

Legislative History for Connecticut Act

HB 5039	PA 261	1978
Jud. 359-362, 378-382, 389-391, 397-98, 405-408, 545, 618-619		(21)
Sen. 345, 2668-2669, 2704		(4)
House 390-391, 3349-3353		(7)
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**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
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REP. OSIECKI: But if they were to make themselves aware of it, and were to enter the proceedings, wouldn't they have to be recognized as any party would be?

JUDGE KNIERIM: If they took an interest in the proceeding and they themselves wanted to become the adopting parents, then they would be a party. But other than that they would have to step up and assert whatever rights they may have, but they are not regular people to be notified in the adoption process. Nor are they notified on the termination of parental rights.

REP. OSIECKI: Thank you.

SEN. DE PIANO: Are there any other questions? Thank you very much.

ALAN GREEN: Good afternoon. My name is Alan Green and I have a written statement which I will leave with the Secretary on the way out.

SEN DE PIANO: Mr. Green, would you identify, excuse me, for the record what department you are associated with? Yes, I see it on here anyway.

ALAN GREEN: I am the Administrator for Connecticut Restitution Service and I am with the State of Connecticut Judicial Department.

I am here today to speak in favor of Raised Committee Bill No. 5039. As you are aware of, the State of Connecticut is the recipient of a grant from the Law Enforcement Assistance Administration for the purpose of developing a restitution service.

As a result of recent interest in restitution the Law Enforcement Assistance Administration has funded experimental projects in restitution in six states. As part of this experiment Connecticut has received a grant which has been used to create a new administrative agency of the Judicial Department referred to as the Restitution Service. The new Restitution Service has been designed to provide the Superior Court and the Court of Common Pleas with assistance upon judicial request and using restitution as a sentencing alternative.

As part of its investigation the Connecticut Restitution Service attempts to answer two questions regarding

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ALAN GREEN (Continued): restitution when a request has been made of its service by the Courts, and those questions are, first: what is the offender's ability to make restitution, and second, what is the loss that is sustained by the victim. The basic statement that I come here to make to you today is that restitution of course, is not an end all or final alternative to sentencing.

Restitution should be considered as only a part of the available sanctions and available assistance that can be made either to the victim or to the offender. I am in favor of Raised Committee Bill No. 5039 for many reasons but the main point that I want to stress is that as we all know victims in many situations are the forgotten participant in the Criminal Justice process. Although this Raised Committee Bill No. 5039 is not all incumbering to taking in all victims of criminal offenses, I feel that we are in the right direction when legislation such as this is introduced.

I bring to your attention Section 12 of this Raised Committee Bill and I have previously discussed my comments with Mr. Tulisano, and I think he is in accordance with what I am going to say.

SEN. DE PIANO: He is, I don't think that it will help you but...

ALAN GREEN: I feel that Section 12 should go...

SEN. DE PIANO: ...Do you want to strike it from the record now?

ALAN GREEN: I feel that Section 12 should go further in stating that where a victim has been paid through this compensation legislation, and there is an existing Court Order for the offender to make restitution to the victim, and that the type of restitution to be made is financial restitution, that the financial restitution be made to the Victim Compensation Fund and that this would be a method or procedure to assist and provide for the ongoing sustaining of such funds.

As I previously stated I am in favor of this legislation and hope that it will be pursued vigorously.

SEN. DE PIANO: Let me ask you this question, the victims would present a claim to this tribunal, that's what you are talking about, under this bill?

ALAN GREEN: Yes.

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SEN. DE PIANO: Where would the money come to pay these victims?

ALAN GREEN: As I understand it, and I would assume that this would be a question that could be pursued by Mr. Tulisano as well since it is part of his legislation, that the fund would be sustained as it was last year through an assessment that would be made of some sort on the offender when an individual is fined in the Courts. I don't know if there is... I don't see in this Bill this year any provision for seed money as I refer to it to start the fund off, and I would assume that that is another...

SEN. DE PIANO: ...You see the thing I'm concerned about is you go up to \$10,000 and ...is this for any victim of any crime? Just where they sustain personal injury, is that what you are saying?

ALAN GREEN: My understanding is that the legislation as it is introduced this year is only for personal injury fund. Not for property damage. For the record I should just say that the way the restitution legislation is set up this year, and we have introduced legislation to pursue the actual enactment of such restitution a step further, there is no limitation with respect to who the victims are for restitution to be made to.

SEN. DE PIANO: The thing I was concerned about is that most of the people who commit these crimes don't have any way of... of any income and unless it is generated through another process I don't know how it is going to work.

REP. TULISANO: Mr. Chairman, maybe I can respond. A section of the Bill establishes a system for...this is Rep. Tulisano of the 29th, for the record... establishment of a \$10 Court cost against all...imposed against any person convicted of a crime or convicted under certain sections of Chapter 14 of the General Statutes which includes speeding, reckless driving, etc. The estimates are that there were some \$750,000 can be raised annually at the present rate of conviction. What we do is we set up that the Act does not take effect until July 1, 1979 except for those provision of establishing the Board, etc. That way the seed money...there would not be any grants made until six months after the Court costs are being collected. Therefore we would find a system by which we can have a fund created.

SEN. DE PIANO: Okay, thank you. I see Mrs. Tulisano is in the room. Mr. Green I was going to ask you one question first I see Mrs. Tulisano in the room, is she in accord with this too, would you mind making a statement to that effect.

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ALAN GREEN: I would assume that she probably is.

SEN. DE PIANO: She is not covered as a ... she may be a victim now that I think about it. Thank you.

REP. BERMAN: How large is the LEAA grant that you have?

ALAN GREEN: The grant was awarded to us back in 1976, us meaning the Judicial Department, and the amount is \$320,000.

REP. BERMAN: And have you used up some portion of it in staffing and so on?

ALAN GREEN: Yes, we have used up about half of it to date. We plan as far as an estimate is concerned to be in operation with that money, with that existing money, until the end of December of 1978.

REP. BERMAN: Does this Bill impose a ceiling on what a victim can receive?

ALAN GREEN: As I read it it imposes a ceiling with respect to what can be received from the fund. However, I do not think that it would preclude any possibilities from receiving any additional money through restitution as it exists in Connecticut.

