

Legislative History for Connecticut Act

HB 5853 19	1980	PA 90	1980
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JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY

PART 4

876-1126

1980

SB642

JUDGE KNIERIM: (Continued)

some new proposals which would make bonding, I think much more uniform in the state of Connecticut among the various probate courts. The most important feature of the bill is it details the bonding, the setting of bonding amounts would be left to rules adopted by the Supreme Court, rather than trying to spell out all these detailed rules in the statutes and having to come back to you every couple of years and have them amended.

We think that this is a much better approach. The detail of this bill I'm going to leave to Judge Daniel Kenny, from Old Lyme, who is Chairman of the Bond Committee of the Probate Assembly who will explain it to you in a few minutes.

Thank you very much.

SEN. DE PIANO: Robert Ebersold.

ROBERT EBERSOLD: Mr. Chairman, members of the Committee, this statement is being made on behalf of, excuse me, my name is Robert S. Ebersold of Burlington, Connecticut. This statement is being made on behalf of several people, I'll read the names, Mr. and Mrs. Robert Ebersold, Mr. and Mrs. Charles Hoyt, Mr. and Mrs. Samuel Merrill, Mr. and Mrs. Harold McLaughlin, Mrs. Eleanor Luce and Mrs. Jean Spurkland.

We are the parents of recently murdered children. The group of us met before this hearing and agreed that this statement would represent --

SEN. DE PIANO: What bill are you talking on?

MR. EBERSOLD: I'm very sorry. This is Bill 5853, to do with the crime victims compensation act. We met before this hearing and agree that this statement would represent the combined position of each of us and to the extent that any of us want to add something, they would do that.

5853 was introduced to amend Section 54-208 of the Connecticut Statutes. It was raised because the Criminal Victims Compensation Board recognized that the original law didn't respond in the way that it should. Each of us, the parents that I listed above, whose children were

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MR. EBERSOLD: (Continued)

murdered since the passage of this particular act, were initially led to believe that the Crime Victims Compensation Act would respond in our particular situations and each of us found later one that the law, as it was passed, had a loophole in it and did not respond, or would not respond.

The proposed change would fill that loophole. In our opinion, the present law is seriously flawed in that it allows for reimbursement of expenses for or to parents of victims who are injured, but does not allow for reimbursement of expenses to parents of victims who were murdered. I challenge anyone to tell me why the funeral expenses for your child should be any less compensable than the medical expenses of your child.

This is especially pertinent we feel when you realize that over 90% of the people carry medical insurance on their children, but virtually no one carries life insurance on their children. You have to keep in mind that the primary purpose of the Act, in our understanding anyway, is to compensate for, to really reimburse the victim for unreimbursible monetary loss.

Further, the Act as it is now written would respond for the final expenses for the benefit of someone who is a dependent of the victim, but once again not for the benefit of someone who is responsible for the maintenance of this victim.

This also defies logic in that most people who have dependents carry life insurance and therefore have a normal mechanism to cover this loss.

SEN. DE PIANO: One of the problems I see here is that you could have a non, well maybe I should back track for a minute. Isn't it true that you're talking about the fact that you want this bill to include parents, am I correct?

MR. EBERSOLD: Yes sir, that is true, people who are responsible for the maintenance of the victim.

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SEN. DE PIANO: Yeah but you see, it says if people responsible for the maintenance of the victim could possibly be someone not related to that victim.

MR. EBERSOLD: I imagine that could be true, right.

SEN. DE PIANO: You know that could create a lot of problems, you're aware of that. The bill really doesn't address itself to what you want it to do, that's what I'm saying.

MR. EBERSOLD: The way it is now written doesn't address itself but the amendment that the Victims Compensation Board put forth does speak to what we're trying to accomplish.

SEN. DE PIANO: Where is that amendment?

MR. EBERSOLD: That's the purpose of the bill.

SEN. DE PIANO: Yeah, but you see I'm talking about, you're talking about the wording in the amendment to the bill that's in the bill now, where it says or to any person responsible for the maintenance of a victim.

MR. EBERSOLD: Yes sir.

SEN. DE PIANO: Well what I'm saying to you, that creates a lot of problems because you're going to have somebody who could be the parent and not be responsible for the maintenance, it could be a girlfriend, a boyfriend, a roommate. Now is that what you want in this kind of legislation? Do you want people to start making these claims?

