, people who, you know, who don’t have access to vehicles that they can extort, put this device onto?

ATTY. RAPILLO: So this idea came actually from Attorney McKay. I sense it is happening quite a lot. I don’t have numbers. We certainly could try to get those numbers. I think it would be hard to get an exact number because what happens is our folks come in, we resolve their cases and then we don’t really know what happens unless they are coming back in because they were arrested for driving under suspension. So we may be able to dig around in our case management system and try to get a guess, it would be a guess. But the sense, the way we generate our proposals is we ask the lawyers in the field to tell us what would help your clients on the ground and that’s where this came from. Attorney McKay generated the idea. It was vetted through people who work across the State and seen as a real issue for our clients.

REP. STAFSTROM (129TH): Thank you, Representative. Senator Champagne.

SENATOR CHAMPAGNE (35TH): I have two questions. I want to start with that. So you have no true numbers, this is just what you are hearing, but you have no backup numbers to that?
ATTY. RAPILLO: I could certainly try to get backup numbers. No, our data system is fairly new and so we don’t have numbers to be able to show who left our system, who did we have a case with, either use the program or get a first-time conviction for DUI and we don’t have numbers to show how many of those people then later didn’t have a car and were unable to get their license back. We see through our work and it is anecdotal and there is no question, but they see people coming in, coming back in on a suspended license charge because they were never able to get their licenses back. We hear from people who are coming in and we ask them. We take indigency applications, are you working, it would be good if you could go get a job. It would look good to the court, in our Magistrate Practice, so we represent individuals who can’t pay their child support and we hear this all the time that these end up being people who lost their license and we are trying to get them to go job hunt and it is an impediment. So I could certainly try to get numbers. I wouldn’t say they would be scientific but I would be happy to see if we could general some data for you.

SENATOR CHAMPAGNE (35TH): I would love some scientific numbers but again you get so many coming back that you said is under suspension, would that have been within the two years or that you’re proposing or is this something ten years later. You know, I would like some scientific numbers but on to the next, my other question is the two-year suspension, is that just on the first offense or is that on every offense that they ever have?
ATTY. RAPILLO: So what the proposal does it doubles the period of suspension. So it would go from one year to two years for the first offense, from two years to four years for the second offense and on the third offense is a permanent suspension of your license so this wouldn’t have any impact on those people. So it is a doubling of every suspension period.

SENATOR CHAMPAGNE (35TH): Okay. So the guy that hit me, because he just got out of prison off his forth DUI which caused me many years pain, who could not afford that device, it didn’t matter anyway, cause he stole the vehicle when he hit my police car many years ago so I have a real problem when we start talking about, you know, cutting any laws for DUI especially when I start seeing families devastated by the loss of a relative who had nothing to do except driving home and somebody under DUI hit him. So hard numbers are what I would like to see because, just because we think there is a problem or we are talking to somebody who says there may be a problem, it’s not gonna cut it for me. I want to see some hard numbers; I want to see facts. I don’t want things to be nonscientific, let’s say that. Okay?

ATTY. RAPILLO: We will certainly try again. This is something that has come up over the years from 40 field offices, so it comes up from field offices, but if you understand the data talks and we will do what we can to see if we can come up with some numbers that have some scientific validity.

SENATOR CHAMPAGNE (35TH): Okay, thank you.
REP. STAFSTROM (129TH): Thank you, Senator.
Further questions from the Committee?
Representative Smith.

REP. SMITH (108TH): Thank you, Mr. Chairman. Good Morning.

ATTY. RAPILLO: Good Morning.

REP. SMITH (108TH): I’m reading, I just want to make sure I am reading the Bill correctly as I read lines 94 to 103 to seems to me to say that the privilege shall be suspended not to exceed two years which I would interpret anything up to two years but not a mandatory two years. Do you read it the same way?

ATTY. RAPILLO: I think it could be interpreted that way. That language could certainly be made better to make it a mandatory two years.

REP. SMITH (108TH): And is your testimony if during this two-year period somebody else, somebody was arrested again for another DUI there is language in this Bill that says that suspension period would now go up four years?

ATTY. RAPILLO: There is.

REP. SMITH (108TH): And there is a lifetime suspension for a third.

ATTY. RAPILLO: Which is not in this Bill but it is existing law.

REP. SMITH (108TH): Okay. All right, thank you.

ATTY. RAPILLO: Thank you.
REP. STAFSTROM (129TH): Thank you, Representative. Further questions? Any questions? Seeing none, thank you very much.

ATTY. RAPILLO: Thank you very much.

REP. STAFSTROM (129TH): Next up is Commissioner Wrinn of the Department of Motor Vehicles. Welcome Commissioner.

COMM. WRINN: Good Morning. Good morning Representative Stafstrom and Members of the Judiciary Committee. My name is Judeen Wrinn and I am the Interim Commissioner of the Department of Motor Vehicles. Thank you for allowing us to testify today, again Senate Bill 842 AN ACT CONCERNING MOTOR VEHICLE OFFENSES.

I was going to say a few other things but with the time commitment I am going to turn it over to Sharon Geanuaracos, DMV’s Chief Legal Counsel where she will provide some details on our opposition.

SHARON GEANUARACOS: Good Morning, Representative Stafstrom and Members of the Judiciary Committee. Senate Bill 842 makes changes that are detrimental from both a financial and safety perspective. First it would allow commercial driver’s license holders, CDL holders as you probably know them to participate in two diversion programs, AEP and AR, AEP after a drunk driving arrest and AR after a serious traffic violation.

Since 2013 Connecticut law has barred CDL holders from participating in these two programs because to allow their participation puts Connecticut in substantial noncompliance with federal CDL law and
federal CDL law is preemptive in this area so we are in violation of federal law. That subjects us to a loss of up to four percent of federal highway funds in the first fiscal year of noncompliance and up to eight percent for every year of noncompliance thereafter. This translates to a loss of approximately $21.5 million dollars in the first fiscal year and over $43 million dollars in the subsequent years of noncompliance. We also lose the possibility of issuing licenses. We might be in a position where our CDL Program could be decertified. That is a grave inconvenience to Connecticut CDL holders who would have to go to neighboring states to be licensed. We would also lose the revenue from all of those licenses. CDL holders are engaged in a profession in which safety is paramount. They are aware that driving behavior whether in a personal vehicle or a commercial vehicle is highly scrutinized and regulated. The drivers that would benefit from this proposal will make a conscious choice to engage in risky behaviors behind the wheel and the Federal Motor Carrier Safety Administration has indicated that there are no other states that are noncompliant with these so-called antimasking provisions. So like all other commercial drivers in the nation, Connecticut drivers should be held to the standard that is set for their profession by federal law.

The second thing the Bill does is to substantially weaken Connecticut’s interlock ignition, interlock device program or IID Program and you’ve heard a lot of testimony about that already so I won’t repeat what other people have said here but I would just say that the people who would benefit from this, if
you look at the way the Bill is written, are already multiple offenders. These are the people that are most apt to drive drunk and to drive under suspension under lengthy suspension period. I have a number of other issues with that Bill and I am happy to answer any questions about them. It has funding implications, it jeopardizes public safety and the temptation to drive with a suspended license increases as the suspension period increases, so you know, we did away with long suspensions for that reason.

REP. STAFSTROM (129TH): Thank you. I’m sure there will be some questions for ya. Questions from the Committee? Representative Smith.

REP. SMITH (108TH): I just want to make sure I understand your testimony. Are we, did you testify that we are currently in violation of Federal Law or this Bill would?

SHARON GEANUARACOS: This Bill, you’re talking about for commercial driver licenses?

REP. SMITH (108TH): Correct.

SHARON GEANUARACOS: This Bill would put us out of compliance with the Federal Law.

REP. SMITH (108TH): And could you go into that a little bit as to why?

SHARON GEANUARACOS: This actually has quite a long history. For many years we allowed CDL holders to go through AEP and AR and we consistently cited by, during audits, but the Federal Motor Carrier Safety Administration and finally in I think 2012 they basically said if you don’t get into compliance with
this we are sending a letter to your governor to inform them that we are looking into taking some of your federal money, highway funds and so we put on a really push that year and we ended up having, convincing the legislature to pass the law that prevented CDL holders from going through these programs. That law has been in effect since 2013 and now it’s, now someone is looking to undo that so we are back to square one with the funding issue. There is federal regulation that controls the amount of withholding of the funds.

REP. SMITH (108TH): Could you tell the Committee how much funding we could possibly lose if this were to become law?

SHARON GEANUARACOS: Up to four percent in the first year of noncompliance which is about $21.5 million dollars and for each subsequent year it can be up to $43 million dollars.

REP. SMITH (108TH): And where does that money go into the General Fund?

SHARON GEANUARACOS: No its for highway funds.

REP. SMITH (108TH): Highway funds, okay. But we know how the highways are but that’s for a different Committee. I’m glad you brought up the topic of suspensions cause it kind a triggered my memory a little bit because when the, some of the changes we made to the DUI law I was first opposed to them because they were, because of the suspensions that they were basically doing away with, not doing away with but just makin ’em much shorter than they were and I was advised or come to learn that the better way to treat it is through these, what, interlock
devices, IID devices such that people, we need people to be in the car, we need people to go to work, we need people to be able to support their family but we need to make sure it is in a safe way. I guess the studies showed, that I looked at, was if you just put a longer suspension on it they would find a reason to drive because they had to go to work, they had to support their family, they had to do whatever they had to do cause life gets in the way. So, to now go to this longer suspensions kind of defeats in my mind what we did initially to make sure we have a safe highway for folks.

SHARON GEANUARACOS: The National Conference of State Legislatures reported as of October of 2018 that there were 29 states that had mandatory all offender IID laws and those numbers are increasing. To back away from that is a step back and I think to some of the concerns here, the DMV administers the IID Program and we are, we frequently see people who don’t have vehicles. They borrow cars, they put these devices on them, they fulfill the requirements and they get restored in full. There are many, many people who do that and we actually have a form you can, you know, when someone gives permission for them to use their cars. So a lot of people don’t have cars end up being able to successfully complete this program and I was glad someone brought the issue of numbers up because, Representative Horn, I think you did as well because I don’t know what these numbers are. If there are people out there who are able to borrow vehicles and put these devices in the vehicles and I think actually in leased vehicles people can put them in to. I don’t know, I’m gonna go back and check that but I know
you raised concern about that Representative Smith. You know, I don’t know what we’re talking about here. I don’t know what the number is and I think it might be relatively small. So I just want to put that out there.

REP. SMITH (108TH): Yeah, no it’s a fair point and hopefully we will get some data, sometime. Obviously, you know, we want to make sure everybody has the opportunity to drive but safely and if there are those folks who are out there and simply cannot afford the separate device because of their income status, then you know, we should find a way to make that happen whether it is through the fines and payments that are made to the court. Every time somebody gets arrested for DUI have some of that money go to make sure there is funding available to those folks who simply cannot afford it and it’s not just if the waiver program is not working let’s find a way to make it work. I’d rather see that happen then to change what we’re doing which would safeguard it. I mean the numbers are, I’ve talked to some folks in terms of since we’ve changed this law the number of lives that have potentially been saved based on these devices. So any step backwards from that in my mind would be a wrong step. So thank you for your testimony.

REP. STAFSTROM (129TH): Thank you, Representative. Just real quick clarifying question, the potential loss of Federal Highway Funds, would that just be if we made the proposed changes to the commercial driver’s license or would that same risk be there if we made the changes only to the IID Program?
SHARON GEANUARACOS: No the funding applies to commercial motor vehicle operators and CDL holders. There is a separate grant or Federal Funding that is used for all offender IID Program. We would lose that grant. It is not up in the millions I think, it is a special grant that is given to states who have mandatory IID laws.

REP. STAFSTROM (129TH): So it’s an incentive not a penalty?

SHARON GEANUARACOS: Right, exactly.

REP. STAFSTROM (129TH): Okay, thank you. Further questions? Representative Horn.

REP. HORN (64TH): Thank you, Mr. Chair and again thank you for being here and helping us understand this complex issue better. I wanted to go back to your again the Federal Prevention Issue with respect to the commercial driver’s licenses and use the former sort of regulatory or statutory scheme in 2012-2013 under which we were, the Federal Government was reaching out to us and saying you’re in violation and warning us. Is that the same as what is being proposed today, are we returning or are their differences between the former?

SHARON GEANUARACOS: No it’s exactly the same. The Federal Law is 49-CFR 384.226 and it hasn’t changed since 2012.

REP. HORN (64TH): So, my sorry, let me see if my question was clear. I’m not asking whether the Federal Law has changed but the Connecticut Statutory requirement that we were operating under that apparently was in conflict with Federal Law in
2012-2013, is that different from what we are proposing today in this Bill.

SHARON GEANUARACOS: No, it’s the same thing as well. In fact it is just dropping that same exact language back into the language we took out in 2012 or 2013 they are just putting it back in.

REP. HORN (64TH): Thank you.

SHARON GEANUARACOS: You’re welcome.

REP. STAFSTROM (129TH): Thank you, Representative. Further questions? Further questions? Seeing none, thank you very much, appreciate your testimony. Next up is Judge Kenierim, Probate Court Administrator. Judge.

JUDGE KENIERIM: Good Morning Representative Stafstrom and Members of the Committee. I’m Paul Kenierim, Probate Court Administrator here to testify in support of Raised Bill 7130 AN ACT CONCERNING PROBATE COURT OPERATION. I’ve submitted written testimony; I’ll just briefly summarize this.

I think the Committee is familiar with our practice in the Probate Court each year of submitting a Bill that covers a variety of topics aimed at updating Probate Law. You might think that after 321 years in existence we’d have it perfect but every year we find some things we would like to recommend changes to you.

As I mentioned the written testimony deals with it essentially section by section. There are really just two topics that I wanted to highlight for you this morning that I think are most important in the Bill. The first is there are several provisions
that pave the way for us to launch electronic filing in the Probate Courts by next January 1st. We think this is a very important and good development for the Probate Court System because it will make the system more convenient for users. They will be able to work with the courts remotely and access the system on a 24/7 basis. Being a small court operation we have not built our own system; we have instead worked with a vendor that has an off-the-shelf electronic filing system. There are some customizations needed for Connecticut but overall we will use the system that is already functioning well in 19 other states. So January 1st is the rollout for that.

The two things we are asking you to consider changing in our statutes related to it are first to make it so that notice send by a court by electronic service using the E-filing System will satisfy any other statutory notice requirement with the sole exception of personal service and also just to amend our appeals statute so that the time period for an appeal from Probate is triggered by the court sending a decree electronically or the date of mailing whichever is later.

The other provision I want to mention briefly I believe is very important in the Bill is Section 17 which repeals a provision in the Conservator statute. It is an old provision, it provides a unilateral right on the part of a petitioner in an involuntary conservatorship to freeze the assets of the person, the respondent, of whom the conservatorship case has been brought. We don’t think there are sufficient due process protections in that statute so we are recommending repeal. We
recognize conservatorship often is about stopping exploitation and financial exploitation of an individual but we think the existing framework for temporary conservatorship which is a fast-track procedure but affords the respondent full due process protections is a better way to go. So we are favoring temporary conservatorship, already on the books, in lieu of this unilateral right to freeze a person’s assets. Thank you.

