SEN. WINFIELD (10TH): Good morning. I’m going to begin the public hearing of the Judiciary Committee. Welcome and good morning. I’m going to read the obligatory announcement. Please -- Let’s see, in the interest of safety, I would ask 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 an emergency, the door behind legislators can also be used. In the event of an emergency, please walk quickly to the nearest exit. After exiting the room, go to your left and exit the building by the main entrance or follow the exit signs to one of the other exits. Please quickly exit the building and follow any instructions from capitol police. Do not delay and do not return unless and until you are advised that it is safe to do so and 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.

So we are going to begin. We’re going to start the first hour with public officials. After that point we will alternate. I will remind people that when you testify, you will be given three minutes. When the bell rings, please make an attempt to wrap up. If you go too long, one of us will remind you. We will begin with Kathy Devlin. Good morning. Just hit the button in front of you so that the mic is activated.

KATHY DEVLIN: My name is Kathy Devlin. I’m a selectman in the town of Somers, Connecticut, and we’re here today to help recuperate some of the costs of medical conditions that we’re providing to the Department of Corrections and to be able to provide adequate fire and life safety, not only for the Department of Corrections, but for the town of Somers. Very quickly, the history is that around the year 2000 or so, the Department of Corrections decided to close down the fire department that they had at the prison. It’s wasn’t probably cost effective. It kind of assumed the responsibility and the liability and we try to prioritize for both, as I said, fire and life safety from both situations.

Over the last four years, we’ve noticed a considerable increase in the number of calls to the prison, somewhere around 250 percent increase and we’ve realized after having a meeting with Senator Kissel and the previous commissioner, Scott Semple, that part of the problem is that Osborn and Northern are becoming more of the facilities for lifetime
residents. They’re not going anywhere and they're aging in place and it’s like we’re -- they’re almost going to have like a nursing home situation in some of those cases and that attributes a great deal of the calls that we’re making to the prison and we figure that in-place population, we still want to provide lifetime safety for them, as well, but we do have that legal responsibility as being the first to have to make, and we’re obligated to make, that service. We want to continue to make that service.

We’ve looked just recently to a new proposal coming through the Department of Corrections and that is that over the next four months or so, they want to have agility testing for applicants who want to start to work in the Department of Corrections and then they would need the town of Somers to provide an ambulance for eight hours a day for over four months, so we have two ambulances in the town of Somers and we’re going to try to balance the service we can give the prison and the town of Somers, but we’re going to be strained for ambulances and some of our residents are wondering what we would do if there was a breakdown because it’s absolutely the law that is long as they’re doing agility testing, the prison needs to have that ambulance there.

As this increases, we’re hoping that we are going to be able to continue and we’re looking for our request, which was some sort of help in getting some ambulances for the town of Somers.

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

SEN. KISSEL (7TH): Thank you very much, Chairman Winfield. Kathy, thanks for coming up. Just so we can keep the record straight, which bill exactly were you testifying on?
KATHY DEVLIN: Do you have the bill number? We left it in the car. Sorry, can you help us, Senator Kissel? Oh, you have it here? Thank you. Oh, it’s Senate -- S.B. --

REP. STAFSTROM (129TH): 1114?

KATHY DEVLIN: 1114.

SEN. KISSEL (7TH): Okay, great. Thank you, Chairman Stafstrom. Okay, and for the record, chief, could you just state your name and title?

JOHN ROACHE: John Roache, chief -- fire chief for the town of Somers.

SEN. KISSEL (7TH): Okay, so we can get this straight. Let me just tell you where I am. Well, first of all, Chief, could you estimate about how many calls that either Osborn or Northern combined were made last year?

JOHN ROACHE: Correct. So actually there are three correctional facilities attached, there’s Northern, Cybulski, and Osborn. Last year there were over 140 calls, 9-1-1 calls, for emergency services.

SEN. KISSEL (7TH): Okay, and Kathy, when is this four-month period supposed to start where they need an ambulance eight hours a day?

JOHN ROACHE: It actually already started. It started in February and is going to be continuing through May.

KATHY DEVLIN: Through May.

SEN. KISSEL (7TH): And part of the issue that we discussed last year with former Commissioner Semple is that Osborn, because it has so much medical equipment and was essentially designed for those
that have medical needs as well as to, I would think, a lesser extent, Northern, as the state has an aging population so does the Correction Department has an aging population and is that your understanding as to why there’s an increased number of calls to these facilities?

KATHY DEVLIN: Yes, which brings to mind also that the other prisons, the ones that are in Enfield, as those prisoners become ill, they're being shipped to Osborn as well.

SEN. KISSEL (7TH): Right.

KATHY DEVLIN: Because that’s now become the medical facility, so it does increase, you know, the responsibilities the town of Somers has.

SEN. KISSEL (7TH): Okay, so just to let you know where I am on this, I have met with the new under-secretary for criminal justice at the Office of Policy and management and in our initial discussion, Osborn came up and he seemed very open-minded as to the added financial pressures and public safety pressures on the town of Somers. Last week, I believe it was last week, I met with the brand-new commissioner of corrections, Commissioner Cook, very nice guy, came right here from Utah. The number one issue that I had for him was Osborn. The way we’ve left it at this moment is the new commissioner, the under-secretary, myself, the first selectman, yourself, chief, if you want, but we want to set up a tour of Osborn, all of us, for some time and they gave us a couple of dates, but they weren’t the greatest for me so I asked them to go back and see if they can come up with a couple more, but we’re just talking about the next two or three weeks.
The idea would be to do a tour of Osborn and then go back to the town hall and see if there’s anything that can be done to help alleviate the concerns of the town. The idea of trying to get, for example, two fire trucks, I don’t know if anybody in the room or yourself watched Governor Lamont after the bond commission meeting yesterday, but he reiterated that we are on a debt diet. He intends to reduce the bonding by about a billion dollars for the next two years, a billion each year, so it’s substantial. He doesn’t intend to have bond commission meetings every month. He said the next bond commission meeting won’t be for two months, but there may be other things that we can do.

There may be some things within the Department of Corrections that the new commissioner has some leeway with as far as reimbursement formulas for trips out to the facilities, maybe we can do something with that, but I wanted this bill in place and I’m going to work very hard with the co-chairs to try to get it out of committee so we can keep this dialog going, but right now, this is my number one priority for the Department of Corrections and they know it. So I appreciate your testimony and while we’re here, is there anything more you want to add to the record?

KATHY DEVLIN: Well, I want to thank you, Senator Kissel, for doing all you can for the town of Somers. If we just could even get one ambulance, if we had a breakdown, we’d be able to probably be able to protect most of our -- between the prison and the town and having that meeting with you we’d definitely welcome and tour with you, as well.
SEN. KISSEL (7TH): Anything more, Chief, that you want to add for the record?

JOHN ROACHE: I just, again, thank you for your time and consideration. Again, it’s written out just trying to balance the needs between the community and the increasing demands of the prison system requesting of emergency services.

SEN. KISSEL (7TH): And for what it’s worth, the new commissioner brought some of his deputies, one of which was incredibly familiar with Osborn and said that this is not anecdotal, this is demonstrable. They understand that as more and more need at Osborn, and it doesn’t look like it’s going to end anytime soon, so Mr. Chairman, thank you very much.

REP. STAFSTROM (129TH): Thank you and thank you, Senator, and thank you, First Selectman, Foreman, and Chief for your advocacy for your time. I just -- just super quick, how much -- Do you know off the top of your head how much in payment in lieu of taxes the town of Somers gets for hosting the prisons?

KATHY DEVLIN: Well, we have -- we’re under a pilot. Our pilot has dropped significantly. It was at one time 85 percent. I don’t think last year we had 30 percent. We went down from millions to like 1.5 something.

REP. STAFSTROM (129TH): Yeah, and unfortunately Somers is not alone in that. Certainly a city like Bridgeport that I represent faces similar struggles with hosting a lot of state-owned property and state services that both the state and the entire region rely upon, so I certainly hope that you and the delegation from that area will continue to help push
for a state budget that fully funds pilots because yet I think all of our -- a lot of our municipalities around the state struggle from a lack of pilot funding which leads to some of this more often issues with certain municipalities and, you know, which results in increased property taxes and the like to those towns which have a heavy concentration of state-owned properties.

KATHY DEVLIN: Well, that’s for sure. They do -- Our taxpayers are, you know, worried that they’re assuming a lot of the responsibilities and I -- we really don’t have a high tax rate, but they’re not accustomed to what the decreases have been.

REP. STAFSTROM (129TH): No, certainly your -- your constituents are justified in that. Like I said, I thinks it’s certainly the way we’ve structured this state, there are certain municipalities that tend to bear most of the burden for the rest of the state when it comes to state-owned property and taking that property off the tax rolls and I appreciate you highlighting one stark example of that today, but certainly there are many throughout the state, so thank you. Senator Kissel.

SEN. KISSEL (7TH): Thank you very much. Along the lines of what Chairman Stafstrom said, what’s the population of Somers?

JOHN ROACHE: So the population -- Well, there’s the inmate population and the residential population, so there’s a little over 8,200 residents and then we have approximately 3,400 inmates, as well.

SEN. KISSEL (7TH): Right, so the ratio in Somers is 8,200 residents to 3,400 inmates, so it’s a little
town that’s doing a lot for the state of Connecticut.

KATHY DEVLIN: Thank you.

SEN. KISSEL (7TH): And along the lines of Chairman Stafstrom said, it’s my understanding that the Appropriations Committee will be listening or obtaining testimony regarding pilot on Friday, so I’m going to try to submit some testimony on behalf of several of the communities that I represent that have prisons. Thank you both. Thank you Mr. Chair.

REP. STAFSTROM (129TH): Thank you. Further questions, comments from the committee? Seeing none, I appreciate you both being with us.

KATHY DEVLIN: Thank you very much.

REP. STAFSTROM (129TH): Next up will be Christine Rapilio, Chief Public Defender.

CHRISTINE RAPILIO: Good morning, members of the Judiciary Committee. I’m Christine Rapilio, the chief public defender. I’m here to testify on Raised Bill 1112, AN ACT CONCERNING COMMITMENT OF A PERSON FOUND NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT. This is not a proposal that our agency had requested to be brought forward, but it is similar to one that we actually raised last year. We think that this is important. What this bill would do is address situations where an individual who has been committed to the Psychiatric Security Review Board is not guilty by reason of insanity and serves the entire term that they would have been subject to had they been found guilty of the crime.

Currently, those people continue to be held by the board, so they would max their sentence out and then
continue to be held in secure custody by the PSRB just with a review by the board, so this affects about 30 people. As I indicate in the testimony, it’s not a large number of people, but it is a significant injustice. Someone who would be subject to a maximum sentence of ten years on an assault, if they go not guilty by reason of insanity so they can get the treatment, we have people who have maximum sentences of ten years who have been held for an excess of 15 and as long as 20 years.

So what this would do would, at the time the person was maxing out on their sentence, allow the prosecutor if the person was still deemed to be a danger to themselves or the community to go in and seek a probate court commitment that could keep the person hospitalized. So that’s a little bit -- a different level of review. The Psychiatric Security Review Board has great discretion in keeping people in and the probate court is a slightly different standard of review, so what this would do is people would serve their time, so would serve up to the maximum time that could get for the crime they were charged, and if there was some mental health reason that they needed to be held, that would then go over to probate court which would be the case for any other citizen who wasn’t charged with a crime so the people would serve their debt so to speak and then if there was still a need to provide secure treatment, it would then go over to the probate court.

So again, this was raised in response to some of the issues that had happened at CBH. This is not our proposal this year, but it is something that we have been interested in discussing and I’d urge the
committee to support this proposal. I’m happy to answer any questions.

REP. STAFSTROM (129TH): Thank you. Questions for Christine Rapilio? Representative Rebimbias followed by Representative Horn.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman, and good morning.

CHRISTINE RAPILIO: Good morning.

REP. REBIMBAS (70TH): Regarding the concept of going to the probate court for further commitment, do you know of any other states that have a similar program?

CHRISTINE RAPILIO: I don’t and I believe that our psychiatric security review board might be somewhat unique. I don’t think it’s the only one. I can certainly get you some information on that, though, we could look that up.

REP. REBIMBAS (70TH): And if you wouldn’t mind. And the process in and of itself, do you see that they would allow other people to testify, such as victims of any crime, things of that nature?

CHRISTINE RAPILIO: So in probate court, it would be an open proceedings so that people would be able to be noticed. I don’t know that this includes language to ensure that a victim be notified, but I think it would be completely appropriate to put that in here.

REP. REBIMBAS (70TH): Thank you for your testimony. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Representative Horn.
REP. HORN (64TH): Thank you, Mr. Chair, and nice to see you again.

CHRISTINE RAPILIO: Good morning.

REP. HORN (64TH): I wonder if you could talk just a little bit about what happens -- what happens now? Is there -- If somebody serves, you know, is not guilty by reason of insanity and is there for what would have been, you know -- is there a review process in place at an automatic period of time or?

CHRISTINE RAPILIO: So there is a review process in place. When somebody is committed to the PSRB, there are regular reviews and those reviews will look to see does the person still need the level of confinement that they have, so there’s different levels. There’s Whiting, there Dutcher, which is a step down. Some folks who are under the supervision of the board are actually in the community under supervision, so that happens during the period of commitment, but the period of commitment can extend beyond what would be the maximum period of the crime for somebody so if -- and the standard with the board is really heavy weighted towards keeping the person under the most secure confinement.

Probate court is a different standard. You have to meet a higher level. You’ve really got to show that that person presents a present risk of serious injury to themselves or a member of the community and what happens at the PSRB is it, you know, it’s very weighted towards keeping somebody under the most heavy amount of confinement. So what this proposal does is once the person has served the maximum term they could have gotten for the underlying crime that they were found not guilty by
reason of insanity for, it would flip to the probate standard.

REP. HORN (64TH): That’s very helpful, thank you. Thank you, Mr. Chair.


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

CHRISTINE RAPILIO: Good morning.

REP. SMITH (108TH): Have you received any feedback from either the state’s attorney’s office or the probate courts as to this process?

CHRISTINE RAPILIO: So we haven’t heard from the probate courts, but part of -- part of the proposal that was included this year and that we had included in our language last year was that we would have the lawyers that are currently representing the individuals at the PSRB provide counsel at the probate court. We think it’s more appropriate for the individual, it’s a cost that’s already assumed in our agency so it wouldn’t result, we don’t believe, given the number and the caseload there any additional fiscal cost. The state’s attorney’s office would prefer to have the standards -- to have it be the board standard and continue to be able to have the people helped by the board, so we have talked to them and they’re not in support of this.

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

REP. STAFSTROM (129TH): Further questions? Seeing none, thanks again for your testimony.
CHRISTINE RAPILIO: Thank you very much.

REP. STAFSTROM (129TH): Next up will be Representative Sredzinski.

REP. SREDZINSKI (112TH): Good morning, Chairman Stafstrom, Ranking Member Kissel, Ranking Member Rebimbas, and the members of the Judiciary Committee. My name is Representative JP Sredzinski from the 112th District, Monroe and Newtown. As some of you know, I operate a 911 dispatch center for the town of Stratford in my full-time job, so I deal with first responders on a daily basis. Joining me today is Stephen J. Johnson who is my co-supervisor at the center. He also does a lot of work with first responders when it comes to mental health and chaplaincy, so I’m going to turn it over. We’re here in support of House Bill 7394.

STEPHEN JOHNSON: Thank you, JP, distinguished members of the Joint Committee on the Judiciary. My name is Stephen James Johnson and I’m here today in support of Raised House Bill 7395, AN ACT CONCERNING THE PROTECTION OF CONFIDENTIAL COMMUNICATIONS BETWEEN A FIRST RESPONDER AND A PEER SUPPORT TEAM MEMBER. It is my honor to testify before you today as a first responder and also an ordained pastor who provides chaplain services to several departments. I also humbly represent many silent and first responders who are facing stigma, shame, and fear of potential negative impacts on their success in their profession who have chosen to privately support this initiative, but publically remain quiet.

Each and every day Connecticut’s first responders are exposed to death, grief, suffering and injury. When we chose to follow our callings to public service, we understood that we would witness and
endure profoundly challenging circumstances. We are strong, but we are human and the prolonged exposure to the tragic and horrific combined with both the impacts of cumulative and critical incidence stress takes it toll on mental and emotional health. The data bears this out. The Journal of Emergency Medical Services reports that 37 percent of EMS respondents have contemplated suicide and 6.6 percent have actually attempted suicide. This is ten times greater than the national average for the American adult.

The Ruderman White Paper on mental health and suicide of first responders tells us that firefighters are twice as likely to experience posttraumatic stress injury and the Substance Abuse and Mental Health Services Administration reports a 46.8 percent of firefighters have reported suicidal ideations and a shocking 15 and a half percent have actually reported a suicide attempt and the data for law enforcement is equally as disturbing. We see higher rates of depression and they are more than one and a half times more likely to attempt suicide and for the past few years, suicide of first responders have exceeded line of duty deaths.

Peer support is one of the most effective tools we utilize to aid each other and the purpose of a peer support team is to aid a first responder through times of both personal and professional crisis through the use of specially trained first responders and the unique and familial profession, first responders are much more likely to seek help through one of their peers, but they are concerned that the help they seek from their trained peers, the communications that they have between the two of them, are indeed confidential. This bill if passed
removes this fear that the most vulnerable feelings of Connecticut’s first responders can be forcibly divulged. I thank you for your time and I’m willing to answer any questions.

REP. STAFSTROM (129TH): Thank you. Questions?

SEN. KISSEL (7TH): I want to thank both of you for bringing this very important issue before us. It’s similar to another bill we heard probably about a month ago at least regarding police officers and their hesitation to seek counseling and to be able to talk about issues that they have for fear of losing their weapon and then it puts them in a whole different position from being able to get out and do the job that they love. My brother, Michael, passed away I think very untimely at the age of 51. He was for many years an emergency medical technician and I think just the things that he saw on an almost daily basis weighed heavily on him.

You know, he told me one time that a guy got hit by a train and he rushed to give him CPR and the brain came out of the back of his head and just the stuff you see if you’re the first one on the scene and your whole mindset is to try to help someone, you know, you're the one who sees stuff that the rest of us don’t see on a daily basis and he was a really Good Samaritan, so you know, whether it’s suicidal ideations, which he did not commit suicide, but unhealthy behaviors or other ways to try to cope with the stress of that kind of job. It’s hard. On the one hand, these are individuals that are Good Samaritans, that just they have a calling to help their fellow men and women and yet if you're one in these first responder professions, you're seeing a
lot of stuff that stays with you well after what you did that day and so I appreciate the intent of this bill. Thank you, Mr. Chair.


REP. REBIMBAS (70TH): Thank you, Mr. Chairman, and good morning. Thank you so much for being here and for bringing this to our attention and I think along the lines of what Senator Kissel was saying, I mean, these are the most horrific scenes that obviously these professionals have to endure and then there’s the public pressure of truly they are the superheroes of the community so there’s that added pressure that if you have someone who seeks out help, you know, they may feel less than or some kind of weakness, so that’s an awful lot to have to endure, but they truly are our superheroes, but certainly that comes with a lot of that pressure. If you could just kind of elaborate a little bit about the importance of the confidentiality aspect and then whether or not you foresee any specific situations where that may have to be violated or waived in that regard.

STEPHEN JOHNSON: Sure. Firstly, there is that stigma, the fear of exposing weakness, the professional impact that can have on you. We handle stress, that is what we do professionally, and there’s a perception that if there is an exposure that our ability to handle stress is negatively impacted or that we are somehow not rising to the standards that may be set or that maybe our holster has set that may not be in black or white that we will get passed for promotions, that we will get past for opportunities of increased responsibility,
that we will be deemed as unreliable to be in the field, will you have my back if you're crumbling, these types of things, but the irony of it all is that the whole group collectively of first responders, they're all experiencing a lot of the same emotions.

It’s just -- It’s a concern that if for some reason, for instance, if I were to be up for a promotion and I were to be responsible for an entire shift, that’s a lot of responsibility and if it were to be learned that the things I shared with a peer support team member that perhaps I’m feeling overwhelmed, perhaps I’ve been feeling stressed, perhaps things are tense at home because of things I’ve experienced on the job, if those communications were to be shared, I would -- there could be some ramifications professionally. There’s ramifications in the sense that there’s that fear of stigma that still exists that we are laboring so diligently to overcome and it’s time that we do the best that we can to allow first responders to do what they have to do the most comfortable with, just talking with one another, and doing that with a colleague that understands.

Ultimately, this is all about mental health. Eighty percent, and we talked about suicide before, 80 percent of pre-suicidal conversations -- Let me rephrase that. Those who are planning to commit suicide, 80 percent of them give clues. They give clues verbally to the first responders, their fellow peers. Peer support teams, they get trained, they get mental health per our state, they get critical and stress management, they get a set of skills that can recognize those things. We could prevent some of this stuff and on the second half of your
question, Representative, you’ll have to remind me because I’m getting a little too passionate.

REP. REBIMBAS (70TH): Not a problem. I think you were kind of maybe going towards that in your response is when is there a need --

STEPHEN JOHNSON: Acceptance, yes, I’m sorry.

REP. REBIMBAS (70TH): Yeah, the confidentiality, which I think you had indicated potentially the communication regarding suicide.

STEPHEN JOHNSON: Right, and the intention of this bill would never be to remove anything about mandate a report, right, so anything about child abuse and neglect, anything about elder abuse and neglect, suicide, threat of harm to self in any way or harm or self to any other person. If someone were to come, God forbid, and be struggling with substance use and they would present intoxicated on the job, we would still have to address those things. Public safety is of the foremost importance and the men and women who put on a uniform every day and serve their communities agree with that and I know that peer support teams are not looking to hide anything. We’re looking to just provide support so people can retire from this job and love their families and enjoy their careers.

REP. REBIMBAS (70TH): So thank you for that response. Many times we as a committee, we always think well, does something really need to be legislated. Could you kind of just let us know the importance of the confidentiality if that’s the reason why we need to have something like this in protection in statute?
STEPHEN JOHNSON: Sure. And I think in this, I’ll probably get into a little bit of the nitty gritty, but right now departmental policies are the only things that protect a peer support team, so let’s see ABC fire department decides that they want to have a peer support team. They by department regulations say that the communications are confidential and then for some reason, something comes up in the process administratively, something happens with an employee, something happens and there’s a union issue, something happens on a call, the only thing protecting anything that’s said between that first responder and the peer support team member is the departmental policy that can change very quickly.

And so now for instance, let’s just say that I, JP here, is my peer support. I’m an EMT on an ambulance and I say I’m struggling at home, I’m really having a hard time, and I just feel distracted lately and later on throughout the day, I, through no fault of my own, the ambulance is struck by another car and a collision as I’m responding to an incident. And then they find out that, hey, wasn’t Stephen just talking to JP with peer support. I wonder what kind of frame of mind he was in and they pull JP aside and said we just changed the policy. You’re now required to tell us everything he’s told us and now JP goes well, Stephen said he was feeling a little distracted.

Now we can’t prove that that had any affect on the collision and it likely might be that we’re very well trained on how to drive emergency vehicles so it likely wasn’t that at all, but now that brings into question everything that was said and I could see that being far reaching, civil proceedings,
divorce proceedings, family court proceedings, and I can think of only a few more examples, but just to save time, I think you get the gist of where I’m going with this, that we really want our first responders to feel that the communications they have with their fellow peer supporters remain between the two of them, given the exceptions we’ve already discussed.

REP. REBIMBAS (70TH): And two questions if you don’t mind, is there any legislation that’s similar to this in other states and then what -- is there a differentiation that could be made between the peer supporter and just another individual that you work with? I mean, you indicated that there would be special training, things of that nature. Is that the distinction that there’s going to be between obviously a conversation that you would have with your peer supporter, JP, versus some other conversation that you're just going to have with a co-worker?

STEPHEN JOHNSON: Sure. There is -- There are other states who have mild legislation, the state of Washington is one of them. I believe, and I may be misspeaking, I want to say Oklahoma has it, don’t hold me to that, but I do know that there are other states that have legislation on the books very similar to this and the other half of that, yes, we want our peer supporters to be actually trained. We prefer, and I think this raised bill excludes those that are equally involved in an incident, so for instance, an officer involved shooting where there’s going to be a lot of investigatory things going on. You never want to prohibit or present any thorough investigation, so it would be established, trained, department-appointed peer support people who have
gone through a minimum training standard. Now that minimum training standard is likely going to be department specific. I would be open to further discussion as to what that should be, but yes, they would be separate and apart from the average day-to-day colleague that you're working with.

REP. REBIMBAS (70TH): So thank you for your responses and for being here today and to both of you for the great work that you guys do. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you. Further questions from the committee? Representative Porter.

REP. PORTER (94TH): Thank you, Mr. Chair, and thank you so much for your testimony today. I mean, I do have people in my family that actually do this kind of work and I can see personally about the impact that it's had and the manifestation of it is a lot of -- what I've experienced is self-medicating, you know, so I see this as a preventive measure, right, because there's a stigma, right, there's certainly a level of just feeling inadequate, like I'm supposed to be Superman, I'm supposed to be Superwoman, I shouldn't have these issues, but you said it in the beginning, we're all human and what they're witnessing is -- I don't know how they do it and I've had someone die in my arms, so I do have that experience, from a gunshot wound, and the trauma and the things that come with that for me, they're there, but not to the degree of someone that goes out daily and does this work and you're impacting trauma on top of trauma and never having an opportunity to have professional outlet to process what you're going through. I think it's not only
good for the person, but also for the community because the thing that concerns me is how this shows up when people aren’t getting the help that they need.

STEPHEN JOHNSON: I agree.

REP. PORTER (94TH): And they deserve, right, that’s the other thing for me. There’s no shame in this and I think that this should be part of the narrative and that we need to be able to have safe spaces where we can have more of these conversations and that people can understand that, you know, yes, how much is given, much is required, and that’s why I take it seriously that it is our responsibility to make sure that they have these outlets and that they can get the help they need without the shame and without the stigma because it’s a ripple effect and it happens in the home, right, the family gets subjected to behaviors that are a manifestation of not being able to process, not having an outlet, and then the community is also impacted, the job is impacted, their peers, the people they work with are impacted, so you answered a lot of questions that I did have, Representative Rebimbas asked them, and I’m glad to know that this doesn’t impact mandatory reporting because I think that is important and that was one of my questions and the way that it’s been described and what I see in the bill, I am in support of this bill, so just thank you again for bringing two different perspectives as, you know, someone that ministers, right, and then also as someone that does the job and thank you for bringing them forward.

STEPHEN JOHNSON: And Representative, if I may, firstly, you joined a club that day when you held
someone in your arms and you died and that is a profound trauma and firstly, I’m sorry that you had to experience that. You have to forgive me for not knowing much about your professional background, but I do know that that experience brings you into a club that very few are a part of and that if you were to share that experience with others, they may be able to empathize as best they can, but nobody can better empathize than someone else who has been there. I have held many people as they’ve died and I have seen horrific things that I work out between God and me on a routine basis and so I want to thank you for sharing that and unfortunately, welcome you to that club and I’m very sorry that you have to be a part of it and also to say that it’s not just these critical incidents. It’s the cumulative stress as well and I’m sure you’re aware of long hours and long shifts and all those things compounded with the trauma, so I thank you very much for your comments and I appreciate your efforts.

REP. PORTER (94TH): You’re very welcome. Thank you, Mr. Chair.

REP. STAFSTROM (129TH): Representative Horn.

REP. HORN (64TH): Thank you, Mr. Chair. I join in all of my colleagues thanking you for being here and presenting this issue. I want to ask a question about -- I had a conversation yesterday or earlier this week with a mental health professional who provides, you know, speaks with first responders and what she pointed out to me is that in addition to, you know, the cumulative stress, because of privacy concerns these are often issues that you can’t tell your family, you can’t tell other colleagues and so it’s kept within a very, very tight circle and so
giving them, you know, encouraging them to have access to, you know, trained peers or professionals is even more important. Is that --

STEPHEN JOHNSON: Yes, I would agree with that very much. And we do speak in generalities when we speak with one another about these things to protect the privacy of those to whom we’ve responded, so we often -- I went on a call a week or so ago and this is the variety of circumstances, but you know, we don’t get into any of those other issues as well, so even amongst each other, we’re very careful to keep the things that should be locked and secure locked and secure, so yes, it’s true and also just as I was speaking before, it’s the privacy issue combined with the experiential issue, that no one understands better what you've gone through than your peer and also too, these peer support teams work in conjunction with mental health. The training is not to replace mental health. It’s to say hey, listen, perhaps you’re gone to a place where we can make a referral to a mental health provider and we want to work in complement what they do and certainly not replace.

REP. HORN (64TH): Thank you. Thank you, Mr. Chair.

REP. STAFSTROM (129TH): Thank you. Further questions from the committee? Representative Smith.

REP. SMITH (108TH): Thank you, Mr. Chairman. Thank you, Representative, and thank you, sir, for coming up and sharing your testimony today. Thank you for your service as well. There’s just a few questions based on some of the questions already asked. The members of the support team, they are all fellow firefighters or fellow emergency medical personnel? Is that correct?
STEPHEN JOHNSON: Yes. Typically, we try to keep the teams, depending upon the circumstance, fairly homogenous, so if we’re going to help a firefighter who or a team of firefighters who need peer support, we want to bring in some firefighters along with them, law enforcement, EMS. Sometimes when there’s been an incident where there’s been multiple departmental response, we might diversify that team a bit. Also on a peer support team there is a mental health provider that would come along to ensure that that goes adequately and smoothly. Not always, but in those larger scale events and they may also involve clergy.

REP. SMITH (108TH): Is that standard, so every fire house would have typically a peer support group?

STEPHEN JOHNSON: It’s not standard now. I would say that it is becoming more relevant and prevalent. I think that fire, police, EMS administration is recognizing the urgency of this and those that don’t have established peer support teams do have some type of critical incident management plan in place or an employee assistance program, however, there’s some aversion to the methods of yesteryear with critical incident stress management and on behalf of first responders feel like it’s the one and done method doesn’t work. There’s some aversion to employee assistance programs and fear that information may be inadvertently leaked to an employer, so while peer support is becoming more prevalent, no, it is not standard in every department and it is my hope it will be one day.

REP. SREDZINSKI (112TH): And if I can just add, Representative Smith, there is another bill that should be getting through the legislature hopefully
to the floor at some point this year that will require peer support teams with every agency, so we’re looking forward to getting that discussed as well. Thank you.

REP. SMITH (108TH): Thank you and these peer support teams in this bill and the other bill hopefully will get through as well. Are they trained clinically at all to deal with these types of issues? I understand they're dealing with them on a day-to-day basis, but is there any type of training?