REP. BERMAN: So that the victim would have a Civil remedy against the offender as it presently has, and the fund would pay up to \$10,000, is that it?

ALAN GREEN: That is correct and in addition to that the victim might be in a position to receive any additional out-of-pocket expense from the offender that would be existing at the time of the conviction, at the time of guilt.

REP. BERMAN: Does this Bill differ from the Massachusetts legislation...are you familiar with the bill they have in...

ALAN GREEN: ...No sir, I am not that conversant with the Massachusetts legislation to comment on it.

REP. BERMAN: Thank you.

SEN DE PIANO: Any other questions?

REP. MAHONEY: Mr. Chairman, Members of the Committee, Francis Mahoney, District 13, Manchester. I would like to speak in

REP. BORDIERE (Continued): figures on how much basic reparations Belt are paid and how much are recovered annually by all companies #4 collectively?

COMM. MIKE: That seems like information that should be available.

REP. BORDIERE: Alright, I would appreciate it if you could get it for the Committee.

COMM. MIKE: How much is paid and how much is recovered?

REP. BORDIERE: How much is paid out on an annual basis and what amount is recovered. Maybe we could get a two-year basis. I'm sure it fluctuates.

COMM. MIKE: I can get that. I will attempt to get that.

REP. BORDIERE: Thank you very much.

COMM. MIKE: Thank you sir. My example, if you wish it.

REP. BORDIERE: You can file it with our clerk. Representative Tulisano, I don't know if we've changed our rule permitting members of this Committee to testify before our Committee.

REP. TULISANO: I thought, Mr. Chairman, that I was going to ask for permission since there were a number of questions about 5039 the Committee members had been asking. I was going to ask that permission because it is not my policy normally to address the Committee, however, I am here to speak again in favor of Raised Committee Bill 5039, an Act relating to Compensation for Innocent Victims of Crime and when Mr. Green testified in favor of the Bill, there were a number of questions with regard to how it was determined, the provisions thereof and how we would be raising funds and its similarity to other statutes. I thought if it were possible, I might be able to answer a lot of questions at this time and just basically give to you the purpose of the legislation, that is to have society recognize its duty to its individuals who have been victimized in society and have nowhere else to go and it recognizes a philosophy that society must take care of those individuals, and answer any questions with regard to it. I think the terms are very clear generally. It parallels legislation in Virginia, Delaware and Maryland with regard to its fund-raising possibilities. It does need some clarification that we will be able to collect federal funds because presently before the Federal Congress there is legislation to fund state programs if they are already in place. So in order to participate, we will have to pass our

- REP. TULISANO (Continued): own legislation and, of course, authorize the Compensation Board to make application and to collect those funds. I will respond to any questions.
- REP. BORDIERE: Representative Rulisano, is it my understanding that the existing law now, you make retribution, I think Mr. Green is on the Committee where he determines what the restitution should be, but is it in lieu of sentencing?
- REP. TULISANO: This is a Compensation Board. Mr. Green is dealing with restitution. Restitution is basically offender-oriented. It is part of the sentencing procedure. It is part of the rehabilitation process. It's a multi-faceted dealing with the offender. You must know who the offender is in order to participate in Mr. Green's program. This legislation is victim-oriented. That is, anyone who sustains an injury described in the Statute will be able to apply to the Commission and receive some compensation for their losses at the -- there is no need that you have even caught the offender as was indicated by prior questioning -- sometimes in a mugging, etc. you often do not find the offender. So it's not connected on a one-to-one basis.
- REP. BORDIERE: It's not the same bill.
- REP. TULISANO: It's a whole different concept from Mr. Green's function. However, he did come here to support this bill because we can tie them in together.
- REP. BORDIERE: Alright, because the point I brought up on the other was Mr. Green does -- is that many times during the waiting of the trial, it's good advice not to contact the victim so that there is no claim for tampering with state's witness and so on. And many times at time of sentencing, the judge asks if restitution was made, and I don't see how you can make restitution if you are to stay independent of the witnesses that are going to be testifying against you. So that I don't think -- I think this is for Mr. Green's benefit so that the party should not be panelized for not making restitution prior to that time, and I didn't want to confuse it with this bill.
- SEN. DePIANO: We have one more question from Representative Guidera.
- REP. GUIDERA: What is the cost under this bill, Dick, and what federal contribution might there be to it.
- REP. TULISANO: We designed the bill not to have an appropriation this year.

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REP. GUIDERA: What is \$54,143? Is that all costs paid into the court?

REP. TULISANO: What we've done it, if you're talking about Section 14A?

REP. GUIDERA: Yes, the Criminal Injuries Compensation.

REP. TULISANO: What we're doing is, we're changing that \$53,143 to insure that anyone who is convicted of a crime as defined in the Statute, and that's under Section 14, would have in addition to any fine or penalty, an additional court cost imposed of \$10. That \$10 would be attributed to the Compensation Fund which Fund would then be available to all victims. That is the system that is used in at least 3 states and there seems to be no constitutional problem because they have operated for some time.

REP. GUIDERA: Alright, aside from the constitutional arguments which we could argue about all day and you're probably right, it's probably very constitutional, what kind of money -- what are the projections on the kind of money you would raise? Would this also be motor vehicle violations?

REP. TULISANO: Not minor motor vehicle violations. It is designed to include anything which would enable the accused to have a jury trial so it would be from speeding, speeding reckless, etc. I would include it. The FTC would not include parking violations, would not include the minor violations.

REP. GUIDERA: What are your projections on how much this would bring this in?

REP. TULISANO: Approximately, in one year it would raise \$750,000 from the figures we just recently received.

REP. GUIDERA. How have you developed and how can you develop figures on what the compensation is going to be?

REP. TULISANO: Just by using some other estimates such as population, etc.

REP. GUIDERA: Did you say this was in effect in Virginia? There are 42 states that have it. Did we use a per cost per population at one point? Virginia has about 3,000,000 people as I recall. Do you know what their payout is?

REP. TULISANO: I don't have their payout available and I can obtain it -- we determined last year that the cost to Connecticut would be something like -- you remember this is a half-year bill -- putting it into effect for only half the year but raising the money for a full year -- so we figure the cost including administrative costs to be in the neighborhood of \$500,000 to \$600,000 the first year, leaving a balance of \$200,000 some-odd dollars to be revolving.