REP. STAFSTROM (129TH): Well timed, thank you Judge. Questions from the Committee? Representative Smith.

REP. SMITH (108TH): Mr. Chairman, thank you and Judge always good to see you. [Cross-talking]a call and ask you a question, but here you are. So I don’t know if this is part of the Bill or not but since we are dealing with Probate Court operations procedures. As you know there is a proceeding for estates where you have 150 days to file return of claims from the time application for the will was submitted to Probate Court, correct?

JUDGE KENIERIM: From the date of appointment [Cross-talking], yes.

REP. SMITH (108TH): So I’ve seen states where the person may have died 30-40 years ago. The estate was never opened yet we still have to go through the 150-day waiting period and my thinkin is perhaps we should take a look at that because any claim that may have existed 30-40 years ago is long since expired by the statute of limitations and to hold up the probate procedures because we have a statute that says you have to wait 150 days to me just logically just doesn’t make sense. Is there another
JUDGE KENIERIM: Thank you, Representative that is a good point. I have not given a lot of thought but I think what you say is absolutely valid. The Statue of Repose on claims against a deceased against the state should be two years. So if it is a death that occurred many years longer than two years ago the claims procedure doesn’t make a lot of sense. I’ll give it some more thought.

REP. SMITH (108TH): Sorry to put you on the spot but it’s something we come across on a few estates so I’m just thinkin there’s got to be a better way of doing this, so thank you. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you, Representative. Further questions from the Committee? Representative O’Dea.

REP. O'DEA (125TH): Good to see you, your Honor.

JUDGE KENIERIM: Good Morning, Representative.

REP. O'DEA (125TH): Do you know, I don’t know if you had a chance to review Winn Evart’s, the Executive Director of ARCs testimony and his concerns with the removal of Section 16, lines 882 to 891 which goes through basically an ability to appeal an involuntary commitment. Mr. Evart who is Executive Director of ARC has concerns that those with intellectual disabilities will lose the opportunity, may lose the opportunity to appeal an involuntary commitment. Have you had any discussions or heard about this issue or concern?
JUDGE KENIERIM: Thank you, Representative O’Dea I have not and I have not had an opportunity to review the gentleman’s testimony yet. I’ll just put in perspective the proposal in front of you. The particular statute that we are talking about here deals with the involuntary placement of an individual with intellectual disability. In today’s world the issue seldom comes up. I looked up our statistics, we had 16 of these cases in the past year so it is a very small volume but obviously the framework is important in those cases. Once a Probate Court makes the determination under that statute that a person should be placed, despite an objection either from a family member or from the individual with intellectual disability there is a process for, or I should say an opportunity each year for the individual to ask the Probate Court to review the placement and determine whether it is the least restrictive alternative and whether any placement at all is warranted under the circumstances. So there is available that avenue for an annual review. The proposed section of the Bill that we are proposing to delete is, in our view, duplicative of that. It provides for a once every five-year review if there hasn’t been a request for an annual review before that. We are not seeing those proceeding in actuality. We don’t have record of five-year reviews happening which tells me that DDS is probably not setting the process in motion that paragraph provides for. But as a bottom line we saw it as duplicative of the annual review opportunity that an individual has.

REP. O'DEA (125TH): Thank you and I meant placement not confinement, sorry. Yes, so I appreciate that
response and I’ll connect with Mr. Evart, I don’t know if he is here but it sounds like it might be duplicative and I appreciate your time and testimony.

JUDGE KENIERIM: I’ll review the testimony and will be happy to discuss it with him and with you further.

REP. O'DEA (125TH): Thank you very much.

REP. STAFSTROM (129TH): Thank you, Representative. Further questions? Seeing none, thank you, Judge appreciate it.

JUDGE KENIERIM: Thank you.

REP. STAFSTROM (129TH): Last on our public list will be Representative Ackert, then the public will start, our State Agency will be completed before the public list. Representative.

REP. ACKERT: Good afternoon or good morning, I think it is still. Senator Bergstein, Representative Stafstrom, Representative Blumenthal, Senator Kissel and Representative Rebimbas and other Members, Esteemed Members of the Judiciary Committee, my name is Tim Ackert and I represent the 8th District which includes Columbia, Coventry, Tolland and Vernon. Thank you for the opportunity to appear before you to speak on one of the Bills in today’s public agenda and that is Raised Bill 7130, AN ACT CONCERNING PROBATE COURT OPERATIONS.

I respectfully ask the Committee to include language amending Section 45a-318 to permit a minor child, if his or her parent or guardian agrees to claim a deceased parent or guardian’s remains. This
language was included in a proposal I introduced at the beginning of the session HB-6307. The following is current language that states that the guides for other judges must follow when families go before Probate Court, a minor child currently do not have the rights in this particular instance. You also have testimony from the mother of the children that asked for this legislation and I would like to read a portion of that for you. You probably have, it is from Jennifer Miller.

Jennifer Miller is the mother of the children from State Trooper Kevin Miller that died tragically on service on Route 84 in Tolland.

Dear Senator Winfield, Representative Stafstrom, and all Esteemed Members.

“I submit this testimony today for the record and would like to share the negative impact Section 45a-318 of the Connecticut General Statutes is having on my children since their father passed away last March. I was divorced at the time of their father’s passing but they spent equal amounts of time with both of us and had a very close relationship with their father. His death was a tragic loss for them. My children were 13 and 11 at the time of passing.

Initially, it was agreed upon (by all family members including Kevin’s mother) that Ryan and Sarah would keep the urn until they were ready to bury him in the future. It was agreed that they would determine when they were ready. This was what they were told.

Their father’s mother changed her mind two months later changed her mind two months later and decided she wanted the urn. She eventually petitioned the
probate court, and because Ryan and Sarah are minor children, it was ordered that Kevin’s mother would take custody of the urn away from the children. Minor children are not included in the current statute.

While Ryan and Sarah are in fact minors, they are old enough to have a voice and their feelings should have been considered. The judge was not able to use her discretion in the matter because she had to follow the statute as it is currently written. Children should be listed after spouse as it is currently written for “adult children”. I would like the wording changed to allow a judge to use their discretion when making a decision that has such a tremendous impact on children.”

And I will leave it at that. You can read her further, you know, testimony that you have it so I would like to have that consideration. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you, Representative. Questions from the Committee? Representative O’Dea.

REP. O’DEA (125TH): Thank you, Mr. Chair. Thank you, Representative Ackerman. Good to see you. Are you aware of any opposition to this proposal?

REP. ACKERT: Not that I am aware of. There was actually, I know when the probate court person, is a wonderful person, I know that lives in the area, and her hands were tied and, you know, she could not weigh that factor that there were children and she came to me, you know, in very distraught circumstance but none that I am aware of that there would be and it would be obviously something that it
would only give them the option as the Probate Court. Right now she had no options to consider it.

REP. O'DEA (125TH): It makes sense to me and that tragic story, so I’ll do what I can to support that. I appreciate you bringing it to our attention. Thank you.

REP. STALLWORTH (126TH): Thank you, Representative. Questions? Representative Palm.

REP. PALM (36TH): Good morning. What happens in the case when, in a family there are minor children and children of legal age, would the child of legal age supersede the minors?

REP. ACKERT: I think that is a great question because I would think that all this does is give the flexibility of the Probate Court to look at those, that deciding factor and right now, obviously adult children are first. Actually it goes spouse and then children but right now and that would be at the discretion I believe, through the court process that hear the cases and then have decision be made by the Probate Court but right now they can’t.

REP. PALM (36TH): And does this more or less follow the law of per stirpes so that, you know, it passes down to the children rather than going to a spouse or like who takes precedence. What’s the pecking order I guess is what I’m saying? In this case Ms. Miller said that there was a divorce so she wouldn’t have bearing on the case and she is promoting this on behalf of her children which is admirable but if the person in the absence of a living spouse or legal partner does it automatically revert to
children or legal age and then children of minor age and then siblings for example or mothers.

REP. ACKERT:  Great, and I will go, so right now the way the Section reads the deceased person’s spouse, unless such spouse abandoned the deceased person prior to the deceased persons death or have been capable by the court to, you know, to competent jurisdiction. Two after the spouse, the deceased person surviving adult children and then third, the parents and forth the siblings right now so in no consideration is there for a minor child. And I think of that, if it’s, you know, a parent that may have already lost a spouse and had minor children those children are never considered at all so I mean that is not above the age of 18, so right now they are not included at all.

REP. PALM (36TH):  Thank you for your testimony.

REP. STAFSTROM (129TH):  Thank you, Representative. Further questions? Seeing none, Thank you, Representative. We are moving on to our public list. First I have Connor Bellair.

CONNOR BELLAIR: Thank you Chairman and ladies and gentlemen of the Committee. I am in support of Raised Bill 7126. I am 14 years old and currently a freshman at Cheshire High School.

I currently come from a generation that is on the phone a lot more than this current generation. I see a lot of distracted drivers in my school currently that are on their phones constantly, texting, driving.
Unfortunately, I have already seen firsthand how distracted driving can cause damage. A member of my ski team was hit by a distracted driver pulling out of the ski lodge during ski practice. Luckily he wasn’t injured, in support the damage could have been a lot worse.

Around nearly 390,000 accidents every year involve drivers that are texting and 1 out of every 4 accidents are a distracted driver. I feel if you were to raise Bill 7126 to either double or triple the amount, people would be discouraged to text and drive a lot more so our roads would be a lot safer.

REP. STAFSTROM (129TH): Great, thank you very much for your testimony. Senator Kissel.

SENATOR KISSEL (7TH): Thank you very much, Chairman Stafstrom. So did you say you were 14 years old?

CONNOR BELLAIR: Yep.

SENATOR KISSEL (7TH): Wow. Incredibly impression testimony, you know, self-confident, you know your facts. How did you become aware of this Bill?

CONNOR BELLAIR: My mom texts a little bit when she drives [Laughter] but I am usually not the one to watch.

SENATOR KISSEL (7TH): We might be on CTV.

REP. STAFSTROM (129TH): Yeah, I was gonna say [Laughter]. Sorry, mom.

SENATOR KISSEL (7TH): We might need to expunge that. So, but basically you have a personal interest in making sure that the people are focused on driving and not distracted.
CONNOR BELLAIR: Yeah, um-hum

SENATOR KISSEL (7TH): I really appreciate it; you are a credit to your school and your parents. So thank you for taking the time today to come and testify. Thank you, Mr. Chairman.

CONNOR BELLAIR: Thank you.

REP. STAFSTROM (129TH): Thank you, Senator. Representative Palm.

REP. PALM (36TH): Hi, Andrew. Is this your first time testifying?

CONNOR BELLAIR: Yes, it is.

REP. PALM (36TH): I hope it won’t be your last. Thank you very much for being here. We’re all listening very carefully to what you have to say. When I was coming in this morning there was a fellow in front of me weaving wildly, crossing lines and not surprisingly when I got up alongside of him, he was texting. So short of raising, you know, doubling or tripling these penalties, do you have a sense of what can be done in terms of public education among your peers to curb this kind of behavior? Do you have, and I’m not putting you on the spot, I really would, we would just love to know what happens when you talk to your friends about this? Do they think that you are being overly nervous or do they think you have a good point?

CONNOR BELLAIR: Some of them think I’m being overly cautious, some think I’m having a good point cause they think too, when they are in the car they want to be safe. Take for instance they have a child and they get hit by a car, it’s a distracted driver they
would want a penalty on the case or for them to be able to sue for a lot of the body or damage.

REP. PALM (36TH): What is your feeling about people who are driving with a group of people in the car and they are all texting but the driver is not?

CONNOR BELLAIR: They will be fine because the driver is not distracted. He has clear vision of the road and none of them are obstructing his vision with showing him their phone, they are on their own phone. I usually, when I’m in the car, and not really paying attention to the road at all and usually on my phone cause I really don’t pay attention to the outside world that much [Laughter].

REP. PALM (36TH): Well, Andrew I appreciate your candor very much [Laughter] even if your mother not. I want to complement you on challenging a practice which is very common in your generation. It is hard to do, it is hard for all of us to say to our peers we have to look more closely at what we consider to be normal behaviors, so my hat is off to you for that. Thank you for coming in.

CONNOR BELLAIR: Thank you.

REP. STAFSTROM (129TH): Thank you. Further questions. Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman. Good Morning. I just wanted to echo the sentiments. I want to obviously thank you for taking the time to being up here, taking an interest in this and certainly refreshing that your honesty and your candor during your testimony. So as previously said
I hope this is your first of many more times up here if not serving someday in the future. Thank you.

CONNOR BELLAIR: Thank you.

REP. STAFSTROM (129TH): Andrew, thank you very much. I really appreciate you being here. Great job. Next up is Loraine Bellamy.

LORRAINE BELLAMY: Good morning. I think it is still morning. Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Rebimbas and Distinguished Members of the Committee, thank you for allowing the opportunity to speak today. My name is Loraine Martinez Bellamy. I am an attorney at the Connecticut Fair Housing Center and I do foreclosure prevention work and fair lending work. I’m here to voice the Center’s strong opposition to House Bill 7129, AN ACT CONCERNING THE FORECLOSURE OF CERTAIN COMMERCIAL MORTGAGES BY STATUTORY POWERS OF SALE.

This Bill is just not necessary as we see it. Furthermore it represents a threat to consumers because we have a judicial foreclosure system in the State of Connecticut. We have court oversight over some of the worse players in the industry. For instance, industry attorneys know that they will have to justify any fees that are charged during the foreclosure to a judge therefore they have an incentive not to dump what could be unreasonable fees on Connecticut homeowners. Homeowners also have protections under our judicial foreclosure system and because of our system and our foreclosure mediation program we were able to avoid a complete housing crash unlike the likes of Arizona, California and Nevada.
And I just want to let the Committee know that most people that face foreclosure on their investment property do one or three or four things. One they either don’t fight it if the house is worth more, is worth less than what they own. They just let it happen, they don’t live there, they have no reason to want to hold on to it and that means that lenders are able to move through the foreclosure process much more quickly under current law by obtaining a judgement. They also try to sell or work something out with the lender if they have equity their interest is in preserving that equity and in that case the lender is paid in full or the loan is brought current. This Bill does nothing to help these lenders in these two situations. And the third situation is that they declare bankruptcy and this usually is because they are facing a bunch of other financial problems in addition to being in default on the investment property and again this Bill does nothing to effect a person’s ability to file bankruptcy.

It also does nothing to help lenders who have foolishly overextended themselves by lending several loans to one specific person who is now not able, you know, to honor those loans. So it is unnecessary and it puts consumers at risk, number one, introduces nonjudicial foreclosure into our mortgage markets. For example, lines 25 to 29 indicate that a lender would be able to issue written statements declaring mortgages to be commercial even if they weren’t. Given our experience with the mortgage industry we are confident that lenders would abuse this section and
steer as many consumers as possible into these arrangements.