STEPHEN JOHNSON: The training that they -- Yes, there is training. The training that they receive is -- it’s going to be mental health, first aid, suicide prevention, intervention, post-vention, assisting individuals in groups in crisis, some basic, I would say, nonprofessional training to say listen, we can mitigate a lot at the peer level. Sometimes it’s just being there with someone and allowing them to have some cathartic ventilation and just say what they need to say and then they're able to process it and then at other times, the training that really takes place is that awareness to go hey, listen, what you're experiencing needs to be addressed and I as your peer will go with you and make sure that you have the referral to the right provider, so yes, there’s that baseline training that exists that’s separate and apart from your day-to-day first responder training and also a big portion of that training is the awareness of when to know hey, you're out of your depth and you need to refer to a higher level of care.

REP. SMITH (108TH): Yeah, and that was -- that was actually, thanks for bringing that up. That was my
concern in listening to some of the testimonies, not knowing whether the peer support team would be clinically trained to deal with these issues from a mental health standpoint and not being able to disclose potentially to other folks the real need for someone to get professional help. How do we deal with that issue if this bill were to become law and there’s a bar from disclosing the information that somebody had told you -- has told you, but yet you know deep down that they really need some serious help?

STEPHEN JOHNSON: Sure.

REP. SMITH (108TH): How do we deal with that?

STEPHEN JOHNSON: I believe in the raised bill and I couldn’t say what line number, but there is an exception that allows for communication between the peer support team member and any mental health provider or counselor for coordination of care. I’m fairly certain that is in there. Unfortunately, I don’t have the legislation in front of me and I couldn’t point to a line number.

REP. SMITH (108TH): There is some language in there that talks about the ability to not need the consent of the first responder when a peer support team member was a witness or a party to an incident that resulted in the delivery of the peer support services. I’m not sure if that’s broad enough to talk about. It seems to be confined to having -- to be a party or to be a witness to the incident that caused the peer support.

STEPHEN JOHNSON: Okay.
REP. SMITH (108TH): And there may be some provisions that I’m not just missing. I’m reading this for the first time.

STEPHEN JOHNSON: Sure.

REP. SMITH (108TH): But we want to make sure that that’s covered.

STEPHEN JOHNSON: Yes, I believe it’s there, but if it’s not, then it should be because we do -- the whole intent of this is to get folks help and anything that would stand in the way of getting them the appropriate help we would not want to have.

REP. SMITH (108TH): And have you -- I mean, typically all the firefighters are working under contracts where you have a union and representatives, so this would not be something that would be covered under that?

STEPHEN JOHNSON: I don’t want to speak on behalf of the fire unions, so I’d be out of my place, however, I can say that in my communications with the firefighters and fire officers, they’re very much in support of peer support. I know that there are even union locals that have their own peer support teams, so I would -- it would probably be better answered by later testimony during the day, but I would say that this is something that could be made available to them through departmental policy, department resources, and doesn’t necessarily have to be contractual.

REP. SREDZINSKI (112TH): And Representative Smith, there’s also a great deal of volunteer firefighters, as you know, that wouldn’t be covered by any union agreement, so this would extend to volunteer firefighters as well.
REP. SMITH (108TH): All right, thank you for that. I guess just going forward just so you know some of my -- I don’t want to say it’s a concern, but we have well established areas of the law that require that there’s no -- that somebody cannot breach a confidence, you know, attorney/client privilege, priests and a parishioner, physicians and their patients and so forth, so this seems to be establishing another area of the law, so I just want to make sure that when it’s done it’s done properly so that we don’t get into the loop holes and areas of concern where the purpose is undermined, so I just want to make sure we take a look at that.

REP. SREDZINSKI (112TH): Understood, thank you.

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

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

REP. DUBITSKY (47TH): Thank you, Mr. chairman, and thank you for coming in. This is obviously an important issue that deserves discussion. One of the -- Let me ask you a quick question, though, firefighter as defined in 53A3, as I read it, it only includes those firefighters who work for municipalities, so what about firefighters who work for private companies or for like Millstone or, you know, university. They may have, you know, if some private entity or something that’s not a municipality has a fire department or an ambulance department or police, it seems to be excluded from this?

REP. SREDZINSKI (112TH): My guess will be that will be a definition issue with LCO and we’d be open to amending it. Clearly, the intention of the bill
is to provide any sort of peer support services for any first responder, whether it’s a private ambulance service or municipality or state fire department. The idea is to create groups around these people to get them the help when they need it, so I would be open, I believe Rev. Johnson would be open to, amending that to include any first responder.

REP. DUBITSKY (47TH): I appreciate that because one of the problems we have with a lot of bills, we kind of draft them narrowly that they apply to a discreet set of people when there are others that are perhaps outside of the government that should be covered, so I’m thinking, you know, what about soldiers, what about doctors. Doctors are not even -- are not included in this whereas an EMT would be, but a doctor would not be. Air traffic control, you know, they can have similar stress to a first responder. They may be involved in incidents, you know, as stressful on a day-to-day basis. I’m just -- I understand the purpose of the bill, I’m just concerned that we’re excluding groups of people that would clearly fit within the boundaries that you’re -- that the bill delineates. You know, if we’re trying to make sure that first responders who -- and police and firefighters who are exposed to these horrific things on a daily basis, why wouldn’t we include doctors or soldiers who seem to fall right in the wheelhouse of that intent?

REP. SREDZINSKI (112TH): So certainly there are other areas of occupation from nurses to bus drivers, as we just saw a bus driver got attacked this week in the state of Connecticut, however, our focus right now is on the first responders. That’s what we’re familiar with. We certainly see a need.
There are established peer support teams across the states for firefighters, police, and EMTs, so that’s the focus of the bill. We didn’t widen it to anyone else, but, you know, clearly if there’s a need, then I would encourage the committee to examine that, but at this time, we’re really focused on the first responder itself.

REP. DUBITSKY (47TH): Don’t you think that kind of creates two classes of people?

REP. SREDZINSKI (112TH): I don’t think it creates two classes of people. I think it does, instead of excluding people, this includes people and allows us to include the first responders to incentivize them to provide or to seek the mental health services from their peers when they need it without worry about confidentiality being breached, so I see it as an inclusion and not an exclusion.

REP. DUBITSKY (47TH): All right, thank you.

REP. STAFSTROM (129TH): Thank you. Further questions, comments? If not, I just want to say happy birthday, Representative Sredzinski.

REP. SREDZINSKI (112TH): Thank you, Chairman. I thought that I was going to get caught.

REP. STAFSTROM (129TH): And also, if you could, just have a conversation with the uniformed professional firefighters. I think they’re going to speak later and I think, you know, there may be some language issues that can be worked out as we --

REP. SREDZINSKI (112TH): We’ve already had preliminary conversations and I’m more than happy to do that. Thank you very much.
REP. STAFSTROM (129TH): Not to give you extra work on your birthday, but you can have a piece of cake after you have that conversation.

REP. SREDZINSKI (112TH): I don’t eat cake, but I appreciate it. Thank you very much.

REP. STAFSTROM (129TH): I think we have time for one more public official, Maired Painter.

MAIRED PAINTER: Good morning, Senator Winfield and distinguished members of the Judiciary Committee. My name is Maired Painter and I am the state long-term care ombudsman. Thank you for the opportunity to offer you this testimony this morning. The Long-Term Care Ombudsman Program is mandated by the Older Americans Act as well as Connecticut General Statutes to provide service of protection to health, safety, welfare, and rights of residents in long-term care facilities. I’d like to testify before you today on Senate Bill No. 1088, AN ACT CONCERNING THE TRANSFER OF NURSING HOME RESIDENTS AS THE RESULT OF A RECEIVERSHIP PROCEEDING.

Although well intended, this bill presents some challenges. The Long-Term Care Ombudsman Program supports the opportunity and rights for residents or authorized representatives of the resident to be fully informed that the nursing home that they live in may have potential changes to the ownership. We agree that this process is very difficult and that all of the residents should have accurate and up-to-date information to accompany the process. The challenge here is that receivers are only appointed in cases where the nursing home and the residents are extreme risk, something is about to happen. Because of this, the application for appointment when it goes initially does not involve the transfer
or discharge of residents. That only happens after a viability study is done.

The viability study and stabilizing the nursing home is the initial intent of the receiver first being placed. At this point, any transfers or discharges from the nursing home only happen if initiated by a resident or their responsible party. We take this protection very seriously as part of the resident’s Bill of Rights. Prior to the viability study, we wouldn’t know whether the nursing home was going to be sold or moved to closure. We would be unable to give the resident or authorized representative accurate information about the process in order to make an informed decision. There have been nursing homes in the past year that have been found viable and have either been sold or put up to bid to be sold. Because of this, we would not have started the process with them prior to having this information.

The proposed complicated process between the resident, the resident’s authorized representative, and representatives of the facility as described in Section C of 19A-550 is speaking directly about a room to room transfer in the resident Bill of Rights. It would not be possible to have such a complicated process until knowing the outcome of the receiver’s study. If the nursing home is found not to be viable, the residents are provided with protections and appeal rights, including a hearing as described in Section 19A-535 of the Connecticut General Statutes and every case of receivership or potential closure, the ombudsman’s office, the Department of Public Health, and Department of Social Services communicate regularly and offer residents informational meetings at the nursing home.
in every case to discuss their rights in this process.

I thank the committee for their time. I look forward to working with you and I’m available for any questions you may have.

SEN. WINFIELD (10TH): Thank you. Questions or comments from members of the committee? Senator Kissel.

SEN. KISSEL (7TH): Thank you very much, Chairman Winfield. Well, this is my bill and I appreciate you coming and testifying regarding it. I’m sure you're aware that this is a result of what took place with the closure of Blair Manor in Enfield where the loved ones of residents, employees, just a slew of people in a court proceeding were not allowed to say anything by the judge. The previous ombudsperson made it appear that these folks would have an opportunity to be heard. I don’t believe that if something is going to be insolvent that we can stop the closure of a facility, but in the instance of Blair Manor and if we’re going to switch to public -- I think the next two speakers are going to speak to this so hopefully you can stay to listen to them -- but over a dozen people died being transferred from this facility.

They were frail elderly and what I’m seeking to do, and I’ve reached out to Mag Morelli and her organization as well, and I’m going to ask my attorney, Brian Capparelli, to reach out to you, is come up with something that we all can live with, but so the loved ones and employees and the folks that care, in fact, there were even representatives of the town of Enfield, will have an opportunity to be heard. Where along the process that actually can
take place, I’m very open-minded. It was brought to
my attention that apparently no judge had ever
heretofore no one can speak, that that was unusual,
but I just want to make sure that that doesn’t
happen again and it’s my understanding that in other
situations, the process is different and so I’m just
trying to fix what I thought went wrong with the
Blair Manor situation and I don’t -- I’m happy to
have you respond to that if you want to, but I
appreciate where you're coming from.

It’s not a criticism of the ombudsman, but I just
think that people were let down and you know, we
have this in our building all the town. Not
everybody’s going to get the bill they want, but
people in this building come to testify because they
want to be heard and to foreclose that opportunity
in the process of a receivership proceeding to me is
unfair and if I had a loved one, my wife, my mother
in a facility and I was shut off from being able to
say anything and that person died in the transfer to
another facility, I’d feel like I didn’t have a
chance to maybe help save them and simply the
process of having an open proceeding where people
can talk and testify and offer their opinions I
think is a healthy thing, so I’m happy to have you
respond to that.

MAIRED PAINTER: Thank you, and I am aware. I was
not the state ombudsman at that time, however, Nancy
Shaffer, who was the state ombudsman, is one of the
biggest advocates for residents across the state of
Connecticut and was before and continues to be. I
think the challenge in that case is that it was not
a certificate of need, it wasn’t something that was
brought to the state. It was an actual closure. It
was a closure and we have different types of
closures in bankruptcy. There’s state bankruptcy and there’s federal bankruptcy and those judges, this was a judge that we had not had before, those judges have the right to make a decision. They --

We have never had a situation before where residents were not -- and family members were not allowed to offer testimony in those cases. This was purely due to the financial stability of the building. I know that it comes up that the state is closing nursing homes, but the state doesn’t own any nursing homes and the challenge that we have is we have owners that own nursing homes and by the time that they are sort of turned over to the state and a receiver needs to put in, the receiver is put in because either they're not going to make payroll, right, and that would put the residents at extreme risk within days if people weren’t coming to work, suppliers are not going to be delivering supplies.

It would be very difficult to put the process of receivership on hold in order to meet with every resident and have a consultative process to determine if we thought was a good idea when we have staff that may not be showing up. We actually have staff showing up even when they’re paid because we have amazing staff in the state of Connecticut in nursing homes, but supplies and food and linens are all things that are contingent upon the state assisting when we have private owners of nursing homes step back and say it’s in bankruptcy or the bankruptcy court has a trustee and that trustee is involved and so instead the court names a receiver.

So there’s different types of receiver applications, there’s different types of cases. In all of those cases, our office represents the rights of the
residents. We are always their voice. We always push for the most protections for them. In every case, there is a meeting that is offered and we’re asking for it to be put into legislation this year. I testified to it to change a bill to say there has to be a meeting within so many days at the building for every resident to have access to our office to understand their rights as well as the family members. We did have that meeting at Blair and I was there and not many people came. I don’t know if they understood the purpose of that meeting so I want to make sure that we really clearly define how they get access to information.

The public hearings that are held at the nursing homes are under different circumstances. I would be happy to collaborate and come up with ideas and ways that we can strengthen the position for residents and our office is willing to do anything possible to make sure that they are protected. Nursing home closures in the state of Connecticut are happening. It is a very sad case. I personally would prefer to see nursing homes downsize beds so that we have smaller homes available in every community, but these are private businesses. These are not owned by the state, they’re not run by the state, so we’re not able to dictate that.

SEN. KISSEL (7TH): Yeah, but I, you know, we’re the legislature and we can create laws for private businesses as well as government entities and I understand your testimony regarding time is of the essence in many of these matters, but there was a court proceeding. These people were in the courtroom and the judge said they could not speak and all the, you know, and we can tell judges what they can and cannot do in proceedings and so that’s
the direction I’m going. I don’t want the judge to have that latitude because I think that latitude was abused and I think people still suffer to this day because they were shut off, so I think there’s a flaw in the system and the people went through that system, that event, feel the exact same way.

And so when you say we can’t do X, we can’t do Y, yes we can. You have a bill. You want to try to make more people aware about their rights and I appreciate that. I think you’re going at this issue from one direction, I’m going at it from a different direction, but I think it needs to more mirror the certificate of need process. And I understand, you know, I’ve talked to folks on the other side and they say hey, listen, if it’s in receivership, the owner just drops off the keys and they say bye, I don’t want to have anything to do with. We’re just going -- We don’t have any money and so, you know, the clock starts running really quickly, but I think that it doesn’t take a lot to afford people simple human dignity to be able to express themselves in a proceeding and that’s what I’m seeking, so thank you very much for working -- for offering to work collaboratively. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Questions, comments from other members? Seeing none, thank you very much for your testimony.

MAIRED PAINTER: Thank you very much.

SEN. WINFIELD (10TH): We now hit the one-hour mark, so we will begin with the public list and we will alternate back and forth until we are at the completion of the elected official list. We will begin with Terry it looks like Beebe and George Stevens. You may begin.
TERRY BEEBE: Okay. Good morning. My name is Theresa Beebe. I'm a licensed practical nurse. I am here to speak today on a proposed bill S.B. 1088. I am a former employee of a nursing facility that went into receivership and was subsequently closed. As a nurse, I not only care for people, but about the people I care for. I am not sure what each of your experiences are with long-term care facilities, but I would like you to all be aware they are not just buildings where old, frail, compromised people go until they die. They are communities amongst a community. They are neighborhoods of sorts where other community members become family and friends. When the facility went into receivership and the receiver’s intent not to make the facility for sale, the family members and staff went into action to try to protect their residents and their home. We went to town meetings where we received the support of our entire town council and the town attorney’s support. He actually was charged by the town to appear in court and file a motion to have the receiver put our facility up for sale, but he was not heard.

Signatures were collected from town community members in forms of petitions for the court-appointed receiver to make efforts to sell and not close the doors of our facility in the form of letters, the receiver and judge, which would be deciding the fate of our community and the people which resided there. The petitions and letters went unread, their voices unheard, leaving the people to feel even more helpless and hopeless and even more vulnerable to the effects of relocation syndrome. Relocation syndrome is a formal nursing diagnosis since 1992, also known as transfer trauma. It is a
wave of disorientation and despair characterized by confusion, agitation, behavioral and physical issues as that results, defined as the physiologic and psychologic disturbance as the result of transfer from one environment to another.

That was a large driving force for many of us that tried to save the home and quite frankly, the lives of the people that we loved. I do not pretend to be any kind of expert, but the facts are the facts. Wives, husbands, fathers, uncles, aunts, brothers and sisters all lost their lives as effect of transfer trauma, their feelings of helplessness and hopelessness compounded not only by not being heard in spite of their great efforts. This bill, S.B. 1088, may not only make the voices heard, but could also save lives in the form of reducing transfer trauma when a home does have to be closed.

I have to say that right now I’m actually shaking because I’m so upset about what -- about the listening to the ombudsman and George Stevens is here with me today to answer some of the questions on what happened with those family meetings and what their perspective. Thank you.

SEN. WINFIELD (10TH): Senator Kissel.

GEORGE STEVENS: I want to thank you very much --

SEN. KISSEL (7TH): Yeah, I’m sorry, George, one second. Thank you very much, Mr. Chair. Mr. Stevens, I know that you lost your wife and I want you to -- I think it’s actually serendipitous that the ombudsman person spoke right before you folks because the way she characterized what took place is very different from what my constituents characterized and so Mr. Stevens, if you could go
into what exactly your experience was with this facility.

GEORGE STEVENS: My experience -- I’ll make it very clear. In four and a half years, my wife was at Blair Manor, an outstanding facility, a warm facility, and a lot of compassion. My wife was treated with great respect. She had a stroke. She could not speak, walk, or talk. She was a very brilliant woman and it’s a very difficult way for me to see her. I saw her every day for four and half years. I maybe missed 18 days out of that time frame, but I want you to know I’ve seen everything happen, from the top administrators handling people, helping them walk down the aisle, pushing a chair, immaculate facility, a home environment of warmth and compassion. When you are incapacitated, you need someone to hold your hand. The previous speaker talked about holding the hand of a person dying and you know, there’s something, the emotion of that feeling is tremendous.

And you've mentioned it also, Senator Kissel, we have to deal with this special situation of these people. They need this warmth. They may not be able to say so, but there is something there and I have to mention that one of the nurses had -- was told and one time was in the paper that she was more anxious for her job, but instead she was trying to say I don’t anyone talking to any patients without their caregiver or their authorized person to be there and the reason for that is because they did not have the capacity to speak or act for themselves. Now this being the case, it’s a difficult job for bodies concerned. I don’t want to get into the receivership aspect of this because I think bankruptcy is one thing, emotions are another.
Our mission, our obligation, is to take care of those that are in need. Blair Manor did that, a fine, five-star facility, and even mentioned to the receiver, she said, oh well, that’s good, that’s nice, but that really doesn’t count in a bankruptcy. Why doesn’t it? Why isn’t the net worth and the good will of the whole organization to understand what’s being done here. How do you put value in dollars and cents on that? I don't know. I do know that Michalski, one of the state workers, had mentioned that Nurse Galloway, Linda Galloway, saying you shouldn’t be talking to residents and patients without their caregiver there to intervene for them, to represent them, and the remark was made by the state that this person was really worried pretty much more about her job than the patient. As a matter of fact, everybody was out of a job.

SEN. KISSEL (7TH): George, George, what I want to get to because we have a lot of people that want to testify today. I want to get specifically, you had heard the previous speaker characterize what took place, by my understanding was is that the previous ombudsperson led people to believe that they would have an opportunity to be heard and I don’t know if you can speak to that, Ms. Beebe or George, if you can speak to that or both of you because that’s an important point here because again, what I’m trying to champion is the fact that people just need the simple human -- the human ability to be able to speak at a proceeding so that they feel that they’ve done all they can do for the person they love.

GEORGE STEVENS: I’ll mention that, yes. Carol Conlon, who could not be here today, her mother was 101 years old passed away, had contacted the state long-term care ombudsman to be sure that they would
be given a chance to be heard or would be -- and would be provided with written documents and it was reiterated that it was the case that they could speak and unbeknownst to her at the time, the residents or family members could apply to be a party to the case under receivership law. Now this was never mentioned as an option by the state ombudsman, although it was stated in the newspaper article. The point is that it was available and it could be done.

SEN. KISSEL (7TH): So my understanding is currently under the receivership laws, if you file an appearance and become a party to the lawsuit, then you have a chance to be heard, but to my mind, most folks aren’t going to think that they want to be a party to a lawsuit and they're just going to, you know -- and if I was your attorney, I might counsel against that because I don’t know what that means as far as potential liabilities, but it strikes me that there should be another possibility to be heard and Ms. Beebe, could you -- my understanding is that there were not only just the loved ones of the folks at Blair Manor, but also employees such as yourself that were in this courtroom with this judge thinking that you’d have a chance to talk, town attorney of Enfield thinking he’s going to have a chance to talk, and everybody was just summarily shut down. Is that how it took place?

TERRY BEEBE: That is absolutely how it took -- We actually had a posting near our time clock that said there would be a public hearing on a certain day, that we would have an opportunity to speak on a certain date. Multiple residents, their family members, community members, all showed up at court and we were totally shut down and told that we did
not have direct -- that we wouldn’t be allowed to speak, that this was not a public hearing. There’s actually a very large Journal Enquirer article about that then.

SEN. KISSEL (7TH): So I --

TERRY BEEBE: I know that people -- I don’t think the residents’ families or the residents themselves totally understood that they could have filed a motion in court. I think that they felt like the hearing that they -- the opportunity to be heard in court, which they were led to believe they had, was enough. Our town’s attorney, we had a meeting with family members and the town’s attorney to make our case, like -- and I don’t have all of the evidence that we had to provide at that day so I don’t want to be totally speaking out of turn, but I do want to say that our look back from the receivership’s viability report was done during vacation time so the payroll was made to look higher than what it actually is throughout the rest of the year.

The -- We had staff members who had gotten -- like they send referrals to nursing homes, to hospitals, agencies send referrals and we had multiple referrals but weren’t accepting as many patients as we could have is what our perception of the evidence that we saw. There was a lot of things that we wanted to present to the court to show that the viability report might have been I don’t know what a good word would be, maybe jaded, to look as though we were less viable than we really were.

SEN. KISSEL (7TH): And I appreciate that and we can’t redo that.

TERRY BEEBE: Right, we can’t re-ring that bell.
SEN. KISSEL (7TH): We can’t redo the hearing, it’s done. The building sits vacant and over a dozen people died of transfer trauma, but again, the Chair’s been very indulgent. This is way over the three-minute rule, but it seems to me that this is a fruitful area where we could tighten up the laws to make it very clear that in these kinds of proceedings, absent some kind of emergency time frame, I mean, if the court’s sitting there and they’re having their hearing like we’re having this morning --

TERRY BEEBE: And a courthouse full of people begging to be heard.

SEN. KISSEL (7TH): Right, right, so I wanted you to have your day at least today.

TERRY BEEBE: Thank you.

SEN. KISSEL (7TH): I’m going to work as hard as I can to work to try to get some legislation out of this committee that would help to address this. Happy to work with the new ombudsperson, appreciate her perspective, happy to work with advocates and the folks associated with long-term living establishments and those for the frail elderly, but George, my deepest sympathies on the loss of your wife and Ms. Beebe, I appreciate your advocacy for those that you serve and I don’t know if anybody else has any questions, but you have very much both been a champion and Ms. Conlon as well regarding this issue. Thank you, Mr. Chairman.

SEN. WINFIELD (10TH): Thank you. Are there questions or comments from other members of the committee? Seeing none, thank you for joining us today. We will check on the public officials list.
Is Senator Hartley here or Representative Klarides?

No. Sam Marullo.

SAM MARULLO: Senator Winfield, good morning. My name is Sam Marullo. I’m a student at Yale Law School and the former policy director for Rhode Island governor, Gina Raimundo. I’m here to testify in support of H.B. 7395. Section 3 of that bill would establish a medication-assisted treatment program in the correctional facilities of the state. So I want to hit three main points. First, this bill would save lives. Second, the governor funded this proposal in his budget and so there’s no new money that needs to be found, and third, the state has significant litigation risk if it doesn’t move forward with this proposal this year.

So on the first point, saving lives. There were a thousand opioid overdose deaths in Connecticut last year. What a lot of people don’t realize is that more than half of those were among former prisoners. In fact, the overdose rate for former prisoners is ten times -- former prisoners are ten times more likely to overdose in the first month after release than they were before they were incarcerated and the reason is simple. The reason is because today the State Department of Corrections, with a small exception for a pilot program, doesn’t provide treatment, doesn’t provide any evidence-based treatment for opioid addiction. You have before you letters from Rhode Island, which was the first state in the country to adopt a program like this. A letter there from the secretary of Health and Human Services says that if Connecticut were to adopt this program, it could save somewhere in the range of 50 to 100 lives every year.
So in addition to saving lives, the governor has funded this program in his budget, so thanks to the governor’s leadership, there’s no need for you to find new money for this program. This bill would ensure that Connecticut continues to move forward and does not move backwards. And third, there’s significant litigation risk if the state does not move forward with this bill this year. In November, a federal judge in Maine ruled that the state of Maine was violating the constitution and the Americans with Disabilities Act by refusing to provide treatment in prisons. Last week, a judge in Massachusetts ruled the same way and Connecticut could well be the next state facing one of these lawsuits and it would be better for the state to address this ourselves rather than be forced to do it by a federal court.

So to recap three main points here; this bill would save lives. Today there’s essentially no evidence-based treatment for opioid addiction in the Department of Corrections and a bill like this could save 50 to 100 lives every year. Second, there’s no need to find new funding for this. The governor has already identified funding and put it in his budget proposal and third, if we don’t move forward on this bill this year, there’s significant litigation risk and the state would be better off doing itself than doing it at the order of a federal court. Thank you and I’m happy to answer any questions.

SEN. WINFIELD (10TH): Thank you. Questions, comments from members of the committee? If not, I just want to thank you. I put in a bill like this I guess it’s three years, so maybe this year. Thank you for joining us.
SAM MARULLO: Thank you, Senator Winfield, and thank you for your leadership on this bill.

SEN. WINFIELD (10TH): Okay. We will next hear from Ben Howell. Is Ben here? If not, we will hear from Joseph DaSilva and Bernie Gallow.

JOSEPH DASILVA: Good morning, Mr. Chairman and members. Mr. Gallow unfortunately could not make it up to Harford today. I did submit written testimony in advance of today’s hearing and -- along with my email. Mr. Gallow had submitted a letter, as well, so I just everybody to read that. I’ll keep it brief. I’m not going to back and read to everybody what’s in the memo I submitted, but I just -- I’m speaking on 7388, which is AN ACT PROTECTING A MORTGAGOR FROM UNREASONABLE INVASION OF HIS OR HER PRIVACY, basically, the invasion of their home. Imagine your elderly aunt passes away and you're the executor of her estate. You take over the house, you clean it out, you make it ready for sale, you get it listed for sale, you put up a real estate sign in the yard, you list it with your local MLS, multiple listing service, you get ready to show it in hopes of selling it and wrapping up the estate.

But the house is encumbered by a reverse mortgage and you pay all the bills, you insure the house, you have the lawn mowed, you have it plowed, you know, you have the snow plowed, you have the lawn mowed, you do all those things, you maintained it, you pay the taxes, you pay the insurance, you pay the electric bill and all of a sudden you go to the house one day and there’s a lockbox on the rear door. The lock has been changed. Someone has shut off the water, winterized the house, and posted a
sign in the window that says guardian asset management is now in charge of the property.

That happened to a client, that’s Mr. Gallow, that’s why his testimony is there because banks interpret clauses in mortgages that allow them -- there’s a clause in most mortgages that allow banks to preserve property, take action and preserve collateral. It’s not a bad thing. The house is truly abandoned and it allows the bank to preserve the capital, it preserves the property value on the street, and it preserves -- for all the rest of the homeowners and it preserves the bank’s ability to recover from the money they're owed if the property is defaulted on. In this instance, however, that wasn’t the case and unfortunately, that’s the problem. Too often banks are interpreting these property preservation clauses as giving them the rights to a unilaterally determined that the property is abandoned based on nothing more than visual inspection of the outside without notice or contact with the homeowner or the mortgage holder or the mortgagee, the mortgagor.

In addition, once they’ve made that unilateral determination, they then make the unilateral determination that that property preservation clause gives them the right to break into the home and conduct basically whatever activities it wants in the property. That is, in fact, the interpretation Wells Fargo took in a case, Norboe versus Wells Fargo, that was pending in the complex litigation docket at Hartford. Then judge now Justice Ecker said that can’t possibly be right. This -- That can’t possibly be the construction or the promise of home ownership is lost because you can’t have a blanket right to invade somebody else’s home, their
property. This legislation doesn’t seek to ban or eliminate a bank or mortgage holder’s right to preserve property, only the right to do so without obtaining a court order first.

SEN. WINFIELD (10TH): Thank you. Representative Godfrey.

REP. GODFREY (110TH): Thank you, Mr. Chairman, and thank you for coming up, Joe, I appreciate you doing this. I can see other scenarios where a -- clearly the problem is when the real property is still in possession of the owner, the person on the title or the estate of the person on the title. Now I assume that in the Gallow case the probate proceedings had begun, that an executrix had been named, so while the probate proceeding was complete, this was all on record?

JOSEPH DASILVA: The executrix, the named executrix in the will had been appointed and approved by the probate court. The probate court had approved the appointment, not only the executrix, but also the listing of the property for sale and a copy of the listing agreement had been sent to Reverse Mortgage Solutions, the mortgage holder and the servicing company for the mortgage holder, the reverse mortgage company. They had notice that the property had been listed for sale.

REP. GODFREY (110TH): So they knew what was going on and yet they still invaded the property? They were not in possession? The executrix, the estate was, and they proceed to make it much more hard to sell it?

JOSEPH DASILVA: They did and to compound the matter, they did this more than once. As their
counsel, I sent a letter to the asset management company and to the lender in question saying it’s not abandoned, you’re not authorized to be here, the property is being maintained, the lawn’s being mowed, the taxes are paid, the insurance is paid. It’s listed for sale and you know that, at least the lender. The property management company that did the actual breaking and entering may not have known that it was listed. They may not have had the record that it was listed for sale. They obviously didn’t see the sign in the yard, but not only -- not only did we provide them notice, even after providing them notice, they did it again. They did it multiple times.