REP. GUIDERA: Let me see if I can -- I hate to keep asking these questions, but the money angle of it I think is really the only thing that the legislature would have any objection to.

Is it set up in such a way -- do you read this bill to provide that the money shall be paid, and let's hope the money is there to pay it, or the money is there to pay it, and we can extend up to the amount in the fund?

REP. TULISANO: The money is there to pay it.

REP. GUIDERA: If the money is there to pay it, we'll pay it. If the money is not there, we will not pay it.

REP. TULISANO: I think the money will be there to pay it. I anticipate someday in the future, possibly the General Fund will be involved. However, the Federal Government is reimbursing or the proposed legislation which we anticipate passage of this year, is reimbursing 50% of federal crimes - anything with a federal crime - and 25% state. In addition, there are LEAA funds which might be available as well as private funding.

REP. GUIDERA: But as of the present time, if we were to start today paying these funds out, there is no money available from the Federal level right today? to reimburse Connecticut

REP. TULISANO: Well, LEAA might have a program you could qualify for.

REP. GUIDERA: Right now?

REP. TULISANO: They might have one.

REP. GUIDERA: Is any state receiving any now?

REP. TULISANO: There are some county programs I think in California and around that have had some programs that qualified under it.

REP. GUIDERA: Those would be demonstration problems.

- REP. TULISANO: There are 22 states that have similar legislation for this and two foreign countries.
- REP. GUIDERA: Do you then view this as a no cost bill to the State of Connecticut in its present form?
- REP. TULISANO: I do.
- REP. GUIDERA: Then, this does not have to go to Appropriation.
- REP. TULISANO: That is correct. That would just point out what we've done as we've started the effective date for the setting up of the Commission, etc. on July 1, of 1978, and the payments cannot be made until January 1, 1979, so we have six months of collecting funds under the court costs in order to make them available for payouts later on.
- REP. GUIDERA: One final question. If you've got yourself a criminal who has done physical injury to a poor guy whom you're paying out to at the present time, and he's got some dollars in the bank or he's got some real estate, does this bill provide that you're going to go after that kind of thing?
- REP. TULISANO: The bill provides the state to be subrogated to the rights of the victim so they may collect any possible suit
- REP. GUIDERA: Let me ask you this. The individual who is convicted of a crime, does he have any permission or authority to come in and oppose the Commission's granting any money or the payment of any money to an innocent victim? It is not provided for in this legislation.
- REP. TULISANO: It is not provided for in this legislation.
- REP. GUIDERA: Would we then have a constitutional argument that you should not have paid this victim and I was not there and now you're going to take my money away from me?
- REP. TULISANO: The way the legislation is drafted is to have no connection at all with an offender. It is not connected with the offender at all. Anyone may participate in the fund. It's a form of compensation similar to Workmen's Compensation, so whether you apprehend the offender or don't apprehend the offender, whether you know who it is, or don't know who it is, it's just not relevant to the situation.
- REP. GUIDERA: Thank you.

SEN. DE PIANO: It's not ludicrous --

MR. BEATER: It's ludicrous in the State of Connecticut --

SEN. GUIDERA: I couldn't agree with you more. I think the law that is written now allowing defense attorneys to have exculpatory information for material isn't worth the paper it's written on. The prosecutor says go through his thing, he says nothing in here is exculpatory, let me see it and I'll tell you whether it's exculpatory or not. He says well you better take my word for it. And that's the way it works in this state. And sometimes there is information in there which maybe he would call favorable but I would call it sculpatory.

MR. BEATER: Well, the time sequence in the Fiari case -- I am sure that was in the file and I hate to on the one case of notoriety, because I have had it happen in other cases of mine. Where the prosecutor has told me and innocently, and they are overburdened too, the prosecutors, they got a million files to worry about. They don't know every single file. I don't have it fortunately or unfortunately. Fortunately for my clients I don't have a million clients. But I know the facts of a particular case better than they do, at a particular time that I am talking to them. And there are times when prosecutors will say that I have nothing in exculpatory here read my file, and I will find 20 things in there that are exculpatory. I'd love to make speeches now --

SEN. DE PIANO: Any questions? Thank you.

MR. BEATER: I thank you, my wife thanks you.

SEN. DE PIANO: I hope I pronounce this name correctly, Alan Rencheau, am I pronouncing that right? Alan, I can't read the last name -- Robert Gorgoglion it looks like -- Fran Lemieux.

FRAN LEMIEUX: I must say Senator you don't have the turn outs you have when you had the Labor Committee.

SEN. DE PIANO: That's true.

FRAN LEMIEUX: Mr. Chairman, members of the committee, my name is Fran Lemieux. I am president of the Connecticut United Auto Workers Community Action Program Council. I appear before you this afternoon in support of Raised Committee Bill 5039. Society in general and the UAW specifically does put great importance on criminal rehabilitation for the return

FRAN LEMIEUX (Continued): of prosecuted offenders of the law to be responsible and useful citizens of our state. However, little or no attention was even give to those innocent victims of such crime. This has been and is still is today an inequity of our social and penal system. The convict might face incarceration in one of the penal or rehabilitation institutions which would also include some type of job training. The most that the victim could receive from society is a gee, that's too bad. If the victim is fortunate enough to survive, he or she may face untold suffering physically, emotionally and economically with absolutely no recourse in most cases.

From the moment following arrest to the final settlement of the case an accused is entitled to legal services at the State's expense, if necessary, which is as it should be. But the innocent victim may have to face enormous medical bills and loss of income during a recovery period.

Mr. Chairman, I would like to recommend that this bill also include perhaps a 90 day time limit for payment in order to minimize adverse difficulty. This would be 90 days from the date of claim and would not have to be a total payment, but at least enough to cover initial lost income and major medical bills for that period. We feel that the State Attorney's office should be heavily involved with the board in the prosecution of any fraud or in recouping any stae funds used in implementatio of this act from the accused or criminal who may have the means of repayment.

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We also feel that this act should direct the board to seek out and utilize any and all federal funds for the im-plementation of this bill and establishment of the compensation fund. Thank you, Mr. Chairman.