REP. STAFSTROM (129TH): Great, thank you. Questions from the Committee? Senator Haskell.

SENATOR HASKELL (26TH): Thank you very much for your testimony and for your work on behalf of consumers and homeowners in Connecticut. With regard to the very end of your testimony you reference line 25 through 29 and the fact that lenders could, in your words, “unilaterally issue a written statement declaring a residential mortgage to be commercial” can you talk a little bit about your experience within the industry and why that experience leads you to the belief that this provision could be abused by those in the mortgage industry?

LORAINE BELLAMY: As I understand the provision a statement within the mortgage deed could turn what otherwise could have been a residential mortgage at a closing into a commercial mortgage and based on my experience of closings, most people including some of us as attorneys do not read the documents at closing as closely as they should and we have had experience with borrowers who thought that they a residential mortgage and it was actually a commercial mortgage so we are just concerned that giving the lenders that ability to just throw a sentence in there would open them up to adding that sentence so more mortgage deeds and steering people into those type of arrangements.

SENATOR HASKELL (26TH): Thank you very much. Thank you, Mr. Chair.
REP. STAFSTROM (129TH): Thank you, Senator.
Further questions? Representative Blumenthal.

REP. BLUMENTHAL (147): Thank you, Mr. Chair and thanks for your testimony today. So I just want to get a little more clarity on your perspective on the potential of this Bill. If lines 21 through 29 were changed in a way that would make it clearer who qualities as a residential mortgage and does not give such discretion to the lender, would you continue to have objections and what would those be?

LORAINE BELLAMY: Yes, we would continue to have objections. We just don’t think that there is a necessity for this. We don’t think that commercial lenders have earned in anyway special protection or special ability to create a nonjudicial foreclosure avenue in the State of Connecticut. We believe that the Judiciary has, you know, created efficient and quick foreclosure process that commercial lenders should be required to bring the foreclosures through the current mechanisms that are available and have worked really well for us.

REP. STAFSTROM (129TH): Thank you, Representative. Representative Smith.

REP. SMITH (108TH): Thank you, Mr. Chairman. Good Morning. So I’ve been practicing real estate law for over 30 years and commercial mortgages and residential mortgages, the ones I’ve seen are entirely different. It is very clear when we have a commercial mortgage in front of us it’s usually about 20 pages long, there is pretty bold font, all cap language, “This is a commercial transaction”, you waive certain rights and list those rights that you waive so personally I’m not as concerned as you
may be about potential fraud or misdeeds by a lender
to say this is not a commercial mortgage, that it is
a residential mortgage when in fact it really is a
commercial mortgage. So I don’t think that’s an
issue. As I read the language this gives the
ability to do a power of sale so it would be a sale
similar to what we have now for foreclosed mortgages
where there is equity in the property so I’m not
sure what the real objection is as I heard this
could hurt consumers but I’m not sure how it would
hurt consumers.

LORAINE BELLAMY: So I wasn’t able to speak fast
enough to complete my testimony but one scenario
that came to mind as we were drafting our testimony
was the situation where a homeowner did not intend
to live in the investment property they intended to
live somewhere else when they purchased it and have
now been forced because of financial commitments or
divorce there is many different reasons people end
up in their investment properties have been forced
to move into that property. We’re concerned that
they wouldn’t have access to the foreclosure
mediation program or any of the other protections of
the judicial foreclosures as it is now.

REP. SMITH (108TH): I guess I could see it as a
possibility but I think it is usually the other way
around. You lose your second home first and then ya
live in your first home, so.

LORAINE BELLAMY: Yes, I agree with you that it is
usually that way.

REP. SMITH (108TH): Are you aware of any other
states doing this type of procedure?
LORAINE BELLAMY: I’m not aware of any judicial states that have nonjudicial foreclosure for commercial mortgages. As far as I know personally I can also, you know, send you information if you’d like after.

REP. SMITH (108TH): If you happen to come across it, it would be nice to know. All right, thank you for comin up.

LORAINE BELLAMY: No problem.

REP. STAFSTROM (129TH): Thank you, Representative. Further questions? Representative Blumenthal second time.

REP. BLUMENTHAL (147): One more time, sorry. So I was just wondering if you could go into any more examples of situations where you think that consumers could be hurt by this Bill? Thanks.

LORAINE BELLAMY: I think I’ve provided the examples that are on the top of my head. Just entering into a commercial mortgage erroneously or having then to have to move into the investment properties and not having the protections of our current system.

REP. BLUMENTHAL (147): Thank you.

REP. STAFSTROM (129TH): Thank you. Further questions? Seeing none, thank you for your testimony.

LORAINE BELLAMY: Thank you so much.

REP. STAFSTROM (129TH): Next up is William Church.

WILLIAM CHURCH: My name is William Church. I am strongly opposed to Senate Bill 842, AN ACT
CONCERNING MOTOR VEHICLE OFFENSES. Since my son Dustin was killed by a drunk and drugged driver 15 years ago, I have worked with many of you on this Committee to improve drunk driving laws in Connecticut. One of the greatest successes is Connecticut’s All-Offender Ignition Interlock Program.

Ten years ago, only about 300 convicted drunk drivers in Connecticut had to use these devices. Now, because of laws you have passed, nearly 8,000 Ignition Interlock Devices are being used by people arrested for DUI in this State. It is now one of best programs in the country. In the first year of the All Offender Ignition Interlock programs in this State, impaired drivers were kept from starting their vehicles more than 78,000 times. That’s more than 213 times every single day that an impaired driver is kept off of our roads.

In addition, compliance in Connecticut is more than 90%, one of the highest rates in the country.

The reason I am against this bill is that the proposed language in Section 2 would make one of the best laws in the country optional instead of mandatory. In addition, I have presented numerous studies to you over the years, showing that suspensions do not work and that’s what this language proposes as an alternative that would apply to anyone who claims they don’t own or have access to a vehicle.

The current law logically deals with the concern that is driving this proposed language. If you don’t own or have access to a vehicle, you don’t need a restored license because you have nothing to drive.
As soon as you buy or gain access to a vehicle you simply install an Ignition Interlock Device. Since you have already served the 45-day suspension, your license is automatically restored. It’s that simple and that’s the way it is now.

Not only is this proposed language illogical, it has the potential to increase fatalities on our roads.

The rest of the new language in this proposed bill is either not necessary, potentially dangerous, or incredibly costly. All of the lines about the 10-year look back period are unnecessary because they are already in Connecticut General Statutes 14-1 and well-defined.

Lines 86 through 91 of this bill would not allow violations during the look back period to be predicated on alcohol-related suspensions or revocations of a license, imposed prior to July 1st, 2015. Why in the world should alcohol-related suspensions or revocations be removed?

In Section 4, line 179, the proposed language about commercial driver’s licenses would make Connecticut noncompliant and could cost the state approximately $40 million dollars. In addition, Connecticut could lose the right to issue commercial driver’s licenses. This is unnecessary or dangerous or costly.

REP. STAFSTROM (129TH): Thank you very much. Questions from the Committee? Senator Kissel.

SENATOR KISSEL (7TH): Thank you very much Chairman Stafstrom. Mr. Church it is great to see you. Again I want to thank you for meeting with me
earlier this year to discuss this and other issues. You know, as a dad I just can’t imagine losing a son or daughter and you’ve taken the tragedy, you and your wife and are doing a lot of very, very good things both here in Connecticut and nationally. And it takes a strong individual or individuals to be able to do that. I personally agree with you on this proposal. I understand where the folks who proposed it are coming from but I think it throws way too much at risk and when you quote a statistic, I understand through our previous discussion that we can’t prove a negative but I just have to believe that if there has been over 200 instances daily where the ignition interlock device has stopped someone who was intoxicated from driving that anyone of us in this room might have been a victim of that individual had that device not stopped that individual from driving. We just don’t know but when you have statistics that large it just tells me that it is doing some really good work out there to keep us safer. So I want to thank you for taking the time this morning to come and testify and again I appreciate all your service to the people of the State Connecticut.

WILLIAM CHURCH: Thank you.

REP. STAFSTROM (129TH): Thank you, Senator. Further questions? Representative Dubitsky then Representative O’Dea.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in and I can’t imagine what you’ve gone through with your family. But I did have a couple of questions about the statistics that
you cited. Can you tell us where those statistics came from?

WILLIAM CHURCH: The Connecticut Department of Motor Vehicles.

REP. DUBITSKY (47TH): Do you know if they took into account the false positives that some of these devices give off?

WILLIAM CHURCH: The false positives of a breathalyzer?

REP. DUBITSKY (47TH): Yes or the interlock device.

WILLIAM CHURCH: Yes, it does occur occasionally. I do not have statistics and I don’t know that the Department of Motor Vehicles would have those statistics either because they, when you install an ignition interlock device, every time you blow into it that is recorded and it goes to the actual vendor also it there are any specific questions, Brad Fralick is here who is from the Coalition of Interlock Manufacturers so if there’s specific questions that I can’t answer or if I answer them wrong, he’ll yell at me. But that information goes to the vendor and I know I’m not answering your question. I don’t have those statistics.

REP. DUBITSKY (47TH): Okay, cause I have had constituents come to me and indicate that some of these devices kick off literally dozens of false positives a month and each time the person has to pay. Now I know this is a little beyond the focus of this Bill but, you know, I’m trying to get an idea of the statistics that you cite if they do take into account that some of these devices are, you
know, could account for, you know, a large percentage of that 200 a month.

WILLIAM CHURCH: Yeah, I don’t know what the statistic is and I won’t pretend to. I don’t know if you have anything Brad. Would you want?

REP. DUBITSKY (47TH): I would be glad to talk to Brad offline we don’t need to take up the Committee’s time.

WILLIAM CHURCH: Even if there is a small percentage, it’s still an impressive number of people that we are keeping off the road. Right now this is the best technology that we have and I am glad that many of you have taken the ride with me to get this in use in Connecticut because it has made a difference and it can continue to make a difference. And Senator I am sorry that you have to deal with a drunk driving situation and you can imagine as you referred to, lose a child, it’s the worse thing that could ever happen.

REP. DUBITSKY (47TH): All right, thank you very much and I would love to talk to talk to Brad and to you offline. Thank you. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you, Representative. Representative O’Dea.

REP. O'DEA (125TH): Thank you, Mr. Chairman. Thank you for your testimony. You say in Section 4, line 179 proposed language about commercial driver’s licenses would make Connecticut noncompliant and cost the State approximately $40 million dollars. Can you just expand on that?
WILLIAM CHURCH: I could. I think earlier Sharon Geanuaracos who was the Attorney for the Department of Motor Vehicles and she has submitted written testimony as well, she outlined that much better than I because this is information that I received from them in conversations with them. It could be as much as $40 million dollars because it would be non, it could be noncompliant and therefore cause us to lose Federal Funding. It also could cause us to lose the ability to issue commercial driver’s licenses. So I mean that is about a far as I can go. Sharon went through the history of it where Connecticut appeared to be in violation up until I think it was 2012 that she said and then that language was removed and now the idea is to try to put that language back in and it would put us in the same situation.

REP. O'DEA (125TH): All right. Thank you very much. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you. Representative Smith.

REP. SMITH (108TH): Thank you again, Mr. Chairman. And it is so nice to see you again. You know, I’ve been on this Committee since day one of my, I’ve been fortunate enough to be on this Committee since day one since I served as a legislator and you have been before this Committee every year advocating on behalf of your son and those who, and for the rest of us really to protect us, to keep us safe and I said earlier in one of my comments at first I was opposed to reducing these long suspensions to a shorter period of time and you have won me over through your testimony over the years. I remember
sittin in the anteroom over here where you showed us how the device actually worked and what we’re doin to save lives. So I just commend you for being here and continue to advocate on really, on behalf of all of us and especially on behalf of your son who continues to live through you. One of the comments you made is “suspensions don’t work” or “long suspensions don’t work” and I was hoping that you would elaborate a little bit on why in your opinion.

WILLIAM CHURCH: Well I’ve presented before this Committee numerous times studies that show that up to 75 percent of the people who have suspended licenses go ahead and drive anyway. And it was one of the original logical arguments because ignition interlock devices are an opportunity to change behavior and that’s really what I wanted to talk to people about in years past because people do have to go to work. People do have to go to the grocery store. They do have to pick their kids up from soccer practice. By having a long suspension it really doesn’t for the most part stop them from doing that. They’ve got to drive in today’s society. This actually allows them by putting an ignition interlock device on their car, it actually allows them to do those things, it keeps them safe and it keeps all of us safe as well. So I can provide you with those studies and I think Senator Kissel has them, I think I emailed them to him but I’d be happy to email them to you as well so that you can look at those. It’s also better for recidivism. Recidivism is much lower when you use ignition interlock devices. Once again it is a behavioral tool because people start to understand I can’t go into a bar and have six drinks in a half an
hour and then get in my car cause the car won’t start. So they begin to change their behavior, to have someone else drive them, to take Uber or Lyft or take public transportation. There are a lot of ways of doing this and it does make a difference.

REP. SMITH (108TH): Well thank you for that response. I think the studies would be helpful because the purpose, the underlying purpose of this Bill is to extend the suspension up to two years so if the study shows that the longer the suspension the more likelihood somebody is to drive then maybe then perhaps drive while under the influence and cause damage or injury to somebody else I think we are stepping in the wrong direction. So those studies, I would be happy to see, I’m not sure if the rest of the Committee would.

WILLIAM CHURCH: And for the past three years I tried to work with the Public Defender’s Office to create something that would address their concern. I’ve worked with Brad Fralick and many of the ignition interlock companies who are vendors in Connecticut and they are more than willing to provide discounts and the thing is you had asked, somebody, oh Senator I think you had asked how many people is this really effected and all I can tell you is when I ask for that number from the Public Defender’s Office last year, they told me that the universe was about 200. Now I can’t say that is the correct number but that is what I was told and I’m sure they will get you the best number that they can. It’s not that each person doesn’t matter. That is not what I am saying and it matters to me how those without money can effectively live their lives. I’m concerned about that as are many of you
but the thing is for the most part these people are repeat offenders before they get to the Public Defender’s Office because the first offense in Connecticut, because it is a diversion state, is handled in administrative per se, so they go to a hearing and that is when that happens and so in a first offense, it does not become a conviction in Connecticut if you go through an alcohol education program and if you do the things that are required. It’s only the second time that you’re arrested that that happens. So that is sort of how it works, hopefully I answered the question, I’m not sure I did.

REP. SMITH (108TH): You did, thank you very much. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you, Representative. Further questions? Representative Palm.

REP. PALM (36TH): Good morning, sir. I’m terribly sorry for what you’ve been through. Do you have any knowledge of whether or not these devices aid in recovery? In this conversation the piece for me is the impetus for people to go into the program to join AA, to get on top of their disease. Do we have any data on whether or not this is actually an incentive to make, to force people to deal with their problem?