MR. EBERSOLD I didn't write the language of the bill.

SEN. DE PIANO: I know that. I'm not addressing it to you, I'm trying to get an intent from your group. Is that what you want in the bill, or do you want it directed to parents?

MR. EBERSOLD: I didn't understand you.

REP. TULISANO: We're writing the language, any person who is legally liable for the support and maintenance of, I think addresses what the Senator is talking about.

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MR. EBERSOLD: That would accomplish the intent that we're trying to do, yes.

SEN. DE PIANO: O.K., that's what I was concerned about.

MR. EBERSOLD: Just one last paragraph. Based on the fact that those responsible for the administration of the act felt initially that we qualified, and now they propose a change to fill this loophole, we not only want to express our support for Bill 5853, but also respectfully request that it be made retroactive to the inception date of the Act.

Thank you very much.

SEN. DE PIANO: Thank you very much. Judge Danny, Daniel E. Kenny.

JUDGE DANIEL E. KENNY: I'm Daniel E. Kenny, and Old Lyme. I'm the judge of probate in Old Lyme and a member of the Executive Committee of the Connecticut Probate Assembly and Chairman of its bond committee and as Chairman this morning I wish to speak to the Raised Bill 642, An Act Concerning Probate of Bonds.

The Bond Committee of the Assembly has the approval of the Probate Assembly for the changes recommended in the bond procedures of the Probate Court. They are principally to make the bonds more uniform and I would, we have written comment which I'll leave with you but I just want to point out to you that of the sections of the bill, there are eight of them which, in our estimation, will strengthen the rights of persons who have estates administered by the Probate Court. Children, incompetents, out of state people who are now not covered by the bonding requirements of the Statute. Also, there are two sections, section 6 and 14, which change the excessive bonding requirements that are provided for in the transfer of assets from the state of Connecticut to another jurisdiction. We feel that those, the wording of the statute is unclear, for one thing. But also, that the bonding requirements themselves are far more than are necessary.

And we have four sections which simply eliminate qualifying words in the statute relating to the term bond or probate bond, so that when the rule is accepted by the Supreme

JUDGE KENNY: (Continued)

Court there won't be a conflict between an ambiguity in the state statute and the rule of the Supreme Court. I also would like to make the point that all of the sections together are really tied together. They are important, that one relates to another. In other words it's not a matter of picking and choosing, it's a concerted attempt to correlate all the bond statutes that relate to the judges of probate and they themselves are in favor of better guidelines and better procedures as they think everybody is who appears in Probate Court. Thank you.

SEN DE PIANO: Thank you very much.

REP. TULISANO: Jim O'Merrill.

SHELDON MERRILL: My name is Sheldon Merrill, I'm from Cromwell Connecticut. In reference to Bill 5853. Back in the early part of last year I spoke with Mr. Tulisano by phone. Mr. Tulisano verbally stated to me that I was more than qualified for the Victims Crime Compensation Act, up to \$10,000 for my son's death, who was murdered.

However at this time Mr. Tulisano said there is no money in this fund, but in the near future I would hear from him. Several months later I received a letter from Mr. Tulisano stating that I did not qualify for this Act. I go along with Mr. Ebersold in regards to changing the Act and I think the people should be reimbursed for some of their expenses in regards to this. That's all I have to say.

May I say something on AHB 5791?

SEN DE PIANO: Yes sir.

MR. MERRILL: As you know, the average murderer, once convicted of murder is eligible for parole anywhere from 6 to 13 years, depending on his sentence. Now this murderer is back on the street, a free man. What about the person he murdered? He or she will never be free. What about the victim's family? They also have no rights. They have to live day to day with a great tragedy and hurt that never seems to get any better or easier. And add to this tragedy, the family has to pay all funeral bills. Not the murderer

HB 5851

MS. MOCARSKY: (Continued)

sitting here saying he hasn't look at a bill yet, he or she hasn't looked at a bill yet. I'd just like to say that, I don't know, I should think that our representatives would at least take the time to glance over these bills and I also heard the comment that because he or she didn't know that much about it, they would probably vote against it. I don't know what kind of system that is. Thank you.

REP. TULISANO: A practical one. Dennis Barry?