SEN. DE PIANO: Thank you I appreciate you coming. Anybody else?  
John Mulkahey.

JOHN MULKAHEY: Thank you very much, Mr. Chairman. Members of the Committee. My name is John F. Mulkahey, Jr. Deputy Chief State Attorney and my remarks on behalf of the division of criminal justice and the prosecutors of the state. First of all I would like to be heard and very briefly with reference to two bills which are before the Committee today. First of all, with reference to Raised Committee Bill 5039 an act relating to the compensation for innocent victims of crime or the dependents of such victims, we certainly would like to go on record and strenuously supporting this legislation. Certainly in

JOHN MULKAHEY (Continued): concept we agree with it in every respect. With reference to the details I would just make a couple of observations again very briefly. One we note that it is not cover any losses due to crime against property but rather deals only with violent crimes against the person. Additionally, with reference to material which will be made available to the compensation board, we call your attention to line 72 through 76, dealing with requests made with prosecutorial officials for various material to be furnished the Board. Our only observation in that regard would be that when an arrest is made and when a prosecution is pending we question whether or not such material should be turned over to a proper, to a compensation board such as this. That would involve police reports, a medical examination of the victim, to be mandated, and there could be circumstances where we feel that could jeopardize the prosecution of the criminal case.

It might and this is simply by way of suggestion, it might be that where the board is notified and I would respectfully submit that should not be by the prosecutor as another section of the bill provides, but where the board is notified or is otherwise aware that an arrest has been made and a defendant will be prosecuted, that in those instances, the proceedings before the board should perhaps be deferred or suspended pending the prosecution of the criminal charge. And in all other respects we certainly support this legislation.

HB 5041

The other piece of proposed legislation which I wish to be heard on of course, is the one dealing with an act concerning the disclosure of exculpatory information. I was here while the representative of Connecticut Trial Lawyers Association addressed this committee. I'm aware of his comments and I certainly accept his representations that he feels very strongly on these points and I gather the sentiment of the committee and to a great extent is along the lines which he testified.

However, I would simply tell the members of this committee that I take issue with many of those comments and I feel equally strongly regarding my contentions and I would simply ask that you listen to some of the comments which I make. Regarding the bill. First of all, this is legislation which we opposed last session, subject to some modification it is basically the same bill. Conceptionally, our difficulty with the bill as it is drafted, and in terms of the problem which it attempts to deal, is that it undertakes to render a criminal, as a class A misdemeanor. Judgment decisions

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SEN. DEPIANO (Continued): Thank you very much.

MARIE NEGRI: We tried this before. This one says death or separation. That's not the case with me. I raised that child since she was 4 years old and then -- my daughter had her before she was married. Then she got married. They adopted the child three years ago and I haven't been able to see her since. They forbid me to see her. So that death or separation doesn't pertain --

SEN. DEPIANO: Doesn't cover the full gamut.

MARIE NEGRI: No, I mean after all the child does ask for me and she wants to see me, but how can she? She will be 9 in July. So I just feel we should have a right to see her.

SEN. DEPIANO: Thank you very much. Would you make this part of the record, please? Ron Cutero.

RON CUTERO: My name is Ron Cutero. I'm the Director of the Friends Court Watching Project for Citizens Court Watching and Criminal Justice Organization. I'm here to testify on behalf of Bill 5039, the compensation to victims.

Our project strongly endorses compensation of victims. We feel that any society that is concerned about its citizens ought to, and cares about its citizens, ought to compensate them when they become victims. My understanding is there are presently 31 states that have compensation for victims of violent kinds of crime. I do see some problems with the way the bill is drafted. I still feel that this Committee felt it was important enough last year to raise, joint favorably raise this bill with an appropriation. I think not to is a backward way of funding it. I sort of have some problems with the \$10 court cost. One thing I would like to see happen in terms of legislation, there are bills passed that sort of make my work unnecessary. I think with a \$10 court cost added for people who are convicted of crimes and excluding some motor vehicle violations and with our present system of that we're just going to increase judicial discretion -- I mean prosecutorial discretion. I see that's one possibility that I would not like to see. Speeding cases will be reduced to violation of City ordinances. There'll be more given on petty misdemeanors. Those kinds of things. If from what I understand that may, be done away with when we merge our one-tier courts and I think that would be a positive step and I think it would be more equitable to have a court cost. But

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RON CUTERO (Continued): I would still like to see an appropriation made. I also don't know what's going to happen when we sentence people to jail who are unable to make that \$10 court cost, whether we're going to make them -- how we're going to collect that. There are a couple of constitutional problems that might result. Only three states have a system that assesses the court costs. The other states directly appropriate money. I would like to see Connecticut do that and with hopes of getting supplemental funds from private foundations and wherever monies could be derived. But I think if the Committee and State really wants to compensate victims they ought to be willing to come across with some funds to do that.

SEN. DEPIANO: Any questions?

REP. OSIECKI: Do you mean, you don't think that the people who have committed the crime should be charged at all? You believe these should all be supplemented funds by the State and private funding?

RON CUTERO: I think that restitution should be made when possible to victims. But when a victim, well when an offender is not known, or when we do, particularly when we know an offender, I think, yes, if the person is not given an extra sanction of jail, then, yes, there should be some assessment. But for people who are given a sanction of jail, I do not believe that we should assess an extra sanction of a fine or a court assessment. That's my feeling.

I also wanted to mention that I know that there's a bill now pending in the U.S. Senate that would reimburse or share up to 25% of funds for States in terms of victim compensation. It's a bill that has passed the Senate for a number of years and - just last September passed the House and so there is some possibility I would think a good possibility for some funds perhaps coming to the States for victim compensation in the very near future.

SEN. DEPIANO: Thank you very much. James Brown.

JAMES BROWN: Good afternoon. Members of the Committee, my name is James Brown. I'm an attorney speaking this afternoon on behalf of the Insurance Association of Connecticut in opposition to Senate Bill No. 77. I do have a short statement which I would like to read. I'll be glad to answer any questions you might have.

Senate Bill 77 would require a no-fault insurer to pay a

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JAMES BROWN: I'm not prepared to comment for the association on that suggested language. I think you might receive some comments from the trial lawyers association on that suggestion also.