WILLIAM CHURCH: Yeah, I don’t know. I will say that I had for years an interlock device that I used to bring to the capital much to the dismay of the legislatures because I would show it all the time and explain it. I will say when I went into a vendor to have my calibrated there was a lady there who had to have an ignition interlock device on her
car and she was having hers recalibrated and she looked at me and she said, this is the best thing for me ever because it makes me sure that I’m okay to drive. And so while I don’t have statistics that’s certainly anecdotal there may be statistics that exist but I do not have them.


SENATOR CHAMPAGNE (35TH): Thank you and I’m sorry for the loss of your son as well.

WILLIAM CHURCH: Thank you.

SENATOR CHAMPAGNE (35TH): But I am happy with what you are doing here, that you are coming, you are putting the good fight up and I see this in the name of your son. And I agree with you that these interlock devices, to me, if these interlock devices stop one person from driving under the influence then it’s worth it because it could be that one person that could take and hurt somebody that is related to anybody on this Committee and until that happens that is when people start paying attention. Now I’ve lived through this for 20 something years since the drunk driver hit me and again hit my police car and if he can hit a police car he can hit just about anybody and, you know, it’s watching the people that do get hurt or die in these accidents or being the police officer in the hospital telling somebody when they finally come out of being intoxicated that you killed somebody last night. You know, I bet that person had that device on their car. So I want to thank you and keep up the good fight.
WILLIAM CHURCH: Thank you, Senator.

REP. STAFSTROM (129TH): Thank you, Senator.

Further questions? Thanks, sir. Really appreciate your testimony. Next up is Alex Milardo.

ALEX MILARDO: Thank you Chairman and Members of the Committee. I am writing today in strong support of Raised Bill 7126, AN ACT CONCERNING THE AWARD OF DOUBLE AND TREBLE DAMAGES TO AN INJURED PARTY IN A CIVIL ACTION RESULTING FROM CERTAIN TRAFFIC VIOLATIONS.

May 29th, 2016 will be a day I remember forever graduating from high school was something I always looked forward to. Little did I know what lay ahead. Heading to a friend’s house close by I was involved in a head-on collision resulting in the death of the other driver. That day changed my life forever. Following my accident I met a gentleman named Joel Feldman. In 2009 Joel’s daughter was killed by a distracted driver. Since then Joel has worked to change driver’s attitudes and behaviors [clears throat], excuse me, and raise awareness of the dangers of distracted driving. Working with Joel’s organization and distracted driving I began speaking at local schools educating students on the dangers of distracted driving.

As the next generation of drivers hit the road for the first time, it is crucial they know the dangers and consequences of their actions. In speaking to students and sharing my story I hope to prevent accidents like mine from happening again. With car crashes being the leading cause of accidental death for ages 5 to 24, educating students on the risk of distracted driving is very important to me. On top
of that nearly 60 percent of teen crashes are caused by distracted driving, most notably more teens will be killed or injured by distracted driving than drunk driving.

For those reasons I strongly encourage the Committee Members to vote in favor of this important Bill. Thank you.

REP. STAFSTROM (129TH): That’s incredible testimony and great work you’re doing. Thank you so much for being here with us today. Question from the Committee?

SENATOR KISSEL (7TH): Thank you very much, Mr. Chair. As I told the previous young man it takes a brave person to come and testify and also when you have personal stories it’s even more difficult for an individual to do and you’ve done it this morning and I appreciate that. The fact that now in this day and age, the distracted driving is killing more teens on our highways and roads than drunk driving just tells me that this is an epidemic that is about to even, hopefully not, but I see it going in the other direction getting worse. So the whole education of this next generation needs to take place. They have to understand that something that seems innocent because it’s sort of a, you know, if you’re drinking and driving that’s a stigma, cause that’s been talked about as a very bad thing to do for yourself and others on the road for decades. But we haven’t really, you know, blown the trumpet regarding this particular action and most people especially in this younger generation just looks like, well you know, I’m just taking two seconds to look at my cellphone. That’s not even, you know,
just young people. I mean I see a lot of folks; I don’t know what they are doing. I don’t know what they are doing on their cell phone going 65-70 miles an hour in something that what’s, a pick-up truck what is that a ton and a half or something. Just crazy. So I appreciate your testimony because the more that we bring this to people’s attention the better off and safer we all will be. So again, thank you for taking the time and coming to testify. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Thank you. Are there any other questions or comments? Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman. Just briefly, it’s actually a comment. Again I just want to echo the sentiments that Senator Kissel just said and also just acknowledge and thank you for your continued advocacy and your continuation speaking with the students because that will have the most impact I think. We all certainly appreciate the time and dedication you put towards that.

SENATOR WINFIELD (10TH): Thank you. Are there any others? Seeing none, thank you very much for your testimony. We will next hear from Margaret Miner followed by Andrew Vernon.

MARGARET MINER: Is it on?

SENATOR WINFIELD (10TH): It is on.

MARGARET MINER: Thank you. I can’t believe that. Thank you, Chairman and Members of the Committee for having this hearing. I’m Margaret Miner with Rivers
Alliance of Connecticut. I come to testify in opposition to Bill 7128 which puts restrictions on DEEP's ability to work with consent orders.

I think this is the third year that at Rivers Alliance we have been involved with this issue. We have worked with Connecticut Fund for the Environment, Save the Sound in the past. I support their testimony at the testimony of DEEP. I see the Bill as a hindrance in a process that to my mind is already extremely slow. I have been surprised over the years to come across consent orders that have gone on and on, sometimes for decades. DEEP, I have criticized them for excessive forbearance and also in many cases for very favorable consent orders where I would have preferred to see perhaps stricter conditions. So in the very rare cases in which DEEP actually just gives up and pulls an order or because of the property in question has gone into probate or there is some other material change, I think they should be allowed to act expeditiously. It is an order; it is not a contract. We're all used to the change orders. They happen from an environmental point of view after ten much less 20 or 30 year, the condition in the field may change, a plume may move, there may be, we deal a lot with sewage, it's a pleasure. There may be improvements in technology so modifying an order or even withdrawing an order is, in my experience the last resort. It is done very seldom and I believe attorneys despite their concerns that they won’t be able to persuade clients to sign on to an order that might eventually be revoked for some reason or modified, this is the best, a very good tool available that attorneys are still using. It benefits clients. It benefits the
State and so once again, we would like to testify and urge you please don’t change the consent order process as it exists now unless you have a way to expedite it, which I would be happy to support. But more hinderance on DEEP’s ability to act we feel, Rivers Alliance, would be a bad mistake.


MARGARET MINER: Is there a question? Ah.

REP. O’DEA (125TH): Almost, still good morning. Thank you very much for your testimony. Just a couple of questions. As an attorney who has advised clients in consent orders, how would you respond to the following hypothetical? Let’s say you can clean up an issue for $500,000 dollars or litigate with DEEP for a million dollars and if you are advising that company you would say, look I know you dispute whether or not you made the pollution but if you just clean it up, enter into a consent order and you can save yourself half-a-million dollars. Don’t admit any wrongdoing but enter into consent order. Let’s say hypothetically you clean that up based on your lawyer’s advice, okay, to save a half-a-million dollars and then DEEP decides you know what, I think you should do more than what we said in the consent order, we’re gonna pull out of it. That hypothetical to me is wrong. How would you respond to that?

MARGARET MINER: Well I could respond with the answer I keep getting from government agencies, is “Sorry, Ms. Miner we can’t answer hypothetical questions” [Laughter] but I’ll give it a try.
You’re not giving me very much information there. What has happened in the period of time and you say the pollution is completely cleaned up, no more problem, and everybody has gone on their way and DEEP comes knocking on your door and says, I haven’t encountered that, what I have seen is that the process goes slowly. The pollution as I am familiar with things like plumes, they may move. A stack of contaminated materials way up above a riverbank may be coming down in the riverbank. Typically this is, I worked with consent orders that have lasted 30 years before, you know, and we’re saying to DEEP please can you, you know, can you move this along. They are very forbearing so I do feel that your hypothetical something in the timeline and the scope of work, you didn’t give me enough details. My suspicion would be DEEP is really reluctant to engage in enforcement. They go about it very slowly, frequently with the hazardous waste cleanup facilities for the public sewers. You know, it’s always an NOV before a consent order. It’s a very slow deliberate process. So my answer to your hypothetical is you haven’t given me quite enough detail but what I think you’re describing possibly it’s happened, I’ve never seen it, what I’ve seen over and over again is the opposite, is very, very slow enforcement with DEEP struggling to get people to comply.

REP. O’DEA (125TH): But if they don’t comply, you can simply sue to enforce the consent order, correct?

MARGARET MINER: It can be moved to enforcement.
REP. O'DEA (125TH): So what I’m saying is DEEP can accomplish its goal in entering into a consent order by moving to enforce the consent order, correct?

MARGARET MINER: Well as DEEP said in its testimony, the party may have died, it may be in probate court, the party may have disappeared. The consent order has to be pulled; you have to start over again.

REP. O'DEA (125TH): Let’s suppose that the.

MARGARET MINER: I’m not a lawyer by the way but carryon.

REP. O'DEA (125TH): But let’s just suppose that if the Bill were changed where parties were not able to be found that then the consent orders can be pulled if the other party is lost or unable to be found. Would that alleviate some of your concerns?

MARGARET MINER: Probably not. I think this is a Bill in search of a problem. In the case that might be relevant to this that I looked through, it has been a year or two since I looked at the file, it goes on forever. I think that it’s fairer, cheaper for the State and probably will have a better outcome to pull the order or modify the order. So I really am not, first of all I would ask CFE to be beside me if we were talking about language but second I don’t think any of this is necessary. I think it is addressing a problem that doesn’t exist. The real problem is moving cleaning ups in remediation more expeditiously.

REP. O'DEA (125TH): Fair enough. I just as an attorney who has represented clients if one party can pull out of an agreement I have concerns but I
do greatly appreciate your testimony and coming in today. Thank you very much.

MARGARET MINER: Thank you and good luck with that consent order.


SENATOR WINFIELD (10TH): Are there others? Seeing none, thank you very much for your testimony. We will hear now from Andrew Vernon followed by Jay Runae.

ANDREW VERNON: Good Morning Chairman and Committee Members. My name is Andrew Vernon and I am a sophomore at Cheshire High School. I am here to testify in support of Raised Bill Number 7126.

In 2015 alone, distracted driving killed almost 3,500 people. And as Senator Kissel previously said, it is a grown epidemic in the teen population. However personally at Cheshire High School our administration has done a great job in the last couple of years to try to educate us about the dangers of distracted driving. Last year we invited a guest speaker from the Feldman Foundation to come and speak to us as well as they set up a distracted driving simulator in which you were put in control of a car on a road with other vehicles and given a phone the essence to respond to text messages. With all this education I’ve noticed personally in the last couple of years that being two sport athlete I commonly find myself in cars with teammates and friends and personally I’ve never seen any of them on their phones while driving.
So as a personal testimony I believe that the education is working. What I believe is hard is for the adult population to be educated. There is no active education system that can help educate adults. In a Bill like 7126 could help as doubling to tripling damages could really influence not picking up your phone. And I think a lot of people underestimate how often this really happens. Just yesterday as I was walking down the street to the public library to practice my testimony, I saw a woman driving in a line of traffic, looking back for forth from her phone and the car in front of her and minutes before that, somebody pulled out of a parking lot staring right as his phone while I was about to cross the street. This is an epidemic that happens much too often and is killing or injuring many too people in this country. Something has to be done and a law like 7126 can really help reduce injuries and deaths and bad accidents. Thank you.

SENATOR WINFIELD (10TH): Thank you. Are there? Senator Kissel.

SENATOR KISSEL (7TH): Thank you very much, Chairman Winfield. And again, thank you for coming in and testifying. I think it makes a big impact when individuals come and talk to us here in the legislature. You’re the second individual from Cheshire High School. Is this part of a school project or is there a push in Cheshire or is it just coincidence?

ANDREW VERNON: So Cheshire High School personally has made a large push. A few years ago we had a large accident that killed three members of our football team and was involving a lot of outside
circumstances. They made a large push to kind of start educating the population. We are a larger school of about 1,500 kids. We have a lot of kids and a lot of people driving and the administration has made it paramount to educate people on how dangerous it can be along with drinking and driving but just something as simple as checking your phone while behind the wheel.

SENATOR KISSEL (7TH): Well I really appreciate it. I think it does make a tremendous impact not only for us as legislators but if for example this is on CTN, folks in other communities throughout the State might follow Cheshire’s lead and there could be some teachers out there, principals saying you know, we could work this into our curriculum without too much difficulty or without any costs and I think awareness is the first step towards remedying this situation. So again, thank you for taking the time to come and testify. Thank you, Mr. Chairman.


REP. PORTER (94TH): Thank you, Mr. Chair and thank you for comin in. You’re just validating what I see out on the highway every single day that I’m drivin and thank you for making that valid point that unfortunately most of them that I see are older people, they’re adults, driving distracted, at high speeds at that. So I just want to say thank you for making that point because I think most of the times we think about distracted driving we like to think that it’s the young people actually doin it when what I see is actually older folks, my age and even older. I don’t even know how they do it but they’re
doing it. So kudos to you and your peers at Cheshire High. I commend you for being here today and for bringing this to our attention because it is detrimental. It takes one second, two seconds, three seconds and you could end your life or someone else’s. So thank you and have a great day and keep doing what you’re doin. It means a lot comin from the youth. We’re listenin and I believe that you guys have a lot of the solutions we’re lookin for so thank you. Through you, Mr. Chair.

SENATOR WINFIELD (10TH): Thank you. Are there others? Seeing none, thank you very much for your testimony. We will hear next from Jay Ruane followed by Houston Putnam Lowry.

JAY RUANE: I think I might be the last one, so good morning Chairperson Whitfield and Members of the Committee. My name is Jay Ruane. I am here testifying in favor of Raised Bill 842 on behalf of the Connecticut Criminal Defense Lawyers Association. I have appeared in front of this Committee many, many times in the past and my role, I am a past-president of the organization. My testimony is in favor of the Bill.

However, I would like to bring your attention to the one particular area which I chose to highlight in my written submission and that’s the issue of the Federal Antimasking Statute and our alcohol education program for use by commercial drivers and I can speak to this cause as the Committee knows my practice involves DUI defense throughout the State of Connecticut and I actually took the time to read the Federal Statute and I included it in my materials.
The Federal Statute requires that states not mask the participation in a diversionary program and our State never has. Our State actually has in the enabling statute for the alcohol education program a mandate that the clerk of the court advised the DMV and the DMV contain on the driving history of the person, the participation in the alcohol education program which complies with the Federal Motor Carrier Safety Act. Now other states perhaps like in Massachusetts which has a program that they do which is called the Continuation with a Finding where a person pleads guilty but the judge never finalizes it. That effectively masks the conviction because nothing is ever reported. But in our State up until 2012 when people with CDLs were allowed to participate in this program, or 2013 excuse me, the participation of the AP was noted on their driving history and remained there for a decade which does not mask the participation in a diversionary program.