In fact, when we did get a buyer and Mr. Gallow outlines this in his submission, when we did get a buyer, one of the problems we had was the asset management company sent people in to once again to shut off the water and it interfered with our ability -- the buyer’s ability to conduct a property inspection on the property because they couldn’t test the septic or the well without being able to utilize water. And it should be clear, that mortgage was not in default. If we speak to anybody who does or practices in the area of foreclosure, probably in the area of estates, this is something that happens relatively commonly in instances where properties are in foreclosure or in default, but that’s not the only time. In this instance, in Mr. Gallows instance, this property was not in default. No default letter had ever been sent out. It was obviously -- there was a requirement to pay because dying is a payment condition of a reverse mortgage, but it wasn’t a default and it wasn’t in
foreclosure. No action had been commenced or even threatened.

REP. GODFREY (110TH): And the bill, how would it affect a foreclosure proceeding?

JOSEPH DASILVA: It would operate the same -- Ideally, it would operate the same way in a foreclosure context as it would with an estate context. Actually in a foreclosure context, it might be even easier because a foreclosure in Connecticut is a judicial proceeding. This bill doesn’t say a property, a mortgage holder, cannot do this or cannot act. It merely asks the mortgage holder to obtain the permission of a court before it breaks and enters into a private residence, which seems a relatively mild address to this problem. We don’t allow landlords who own a piece of property to do this. If a landlord believes a piece of property has been abandoned, statutorily they’re required to send notice to the tenant and wait ten days.

In this instance, banks are not even interpreting these provisions in these clauses in mortgages to even require notice to anybody. So this just asks them to go to a court and obtain the permission or approval of a judge, basically make something showing that the property has actually been abandoned and isn’t in the possession of the homeowners. A colleague related a story to me last week. Her client’s in a divorce. They were transitioning out to their own apartments and getting ready to get out of their home and it was in default, but they were moving stuff out and they had just -- they were in the process of transitioning as the divorce was being finalized. They go to the house to move stuff out. The locks had been
changed. When they finally were able to get into the house, tools had been taken, personal property had been rearranged so there was damage done to the physical property. They were able to settle these issues with the bank without needing to bring a lawsuit, but had the bank been required to obtain the permission of a court prior to doing this, they would have known it was occupied, that it was in possession, that the heat was on, the lights were on, the electric was on, it was insured and they hopefully would not have done that.

REP. GODFREY (110TH): And the court orders the second option. The first option is you just let the possessor know?

JOSEPH DASILVA: Yes.

REP. GODFREY (110TH): That you're coming. They'd be there then, maybe prevent the theft of the stuff in the house, the personal property?

JOSEPH DASILVA: And with notice to the homeowner. Maybe the homeowner says yes, we're out, go ahead and do that or we're not out, we're still here, please don't do that. Yes, notice would at least allow the bank to ascertain for certain whether the homeowner was actually in possession or not because if they had inquired at any point in time, they would obviously hopefully know and if they get no response, then that's the proof -- that may be the proof they need when they go to seek the approval of a court or a judge to get an order to be allowed to do this.

REP. GODFREY (110TH): I'm concerned about things like the -- whether they're agents or not of the bank coming in with the keys and walking into the
house and the possessor is upstairs sleeping and hears the noise downstairs and grabs his or her gun and comes downstairs firing away thinking it’s a home invasion.

JOSEPH DASILVA: That is certainly an issue that is certainly a concern of mine or the alternate scenario where somebody is away on vacation and they come home at 3 in the afternoon and discover people walking in and out of their home and they leap out of the car doing the exact same thing. That is a concern and worse. The property preservation people, when they go to the home, they don’t have keys. They’re basically breaking in. They’re either — There’s a law review article that I mention in a footnote in the submission, the written submission, I put in cataloguing some of these issues. It’s on point but not completely on point and the recommendation for a solution in that article is create a private cause of action, basically create a way to sue.

I think this legislation is better because it avoids the need to actually bring a suit for damages. It just requires a hearing and permission, so hopefully it avoids the need or the creation of some damage that creates the need for a lawsuit, but there are instances where people have been home and some of those are recounted in that article where people have been home and people have come in because basically they’re told to, you know, some companies are told to break the door, some are told look for any way of entry, is there a patio door that’s not locked, a window that you can ease open or stuff like that. There’s different ways that people get in and there’s obviously property damage that occurs and what would happen if you’re asleep in your
bedroom and all of a sudden you hear somebody breaking in the patio door. Bad things are going to happen and this hopefully would avoid that.

REP. GODFREY (110TH): Is -- When the lender sends in either their own employees or hires a third party and the house is broken into and stuff is stolen, who’s liable?

JOSEPH DASILVA: It’s an open question. There’s very little case law, 30 in Connecticut. Our judge, now Justice Ecker, did deal with some of those issue in the Norboe case, which is actually a copy of that case is attached to our written submission. Largely, it’s very difficult to hold someone liable for the unintentional tort of an agent. Certainly some of the damage that occurs and things like that that happen is attributable up the chain from the contractor on the ground to the top of the manager who retained that contractor to the bank who retained the property manager. For theft, it’s an open question. I don’t think it’s firmly decided, at least not in Connecticut. There are some other - - Different states have come up with different answers. I would not want to rely on a private cause of action to recover for theft just because unintentional tort is very hard to impute to a principle.

REP. GODFREY (110TH): Very good. Thank you.

SEN. WINFIELD (10TH): Thank you. Representative Smith followed by Representative Fishbein.

REP. SMITH (108TH): Thank you, Mr. Chairman, and good morning, Joe, good to see you in Hartford instead of the courtroom. This is an interesting bill. I’m just wondering a couple things. Have the
police ever been called for these break-ins and if so, what’s their response?

JOSEPH DASILVA: Frankly, I’m waiting for the opportunity to have a client actually call the police when this happens because I think it’s illegal. I have not had a client situated in a position to do that. I have heard of instances where that’s happened. I’ve heard of inconsistent results. I don’t have an anecdote on hand that’s a good one. One of the articles -- It may have even been the Norboe case that may have made a reference to that, a call to the police, I don’t recall. I’m a little concerned that a call to the police is going to result in a “this is a civil problem, please call your lawyer” answer, but it may depend. It may also depend on who the officer is who responds and the relevant attitudes of the people who are there, the property management people and/or the homeowner.

REP. SMITH (108TH): So you’re not aware of any arrests being made?

JOSEPH DASILVA: Off the top of my head, in Connecticut I am not.

REP. SMITH (108TH): And the decision by Judge -- Justice Ecker now, what was that decision?

JOSEPH DASILVA: Preliminary decision dealing with a motion for summary judgment, he allowed several counts to continue and he granted summary judgment on some and one of the ones that he granted summary judgment on may very well have been the vicarious liability for the theft issue that Representative Godfrey asked me about before. That may have been one of the counts. He starts off the decision with,
based on the pleadings and the transcripts and everything else in front of me, this decision could be 70 pages long. I’m not going to do that because it’s only a summary judgment and then he wrote 22, so I may not have exactly which of the counts right, but I believe he granted summary judgment on the vicarious liability for theft issue. Those individuals I do believe from that case were arrested for stealing the product. I may be wrong, but I think that’s my recollection, but he did allow several of the cause of actions -- causes of action to survive, summary judgment. I went and looked that case -- I’m assuming that case was settled as the claims and counter claims and everything has been withdrawn.

REP. SMITH (108TH): So there’s no final decision on whether the bank had the absolute right to go into the property?

JOSEPH DASILVA: Not a final memorandum of a decision that would be of any precedent in trial court or otherwise because that one case, that’s the one case I can find on point. That case was -- I just looked last night, I double checked, and it was settled earlier this year, I believe.

REP. SMITH (108TH): The language of this bill talks about getting permission from a court and I’m not sure if it was intentionally left vague in that regard in terms of whether it be a probate court or whether it be a superior court. Are you -- Is your intention to have -- it be a superior court?

JOSEPH DASILVA: I don’t know. I’m not aware of the drafting on that issue, whether it was intentionally left vague or not. I don’t -- Probably courts would have jurisdiction over property in front of them or
at least some jurisdiction over property that was subject to an estate. I suppose it could be either. Reading the bill, just because I spend most of my time like you in superior court, my reading of the bill I just assumed it was superior court, but I supposed it could be either of the above.

REP. SMITH (108TH): And I guess the only concern I would have would a superior court or rather be a probate court is that being a probate court judge may not be familiar with this type of language and a mortgage and the consequences that go along with that?

JOSEPH DASILVA: Agreed. I think it might better that it’s in a superior court. I mean, probably every bill we’ve ever written could probably be better. I don’t think it would be bad to limit it to a superior court. I think that might make more sense. Certainly a judge would be more familiar with the topic. It’s only -- That would only likely really be an issue in an instance such as like my clients where it was in a state. Since Connecticut is a judicial foreclosure state, more often than not this is going to come up probably in a foreclosure scenario, which is already pending in a court anyways, so there’s already a docket number, there’s already a venue, there’s already a judge. Hopefully there’s appearances. If there’s appearances, this should be easy to resolve.

REP. SMITH (108TH): Right, which makes your situation and Mr. Gallow’s situation in a court unique because normally it would be under foreclosure and you’ve have these situations to deal with, but in your situation, based on what you stated here today, is -- it was not under
foreclosure, it was not in default and it was just part of the estate procedure where they went into the house and did what they did. Correct?

JOSEPH DASILVA: Well, in part, it wasn’t in foreclosure. It wasn’t in default. I don’t think this was part of the estate process. The estate was selling the property. This was the reverse mortgage company, basically, doing whatever the hell they wanted to and as much as it would seem that this is unique or rare, I don’t think it is. This is something that happens -- it has happened to more than one of my clients over time, by other clients moving out of a property in the Danbury area and moving into a property in Brookfield and they went back to their home a week later or so and discovered the locks had been changed, things moved. There was no damage. There was no reason for a lawsuit. We jumped up and down and yelled and hollered and screamed and the bank’s attorney made them get us a key and we were able to move our stuff out of the house.

It didn’t mean that people didn’t break into the house and change the locks. In communicating with several colleagues about this bill prior to it -- prior to coming up here today, other attorneys I know practice in the area have recounted and referenced other incidents, my one friend who had the instance where the couple was divorcing. I’ve had other people have the same problem. It’s not -- It’s not something that happens every day and it’s not -- and it’s not necessarily something that’s extremely rare. I will note this is something that tends to happen with national servicing companies and larger banks mostly out of state. I cannot recount an instance where I’ve seen this happen with
a local bank in state. I’ve never seen it happen with Fairfield County Bank or Union Savings Bank or Savings Bank of Danbury or Bankwell, which is a New Canaan based bank. I’ve never seen it happen with one of those. I’m not saying it can’t or that it hasn’t. I just have never seen that. My experience has been largely with national servicing companies.

REP. SMITH (108TH): Just one more question through you, Mr. Chairman, the -- this language in this proposal, are you aware of it being in any other state or not?

JOSEPH DASILVA: I am not aware if there is similar legislation in other states. The law review article that I referenced in the footnotes to my submission, which is directly related to just property preservation issues. It’s more expansive as a -- more of bank break-ins and bad actors in mortgage foreclosure. It’s more expansive than this bill because it’s speaking to other issues, inspection fees and stuff like that. There is no reference in there about other legislation in other states, but the article is several years old now, so I don’t know if other states have adopted anything. The recommendations of the author in there were mostly geared towards legislation at the federal level, CFPD and stuff like that.

The state-based remedy recommended in an article was creation of a private cause of action. I think this legislation is better because it eliminates the need to have any lawsuit. It eliminates the likelihood that that lawsuit will need to be brought. I know, you know, we talk people out of suing far more often than we ever dream of talking people into suing and this would obviously give us -- reduce the need or
reduce at least the incidents of that being necessary.

REP. SMITH (108TH): Well, yeah, that’s true and I do appreciate you sharing the story with us, really, you know, because an act of legislation a lot of which I’m not in favor of, but this one I would be, so I thank you again for coming up here.

JOSEPH DASILVA: Thank you.

SEN. WINFIELD (10TH): Representative Fishbein.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman. Good afternoon, sir, or actually it’s still morning.

JOSEPH DASILVA: Thank you.

REP. FISHBEIN (90TH): It feels like afternoon, anyway, just wanted to flush out some of the things in the exchange with Representative Smith, so in the Gallow case, my understanding is that the person in possession of the property who is engaged in the contractual relationship with Wells Fargo has passed. What would happen had this legislation been in place because there is no court proceeding, what would Wells Fargo have had to do to gain access to protect their property interests?

JOSEPH DASILVA: Bring an action. Serve the executrix and return it to court, I think. I mean, I don’t know if it’s expressly in here. What I would anticipate is that’s what they would need to do in order to get to court would bring an application for, you know, for permission, serve the executrix who’s the person in possession. I mean, the ownership of the property divulged to the beneficiary immediately upon someone’s death subject to the possession of the executrix to probate the
estate, so I would assume they would serve the executrix and then file it with the court.

REP. FISHBEIN (90TH): Okay. So how would the Wells Fargo find out who the executrix was? I mean, how would they even -- because I think the facts that you gave us, the servicer of the loan was given notice that the property was on the market.

JOSEPH DASILVA: In this instance, the servicer, I think the mortgage holder -- I think they were actually the same entity. I mean, it’s a very good question because in many instances, Bank of America may be the holder of the mortgage or some trust will, but the servicer is the one operating it. The servicer -- In my experience, the servicer is the one that’s going to direct anything that’s related to the property, not the ultimate party that’s entitled to the money. In this instance, however, Reverse Mortgage Solutions -- Wells Fargo is the defendant in the Norboe case. Reverse Mortgage Solutions was the reverse mortgage holder in the Gallow case. In that instance, my client, the executrix, had notified the bank of the aunt’s passing, notified them that she had died, that they were applying for probate in the will, I believe even sent them a copy of the will, and certainly sent them a copy of the appointment and once a fiduciary is appointed, they receive a certificate of appointment that’s recordable on the land records indicating that there’s an estate and they’re the ones representing the estate, so a simple title search or not even a title search, but just a current owner rundown should reveal the person or the appropriate party to contact, which is no different than what a bank would do if they’re instituting an foreclosure. They have to do at
least a current owner rundown even if they don’t do a search because they have to know who to sue and who to make a party, what lien holders have to be a party.

REP. FISHBEIN (90TH): Okay. And there’s a passage of time between death and all of that stuff happening, notice and all. I have experience in these areas and, you know, it certainly doesn’t happen within a week.

JOSEPH DASILVA: I don’t know how long it took to provide notice of her death and the intention to submit the will to probate. That happened relatively quickly, I think in a span of a few weeks.

REP. FISHBEIN (90TH): Okay.

JOSEPH DASILVA: The appointment took a little longer because it was done with waivers of, you know, waivers were sent out to the beneficiaries to make sure they didn’t object along with the submission of the will, the appointment of the fiduciary, and I believe we also asked the probate court permission to list the property and we were waiting for waivers to come back from 10 or 12 heirs in different parts of the country, so it took a little while to get that done, but not an extraordinary -- it was a few months, but it wasn’t years.

REP. FISHBEIN (90TH): Okay. I mean, I’ve had cases where we’re fighting over whether or not the will is the will and who the executor is going to be and I mean, I had a case where it took eight months to figure that one out.
JOSEPH DASILVA: Without any question, that can absolutely be the case.

REP. FISHBEIN (90TH): There’s no question about that. I’m just dealing with that. Now the bank is-- In order for them to protect their interest in the property, required to get authority from someone. I mean, I’ve got a deceased individual, obviously they can’t give authority. I’ve got a contested who’s the executor, so we don’t have anybody who has authority there. I guess we go to the superior court and the thinking going through the major/minor codes in my head, declaratory judgment action?

JOSEPH DASILVA: Could be. I mean, we may need a different code. It could be the property miscellaneous code which we all kind of fall back on when we’re not entirely sure we fit in. To be clear, I make my paralegal do that. She usually makes the decision which code to pick, but I’m not expert, but I will say you're absolutely right. You highlight something that is definitely a concern. That said, obviously it’s a concern that only occurs when somebody dies. This bill obviously extends beyond just when someone dies. It could extend to when someone’s in -- but still alive and in physical possession of the premises and it just happens to be on vacation for a week and comes home and finds the locks are changed or part of the issue is the unilateral nature of the decision that the property has been abandoned based on nothing more than the lawn looked shaggy and I looked in a window and I didn’t see anything or I didn’t see signs of life and the lawn was shaggy and they make the decision to break and enter and it turns out somebody was away and they have they're living room painted while
they're on vacation, nobody mowed the lawn for a week and a half.

REP. FISHBEIN (90TH): And maybe that’s a way to attack this in that the legislature crafts some sort of criteria that must be met in order for a bank to determine in its due diligence that there is abandonment instead of doing stuff here that wouldn’t require court action -- any court action would be required as if somebody claimed that the bank did not follow whatever procedures?

JOSEPH DASILVA: All roads, I suppose, lead to Rome. My concern there would be it still leaves the unilateral power in a third party to make a decision even if they’re checking off criteria on their own worksheet. We’ve A, we’ve met B, we’ve met Cz, we’ve met D, great, we get to go break in.

REP. FISHBEIN (90TH): No.

JOSEPH DASILVA: Absent a court order, I’m afraid that even if we establish standards, we’re still allowing them to check off boxes and undertake unilateral self-help, which we don’t allow even -- we don’t allow the government to do that. We require a warrant. We don’t -- We don’t allow -- We don’t even allow sheriffs to do since King Edward. They have to knock before they can enter when executing an execution.

REP. FISHBEIN (90TH): But why couldn’t the legislature say prior to engaging in this actions, the bank shall send to whomever they have a contractual relationship with a letter via certified mail and, you know, have a procedure like that.

JOSEPH DASILVA: That could well work.
REP. FISHBEIN (90TH): You know, and I think that would deal with a lot of what we’re doing here and then you’d have, you know, if it’s returned unclaimed, you know, that’s an issue. I mean, you’d have different --

JOSEPH DASILVA: Not dissimilar to the way we have landlords. Landlords are required to send notice for abandonment, the whole -- the long point of being is we don’t allow anybody to unilaterally declare just on their own ipse d that the property is abandoned and I get to do whatever I want and this legislation is designed to address the banks doing that because I think it’s important to know, we don’t allow landlords to do that and they have an ownership interest in the property. A mortgage holder has no right of possession of any kind. The only way that obtain a right of possession is if they can either receive the deed to the property or foreclosure judgment. They have no right of possession of any kind. Connecticut is a title-theory state. Obviously they have bare legal title. Equitable title and all rights of possession reside with the homeowner. The bank can’t get a right of possession until after a court rules and then there’s a judgment that says -- a judicial foreclosure statement. This is the bank effectively exercising a right of possession short of judgment.

REP. FISHBEIN (90TH): And that is another way to deal with it is the way that we deal with it with landlords who enter a residential rental unit without authority and perhaps take something or, you know, because we do allow that right of action in housing court.
JOSEPH DASILVA: Only under certain circumstances because if a landlord generally enters the unit without any notice of any kind, an entry and detainer action will be brought, people can be arrested, police will tell the landlord to re-change the locks and give the tenant a key. An entry and detainer action can be brought to a housing court. There are -- There’s -- There are several things that -- bad things that can happen to the landlord and rights and remedies the tenant has. There is an abandonment statute, 47A11B if memory serves, that does allow a landlord a process and procedure to send notice and make a determination that the property has been abandoned and then wait a period of time and all that. In that instance, I would note again the landlord owns the property. The bank doesn’t actually -- or the landlord has a right of possession of the property. It may not -- It may not be a present right of possession. It may have to wait until the end of the lease term, but they actually have a reversionary right of possession, whereas a bank doesn’t. It only has a contingent right if it actually establishes to a court all the things necessary to foreclose.

REP. FISHBEIN (90TH): Agreed. Last question, if a bank is required to bring a legal action to get this entry, who is responsible for those fees?

JOSEPH DASILVA: My suspicion is it would likely be the borrower eventually, assuming there’s a foreclosure because this is realistically speaking. This is likely to happen in that scenario more often than not because a bank does have -- every mortgage that I’ve ever seen -- I don’t do a lot of real estate, I do some, every mortgage that I’ve ever read, including my own has a provision and if a bank
has to take any action, they’re entitled to recover their fees. One of the issues that I know the law review article talks about, it was focusing in a lot of ways on property preservation fees and inspections. Those are properly compensated as long as they're properly proven. Generally, foreclosure courts in Connecticut will approve property inspection fees if they're proven. More often than not, the lender or the foreclosing plaintiff’s lawyer won’t have documentation of the inspections, so they just waive those fees and they're not ordered, but they would be if they could be proven. I think this would fall into the same category.

REP. FISHBEN (90TH): And what about this where there is no foreclosure, like one of the cases that you mentioned? Who would be responsible for those fees?

JOSEPH DASILVA: Well, in the Gallow case, the bank actually when we went to pay off the mortgage to sell the property and clear title, because we needed a release of the mortgage to clear title, the payout statement from the bank including their costs for mowing the lawn because they sent a contractor there to mow the lawn and I think Mr. Gallow references this in his submission, he had somebody mowing the lawn for his aunt anyway even when she was alive. They were doing it for, I think if memory serves, $40 dollars a week. The bank had someone doing it for $100 dollars. Those charges, and they did it two or three times before we were able to finally convince them not to do that, those charges for that lawn mowing was in the payoff statement. So they were -- they were imposing those costs back to effectively the borrower by way of the payout statement.
REP. FISHBEIN (90TH): But I guess it begs the question lawfully within the payout statement or just claims because I’ve seen payout statements that I’ve contested what’s in there.

JOSEPH DASILVA: I’ve seen payout statements that I have contested. I’ve seen payout statements where a court had already ruled that the legal fees on a particular action were X and the bank’s lawyer was trying to get Y in the payoff and I then just tendered the judgment and said thank you and give me a satisfaction judgment because that’s good enough for the title insurance company. There is that -- That can occur. In this instance, they were included and it wasn’t enough money to run the risk of losing our buyer to contest because I would have needed to file a court action in order to contest $300 dollars-worth of charges. As a practical matter, those charges probably are going to wind up being paid or somebody is going to have to file a lawsuit, one or the other.

REP. FISHBEIN (90TH): Thank you. Thank you, Chairman.

SEN. WINFIELD (10TH): Thank you, Representative Godfrey.

REP. GODFREY (110TH): Thank you. I feel like I’m back in law school with Terry Tandra teaching me property because I hadn’t heard a lot of these words since then. That was a long time ago.

JOSEPH DASILVA: I apologize for speaking lawyer.

REP. GODFREY (110TH): I understand.

JOSEPH DASILVA: I want to try and talk like a human.
REP. GODFREY (110TH): I actually worked for a bank, but it was in the home equity department and we didn’t have to deal with these kinds of things because there was a real mortgage ahead of us in a superior position. There’s been a lot of chat and questions regarding how, I guess, this proposed bill would be implemented. It seems to be and correct -- and I’m hoping I understand. I’m asking you am I right or wrong, this creates a very simple requirement on the part of the lender or the lender’s agent merely to communicate to the owner that they're coming in?

JOSEPH DASILVA: I think it communicates to the owner a requirement that they, before deciding the property’s been abandoned, they have to communicate with the owner to determine if it’s abandoned and obviously there’s pushback if it’s not, but ideally before they go in, they had to have the permission of the property owner or they go -- or if they can’t reach the property owner, they’ll hear back, the file an application or something with the court. The mechanics of obtaining the permission, and I don’t know that I actually answered -- I don’t remember if it was Representative Smith or Representative Fishbein’s question about the mechanics. I think the mechanics can be relatively simple. There’s lots of applications that are done, applications to just charge mechanics liens, applications to discharge liens that are relatively simple, aren’t quite a full blown as commencing a full-blown civil action. Some adaptive -- Something to be adapted from that to make a relatively simple application that serves, comes back, you know, filed, gets dates assigned, it gets served, you come back and then have your hearing, much like we would
do in a special proceedings calendar or something on a motion, application and discharge mechanics, something simple like that. I think that mechanism is relatively easy.

REP. GODFREY (110TH): It -- Because it seems to me the bank notice -- provides notice to the owner that there’s questions and they're looking to preserve the property itself under the mortgage clause and more often than not, the owner’s going to say yes or no. More often than not, what I would suspect is yes but I’m in -- I’m still in possession and I’m taking care of everything and here’s what I’m doing, so we’ve avoided a court, we’ve avoided paying lawyers a lot, and forgive me for that, and it’s only as the second step when there is no response from the owner that we’re actually getting a court involved?

JOSEPH DASILVA: In the vast majority of instances, this is probably a situation where you're not going to need to actually apply to a court very often because some response will be in the offering or in the response from the -- from the borrower. Now obviously, currently there’s no requirement that a notice be issued. There are a lot of instances, obviously at least in the anecdote I told today, there was no notice. The story my colleague told me about her clients in the divorce, there was no notice. I mean, obviously, I recognize that the plural of anecdote is not data, I get that, but all that I can respond to is, you know, stories I’m told or things I discuss with colleagues and in the instances where this has happened, there’s been no notice.
REP. GODFREY (110TH): That seems to me to be cheaper, quicker, and more comfortable between the parties involved. They can -- They can just deal with it right off the bat without having to get a court involved.

JOSEPH DASILVA: Yes, and to be clear, most of the stuff or to a very great degree in the last ten years, a lot of the changes that have happened in the creation of the mediation program, the requirement of e-map notices and stuff like that in the foreclosure process has actually made things better, easier, quicker, and hopefully cheaper at least in terms of communication back and forth between borrowers and lenders, so this yes, ideally this would wind up being a communication tool. I would, obviously you know, if they communicate properly would obviate the need for a judicial action as much as possible, I guess.

REP. GODFREY (110TH): And without it, as is the current case, there’s more of a probability the court would have to get involved?

JOSEPH DASILVA: Yes, and it just kind of flies in the face of the precept that a man’s home is his castle, that, you know, we don’t -- we can close the door, we can lock the door, and we don’t have to allow in the strangers. We get to invite whoever we want into our home. This kind of flies in the face of that tradition, which the law recognizes the government has to get a warrant, a landlord is restricted in their ability to do that. In a criminal case, you're allowed to defend your home in certain instances with significant force, so I mean, where does this fly? Where does this come into contact with the criminal law when someone defends
their home when someone’s trying to break in? So we want to undertake -- And to be clear, the person doing the breaking in is working for someone. They’re doing a job. They’re just told to go do something. This shouldn’t necessarily fall on them, but my concern is that they’re the ones that are at the door doing the work. They’re the one that’s going to wind up in an altercation with a homeowner who stumbles upon them, not the bank that made the decision in Omaha.

REP. GODFREY (110TH): Thanks. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Are there any other comments or questions? Seeing none, thank you very much for joining us. Representative Klarides. Representative Klarides will be followed by Keshanna Staten.

REP. KLARIDES (114TH): Good afternoon, two minutes. Chairmen Stafstrom and Winfield, Ranking Member Rebimbas, and Senator Kissel, thank you for hearing House Bill 5524, AN ACT INCREASING PENALTIES FOR THE SALE OF FENTANYL. You who have been on this committee have known that we’ve done this bill in the past and it has been passed out of this committee I believe every year that it has been heard so I thank you all for that. We have gotten stuck in the Senate a few times and certainly I hope that doesn’t happen this year. Just as a little background which I’m sure everybody on this committee is familiar with, fentanyl is a synthetic opioid and under our statutes, it is not treated the same as other opioids and fentanyl deaths have been increasing and been doubling year after year since 2013 when the Center for Disease Control started
following this and we all know that a lot of our opioids have been laced with fentanyl as of late in the past few years, yet our statutes do not treat them the same.

So we’re not asking for stronger laws, stricter laws, on fentanyl, we’re just asking for parity with other opioids, considering it is 100 times stronger than morphine and up to 50 times stronger than heroin. In late January, U.S. Customs and border patrol found the largest ever seizure of fentanyl from across the border into Arizona. If that had gone into this country, it would have resulted in almost a 100 million doses of fentanyl.

Here in Connecticut, the chief medical examiner has talked about this time after time of the thousands of fatalities due to the fentanyl and I was shocked to learn that in my small town of Derby, it has the fourth highest rate of opioid overdoses in the country right in between Hartford and New Britain. But the issue is not one of a small town, it’s not one of a city, the towns of Eastford and Norfolk have the highest per capita overdoses of opioids in the state, so I think we’re all very much aware that it does not -- it does not -- it is not dependent on socioeconomic groups and it’s not affected on where you live, it is not affected by your level of education or anything else. This is an epidemic that we have seen and I know we work very hard in this legislature on and we will continue to work hard forward, but whether it’s Derby, whether it’s Hartford, whether it’s New Britain and Torrington -- in February they reported over finding 400 bags of fentanyl in West Hartford, 100 bags of it.
And what we need to do in this state is just make sure that we are treating drugs that affect people and takes lives the same. Once again, this is not making fentanyl penalties stronger than other opioids. It is just making it equal and it hits all of us. It hits all of our districts no matter where we live. It takes thousands and thousands of lives. It’s common sense. As I said, thank you to this committee for passing it the last couple of years. We need to get it out of this legislature and make it law this year because lives can’t wait. Thank you.

SEN. WINFIELD (10TH): Thank you. Question, comments from members of the committee? Senator Kissel.

SEN. KISSEL (7TH): Thank you very much, Chairman Winfield. Madam Minority Leader, great to see you. Miss you on this committee as always. Do you know why it seems to have stalled in the Senate? Has it gotten through the House and then just never gets taken up? Is it a substitute question? Because as a member of the Senate, I’m not happy that that’s what’s taken place, especially when it was an 18/18 Senate over the last couple of years. I just -- I’m wondering what the jam-up is.

REP. KLARIDES (114TH): You know, Senator, I’m not sure. It passed the House one year and didn’t go through the Senate. Last year, it didn’t even go through the House I think because of what we’ve been going through with the budget the past few years. I’m not going to guess as to why. I think when House members try to guess as to what you guys do in the Senate, we’re all in trouble. That’s why we’re in the House, we prefer it that way, but, you know,
in all seriousness I don’t know and I think it’s a shame and I think we really need to sit down and figure out what the problem is because, again, this is one of those things that tens years ago, fentanyl didn’t exist in this arena and so that’s why it was never written into the statute and now we just have to update the statute to make sure that we are taking drugs that are of equal level and I would argue drugs that are much stronger than the drugs that we have written in statute, just making sure that they're treated the same way.