SEN. DEPIANO: Cause they're going to get paid the same amount of money anyway. See, there's no increase in monies to the attorney.

JAMES BROWN: Right.

SEN. DEPIANO: All this bill asks for is that whoever is going to get the profits of the lawsuit pay their burden of the --

JAMES BROWN: And that was the thrust of my comment that perhaps the attorney's fee should not be geared to the gross amount of damages because some of them have already been paid and perhaps it would be better if the attorney's fee were geared to the net amount of damages.

SEN. DEPIANO: I don't want to get into that. Maybe I should. Are you saying that the insurance industry would then be willing to kick in -- the defendant's insurance company would be willing to kick in the first \$5,000 and say to the attorney, you don't have to fight for that. You don't have to put on any evidence for that first \$5,000. We're kicking it in.

JAMES BROWN: Your proof of liability is going to be the same.

SEN. DEPIANO: Proof of medical is what I'm talking about cause you're not paying for liability. You're paying for medical. You're paying for lost wages. So that wouldn't work too well, would it? Unless the insurance company wanted to do it.

JAMES BROWN: Right.

SEN. DEPIANO: Any other questions? Thank you for coming. I appreciate it. Robert Ovellette.

ROBERT OVELLETTE: Good afternoon, Senator DePiano and members of the Judiciary Committee. I'm Robert Ovellette, an Intern at the Department on Aging and I'm speaking on behalf of the department and Commissioner Radford, speaking on Bill 5039.

Overall, the department supports Bill 5039, an act relating to the compensation for innocent victims of crime or the

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ROBERT OVELLETTE (Continued): dependents of sex victims. Although we do feel there are areas contained within Bill 5039 which need clarification. If you'd please see page 3 section 3D, line 78, it is written to direct medical examination of victims. We feel it would be better stated if it read, to direct medical examination of victims as a condition for compensation. We realize that Section 4B line 93, further clarifies the intent of section 3D, line 78 but as it is written it now leaves section 3D open to interpretation.

The department would like to request that the deductible of \$100 mentioned on page 7 section 11C be waived for low income elderly over the age of 60, because of their loss of earning power, hence causing further financial burden and mental anguish. Many times this incidental \$100 could mean a loss of contact with the outside world and further hinder our efforts to communicate our services to them. Questions have also been raised about the coordination of benefits rule. Would this \$100 deductible be in addition to the deductibles on Medicare, Medicaid, or other deductibles of many private insurance policies?

In closing I wish to thank the Committee for allowing me to take this opportunity of voicing the department's concern and ask that the members look favorably upon it for passage in this legislative session.

SEN. GUIDERA: Could you please leave your remarks here so that we can have them?

ROBERT OVELLETTE: Yes. Thank you.

BETTY TIANTI: Senator DePiano, members of the Judiciary Committee, my name is Betty Tianti and I am the Director of the Committee on Politican Education for the Connecticut State Labor Council AFL-CIO, here to testify on behalf of Raised Committee Bill 5039.

For many years the Connecticut State Labor Council has advocated legislation that would provide financial compensation to innocent victims of crime and their dependents. So far it's my understanding and there have been some numbers bandied about here today. It's my understanding that 23 States have enacted legislation for this purpose, but I don't claim to be personally responsible for those.

SEN. DEPIANO: Representative Tulisano said three, I think.

BETTY TIANTI: He said 22. I have 23. Somebody else said 31, so I'm not touting my figures.

I'm only here today to recommend that Connecticut become at least the 24th state, if in fact 23 is the correct figure to adopt such a program. We believe it is the duty of all citizens and institutions to improve the plight of victims of violent crimes. Much has been said about the right of the accused, the convicted criminals, both in the courtrooms and the press and here in the General Assembly. Now we think it's time that Connecticut address the rights of the victims of crime, those who suffer in silence and whose lives most likely will never be the same again.

We see Committee Bill 5039 only as a step in the right direction. In its present form, however, neither the assessment levied against the convicted criminal, nor the \$10,000 maximum compensation award are great enough to insure adequate compensation to these victims or their dependents.

In September of 1977 the United States House of Representatives passed the Victims of Crime Act of 1977. This measure would establish a federal reimbursement program for qualifying state victim compensation programs. One of its principal purposes was to encourage states without such programs to establish them. Under this House version of the act federal grants would be equal to 25% of the cost of state compensation for state offenses and 100% of the cost of compensating victims of federal offenses. The maximum matching award would be \$25,000.

Under the Senate version, S-551 which is now before the subcommittee on Criminal Laws and Procedures, this version would provide for federal reimbursement to the States of 50% of the costs of compensating victims of state offenses. We, therefore, urge that the General Assembly increase the \$10 assessment and the maximum compensation of \$10,000, keeping in mind that the federal legislation now in the Senate would, if passed, match the State's pay-out up to the 50%. According to the National Institute of Law Enforcement and Criminal Justice in Washington, D.C., older Americans suffer more than crime than almost any other group because many of them are on fixed incomes, they seldom fully recover financially. Physical and psychological damage to the elderly is often permanent. The epidemic of crime is projected to affect millions of United States citizens in 1978, for the elderly, the poor and minority citizens, more likely to be the targets than any other group. Remember that

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JUDICIARY

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BETTY TIAN TI (Continued): it is these groups, the poor, the elderly and the minority citizens which suffer most and can least afford to recruit financial losses of crime. We therefore ask that Bill 5039 be approved with the recommended increases in assessments paid into the Criminal Injuries Compensation Fund and in the overall maximum compensation award. Thank you.

REP. PARKER: You mention the grants attached to both the House and the Senate versions and Federal, are these grants one year grants?

BETTY TIAN TI: It is not, in my understanding this would be a permanent --

BETTY TIAN TI: A permanent grant. Since the Act is permanent in so far as it would be providing in the case of the House version the 25 percent would be an annual matching grant type of funding.

REP. PARKER: I just want to be sure there would not just --

BETTY TIAN TI: It is not a pilot project as far as I know.

REP. PARKER: Thank you.

BETTY TIAN TI: Thank you.

SEN. DE PIANO: Any further questions? Thank you very much for coming. I have finished my sign up list here, is there anyone here from the General Public who wishes to speak who has not signed up?