Now I can speak anecdotally about a number of my clients who’ve fallen prey to the change in the statute over the last couple of years, for example I represented a gentleman who spent his entire career in banking and upon his retirement in his 60s, one of his bucket list items was to drive a bus. That’s it. He wanted to drive a bus. So we went out, took the training, got his CDL, drove the bus once, said I’ve done that, I’m done. But there is no real true mechanism and no real need to go and then surrender your CDL to the DMV. The lines there we know are exceptionally long. It’s not something you can do online. So fast forward a couple of years later. He is coming home from a wedding, gets pulled over,
question as to whether or not he is culpable of the offense, but he finds himself not able to utilize the alcohol education program merely because he has that CDL on his record. I’ve also represented a number of people who would love to have utilized the alcohol education program but could not because of the CDL qualification that they had that they needed for their career and were faced with the expense and the risk of going to trial. I’ve had a number of trials, burdening the State’s attorneys with people who would otherwise use the alcohol education program and quite frankly judges and prosecutors, every time I show up in a court, they ask me, hey is anything being done about the CDL. So I would request that you actually read the Statute that we have, read the Federal Statute and find we were in compliance all along and so I would support this Bill actually 100 percent. Any questions?

SENATOR WINFIELD (10TH): Senator Kissel.

SENATOR KISSEL (7TH): Thank you very much, Mr. Chair. Attorney Ruane thank you for taking the time to come and testify. I am going to set aside the safety and moral issues. I’m confused through, I appreciate that fact that you read the Federal Statute and you are focusing on this masking language, but why was it then in 2012 that, I’m probably going to get this wrong, but the Federal Motor Carrier Transportation Administration or whatever that federal entity is, why were they threatening to pull our funding, our highway funding, in 2012 and the testimony from the DMV attorney was that there was a constant process of them sort of dinging us and saying you’re not in compliance, you’re not in compliance
and finally they said we’re gonna write a letter to the governor, at that time was Governor Malloy in 2012, threatening to withdraw these funds if as you say we were in compliance.

JAY RUANE: Well I wish I had an answer for that. I don’t have the correspondence; I’ve never reviewed that correspondence and quite frankly in my review of the legislative history when the change was made back in 2012-2013 the focus of the debate seemed to be on the potential loss of the transportation funds but not the underlying support for that. But it’s pretty clear on the face of the antimasking Federal Code and our Statute that we do it. Perhaps it may be that since after a decade it would drop off the driving history that that was something that the Federal Government said did not comply because at that point it would no longer, and that would merely be a simple statutory change to maintain the notation of that permanent on a person’s driving history. And that can be very easily done but as it stands now, before it could be 6g, does have a reporting requirement that exists for quite a longtime after the participation in the program.

SENATOR KISSEL (7TH): Thank you. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Thank you. Representative Smith.

REP. SMITH (108TH): Thank you, Mr. Chairman. Thank you Attorney Ruane for comin up and testifying. Are there any provisions in statue would you consider or be in favor of a provision where the holder of the commercial license would be allowed to participate
in the program provided they surrender their commercial license?

JAY RUANE: That is actually something that happened sort of at the beginning of the change in the Statute. A lot of judges found that that would be a suitable compromise where people would go in, surrender their CDL and then use the program. However I guess there was some review by either the Judicial Branch or through the State’s Attorney’s Office that would not still comply with the statutory framework that they thought they were operating under. So certainly that is something that could be considered that a surrender would allow somebody to utilize this program and that would certainly help a lot of people. There are probably hundreds of people who have cases pending on the trial list in the court houses throughout the State who are only there because they have a CDL, they need to work to support their family and they would love to opt into the alcohol education program to show that they are not a risk, to learn from the course itself but they are unable to do so and quite frankly I’ve been in situations with some of my clients, not speaking on behalf of CCDLA where they said well look, I can’t afford to pay you for a trial, I can’t afford to lose my job, put it on the trial list, when they call me in, I’ll fall on the sword and pled guilty but then if I can keep my job for another nine months, that is nine more months of mortgage payments and I’ll figure something out during this nine month period. I mean you can see a significant savings to the overburdened State’s Attorney’s Office if you removed all that work from them that may not actually turn into work and it
could be a savings to the Judicial Department as well as the State’s Attorney’s Office.

REP. SMITH (108TH): I guess possibly but the underlying purpose of the Statute is to protect those who ride the buses or ride the public transportation system to make sure that those who are driving are safe drivers, I’d be more inclined to support a Bill that they would have to surrender their license. It gives them the option to take the program or surrender their license, whatever they would like to do. But I think to allow them to do both kind of diminishes, defeats the purpose of the Bill in my mind.

JAY RUANE: And I think there is something that needs to be said, there is really no there was no separation of people who are operating commercial motor vehicles with their commercial driver’s licenses at the time they were arrested and charged with DUI and the people like my client who was the retiree, who was driving back from a wedding, and in his personal car, but had a CDL and so that disqualified him from the program. He hadn’t used the CDL since his one day driving the bus, was never gonna use it again, but once you have it you don’t necessarily turn around and go back to the DMV the next day and say okay, now take it away, I paid for it, it is what it is, I’ll just keep it on my driver’s license. And right now if a commercial driver is driving his private vehicle, not commercially they still are not able to qualify to use that program.

REP. SMITH (108TH): Yeah and listen, I can understand. I can just see the headlines now that,
you know, somebody was driving their private vehicle, they had a DUI arrest, when through the program, and then while driving a commercial vehicle they have another DUI with some folks on the bus and several people are killed and it’s like how did we allow this to happen, the guy has a history of drinking and driving or she has a history of drinking and driving whoever it may be. That is the type of headline we would like to stay away from.

JAY RUANE: I will tell you this, I agree as a member of society that those are the headlines that we want to stay away from but in a free society at some point there has to be a balance to give people the opportunity to prove to themselves, to the State that they are not going to be a risk to it in the future. I can tell you; you are all doing a phenomenal job putting me out of business as a DUI defense attorney [Laughter]. When I started coming here to testify, on average there was about 17,000-18,000 DUI arrests a year in the State. Last year I think we were at about 8,000. I’ll tell ya, I see my revenue dropping every year and I’ve got four little kids, and a wife and family members I love, and I love the fact that there are fewer and fewer people, trust me. There’s other things I can do with my career. So I’m happy to pivot into another area of the law as this gets eradicated from our society. So the laws that are in place now are phenomenal, they are doing their job, but some of these people are getting caught in a really tough situation where they are losing their houses, their careers, they are losing everything and I don’t think it is necessarily required by the Federal Statute. I’ll let you guys be the determination of
that but I think there is an opportunity for us to be an example. I mean there are other states where a DUI isn’t even a crime for your first offense, it is a civil infraction. Like down in Maryland or New Jersey you don’t even get a right to a jury trial. We’ve done a great job in our State not only with giving them the protections of the criminal justice system, affording them right to counsel, giving them opportunities to prove that they are not going to be arrested again. Personally our recidivism rate in our office has dropped to almost none. We don’t get a lot of prior clients coming back to us. We do see a lot of prior clients coming back for our speeding tickets or our cellphone tickets, that’s exploding as enforcement for that is taking off and that is a good thing to because that is helping people, it is keeping us safe. But I think the Raised Bill as it stands changing the language to let those people with CDLs participate in the alcohol education program is a good thing for our State.

REP. SMITH (108TH): All right. Thank you, Mr. Chairman. Thank you, sir.

SENATOR WINFIELD (10TH): Senator.

SENATOR CHAMPAGNE (35TH): Thank you. You know I understand what you’re saying with the CDL but I am going to disagree. You go with the CDL, you become a professional driver, you know what the rules are and you definitely know what’s gonna happen to ya if you get caught with the DUI. There are a lot of truckers out there that take substances to keep ‘em awake so they can drive further distances, so with some of these truck drivers this isn’t gonna be the first time they were under the influence and one of
my biggest fears is an 18-wheeler driving down the road with an impaired driver behind the wheel. So as a professional driver they know the consequences going into this and I would hope that this would change their behavior or prevent the behavior but going, you know, in the end they’ve got to figure out where they stand on this. And part two when you said you’re going out of business, I want to thank you for that but with the passing, if marijuana does become law your business is probably gonna be picking up considerably. So, thank you for coming in today.

SENATOR WINFIELD (10TH): Thank you, Senator Champagne. Any others? If not, thank you very much.

JAY RUANE: Thank you very much, have a wonderful day.

SENATOR WINFIELD (10TH): We will next hear from Houston Putnam Lowry followed by Louis Luba.

HOUSTON LOWRY: Good afternoon, if it please the Committee, my name is Houston Putnam Lowry, I am going to testify in support of Raised Senate Bill Number 841 AN ACT CONCERNING CHOICE OF LAW. I’ve submitted written testimony which I assume you have and I will be happy to answer any questions regarding it.

Basically there are two major points of this Bill. The first one says that on matters over $250,000 dollars commercial parties, not involving consumer transactions, can chose the choice of law being Connecticut, not any choice of law but Connecticut Law.
The second part and that choice is enforceable because currently under the second restatement of conflicts of law it has to have a reasonable relationship. We spend a lot of time and effort making Connecticut’s laws friendly for large commercial transactions and we would like people to be able to say, geez maybe Connecticut has nothing to do with it but instead of picking New York let’s pick Connecticut and the Statute is in fact modeled on a New York law.

The second item says if the parties have consented to Connecticut law and they consent to Connecticut jurisdiction, Connecticut will handle the case. That is probably going to be required under implementing legislation which hasn’t been drafted yet for the Hague’s Choice of Courts Convention which was signed under President “W”, George W. Bush but has not yet been ratified by the United States Senate so we would be ahead of the curve on that one. That convention basically says in an international transaction involving once again commercial matters, if the parties choose an exclusive venue for handling a case, that choice is enforceable and the judgement rendered by that court is enforceable in all the parties to the convention. I’d be happy to answer any questions that the Committee might have. Mr. Chairman.


REP. O'DEA (125TH): Thank you very much, Mr. Chairman. Thank you very much for your testimony this afternoon. So this would simply track what California already has done, Delaware and Florida?
HOUSTON LOWRY: Basically yes. It actually tracks pretty closely the New York statute but yes, correct all of those states.

REP. O'DEA (125TH): And commercial transactions only so in other words it would not involve employment contracts or obviously residential mortgages type of situation, correct?

HOUSTON LOWRY: Correct, specifically excluded for employment contracts, matters of personal family or household purposes which is what the general accepted definition of consumer transactions are also excluded.

REP. O'DEA (125TH): And do those other jurisdictions have the $250,000-dollar floor?

HOUSTON LOWRY: I believe New York does. It think if my memory is correct regarding Florida I believe they have $100,000 dollars but it is usually in that kind of range, it’s not a million but a couple hundred thousand.

REP. O'DEA (125TH): And I looked at, I say I’ve read your testimony. I was looking, I don’t see any opposition. Are you aware of any opposition to this?

HOUSTON LOWRY: No.

REP. O'DEA (125TH): Sounds like the kind of Bill I can support [Laughs].

HOUSTON LOWRY: Well it’s one of those Bills that I’ve been sort of agitating quietly for a while but it also isn’t shall we say, headline grabbing, but it’s one of those things that lays a good foundation
for commercial transactions. So in that sense since I do mainly commercial law, often on the contentious side, but I believe would be helpful for the State and other states are doing it to.

REP. O'DEA (125TH): Thank you for your testimony. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Others? Seeing none, thank you very much for your testimony.

HOUSTON LOWRY: Thank you very much, Mr. Chairman.

SENATOR WINFIELD (10TH): We will hear next from Louis Luba followed by Matt Gunter.

ATTY. LUBA: I think I pulled something out. I don’t know where this goes but I may have pulled something out, I apologize. Good Afternoon, Mr. Chair and Members of the Esteemed Judiciary Committee, my name is Louis Luba. I am a Senior Assistant States Attorney in the Windham States Attorney’s Office and I am here to speak on behalf and testify on behalf of the Division of Criminal Justice as well as the 20 personal victims that I have dealt with in support of Raised Bill Number 843 the ACT ADDRESSING THE UNLAWFUL DISSEMINATION OF INTIMATE IMAGES, that in conjunction with my testimony today there has also been written testimony presented by the Division which I believe that the Committee has in front of it.

In conjunction with this as well I have dropped of this morning the transcript and oral testimony presented during the sentencing of the case which was the impetus for this proposed legislation by the 20 victims that I personally dealt with. They would
like to have been here to testify before this Committee to talk to you about the significant impact that this crime has had on their lives and as the Committee to adopt the Bill and to increase the penalty for this offense from an A misdemeanor to a D felony.

That in my 25-years as a prosecutor I’ve dealt with many different cases and that I can personally state that the depth and breadth of victimization that these victims had encompassed in the case that I prosecuted is unseen that when this case, when this legislation was originally proposed by then Representative Tong back in 2015 that he spoke of how the crime must, the punishment must fit the crime and the devastation that I’ve seen personally from these victims is unlike any I’ve seen before and that I can tell you that as an A misdemeanor as it currently stands right now that 53a-189c the unlawful distribution of legal images does not fit the crime. That the crime that I am beginning to see more and more of lately goes beyond the simple revenge porn that this case, that this statute initially began with and has now gone beyond to realms of sexploitation or sextortion where you now have criminal enterprises tricking young adults and teenagers into sending them images or being online with them and then taking images of them and now asking them, threatening them saying unless they pay them a certain amount of money that they will expose them online. I’ve dealt with victims personally who have been coerced into sexual activity by former spouses or former boyfriends or girlfriends threatening that unless they engage in this activity that they will distribute these images to their
families and friends. That the victims that I personally dealt with have left this state or have left their employment, have left their schools because of the devastation that this crime has caused and I implore this Committee to review their testimony, to review the transcript of their testimony during the sentencing hearing and listen moreover to their testimony to truly feel the impact that this crime causes. I am ready to address any questions that this Committee may have.

SENATOR WINFIELD (10TH): Thank you. Senator Kissel.

SENATOR KISSEL (7TH): Thank you, I appreciate you coming here counselor, States Attorney and bringing this to our attention. And I saw, occasionally I will watch those criminal law channels and there was actually a really heart wrenching program that I saw about a young high school woman who was at a party and stuff happened and kids took pictures and then put those pictures online and eventually lead to her committing suicide so I think that the potential dangers to a victim can be astronomical. When you say that someone might use some of these intimate images for extortion are there, have you had cases where you have had other grounds where you could bring other charges or are we just limited to the statute that you spoke about?