DENNIS BARRY: Good morning, Mr. Chairman and members of the Committee, my name is Dennis Barry, I'm with the Chief State's Attorneys office. I'm in charge of the victim/witness assistance unit.

I think earlier testimony by Mr. Ebersold was quite clear on Bill 5853, An Act Concerning Crime Victims Compensation. I would like to represent to you this morning that there are other crime victims in the state of Connecticut that are in a similar capacity.

As you know, we have six offices throughout the state and we see most crime victims in the state, particularly in this particular area. We also see crime victims where the defendant has not been arrested. Police officers know our offices have information on victim compensation and we're the only field offices that do.

We'd like to recommend that you pass this particular piece of legislation. We think the changes as discussed earlier, about the language, are very much appropriate. I'd also like to mention to you that there's another bill, 5848, An Act Providing for Restitution in Criminal Cases that is in some ways related.

On page 3 of that Act, line number 89, it talks about restitution being authorized to the victim, or the dependent of a deceased victim. It seems to me that if we're going to change the compensation program, it should be changed in this capacity as well. Also, number 2, line 90, where the money is to go to the state, where the offense was prosecuted, it seems to me that it might be appropriate to also itemize that such restitution monies be given to the compensation program.

MS. GRAVES: Yes sir, it is. That is correct. Thank you.

REP. TULISANO: Charles Hoyt?

CHARLES HOYT: Ladies and gentlemen, I'm addressing Bill No. 5791. My name is Charles Hoyt. I've a short statement to make. I have spoken to this Committee on two other occasions and you all know my feelings on capital punishment.

We're not here to change the Constitution of the United States. I want everybody to know that. We're here because we want justice, all right? Not only justice for the criminals but justice for the victims. We need drastic, drastic, I say, changes in the laws pertaining to murder. I have received numerous letters and telephone calls from citizens throughout Stamford. And if we don't have some changes in the laws ladies and gentlemen, the citizens of the state of Connecticut are going to end up taking the law in their own hands. Thank you.

REP. TULISANO: Gregory Vickers.

GREGORY M. VICKERS: My name is Gregory Vickers, I'm from East Haddam, Connecticut. I'm here today to speak on two bills, one 5853, the compensation act. In 1977, actually in August of '77, my daughter was murdered and I fully know the expenses which were incurred at that time and I'm sure that there's many, many other people that have also gone through that. However, I would suggest that maybe that what you should do to try to amend that perhaps in two ways. One being that it should include the immediate family of the victim and/or also the legal guardians.

I don't think you really want to go beyond that. The second bill that I'd like to talk about is 5791 and I believe that Mr. Ebersold and Mr. Hoyt and so many others have already expressed some of my views. I'd like to speak as an individual and as a member of the National Rifle Association. One of about a million and a half. Number one, the NRA supports more stringent laws concerning the misuse of firearms and I think a lot of people feel that they do not. But a couple of years ago we had, what do you call it? Kind of a poll I guess amongst all members and it was almost unanimous that yes, we do want stricter laws.

MS. WRIGHT: (continued)
punishment is the possibility of the state taking the life of an innocent person.

However, a sentencing structure which allows a convicted murderer to be detained in prison only ten years or less is neither just punishment nor adequate protection for society. The violent criminal must be separated from society for a period of time sufficient to protect others from a repetition of his or her violent act. The rights of potential victims are not adequately protected by our current statutes.

Committee Bill No. 5791, by increasing the maximum term which may be imposed for a class A felony, addresses just one aspect of the problem before this committee, that of establishing a sentencing structure which will provide swift, consistent justice for our people, both those who are guilty and those whose lives have been taken or may be threatened.

It is sad enough when injustice occurs despite our judicial system, but when injustice occurs because of our judicial system, it is a tragic commentary on our lack of commitment to promote the general welfare of our people. Thank you very much.

REP. TULISANO: Thank you. Would you leave a copy of that with the Clerk, please.

MR. JAMES D. O'CONNOR: I'm James D. O'Conner. I'm Chairman of the Criminal Injuries Compensation Board, and I want to speak in support of Bill No. 5853, concerning the payment to other than dependents of victims of crimes. In particular, I know that you've heard several other people testify on this matter. All three members of the Board wholly supported that position of paying them, but we felt that we should have the authority to do so. I emphasize that I feel that the bill should be made retroactive to January 1, 1979 when it first came into effect. We have eight pending cases.