ROBERT TIGHTENBURG: My apologies Senator I did not arrive in time Belt to sign the slip before hand. My name is Robert A. Tightenburg #9 I practice law at West Hartford Connecticut. In addition I represent the Alliance of American Insurers which is a trade organization of about 100 companies, many of them mutual companies throughout the State. I am here to make just a few comments with regard to Raised Committee Bill No. 77.

I listened with interest to some of your questioning, Senator, and particularly Representative Bordiere as well because there are many different situations. I know the Insurance Commissioner pointed out three situations in which how a recovery would be effected and I believe one was pointed out with reference to the possibility of a \$2,000 reparation benefit where there was only a \$3,000 fee, a \$3,000 judgment. And as the attorney in that situation takes a \$1,000 legal fee, if he did, then \$2,000 is in reparation and the injured party is not successful

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## JUDICIARY

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ALAN GREEN (Continued): is ordered as a sole sanction with conditional discharge. (3) to provide for a restitution investigation in those matters concerning juveniles. Presently, the restitution services only handle those matters in Superior Court involving adult offenders. Subsequent to the court merger, it is felt that the same services might be provided in matters involving juvenile offenders. To date, the Connecticut Restitution Service has received over 133 referrals from both courts, the type of crime committed where a referral has been made to us has basically been broken down as follows: 31% have been burglaries, 7% have been assaults, 17% have been a combined of either assaults, burglaries or larcenies, 33% have been classified as others which might include criminal mischief, welfare fraud, and the like. Approximately \$5,000 in financial restitution has been ordered to be paid to the service to date and to date the service has collected approximately \$13,000 and disbursed approximately \$12,000 to victims of crime.

From March 1 through March 8 of this year, the service has collected \$1,520 restitution and we expect that these figures will grow, of course, as time continues. Also with respect to symbolic restitution, or community service, there have been 800 hours of community service ordered to be made to various communities by offenders, some of the types of communities service that have been ordered involve the providing of or shoveling of snow for elderly people during storm weather, the providing of assistance to various elderly people working with parks and recreation departments and various other communities services which I won't get into. Another unique point about the Connecticut Restitution service is that it as it relates to the above is the tying in of various other social service agencies for assisting the offender to make restitution. Often the question has been raised as to how can an offender make restitution considering his or her economic condition.

Through the assistance of various agencies, funded through the State of Connecticut, primarily through the Department of Corrections, the restitution service has been able to give assistance to offenders to gain meaningful employment so that they might be able to meet their restitution obligations. Connecticut Restitution Services has used the assistance of other agencies as well including the state labor department and various CETA programs. I would also like to bring to your attention the testimony that I made concerning 5039 which concerns victim compensation. As I mentioned to you on Monday, we feel that that these two areas of legislation can work very well together and I won't go into detail again about that point.

collected approximately \$13,000.00 and disbursed approximately \$12,000 to victims of crime. From March 1 thru March 8, this Service collected \$1,520 in restitution. Also, with respect to Symbolic Restitution or Service Restitution, there have been approximately 800 hours of Community Service Restitution ordered to be made to various communities by offenders. Some of the type of Community Service ordered has been in the area of shoveling snow, for elderly people during Storm Larry, the providing of assistance to various elderly people, working with Parks and Recreation department to assist in clean-up of various public areas and the painting of a Police Department, Dispatch Room.

Another unique point about the Connecticut Restitution Service as it relates to the above, is the tying in of various other social service agencies, for the assisting of the offender to make restitution. Often the question has been how can an offender make restitution considering his or her economic position. Through the assistance of various agencies funded through the State of Connecticut and primarily through the Department of Corrections, the Restitution Service has been able to give assistance to offenders to obtain meaningful employment so that they might be able to meet their Restitution obligations. The Connecticut Restitution Service has also used the assistance of other agencies in job development, such as thru the State Labor Department and CETA program.

I would also like to bring to your attention the testimony that I made concerning Raised Committee Bill 5039 which concerns Victim Compensation. I suggested in my testimony given on March 6, 1978, that Restitution and Victim Compensation can work hand in hand. I bring your attention to Section 12 of Raised Committee Bill 5039. I feel that Section 12 should go further and say that where a victim has been paid through this Compensation Legislation, and there is an existing Court Order, for the offender to make restitution, to the victim, and that the type of restitution to be made is financial, that the financial restitution be made to the Victim Compensation Fund. This would

particularly provide for the on-going sustaining of the Compensation Fund.

As I previously mentioned to you I have discussed this idea with Mr. Tulisano, who I have found to be in favor and thus bring it to your attention. I ask you to also take note that the Commission on Alternative Sentencing favors the use of Restitution as an alternative sentence.

To date, Connecticut seems to have had a fairly successful program. As time goes along, and Judges become more familiar with the program, it is anticipated, the program will be used more frequently than in the past. I bring to your attention the fact that Hartford has been chosen as the site for the Third Post Award Conference, for the six pilot restitution programs. This is a Nationwide conference primarily to address the issues of administering a viable restitution program. Connecticut at this point appears to have a chance for refunding and is presently drafting a request for a proposal for refunding of the Connecticut Restitution Project. It is not known exactly what the chances are at this point for receiving these additional funds, however, we will pursue these funds vigorously. As I stated to you before, in previous testimony on Raised Committee Bill 5039, often times victims are the forgotten participants of the Criminal Justice Process. It is felt that Restitution in part, takes into consideration the victim, as well as the rehabilitation of the offender. I feel that we are heading in the right direction when legislation such as this is introduced. It is hoped that this type of legislation as well as the Victim Compensation legislation, will be pursued vigorously. Please note that we are not asking for an appropriation. Thank you very much for your time.

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Monday, March 13, 1978

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CONCERNING THE LEGISLATIVE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES.

HOUSE FAVORABLE CHANGES OF REFERENCE

Judiciary. Sub. H.B. 5039. AN ACT RELATING TO COMPENSATION FOR INNOCENT VICTIMS OF CRIME OR DEPENDENTS OF SUCH VICTIMS. Refer to Government Administration & Policy.

Public Health and Safety. Sub. H.B. 5148. AN ACT CONCERNING STATE GRANTS FOR PSYCHIATRIC AND MENTAL HEALTH SERVICE. Refer to Appropriations.