ATTY. LUBA: It depends on the situation, Senator that there are a myriad of charges that can be levied depending on the actual circumstances of the case. There is a statute for coercion which would deal with this as well but in and of itself, putting aside the economic aspect of it, that I would still
propose to you that the increase in penalty for this in and of itself would allow us to prosecute them more vigorously because if under the coercion statute, if the crime itself is only a misdemeanor then the coercion penalty is only a misdemeanor so you only have two misdemeanor offenses for something that is a truly devastating act and I can tell you in the victims that I’ve dealt with in this that several of them did attempt suicide and that by the effect that this had upon them and the thing that continues on is that this is something that unlike other crimes whereas unfortunate as it may be after the sentence is done and after the crime is finalized that there is no further impact, that this is something that they are reliving on a daily basis where you have victims that I’ve dealt with where they are saying that they are still being contacted by men online who have seen their pictures online and the personnel information online and are still getting that information, still getting contacted by them today and this is something that happened well over four-five years ago in some cases and so the victimization continues on. The only thing I can draw similarity to would be child pornography or identity theft as we presented in our written testimony where the victimization continues because once something is out there on the internet you can never retrieve it and that is something that someone will always be able to see.

SENATOR KISSEL (7TH): Just a quick followup, you said that first of all, if you could refresh my memory as to the distinction between an A misdemeanor and a D felony and part two of that question is you stated that by ramping it up to a D
felony it would allow you to be either more aggressive or be able to prosecute more cases, how is that related?

ATTY. LUBA: Yes, sir. So an A misdemeanor is maximum penalty of one year as well as the associated fines. With a D felony that is a maximum penalty of up to five years. Again it is commensurate with the child pornography third degree, identity theft third degree, trafficking personal information. Those are all on the same line. As far as being prosecuted more vigorously that we’re again using, cause usually something like this, illegal dissemination of intimate images usually goes hand-in-hand with a very, in my experience, in the cases that I prosecuted, go hand-in-hand with the coercion charge. There are several cases I have that are dealing with that right now so that you would be able, using the prior example, that if it was only an A misdemeanor then the most you could do on a coercion charge is an A misdemeanor and so the maximum penalty you are now facing is two years rather than ten years and that again I do not feel in a situation like this two years is an appropriate punishment for something that is truly devastating to the victims lives.

SENATOR KISSEL (7TH): I just have to follow up to that. How is it that the coercion penalty changes based upon the other underlying charge? How was that drafted, how come it’s not just?

ATTY. LUBA: The way that it’s drafted is that is the coercion charge in and of itself is only a misdemeanor offense unless it meets certain parameters and one of the parameters is that it can
be increased to a D felony if the crime that the person is threatening to commit is a felony. So that is the way the statute was written.

SENATOR KISSEL (7TH): Thank you, that clarifies that. That answers my question. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in. It seems to be a serious and growing problem. A couple of quick questions about lines 23 through 33. I see it is a Class A misdemeanor to disseminate to one person by any means but it changes to a Class D felony if there is more than one person. We’re essentially talking about electronic images; how do we know if it has gone to one person and if that person has posted it somewhere how do you differentiate between when it’s gonna be Class A and a Class D?

ATTY. LUBA: Well, and thanks for that question. With regard to it, I think that the A misdemeanor offense when talking to people who were drafting the legislation here, it was for any means. Say if somebody took a picture and then printed that picture and distributed to somebody else, if it limited scope and then you actually have physical, some type of physical transaction, that there is where it would be an A misdemeanor because you cannot effect on such a widespread basis as electronic distribution. With the electronic distribution that very often we were able to tell that as it was written there that if somebody sends out, like in the case I prosecuted, a mass mailing to all the victims contacts. With the case I dealt
with that the defendant here for 20 victims and actually attempted up to 70 contacts we were able to hack into 40 accounts and subsequently chose there 20 female victims that he downloaded their intimate pictures and all their contact information, disseminated it and said to them basically provide me more pictures of this nature or I am going to release these pictures to everybody on your contact list. Of course the victims said no at which point he disseminated to all family members, all friends, businesspeople, their schools anyone that was on their contact list distributed it to them. Then went beyond that step and also posted it on various internet sites that no one, either sex shaming sites or things like that, where he posted not only their personal pictures but all their contact information underneath it so I think that is where the distinction is, is if somebody posted and the way that the trend is is by electronic means or internet provider and so my doing internet provider, putting it on an internet site that now increases to a D felony or by distributing to more than one person via a mass mailing or Snapchat or some of these other means that we can track we then can prosecute on the D felony level.

REP. DUBITSKY (47TH): Okay well, certainly I understand when the extreme case like the one you just mentioned where you send it to 70 people that is clearly more than one. I’m just trying to figure out if the wording in this proposed Bill is correct because what it is saying is it is an A misdemeanor if it is disseminated to a person by any means, I assume that includes electronic means, is a Class A
misdemeanor. So if one image is emailed to one person that would be a Class A misdemeanor?

ATTY. LUBA: If one image distributed just to one singular person without further redistribution my reading of the Statute is that yes, that would be a Class A misdemeanor.

REP. DUBITSKY (47TH): Okay, and if the recipient posts it all over the place how does that effect the charge on the initial dissemination?

ATTY. LUBA: Well there’s two separate criminal acts then, that you then have the person who is distributing the initial picture which as presented be an A misdemeanor and then the person who further distributed it would be for a D felony. But then what you would then have is also you can charge an additional crime of conspiracy for the commission of that act which not the person who did the initial distribution to that one person is now could be consider conspirator or an accessory and would be just as responsible as that person who distributed it and thus face a D felony charge so that the two people would be able to be treated the same way even for that single act.

REP. DUBITSKY (47TH): Okay, thank you very much. I appreciate it. Now are you satisfied that the penalties set forth in this Bill, the Class A misdemeanor and the Class D felony are the appropriate ones?

ATTY. LUBA: The Division position is that they are supporting this Bill. On a personal level seeing the devastation, no. It needs to be higher. The devastation is like the breadth and depth is unlike
anything and the ability for people to get harmed more significantly is something that I feel needs to be punished more strictly. But as written here that we would support any type of change that would increase the penalty beyond just the A misdemeanor and I think that is the most important thing for this Committee right now. If increasing it above that A misdemeanor to at least a D felony or if the Committee feels it’s more appropriate even higher because if you could listen to the testimony put forward at that sentencing hearing and hear the pain, hear the suffering of these victims and really understand how it effects somebody and will continue to effect the victims that is something that I, as I said in my 25 years I’ve never dealt with, it has impacted me so much where I was a progenitor, I proposed this legislation because that is how much I feel that it needs to be corrected.

REP. DUBITSKY (47TH): Well, thank you very much. Thank you for testifying and thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Representative Smith.

REP. SMITH (108TH): I echo the comments, I appreciate to hear the firsthand experience that you’ve dealt with and the seriousness of this issue. Does the Statute that currently exists and I know the legislation proposed changes penalties but does it apply to meme as well?

ATTY. LUBA: I believe that any, the way that it is written, that if there is somebody’s picture who did not get permission for that to be used, I believe that it would be able to be applied to a meme or
something along those lines if the person’s image is not being used against their consent and is of an intimate image that meets the statutory definition.

REP. SMITH (108TH): I’ve seen situations where the meme did not have a photograph necessarily of the person being transmitted but certainly had written content which was just as deplorable, certainly defaming but difficult to prosecute because of the First Amendment and all this other stuff, well not all this other stuff, the First Amendment is pretty important but I don’t know if the Committee might want to consider some thought on that because there are similar situations that persons are being harmed by these memes, they can be randomly posted and out there and like you said, once they’re out there, they’re out there. They can take ‘em down but people see ‘em and they see comments and they can really ruin a person’s character and life similar to the depiction of these photos, so I don’t know if you’ve given any thought on that as well.

ATTY. LUBA: No sir, Representative I’ve not addressed that issue specifically. I can say that there is an outstanding Quinnipiac Law Review article that was written specifically regarding the statute that did address some of the issue and some of the problems that were addressed by other states in dealing with that during the original testimony, during the original discussion of legislative history for 53-198c when it was discussed back in 2015 that there were many different issues that were discussed at that time regarding commercial pictures and at which point the transfer over from being a picture that was put out by an organization or by a commercial entity as opposed to a person. So as far
as dealing specifically with the issue you brought up, no Representative I have not given any thought or have had any ops to address that issues as far as memes but I would feel that anything that somebody’s image was used without their permission that would effect somebody and so long as it meets the statutory definitions of an intimate image that this would be an appropriate prosecution.

REP. SMITH (108TH): I appreciate your feedback on that. Just one more comment. Through you, Mr. Chairman.

I am very much in favor of what you are proposing, the only hesitancy I have in the back of my mind is sometimes we have out youngsters out there who without thinking, you know, they have an intimate photograph or whatever of somebody and they send it off, not intending to do it in a derogatory way or any other way but it is out there, as you say once it is out there, it’s out there and other people can get it and send it on and I understand the significance and consequences and the harm that it can do to the person who is now has had his or her photograph presented to other folks that never wanted but now you’ve taken say a 17 or an 18-year-old or even a 16-year-old or younger, kids are having phones now they are so much younger and doing things that we can’t even imagine, now looking potentially at the D felony. What are your thoughts on that?

ATTY. LUBA: That is a great issue to bring up, Representative is that the way the statute is currently written as far as juvenile offenses anything under the age of 18 is now consider
juvenile offense and dealt with differently. So even though it may be a D felony at the time of arrest that they would now, instead of going to the adult court that they would be dealt with in the juvenile court and that the juvenile court is no longer a criminal prosecution, it is a juvenile adjudication and there is ways in which their record is protected at a later point in time so that there is sufficient safeguard for somebody that does a discriminate act under the age of 18, under the age of 17, under the age of 16 as you brought up that they will be dealt with at a different level and it can be addressed appropriately on that level rather than proceeding forward at an adult criminal prosecution. So I think that’s a way it can be addressed but still preserve that person’s record and prevent them from having a permanent record for making a youthful indiscretion. So I think that’s the way it can be appropriately dealt with.

REP. SMITH (108TH): Okay, I appreciate that feedback as well. Thank you for testifying and thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Representative Palm.

REP. PALM (36TH): Thank you, Mr. Chair. My question is similar to that but not quite the same. My understand of the law as it stands is that there is no distinction made age wish if the perpetrator is doing it to a peer versus a minor child. So if a 30-year-old is unlawfully sharing images of another 30-year-old that is one thing, what if that 30-year-old is sharing images of a 12-year-old as opposed to my colleagues question which I think was juvenile to
juvenile. Do you think there is any distinction and should there be?

ATTY. LUBA: Well, Representative dealing with that specific issue, we were dealing with a 12-year-old now that falls within the realm of child pornography which changes the game completely. Really that the only time that this offense would really truly kick in is when the person is over the age of 16 years old. It now brings it out of the realm of child pornography and that gray area where after they turn 16 years old that it doesn’t mean the child pornography statute and so as it stands now we are now only looking at an A misdemeanor. So I think that is where the differentiation lies is that age gap, once they go below 16 child pornography statutes appropriately kick in which has much more serious ramifications.

REP. PALM (36TH): Thank you. Thank you for your testimony and the passion which you are trying to rectify this situation, much appreciated.

ATTY. LUBA: Thank you, ma’am.

SENATOR WINFIELD (10TH): Thank you. Are there others? I have a question. You spoke about the lining up of coercion on what the initial charge is. I guess my question to you is, I think that the fact that coercion is a part of this does make the action different. So why the attempt to deal with that portion and just, I guess in some ways just separate it from it being tied to the initial act?

ATTY. LUBA: Well that is when you are fortunate, I hate saying fortunate but that is when you are fortunate enough when you are dealing with coercion
charges, sometimes there may not be any coercion charge and may simple be just an act of revenge where a person gets a picture and then decides, you know what and that’s when we fall into the revenge core and aspect of it where somebody now, there is a relationship that has gone sour and I’ve seen cases of that as well where they now are upset and they then distribute it to everybody or they put it on their Facebook page of disseminate it in some other way. That is why they have these revenge porn/shaming website out there. It’s for these people to be able to strike out in that manner. There is no coercion involved in it but it is still the devastation is still the same.

SENATOR WINFIELD (10TH): Okay, I asked that question because in the beginning of your testimony you hit on that quite strongly so I wanted to know if there was a reason why that wasn’t one of the avenues you tried to explore. But I appreciate your testimony. Are there any others? Thank you very much.

ATTY. LUBA: Thank you very much.

SENATOR WINFIELD (10TH): We will hear from Louis Luba, no, we just did. We will hear from Matt Gunter followed by Josh Luksberg and Zachary, I’m not even gonna destroy that name. [Laughter]

MATT GUNTER: Good afternoon to the Chairs and to the Committee. This is in favor of Raised Bill 7129 AN ACT CONCERNING THE FORECLOSURE OF CERTAIN COMMERCIAL MORTGAGES BY STATUTORY POWER OF SALE.

There are two types of foreclosures, Judicial where you go through the court system and nonjudicial also known as Power of Sale where the property heads
straight to an auction after notices to the borrower are sent. Judicial foreclosures you can imagine are time consuming, generally take longer than a year and are quite expensive. Nonjudicial foreclosures on the other hand as this Bill provides for can be completed as soon as 90 days. And I want to stress that this Bill only creates a nonjudicial process for commercial mortgages, that is for mortgages for which the loan proceeds are for business purposes only. This Bill does not therefore effect any foreclosure process for traditional homeowners.

By speeding up the foreclosures process in this manner, several benefits can be realized. Reduced costs and reduced risk result in an increasing lending activity at cheaper cost of capital. Cheaper capital results in Connecticut businesses retaining more of their own funds, utilizing their access to capital to grow and thereby strengthen the state’s economy. Foreclosed properties will be returned to a productive use more quickly reducing blight and in the case of a tenant occupied property this sooner the new landlord takes over the sooner the property will be regularly maintained and managed. A little more than half of the states including Massachusetts, Rhode Island, Vermont to an extent and New Hampshire already use a nonjudicial foreclosure process. This would be a prudent move for Connecticut to adopt this procedure. Just yesterday I spoke with a small mortgage lender who stated they wouldn’t consider lending in Connecticut unless it too had a nonjudicial foreclosure process like in Massachusetts and Rhode Island.

The language of this Bill as currently proposed does need a few minor changes here and there as some
other written testimony has been submitted making some of those suggestions. As you will see in my written testimony submission I have included a redline version of the Bill with suggested edits. Nevertheless the concept is an incredible opportunity for Connecticut to expand the use of commercial capital to grow our economy by simply speeding up the foreclosure process for these types of commercial loans. And I remain fully available to answer any questions you may have.

SENATOR WINFIELD (10TH): Thank you. Questions? Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman. Thank you for your testimony. Would you be willing to entertain an exception for commercial property loans where an individual is actually residing in the property?

MATT GUNTER: So I appreciate the concern, Representative it sometimes could happen as I believe one of the other members had brought up in prior testimony. The problem is that individuals will have this plan in the beginning to take out a commercial loan because it is much easier to obtain and then despite the fact that they’ve made these covenants in the mortgage agreements they live there anyways. So one of the aspects of this Bill is to say that when there is a statement and I now have suggested to provide the two and agreement between the parties that it is a commercial mortgage is now definitive. You can’t just live there and claim it as a homestead, claim it as your home and then get all those same protections because now you’ve intentionally violated. I suppose there could be a
way in which you could fair it out whether something is intentional or accidental or falling on hard times and I would be open to the proposals of language that would support that but it is not a problem that we’ve seen.