Some of the cases, I'm sure you've heard this morning, and we'd like authority from the Legislature to pay those cases. In particular, on the matter of paying funeral bills, I think that there should be a criteria. I think that we should be permitted or authorized or limited to pay not less than whatever is paid by Workmen's Compensation, which

MR. O'CONNOR: (continued)

I believe is fifteen hundred at the present moment.

Now, there's another portion of that bill I want to comment on. It says that -- in 5853, it says -- Subsection 3 on line 25, it says, in the case of death of the victim to or for the benefit of any one or more of the dependents of the victim or to any person responsible for the maintenance of the victim who has suffered pecuniary loss or has incurred expenses as the result of such death"

I'd like to recommend strongly that that be amended to include "or who assumes responsibility for it". It could be a grandparent who doesn't have a legal responsibility. It could be an uncle, a good friend. And I believe that if some person, a good Samaritan, comes forward, pays the funeral bill for a victim, that, that person ought to be compensated. It would be a fixed sum. And I think that's something that should be handled very nicely by the Criminal Injuries Compensation Board.

REP. TULISANO: Do you have a fixed sum? Should we do that by statute, or would you do that by regulation?

MR. O'CONNOR: The fixed sum workmen's compensation. I would suggest that it be made concurrent with workmen's compensation. Whatever they pay, we can pay. I'd like to also make another strong recommendation on cases that we have encountered over the past year. We have found that we're hesitant to pay certain parties a lump sum. They might be elderly and as elderly people could be taken advantage of. We have a fairly decent investigation. We've got a form that calls for a lot of information. We try our best to analyze that information, and in very many instances, we're afraid that the lump sum should be paid, it would be paid first to the victim and then it could be dispersed to somebody taking advantage of an elderly person. Or it could be somebody taking advantage of a very young person or, in the case, of an incompetent person.

I have authority to be able to make time payments. The present law calls for just payment in a lump sum. I think it would be helpful to the Board, if we were permitted to make time payments, be permitted in certain instances or at our discretion to purchase an annuity whereby the payments could be stretched over a period of time and monitored.

MR. O'CONNOR: (continued)

They are, in fact, going to the person who is dependent to receive those payments and benefit from those payments regardless of what they are. Then, we'd have no problem. If we find that those monthly payments are not being used for the victim, there is always something we can do about it.

However, there is very little we can do about it, if a payment of up to \$9900 is made to a victim and somebody takes it away from them. That makes them a victim a second time or a pecuniary nature. I think it would be most unfortunate. Those are basically the things that I'm pleading. Has that come up before?

REP. BERMAN: I have a question. (inaudible) victim's compensation (inaudible).

MR. O'CONNOR: The other one is victim's compensation, too. The ceding part, we get ten dollars for every person. I'll come to that later.

REP. BERMAN: O.K. Do you have any regulations or policies written down at the present time?

MR. O'CONNOR: We're in the process of developing them, and we will have them eventually. We've been advised by the Attorney General that -- the Attorney General's Office that matters would be best handled by way of legislation rather than regulation.

REP. BERMAN: It would just seem as though if you had some rules or regulations or policies to begin with, to give to applicants so that they know they don't have this confusion that apparently you've testified today. It seems as though there were some surprises as to what was covered and what wasn't covered. Also, as far as funding, you have any budgetary constraints?

MR. O'CONNOR: Well, one of the matters that has held us in abeyance for awhile, is that there are eight cases involving death to which we would like to pay, but have not been able to pay. (inaudible).

REP. BERMAN: That's the statutory obstruction that determines that you can't, but other than that -- I mean as far as the compensation. Are you able to pay up to the ten thousand? Adequately? Do you have the funds?

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MR. O'CONNOR: I think we will, particularly, if the speeding matter is improved to our benefit. HB 5853

REP. BERMAN: So, at the present time, it's your interpretation that you are not authorized to buy an annuity or make time payments.

MR. O'CONNOR: We are not. It is very clear. It says, payments to be made in a lump sum. I think that's in -- I'll check it and tell you exactly what section it is.

REP. TULISANO: is that a part of the existing legislation?