SEN. KISSEL (7TH): Well, I really applaud your efforts regarding this. There is an individual that I believe died of an opioid overdose just at the bottom of the street that I live on. I talked to our current police chief with Representative Hall and others from north central Connecticut. It’s a crisis and the fentanyl itself, it’s just -- we just -- it’s impossible to predict its effect and people get different doses and it’s just they think that they're safe and the next thing you know, they're dead and so we owe it to our constituents. This is not a Republican issue, a Democratic issue, this is a public health issue. This is a public safety issue and I’m really hoping that this is the year that this legislation as a whole acts on this, so thank you. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman, and good afternoon. Just once again I just want to take the opportunity to thank you for taking the time to re-introduce this piece of legislation that we all believe is very important. We’ve had advocates and
proposals come before us this year that many of the members on this committee have said you know what, we’re going to take this and we’re going to champion and we’re going to make it -- make sure that it gets passed in the Chambers. I certainly hope that this will be one that we can all rally together and make this happen this year. There’s not a day, sadly, that you don’t see news on TV or an article in the paper, on social media, that doesn’t talk about fentanyl and what’s taking place right here in the state of Connecticut. We don’t even have to look at other states that have to bring proposals for something like this in our state. We have it happening, deaths and negative effects, as a result here in our state.

So I certainly hope that this is a proposal that we can all just rally behind and make sure that it does get passed because again, we’ve gotten proposals after proposals from task forces, from commissions, from other leaders saying how are we going to address the opioid abuse and problem. Well, here’s a small step in the right direction. Let’s see if we can all take it together. So thank you again for taking the time to be here, testifying in favor of the proposal that’s before us.

REP. KLARIDES (114TH): Thank you.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman.

SEN. WINFIELD (10TH): Thank you. Are there other -- Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Speaker, and thank you for coming in to talk about this important bill and I thank you specifically about acknowledging that some of the smallest towns and
most rural towns in this state, Eastford for example, which is the next town away from me where I live, has one of the worst fentanyl and opioid problems in the state and I think we all know somebody who has been affected by it. I personally know a very good friend of mine just, you know, one little drop of fentanyl, wasn’t expecting it, dead and to realize that the penalty for fentanyl which appears to be considerably more powerful than most of the natural opioids does not even have a penalty as severe as things that have been around for a long time really, you know, it doesn’t seem right and I thank you for continuing to push this. Hopefully we’ll get it over the finish line this year.

REP. KLARIDES (114TH): Thank you, Representative.

REP. DUBITSKY (47TH): Thank you.

SEN. WINFIELD (10TH): Thank you. Questions, comments from other members of the -- Representative Stafstrom.

REP. STAFSTROM (129TH): Thank you, Mr. Chair, and thank you, Minority Leader Klarides for coming in on this. I appreciate you introducing the bill again. I certainly look forward to supporting it out of here again this year. You know, the part of the issue, and I appreciate you highlighting it, is not just folks going out and buying fentanyl, but it’s finding its way being laced into other drugs and that’s really become part of the issue. I, you know, between last year and this year, I had a former professor of mine from the university call me up and say hey, we’ve got this kid, he’s a good kid, but he got into some trouble, can you try to help him out and I took on kind of a criminal case kind of on a pro bono basis that I normally do, but so I
met with the individual and he had gone out and he bought a bag of pot on the streets and the bag of pot was laced with fentanyl and thankfully the cops caught him because if they hadn’t caught him, God knows what would have happened and so instead of going through a drug education problem, you know, as the police officer put it to him, he might have ended up in a body bag and you know, certainly an experience that kid will never forget and one that I won’t.

And I, you know, just want to share that sort of a learning and teaching opportunity, so while we move forward with this and hopefully do focus on cutting down on drug dealers, cutting down on folks peddling fentanyl on our streets, there’s a couple other bills before this committee that would cut down the black market for marijuana sales, so we’ll talk about those next week, but I did just want to certainly highlight that and appreciate you continuing to push this issue, continue to advocate for this issue, and make sure that we highlight the fact that fentanyl is finding its way into other drugs and that is sort of one of the main reasons that folks are O.D.-ing on fentanyl when they think, the consumer, is taking something else. Thank you.

SEN. WINFIELD (10TH): Thank you. Questions, comments from other members of the committee? Representative O’Neill.

REP. O’NEILL (69TH): Sorry I’m speaking after the co-chair of the committee, but a couple of things that it’s not really a question, but it’s a point that I think should be made here and that is -- and I think this captures people’s imaginations a bit more than a number, more people die of the heroin,
fentanyl and related narcotics overdoses now in Connecticut every year than died -- people from Connecticut died in the entirety of the Vietnam War, so it’s like we have Vietnam happening in our midst all around us and we’re not really noticing it because it doesn’t seem to get the same kind of graphic coverage that a war would, though the deaths are equal in number every year.

And the other thing is we’re talking about fentanyl and why is it -- and why this bill should be moved forward is in addition to being 100 times more powerful, fentanyl is far less expensive to produce and it’s a great profit center because you can have a relatively small amount of fentanyl and cut it and distribute it and make a lot more money than you could with an equivalent volume of some other narcotic like heroin, so part of the problem that we have is that the reason why they're using fentanyl and they're distributing fentanyl is in part because it’s such a high profit margin on this particular drug apparently because it’s so easy to make. It’s an artificial thing, you don’t have to grow things and wait for crops and then harvest and all that stuff.

You just make it in a laboratory very easily and it’s easy to make and it’s relatively cheap to buy and repackage. So I -- that’s one of the -- another of the reasons why I think it’s really important for this legislation to be before us and again, thank you for leading the effort on this.

REP. KLARIDES (114TH): Thank you.

SEN. WINFIELD (10TH): Questions, comments from other members of the committee? If not, thank you very much for joining us this morning.
REP. KLARIDES (114TH): Thank you.

SEN. WINFIELD (10TH): Keshanna Staten? Push the button. There you go.

KESHANNA STATEN: Thank you, Senator Winfield, Representative Stafstrom, and Ranking Members Kissel and Rebimbas for the opportunity to address the committee today. I’m here on behalf of my son, Karon Nealy, and his four-year-old daughter in support of Bill 1110, AN ACT CONCERNING INMATE CLAIMS THAT ARE FILED WITH THE CLAIMS COMMISSIONER. At age 19, my son died while in the custody of the Connecticut Department of Correction, DOC. He was serving the last nine months of a two-year sentence. He was scheduled for release in September 2015. Karon passed July 27, 2017. Just two weeks ago, over three years after my son’s death, I began receiving documents that the Department of Corrections had in their custody regarding the circumstances of my son’s passing.

Despite filing a timely claim with the claims commissioner, I was repeatedly denied access to my son’s medical records, DOC master file, and the security investigation and medical review concerning his death. Before last month, I had been forced to rely on news report and other inmates’ stories to learn the details of his passing. From the newly released records, I learned that during Karon’s final year, he waited to be seen by a doctor for nearly seven months and in June 2015, a month before he died, Karon was sent to solitary confinement while battling clear signs of lupus. Despite the Attorney General’s Office saying in court pleadings that Karon’s death was a result of his own negligence, the medical review I have provided the
committee shows that between October 2014 and his death in July 2015, Karon saw UConn Health doctors and nurses 11 times.

Karon’s medical records show he presented to sick call with hair loss, sore throat, rashes, headaches, intense joint pain, loss of appetite, fatigue, and a potentially dangerous blood condition. On nearly all occasions, he was treated with Motrin. The conclusion by the department -- the correction department’s health services, Karon’s medical review state “The MD failed to review abnormal findings with the patient, the MD failed to offer treatment at the receipt of the abnormal lab results, insufficient MD/APRN coverage, nurses failed consistently to assess vital signs. Interventions to address chronic complaints of pain were not addressed. Sick call encounters did not consistently result in vital signs assessment. Vital signs were not available for comparison. Correctional staff reported during interviews that they were unable to meet patient's needs secondary to insufficient staffing. Nurses’ narrative notes were not sequential; therefore the clinical record cannot be utilized in a meaningful way.”

The correction department’s report said the medical review found noncompliance with CMHC policies and current nursing and medical professional standards. I have waited nearly three years to obtain information that the Department of Corrections and Attorney General’s Office has had in their possession since 2016. No mother or family should have to endure the pain I have experienced while trying to get answers on their loved one’s death or injury. Senate Bill 1110 seeks to provide Connecticut families with the necessary tools to
receive critical information about their loved ones passing or serious injury while in the Department of Correction’s custody. The passage of Senate Bill 1110 will ensure what happened to my family never happens again. I know that several of you have already signed on as co-sponsors of this bill. I thank you sincerely for your support. To those who have not yet had the opportunity, I beg that you consider lending your voice to this important issue. Thank you for your time. I’m happy to answer any questions you have.

SEN. WINFIELD (10TH): Thank you. Before members ask questions or make a statement, I want to thank you for pushing us to have this bill here before us. Honestly, it was a bill that -- there are a lot of bills that we have and this was one of the bills that fell through the cracks and because of your advocacy and advocacy of some of the attorneys who pushed for it, this bill showed up again and whatever the final disposition of it, I think it’s important that we at least have the conversation, so I’m happy that you pushed this and I was able to get the bill back on the agenda. Are there questions or comments from members of the committee? Senator Kissel.

SEN. KISSEL (7TH): First of all, you have my deepest sympathies for that took place.

KESHANNA STATEN: Thank you.

SEN. KISSEL (7TH): I have several correctional facilities in my district. It’s the most of any Senate district in north central Connecticut, so whether it’s McDougall-Walker -- So first of all, I’m just asking what facility was your son in?
KESHANNA STATEN: He was in Manson Youth in Chester, Connecticut.

SEN. KISSEL (7TH): Okay, and I have toured that facility. I’ve toured several facilities throughout the state of Connecticut. I’ve worked closely with the commissioners of corrections. I’m not sure where the problem lies, if it was with the corrections administration, which I have the utmost respect for Commissioner Semple, or if there is something wrong with the provision of healthcare because that seems murky and I don’t want to take a swipe at the University of Connecticut at this point in time, but I’ve heard several times that there -- in the provision and our agreement sort of a no-bid contract with the University of Connecticut to provide medical treatment to inmates that sometimes there was substandard treatment. Now as someone who’s toured correctional facilities, I have the utmost respect for the corrections officers, but also the inmates. What people sometimes don’t realize is the vast minority of inmates are going to be released back into society and it’s very important that they be able to become productive citizens. Will this bill allow you to proceed with a suit against the state of Connecticut or is this something that would only be prospective?

KESHANNA STATEN: Prospective. This is just to make sure that another family doesn’t have to wait as long as I did to get the medical records.

SEN. KISSEL (7TH): Yeah, I mean, I just think fundamental fairness dictates there’s something vastly wrong. I would agree with Chairman Winfield that we need to address this. We have a claims process. It’s got, you know, a time clock that goes
and if you don’t do certain things by a certain
time, but if, you know, the party that’s ultimately
responsible is not giving you the information and
allowing you to act, to my mind, that’s
fundamentally unfair. So I can see myself being one
of the co-sponsors of this legislation because I
think you raise very valid points and it’s really
unfortunate that you had to lose someone that you
love in these circumstances, so I’m looking forward
to learning more about what actually took place
well. Thank you, Mr. Chairman.

SEN. WINFIELD (10TH): Thank you. Representative
Fishbein.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman.
Good afternoon, ma’am. Very sorry to hear your
story and I suspect those are family members behind
you and, you know, for them as well. You know,
hearing the story, though, and looking at the
language, I don’t know that it goes far enough and
the reason being is I think if you had a magic wand,
you would have the information early on so that you
would know whether or not to file a claim at all and
what this language requires is that you must already
file a claim and then get the information and I
don’t think that that’s proper. I mean, I don’t
want people filing claims with the claims
commissioner in the hope that they may be able to
prove their case or that information or may come to
light, but that’s what would result from this
language because it says an inmate, his or her legal
representative, or the legal representative of the
estate of an inmate who has filed a claim with the
office of claims commissioner in connection with a
fatal injury suffered by the inmate while
incarcerated and then it goes on to say should get the documents.

I would think it would make more sense that the documents should be made available so that you're given a reasonable opportunity to investigate, have somebody review those, and then sit down with somebody and say do you think I have a claim before you file the claim, so I would think that that would be the proper way to go about this. I'm certainly supportive of this concept, but as I said, I don't think it goes far, so you know, this language I think would have to be amended to, in some way, to provide for people because as I said, we don't want people filing frivolous claims, you know, we recognize legitimate claims and that would be the proper procedure to go by, so no questions. You've been through a lot and hopefully something can get done here, so thank you. Thank you, Mr. Chairman.

SEN. WINFIELD (10TH): Thank you. Questions and comments from the members of the committee? Senator McCrory.

SEN. MCCRORY (2ND): Thank you, Mr. Chairman, and I also want to add my condolences to what happened to your son. I was able to attend a hearing last year on this specific issue and the things that I learned in regards to healthcare in the correctional institutions in Connecticut was very frightening and very disturbing and not to lay blame on any one organization or the other. The fact of the matter is we're losing people's lives who are in our institutions and that's not what they're there for. As a matter of fact, I think just a couple of weeks ago another person died in custody and I think it was New Haven or Bridgeport.
KESHAANNA STATEN: In New Haven.

SEN. MCCORY (2ND): Yeah, in New Haven, and that’s not the goal. I mean, it’s supposed to be to rehabilitate and considering your son was only supposed to be there for two years and he was only 19 years old, I know that’s disturbing. I want to thank you for your advocacy. I signed on -- I signed on after that testimony. I was going to sign on anyway, but after that testimony last year, I was shocked. I couldn’t believe it and I hope that our system changes with the new leadership and not faulting the prior leadership, but I have spoken with the new leadership of DOC and there’s a level of expectation that I -- we all expect as we move forward and I hope this helps -- I hope this is helping your case and again, you as his mom and family and friends continue to advocate, not just for child, but for all the young people who are in the correctional institutions.

So I really, really hope that this brings you a little solitude, but I know it won’t because he’ll never come back, but maybe this won’t happen to another person and it’s time for us to shed some light on what’s going on in our institutions and again, thank you for your advocacy. I’m sure that this bill, whether it’s modified as we move forward, gets passed and our people who are in our institutions can come out rehabilitated and get on with their lives. Thank you.

KESHAANNA STATEN: Thank you.

SEN. WINFIELD (10TH): Thank you. Are there questions or comments from other members of the committee? If not, thank you again for your advocacy. I will say that again without that
advocacy, we would not be having this hearing that I think is critical and I don’t often say this because we’re protective of which bills we are trying to get through this building, but for me, this bill is a priority and it’s largely due to the work of you and the advocates. Thank you for joining us today.

KESHANNA STATEN: Thank you.

SEN. WINFIELD (10TH): We will next hear from Rich Hart.

RICK HART: Good afternoon, Honorable Chairman Stafstrom, Senator Winfield, members of the Judiciary Committee. My name’s Rick Hart. I represent the Uniformed Professional Firefighters Association of Connecticut, which represents approximately 4,000 career firefighters in the state. I’m also a deputy chief in the Waterbury Fire Department for the past 30 years. I’m here in support of House Bill 7394, AN ACT CONCERNING THE PROTECTION OF CONFIDENTIAL COMMUNICATIONS BETWEEN A FIRST RESPONDER AND PEER SUPPORT TEAM MEMBERS. The International Association of Firefighters has been a leader in the training of and promulgation of peer support in the country as well as in Canada. The IAFF recognizes the need and success stories that peer support counselors provide. On numerous occasions when we’re faced the most atrocious situations, but it also provides peer support for the -- for what we would call the mundane incidents that we respond to.

As you heard earlier today, the stigma of PTSD and mental health issues in the fire service in particular is one that is difficult in overcoming because we are told at a very early time in our career to suck it up, get over it, it’s part of the
job. Fortunately, that attitude is changing where peer support is becoming more and more prevalent across the country. In Waterbury alone, we had a peer support training program last year that trained 16 of our members. There were 14 other municipality firefighter that were trained in peer support through the IAFF. We’re doing another 30 this year as well, so it shows a need.

The National Fire Protection Association, which is a consensus standard, it doesn’t have the rule of law, 1,500 which covers the health and safety mandates in Chapter 11, 1.4, that departments have policies consistent with applicable statutes, regulations, and standards respecting records, confidentiality, data gathering, etc. It’s important that this confidentiality is maintained because it provides a security blanket for members to come forward to talk to their peers and provide -- and get the needed treatment and counseling that helps them become and stay a productive member of the department.

To answer a couple of questions Representative Rebimbas asked about other states that have -- that they have other statutes, Massachusetts has enacted into legislation similar to this, protecting the confidentiality and Representative Dubitsky asked about the definition. I’ve offered up best language that would -- used the definition contained in 7313G, which is an all-encompassing and more accurate definition of a firefighter that includes state, career, and volunteer firefighters. I’d be happy to answer any questions that the committee may have.

REP. STAFSTROM (129TH): Questions from the committee? Representative Fishbein.
REP. FISHBEIN (90TH): Thank you, Mr. Chairman. Good afternoon, Mr. Hart. In addition to firefighters, this extends to a lot of other individuals as well; telecommunicator, which I take it to be a dispatcher of some sort, EMTs, advanced EMTs, paramedics, peace officers, which would be police, corrections, that kind of?

RICK HART: I can’t answer for -- on the police side. I’m just here to testify on behalf of the firefighters.

REP. FISHBEIN (90TH): Okay. And the peer support team member, who decides who the peer support team member for a particular unit is? Is it one individual, is it a group of individuals, how does this work?

RICK HART: Just speaking from the Waterbury perspective, people sign up to take the class. A peer support team is in place now. The union is the one that runs it with the blessing of the department. The fire chief has given his blessing on it. There’s also less language in there to provide for employee, union, and association groups, so that would be more encompassing as opposed to just an employer run peer support. On the fire side, we’ve had great success with the IAFF, as I said before, and their peer support program, so people sign up to take the class and take the program -- attend the program and then they are assigned to the team, which is volunteer based within the fire department.

REP. FISHBEIN (90TH): Okay, so then the Waterbury model because that’s the only one we have to go by through your experience, when you say class, that’s more than one individual?
RICK HART: Correct.

REP. FISHBEIN (90TH): They’re speaking in a group as to events in their employment that have given them distress?

RICK HART: No, no, the peer support class, the training program, is a class -- 30 is the limit, so there would be 30 members that would be taking the course to become peer support counselors. Once they finish that class, they're placed on shift or wherever they're assigned and there’s a list and it’s published so that all members have access to the members on the team and they -- a member just calls a member of the peer support team if they have an issue to discuss and the shift commander, I’ve accessed it based upon incidents that we have responded to and had peer support members come in post call, post incident, in order to talk to people if they needed or so desired to speak with someone.

REP. FISHBEIN (90TH): And then how is it determined that the conversation between these two individuals that, you know, ordinarily could be stationed at the, you know, same station working shoulder to shoulder, another firefighter, how is one to perceive that the particular conversation falls within the cone of peer support?

RICK HART: If somebody -- If a firefighter calls a member of the peer support team to discuss an issue, whatever it may be, personal, work related, home related, it remains within that cone. It is -- Once you access the system, the peer support system, you are under their guidance, so a person discussing whatever issue, that confidentiality and that is one of the tenets of the IAFF program is the
confidentiality of the member is paramount, so it would stay within the two members that spoke.

REP. FISHBEIN (90TH): So any conversations between these two individuals at any time of the year at any place, a bar, a restaurant, wherever those two individuals end up discussing anything falls within this confidentiality?

RICK HART: Only if they’re accessing them as a peer support counselor.

REP. FISHBEIN (90TH): Well, that was the question. How do we know when that cone appears? You said anytime that --

RICK HART: The person accessed the peer support counselor specifically for an issue that they are facing.

REP. FISHBEIN (90TH): And how does one do that?

RICK HART: They call their cell phone. There’s a public list.

REP. FISHBEIN (90TH): They pick whom they're going to communicate with?

RICK HART: Correct.

REP. FISHBEIN (90TH): At whatever time they decide to communicate with that individual at whatever place they decide to communicate with that individual, so what initiates the cone, the cone of confidentiality?

RICK HART: Well, the peer support counselor will make sure that it’s -- that the member’s aware that this is a -- we’re discussing a peer support issue. I know -- If you're talking about ancillary, you know, discussions on, you know, department policy or
any issue outside of peer support, that wouldn’t fall into this. The cone --

REP. FISHBEIN (90TH): How does one determine that, though? Let’s say the two gentlemen go out to dinner, one’s a peer support, you know, has that -- wears that hat at some time and the other is rank and file firefighter and, you know, discussions starts that there’s a cocaine addiction and yes, I’m going to counsel you through the cocaine addiction and that’s part of the peer support and, you know, starts to talk about other issues dealing with cocaine and there’s an arrest and they want to question the individual who was the peer support. Where’s the confidentiality come in?

RICK HART: On line 32 to 41 discussed that where when it would be permissible to breach that confidentiality.

REP. FISHBEIN (90TH): Yes, and lines 26 through 31 would defeat it and it says no person in a civil or criminal case or proceeding or in any legislative or administrative proceeding may request or require information from any first responder related to the first responder’s participation in the peer program, including whether or not such first responder any time participated in such peer support program. So you would not be able to be asked about those kinds of things in a criminal proceeding> 

RICK HART: So I would liken it to a doctor/patient, attorney/client conversation, a pastor/parishioner type of relationship.

REP. FISHBEIN (90TH): Okay, and in that relationship it’s a little bit different. You know, I would call up and certainly a therapist is
available to a firefighter, you know, Workman’s Compensation, through that process, certainly medical treaters which that privilege would exist. This is in effect of an extension of those kinds of privileges?

RICK HART: Yes, and the peer counselor wouldn’t be treating the person. They would basically offer guidance to a treatment modality. As in your example, the cocaine addiction, the IAFF has a stand-alone medical facility in Maryland that takes in career firefighters for anything from PTSD and mental health issues to substance abuse, so the peer support counselor would recommend that that would be a course of treatment or an inpatient rehab facility in state, whichever one the member would prefer.

REP. FISHBEIN (90TH): So with other privileges like this, there are mandates where the privilege is supposed to be disclosed. For instance, a lawyer who comes into knowledge that a murder is going to happen has an obligation to do something about that. I see nothing similar here.

RICK HART: Well, unfortunately I’m not an attorney, so I just can’t speak to that, the privilege. I think the legislative intent of this is to provide the confidentiality of a member seeing peer support for a mental health issue or substance abuse issue without any fear of retaliation or repercussions from their employer. I don’t think the intent is to shield them from criminal activity.

REP. FISHBEIN (90TH): I understand. I’m just looking at the language because in 32 through 33, it says consent of the first responder shall not be required for the disclosure of these confidential communications, but then it sort of -- it’s
discretionary. It doesn’t -- You know, once the peer person comes into knowledge that, you know, as a result of the mental health issue, there’s going to be a significant event, you know, and a lot of people are going to die. There’s no, you know, obligation once they come into that information to disclose.

RICK HART: Well, I think line 35 covers that, that the peer support member in good faith, if they believe something bad is going to happen, they can breach that confidentiality to report it to the proper authorities.

REP. FISHBEIN (90TH): It’s discretionary, though. It doesn’t mandate it. It says it can happen. I -- In my opinion, I think it should happen, so --

RICK HART: Well, that’s something that still needs work on.

REP. FISHBEIN (90TH): Yeah, that’s something maybe we could work on. I’m not familiar with like how that works with doctors and therapists, you know, I know something about how it works with lawyers. You know, I understand that this is an extension of that and, you know, all about firefighter and peace officers getting training and, you know, help, but the dispatcher issue, certainly dispatchers work with the firefighters, dispatchers work at the fire departments in some cases. Do you in your role see a need for a dispatcher to have this support also?

RICK HART: Absolutely. They -- While not in statutorial definition as a first responder, they are the first person that is contacted and put your shoes in -- put your place in the shoes of a dispatcher that took the first call from Sandy Hook.
and what they went through. I just can’t imagine. Just a normal fire call or EMS call, you have family members screaming in the background. It’s -- It weighs on them. I mean, we do 24,000 calls in the city of Waterbury a year and there’s a dispatcher at the end of that phone line for every one of those calls, so they are just as much a part of the 9-1-1 system as firefighters, police, and EMS.

REP. FISHBEIN (90TH): No, I totally understand their involvement in the process. You know, a lot of times we hear in the building is that police officers are at the scene, you know, seeing a disfigured body. In fact, the bill in Labor required that there was a maiming or death for certain triggers, that they had to actually see the maiming or death in order for certain triggers to occur and in the case of a dispatcher, which if I recall correctly that bill in Labor didn’t address dispatchers, the dispatcher may hear screaming in the background, but they wouldn’t view a maiming or a death, you know, therefore giving rise to a more than likely a significant amount of mental distress and I’m just trying to see where is the line here?

RICK HART: Well, that was -- that -- we’re kind of comparing apples and oranges as far as pieces of legislation because that was crafted very narrow for fiscal reasons to make sure that the bill is -- or the concept and the coverage is provided correctly and everything is done right so that when someone comes along, say a dispatcher that wants PTSD coverage under Worker’s Comp, then we can say well, okay, we can add them in because the impact hasn’t been as bad as originally thought. This is just offering if they seek peer support, that the
competence, that they go to a peer support member, a peer support counselor, is maintained.

REP. FISHBEIN (90TH): How does this, I’m sort of winding down here, but we do tread on the Labor bill with the PTSD situation here in that we talked about when does the PTSD trigger? Are we to understand that meeting with a peer support team member, does that forestall a claim of PTSD under Worker’s Comp?

RICK HART: It could very well and that’s the whole premise behind having peer support is that we’re going to catch the problem when it’s small as opposed to having them swallow it and keep it inside until it festers to the point where it becomes a larger issue and leads to a PTSD diagnosis, which is worse than just somebody having counseling sessions with a psychiatrist or a psychologist.

REP. FISHBEIN (90TH): But doesn’t that lead to a problem in that there’s a time limitation of a filing of a Worker’s Compensation claim from the time of the injury? If you’re going to forestall a PTSD claim because for five years I was dealing with a peer support person, doesn’t that create a very large financial perhaps burden on the Worker’s Compensation process?

RICK HART: If somebody doesn’t file after a year, they don’t get -- they can’t file a claim.

REP. FISHBEIN (90TH): Yeah, but my question was forestalling that filing of a claim because they’re going through the peer support process.

RICK HART: Well, if the injury happened April 2nd of 2019, they would have to file a claim -- a 30C form with Worker’s Comp by April 2nd of 2020, but if they do not --
REP. FISHBEIN (90TH): This would not forestall --

RICK HART: Right, they wouldn’t be covered.

REP. FISHBEIN (90TH): That wouldn’t be the intent ultimately of this bill in conjunction with the bill in Labor?

RICK HART: No, the two are separate. This is just to provide confidentiality for somebody seeking peer support. Peer support is outside of Worker’s Comp. It has nothing to do with Worker’s Comp.

REP. FISHBEIN (90TH): I totally got it, but do you understand that peer support issues many times impact PTSD issues?

RICK HART: Yes, it could lessen the effect, which is a good thing.

REP. FISHBEIN (90TH): Could lessen the claims?

RICK HART: Yes.

REP. FISHBEIN (90TH): Could, yes.

RICK HART: Which is what we’re trying to do with peer support.

REP. FISHBEIN (90TH): Understood. Thank you. Thank you, Mr. Chairman.


REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in and I appreciate your looking at possible alternative language especially with regard to the definition of firefighter. I’m looking at the language under 53A3, which is what’s in the bill and also in 57313G, which I believe is the language that you’re suggesting?
RICK HART: No, 7-313G.

REP. DUBITSKY (47TH): Oh, I’m sorry, that’s what I meant, 7-313G. The -- Under both of them, it is -- both definitions are limited to municipal or state whether paid or volunteer, so again, it doesn’t capture -- For example, I’m fairly certain, I don’t know for sure, but I’m fairly certain that Millstone has a fire department. I’m fairly certain that places like --

RICK HART: Oh, you’re talking about private enterprises having -- like Pratt and Whitney has a fire department, Hamilton Standard --

REP. DUBITSKY (47TH): Yeah, they’re -- they would -- they would undergo the same stresses and same issues that somebody working for a municipality would undergo, but they're working for -- they have a different employer, but they wear the same uniform, they use the same equipment, they engage in the same type of activity. Why would we want to exclude them?

RICK HART: I don’t think it was intentional.

REP. DUBITSKY (47TH): Okay.

RICK HART: That language was a result of the cancer, the Firefighter Cancer Relief Fund to incorporate paid volunteer and state firefighters. That was because there was no real all-encompassing definition of a firefighter in the state of Connecticut and the reason that private entities were left out was because they have private insurance. They have private Worker’s Comp insurance or private insurance that wouldn’t come under state purview.
REP. DUBITSKY (47TH): Right, so -- I mean, in this instance, that wouldn’t be an issue because we’re not talking about insurance. We’re talking about confidentiality and that should cover everybody?

RICK HART: It should. It very well -- I mean, we could put language in to extent it to any private fire brigade or --

REP. DUBITSKY (47TH): But you don’t have to develop the language as you sit here, but I would suggest that we shouldn’t exclude people just because they don’t work for the government.

RICK HART: Correct, I agree with you.

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

REP. STAFSTROM (129TH): Representative McGorty.

REP. MCGORTY (122ND): Thank you, Mr. Chairman. Good morning or good afternoon, Rick. I saw this bill coming here today and I’m like it’s really strange we need a bill like this. You know, the fire, EMS, and police, you know, they’re kind of a brother, sisterhood, a family and the things they see on the job are basically, you know, some of the people at their worst and they go back to the station, they talk about it amongst themselves. They don’t necessarily take it home, they don’t take it to the bar or restaurant and talk about it with people that aren’t in their field of work and to have this, you know, it’s, you know, the peer group, I’ve been to a couple over the years, 38 years in the service, so you know, it’s a trust, it’s a bond with your brother and sister firefighters, cops, EMS. What made this bill come about? Was it municipality demanding to know what went on inside
these peer groups or was it somebody in the peer group is a blabber mouth?