DISAGREEING ACTION - Table for the Calendar

Humane Institutions. Sub. S.B. 64. AN ACT CONCERNING DEPARTMENT OF CORRECTION CONTRACTS WITH NONPROFIT AGENCIES, as amended by Senate A and House A and B.

HOUSE AND SENATE LIST OF BILLS, No. 18

Waive reading and Refer to Committees Indicated on List.

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THE CHAIR:

Senator Putnam.

SENATOR PUTNAM: (5th)

Mr. President, I move that all of the items on the Senate Agenda, dated March 13, 1978, be acted upon as indicated and that the Agenda be incorporated by reference into the Senate Journal and Senate Transcript.

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## SENATE

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Calendar 907, File 706, Favorable Report of the Joint Standing Committee on Finance, Substitute for House Bill 5039, AN ACT RELATING TO COMPENSATION FOR INNOCENT VICTIMS OF CRIME OR THE DEPENDENTS OF SUCH VICTIMS, as amended by House Amendment, Schedule A.

THE CHAIR:

Senator Beck. Women can also be awarded the hat trick, you know.

SENATOR BECK:

Thank you. Very good. Mr. President, I move acceptance of the Committee's Favorable Report and favorable action on the Bill.

THE CHAIR:

Comment, Senator?

SENATOR BECK:

Mr. President, this is a very important Bill that has been worked on for a very long time by a number of legislators in this Circle and in the House. The purpose of the legislation is to compensate victims of crime or their dependents for injury or death incurred by the victim. Groups of victims eligible would be compensated by not more than \$10,000 from a special fund administered by the Criminal Injuries Compensation Board from a criminal injuries compensation fund to be in existence July 1, '78 to June 30, '79. The Fund primarily financed by a \$10.00 fine imposed against all persons convicted of any crime or certain motor vehicle offenses and any available federal or private monies which should be deposited into the fund. It is estimated that about \$500,000 a year in revenue would be raised as a result of the \$10.00 fine imposed and of this money, about \$100,000 would be needed for administrative costs, leaving about \$400,000 for compensation award payments.

I think this issue and the legislation before us has been debated and dis-

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cussed over the years in this legislature. It certainly is a national issue and one that Connecticut, in recognizing the problem, is doing a great deal for in terms of innocent victims of crime and I think this is one of the most constructive pieces of legislation to come before this legislature and, if there is no objection, I move it be placed on Consent.

THE CHAIR:

Senator Rome.

SENATOR ROME:

No objection. Would urge it to be placed on Consent. It's a Bill that we've advocated for a few years. It's a Bill whose time has come. Hopefully, all the states would enact similar legislation.

THE CHAIR:

Yes, Senator De Nardis.

SENATOR DE NARDIS:

Mr. President, I just simply wanted to add my support and indicate that there is federal legislation winding its way through the halls of Congress which, if passed, would provide financial assistance to those states that have legislation like the Bill before us and I think it's very timely therefore, that we get in on the ground floor.

THE CHAIR:

Thank you Senator. The matter has been moved to Consent, without objection.

So ordered.

THE CLERK:

Turning to page 22 of the Calendar, the top item has been PR'd and turning to Calendar 910, File 670, Favorable Report of the Joint Standing Committee on Finance, Substitute for House Bill 5274, AN ACT CONCERNING THE TAX ON RAILROAD

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SENATOR MADDEN:

Mr. President, on page 21, Calendar 908, was that in the first group of Consent items?

THE CLERK:

Yes, it was.

SENATOR MADDEN:

Thank you.

THE CHAIR:

Senator Strada.

SENATOR STRADA:

I would then move for adoption of the Consent Calendar as listed by the Clerk.

THE CHAIR:

Did you roll call them? We did. The machine is open. Please vote on the second Consent Calendar. The machine is closed and locked.

TOTAL VOTING	35	<u>HB 5656, HB 5825, HB 5885,</u>
NECESSARY FOR PASSAGE	18	<u>HB 5894, HB 6005, HB 5039,</u>
YEAS	35	<u>HB 5608, HB 5662, HB 5848,</u>
NAYS	0	<u>HB 6001, HB 6004, HB 6016</u>

The Consent Calendar is adopted. Senator Strada.

SENATOR STRADA:

Yes, Mr. President. May I say that the intention is to - of the session tomorrow, commencing at 1:00 with a caucus at 11:30 and, on page 27, I'll read the items that I think are prepared to go at this point. Under Resolutions, Calendar 618, under unfavorable reports, Calendars 340, 341 and 359 and then hopefully to go back, possibly, and pick up some of the items that were passed

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MARCH 10, 1978

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The House was called to order at 10;38 o'clock, A.M., by the Acting Speaker, Rep. Gilligan of the 28th District.

The prayer was offered by the Guest Chaplain, Rep. Giles of the 4th District.

The following is the prayer:

Give us Your guidance, O Almighty God, that we may feel the security of Your might and Your truth, in all our undertakings for the good of our people as well as for our own temporal and spiritual welfare. Amen.

THE ACTING SPEAKER:

Business on the Clerk's desk.

THE CLERK:

The clerk has List of Bills No. 17.

REP. YACAVONE (9th):

Mr. Speaker. I move that the reading of the List of Bills be waived and that the bills be referred to the appropriate committees.

THE ACTING SPEAKER:

Is there any objection? If not, so ordered.

THE CLERK:

Change of reference. Favorable report of the Joint Standing Committee on Judiciary on Substitute for H.B. 5039, An Act Relating to Compensation for Innocent Victims of Crime or the Dependents of such Victims. The Committee feels that this bill should pass but first be referred to the Committee

Government Administration and Policy.

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THE ACTING SPEAKER:

So ordered.

THE CLERK:

Favorable change of reference. Favorable report of the Joint Standing Committee on Public Health and Safety on Substitute for H.B. 5148, An Act Concerning State Grants for Psychiatric and Mental Health Services. The Committee feels that this bill should pass but first be referred to the Committee on Appropriations.

THE ACTING SPEAKER:

So ordered.

THE CLERK:

Resolutions for the calendar. H.R. No. 69 honoring Norwood Goodspeed.

THE ACTING SPEAKER:

Tabled for the calendar.