MR. O'CONNOR: 54-211 C I believe. It says no compensation shall be awarded for the first hundred dollars of injury, and no such compensation shall be involved in excess of \$10,000. All payments shall be made in a lump sum. Actually, through legislation from the last session, we are permitted to make emergency payments. But that's really not a -- changes it to a degree. As a matter of fact, we made one just this week. That's within the handy statute. HB 5050

I just wanted to address myself, if I might, for a moment, to I guess a series of bills concerning .
And each one of them, I hope, we're included. So far, I guess since October when this meaning all changed, we're receiving hopefully ten dollars from each person convicted so speeding in the state courts. However, for purposes of out of state drivers, we have not gotten any compensation, and just as an example, if any one of the members of the Judiciary Committee were unfortunate enough to be stopped for speeding, they would be fined whatever the appropriate amount would be. They would be required to pay ten dollars to the Criminal Injuries Compensation Board and ten percent to the State Training Academy. And if you were living two miles over the Rhode Island border or any other border, you could mail the same fine in. You can save the ten dollars which you have to pay the Criminal Injury Compensation Board, the ten percent, and of course, you have the convenience of just putting a fifteen cent stamp on it rather than spending the better part of the day.

Whatever you do on that subject, I would ask that it include payments for out of state drivers in the same way that in state drivers are treated. I think it's only fair, and I can assure you that as things are progressing with the Criminal Injury Compensation Board, we can certainly use

MR. O'CONNOR: (continued)

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the additional ten dollars that we would be getting from those out of state drivers. I did try last year to convince people in the Judiciary. I made a valiant effort and got nowhere -- that they should be treated the same. I'd be glad to answer any other questions.

REP. TULISANO: Thank you very much. Thomas Nash. Carl Senga, Diana Crouse.

MS. DIANA CROUSE: Good afternoon. My name is Diana Crouse. I serve as Director of the Stamford Fair Rent Commission, and Chairperson of the State Federation of Fair Rent Commissions. I'm testifying regarding Bill No. 5793, regarding notice to a tenant of a renting increase, and Bill No. 5914, requiring the tenant to give the landlord notice when they are vacating an apartment. My testimony is based on six years of experience in dealing with landlord tenant problems. You don't have the bill?

REP. TULISANO: The only thing we have today is 5793 for hearing.

MS. CROUSE: 5793 is regarding the rent increase. Correct?

REP. TULISANO: It's the only one that's before us that was indicated.

MS. CROUSE: Well, it was my understanding that the two were meant to go together as companion bills. May I speak on that?

REP. PATTON: They were. I remember (inaudible)

MS. CROUSE: In my work with the Fair Rent Commission, we counseled over 3,000 landlords and tenants each year. We are particularly concerned with the practical application of Landlord-Tenant laws. Most people are shocked to hear that the State of Connecticut does not have any law whatsoever on the books requiring that landlords give a tenant any advance notice of a rent increase whatsoever.

I'm told that most other states in the United States do have such a law, and have had such a law for many years. These include California, New York, Montana -- I have a copy of the Montana Landlord-Tenant Act. You might be interested in seeing it. We've had numerous complaints in the Fair Rent Commission Office from tenants whose

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THE CHAIR:

Senator DePiano.

SENATOR DE PIANO:

Mr. President, I'd like to move for acceptance of the Committee's Favorable Report and passage of the Bill.

THE CHAIR:

Would you comment Senator?

SENATOR DE PIANO:

Yes. This Bill would repeal the obsolete insolvent debtor statutes because they have been superceded by the Federal Bankruptcy Act. It's a cleaning process that we're doing through this Bill. If there is no objection, I move it be placed on the Consent Calendar.

THE CHAIR:

Is there objection to the matter being placed on the Consent Calendar? Hearing none, the matter is ordered placed on the Consent Calendar.

THE CLERK:

Moving to page 14 of the Calendar, Calendar 360, File 256, Substitute for House Bill 5853, AN ACT CONCERNING CRIME VICTIMS COMPENSATION, with a Favorable Report of the Committee on Judiciary.

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THE CHAIR:

Senator DePiano.

SENATOR DE PIANO:

I move for acceptance of the Committee's Joint Favorable Report and passage of the Bill.

THE CHAIR:

Will you comment, Senator?