RICK HART: I just found out this morning that Representative Sredzinski put it in at the request of Steve Johnson who testified earlier today with him. There's a saying in the fire service and I'm sure you've heard it, telephone, telegraph, tell a fireman. Unfortunately, things are kept confidential -- confidential and this hopefully would provide a layer of security for a member to come forward. We are evolving, as I said earlier, with the peer support program in the fire service. I mean, that's all I can speak to, and it's becoming more and more popular through the IAFF to be trained as a peer support counselor. Teams are cropping up all over the state as a result. East Hartford has a robust program and we have to protect and give the members the idea that yes, they can go to a peer support counselor and that confidentiality is not going to be broken where if somebody goes away for treatment, they go away because they have an issue and that's all you need to know and my experience, and I have accessed the -- our peer support program for members three times in the last I'd say six months and there's been other accesses to the peer support counselors and I'm on the executive board of the union and we don't know who it is or where they're going or why they're being seen. It's a very -- There is trust, but it's a fragile trust and we need something that would give it some teeth to provide a concrete form of protection for the members, the peer support counselor, as well as the members seeking counseling.

REP. MCGORTY (122ND): Thank you. And through Mr. Chair, you know, there is a need for this now
because, you know, things do get out, but there is that trust thing, so what if the members of these fire, police, and EMS don’t have the trust in a peer support group, what’s going to happen to them if this bill doesn’t go forward?

RICK HART: I can’t answer that. It would be extremely unfortunate if it doesn’t go forward. I mean, there won’t be a fiscal vote on it I don’t think. It’s a piece of legislation that everybody can get behind because it is fixing a problem that has a great deal of potential to be damaging to members. We want to get our members help as soon as possible. This provides that avenue by providing that level of security, as I’ve said, that them accessing a counselor isn’t going to come back to the department or fellow members aren’t going to ridicule or retaliate against them because like you said, it’s the person. You want that person that has your back to be 100 percent. This provides that, they will have the confidence to come forward now, talk about their problems and move on either through continued peer support counseling or being channeled into a treatment modality that can help them get better so that they are a hundred percent.

REP. MCGORTY (122ND): Okay, thank you. Thank you, Mr. Chair.


BRIAN MEZICK: Thank you, Mr. Chairman. Thank you and the ranking members of the committee for the opportunity to address the committee. My name is Brian Mezick. I’m a Connecticut state marshal for New Haven County. I’ve also been elected by my peers to sit on the State Marshals Board and I’m
also a member of the executive board of the state marshal’s local council, AFSME. I’m here to speak in support of S.B. 1087. This is AN ACT CONCERNING SERVICE OF PROCESS ON OUT OF STATE FINANCIAL INSTITUTIONS, LIMITED LIABILITY COMPANIES AND REGISTERED FOREIGN LIMITED LIABILITY COMPANIES. I’m sure as you’re all aware, state marshals serve an important function in the efficient administration of court orders. Often we’re tasked with enforcing court orders by serving financial institution executions or what we call bank executions.

The statutes as currently constituted require the marshal to actually walk the execution into the physical brick and mortar branch and this system generally works well for the marshals and the banks, but however, as times change, technology changes, the banking industry changes, people are conducting more transactions on-line and electronically. I’m sure as you’re aware, you know it’s possible to bank 100 percent on line, to take images of your checks for your transactions, to use the ATM network, and to never step foot into a physical bank branch. A lot of banks are closing bank branches and we want to bring to your attention that there’s also an entire market of internet banks that Connecticut individuals use that have no physical branch in our state.

So currently if a judgment debtor does their banking on-line and the bank has no physical branch, there’s no method in the statutes for a state marshal to serve that execution to the bank, so technology and times have changed so we’ve proposed some technical changes to Connecticut General Statutes 357A and 357B and the proposed bill allows an instance only when there’s no physical bank branch that the
serving officer can certify mail the execution to that bank. And this change is going to close a loophole that have made some people judgment-proof and we believe this change will promote a fair and efficient enforcement of court orders from our courts.

We also support the technical changes in this bill which address service of process on limited liability companies. When the act was changed in 2017, it didn’t carry over all the same methods for service of process in the old LCO section. The new chapter permits service on a company’s registered agent, but it didn’t carry over that the marshal can serve it at the agent’s usual place of abode or residence and it also didn’t carry over that we could serve a member of the LLC directly, so the proposed change in this bill will just allow some technical changes to allow us to serve at the registered agent’s usual place of abode and it will conform service to process to be in line with other sections of the General Statutes.

So we believe the changes contained in this bill are practical changes for the effective service of process and I thank you for your time in allowing me to express the support of the state marshals in this state of S.B. 1087 and I’m happy to answer any questions you might have.

REP. STAFSTROM (129TH): Thank you. I think you addressed this, but I just want to make sure. So this would not change the service process requirements or obligations with respect to an in-state bank?

BRIAN MEZICK: Correct.
REP. STAFSTROM (129TH): So if you're serving a bank execution at Webster Bank or People’s United Bank or something like that, if this bill would become law, the marshal would still need to walk that bank execution into the People’s United Bank. Correct?

BRIAN MEZICK: Correct. It’s just adding a third little exception. Now, the statute is going to stay the same, that we have to walk into the main branch of the office or a satellite branch in our county. Only in the limited instance where there’s no physical bank branch anywhere in the state would this change apply.

REP. STAFSTROM (129TH): So if somebody did their banking -- you had a judgment debtor that did their banking at maybe a community bank in North Carolina that doesn’t have a bank branch in Connecticut or as we start to see the advent of the internet-only banks, that would be the situation?

BRIAN MEZICK: Right. In sitting in the back, I actually did a little Google search of top ten internet banks. These are banks like Discover Bank. PNC Bank allows you to take pictures on your phone and no ATM fees, so we’re finding a lot of attorneys are sending executions to the marshals and saying can you serve it here and we’re saying there’s no provisions in the statute to do it, so these people are effectively rendered judgment proof, so this just simply brings the bank execution statute in line with what’s really going on in the banking industry in Connecticut.

REP. STAFSTROM (129TH): So if I get a judgment against me, I’ll put all my money in PNC Bank, is that what you're telling me?
BRIAN MEZICK: I’m not an attorney, so I can’t advise you, Mr. Chairman.

REP. STAFSTROM (129TH): Questions from the committee? All right, Representative Fishbein followed by Representative Dubitsky.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman, and just so you know, I’ll find the money anyway even if you put it in PNC. I’ll find the money anyway. Good afternoon, Brian, good to see you. Just wanted to ask, how would -- a marshal’s empowered to do this and we have a bank in North Carolina that doesn’t have a branch here, how does the marshal know? I would expect email; they would be emailing something. That’s how they’d effectuate their service. Correct?

BRIAN MEZICK: Well, in this instance, it would be certified mail to the bank branch’s headquarters, so traditionally when the marshals receive the execution, sometimes the attorney has already identified where the account is, so they’ll send us a cover letter and say hey, please serve Webster Bank first and then make service on other banks. In this instance, they might say hey, the person is transacting business at Discover Bank and I might have to follow up with them to say can you give me the company’s headquarters, but that would be a bank, for example, that has no bank branch in Connecticut, so there’s nowhere to walk it into, which is what the statute currently requires.

REP. FISHBEIN (90TH): Okay. I read this really quickly and I thought this was doing something different. So you cannot presently do this?
BRIAN MEZICK: Correct. You -- It has to be -- If you look in Section 1, Subsection B, it says the clerk shall issue an execution containing direction that the officer serving such execution shall one, make demand upon the main office, I’m paraphrasing, or two, if there’s no main office for the bank branch, a bank branch designated in the county. So that would be, for example, like People’s Bank, their headquarter is in Bridgeport. If I receive an execution for People’s Bank, they’ve designated in New Haven County, the bank branch in New Haven, so I could serve that, but if there’s no physical bank branch in any Connecticut county, there’s no provision under this statute to serve a bank execution on that bank, so it renders the judgment unenforceable.

REP. FISHBEIN (90TH): So what do we do with a corporation that like I sued -- there was a bar stool and the maker of the bar stool had never intended the product to come into Connecticut so they hadn’t registered with Concord, I didn’t get permission from the court to serve them by certified mail.

BRIAN MEZICK: Were they a corporation?

REP. FISHBEIN (90TH): They were a corporation.

BRIAN MEZICK: So a foreign corporation may be served by certified mail by the marshal and that’s a separate statute. This changes only for bank executions, financial institution executions.

REP. FISHBEIN (90TH): Got it, okay. Thank you. Thank you for bringing it to us. Thank you for your testimony. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Representative Dubitsky.
REP. DUBITSKY (47TH): Thank you, Mr. Chairman. I understand the changes that you're proposing with regard to serve on out of state banks. I'm looking at it, though. There are also some changes in Section 3 regarding limited liability companies and other than changing the words used, I'm not sure what substantive changes being made there. Can you explain that to me?

BRIAN MEZICK: My understanding is that the General Assembly amended the liability chapter in 2017 and made a lot of changes. Some things that didn't carry are that it doesn't specify that service has to be made one, by a proper officer, which is a state marshal and town constable and then the other provision that was not carried over was there's no statutory provision in the service section for an LLC. It allows us to leave the process at the agent's usual place of abode, so in practicality, this comes into effect sometimes, for example, a landscaping contractor, single member LLC. He's the member and the agent. He simply can't find -- if he won't make himself available. The statute as currently written is kind of forcing us to make personal service on the LLC. We're just simply asking for a technical change that conforms with the prior section that allowed us to leave it at his residence.

REP. DUBITSKY (47TH): So under the current law -- under the current language it says serving its registered agent, you're interpreting that to mean you actually have to physically hand it to him personally and this -- the new language would allow you to leave it at his house?
BRIAN MEZICK: Right. We’ve received some evidence from some marshals that have received feedback from their attorneys that courts are not issuing default judgments because they think there’s some clarification needed in the statute.

REP. DUBITSKY (47TH): Okay, all right, thank you very much. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you. Further questions from the committee? If not, thanks so much.

BRIAN MEZICK: Thank you, Mr. Chair.

REP. STAFSTROM (129TH): Kathleen Krider will be next.

KATHLEEN KRIDER: Hello. My name is Kathleen Krider and I am the chair of the Willimantic Food Co-op Board of Directors. I have submitted written testimony and would like to summarize by saying that I am here today to ask that you support passage of Proposed Bill No. 138, AN ACT MODERNIZING THE STATE’S COOPERATIVE ASSOCIATION’S STATUTES. Approximately six years ago, the Willimantic Food Co-op started a generative conversation on the topic of paying its owners a dividend. Despite 29 years of successful business and growth, we had not at that time had profitability that would have necessitated the need for a dividend.

We were fortunate at that time to secure a grant from the New England Farmer’s Union to start the process of a by-law revision to include such dividend when possible. It was then that we learned that due to arcane laws, it would not be possible and the advice given to us at the time was in effect to incorporate in another state, so to become the
Willimantic Food Co-op of Delaware, for example. The board of directors at that time unanimously decided to take a different path and so began our journey to this moment. After 35 years of serving our 6,000 plus members, mainly from eastern Connecticut, we were not going to abandon our home state.

Connecticut currently ranks among the lowest in New England in terms of the number of food co-ops as a proportion of population, due in part to outdated legislation that restricts their development. To date, Connecticut has two food co-ops, Willimantic and Fiddleheads, with a third in startup phase, while neighboring Massachusetts, for example, has 12. The idea that in order to provide member-owners with a complete scope of benefits, a food co-op would have to incorporate in another state, one with favorable cooperative statutes, seems counterproductive to the desire for the economic growth that this state is currently seeking.

Connecticut’s two retail food co-ops alone sell $1.5 million dollars in locally produced products annually. On a regional level, the neighboring food co-op association reports that its 27 food co-op members sell over $90 million dollars in products from local producers. What if we had more food co-ops in Connecticut? The Willimantic Food Co-op and Fiddleheads Food Co-op anchor the largest food desert in southern New England. As a result of our existence, folks in small rural communities along the Connecticut and Rhode Island border have access to locally produced and sourced food items that serves them and connects them to their greater communities. Opening up a pathway for more cooperative development would lead -- would touch
lead indicators in a variety of sectors such as small business development, public health, land use, open space preservation, youth development, and livable wage job development. I thank you for your time. I can answer questions. I also want to comment that I have other members of my contingency here and if you wanted to hold questions for them, they’re speaking soon after me, that would also be fine, but please ask away if you need to.

REP. STAFSTROM (129TH): Thank you. This bill obviously is before us because this committee has cognizance of the law of business organizations, but I’m not sure everybody on the committee knows what a food co-op is because it’s not something that we normally deal with, so if you could just explain what a food co-op is for us, it might be helpful.

KATHLEEN KRIDER: Sure. Well, a food co-op is in essence a brick and mortar grocery store. It is owned by the membership, so each person chooses, each member chooses, to buy into the co-op via a share and then that share is there’s to hold for the lifetime of their membership, so in essence the Willimantic Food Co-op is owned by over 6,000 people representing -- I don’t know how many towns, but let’s just say a large number of towns in northeastern Connecticut. That’s Willimantic in general. There are representatives from Fiddleheads here as well who could talk to their membership, but it’s a member-owned grocery store.


REP. FISHBEIN (90TH): Thank you, Mr. Chairman, and we talked a lot about this in Commerce last session, these concepts, but this bill has to do with more
than just food co-ops. It’s all of those association businesses that -- I think there was testimony about cleaning people that had gotten together. Is this something different?

KATHLEEN KRIDER: I believe that -- My understanding is this is -- this statute is strictly for food co-ops, but again, there are other members of the contingency here that could answer that question better than I.

REP. FISHBEIN (90TH): Okay. So I’m being on point that lines three through six have to do with the purposes of trader carrying on lawful mercantile, it goes on agricultural or agricultural business, so it would be mercantile, mechanical, manufacturing, or agricultural business within this state. So I would expect your food co-op doesn’t manufacture anything?

KATHLEEN KRIDER: We currently do not manufacture anything.

REP. FISHBEIN (90TH): Okay. It could be mercantile because we sell a product.

KATHLEEN KRIDER: We do.

REP. FISHBEIN (90TH): But not mechanical. I don’t even know what that means in the context of this.

KATHLEEN KRIDER: I don’t either.

REP. FISHBEIN (90TH): That’s -- Okay. So when I look at lines 34 through 44, why is it necessary for government to require the number of people that are on a board of directors of one of these things?

KATHLEEN KRIDER: I would love to defer the answer to that question to one of the other members of my constituency here today.
REP. FISHBEIN (90TH): Okay. I’ll hold -- Is there a particular member or?

KATHLEEN KRIDER: There are, yeah.

REP. FISHBEIN (90TH): That you would say is the best person to ask that question?

KATHLEEN KRIDER: There is.

REP. FISHBEIN (90TH): Who is that?

KATHLEEN KRIDER: I would ask that question of Erbin Crowell.

REP. STAFSTROM (129TH): Let me -- Representative, let me interrupt real quick. I’m happy to have everybody come up individually if you want to do that, but we have others on the list. We have quite a few folks from the two food clubs or co-ops, so if folks want to come up, we could do that and skip those folks later if that’s easier to address some of these questions or do folks each want to testify individually?

REP. FISHBEIN (90TH): That was my last area of inquiry, so --

KATHLEEN KRIDER: Let’s bring -- I would that there’s -- the shortest distance between these two points is to have Erbin come up next.

REP. STAFSTROM (129TH): Okay, all right. Just do you want to come up to address the questions? I don’t want to skip other folks in line.

KATHLEEN KRIDER: I understand.

REP. STAFSTROM (129TH): So if she’s going to come up now --

KATHLEEN KRIDER: It’s a he.
REP. STAFSTROM (129TH): Oh, I’m sorry. He can come up now, then we won’t need to call him later if that’s okay.

KATHLEEN KRIDER: Is that okay with you?

ERBIN CROWELL: Absolutely.

REP. STAFSTROM (129TH): Okay.

KATHLEEN KRIDER: Can I step down?

REP. STAFSTROM (129TH): Yeah, go ahead. Sir, I just need your name for the record.

ERBIN CROWELL: First name is Erbin, E-R-B-I-N, last name is Crowell, C-R-O-W-E-L-L. I represent the neighboring food co-op association.

REP. STAFSTROM (129TH): So go ahead, Representative, ask your question.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman. So sir, I’m sure you heard the question, but for the record, I’ll just repeat it. Basically why is it necessary for government to mandate the amount of members of the board?

ERBIN CROWELL: If I may -- Could I begin with my presentation and see if I answer some of those questions?

REP. FISHBEIN (90TH): I’m just here for the ride.

ERBIN CROWELL: Okay, and I apologize. You know, there are lot of folks from cooperatives in this state. We’re really excited about this legislation. I’m really happy that they are here and it’s -- we had no choice over the order on how people might present, so I’ll do my best on giving you a big picture view of cooperatives. So my name is Erbin
Crowell. I serve as executive director for the neighboring food co-op association. We are testifying in support of S.B. 138.

So we are cooperative federation of 35 food co-ops and startups all over New England and New York state. We’re locally owned by about 140,000 people, provide jobs for 2,300 people, generate revenue of about $340 million dollars. I also serve on the board of the cooperative -- national cooperative business association, which is the National Trade Association for Cooperatives and Credit Unions and I teach on cooperatives in the economic department at UMass Amherst. To answer one of your first big picture questions, the cooperative business model is rather unique in that it is a user-owned, user-governed model on the basis of one member, one vote, and as Kathleen was speaking to, in the event of a profit or surplus, a cooperative returns that profit to its members on the basis of their use of the enterprise as opposed to how much capital you have in the enterprise.

And I appreciate for some committee members this might sound like a new idea, but the first cooperative in the U.S. was actually established by Benjamin Franklin in 1752 to provide fire insurance for homeowners, so basically people would pool their resources into a mutually owned enterprise to protect their homes from fire. Today, NCBA, the national association, estimates that one in three people are members of a cooperative or credit union, which is another form of cooperative. In terms of my testimony, what I want to focus on, we have other people who can testify to the impact of their local co-ops, where I want to focus is first of all, the Connecticut statute is very outdated in terms of how
it serves to govern cooperatives. My understanding, it hasn’t been updated since the 1940’s. These obstacles to cooperative development have a negative impact on Connecticut in terms of the number of co-ops in the state, their successful operation, and the founding of new co-ops and so basically, we work with our member crops in the state, the New England Farmer’s Union, and the National Cooperative Business Association, as well as nationally recognized legal counsel experience with cooperatives to propose some basic changes that would bring the statute more in line with that of neighboring states as well as consistent with practice on a national level.

So what I wanted to urge is that the committee move this bill forward as written with one exception, which was -- I believe it was line 86. I think this might be a typo. The term shareholders there should be replaced with directors. It’s really on the board of directors’ plate or list of responsibilities to approve new members and otherwise I would encourage you to approve this statute as written. I could go through a long list of the number of food co-ops we have starting in other states, you know, the impact of co-ops, but I do want to mention where we started with this was working with existing co-ops who were unable to operate in a cooperative manner due to these statutes and startups who found the existing statutes so problematic that legal counsel was encouraging them to incorporate under cooperative statutes in other states and so rather than live with that situation, we decided to try to bring a proposal to amend the statute here to the assembly. Thank you.
REP. FISHBEIN (90TH): All right. So why is it necessary for government to mandate the minimum number of board of directors of these things.

ERBIN CROWELL: That’s a very interesting questions. The two answers I would give you is number one, it is in the interest of the state, I believe, to have some oversight of the operation of co-ops to make sure that they're actually operating in a cooperative manner because there is a tax benefit to that. The relevance of the number of board members is not clear to me, although I will tell you most states mandate at least a minimum number of board members and what we were proposing here is to change the rather restrictive numbers in the existing statute to lower that minimum to make it easier for people to incorporate a cooperative.

REP. FISHBEIN (90TH): And what are those rather restrictive numbers in the current statute?

ERBIN CROWELL: My memory is that it requires seven people to be the incorporators of a cooperative and we propose to change that to a minimum of three in line with other cooperative statutes in New England.

REP. FISHBEIN (90TH): Okay. So I’m looking at line 23 essentially through 33 where it sets the mark at September 30th of 2019 and says by not fewer than seven members as the board of managers. So you -- I glean from what you had to say that you have no opinion on whether it’s three or five?

ERBIN CROWELL: I think our opinion is that it ought to -- So a cooperative is a collective business organized by a group of people, so there ought to be a minimum definition of a group, right? It’s not a sole proprietorship. But we do not want that number
to be so high that it’s restrictive, right; that people have to bring together 12 people to form an enterprise. Three seemed a reasonable number and consistent with cooperative practice.

REP. FISHBEIN (90TH): Okay, and that’s cooperative practice as your cooperative works or how other states handle it?

ERBIN CROWELL: Other state statutes, other states’ statutes do require a minimum number of people to incorporate a cooperative and personally I believe that’s reasonable.

REP. FISHBEIN (90TH): Well, okay. I mean, some people may think that it puts an awful lot of power in very limited people’s hands also. I think that, you know, you’re saying or somebody said that the cooperative that you're involved with has about 6,000 members so now if three people were in charge of this association, that’s an awful lot of influence so to speak that’s empowered in those three people.

ERBIN CROWELL: I very much appreciate that perspective and question, but there’s a distinction between an incorporator and the board of directors. So an incorporator simply establishes an enterprise until the by-laws become effective at which point whatever number of directors is identified in the by-laws becomes effective. Does that make sense?

REP. FISHBEIN (90TH): It makes a lot of sense.

ERBIN CROWELL: Because those two -- those are distinct, but your point is appreciated because you do want a sufficient number of board members to ensure representation.
REP. FISHBEIN (90TH): And then you mentioned the tax benefits. What are, just generally helicopter view, what are the tax benefits of having a cooperative like this?

KATHLEEN KRIDER: So because cooperatives are user-owned entities, right, they’re not investor owned. Their purpose is not to maximize profit, it’s to return benefit to the members, so to your previous question, in the case of a food co-op, that maybe an access to healthy local food. For a farmer co-op, it might be a processing facility to turn their milk into cheese to market. For credit unions, it’s financial services, right? The purpose is not to maximize the return on your member investment because that’s minimal. The purpose is to return benefit and therefore since very early in U.S. government history, cooperatives are recognized as a different form of entity than an investor-held enterprise and are therefore taxed differently.

So rather than taxing the entity on surplus or profit generated, the individual member would be taxed at the individual level on any dividends returned to them as an individual.

REP. FISHBEIN (90TH): And then is income retained by the entity itself?

ERBIN CROWELL: It’s taxed in a different way.

REP. FISHBEIN (90TH): So the answer is yes, but it’s taxed in a different way.

ERBIN CROWELL: It’s taxed. It’s taxed in a different way and the other advantage, so cooperatives were originally organized to enable disadvantaged populations to empower themselves, so small-scale farmers, working people who couldn’t get
loans, etc., and so the idea there was that capital again was not generating profit, the co-op could retain that capital in the members’ name and still be able to use it as equity but not be taxed on it because they don’t technically own that capital.

REP. FISHBEIN (90TH): So are they taxed at the same rate that let’s say a corporation’s retained earnings are taxed?

ERBIN CROWELL: Depends on the state and at the federal level, it’s different.

REP. FISHBEIN (90TH): Okay.

ERBIN CROWELL: So there’s different rules here that come into play which can be challenging.

REP. FISHBEIN (90TH): In Connecticut, is it taxed the same as retained earnings for corporations?

ERBIN CROWELL: I don’t believe it’s taxed exactly the same way. It is taxed.

REP. FISHBEIN (90TH): Okay. All right, thank you. Thank you for the exchange. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Sir, I understand just with respect to commercial co-ops, would this statute also apply to housing co-ops or no? Is that a separate section?

ERBIN CROWELL: So one of the real challenges the cooperative movement has is that most of these statutes exist at the state level and it’s really a patchwork depending on the state.

REP. STAFSTROM (129TH): No, I understand that. What I’m saying is in my district, for example, we’ve got -- there’s two housing co-ops and I don’t
see the word housing sort of anywhere in line five or six. Does that statute apply to them as well or is just --

ERBIN CROWELL: I don’t believe so. I believe in Connecticut -- so Connecticut definitely has a different statute for credit unions. You have a different statute for worker co-ops. I think you’ve got one for housing and then this would be the general cooperative association statute that would basically be an umbrella for all those other structures.

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

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. I’m going through this and there are a number of things that I just don’t understand. First off, who now owns the stock? It talks in here several times about stock and who -- but it doesn’t say who owns it.

ERBIN CROWELL: So in order to become a member of a cooperative, you purchase a share of stock. Would you like for me to continue or do you have --?

REP. DUBITSKY (47TH): Well, I’m actually very familiar with co-ops. I have been a member of number of them, but not all of them are food co-ops. There are a number of other co-ops around the state that operate and -- but you have -- in this proposal, it removes the word stockholder and it changes it to shareholder. Why?

ERBIN CROWELL: Those two things don’t mean different things. It’s mainly a consistency matter.

REP. DUBITSKY (47TH): Consistent with what?
ERBIN CROWELL: Other state statutes. It’s just trying to make them more consistent, but to be clear, a member purchases a share of stock or a share in the cooperative. That share is not tradeable, right, that share can only be sold back to that individual member. They’re not for the purposes of speculation, but it’s how you secure membership within the enterprise.

REP. DUBITSKY (47TH): Okay, and do you -- in the current statute, it talks about managers and now it’s replaced in some places with director, directors, and in other places with members. So essentially you're taking the duties and obligations of the current managers and you're splitting it between directors and members?

ERBIN CROWELL: That’s not my understanding, sir. My understanding was that what we were proposing to do was replace the term board of managers, which is an outdated term, with term board of directors which clarifies the governance role of directors as opposed to the operational role of managers, if that makes sense.

REP. DUBITSKY (47TH): Yeah.

ERBIN CROWELL: And one of those was missed in the bill that was introduced, which is why my opening comments and my written testimony I propose that that be amended to match the other terminology.

REP. DUBITSKY (47TH): Okay. Is there such thing in Connecticut law currently of articles of association?

ERBIN CROWELL: I believe that refers -- that’s often referred to as articles of incorporation in
terms of how an entity, an enterprise establishes itself legally.

REP. DUBITSKY (47TH): Then why don’t you say that? On line four, it replaces articles of agreement with articles of association. Wouldn’t it make more sense to be articles of incorporation?

REP. STAFSTROM (129TH): I’m going to jump in here. Representative, I think some of these questions might be better directed to the legislative commissioner’s office on the statute as opposed to this individual’s testifying.

ERBIN CROWELL: I appreciate that. For the purposes of consistency with existing Connecticut law, I think that makes sense. That’s not our area.

REP. DUBITSKY (47TH): Okay. Well, as far as I know, LCO is not going to testify and my understanding is that this is your organization’s proposal, so --

REP. STAFSTROM (129TH): The Representative can direct testimony -- can direct questions to the LCO either through the chairs or on his own, but I think some of this is drafting decisions made upstairs and to be consistent with some of the other updates to our business and corporation statutes we’ve made in the LLC and Business Corporations Act.

REP. DUBITSKY (47TH): I appreciate that, Mr. Chairman, and I thank you for that. That’s why my questions are directed to this witness so I can tell which are drafting decisions and which are substantive that are presented by the proponent of the bill.
ERBIN CROWELL: If it’s useful, sir, I’m happy to share with you the original document that we outlined our proposals. As Representative Stafstrom’s pointing out, we didn’t write the final bill so there may be some inconsistencies that are better dealt with her.

REP. DUBITSKY (47TH): Okay.

ERBIN CROWELL: But I’m happy to share that document with you.

REP. DUBITSKY (47TH): I appreciate that. May I continue, Mr. Chairman? Going back to following up on Representative Fishbein’s comments about lines 34 through 44, was -- is this something that you proposed or is this something that LCO inserted identifying specifically how many directors there have to be and what their terms are and that they can only be separated into three classes? Is that something that was in your proposal or is that an LCO?

ERBIN CROWELL: That generally reflects our proposal and as I was outlining my response to Representative Fishbein, you know, what we were trying to address is what we saw as some of the overly restrictive provisions of the current law.

REP. DUBITSKY (47TH): But doesn’t adding this make it more restrictive?

ERBIN CROWELL: Which part, sir?

REP. DUBITSKY (47TH): The number of incorporators, lines 34 through 44, indicating that the board of directors may be divided into not more than three classes, one of which classes shall be elected
annually with each class to hold office for not more than six years?

ERBIN CROWELL: No, that’s actually less restrictive than the current statute and classes in this case can refer to different types of membership so there’s the flexibility involved in allowing for a number of different classes. For example, in an entity -- in an agricultural entity, you could have a class of producer members, you could have a class of employee members, you could have a class of consumer members and that piece of the statute gives the flexibility to an entity to determine what classes of membership it wants and how it might ascribe certain rights to those classes. It doesn’t mean you have to have three, but it gives you that flexibility.

REP. DUBITSKY (47TH): So are you suggesting that this is -- this is not new language; it’s actually replacing some other language because I don’t see the deleted language anywhere on this bill?

ERBIN CROWELL: That word’s deleted. All of this stays.

REP. DUBITSKY (47TH): Okay. So you're trying to make it more flexible instead of less, is that right?

ERBIN CROWELL: Yeah, the other points you spoke to were both number of directors, I believe, and also length of term. There was a pretty tight restriction on length of term.

REP. DUBITSKY (47TH): Okay. Have you been in touch with -- Now, you represent food co-ops? Have you been in touch with other types of co-ops around the state?
ERBIN CROWELL: Well, yes. So I serve on the National Cooperative Business Association, which is cross sector. We work very closely with credit units, work with cooperatives, farmer cooperatives, the National Farmers Union, New England Farmers Union, which are very closely aligned with the farmer cooperatives, have been part of this effort, so yeah, there's been quite a bit of dialog on this.

REP. DUBITSKY (47TH): Okay. Have you talked to any other cooperatives in this state specific?

ERBIN CROWELL: Mostly credit unions in this state, honestly, I'm not that familiar with many other entities that are incorporated under this statute.

REP. DUBITSKY (47TH): Okay.

ERBIN CROWELL: They're either, you know, housing co-ops or incorporated under other statutes because of the issues with this statute.

REP. DUBITSKY (47TH): I know there are -- there are certainly some -- Well, I was a member of the grain co-op in Middletown which has since closed. I'm fairly certain there are others around, but I was just wondering if you'd made any contact with them to see how this would affect them?

ERBIN CROWELL: We do a large amount of cross sector where we just had our annual meeting of food co-ops were there were other types of cooperatives present. They're very informed and involved in the work we do on this legislation and again, you have written testimony from the CEO of the National Cooperative Business Association and this is their work as a trade association of cooperatives to ensure a conducive business environment for cooperatives, so yes.
REP. DUBITSKY (47TH): All right, thank you. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Further questions from the committee? Seeing none, thanks for being with us.

ERBIN CROWELL: Thank you

REP. STAFSTROM (129TH): Jim Lohr.