REP. REBIMBAS (70TH): Let’s flush that out a little bit more. How many are you aware of how many units a certain residential property has to be before it is considered commercial?

MATT GUNTER: It’s five and greater. So four and less is a residential property.

REP. REBIMBAS (70TH): So it is possible that the homeowner is actually residing in that property even initially, so not something that happened after the fact and still has a commercial loan, correct?

MATT GUNTER: So the owner occupancy is generally great evidence of whether something is commercial or consumer mortgage. It is not however definitive. I can speak from my own experience with mortgages that my company writes, forbids any type of owner occupancy whether it is one of many tenants or just a single-family residence. Again I suppose there could be carveouts in situations like that. The point here is to determine that the proceeds of the loan are used for commercial purpose whether or not it is an owner-occupied property.

REP. REBIMBAS (70TH): And also an owner can have a multifamily home and hold it in an LLC and still occupy the property as well, is that correct?

MATT GUNTER: Again that could be done in the physical sense but what this Bill is aimed to
provide is that the owner, principle the trustee and I believe one of the other suggestions in written testimony provided by someone else has suggested that those definitions should be expanded to say that anybody in control of an entity however that might be defined, if that individual person or persons related to them live in that property they would also be considered also commercial mortgages and they would not get that protection.

REP. REBIMBAS (70TH): Just, we always try to find common ground. The foreclosure mediation program that the State of Connecticut has is a program that is very successful and still we’ve heard through testimony needed. So we want to make sure that we still do provide those protections, you know, as certainly as patience as things have to be in those situations that I can also understand the other side obviously of the commercial lender for properties where it is not owner occupied and maybe there is a happy medium that can be struck. I mean we don’t want someone moving in just for the protection but if there is a certain amount of time or things of that nature, so I would certainly, you know, encourage you if there is any language or other provision you’ve seen in other states that you would want to then provide to this Committee for our consideration something that we would look at.

MATT GUNTER: Absolutely and I understand foreclosure mediation is a topic of another Bill that is being raised this year. The foreclosure mediation is actually something that is the only thing that benefits commercial mortgages currently in that it is the one thing that doesn’t apply, it is the one thing that does speed it up slightly for
commercial mortgage foreclosures as opposed to for residential consumer mortgages, but again we are still talking about more than a year for most cases to complete a foreclosure of a commercial mortgage and again it is really just about time and money. When properties go unattended to and properties go unmaintained the industry term is that they have ghosts, people run in, strip out the copper, they take out the wiring, they take out the plumbing, they rip out all its valuable assets and now the lender has even less of an ability to put this back into productive use. The point is to have help the State get rid of its blighted properties by putting them back out there, rehabbing them, getting them back with investors to make these things good for the community.

REP. REBIMBAS (70TH): And I’d absolutely agree with that last example you gave us and we want to just make sure that everything is proposed in a fair manner, that the intention doesn’t have unintended consequences. Thank you for your testimony. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Are there any others? Seeing none, thank you very much for your testimony. Next we will hear from Josh Luksberg and Zachary Kammerdeiner. They will be followed by Lucy Nolan.

ZACHARY KAMMERDEINER: Thank you, Mr. Chairman. I’ve been hearing that my whole life so it’s quite alright. My name is Zach Kammerdeiner and I am President of the Connecticut Title Association. We represent title insurance companies that operate in Connecticut. I am here with my colleague Josh Luksberg is a member of our legislative committee.
and he is going to lead our testimony in support of Raised Bill Number 833 AN ACT CONCERNING VALIDATION OF CONVEYANCE DEFECTS ASSOCIATED WITH AN INSTRUMENT THAT WAS EXECUTED PURSUANT TO A POWER OF ATTORNEY.

JOSH LUksBERG: So before you sell your house or buy your house one of the first things you’re gonna do is get a title search done and some of you know that do title searches and closing, a couple of the guys have left, but title searches very frequently can reveal issue and it is our job in the title industry and the attorneys in the state to solve those, and you know, hopefully easy ways and get the closings done and to that effect we have a lot of statues on the records existing and standards of title and different affidavits that will cure certain defects, errors, etc. that title searches frequently reveal.

One issue that is not all that frequent but does come up every now and then for which there is no cure of record currently is when there is a document purported to be executed via a Power of Attorney but assume you guys are all familiar with and that Power of Attorney though more than likely in existence did not make its way to the land records. So if there is a deed executed by Power of Attorney that Power of Attorney needs to be also recorded on the land records so you can see that and then that deed is then good. What we are looking to is validate that issue if the Power of Attorney itself is not of record and it wouldn’t be immediate it would be after a certain timeframe and we’ve gotten feedback on the length. We initially proposed 10 years. In talking to the Connecticut Bar Association they are in favor of the Bill and they would support it but they just want 15 years instead and a little bit of
language and this is in the testimony they provided which we are in agreement with. But in essence it is a very simple Bill. It’s an addition to your Existing Validating Act that would cure the defect of a document purported to be recorded via Power of Attorney for which that Power of Attorney is not also on the land record. So happy to answer any questions about that.

SENATOR WINFIELD (10TH): Thank you for your testimony. Are they questions or comments? Representative Fox.

REP. FOX (148TH): Good to see you Josh. Quick question. Why is the date of January 1, 1997 selected, is there any reason for that?

JOSH LUKSBERG: So what happened with the Validating Act and that’s for all the Statues within the Validating Act is prior to that it was a biannual situation where every two years there was a committee that would go and say, all right here was the things that we should not validate that all these mistakes would happen in the prior two years and in 1997 they did away with that requirement and said just create an actual statute of which there are, you know, almost a dozen different situations that are just validated. So you don’t have to do the meetings every two years it just these things are defects which there is now validation. So it just mirrors the way the statue works.

REP. FOX (148TH): Great. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Are there others? Seeing none, thank you very much for your testimony.
ZACK KAMMERDEINER: Thank you honorable Members of the Committee.

SENATOR WINFIELD (10TH): We will next hear from Lucy Nolan followed by Lincoln Woodward.

LUCY NOLAN: Good afternoon Senator Winfield, Representative Stafstrom, Senator Kissel and Representative Rebimbas and Members of the Judiciary Committee. My name is Lucy Nolan and I am the Director of Policy and Public Relations for the Connecticut Alliance to End Sexual Violence. We are a statewide coalition of nine community-based sexual assault crisis services centers and our mission is to create communities free of sexual violence and to provide culturally affirming, trauma-informed advocacy, prevention, and intervention services centered on the voices of survivors. I am here to testify in support of Senate Bill 843, AN ACT CONCERNING THE UNLAWFUL DISSEMINATION OF INTIMATE IMAGES.

This is a particular heinous crime. Often the victim has no idea that they are on the web. They find out because maybe a family member has found them or somebody has contacted them because it has been put on as for revenge and it follows these people for the rest of their life because you can’t get them off the web. It’s pretty impossible and often people they have to leave their jobs, or their schooling or their family find out. I think we heard a lot before from the prosecutors and so we totally agree that there should be tougher penalties and in fact we also agree with his personal opinion that it could be even a tougher penalty than and Class D because it really does do some very
significant harm to the people who are there and to have your most intimate images out for the world to see is just horrific. And even if somebody sends that to one person who may be a partner there is no implied consent that that person can send it out to anyone else.

When we talk about youthful indiscretions sometimes these are youthful indiscretions that a young woman may send out something to a boyfriend and then for the rest of her life it is going to be out there. So we urge you to pass this legislation and to have the additional tougher penalties. Thank you.

SENATOR WINFIELD (10TH): Thank you. Questions? Representative Palm.

REP. PALM (36TH): Thank you, Mr. Chair. Hi Lucy, thank you for your testimony. It is good to see you. Back in 2015 your agency and my then agency the PCSW worked together on HBC 921 the so-called Revenge Porn Bill. What do you think has happened in the last couple of years to make it necessary for us to up the penalty? My understanding is that this Bill doesn’t change in content or scope what our previous Bill did but it does increase the penalties, right? That is essentially the difference and why is that necessary do you think?

LUCY NOLAN: Well as I read the Bill it also talks about, you know, interactive computer services. It does have those pieces in it so, but I also I think since 2015 and I was not working with the Alliance at that time, but we have seen more of this going on and so I think it is a clear, and we’ve seen since, you know, those four years what it can do to people and how it affects the victims and so I think we
heard a lot of that from the prosecutor as well and that is why I think it needs to be stronger.

REP. PALM (36TH): So the technology has broadened the ability to do damage?

LUCY NOLAN: Well I think the technology certainly has broadened it but I, excuse me, I totally lost my train of thought.

REP. PALM (36TH): No, just saying what has changed to make it urgent. Is it a greater incident of this kind of crime, is it that the technology has made it more damaging? I’m not challenging.

LUCY NOLAN: No, I just think we know more about it. I think that is what really what it is and nothing, I don’t know that there is, I know that the technology is changed, certainly everyone smartphones four years ago but I do think that it is happening more.

REP. PALM (36TH): Okay, thank you.

SENATOR WINFIELD (10TH): Others? If not, thank you very much. Lincoln Woodard followed by Daniel Lynch.

LINCOLN WOODARD: Good afternoon, Chairman Winfield and Stafstrom. My name is Lincoln Woodard. I am here on behalf of the Connecticut Trial Lawyers Association, an organization of over 1,300 lawyers and our clients to testify on Raised Bill 7126 which addresses the addition of the cellphone usage and distracted driving Statute and adding it to Connecticut General Statute 14-295 which allows for double or treble damages on the reckless or
intentional willful violation of certain enumerated Statues under our Motor Vehicle Laws.

I know you have all heard some of the testimony about the statistics and the problems of distracted driving and this is only a step towards trying to take our roads back and make it safer. I think I am sure all of you can recognize the problem of distracted driving on our roads. There are not any Connecticut statistics I could find but the statistics are alarming in that, you know, they National Highway Safety Board has done observations and found that up to two percent at any one time on the road of vehicles are somehow manipulating their cellphones and that is excluding the hands-free usage and that is really an estimate that is alarming if you think about rush hour traffic and how quickly 50 cars go by that one of them is actually engaging in this distracted activity of the cellphone let along eating or other distractions.

But this change really what it is to make the current Connecticut General Statutes 14-295 which has been around for a longtime, long before cellphones existed and it simply is a statute that allows someone who is injured in a car crash and to bring a claim for an award of double or treble damages to seek that damage as part of their case. Certainly in Connecticut if someone is negligent in operating their vehicle and harms another they seek compensatory damages and they can be doubled or trebled if the jury finds that they are acting recklessly in violation of these particular enumerated Statutes like drunk driving, excessive speeding, you know, following too closely with intent to harass and our old Bill has pulled out
certain laws that they deem particularly dangerous and I think just when you look at the list of enumerated statutes you will see that it is just a glaring omission that exists because of the new technology and it has not been amended to add that Statute.

There is written testimony also before the Committee from Kelsey Lisk who is a Connecticut resident involved in a head-on collision while the driver was texting about dinner with her husband and in mid-text crossed the centerline and I think again it is the kind of thing that we can all see when people are wavering on the roadway and you get by them and you look over and you can see they are just looking down at their phones. Again Vincent Carbone wanted to be here today, he had a funeral. He is another person who almost died in a similar type of collision and he has been through 29 surgeries and he is really has been very outspoken and written a book on sort of how distracted driving impacted his life. Again this is not a C-change, it is simply trying to update the 14-295 Statue. I’d be happy to answer any questions.

SENATOR WINFIELD (10TH): Senator Kissel.

SENATOR KISSEL (7TH): Thank you very much, Mr. Chair. Attorney Woodard is great to see you again. We had discussed this all the way back early in the summer and then again more recently after the session started. I couldn’t agree with you more. It must be heartening to see the young people that came in to testify on this Bill as well. I agree with Representative Porter though as much as we want to think that young people acclimated to the new
technology might be doing this and I am sure many of them are, there are an awful lot of middle-aged folks that, I don’t know if they have like business transactions or what they’re doing. Got to be honest, I’m shopping for food and I hear people on their cellphones, all these conversations are not like sending a rocket to the moon, it’s like honey what kind of corn should I get, stuff like that. To think that someone might lose their life or be really seriously injured because of that, you know, we need to have either carrots and sticks and this would be a way and I don’t wish any ill will, hopefully if we can get this law changed hopefully it never has to be used but we need to send a stronger message. We did it with drunk driving, we did it with reckless driving, we’ve done it with excessive speed and again I agree with you that this is a way to keep up with the technology and we do that as a legislature a lot. We’re playing catch-up with technology all the time. I mean the whole intimate images and things like that. Cellphones have so many ramifications and our laws need to keep up with protecting the public safety and their privacy as well. So appreciate you folks taking the lead on this issue. But again I want to thank those young people from Cheshire High School and the others who testified in favor of this as well. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Representative Stafstrom.

REP. STAFSTROM (129TH): Thank you, Mr. Chair and thank you Attorney Woodard for being here and certainly for all the work that CTLA has done to bring this to us. You know, as we’re kind of drawing to a close of the Public Hearing, you know,
it was kind of pure coincidence today that I think two Bills we talked most about were distracted cellphone driving and drunk driving provisions and, you know, it just strikes me and we’ve heard anecdotally that in fact driving distracted while on a cellphone in a lot of respects is as if not a more reckless activity that driving while impaired by alcohol and it seems eminently reasonable that we would addend our laws to keep up with changes in technology and make sure that we treat that offense of driving while on cellphones similar to how we treat drunk driving when, you know, it certainly comes to compensation a victim for the injuries or damages they may have suffered as a result of that distracted activity. So just wanted to thank you for that, for bringing this to us and for all the work you guys do on this.

LINCOLN WOODARD: Thank you. If I may comment just briefly also in your materials from an organization We Save Lives, Candice Lightner was the Founder of MADD and she has submitted a letter of support and she pointed out to me, she said the reason it is almost worse and more prevalent is because it is all hours of the day. Drunk driving is typically a nighttime offense and a lot of times there is not as many people on the road but this is at rush hour, and this is 24/7 and especially when the roads are busiest so I think that’s a point. Thank you.

SENATOR WINFIELD (10TH): Are there any other questions or comments from the Committee. If not, thank you very much for your testimony.

LINCOLN WOODARD: Thank you, Mr. Chairman.
SENATOR WINFIELD (10TH): And last on the list is Daniel Lynch.

DANIEL LYNCH: Good afternoon, you know, before I begin with respect to the Bill that I came to talk about I just feel the need to comment. I am always humbled every time I come to the legislative office building and invariably a session like today where, you know, one spends their time listening to the ranges of things that are presented before the Committee so I recognize what I am going to talk about does not come anywhere near the level of seriousness of the types of things you had my deep respect for the members of the Committee and everybody who serves the State of Connecticut in the legislature because it is the work you guys do that makes it all come together whether it is something seemingly trivial or something that has the gravity of the issues that are before you today.