SENATOR DE PIANO:

Yes. This Bill would provide that persons other than the dependents who are responsible for the maintenance of the victim of crime may be compensated for any pecuniary loss or expenses incurred as the result of the death or injury of such victim. If there is no objection, I move it be placed on the Consent Calendar.

THE CHAIR:

Is there any objection to Calendar 360 being placed on the Consent Calendar? Hearing none, the matter is so ordered placed on the Consent Calendar.

THE CLERK:

Calendar 361, File 258, Substitute for House Bill 5855, AN ACT CONCERNING ISSUANCE OF BAD CHECKS, with a Favorable Report

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status report plus any local officials from your towns, in the Judiciary Room, next Tuesday morning at 9:30 for anybody who cares to attend.

THE CHAIR:

Thank you Senator. Any other announcements? Hearing none, the machine is open. The machine is closed. The Clerk will take a tally. SJ 42, SJ 43, SB 542, SB 586, HB 5312, HB 5340, SB 77,

		<u>SB 631, SB 669, SB 412, SB 486, SB 601, SB 643, HB 5828,</u>
	The vote is:	<u>HB 5160, HB 5598, HB 5716, HB 5253, HB 5626, HB 5853,</u>
		<u>HB 5855, HB 5781, HB 5218, HB 5868, HB 5021, SB 53, SB 68,</u>
36	YEA	<u>SB 71, SB 72, SB 141, SB 143, SB 147, SB 148,</u>
		<u>SB 407, SB 494, SB 497, SB 224, SB 407, SB 494,</u>
0	NAY	<u>SB 497, SB 498, SB 500, SB 501, SB 307, SB 465,</u>
		<u>SB 722, SB 224.</u>

The Consent Calendar passes. Senator Lieberman.

SENATOR LIEBERMAN:

Mr. President, I move for a Suspension of the Rules to allow for immediate transmittal to the House of those matters that should go to the House.

THE CHAIR:

Without objection, the Rules are suspended. The items are transmitted.

SENATOR LIEBERMAN:

Mr. President, the next regular session of the Senate will be next Tuesday, April 22nd, at 12:00 noon. Until that time, I move that the Senate stand adjourned to the Call of the Chair.

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SPEAKER ABATE:

The bill as amended passes.

CLERK:

Calendar page 11, Calendar No. 190, File No. 256, Substitute for House Bill No. 5853. AN ACT CONCERNING CRIME VICTIMS COMPENSATION. Favorable report of the Committee on Judiciary.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

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

SPEAKER ABATE:

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

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, I think the legislation before us is a clarification of the existing law, at least, what it was intended to cover. What it does is add to the existing Victim Compensation Bill, language that in the event of a death, the estate of any victim may be reimbursed for expenses incurred as a result of that death. And this was particularly -- the way the law now reads, it has been interpreted to mean, only dependents.

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Although I don't think that was what was intended, I think that language is capable of two interpretations. This clarifies the General Assembly's original intent, and it tends now to make sure that, as an example, a parent could be reimbursed for expenditures incurred as a result of the death of one of their children, which may have resulted because of -- because they were the victim of a crime. They were murdered or something like that.

SPEAKER ABATE:

Will you remark further on this bill? Will you remark further. Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

Just if I might, Mr. Speaker, through you, a couple of questions of Rep. Tulisano.

SPEAKER ABATE:

State your first question, please, Sir.

REP. VAN NORSTRAND: (141st)

Rep. Tulisano, the entire bill down here is lines 14-16 in terms of the additions' new language, and I see the or to the estate for any victims' expenses, and you've recited, I gather, a funeral would be covered

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

That's correct.

REP. VAN NORSTRAND: (141st)

Headstone?

REP. TULISANO: (29th)

Through you, Mr. Speaker, that could be an allowed expense -- could be.

REP. VAN NORSTRAND: (141st)

Through you, Mr. Speaker, flowers?

REP. TULISANO: (29th)

Through you, Mr. Speaker, I don't believe so.

REP. VAN NORSTRAND: (141st)

Ah. So, we've gotten to a threshold, Mr. Speaker. The reason I ask is that I suspect, at least for me, that is capable of a number of different interpretations, but I would ask you one other thing, and I know this is a bill that you are closely interested in and have been since its inception. Through you, Mr. Speaker, the 'or', Rep. Tulisano. Would that prevent, I realize there's a cap in the statute for ten thousand dollars. Would that prevent, say, if there was a four thousand dollar funeral, six thousand going to the dependents?