JIM LOHR: Thank you, Representative Stafstrom, Senator Kissel, members of the committee. My name is Jim Lohr. I’m the deputy director of the New England Carpenters Labor Management program, a coalition of approximately 2,000 contractors and more than 30,000 union carpenters throughout the six states of New England and most of New York state. I’m here today to testify in support of House Bill 7379, AN ACT INCREASING THE PENALTIES ASSOCIATED WITH THE ISSUANCE OF A STOP WORK ORDER. I will be submitting written testimony. I just have to type up my chicken scroll here.

Over the past 225 years, union contractors and union carpenters have been at the forefront of fighting payroll fraud in the Connecticut construction industry. In the mid 1990’s, a study done by University of Connecticut economics professor, William Napert estimated that Connecticut taxpayers lost more than $500 million dollars alone because of the practice of employee misclassification where employees are called independent contractors. The $500 million-dollar estimate was based on the loss of state income tax, federal income tax, unemployment insurance and Worker’s Compensation premiums that were not paid because of this type of payroll fraud.
Contractors, many from out of state, can lower their costs by around 30 percent if they commit payroll fraud, so there’s an enormous incentive to cut costs to win a bid by breaking the law. To address the problem of payroll fraud in the construction industry, we’ve supported laws to create criminal and civil penalties on both public and private jobs. We’ve also supported the private right of action law, the employment classification task force, and efforts to increase personnel enforcing these laws at both the departments of labor and revenue services.

Back in 2007, we supported the passage of Public Act 0789, which established Connecticut’s stop work order provision under Section 3169 of the Connecticut General Statutes. It was modeled after a successful Florida law that was enacted following several hurricanes that brought in an influx of contractors to Florida who were working and paying their workers under the table to illegally cut their costs. This proposed bill, H.B. 7379, would simply increase the penalty for failure to comply with the stop work order from $1,000 dollars to $5,000 dollars. Other states such as New Jersey and California have much stronger penalties than our $1,000-dollar penalty for failure to comply with their stop work order laws.

This issue first came to our attention several years ago when the state shut down an out of state contractor in an Apple store in West Farms Mall for failure to comply with Connecticut Worker’s Compensation laws. At the time, an article in the Hartford Business Journal quoted Don Shubert, president of the Connecticut Construction Industry Association, who said “for a lot of contractors,
this is still just considered the cost of doing business”, Shubert said. Shubert points to an example earlier this year when the state shut down construction of the Apple store in West Farms Mall after an inspection found five construction workers weren’t covered by Worker’s Compensation insurance. But the contractors and subcontractors, all from out of state, ignored the order and continued working because it would have been more costly for them to miss their deadline than pay a $1,000 dollars fine for day they defied the stop work orders, said PG.

The contractors said we need to finish the work and pay the fine. PG said it made us think that maybe our penalty isn’t big enough. Unfortunately, the payroll fraud phenomenon isn’t unique to Connecticut or solely a problem with the construction industry. In a recent series of articles on human trafficking in the nail salon industry, Labor Commissioner Kurt Westby said “it’s important to recognize that Connecticut has a very effective tool in fighting labor violations and the stop work order.” Other states are looking to strengthen their stop work order laws. For instance, the New Jersey State Senate recently passed a bill to expand their stop work order to wage and hour violations and not just limited to Worker’s Compensation.

Also we support the efforts of the attorney general to step up enforcement to combat civil rights crimes contained in House Bill 7222. We specifically noticed testimony regarding worker rights case that involved more than 1,030 employees of a drywall contractor working up and down the eastern United States. Often times the victims of payroll fraud are undocumented immigrants that employers exploit to benefit their bottom line.
REP. STAFSTROM (129TH): Thank you, Jim.

JIM LOHR: Thank you. I’ll submit written testimony.

REP. STAFSTROM (129TH): Thanks. Questions from the committee? Representative Fishbein.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman. So your concluding remarks, is that a bill that’s before us?

JIM LOHR: Which one is that?

REP. FISHBEIN (90TH): You mentioned 7222?

JIM LOHR: Yeah, that’s the civil rights bill the attorney general --

REP. FISHBEIN (90TH): I didn’t see that on the agenda.

JIM LOHR: I was just mentioning that as an example of, you know, a useful tool.

REP. FISHBEIN (90TH): Okay. So looking at the bill that’s before us, I thought maybe I missed something. I try to pay attention.

JIM LOHR: That’s all right. I miss things myself.

REP. FISHBEIN (90TH): So why $5,000 dollars? Why not $2,000 dollars? Where do we, you know, why not a million. I mean --

JIM LOHR: I think in terms of the number, it’s, you know, the penalties for the contractor, for instance, in the West Farms Mall project, you know, the failure to complete the job, the penalties for that, were greater than the penalty, you know, to just work through the stop work order, so that was the impetus, you know, behind the increase, so.
REP. FISHBEIN (90TH): Okay, so the impetus was Apple?

JIM LOHR: Well, the store, you know, that project with the out of state contractor and that was the first time it was brought to our attention, so you know, most companies, you know, my understanding is when this happens and they're not complying with the Worker's Comp laws, you know, in a day, you know, once the stop work order is issued, they go out, contact their insurance agent, and you know, come in compliance.

REP. FISHBEIN (90TH): Or they call a lawyer, what is this, how do I deal with it. You can’t always get the person or finding the little farm stand who, you know, makes a mistake, $5,000 dollars.

JIM LOHR: I don’t think there’s any farm stands that I know that have, you know.

REP. FISHBEIN (90TH): What, that don’t -- that don’t get hit with stuff, Worker’s Comp --

JIM LOHR: No, not that I’m aware. I’m just familiar with the construction side of it, but not the farm stand side, I apologize.

REP. FISHBEIN (90TH): Okay. Well, because certainly the Apple store is in a construction site?

JIM LOHR: It was. They were renovating it.

REP. FISHBEIN (90TH): So it wasn’t the operation of selling Apple products?

JIM LOHR: No, the Apple computer, they were doing a renovation of one of their stores in the West Farms Mall.
REP. FISHBEIN (90TH): Okay. And it wasn’t the Apple workers, it was the construction workers?

JIM LOHR: It was the construction, right, sorry, my fault --

REP. FISHBEIN (90TH): No, problem.

JIM LOHR: -- for not making that clear.

REP. FISHBEIN (90TH): And is that where usually in your experience these stop work orders happen is in the construction industry?

JIM LOHR: Listen, there are other cases. We were kind of surprised. I mean, we’re obviously -- we’re more familiar with construction. We’re not familiar with other things, but you know, the nail salons, you know, I cited the article that was recently -- and I know they’ve been in the news a fair amount and I know that this is an issue apparently with the nail salons as well, too.

REP. FISHBEIN (90TH): Okay, we’re -- they’re not paying into unemployment and things like that?

JIM LOHR: That’s my understanding, so I don’t pretend to be an expert on the nail salons, I apologize again.

REP. FISHBEIN (90TH): Well, and I’ve got to look at -- because this doesn’t deal with, you know, large construction companies, this deals with everyone, and you know, I try to figure out --

JIM LOHR: I think the focus is primarily on the larger, you know, companies so that’s -- I don’t think that --

REP. FISHBEIN (90TH): So then --
JIM LOHR: You know, it’s usually on bigger projects where you’ll see a lot of out-of-state workers will come in, you know, that type of thing, so.

REP. FISHBEIN (90TH): So then you’d be in favor of like a carve out, so if their gross revenues are in excess of $500,000 dollars per year, it’s $5,000 per debt.

JIM LOHR: You know, I’d have to sit down and talk about, you know what I mean, in terms of what a number would be, a threshold kind of thing and stuff, but that’s --

REP. FISHBEIN (90TH): Okay, but that’s roughly why -- how we get to $5,000 dollars which can --

JIM LOHR: Fair enough.

REP. FISHBEIN (90TH): You know, for some businesses, that’s total revenue for a week, so -- but thank you. Thank you, Mr. Chairman.

SEN. WINFIELD (10TH): Questions, comments for others? Senator Kissel.

SEN. KISSEL (7TH): Is this up to $5,000 dollars or would it be automatically $5,000 dollars?

JIM LOHR: My understanding is it would be up to $5,000 dollars, but --

SEN. KISSEL (7TH): Does the labor commissioner determine that or someone in the Department of Labor?

JIM LOHR: I’m assuming, yeah. I’m assuming it’s ultimately up to the labor commissioner.

SEN. KISSEL (7TH): Okay, great, thank you. Thank you, Mr. Chair.
SEN. WINFIELD (10TH): Thank you. Questions, comments from other -- Representative Fishbein.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman, for a second bite of the apple. I don’t get that, this language at all, so the language that I printed out off the system says shall be liable to the Labor Department for a civil penalty of $5,000 dollars per employee per day that the violation continues after the date of the issuance of the stop work order, so I don’t know how anybody can glean from that a discretionary. There is no up to.

JIM LOHR: You’re right, my mistake.

REP. FISHBEIN (90TH): Okay. I just want that clear, so thank you, Mr. Chairman.

SEN. WINFIELD (10TH): Thank you. Others? Seeing none, thank you very much.

JIM LOHR: Thank you.

SEN. WINFIELD (10TH): Kathy Flaherty.

KATHY FLAHERTY: Good afternoon, Senator Winfield, and members of the Judiciary Committee. My name is Kathy Flaherty. I’m the executive director of Connecticut Legal Rights Project and I’m here to testify about three bills today. You have my written testimony, so I’ll make the remarks short. I’m here in support of S.B. 1112, AN ACT CONCERNING THE COMMITMENT OF A PERSON FOUND NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT, although I do have some suggested changes for the language, opposing 5866 about the provision of necessary medical treatment for drug-dependent persons and I’m here in support of that peer support bill, H.B. 7394.
It may see that those are three very unrelated bills, but they really do all have something in common and what that is the word that a lot of people call stigma. I tend to prefer to call it discrimination that is faced by people living with mental health conditions and in recovery from substance use disorders. The reason for my opposition to 5866 is I don’t think we need more education about how to force people into treatment because forced treatment doesn’t work. If you really want people to truly recover from substance use disorders, hauling them into treatment and forcing them to go may be a short-term solution, but will not lead to long-term engagement with services and true recovery.

I’m in support of peer support because I am someone who has been helped by peer support. I’m a person living in recovery for my own mental health diagnosis. I am a trained, although I haven’t done it for ages, a trained peer support facilitator and I served on the board of the Connecticut Alliance to Benefit Law Enforcement and one of the things that was very clear is that people do better when they're able to talk to peers, not necessarily talking to professionals, because it’s just making those genuine connections with people who know -- who walk the walk and talk the talk and can understand what they’re going through and make suggestions for them in a way to get through their day in a way that professionals just can’t.

And then in terms of S.B. 1112, I heard some of the questions that were asked of the public defenders earlier this morning. Our suggested change is when somebody has served the maximum commitment under the jurisdiction of the Psychiatric Security Review
Board, that commitment should end. I don’t think that anybody who is struggling with a mental health condition, if they are getting good legal advice is pleading not guilty by reason of insanity anymore because that system is terrible for people in every way and it doesn’t serve people correctly. The bottom line is, if you get put under the jurisdiction of the PSRB, you could essentially be under their supervision for life. If you do a crime and you are found not guilty, not criminally responsible for that crime because of your mental health condition, you’re supposed to be going to the hospital for treatment of that condition, yet people look at it as serving time.

Our clients in Whiting say they are treated as if they are serving time. They were found not criminally responsible, yet they stay locked up far longer than they should be and we have people there who have been there for decades who probably do not meet the standards for civil commitment and the state should not be depriving them of their liberty.

SEN. WINFIELD (10TH): Thank you. Comments, questions from members of the committee? On 5866 I think it is, I just want to make sure I understood your testimony. Did you say that that bill could force the treatment on?

KATHY FLAHERTY: Well, what the bill does is -- would require probate court administration to prepare information for people about the availability of the use of involuntary commitment for treatment of substance use disorders. The reality is is a lot of people’s first reaction when they talk about how can we effectively respond to the opioid crisis, a lot of people, especially
lawyers, have thought well, why can’t we just force them into treatment. There should be a law. Well, there already is a law and it’s been around for quite some time, but the reason that it’s not being used, although part of it may be that people don’t know about it, the bigger part of why I think it is not used is that people realize that it doesn’t work, especially in the context of a substance use disorder. If people are going to recover from an addiction, they need to want to recover from a bad addiction and all the involuntary commitment would do is force them to be in an inpatient setting for a certain period of time, but if what we really want to accomplish is getting people to the point where they experience true recovery by whatever path they choose to take it, increasing locking people up in hospitals, especially when we don’t have enough services available for people who actually want it, is not the way I think this committee should do, so that’s why I encourage you to not advance that bill.

SEN. WINFIELD (10TH): And again, this is for clarity. So if -- Tell me if I’m correct in understanding what you just said. So it’s not that the bill necessarily forces that, but it would spread information that you would think is not the most useful information and likely increase the usage of this involuntary forcing of the treatment that is actually not a good thing?

KATHY FLAHERTY: Exactly. I mean, I think the part -- you know, a lot of people are coming up with a lot of ideas of things they think will work, that won’t, so that’s why I just think there are better ways to spend this committee’s efforts.
SEN. WINFIELD (10TH): Got it. Thank you. Questions, comments from others? Seeing none, thank you very much for your time.

KATHY FLAHERTY: Thank you.

SEN. WINFIELD (10TH): Alice Rubin.

ALICE RUBIN: Hello, thank you very much for this opportunity to speak. I would like to speak in support of S.B. 138, AN ACT MODERNIZING THE STATE’S COOPERATIVE ASSOCIATION STATUTES. Cooperatives are a unique and viable business model. In this time of big business consolidating and resources going too far-away corporations, cooperatives empower communities and keep viable, excuse me, valuable resources in Connecticut. As the general manager of the Willimantic Food Co-op for the past 35 years, I’ve seen our staff grow from four to 35. These are jobs that start considerably above minimum wage and offer health benefits for full-time workers and the co-op pays 78 percent of that cost.

Our co-op member-owners have invested almost a million dollars in equity, money that is re-invested into our store to benefit our member-owners, as well as our whole community. We are in our third location with approximately half of the financing for our new stores provided by our member-owners. It will be a proud day when we can legally become a co-op in our state. It will be very powerful to be able to allocate a portion of our profits to our member-owners, something that cannot happen without the passage of this bill.

Over the years I have received countless phone calls from people wanting to start a co-op in their neck of the woods. It is challenging to explain all that
is involved, including the legal aspect. We are not a nonprofit. We are a not-for-profit. We are a co-op, but we are incorporated in Connecticut as a non-stock corporation. It is a lot of layers to get through. That tangle of legal technicalities, coupled with the expertise needed to run a small grocery store, is more than enough to discourage most groups. In fact, no new co-op has opened in this state since Fiddleheads opened in 2008. I have a vision of every community in our state having their own food co-op that will serve their own needs. The quality of life, financial, health, and wellbeing will all be impacted. Please help make this possible by passing bill S.B. 138.

SEN. WINFIELD (10TH): Thank you. Questions, comments? Representative Fisbein.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman. Just getting a little bit more into this cooperative thing, you know, needs and wants and all that stuff, the cooperative itself has employees that?

ALICE RUBIN: Yes.

REP. FISHBEIN (90TH): Okay. And are those member employees or they're just employees?

ALICE RUBIN: Anyone can be a paid employee at the food co-op, yes. You do not have to be a member.

REP. FISHBEIN (90TH): Okay. And they get benefits as part of their employment?

ALICE RUBIN: Yes.

REP. FISHBEIN (90TH): And are payments made like into the unemployment fund and the Worker’s Compensation fund?
ALICE RUBIN: Yeah, all that.

REP. FISHBEIN (90TH): All of that stuff?

ALICE RUBIN: Yes.

REP. FISHBEIN (90TH): So how does that work? Income comes to the cooperative that has a bank account itself and then pays out to its members, you know, like a dividend or something like that?

ALICE RUBIN: No, we’re not allowed to pay our members dividends or patronage rebates. No, we can’t do it because of this law.

REP. FISHBEIN (90TH): Well, there’s a portion of this law that thought allowed for that to happen?

ALICE RUBIN: My understanding is that it doesn’t and that we are incorporated as a non-stock corporation because we can’t be a co-op in this state because of the way the statute is written. That’s my understanding. I’m not the expert. Erbin was and I don’t know if he’s still here.

REP. FISHBEIN (90TH): Okay, understood. I mean, what we were talking about before is that some payments are made to members and that perhaps this concept of retained earnings. We talked about the taxable nature of those monies, so that’s how I got to there.

ALICE RUBIN: That’s what would happen if the state statute was changed as we’re requesting.

REP. FISHBEIN (90TH): Okay.

ALICE RUBIN: That is our goal is to be able to return our profits in part to our members.

REP. FISHBEIN (90TH): Okay.
ALICE RUBIN: Yeah.

REP. FISHBEIN (90TH): But I’m just talking about presently, so from the income to the cooperative, the unemployment compensation to the fund and Worker’s Compensation to the fund that is paid by the cooperative?

ALICE RUBIN: Yes, we pay all those and then we’re taxed on our income, you know, state taxes, federal taxes.

REP. FISHBEIN (90TH): So the individuals are taxed on the income or the entity is taxed on the income?

ALICE RUBIN: The entity, yes.

REP. FISHBEIN (90TH): Okay. And it’s just the entity that pays that tax, there’s no portion that the members have an obligation to pay towards them?

ALICE RUBIN: No.

REP. FISHBEIN (90TH): Okay. No problem. I’m just sort of fact finding. Well, it’s something -- because as I just said, we did have something like this in Commerce and it had to do with people who were cleaning homes and they had formed a cooperative and were doing a similar thing, so.

ALICE RUBIN: That might have been a worker cooperative as opposed to a consumer cooperative.

REP. FISHBEIN (90TH): Yeah, I think that’s how it was structured, so just looking at these different things and you learn a lot up here.

ALICE RUBIN: I’m learning that just from one day, yes, or a half day. It seems like a whole day.
REP. FISHBEIN (90TH): Well, thank you. Thank you for your testimony. Thank you, Mr. Chairman.

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

REP. PALM (36TH): Thank you, Mr. Chair. Good afternoon. Can you summarize for me what, in your opinion, the advantages of a cooperative are over a traditional business model?

ALICE RUBIN: Well, there’s a lot of different ones for a lot of different people. What I see is that it’s a way of keeping money in a community and strengthening the community through choices that we make, so if you decide to be a member of the co-op and you decide to shop at the co-op and put your money there and then you know that your co-op is going to give some of that money, that income, back to its members, give some of it in donations to nonprofits. They get the benefit of perhaps lower pricing, supporting local farms, all these choices that a co-op makes differently because we’re not here to make money and we’re not, you know, making someone in some different state wealthy. We’re about making our community wealthy in different ways.

REP. PALM (36TH): Thank you. And in hoping that this legislation should get enacted, are you anticipating that it would add new benefits structurally for your organization or remove obstacles that currently exist? What do you think we’re trying to accomplish here?

ALICE RUBIN: What I think would happen would be that our co-op could give patronage rebates, which I think would really educate and reinforce with our
membership how different a co-op is and that they're really an owner, they're not just like joining the health club or the gym or BJ’s, it’s they really have a much larger say and opportunity to participate in a business that they own. It’s very different.

REP. PALM (36TH): I was part of a co-op when I was in college in Maine and the investment that people have knowing that they own, whether in a technical sense or an emotional sense, a piece of this is profound.

ALICE RUBIN: Exactly.

REP. PALM (36TH): So thank you for the work you're doing and I’m interested in your dedication to maintaining the sort of democratic nature of co-ops and what I’m hearing reading between the lines is that you're hoping that it doesn’t become a corporate model where the shareholders control?

ALICE RUBIN: Exactly, yeah.

REP. PALM (36TH): Okay, thanks. Thank you very much.

SEN. WINFIELD (10TH): Thank you. Comments, questions from others? If not, thank you very much for joining us today.

ALICE RUBIN: Thank you all very much.

SEN. WINFIELD (10TH): Next will be Rachel Watrous.

RACHEL WATROUS: Good afternoon, Chairman, members of the board. My name is Rachel Watrous. I am the fresh departments manager at Fiddleheads Food Co-op in New London, Connecticut. I’m in charge of produce and the new kitchen they just build. So I -
- We source about a third of our produce from local farmers around our area. There’s testimony that you have from Robert Schacht, we call him Digga. His farm is in Quaker Hill. His farm grew up along within his co-op, as he says in his testimony, and so our co-op being there was a benefit to his farm being successful for him. Senator Kissel, listening to you today talk about the nursing homes that have been closing, I think maybe a possible solution to businesses leaving Connecticut is to make this easier for our neighborhoods to create co-ops in their own communities. If people are invested in the business, they want to stay and they want to be here for a long time and so I think that co-ops – having more co-ops in Connecticut would be really great and that this Bill 138 would make it a lot easier to have more of them here. Thank you.

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

SEN. KISSEL (7TH): Thank you for that comment and just for what it’s worth, my mortgage is held by a credit union. When I went to UConn, it was the UConn co-op. We never got any dividends, unfortunately, but I like the whole communal approach, keeping the money in communities and yeah, we shouldn’t have laws that are so cumbersome that people can’t work their way through it, land of steady habits. It’s good sometimes, but bad other times, so I appreciate your testimony. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Comments, questions from others? Seeing none, thank you for joining us today.

RACHEL WATROUS: Thank you.
SEN. WINFIELD (10TH): Next is Ida Rosado.

IDA ROSADO: Good afternoon and thank you Senator Winfield, thank you, Member Kissel, and distinguished members of the Judiciary Committee for the opportunity to speak to you today and also I would like to thank Waterbury Representative Reyes, who had helped me with my brother. I’m here to testify in favor of S.B. 1110, AN ACT CONCERNING INMATE CLAIMS THAT ARE FILED WITH THE OFFICE OF THE CLAIMS COMMISSIONER. My brother Edmond died in December of 2017 after being diagnosed with a terminal liver cancer. My brother suffered from hepatitis C and other ailments as well. I spent months contacting members of the Department of Corrections Custody and medical staff, including writing emails to Commissioner Scott Semple, requesting that my brother get appropriate medical care.

As the only person visiting him, I could see that he was not well, but I knew he was not receiving proper treatment. There was a significant delay in his diagnosis and I believe that this cost him his life. He was requesting to see a doctor from the day he got to McDougal. Once his tumors were diagnosed, it was clear Edmond was going to die, but not as soon as he did in 2017. And after I advocated aggressively, being the voice for Edmond. The Department of Corrections finally gave him a compassionate release to 60 West, the nursing home where inmates go still under DOC custody. I am not even sure if there was a security investigation done on my brother after he died. Our family still wants to understand what happened. My mother, Josefina, is in Puerto Rico and my sister, Josefa, and I and
Edmond’s seven children have been in the dark about the particulars of his lack of treatment.

At this point, we have had to hire counsel to get any information. For families like mine, this bill, S.B. 1110, would help us obtain the information we need to help us more in the loss of our loved one and help us understand how our brother, our father, our son was allowed to die for not receiving medical care. Please pass the bill out of committee and give it a hearing. I know that we are not the only family who has lost someone in custody of the Department of Corrections and this bill will help us -- will help so many families, Ida Rosada from Waterbury, Connecticut. I would also like to say that in Matthew 5:4, Blessed are those who mourn, for they shall be comforted. This bill will be comfort to many families who lost a loved one for lack of medical care because they are just considered inmates. Thank you.

SEN. WINFIELD (10TH): Thank you. Comments, questions from members of the committee? If not, I just want to say -- Representative Porter.

REP. PORTER (94TH): Thank you, Mr. Chair. First and foremost, I want to give you my deepest condolences on the loss -- on the passing of your brother.

IDA ROSADO: Thank you.

REP. PORTER (94TH): You are not the only story that we’ve heard like this and it is because of those stories that this bill was birthed. I think it’s very unfortunate the treatment that some inmates are subjected to, especially those that need medical care. In talking to some of the DOC workers, we
understand that there is a tremendous backlog. Not making excuses, but trying to find solutions to how we fix this problem to ensure that other families don’t have to go through what you and your family have gone through and still suffering through, so I just wanted to thank you and also Representative Reyes for the help that he gave you in assisting you with your brother, that we are listening and we are going to be diligent about trying to get this out of committee and make sure that we have something on the books that will help to make sure that it doesn’t happen again.

IDA ROSADO: Thank you.

REP. PORTER (94TH): Thank you so much for being here today and for sharing that story. I know that that wasn’t easy, but I do appreciate your willingness to do that in a public arena.

IDA ROSADO: Thank you.

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

SEN. WINFIELD (10TH): Thank you. Others? If not, I want to thank you for coming as I did with Keshanna earlier and let you know it’s because that the stories that you all tell that this committee meeting is taking place and the way that it’s taking place and I think you saw earlier, nobody could tell you right now what the disposition of this bill will be, but I think you saw earlier that in this committee, both Democrats and Republicans were paying a lot of attention and there were vocalizations of support from both sides of the aisle and even to the point with Representative Fishbein of talking about whether we could go further than what the bill already does, so thank
you for helping us to come to a better place on this issue.

IDA ROSADO: Thank you.


CHRISTIAN TOMPKINS: Hi, I’m Christian Tompkins from Groton, Connecticut, and I’m here to support Proposed Bill 138, but first I would like to thank you for my time to talk. I’m a member of Fiddleheads Natural Food Co-op in downtown New London and I have been a member since I was a kid. I go to Fiddleheads almost every day and I have volunteered there before and there are a lot of things I like about Fiddleheads. I like that we support local businesses. When we support local small businesses, it helps them to make their business or farm bigger and sell more items. I like that we sell food that I cannot get other places. I have been allergic to dairy and gluten my whole life and they have food that is safe for me to eat.

I like that when I go in Fiddleheads, they know my name and ask how my day has been. Everyone is very friendly and nice, happy. It would be good for you to pass this law so that more people would want to start a co-op for their area and do not have to drive far to go to a co-op. Thank you again for listening to me.

SEN. WINFIELD (10TH): Thank you. Questions, comments from members of the committee? Representative Fishbein.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman. Hi, Christian, how are you?
CHRISTIAN TOMPKINS: Good, how are you.

REP. FISHBEIN (90TH): How old are you?

CHRISTIAN TOMPKINS: Ten.

REP. FISHBEIN (90TH): Ten, wow. You said you go to Fiddleheads, you volunteer there a lot. What’s your most favorite thing to do at Fiddleheads?

CHRISTIAN TOMPKINS: I don't know.

REP. FISHBEIN (90TH): Okay, that’s an honest answer. Okay. That’s all I had. Thank you.

CHRISTIAN TOMPKINS: Thank you.


REP. PORTER (94TH): Hello, there.

CHRISTIAN TOMPKINS: Hi.

REP. PORTER (94TH): Thank you for your testimony. That was awesome. I am so inspired by you coming and speaking to us today and I’m really happy that you find that this bill would be helpful in your community and I think you kind of drove home the point that a lot of people that came before you and supported this bill, but it’s really refreshing to see a young individual in this building doing what you do and I hope that when you go back, you share this experience with your peers and encourage them to come and do the same.

CHRISTIAN TOMPKINS: Thank you.

REP. PORTER (94TH): You’re welcome. Thank you, Mr. Chair.
SEN. WINFIELD (10TH): Thank you. Are there any other questions or comments? I just want to say and echo the comments that have been made. Great job. You make me reevaluate my time as an advocate. I never came with my notes in a nice binder, laminated. Mine were in my pocket they got to unravel. Thank you very much for joining us today.

CHRISTIAN TOMPKINS: Thank you.

SEN. WINFIELD (10TH): Next we’ll hear from Jeff Gentes.

JEFF GENTES: Good afternoon, Senator Winfield and Senator Kissel, distinguished members of the committee. My name is Jeff Gentes. I’m with the Connecticut Fair Housing Center with Yale Law School. My work focuses on foreclosure prevention and I’m here in strong support of House Bill 7388. That’s the bill that the attorney just testified earlier involving uninvited guests, that being your bank breaking into your house. Attorney DaSilva covered a lot of what’s in my written testimony and a lot of the good questions and points I was going to make, so I wanted to just highlight our experience and answer any questions you may have. We have heard from literally dozens of people who have had incidents ranging from somebody came to my house and knocked on my door and said that, you know, they had an order that would allow them to come inside. People have come home and had their locks busted out to -- for complex litigations that took up 3,000 hours of attorneys’ times, took us to depositions in Iowa, Texas, Florida, Massachusetts and all could have been prevented by this bill.

It’s for that reason we’re in strong support of it. And just in terms of the industry, primarily the
people we talk about -- that we talk to are either have a reverse mortgage where someone comes by the house at least once a year just make sure someone’s living there or they are behind in some way and what the industry does is hire a company that pays people about $8 to $10 dollars per job and their job is to go in and just -- go up to the property and make their own judgment call to see whether or not the property is vacant. They error on the side of declaring a property vacant because ultimately, they’re serving the mortgage company which is serving an investor and that’s -- they’re more concerned about making that investor happy than they are with their customers.

Somebody will then take a look at the report, look at the pictures and make the call about whether or not to take the next step, which is to send somebody to break in and there’s no other way to put it. They’re looking at a bare minimum of changing the locks and insuring that they can get into the property if they want to later on. And it’s that particular entry that causes a lot of problems. Just a couple weeks ago, we had somebody who said they were in the shower when someone busted through their locks and came into the house. One -- During one of the depositions that we did, one of the contracting companies told us about how they’d lost one of their workers, was shot and killed during one of these inspections. Frankly, it’s amazing it doesn’t happen more given how stressed and emotional people are and given that you're getting folks who believe they have the right to enter the house and entering people’s castles.

Also for what it’s worth, the people who are sent to the house, they’re not licensed. They are perhaps
because they have some handyman or landscaping skills. The companies that hire them may find them on Craig’s List and those kind of things and for that reason, we need more protections, the cops aren’t helpful, as we support this bill.

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

SEN. KISSEL (7TH): Thank you, very much, and by the way young man, I appreciate your testimony regarding Fiddleheads, as well, just wanted to say that. This is amazing because I’ve been around this building quite a while and this is the first I’ve heard of this occurring and you would think, you know, this is crazy and I would think that out of my 100,000 constituents, I would have gotten a call about something like this occurring, so I totally support this bill. I can’t believe that these lenders are doing this and I agree with you. I think -- if I was the first person to go, I want to please the person that’s hiring me and if I keep saying no, it doesn’t look vacant, then they're going to drop me and hire someone else, especially if, as in the colloquy with Representative Fishbein, you know, maybe, you know, there’s going to be some things that are challenged in court, but if it’s like a couple hundred bucks and lawn-mowing fees and stuff like that, so somebody’s making dough off of this in some point in the process, so I think we should put a stop to it as soon as possible, so thank you for your testimony and the good work that you're doing.