So I came up specifically to talk about my opposition to Raised Bill Number 844 and it’s AN ACT CONCERNING LEGAL TRANSCRIPT REQUIREMENTS AND THE FEES CHARGED BY COURT REPORTERS.

I’d like to suggest that the wording, and there was no particular, you know, it was raised by the Committee so there was no particular individuals name that I could reach out to, to kinda ask some of my questions. I would like to suggest that really what we’re talking about here is kind of the tip of the iceberg. You know, Chapter 874 of our Statutes are the paragraphs, there are only nine paragraphs that talk about the transcripts and the cost of transcripts and so forth. Many of those Statutes were put into place in an era where court reporters
were per diem individuals. They were not state employees, they were per diem, they carried their own machine into the courthouse, they took, you know, stenographic record of, you know, the proceeding and at some point after the fact if individuals wanted to get an official court record then there was a table of fees that, you know, they’d charge.

A lot’s changed, things have changed not only with technology but things have changed with respect to our Judicial Branch’s practices. The individuals, unless I am mistaken, I’m fairly certain that the overwhelming majority, if not all of the individuals that are involved are employees of the State of Connecticut. And so it really raised the question that I think was presented to a Joint Committee back in July. I know that Representative O’Dea and Representative Rebimbas and a few others heard from the State Auditors. Why in the world is there a scenario where the public record which is already being paid for, these individuals come to work and part of their job as an employee is to create and maintain the public record and it is done with state equipment, you know, state toner, state cartridge, state paper, and so forth why are individuals or law firms or whomever who want to get a record of it after the fact, why do they have to actually write a check or pay cash to an individual working within the Judicial Branch? And it just seemingly doesn’t make any sense. I don’t want to, you know, kind beat the issue to death but I did file a Whistleblower Complaint on this issue four years ago which lead to the state auditors looking into this. This is something that the Judicial Branch has known
about for the better part of the last ten years. I have personally brought to their attention. I’ve raised the issue. There are issues well beyond, you know, the scope of this Committee as to why I was very persistent on this issue. But individuals essentially are being extorted, continue to pay for things that are already owned, you know, created and owned by the public and then to gain access to them again, you know, have to cut a check. So, you know, I kept my written testimony to just two pages. I’ll kind of wrap up my oral. I would just point out in my written testimony I did for the courtesy of the Committee I included a couple of links one which will take you to prior hearing where this issue was discussed, a report by the Yankee Institute as well as a copy of the Whistleblower Complaint filed four years ago on this very issue.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from Members of the Committee? Senator Champagne.

SENATOR CHAMPAGNE (35TH): I guess my question they are being paid by the State of Connecticut and then they are being paid above that for the information. Is that what you are saying?

DANIEL LYNCH: Yeah so they are a range of job titles that are used. I think generically folks sometimes say court reporter, but you know, there are court reporters, there are court recording monitors, there are stenographers. I candidly don’t know as to whether or not there are technically any stenographers left, you know, in terms of people who use a steno machine. But indeed this is a situation where a Judicial Branch employee will be sitting in
a Judicial Branch facility, be paid, you know, their hourly wage, receiving benefits, receiving their pension and so forth and while they are sitting there they got to actually transcribe the audio record from a proceeding either that day’s or a prior day’s hearings and that is a private enterprise. It’s condoned. Everybody has kind of looked the other way and by the way at the time Joette Katz who was one of the Justices of our Supreme Court she was the one who authored the report ten years ago, you know, to then Chief Justice Rogers to kind of highlight this and one of the phrases she used in that report was that it was an “epical minefield” that all the things that were wrong with this because this individual was allowed to sit there, you know, within that state facility, you know, do this extra work for private pay and then when you, you know, if you are the individual who wanted that transcript you are not writing the check to the Judicial Branch, the question was why was there a check to begin with, but you are actually cutting that check to the individual. And then of course they are printing it out, you know, using toner cartridge and office supplies and all this other stuff. So, you know, my feeling is this is a case where folks, you know, want their cake and eat it too. The Statute, while the statute may seem to have some loopholes there is nothing in the statutes that condones people being able to double-dip and it’s a shame that the Executive Director from Court Support Services sat in this very chair I think, probably same microphone and spoke to members of the Committee and was kind of very evasive about how she answered the questions in saying, “Well we’re following statute.” But there is nothing in
the Statute, in fact, quite the reverse. There are statues which prevent individuals from conducting private enterprise while on State time and using State equipment.

SENATOR CHAMPAGNE (35TH): Well that’s kind of concerning and I hope us as a Committee take a look at that and maybe find a solution to that. Thank you.

SENATOR WINFIELD (10TH): Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in. You know, I understand the problem and in fact I believe that I introduced a Bill, it may have even been the Bill that turned into this Committee Bill. But as I look through this Bill I don’t see that this Bill fixes that problem. Is that your position as well?

DANIEL LYNCH: That is exactly my position which is this, in my estimation, the wording of this Senate Bill as Raised No. 844 actually seeks to almost codify an illegal activity and give folks the ability at some future point to look and go, well see now it is actually in the Statute because now there is a table of fees. Again, there are only nine paragraphs within Chapter 874 for the Statutes. Almost every single one of them is sorely in need of an update given where we are at with respect to practices, the fact that these are individuals now, no longer per diem folks that are brought in on an as needed basis and also give where technology is with respect to things. I mean it’s almost across the board now throughout the State of Connecticut that there is an audio record and, I don’t want to, by the way I’m not attacking any court reporters and
so forth who are often the nicest folks you will, you know, come into contact with in a court context but unfortunately I’ve paid a very dear price in a number of respects for almost a decade on issues all tied around this including, you know, findings of contempt because I was forced to pay a $5,000 dollar fee for transcripts and I was found in contempt for having paid a fee that the court required me to pay. I mean it was absurd and yet I come here as respectfully as I could time after time to try to suggest, you know, ways to move things forward. So as it is proposed right now, I think that this is the absolute wrong thing to do with a little bit of effort and I am willing to work with yourself or whomever else just to kind of point out, you know, when the rubber meets the road there is some reality to the situation and I am more than happy to kind of point out where I think some of the other loopholes exist but this is something that could easily be shut down and fixed. Perhaps I go back to my statement at the beginning, it’s maybe because you guys, there is so many much more serious real issues about distracted driving and, you know, intimate images being shared and everything else, it is understandable that lesser important things slip through the cracks but I tried to stay on this issue for the better part of the last ten years and finally when nothing was happening I submitted the whistleblower complaint and when then Senator Rob Kane became a member of the Auditor of Public Accounts I followed up with him and said, kind of where does it stand, so.
REP. DUBITSKY (47TH): So is it your understanding that the reporters do the transcription while they’re on state time?

DANIEL LYNCH: They had been for quite some time. I read a document recently that the Judicial Branch has made some concerted effort to kind of, you know, they didn’t use the words end that practice, I think that they’ve worked to maybe slow it down or, you know, rein it back a bit but the wording was kind of unusual in that it raised more questions to me in terms of, you know, it’s allowed or it’s not allowed.

REP. DUBITSKY (47TH): And one would think that if they are doing it on their own time, that an attorney could hire somebody else as they would be a contractor just like anyone else. Right?

DANIEL LYNCH: Well I mean, I wish, you know, I recognize Senator, I’m sorry Representative O’Dea had some other business. I know that he got stung by this issue, you know, personally with respect to some issues in the Bridgeport Courthouse where he had, at great expense, he stated this is a public hearing so it’s easy for me to recount the details but, you know, he had to on behalf of a client expend significant sums of money to bring in an outside individual and then in the end the court didn’t even allow him to use it as an official transcript because it was not an official court reporter, you know, by the Judicial Branch. So there is a lot of very difficult issues that need to be fixed here. I don’t think any of them are all that difficult candidly but right now it’s some questionable practices which have existed for a long
period of time. We can’t change the past but we can change kind of from now forward and we are aware of it.

REP. DUBITSKY (47TH): Well the issue of having to pay a court reporter for transcribing a transcript of a hearing that was done on State time, that is one issue. Do you say there’s other issues that you think are important for this particular Bill?

DANIEL LYNCH: Yes, I do.

REP. DUBITSKY (47TH): Which are what?

DANIEL LYNCH: Given the, if you were to step through Chapter 874 for the Statutes, each of the paragraphs it is clear from a reading of them that is has been sometime since they’ve been looked at and most obvious is the fact that the practices change with respect to individuals who were per diem, perhaps paid $150 dollars to come to court one day with their own equipment, do the transcription and by the way they would actually own the record which raises another question because you have individuals who own the record. Those practices I think to a large degree have been resolved. The State of Connecticut now owns the record. To this very day we have issues. I mean, I’ve actually been denied to this very day, I’ve been denied access to all the full notes. Now you’ll notice in the court context today, especially those who are attorneys or if you have to litigate, if you go to court today and the court reporting monitor is usually one of the first people in the room, turns on the equipment, gets it set-up, puts a disk in the drive and so forth. Throughout the proceeding you see them typing. They are not actually typing the
transcript it is being audio recorded but what they do is they tag the file and they will tag the file with any type of significant notation, right. There is an individual on the stand or somebody introduced an exhibit, the exhibit marked as full or it’s, you know, there’s a whole range of things that take place. That’s actually according to Statute that’s actually part of the official court record, yet if you try to get that from the Judicial Branch today it is denied. They will not give that to you. They will give you a copy of the audio.

REP. DUBITSKY (47TH): On what basis do they deny?

DANIEL LYNCH: No reasonable basis in my, I mean just an outright denial. No we don’t have to provide that. I’ve pointed out the Statute, the word is no. You can challenge it however many ways, you know and so.

REP. DUBITSKY (47TH): But for the purposes of this Bill do you have a pro, any proposed language that you would suggest line-by-line?

DANIEL LYNCH: I don’t for this particular one because this Bill as it is being proposed is to introduce a new paragraph into the Chapter, you know, the relevant Chapter and so it would add a tenth paragraph to the nine that are already there. My suggestion was to oppose the wording of it in its entirety the way it stands right now because I actually think it takes, I think it takes us one step further in a direction of an activity that is illegal as it stands. And what I am willing to do, I have significant notes on the issue although I don’t have something that goes, you know, line-by-line for each of the nine but certainly can commit
to providing something within a couple of business
days’ time if it would help you and other members of
the Committee to kind of dig in. I don’t think it
is a tremendous amount of work.

REP. DUBITSKY (47TH): Well I think it would
certainly help me. I am sure the Committee would
appreciate if you would provide something.

DANIEL LYNCH: I would be more than happy to do
that.

REP. DUBITSKY (47TH): Thank you. Thank you, Mr.
Chairman.

SENATOR WINFIELD (10TH): Thank you. Representative
Stafstrom.

REP. STAFSTROM (129TH): Thank you, Mr. Chair. Mr.
Chair, I have been reading through this during the
discussion and recalling our previous discussions I
just want to make sure folks are clear because the
terminology that is used can be very confusing.
There is sort of three types of people I think that
have been discussed in this conversation. There is
an official court reporter which is the person
appointed as the official court reporter for a
particular Judicial Branch. They are State
employee, employed by the Judicial Branch, appointed
by the Judge of the Superior Court to be the
official court reporter in that JD. The folks who
work under them are the ones who sit there you see
typing in the court rooms in the Judicial Districts
the judicial area court rooms around the State are
called court reporting monitors and that is in the
Statute. They are the people that are actually
running the recording equipment and the like. Those
are the two types of job functions that are State employees, paid for by the State working under the auspices of the Judicial Branch working in the courtroom. There is a third type of person out there that is called a court reporter which is a little confusing. The court reporters generally I think entirely, do not actually do not work for the State of Connecticut they work for private companies or they work for themselves and they are the folks who the individual lawyers hire in particular cases to come into their office and transcribe depositions or mediations or arbitrations or other types of proceedings. So I just want to be clear because as I read this Bill this Bill specifically says in the last line 77 to 79 that the provision “shall not be construed to apply to an office court reporter” and I think actually in fact the way it defines legal proceedings, legal proceedings are defined as a deposition, an arbitration, a mediation or similar proceedings incident to or inchoate or pending legal matter.” So it outside. This Bill does not talk or address those folks working for the State of Connecticut, it only applies to those private citizens, those private companies that go take depositions if I am reading the Bill correctly. We do have another Bill which I think we will hear later on, on this session being proposed by the Judicial Branch that deals with the court reporting monitor issue that I think some folks have touched upon today, but I just, for the record unless the witness disagrees with me, my reading of this Bill and my understanding of this Bill is this is not, this particular Bill before us Raised Bill 844 deals with those private employees outside of the Judicial
Branch and is not addressing or impacting State employees.

DANIEL LYNCH: I’m not sure that I would agree or disagree candidly because I think there was enough of ambiguity in the language that was being suggested which is what candidly caught my attention. Unless I’m mistaken and something has changed, I don’t believe that the court reporting monitor appears anywhere in our Statutes and so it is the way that certain phrases were defined. I mean you know, raises the question. I think that took, and I don’t have it actually in front of me, I have my testimony but not the language, it seemed that they were almost trying to change the definition of certain things that are impacted throughout Chapter 874 and that’s why I felt it was a mistake to be introducing yet another new paragraph and then potentially leave the other nine set aside as it without actually clarifying and correcting things. There is some very old language in there understandably. I mean things change. You can’t every session, you know, kind of turn everything over but when this one is being touched it think it becomes important and I, you know, I’ve accepted the offer by Representative Dubitsky, I’d me more than happy to kind of just highlight those issues. I think I’m probably closer to it than most folks here for my own reasons and I’ll try to do it as objective a basis as possible and just put it before whoever you folks make sense.

REP. PORTER (94TH): Thank you and I think this question will be more, it’s a question that came up after hearin Representative Stafstrom just speak. I’m just wonderin if you have a public defender who out of the three you just described the official court reporter, the court reporting monitor and then the court reporter, would a court reporter be someone that would transcribe something for someone that using a public defender?

DANIEL LYNCH: I can’t, I really don’t know how to answer that question because I’m not sure, you know, maybe Representative Stafstrom.

REP. PORTER (94TH): I’m sorry, I thought I made it clear that was for our House Chair. Okay and it came because of what he just said, I was just wonderin if he could answer that question for me. Through you, Mr. Chair.

REP. STAFSTROM (129TH): Thank you, Representative. Generally if the public defender was taking a deposition on a case which is somewhat rate in criminal cases, but if they were taking a deposition in a case they may hire the court reporter to transcribe that deposition but generally speaking court reporters work in civil matters and transcribe depositions in civil cases, that is probably the bread and butter of their business.

REP. PORTER (94TH): Thank you for that. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Thank you. Are there any others? Seeing none, thank you very much for your testimony. So we have no one else on the list. This would be the opportunity for anyone who has not
signed up to testify. Are there any individuals who would like to? Once, twice, well then I will call this Public Hearing to an end and thank you all for your attendance.