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

As indicated, the cap is for ten thousand dollars, and the 'or' is indicated that it either goes to the dependents, the parents, or to the estate, depending on who was making the expenditures. If the expenditures were made by dependents for their parent, if you will, then it would go to the dependents directly. If the estate paid the expenses, whether for a parent or for a child, then it would go to the estate. It's an either or situation, it appears to me. And further, to elaborate what was raised, what of that is allowable is determined by the Compensation Board, and I think that they would take into consideration all the actual expenses as to in relationship to what awards they would give in cases under the existing law, as for example, to a dependent for a parent.

SPEAKER ABATE:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

Through you, Mr. Speaker. Has the Compensation Board got any regulations defining what they will pay under this?

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

To this point, no. I don't think they have done any yet.

REP. VAN NORSTRAND: (141st)

Ah. Mr. Speaker, as I read this -- I'm not against the sentiments of the bill, but I have fears that as Rep. Tulisano explained it, he was kind of thinking in terms of 'and/or's' as opposed to 'or', not that I recall seeing and/or in the statutes too often. I'm fearful that the interpretation could be that you have a cap, and if you had a four thousand dollar funeral, that might be paid to the estate, and the dependents would not, in fact, receive anything. I think more fortunate language could be used to indicate that the estate -- they paid out the money. They could receive it, and they could use it for other purposes. But it says clearly for expenses incurred as a result of death. I suspect I'm close to agreeing with him that this probably is confined to a funeral and perhaps a headstone. I think we might end up with some unfortunate results that weren't intended.

SPEAKER ABATE:

Will you remark further? Will you remark further on this bill?

REP. WILBER: (133rd)

Mr. Speaker.

SPEAKER ABATE:

Rep. Elinor Wilbur.

REP. WILBER: (133rd)

Thank you, Mr. Speaker. Through you, I'd like to pose a

couple of questions to the proposer of the bill.

SPEAKER ABATE:

State your first question, please, Madam.

REP. WILBER: (133rd)

Thank you, Mr. Speaker. Rep. Tulisano, can you explain a little further about the Victim's Compensation Fund and its present status. Is there any money there now?

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. I think there's approximately \$300,000 in the fund now.

REP. WILBER: (133rd)

And Mr. Speaker, how -- through you -- for how long has that money been accumulating?

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. I think about a year.

SPEAKER ABATE:

Rep. Wilber.

REP. WILBER: (133rd)

Thank you. And could you tell me, Rep. Tulisano, how much the Board has allotted to victims or has it not been anything so far?

REP. TULISANO: (29th)

Through you, Mr. Speaker, I do not have those figures since that wasn't dealing with this in this legislation, but they are available, and I can get them for the Representative, and they have awarded -- I have a list of some -- in the Judiciary Room of some awards made and the amount. That report was made to the General Assembly.

SPEAKER ABATE:

Rep. Wilber.

REP. WILBER: (133rd)

Mr. Speaker, I recognize that, that of course, was not the direct intention of the bill to deal with the funds. On the other hand, one could raise the question about whether there was sufficient money to pay additional expenses or in this case, one might raise the question of whether we aren't accumulating more money than the victims are going to need over the next few years. And I just am curious to know whether that fund is going to rise at the rate of \$300,000 a year and whether we're really going to have a sinking fund that is really not necessary. I'm very supportive of the concept of the bill, but I just am concerned that that fund may be accumulating more than it should be. Thank you, Mr. Speaker.

SPEAKER ABATE:

Thank you, Ma'am. Will you remark further on this bill?

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Will you remark further on this bill? If not, would all the members please be seated. Would all staff and guests please come to the well of the House? - The machine will be opened.

The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? Would the members please check the roll call machine to determine if their vote is properly recorded? The machine will be locked. The Clerk will take the tally.

Will the Clerk please announce the tally?

CLERK:

House Bill No. 5853.

Total number voting	142
Necessary for passage	72
Those voting yea	141
Those voting nay	1
Those absent and not voting	9

SPEAKER ABATE:

The bill passes.

REP. JOHNSTON: (51st)

Mr. Speaker.