JEFF GENTES: Thank you. I would just add the people in foreclosure often are not rushing to make that fact public or even more public than it is and it’s an issue we have with even bringing people up to testify.
SEN. WINFIELD (10TH): Thank you. Comments, questions from other members of the committee? If not, thank you very much for joining us. Next is Bonnie Tompkins.

BONNIE TOMPKINS: I think for the rest of today I’m just going to be Christian’s mom.

SEN. WINFIELD (10TH): I was going to say to you, good luck following that.

BONNIE TOMPKINS: He’s a lot cuter than I am. Again, my name is Bonnie Tompkins. I live in Groton, Connecticut. I’m here to tell you to support the passage of Bill 138, the act modernizing the state’s cooperative association statutes. There certainly will be people here today that have and will speak about the particulars of the bill. I hope to simply share with you why we would like to see more co-ops in the state of Connecticut. My husband Robinson and I and are seven children are members of Fiddleheads in New London. We first stepped into Fiddleheads nine years ago after we discovered a few of our children had food allergies. We were overwhelmed, intimidated, and scared.

What we found at Fiddleheads was a group of people deeply devoted to helping others who literally walked us hand by hand through the products that they offered and through the -- helped us with the understanding of allergies for our children, armed us with the tools we needed to help our children stay safe. After we returned week after week, we found this initial feeling of support was just the tip of an iceberg. A sense of community permeated the space with having local farmers and vendors present, to community events and trainings being offered in the co-op’s café. The staff and board
members take an active role in making Fiddleheads a great place to be and that sense of commitment is refreshing.

Our children have learned the value in cooperative associations, taking great pride in the fact that they are member-owners. They tell everyone they’re member-owners of Fiddleheads. They see the value in supporting local businesses and helping to create a true sense of community. They’ve seen a direct relationship between the products we purchase and the financial impact that has on people we now know personally. They, as many members do, have a sense of investment and the success of Fiddleheads, an investment that naturally leads to action. I’m a bit embarrassed to admit that we are in Fiddleheads nearly every single day, as Christian mentioned. We have four of our seven have worked at Fiddleheads, one being the systems administrator currently.

We are connected to Fiddleheads and the sense of being connected to our community has proven to be a gift. So I leave you with one question; if we, the state of Connecticut, would like to strengthen our communities, isn’t it through connection and support, the very type of connection and support that cooperatives like Fiddleheads naturally foster. I encourage you to pass Proposed Bill 138. I thank you for your service to the state of Connecticut and for the opportunity to talk.

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

SEN. KISSEL (7TH): Thank you, Mr. Chairman. Well, first of all, God bless you for having seven children. That’s hard work. And Christian, once again you did an awesome job. Do they sell Fiddleheads at Fiddleheads?
BONNIE TOMPKINS: They actually do, sir. Did you know you could cook them? We learned that.

SEN. KISSEL (7TH): I don’t know if I’ve ever tried them, but I think I want them. They’re ferns, Fiddlehead ferns, right? And you fry them up?

BONNIE TOMPKINS: Yep.

SEN. KISSEL (7TH): Yeah. You guys are too far away from my district. First of all, I really think the way you're approaching this issue is the right way. it’s upbeat, it’s positive. I mean, we have some heavy-duty stuff and, you know, serious, serious stuff and difficult to that point about that, but I mean, you've thought this through, it’s a good presentation, and I think this is the direction Connecticut should go. I wish there was a Fiddleheads up in Enfield in my district. I think that would be awesome because I represent people in north central Connecticut that like to do things as communities. They gather around Lorraines Soup Kitchen, they do the food shelf, they, you know, if someone is in trouble in the district, people rally to help them, so a food co-op would be perfect and the other ancillary benefit of helping the surrounding farms because they have a market right there to grow and sustain themselves. You know, it’s communal, it works well, so we should get rid of all these antiquated laws that make it incredibly burdensome and so I’m totally in support, happy to co-sponsor and do whatever I can, but thank you for your testimony here today. It makes a big difference. Thank you, Mr. Chairman.

SEN. WINFIELD (10TH): Thank you. Comments, questions for others? Seeing none, thank you very much for joining us today. Kim Glassman.
KIM GLASSMAN:  Good afternoon, Chairman Winfield, Ranking Member Kissel, and members of the Judiciary Committee. For the record, my name is Kimberly Glassman. I’m the director of the Foundation for Fair Contracting and I am here today to speak in support of House Bill 7379, AN ACT INCREASING THE PENALTIES ASSOCIATED WITH THE ISSUANCE OF A STOP WORK ORDER. You have my written testimony on line, so I’m just going to cover two quick points about this bill. The first is, my organization, we monitor public construction projects for compliance with the federal and state labor laws, so we are looking at federal, state, municipal construction projects and we know that an underground economy exists in the construction industry.

It is quite prevalent and we see unscrupulous companies violate Connecticut’s labor laws in various ways and one of which is to circumvent taxes like -- and the Workman’s Compensation Law, so we think the stop work order is a really important tool for our wage and workplace division at the Connecticut Department of Labor. They use that tool to try to make sure that companies are enrolling their employees in our state Workman’s Comp program. So we think that this bill is important because it will deter companies from trying to get around enrolling their employees in that worker protection. I also want to mention that in my testimony, I have attached a legislation that’s currently moving through the state of New Jersey who also has a stop work order law on the books.

In New Jersey, stop work order law allows their department of labor to collect a fine up to $5,000 dollars, so this, I think, would bring us more in line with New Jersey, but New Jersey is currently
looking at changing their stop work order law right now and that bill has just passed out of their state Senate with almost unanimously, just one no vote. It has strong bipartisan support and what they’re looking to do is to expand the jurisdiction of the stop work order law to include other labor violations. So nonpayment, underpayment of wages and benefits, stop work could be issued for those violations as well. In Connecticut, our stop work order is limited in scope to non-enrolling employees in Workman’s Compensation. So I fully support House Bill 7379 and I would urge this committee to look at possible substitute language to actually expand and look at the New Jersey law. I have attached that bill that’s going through New Jersey to my testimony. I know it’s on line now, but I’m happy to email that language to any of you as well. With that, I’m happy to answer any questions.

SEN. WINFIELD (10TH): Senator Kissel.

SEN. KISSEL (7TH): Thank you very much, Mr. Chairman. Well, thankfully, Representative Fishbein went and checked the language and it seems to be $5,000 dollars as opposed to up to $5,000 dollars and if we’re going to go from 1 to 5, I personally would feel more comfortable if it was, you know, a spectrum where the commissioner, depending on the egregiousness of whatever took place, could pick a number. When you talked about the New Jersey law, you said up to $5,000 dollars, so is theirs an up to as opposed to ours?

KIM GLASSMAN: It’s in their code, it says up to.

SEN. KISSEL (7TH): And if we changed ours, would you be okay with up to?
KIM GLASSMAN: I would. I think that the Department of Labor uses their jurisdiction now to determine what the right penalty is. Sometimes they waive penalties, sometimes they’ve lowered a penalty if they think the company is making good faith effort to enroll into Workman’s Comp, so I would personally be okay with that because I trust the investigators at our wage and hour division to determine what the right -- what the right claw-back is.

SEN. KISSEL (7TH): I appreciate that. I appreciate the insights that are department may be exercising some latitude that’s not specifically in the statutes and they probably have some ancillary abilities to do that, but they may have to jump through hoops. I’d rather create a law that makes it just really clear that they can -- to have some latitude to address the specifics of that particular matter, but I appreciate your testimony. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Representative Porter.

REP. PORTER (94TH): Thank you, Mr. Chair. Thank you, Kimberly, for your testimony. I thinks it’s very timely. I wish I had a copy or could at least remember where I read this article yesterday. There’s a stop work order in New Haven that just happened either yesterday or the day before that and then prior to that, we’ve had stop work orders on these nail salons in the state of Connecticut and the one thing that resonated in that article with me was exactly you said; they are looking at wage theft as well because what unfortunately happens is when people are breaking the law and getting away with breaking the law, they usually expand the territory
on what they're doing, so I think it's important that we include the things that you mentioned and that it should be, you know, if not $5,000 dollars a day, up to $5,000 dollars a day with the agency having jurisdiction over or discretion over what the fine should actually be based on just how bad or negligent they have been, but thank you so much for coming in and testifying and bringing those points to the forefront.

KIM GLASSMAN: Thank you.

REP. PORTER (94TH): You're welcome. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Representative Fishbein.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman. Good afternoon, Kim.

KIM GLASSMAN: Good afternoon.

REP. FISHBEIN (90TH): How are you?

KIM GLASSMAN: Good, thank you.

REP. FISHBEIN (90TH): So I have a problem with this discretion things because the legislature empowers the Department of Labor to be able to do certain things and quite frankly, while it's probably a good thing that it happens, the legislature never gave that discretion to the Department of Labor under what I'm looking at. It's Draconian. It says it shall charge that fee and the problem that we get into with regard to that is we have disparate treatment. You know, we hear about disparate treatment based upon gender, race, creed, all of that stuff. This just begs that. So I think it should be in the language that, you know, if there's
good faith effort towards compliance that the commissioner is given the authority to employ discretion in lowering that. It’s certainly not there and that’s very troubling as a lawmaker that, you know, on a public policy standpoint, I’m all for it, but the fact that, you know, the people that sat around this room and went to the House and Senate didn’t give that power to the Department of Labor is troubling.

The collection, you specifically said that in New Jersey, they're empowering the labor commission to collect the fee or the fine? Is that -- because here, there’s no procedure for the commissioner of the Department of Labor to collect, I believe. Wouldn’t that be through the AG’s office?

KIM GLASSMAN: Oh, it may be through the AG’s office.

REP. FISHBEIN (90TH): Okay, because I don’t think the commissioner itself has the authority to bring an action, so I think it has to go through -- So is New Jersey contemplating something different?

KIM GLASSMAN: You know, I actually have the legislation in front of me. Do you mind if I just double check?

REP. FISHBEIN (90TH): No problem.

KIM GLASSMAN: I just don’t want to answer anything -- I don’t want to guess wrong.

REP. FISHBEIN (90TH): I appreciate that, yeah.

KIM GLASSMAN: The attorney general or other appropriate prosecutorial authority for investigation of prosecution pursuant to the section
and the commissioner may immediately issue a stop work order to cease all operations.

REP. FISHBEIN (90TH): Yes, a stop work -- it’s a similar situation. The Department of Labor issues the stop work order and then any fees, so in your experience, is that determination as to the discretionary reduction of fees done by the Department of Labor or is the AG’s office?

KIM GLASSMAN: So my world is mostly on the wage theft side. We obviously support the Department of Labor’s efforts when it comes to issuing stop work orders. On the wage theft side rather than the Workman’s Comp side, which we still think not enrolling a worker into Workman’s Comp to get around having to pay Workman’s Comp, we see that as a form of wage theft to be clear, but in the basic way of looking at wage theft is just not paying the wage rate that’s posted in the contract or not paying into a benefit fund that you are supposed to be paying into or not paying overtime, something like that, misclassifying a worker as an independent contractor. There are ways -- There are fees, penalties, associated with those violations and we have seen that the wage and hour division, so I’m speaking for the -- I’m speaking through the wage and hour division, not through the Attorney General’s Office.

I can’t speak to how the Attorney General uses their -- if they have any latitude in the collection of penalties in this state and if so, if they use it, but the wage and workplace division at the Connecticut Department of Labor will often determine what that -- within the confines of the labor code as it’s stipulated for different penalties to
different violations, they’ll determine what the correct penalty should be because -- and we like this, this is a good thing, our department of labor is focused first and foremost on making sure that a worker gets paid what is rightfully owed to them.

So they’ll work with the employer to figure out what’s the best way to make that worker whole, to make sure that, whether it’s on the benefit side, whether it’s on the wage side, how can they make sure that that worker is getting paid what is rightfully owed to them and if it means -- if it means in order to just get them paid quickly, if it means lowering a penalty or excusing, you don’t see that often, but excusing a penalty, the wage and hour division may make that determination in order to make sure that a worker is getting paid any back wages owed to them. So I may have been speaking a little -- I may have been -- I may have been confounding my wage and workplace division with the Attorney General’s Office a little bit, so I apologize for any confusion there.

REP. FISHBEIN (90TH): No, I -- because you’re more concerned with compliance.

KIM GLASSMAN: Yes.

REP. FISHBEIN (90TH): And ultimately that’s your goal.

KIM GLASSMAN: A hundred percent.

REP. FISHBEIN (90TH): And the conflicting situation that has happened in my experience, we used to have an attorney general who felt that the Attorney General’s Office was a revenue raising function of government, so was not as concerned with the compliance but the penalty, so I had that with the
Department of Health in a particular case, so where we were willing to comply but they didn’t care about the compliance, they wanted money. So I’m just trying to put all of this stuff together and I really think discretion should be in here. I really think it should say who has the discretion because, you know, does the Department of Labor direct the AG’s office as to what it is, you know, and go from there, but procedurally, so somebody doesn’t sign up, register an employee for let’s say Worker’s Comp, okay, and a stop work order is issued or brought to the Department of Labor, a stop work order is issued, and the employer says oh, I didn’t know, I’m sorry, made a mistake, whatever, how long does it take to have that cured?

KIM GLASSMAN: Well, I’m glad you asked because I just made sure that I knew the answer to that in anticipation of it possibly being asked. It’s quite easy for an employer to enroll in Connecticut’s Workman’s Compensation. The system, it usually just takes about 24 to 48 hours if they move quickly.

REP. FISHBEIN (90TH): Okay, if they move quickly.

KIM GLASSMAN: Right, I mean, making just -- if they know that they’ve -- if a stop work order has been issued, I imagine that that employer would want to make sure that that stop order comes off their job site. In my world, we speak in a construction lingo, but whatever the place of business is, very quickly so they can get back to work. So they would just contact the Department of Labor and they’d contact the Worker’s Comp division and enroll into the Workman’s Comp system, which again, from my understanding takes only about 24 to 48 hours.
REP. FISHBEIN (90TH): So we heard earlier that this is more than just the construction industry. In fact, Representative Porter brought up the nail salon situation. You know, one of my concerns with this $5,000 dollars thing and I don’t know where the discretion is, you know, I get calls. I got a call the other day from a guy who runs a multilevel development company and they were taking the position that certain employees were supposed to come under Workman’s Compensation and they issued a stop work order, you know, and I wanted to take some time to look into it, to speak with the employees, all that stuff. Time is clicking and I’ve got a $5,000 dollar a day penalty. So what I’m sort of thinking in my mind is you have a two-tiered system. You know, maybe the first three days are at a low level, maybe $500 dollars, maybe make it even lower, and then you jack it up when you have that reasonable period of time that you could investigate it, figure out what you’re supposed to do, and then apply, it’s going to happen quick, and then we’re going to jack you up with the fees. Wouldn’t that make more sense for business friendly, working it out together compliance?

KIM GLASSMAN: I think -- I don’t -- I don’t necessarily buy into either you’re worker friendly or business friendly because in my world, the construction industry, if one’s doing well, the other’s doing well and if one’s doing poorly, the other’s doing poorly. We really need contractors and workers to be working cooperatively in order for the industry to be really successful, right, so we don’t see what we’re trying to do as being necessarily anti-business. We think that it’s pro-business because there are a lot of really great
employers here in Connecticut and employers that may not have their businesses in Connecticut, but do a lot of business in Connecticut who follow Connecticut’s labor code to a T and have enrolled their employees into the Workman’s Comp system.

What is unfortunate, though, is that there are employers who knowingly misclassify their employees as independent contractors and the problem for that is not just that the state loses out, there’s a real problem that I see when I have workers will contact me at tax time and say I just got this massive tax bill. I don’t know why. I see the taxes come out of my paycheck. I don’t know why I have this massive tax bill and you meet with them, you talk with them, and you find out that they signed a paper, they didn’t know, saying that they were an independent contractor and they didn’t know that that meant that they had to be prepared at tax time for being -- for paying employer taxes, right?

So there’s a -- there is a two-tiered issue here on the state losing out on revenue and to the Workman’s Comp system, but there’s also an issue of workers who just simply aren’t aware that -- who believe that they're employees.

REP. FISHBEIN (90TH): But in that situation, I don’t think a stop work order would be issued. That’s sort of like to the discussion we had in Labor with the debarments and that whole thing, right, but in that particular scenario, I don’t see the Department of Labor issuing a stop work order for somebody who an employer classified as a 1099 employee as opposed to W2.

KIM GLASSMAN: Well, right, we want the employee -- we want the employer to enroll in the state’s
Workman’s complaints, so that’s when the state --
the state will visit a job site and will issue a
stop work order if the employer is not -- has not --
has not --

REP. FISHBEIN (90TH): Signed them up.

KIM GLASSMAN: Signed them up for the -- yeah.

REP. FISHBEIN (90TH): But do you think it would
make sense to have some sort of low-level grace
period like three days, let’s just say, you know,
because this is going to apply to everybody, so --
and then after three days, the bad guys, the guys
that do this intentionally get whacked? And then
the innocent person who, you know, wasn’t sure that
they classified the person right, wants to inquire
of a lawyer as to, you know, whether or not what
they're hearing from on high is the word, it gives
them a reasonable period of time to hear.

KIM GLASSMAN: No, I completely understand your
point and it’s well received. The concern that I
have is that is also a safety issue. God forbid
somebody gets injured in that grace period of time.
And then there’s potential litigation determining
who is at fault and who’s providing coverage. We
want to incentivize employers to follow the law. We
want to incentivize them to enroll into Workman’s
Comp, so where I think -- where I think I moved to
your point and to Senator Kissel’s point is if we’re
looking at increasing the per diem penalty to $5,000
dollars, I do think it makes sense to, because of
the points raised by you and Senator Kissel which I
think are valid, to include in their language that
says up to because there is discretion there that’s
very clear to Attorney General’s Office as to what
that sweet spot is and maybe it’s nothing, to your
point, and maybe it’s really egregious, though, and they feel that they need to send a message to implore the company to move quickly and do the right thing. So I’m open to substitute language that changes this to up to $5,000 dollars and I also think, to Representative Porter’s point, that we should look at expanding this as well.

REP. FISHBEIN (90TH): And I guess the other thing you could do is you could make it a successive sort of situation, you know, if the employer has been fined within the last two years for something of this nature, you know, you would have a different, a higher penalty, play with that kind of stuff, too. I’m just worried about the, you know, the small business, innocent, had no idea, you know, we try and have people not use lawyers to open businesses these days. We set up a lot of user-friendly things through the government. These people have no clue what it takes to run a business and then, you know, somebody comes in and says, you know, you have $5,000 dollars a day or up to a discretionary -- we’re trying to help businesses come to the state, open all of that stuff, so I enjoy the exchange. I’ll be -- Well, anyway, we’ll be talking about it.

KIM GLASSMAN: Thank you. I appreciate it.

REP. FISHBEIN (90TH): Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Other questions or comments from others? Seeing none, thank you very much. Amber Diaz.

AMBER DIAZ: Thank you, Senator Winfield, Representative Stafstrom, Ranking Members Rebimbas, Kissel, and distinguished members of the Judiciary Committee for the opportunity to speak to you today.
I’m here to testify in favor of S.B. 1110, AN ACT CONCERNING INMATE CLAIMS THAT ARE FILED WITH THE OFFICE OF THE CLAIMS COMMISSIONER. My sister, Desiree Diaz died in York Correctional Institute on June 6, 2018. Our family does not know exactly what happened, but she was found nonresponsive in her cell at about 6 a.m. She had been in York facility less than 24 hours for minor charges. My sister, Desiree, was four years older than me. She was a person with all of the sparkling joy and imperfections that make us love and care for each other. She left behind her two sons Christian and Jordan, her fiancé Chris, my grieving mother Katherine, a heartbroken father Armondo, older brothers Nicholas, Nathaniel, Elijah, myself, nieces and nephews and a whole universe of people who have adored her. A year later we know nothing about how she died other than speculation, hearsay, and an autopsy that tells us little.

Through my sister’s estate counsel, on January 7, 2019, we requested copies of many documents pertaining to her death at York through the Freedom of Information Act. The Department of Correction or DOC acknowledged the receipt of the request within four days as the FOIA demand, however, the DOC ignored fulfilling the request. Our counsel repealed this rebuff to the Freedom of Information Commission on February 4, 2019. When the commission representative emailed our counsel on March 12, 2019, the DOC had still not responded.

Only the next day when the FOIC reached out to the DOC did we get any kind of response. The DOC claimed that everything we sought was excluded from the Freedom of Information Act. For example, when we asked for the mandatory report that the DOC has
to make to the United States Department of Justice regarding the inmate death of Desiree Diaz, the DOC said that it was a draft format and thus excluded under the FOIA. When we asked for the morbidity and mortality reports related to the inmate deaths in York for June 2018, the DOC said it was still in draft form. When we asked for the security investigations of all inmate deaths at York in 2018, the DOC said it was still in draft form.

I refuse to believe that after six months, mandated reports are still in draft form. What are they waiting to finish these? Nothing. It seems to me that the DOC is more likely trying to hide something and does not want us to know what is in these documents. The Federal Department of Justice requires that death reports be made promptly. I do not believe the DOC’s response. Then when we asked for all logs, dispatch logs, security logs, interdepartmental reports concerning code whites which was issued when my sister had passed away, the DOC exempted it under grounds that they would subject York to security risks under Connecticut General Statutes 1-210B18G. When we asked for any video, the DOC said they would not show it to us without a court order or a subpoena.

The DOC is telling us to sue. I’m attaching the documents from our FOIA request for the Judiciary Committee’s review. Our hearing in front of the FOIC is April 25, 2019. The DOC should not be allowed to hold or withhold documents from us. We’re trying to get information from the DOC to tell us if we should sue for my sister to make sure we’re not filing a frivolous claim, yet the DOC just told us if we want to know anything, we need to file a lawsuit, which I don’t know if you guys understand,
but that is an oxymoron. In order to get -- In order to sue, we need certain information that proves that our claim isn’t frivolous and if we can’t get the information, then we can’t sue, so there’s a discrepancy here.

Thus, we’re forced to get the Office of -- the claims commissioner. For my family, this bill S.B. 1110 will help us grieve, help us mourn, and help us understand how Desiree died in a prison cell and laid there until rigor mortis set in, that means two to six hours she was laying there. So she laid there until rigor mortis set in when correctional officers were supposed to be checking on her every 15 minutes. Please pass this bill out of the committee and give it a hearing. I know that we are not the only family as you’ve seen two other families here today who have lost someone in the custody of the Department of Corrections and this bill will help so many families going forward.

SEN. WINFIELD (10TH): Thank you.

AMBER DIAZ: You’re very welcome.

SEN. WINFIELD (10TH): Questions? Senator Kissel.

SEN. KISSEL (7TH): I guess I just want to reiterate what Chairman Winfield said earlier, this is not a partisan issue. I support this bill. The more that I’m hearing this testimony, I just find this outrageous on so many levels. There’s a justice level, but there’s also a personal level. I mean, this person goes there incarcerated and within less than 48 hours, they pass.

AMBER DIAZ: It was honestly less than 24 hours.
SEN. KISSEL (7TH): Less than 24 hours. If this was a loved one of mine, I am now -- I have zero closure and to compel people to file suits to find out what takes place, that’s not good for the state of Connecticut, that’s not good for your family, that’s not good for your siblings, so I just -- I offer you my deepest sympathies as to your loss, but I also hope that we can get to the bottom of this. I just recently met with the new commissioner of corrections, seems like a very reasonable individual, highly praised having served in Utah, and I just think we can do things much better as a state for our citizenry.

AMBER DIAZ: I agree.

SEN. KISSEL (7TH): And like I said, I have lots of correctional facilities in my district, thousands of inmates, and 99 -- well, probably over 90 percent, I have some of the bad, very serious facilities, but over 90 percent are going to get turned back into society and I want them to be law-abiding, taxpaying happy citizens. So I very much feel very bad for you, but thank you. Your testimony means an awful lot. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Representative Blumenthal.

REP. BLUMENTHAL (147TH): Thank you, Mr. Chairman, and thank you for coming and sharing Desiree’s story with us and making sure that she will not have sacrificed and died in vain. I know -- I think any -- I think it’s probably not controversial in this committee, but any death in custody is unacceptable and the very least that we can do is ensure that the family can have the answers that they very much deserve and so I appreciate you bringing her story,
Desiree’s story, here and for sharing your testimony with us. Thank you, Mr. Chair.

SEN. WINFIELD (10TH): Thank you. Others? If not, I want to align myself with the previous comments and do we have your testimony in writing?

AMBER DIAZ: Yeah, you should, yeah. We definitely have extra copies.

SEN. WINFIELD (10TH): I just wanted to check. I just wanted to go back and look at some of the stuff you said. Thank you for coming to tell us Desiree’s story.

AMBER DIAZ: Thank you so much.

SEN. WINFIELD (10TH): Joanne Todd.

JOANNE TODD: Good afternoon, Chairman Winfield, members of the committee. My name is Joanne Todd and I am here today to ask that you support the passage of Proposed Bill Senate Bill 138, AN ACT MODERNIZING THE STATE’S COOPERATIVE ASSOCIATION STATUTES with one amendment, replacing the word shareholders in line 86 with directors in keeping with the manner in which the term manager has been updated with director in other sections of the act and here I’m going to deviate a little bit from what I’ve submitted written because you’ve heard so many of the details of Willimantic Co-op and the great organization they are. I won’t go into those details greatly, but I will say I am a resident of Scotland, Connecticut. I’m the board treasurer of Willimantic Food Co-op and president and CEO of Northeast Family Credit Union, which is also a cooperative.
Cooperatives, as you've heard, are owned by their members and they’re guided by cooperative principles and the reason we’re here today is because there aren’t enough cooperatives in Connecticut. They are actually few with comparison to surrounding states and when we look at food co-ops, which is the area that I’m most familiar with behind credit unions, we’ve only got two, Fiddleheads and Willimantic Food Co-op, and one that’s being formed, Mad River Co-op in Winsted, which some of your Enfield folks, it’s a little bit of a trip, but could partake in and we think that the statute is one of the barriers to development of more co-ops. So you heard Willimantic is an employer. We sold over a million dollars annually from local suppliers. We are a solid contributor to the Willimantic region. We have a strong commitment to downtown. We’re a partner with a number of community organization and a supporter monetarily and otherwise of many.

Willimantic Food Co-op is a driver of the local economy in the regional food system and a really strong supporter of the community. So a few years ago when as a board member we wanted to begin distributing patronage rebates, some of our net income back to our members-owners, we talked to our attorney and we realized that we couldn’t because our current structure, a Connecticut non-stock corporation, doesn’t allow that, but we’re set up as a Connecticut non-stock corporation because the cooperative statute in Connecticut is so old and antiquated. So we were counseled to change our legal structure to a cooperative and to do so outside of the state of Connecticut. It’s then, really, that we realized that we needed to act to modernize the state statutes and that it was a
barrier to developing co-ops and it was a barrier to some of the existing co-ops because of all the work they had to do to incorporate at co-ops outside of the state.

So as it stands now, there are far fewer cooperative enterprises in Connecticut than in surrounding states that have more current statutes and Connecticut statutes is discouraging their formation. And I want to appreciate you considering this matter and ask for your support. Thank you.

REP. BLUMENTHAL (147TH): Thank you very much for your testimony. Are there questions or comments from the committee? Representative Dubinsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chair, and thank you for coming from the wonderful town of Scotland. The co-ops certainly have a long and stored history in Connecticut and I agree unfortunately there are some of the larger ones that have been in Connecticut over the years have been closing, like the grain co-op was unable to continue and, you know, hopefully we can get you some statutes that will help you grow.

JOANNE TODD: I appreciate that. Thank you.

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

REP. BLUMENTHAL (147TH): Thank you, Representative Dubitsky. Any further questions or comments from the committee? Seeing none, thank you very much for your testimony. Next is James Burke followed by Daniel Spurr.

JAMES BURKE: Members of the Judiciary Committee, thank you for hearing us today. My name is James Burke and I’m here to testify in support of S.B.
138, AN ACT MODERNIZING THE STATE’S COOPERATIVE ASSOCIATION STATUTES. I’m the front-end manager over at Fiddlehead Food Co-op in New London, Connecticut, and Senator Kissel, we do sell Fiddleheads and they have a very short season in early spring, so they should be coming up any time now. Fun fact; you’ve got to cook them. They can be poisonous if eaten raw, so just so you know. In the years I’ve been working at the co-op, we’ve seen consistent sales growth while creating jobs in our community and most importantly, a stable market for local farmers and producers to sell their goods. We’re also the only grocery store in walking distance of several housing projects and dozens of downtown apartments.

Our quirky little store started off with mixed-matched refrigerators and barely full shelves, but is now a full-service grocery store and a staple of our community. Two of the seven cooperative principles are concern for community and democratic member control. Since we opened our doors at 13 Broad Street, many members, employees, and board members have had different ideas on how our store could best serve our community. We listen and are constantly thinking about the question how can we better serve southeastern Connecticut? By making it easier to start a cooperative business, more community groups can think together and democratically decide how a business best benefits their community. The many different towns across Connecticut have many differences, however, I think there’s one area where we can all agree; the people in your community have the best say in what your community needs and keeping consumer dollars in your
community is a good thing. Thank you and I hope you’ll support S.B. 138.

REP. BLUMENTHAL (147TH): Thank you very much for your testimony. Any questions or comments? Senator Kissel.

SEN. KISSEL (7TH): Thank you very much, Mr. Chair, just happy you pointed out that if you don’t cook the Fiddlehead, it’s poisonous. Good info, thank you. Thank you, Mr. Chair.

REP. BLUMENTHAL (147TH): Thank you and I appreciate that information as well. Any further questions or comments from the committee? Seeing none, thank you very much for your testimony. Daniel Spurr, you are up.

DANIEL SPURR: Thank you members of the Judiciary Committee for hearing us this afternoon, it’s this afternoon I think by now. I’m Daniel Spurr. I’m board president at the Fiddleheads Food Co-op and I’m here today to ask for your support in the passage of S.B. 138. As a longstanding member-owner and current board president, I’ve seen first-hand the development and impact the co-op has had on the city of New London and southeastern Connecticut generally. In a vacant building that was once the downtown independent grocery store, Fiddleheads started, as James was saying, with a small refrigerator, a used cash register, and a group of hard-working volunteers.

Since then it has grown to a full-service grocer with almost $4 million dollars in annual sales and 40 employees that supports local farmers and carries almost 1,000 unique local products. Not only is it an anchor business in the downtown of New London,
but it’s owned by its customers, local residents from New London and all over southeastern Connecticut, and as such is not only focused on meeting the needs of its community and customers, but exists for this purpose and I wanted to point out on our GM who couldn’t be here and her written testimony, there’s some cool maps of some of the local farms and businesses around Fiddleheads that are supported by Fiddleheads and also a distribution map of where our owners come from in southeastern Connecticut.