THE CLERK:

H. R. No. 70 honoring the Connecticut Boys Club.

THE ACTING SPEAKER:

Tabled for the calendar.

THE CLERK:

H. R. 71 congratulating Alexander Koproski.

THE ACTING SPEAKER:

Tabled for the calendar.

THE CLERK:

H. R. 73 expressing sympathy of the passing of Mark Clayton.

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due and payable on the happening of one of two events. No. 1 upon a sale or transfer of the property secured by the land; No. 2, upon the death of the owner or if there be more than one owner, on the death of the survivor of the owners. I move adoption of the amendment, Mr. Speaker.

THE DEPUTY SPEAKER:

The question is on adoption of House Amendment, Schedule B. Would you remark further; if not, all those in favor of it, please indicate by saying Aye. Those opposed. House B is adopted and ruled technical. Will you remark on the bill as amended by House amendment, Schedule A and B. If not, members please take your seats. Staff and guests, please come to the well of the House. The machine will be opened. Have all the members voted? Is your vote properly recorded? The machine will be locked and Clerk, please take a tally. Clerk, please announce the tally.

THE CLERK:

Total number Voting.....	143
Necessary for Passage,,.....	72
Those voting Yea.....	140
Those voting Nay.....	3
Those absent and not Voting.....	8

THE DEPUTY SPEAKER:

The bill as amended is PASSED.

THE CLERK:

Page 16 of the calendar. Cal. 1097, File 706, Sub. for H. B. 5039, An Act Relating to Compensation for Innocent Victims of crime or the dependents of such victims. Favorable report of the Committee on Finance.

REP. TULISANO (29th):

Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the bill.

THE DEPUTY SPEAKER:

The question is on acceptance of the Joint Committee's favorable report and passage of the bill. Would you remark, sir?

REP. TULISANO (29th):

Mr. Speaker, the Clerk has House Amendment LCO 3860.

THE DEPUTY SPEAKER:

The Clerk has LCO 3860 in his possession which shall be designated by the Chair as House Amendment Schedule "A".

REP. TULISANO (29th):

Clerk please read.

THE DEPUTY SPEAKER:

The Clerk please call and read.

THE CLERK:

House Amendment Schedule "A" LCO 3860 offered by Rep. Tulisano, 29th District.

In line 191, strike "the prior case or social"

In line 192, strike "history, if any, of the victim,"

In line 279, after the word "applicant" and before the period, insert "less any costs and expenses incurred therefor"

REP. TULISANO (29th):

Mr. Speaker, the amendment is technical in nature taking out some language which was not intended to be there and including a line to clarify some language purely technical in nature. I move its adoption.

THE DEPUTY SPEAKER:

The question is on adoption of House Amendment Schedule "A" Would you remark further, if not, all those in favor please indicate by saying Aye. Those opposed? House "A" is ADOPTED.

Ruled technical. Will you remark further on the bill as amended?

REP. TULISANO (29th):

Mr. Speaker, today is for me, I guess a happy day to be able to bring before the Hall of the House this bill. It's been a number of years which I personally have been interested in this legislation as I know others have been. First time I was involved in it, was when I worked in the General Assembly back in '66 as an Aide and someone had introduced legislation on my behalf because I had an interest in it and other individuals in here have done the same. Last year, a similar bill had 44 co-sponsors from both sides of the aisle, as well as leadership had introduced similar legislation on both sides of the aisle, in both the House and the Senate. So, I think it's the kind of legislation which has broad base support. In fact recognizes that society has some concern for the victims of crime. Too often we have spent all of our time being concerned about the actor, that is the offender the criminal, by providing rehabilitation resources, training, et cetera. But at the same time, forgetting about the victims. All too often victims suffer, suffer pecuniary loss, physical loss, loss of wages, medical loss and still in all our society does nothing for them. This is a first for Connecticut. However, not a first for the nation. Presently existing in the United States are 19 other states who have similar type legislation and 2 foreign countries, New Zealand and England. England being the first to adopt such legislation back in 1966. Mr. Speaker, I sent to each and every one of the members of the House, some memos over the between last year and this year probably more paper than anybody desired to get, where we attempt to explain the legislation.

We have also attempted to fund the legislation properly and I believe it is really something of which we can all be proud should we pass this legislation today. I ask adoption of the bill.

THE DEPUTY SPEAKER:

Will you remark further on the bill?

REP. LOWDEN (146th):

Mr. Speaker, I'm going to support the bill but with some reluctance and with considerable sadness. It shouldn't be necessary that we should have a bill like this before us today or at any other time in our history. I think what we are doing with the bill unfortunately, is adopting something second best. I think by enacting this bill under law, we are admitting our failure, our failure to be able to control crime in this state. I think that's most unfortunate. I think this is really a defeatist bill but I guess it's the best we can do and I'm going to vote for it.

THE DEPUTY SPEAKER:

Members please take your seats. Staff and guests please come to the well of the House, the machine will be opened. Have all the members voted? The machine will be locked. Clerk please take a tally.

REP. MURPHY (131st):

Mr. Speaker, may I change my vote to the affirmative, please.

THE DEPUTY SPEAKER:

If you say so, sir. Rep. Murphy from the negative to the affirmative.

Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	145
Necessary for Passage.....	73
Those voting Yea.....	145
Those voting Nay.....	0
Those absent and not Voting....	6

THE DEPUTY SPEAKER:

The bill is PASSED.

THE CLERK:

Page 3 of the Calendar. Cal. 1049, Sub. for S.B. 231, File 555. An Act concerning a Day Care Center pilot program for Southeastern Connecticut. Favorable report of the Committee on Appropriations.

REP. LEARY (37th):

Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

THE DEPUTY SPEAKER:

The question is on acceptance of the Joint Committee's favorable report and passage of the bill. Would you remark, Rep. Leary?

REP. LEARY (37th):

Yes, I will, Mr. Speaker. This bill calls for the establishment of a pilot Elderly Day Care Center in Southeastern Connecticut. To keep elderly persons in need of some care in a community and with their families rather than institutionalization. Now the bill calls for a propriations of \$70,000 for the Department of Aging to establish such a Day Care Pilot Program for Elderly Persons in Southeastern Connecticut. It is to be funded to operate 260 days in the fiscal year ending June 30, 1979 at a location