I’m asking you to support passage of this legislation because Connecticut currently ranks among the lowest in New England in terms of the number of co-ops in proportion of population and the current provisions of a statute discourage people from forming and operating cooperative enterprises. For example, in contrast to other corporations, current law holds individual co-op members liable for the debts of their business. Changing this provision is a practical measure that would put existing co-ops on an even playing field with other commercial businesses and encourage entrepreneurs to form new co-ops. So supporting these amendments so the cooperative statutes will help foster growth of existing co-ops, promote formation of new co-ops, and in so doing, help build a stronger, more resilient local economy in our state. Thank you.

REP. BLUMENTHAL (147TH): Thank you. Are there questions or comments from the committee? Seeing none, thank you very much for your testimony. Next we have Chris Drake.

CHRIS DRAKE: Good afternoon, members of the Judiciary Committee. My name is Chris Drake. I’m
the director of business services division at the Office of the Secretary of State. We’re here to testify on behalf of the bill that the secretary’s office has put forward, Senate Bill 1083, AN ACT CONCERNING THE INTEGRITY OF THE Connecticut BUSINESS REGISTRY. The secretary has submitted written testimony. I don’t plan to read it to the committee. I wanted to make four quick points; we -- my division represents the -- runs the Connecticut Business Registry. That’s the registry that all corporations, non-stock corporations, LLCs, limited liability partnerships, and others need to file with an order for the entity to actually exist. The strategies laid out in this bill will help us keep the registry up to date and accurate. The most important thing is the changes we’ve advocated for what we call our administrative dissolution process, so that’s a process of administratively dissolving or forfeiting entities that are more than one year in default of their annual report filing obligations.

Currently, the statute provides that the first notice of administrative default needs to go out by certified mail. Our proposal is to change that to first class mail. As we say in our written testimony, it’s a little change, but it has a large financial impact on our small agency. We currently have about 285,000 business entities in default on our registry. We have about 510,000 total active business entities, which means 50 percent of every business on our registry is in default right now. If we were to use the current statute, it costs us about $6.50 per forfeiture to administratively dissolve these entities so we would have to spend
$1.8 million dollars in postage to get through all those 285,000.

If you were to make this change as we advocated, it brings down our cost to about $1.10 or about $310,000 dollars in postage. This will be a dramatic impact if we are able to do this in our division and clean up the registry of these zombie entities that have failed to file for years and in some cases decades. There are a few other provisions in our bill to help update and modernize our registry. The next one is about our certificate of incorporation process. Right now we have a loophole. We have about 10,000 business entities that have failed to file their organization and first report, which means they failed to disclose their officers and directors as required by law. The reason is spelled out in our testimony, but it’s essentially because we don’t have a hard deadline in statute and so our bill advocates that we put a hard deadline after the filing of a certificate of incorporation to file your first report which will -- which will have the entity disclose their directors.

Two other changes, quickly, we advocate to have agent changes on our annual reports. We’re also advocating for the annual report to require the business to provide their industry code information so that we can tell what purpose the business is serving. And finally, we have a provision in our bill in conjunction with the Town Clerks Association to consolidate trade name information, sole proprietor information, in the state to make it searchable on our Concord registry. Thank you.
REP. BLUMENTHAL (147TH): Thank you. Questions and comments from the committee? Representative Fishbein followed by Senator Kissel.

REP. FISHBEIN (90TH): Thank you, Mr. Chairman. Good afternoon. So Concord, you're right in my wheelhouse. I go to Concord like almost every day. So the zombies, if you were able to take them off of the system, would there be some repository that I'd be able to access? Would there be a list like one place that I could perhaps scan? Is that the intent or for them to just disappear?

CHRIS DRAKE: We don’t -- We don’t ever make anything disappear off our business registry, so it simply changes the status of the entity from active to forfeited, so the entity would still be searchable. All the records that had been filed for that entity would still be viewable. It just simply changes the status of the entity.

REP. FISHBEIN (90TH): Okay. So maybe I am unknowledgeable as to what a zombie is because we already have dissolved entities in the system. We already have another classification. So you’re talking about entities that have not filed a report in many years? What makes them a zombie?

CHRIS DRAKE: That’s our definition. So the statute doesn’t obviously use the term zombie, so the statute calls those entities in default and it defines it as any entity that has failed to file their annual report for more than one year. It provides -- depending on the entity type, some of the statutes call it administrative dissolution, others call it forfeiture, but they are effectively the same thing. So after one year, we’re allowed to start the administrative dissolution proceedings.
Any time, an entity can always voluntarily dissolve which is, Representative what I think you're referring to and that would switch the status on our record from active to dissolved; if we go through this process and the entity doesn’t get current on its annual report filing, the status will switch from active to forfeited to designate on our record that this entity was actually administratively dissolved by the secretary’s office rather than voluntarily dissolved.

REP. FISHBEIN (90TH): So like I know there’s a very large labor union in Connecticut that has not filed an annual report in almost a decade. Would they fall within this thing?

CHRIS DRAKE: It’s unclear to me whether there’s a requirement for labor unions to actually file on our record. If they’re considered a voluntary association, they would -- they might not have to file, but if they did file and we do -- and they do owe annual reports, then they would be subject to this.

REP. FISHBEIN (90TH): And then if they are dissolved within your system, let’s say they didn’t comply, would that be a name that I could perhaps create my own entity utilizing that name?

CHRIS DRAKE: As soon as the entity -- As soon as their status is switched from active to inactive, so either dissolved or forfeited, the name becomes available for somebody else to take.

REP. FISHBEIN (90TH): Okay. Now what are the penalties -- are there financial penalties for not complying with the filing requirements?
CHRIS DRAKE: Our statute’s a little different than what I’ve seen in other states. Some states have penalties for late filing. We do not. Some states have a requirement that before a business can involuntarily dissolve, they require the business to get up to date on their annual report obligations. We do not. In fairness, we lost the ability to administratively dissolve businesses, as we said in our written testimony, for 25 years, so between 1995 and 2015, the secretary’s office had no authority to do these and so that’s what created this giant backlog of entities that are in default. So at this point, applying those penalties to entities that are 20 or more years would just be -- it’s so cost prohibitive that you wouldn’t -- it wouldn’t make any logical sense to actually do anything other than to take the forfeiture.

REP. FISHBEIN (90TH): And then if you were to start proceedings to dissolve the entity for lack of filing, is there notice to the entity itself?

CHRIS DRAKE: Right. So right now, that’s what we do by certified mail. We notice the last address we have on record and then we have to wait 90 days in accordance with the statute. If in 90 days they don’t file all the annual reports that are due, then we send another notice, which is a notice of forfeiture, saying your entity is now dissolved.

REP. FISHBEIN (90TH): And that notice goes to the registered agent or whom?

CHRIS DRAKE: It goes to the principle office address on our records, not to the registered agent.

REP. FISHBEIN (90TH): Okay. So then the trade name situation, because I always find it -- you know,
I’ve got to go to that particular town presently, you know, they might not be a corp or an LLC but they may be a trade name, so I’ve got to go wherever I’m able to follow them to that town hall. My understanding is that you want to try and gather all of that information from the municipalities and make it part of this system?

CHRIS DRAKE: Correct. So trade names are not technically a business entity because all the statute provides, and it’s 35-1, it says that if a person wants to conduct business under another name, an assumed name, that they are permitted to so if they register with the town clerk in the town in which the business is operated. That doesn’t provide any of the other liability protections or any of the other benefits that an actual business entity carries with it, so an LLC for instance, but we have heard from business groups that they consider these to be small businesses and that they want to be able to search these things on our records in the same way they can search for LLCs, corporations, non-stocks and the like, so we are actively working with the Town Clerks Association to see what it would look like to develop a system that works for them and achieves our goal of consolidating these records statewide so that we have a statewide database of trade names.

REP. FISHBEIN (90TH): Yeah, I think it would be helpful also, you know, I do enough stuff with the home improvement contractors that if we have somebody who’s an LLC but they’re operating under a trade name and that’s arguably in violation of the statute as it is, so I would be in support of that, but what’s the cost of converting that over because we have 169 different municipalities with their own
trade name database currently, so how is this going to happen?

CHRIS DRAKE: So we have a proposal to the IT Investment Committee. Now, it’s not exactly the way you described, Representative, so our proposal costs in the neighborhood of $85,000 dollars to provide the town the ability to upload information into our system. After talking with the town clerks, there may be another proposal that actually has them enter information into a system that we control, very similar to something else our office does, which is our relationship with the registrar of voters on the voting end, so local registrars of voters are using our system to enter voter registration information so the town clerks, after discussing it with them, would prefer a system like that. I think that would be more expensive and so we don’t have a clear cost on this right now. This section is, though, kind of intended to highlight that this is an issue and it’s actually hasn’t really been addressed by the legislature in a very long time and I think all the groups that have thought about it have considered this statute is in some need of modernization.

REP. FISHBEIN (90TH): Okay. And then would it be mandatory that the town clerk or their staff input into this system? Is that the concept?

CHRIS DRAKE: Not according to our bill, no.

REP. FISHBEIN (90TH): So that when you stress our, that means there’s another bill out there?

CHRIS DRAKE: So no, what I’m stressing is that after talking with the Town Clerks Association, they may be advocating for developing a system that is -- that everyone uses, so we don’t have an amendment
currently prepared, but I anticipate that in conjunction with the Town Clerks Association, we may have something to share with the committee very soon about kind of flipping it on its head and saying that it’s now our system that they are utilizing rather than them utilizing their own system and then ingesting the information from them. So currently as written, our bill doesn’t mandate that they use our system.

REP. FISHBEIN (90TH): So like -- You know, I’m looking at disparate towns, some towns that want to engage in this because I know like in my town, we fight the mayor all the time on things going online, so I would expect that he would be adverse to something like this, but it would be discretionary upon the town under this language that’s presently before us?

CHRIS DRAKE: Correct, and there’s no doubt in my mind that there are some town clerks who are -- who are recording this information on card catalog right now, so I understand that data conversion is a particularly steep mountain to climb.

REP. FISHBEIN (90TH): Okay, thank you. Thank you, Mr. Chairman.

REP. BLUMENTHAL (147TH): Thank you and I’m thinking maybe we should add the word zombies to the bill. Senator Kissel.

SEN. KISSEL (7TH): That would make it more exciting. My question is, certified mail is designed so that there’s a link knowing that somebody actually got notice. By shifting to just first-class mail, there’s no ability to know if that arrived and someone actually saw what was going on,
so if someone was -- if an injustice is worked because someone didn’t actually get notice for whatever reason, is there a mechanism because by taking away the certified mail, you're taking away that sort of safeguard. That’s why I’m guessing it’s there.

CHRIS DRAKE: Understood. So there’s sort of two responses; there’s the practical response and then there’s -- and then your question was sort of what’s the legal consequence of this activity. So the practical is because we’re so far behind, we are -- we are noticing entities that last gave us an address in the mid 90’s and almost every case, that address is a bad address, so every day we get hundreds of undeliverable letters that we have sent out by certified mail with postmarks for $5.80 on them and so it struck us as a particularly wasteful exercise.

Now granted, if we were dissolving entities that had more recently given an address, we would expect those bounce-backs to be fewer, so your point is well taken as far as the purpose of the certified mail. Our bill is really directed towards the practicalities of having to get through this many and how many undeliverables we’re currently receiving, so it’s serving purpose at all right now because clearly no one is seeing the envelope. They come back unopened to us, but your point about the legal practicality is actually an important one and that is something that the statute has been modernized on. It’s not a particularly consequential event. You can reinstate following forfeiture for the same cost that it costs to form the entity, so for an LLC for instance, that would be $120 dollars.
So while notice is certainly important, this can be corrected for a relatively low amount of money. We will send out a reinstatement package. We will explain to customers what they have to do to reinstate and even the LLC Act, which you passed back in 2017 says that the reinstatement is retroactive to the forfeiture date so that on the record, there would be lapse between the forfeiture and the reinstatement time.

SEN. KISSEL (7TH): Okay. And given the reduced cost, though, you’ll be able to catch up much quicker would be my guess and so if -- I’d have to go and look at the exact language, but if we put in something that said there’s a trip, you know, like five years or earlier, first class mail, and then the more recent ones, I’m just looking at a safeguard. I mean, I understand where you’re coming from. I don’t if the magic is five years, three years, two years, but, you know, if it’s 90, I’m completely with you, if it’s, you know, even ten years ago, probably bad addresses, but at some point you're going to catch up and I just think there’s some value to the certified mail, but I’m just thinking out loud.

CHRIS DRAKE: Understood.

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

REP. BLUMENTHAL (147TH): Thank you. Further questions or comments from the committee? Seeing none, thank you very much for your testimony. Next is Kathy Engle-Dulac.

KATHY ENGLE-DULAC: Thank you, Mr. Chairman, and members of the committee. My name is Kathy Engle-Dulac. I’m from Warren, Connecticut and I’m here on
behalf and as a member of the board of directors of Mad River Market. We are a startup food co-op in the northwest corner of Connecticut. In 2015, the last downtown grocery store owner in Winsted was ready to retire. He tried to find a buyer for many months unsuccessfully. In 2016, people from Winchester and surrounding towns came together to preserve downtown grocery by forming a food co-op, initially hoping to simply take over the existing store on a cooperative basis. That proved to not be possible and the store closed. Our community determined to press ahead. The first major difficulty we encountered was the inadequacy of Connecticut’s existing cooperative statute. Originally passed in the 19th Century, that statute is not at all suitable for modern cooperative businesses and we spent considerable time trying to find a solution for our incorporation. Ultimately we incorporated in April 2017 under Vermont’s Mutual Benefit Enterprise statute, the sole member of which is our Connecticut Limited Liability Corporation. This is hardly an ideal situation. It took us almost six months to find this less than satisfactory solution, which in turn delayed many aspects of our development that were dependent on having incorporated status. While we cannot truly gauge how much further along we would be if we hadn’t had to jump through these hoops to achieve incorporation, we sincerely regret the lost time.

It would not surprise me to learn that other communities have been discouraged from trying to form co-ops because of the inadequacy of the current Connecticut statute and this is a real shame. Cooperatives are uniquely flexible tools for addressing a community’s needs. Food co-ops in
particular have a powerful track record of meeting the basic needs of provisioning one’s family and doing so in a way that provides profound economic benefit for the rest of the community.

Food co-ops buy more local produce and products than do chain groceries, many of whom we courted in an attempt to rescue our downtown grocery access unsuccessfully because Winsted is a very small economically iffy town. Food co-ops give back to their communities through charitable donations at rates far higher than chains among several other positive comparisons. I’m confident that other testimony today has illustrated this. Food co-ops can become drivers of economic and community development. Apart from supporting local farmers, food co-ops often make themselves available as test markets for new value-added food products. We certainly hope to do so. In conclusion, the Bill 138 would be a drastic improvement on legislation that is currently in place and certainly make it more feasible for Mad River Market, as well as cooperative groceries attempting to get underway in the city of Hartford, to make some headway. Thank you.

REP. BLUMENTHAL (147TH): Thank you. Questions or comments from the committee? Senator Kissel.

SEN. KISSEL (7TH): Thank you very much, Mr. Chair. So you’ve got this Vermont connection, if we can get this legislation through, which I’m really hopeful that we can, would you be able to like now flip out of the Vermont scenario into the Connecticut scenario rather quickly?

KATHY ENGLE-DULAC: That is the goal. The sooner we can get all of that straightened out, the sooner we
can move into more fundraising activities and get our brick and mortar up and running.

SEN. KISSEL (7TH): And have driven through Winsted many, many times, you know, it has had its ups and downs, but it certainly deserves to have a co-op available to them. Thank you, Mr. Chair.

REP. BLUMENTHAL (147TH): Thank you. Further questions or comments from the committee? Seeing none, thank you very much for your testimony.

KATHY ENGLE-DULAC: Thank you.


MICHAEL ASKEW: Good afternoon, Senator Winfield and distinguished members. My name is Michael Askew. I was with you guys last week. I’m still a person in long-term recovery of 29 years and I left prison back in 1992 and I’m here to support Bill 7395. I had a cold, isolated experience in prison and because of my substance use, I never was given a treatment option, not even in the courts, not even in prison until 1992 when I served two and a half years on a five-year prison gig that I was offered a halfway house and I think the correlation I wanted to share with you is there’s a lot of people that is dying coming out of prison systems to their substance use and I think last year of the 1,000 people, I read where 40 percent or 40 to 45 percent of those individuals were released from the prison within one year. That’s astronomical.

And this bill supports those individuals the opportunity to become Medication Assisted Treatment that shows results of not only public safety of citizens, but stopping overdose. I’m in Bridgeport
and last year, there are four men halfway houses, Department of Correction halfway houses in Bridgeport, and there was a report that 27 men over last year died in that community through their halfway houses on opioid use.

I just got promoted last year as recovery advocacy and I managed the Bridgeport Recovery Community Center in downtown Bridgeport for 12 years and there’s a lot of people that I know didn’t make it and even last week, there was a young lady that tried extensively to stay in recovery and she would come in to the center and stay there all day. Well, she died about three weeks ago and she was out of prison about three and a half months. She was not a Medication Assisted Treatment program. Our state has shown that this works. We’re already in five facilities. The government has backed it with $6 million dollars over two years and one of the things that I wanted to share that in this bill, it talks about rolling this our in four years. We can’t wait four years to roll out a program that works well already and I just -- can I just have one more minute?

I just go an email from a colleague that the American Association for the Treatment of Opioid Dependence did an article on the Connecticut Department of Corrections Medication Assisted Treatment Program, past, present, and future and the last paragraph I just want to read; it says “as in most states, there are a number of opioid related bills in the Connecticut legislature this year and one of these involved extending medication for addiction treatment in Connecticut DOC. There is also a line item in the governor’s budget to support this expansion. This would enable the department to
expand care to this extraordinarily underserved population and will also reduce opioid overdoses in Connecticut, an important goal that we all share.”

I hope you share this with me because I don’t want to keep seeing people die because of the fact that, for whatever the fact is. Thank you for my testimony, thank you for allowing me.

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

SEN. KISSEL (7TH): I was really impressed when you came and testified last week and once again. First of all, your 29 years of sobriety, that’s just awesome.

MICHAEL ASKEW: Thank you.

SEN. KISSEL (7TH): You’re a great role model, great advocate. You have my deepest sympathies on the losses that you’re seeing because you’re coming into contact with these individuals and I hate to say it, but I got to believe that if they OD or if they die, it’s got to hurt you. And I don’t know if you were here earlier when Minority Leader Klarides came and testified about the Fentanyl and when Representative O’Neill said this is so much of an epidemic, such a tragedy that every year we lose so many people to opioid deaths, the equivalent to what the state of Connecticut lost through its men and women in the Vietnam War.

MICHAEL ASKEW: Yeah, I heard it.

SEN. KISSEL (7TH): I mean, that’s just crazy because somehow it’s not getting the attention that it really needs and it’s heart-wrenching, so I -- up in our neck of the woods, we’re trying things with
police chiefs and all different angles, we’re trying to approach this from very many different positions, but thank you for testifying and bringing this to our attention and being such a good advocate for those that you believe in. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you, Senator Kissel. Further questions, comments? If not -- Oh, Representative Porter.

REP. PORTER (94TH): Thank you, Mr. Chair, and thank you, Mr. Askew for your testimony. I mean, it’s exactly what the Senator just said and the only thing that I will add to that is that if we can’t get it right now, because this is nothing new, this is deja vu, especially in black and brown communities, we understand what the urgency is now. Outside of that, I do believe that the right thing to do is exactly what you’re asking us to do and I hope that when we do this, that there is equity in this and that all people that need treatment are actually open and have access to this treatment because that is something we see a lot, you know, we talk about the reasons that we do things, but it’s not always available to everyone who needs it and I’m sure that the people come out, because there is a disproportionate impact on communities of color when you talk about people that are in prison and folks that are being released back into our communities, so that’s the only thing that I want to put on the record, like I’m really glad that we are here and we are addressing the issue, but it’s bittersweet for me because this has been an issue in my community and many communities that I have lived in over the 50 plus years that I’ve been on this earth and I’m hoping that we get it right now for all the right reasons and not just because of a
particular community that’s being attacked at this point. So thank you for coming and sharing, not only your testimony, but your personal experience around how this is impacting the people that you know and care about.

MICHAEL ASKEW: Thank you.

REP. PORTER (94TH): You’re welcome. Thank you, Mr. Chair.

REP. STAFSTROM (129TH): Thank you, Representative, and thank you, Michael. It’s always great to see you.

MICHAEL ASKEW: You too, sir.

REP. STAFSTROM (129TH): Thank you for all the work you do.

MICHAEL ASKEW: Thank you for being our hometown rep.

REP. STAFSTROM (129TH): Absolutely. It’s always great to see you up here. We don’t -- We don’t get enough folks from Bridgeport up here, so it’s always good to see you.

MICHAEL ASKEW: Well, I’ll keep coming.

REP. STAFSTROM (129TH): All right, please do. Thank you.

MICHAEL ASKEW: Thank you.

REP. STAFSTROM (129TH): Jim Bellano?

JIM BELLANO: Good afternoon, Mr. Chairman, and members of the committee. Thank you for the opportunity to testify today. My name is Jim Belano. I’m the economic development director for the town of Windham. I’m here today to speak in
support of S.B. 138, AN ACT MODERNIZING THE STATE’S COOPERATIVE ASSOCIATION STATUTES. As an economic development director, often we are concentrating on large projects, manufacturing plants, shopping centers or large infrastructure projects, however, as we all know, small businesses are the true engine that really drive Connecticut's economy. I’m fortunate to have one of these very successful small businesses in my town, the Willimantic Food Co-op. As we strive to reinvigorate Connecticut’s economy, new entrepreneurs should have all the necessary tools available to them in order to succeed. I believe S.B. 138 will assist in just doing that.

The bill will modernize Connecticut's current cooperative statute and make it a viable choice when deciding what type of entity to form. The current law surrounding cooperative associations is antiquated in relation to nearby states, one reason that proportionately Connecticut lags behind its neighbors in the number of co-ops in the state, for example, 35 percent of the population in Massachusetts are members of co-ops, 50 percent in Vermont. In Connecticut only about 25 percent of the population are co-op members. Willimantic Food Co-op has 35 employees, is an important member of the community owned by their 7,000 members, they generated $4 million dollars in revenue in 2018, over $1 million dollars of which was generated from locally produced goods, mostly from local farms.

We should be encouraging cooperatives just by the nature of having how they cultivate local economies. The benefits of the proposed legislation would inure new entrepreneurs interested in forming cooperatives, existing cooperatives looking to expand their products and services, and local
producers that service and utilize co-ops. While the bill puts forth a number of changes, paramount among them, in my opinion, are those that would help accelerate co-op development by making it easier to form a co-op by reducing the number of incorporators from seven to three, increasing the limit on the value of capital stock of cooperative associations from $5 million dollars to $50 million dollars. Just so you know, the last time that number was looked at and expanded was 1985, so I think it’s time to increase that again, and removing individual liability from members for debts to create a level playing field with other corporate entities in the state.

Co-ops are locally owned by people making them more responsive to local needs. Co-ops have been shown to be more resilient during economic downturns, preserving jobs, and local economic activity. In Connecticut, co-ops employ approximately 4,000 individuals. So please support the recommended legislative changes to Chapter 595 of the General Statutes and again, thank you again for the opportunity to testify and I’d be happy to answer any questions.

REP. STAFSTROM (129TH): Any questions from the committee? If not, I appreciate you being with us.

JIM BELLANO: Thank you.

REP. STAFSTROM (129TH): All right, you’ve got to forgive me, the handwriting here, Will Rutland.

WILL RUTLAND: Thank you so much, Mr. Chairman. Mr. Chairman, leadership, members of the Judiciary Committee, my name is Will Rutland and it is my pleasure to be here today to testify in support of
H.B. 7395, AN ACT CONCERNING OPIOID TREATMENT. I present to you in my professional capacity as a physician and an attorney and a public health scholar and a member of the Opioid Committee of the Connecticut State Medical Society, but more importantly as a father and a brother of a sibling who lost his life to heroin. You know, it’s my instinct to quote to you a lot of statistics, CDC, NIH statistics, Connecticut state statistics regarding the opioid epidemic generally and the particular scourge that we face here in Connecticut, but that has been amply covered as I’ve seen on the record by the written testimony that’s been submitted and so I’d prefer to turn your attention to the very real human suffering that H.B. 7395 has the power to prevent, that you have the power to prevent.

I’d like to do that with the story of Abigail, a 12-year-old girl who I took care of on the adolescent unit at the Yale Psychiatric Hospital. When I met Abby, she had already lived far more than the 12 years of her life would suggest, early abuse, neglect, violence. It had all conspired to create a psyche that was so fragile that she struggled every day with overwhelming hopelessness and repeated thoughts of taking her own life. In fact, it was only three days removed from an attempt on her life that I first met her. She had come to a point where she didn’t think she could tolerate life any more and so ingested bleach; 72 hours after that, I get to meet her on my unit.

And she explained to me that this suicide attempt coincided with the one-year anniversary of her mother’s death. She said that her mother had been in and out of her life as a child, often times in
prison for property crimes associated with a substance use disorder, but following her last release from prison, she had been met in the parking lot by an old boyfriend and they had started celebrating her newfound freedom. Unfortunately, Abby’s mom had lost all tolerance to opioids while in prison. She hadn’t received any therapy, any treatment, and therefore when she reengaged in the same use patterns that had brought her into prison, she was almost immediately overcome and she, like so many hundreds of other people here in Connecticut who have been released from prison, lost her life to an opioid overdose that she never saw coming.

Now Abby would tell you that she and her mom didn’t have a close life together, they didn’t live closely, but her mother was still her mother and it was that loss that brought her to the brink of taking her own life. Of course, the tragedy of Abby’s situation is that, consolate to the number of system breakdowns, social support systems, safety net systems, her own family system, but it was also the failure on one count, and probably the count that was most important to Abby, it was the failure of the law that could have provided Abby’s mother with the care that she needed while in prison and given her the opportunity for a longer, healthier and more beneficial life, certainly to Abby.

It is because of that prospect of that opportunity that I urge you to support H.B. 7395. This is a bill that can give back to kids like Abby, communities and families around Connecticut the opportunity of a healthy life going forward and so I urge you with my testimony to vote in support and I’m happy to reserve the rest of my time for any questions you may have.
REP. STAFFSTROM (129TH): Thank you, sir. Thanks for sticking with us this afternoon and being willing to come and share your story and expertise with us. Questions from the committee? Senator Kissel.

SEN. KISSEL (7TH): It’s not a question, just my sympathies on your personal loss and thanking you for all the good you're doing to help individuals in these situations and your testimony is highly regarded and I appreciate you taking the time today.

WILL RUTLAND: Yes, sir. Thank you so much.

REP. STAFFSTROM (129TH): Further questions from the committee? Representative Porter.

REP. PORTER (94TH): Thank you, Mr. Chair. I just would like to echo Senator Kissel and offer you my deepest condolences on your loss. That’s never an easy thing to deal with death, but when you know it’s something that could have been prevented, it makes it that much harder, so thank you for having the intestinal fortitude to come here today and share such a painful story and we’re listening.

WILL RUTLAND: Thank you so much, Representative.

REP. PORTER (94TH): You’re welcome. Thank you, Mr. Chair.

REP. STAFFSTROM (129TH): Thank you. Further questions or comments? If not, thanks.

WILL RUTLAND: Thank you, sir.

REP. STAFFSTROM (129TH): That concludes our sign-up list. Anybody else who would like to testify?

HENRY MARTUCCIO: Good day. Henry Martuccio, parent advocate for the American Disabilities Act. I’m talking in regards -- I wasn’t planning on
testifying today, but it is in regards to 7394. Underneath this act, what we’re seeing here is a new way of doing business here. I quickly did something really easy today that I think all you can easily do is go to 88 dot gov, the American Disabilities Act, dot gov, and underneath there you can find a case called Number 13-CV-2416. It was New York City -- United States of America versus New York City and again, it was in regards to a firefighter, but what I want your attention to go to is line 31, which gives you the definition, the FDNY discriminated against Nellie on the basis of his disability and regards to the terms and conditions of his employment. Ladies and gentlemen, this bill shouldn’t just apply to the firemen.

This is anyone. This is a Title One policy. This has been going on since 1990 and again, the state of Connecticut is so far behind the times that I believe -- I’ve been to the 88 again and I go to a lot of the prison settlement agreements and underneath mental health and conditions, I believe we can even make a case there that are prison systems are failing underneath the American Disabilities Act the prisoners that they’re serving. I don’t know how I’ve got to keep on saying this, again, where’s our 28CFR35.107, the designated responsible employee. In this bill, we’re referring to a support team member. I was hoping Representative Fishbein was going to stay here, but it was under the question of the medical rights. Again, this is a medical right that I believe that sits there as a HIPAA law type violation that if we don’t have, we’re doing a disservice not only to the firefighters, but policeman, any first responder, even legislators.
My God, some of the stories you guys hear during the daytime, I would assume someone needs a little counseling sometimes just to get over how much violations in the state that we hear day after day after day and again, it’s not good, bad, or indifferent, but I do believe, you know, we’re in a process that we’re denying a lot of people the greatest civil right in the world and now underneath Title One, which Title One says the employee has to tell what their disability is to get the modifications to policies and procedures.

I believe if we read this case and you look at this case, you’re going to see that again, it comes underneath the fact that one, he was medically harmed while on the job, hence the fire department has the right to make him whole again. That’s no different than any other job that we can look at and if it works in Title One in one application, guess what, I could take that over to the fire department, I could take that over to teachers, I could take that to even a governor, a past governor. I’m sure he’s sitting at home with some posttraumatic stress right now.

It’s -- It’s just it’s kind of crazy, guys, that we’re not really seriously looking at the violations of the state of Connecticut and again, underneath the American Disabilities Act, noncompliance. How come we’re not having a true meeting and a true discussion after we accepted Raymond versus Rowland in 2007 and did nothing. The only true settlement agreement that came to this body and yet we’ve done nothing since. That’s it, my two cents. I appreciate it again.
REP. STAFSTROM (129TH): And we appreciate you sharing with us. Questions of the committee? Seeing none, thank you. Enjoy the rest of the night, ladies and gentlemen. Anybody else? If not, I will declare this public hearing closed and our last and final public hearing of the year. Good job, team. We will see everybody Monday for a committee meeting.