

Legislative History for Connecticut Act

HB 5238 PA 82-397

House - 2784-2793, 7110-7114 15

Senate - 3487-3514, 3556, 4316-4317, 4351 34

Judiciary - 0

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1982

VOL. 25  
PART 9  
2743-3061

kbb

House of Representatives

Monday, April 19, 1982

CLERK:

Calendar No. 289, Substitute for House Bill No. 5238, AN ACT CONCERNING CRIMINAL INJURIES COMPENSATION BOARD. Favorable Report of the Committee on Judiciary.

SPEAKER ABATE:

The Clerk has called Calendar No. 289.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

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

SPEAKER ABATE:

The question is on acceptance and passage. Will you remark, sir?

REP. TULISANO: (29th)

Yes. Mr. Speaker, the Clerk has an amendment LCO No. 3300.

SPEAKER ABATE:

The Clerk has in his possession amendment LCO No. 3300 designated House Amendment Schedule "A". Will the Clerk please call the amendment.

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CLERK:

LCO No. 3300 designated House Amendment Schedule  
"A" offered by Rep. Tulisano of the 29th District.

REP. TULISANO: (29th)

Mr. Speaker, permission to summarize.

SPEAKER ABATE:

Is there objection? You may proceed to do so,  
Rep. Tulisano.

REP. TULISANO: (29th)

The amendment does two things. Basically it allows the Board when it's seeking subrogation to recover by judgment, settlement, or compromise settlement. Costs against an actual criminal offender who they can get restitution from. And, also, it allows the Board to make deposit of the money in their own revolving fund that they get from these different compensation funds so that the interest earned from them shall be available for victims.

It makes that part effective July 1, 1983 so there would be no effect on the budget. I move adoption of the amendment.

SPEAKER ABATE:

The question now is on adoption of House "A". Will you remark further on its adoption? All those in favor,

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please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

All those opposed, nay.

The ayes have it. The amendment is adopted and ruled technical.

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House Amendment Schedule "A".

In line 134, insert brackets before and after "for" and after the closing bracket insert the following: "AND TO RECOVER, WHETHER BY JUDGMENT, SETTLEMENT OR COMPROMISE SETTLEMENT BEFORE OR AFTER JUDGMENT,"

In line 137, insert an opening bracket before "if"

In line 144, insert a closing bracket after the period

In line 168, after the period insert the following: "THE BOARD SHALL INVEST THE EXCESS CASH BALANCE OF SAID FUND IN THE SHORT TERM INVESTMENT FUND ADMINISTERED BY THE STATE TREASURER PURSUANT TO SECTION 3-27a. ANY INTEREST EARNED FROM SUCH INVESTMENT SHALL BE DEPOSITED IN THE CRIMINAL INJURIES COMPENSATION FUND."

After line 168, insert a new section 7 as follows:

"Sec. 7. This act shall take effect from its passage, except that section 6 shall take effect July 1, 1983."

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SPEAKER ABATE:

Will you remark further on this bill as amended?

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano,

REP. TULISANO: (29th)

The bill makes a number of changes in the existing statute.

One is already indicated in the amendment, by the amendment,

Also, it expands to who may be eligible for victim compensation under existing law.

Also, it allows the Compensation Board to take into account the extent of the victim's cooperation with the Board itself and law enforcement officers to determine how much the value of the compensation may be.

It also indicates that the present form of the victim compensation report to the General Assembly can continue in existence. That is identification by number, not by victim name. However, it should be clear that anybody can go to the Victim Compensation Board under the Freedom of Information Act and to determine who awards were given to. It's just that the victim's names wouldn't

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be publicly published and distributed. That is the form in which they have been distributed in recent years. I move for passage of the bill, as amended.

SPEAKER ABATE:

Will you remark further on this bill as amended?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER ABATE:

Rep. VanNorstrand.

REP. VAN NORSTRAND: (141st)

Just one question, through you, to the proponent.

SPEAKER ABATE:

State your question please, sir.

REP. VAN NORSTRAND: (141st)

Rep. Tulisano, on lines 135 and 8, the right to contract with private attorneys. I believe in furthering the purposes which have been slightly expanded by the amendment but the question is why not the Attorney General?

SPEAKER ABATE:

Rep. Tulisano, can you respond?

REP. TULISANO: (29th)

Through you, Mr. Speaker. That's just a matter of policy decision. There's no reason why not. Except there's usually not enough to go out and do this and this

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is a way we get some more money into the fund. That's a limited staff at the Attorney General's office as it is. And this would, in fact, be private attorneys' work. There's no particular reason why not.

REP. VAN NORSTRAND: (141st)

Through you, just one more question. They've obviously always had the right of subrogation and, indeed, a way to effectuate it and maybe this is the right way.

Did anyone from the Board come and testify that the Attorney General had given them poor service or anything?

REP. TULISANO: (29th)

Through you, Mr. Speaker. No, they had not. That's the original draft of the bill and then the Board did give us this additional language in order probably to speed up the process. That's why.

REP. VAN NORSTRAND: (141st)

Thank you.

SPEAKER ABATE:

Will you remark further on this bill as amended?

REP. PARKER: (31st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Parker.

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REP. PARKER: (31st)

Through you, a question to Richard Tulisano. In discussing this bill, there is some uncertainty as to who can be compensated and who cannot. I wonder if you would clarify this.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. At the present time, no compensation is awarded to a victim if they're a relative of the offender at all. And what's on the existing law, we've expanded it so that anybody who may be related by marriage or otherwise may collect at this point in time. However, it is still not allowing compensation to a spouse who is still living together as a spouse. That expansion has not gone to cover all those who are excluded this time. Just, say, three quarters of the people who are excluded.

And, the reason for that is because of no knowledge of what the impact that would be on the fund.

REP. PARKER: (31st)

Thank you,

REP. SWENSSON: (13th)

Mr. Speaker.

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SPEAKER ABATE:

Rep. Elsie Swensson.

REP. SWENSSON: (13th)

Thank you. A question, through you, to Rep. Tulisano. Is there a time limit that you would have to file? Is there a two year time limit on a compensation?

REP. TULISANO: (29th)

Through you, Mr. Speaker. There is a limit. I can't recall the exact time at this point in time. This was in the original bill. However, the prerequisite for filing is reporting the incident to the police department. And I just can't recall the time but I can find out if you'll give a moment. If you want a moment, I can find out the exact time.

REP. SWENSSON: (13th)

I may end up by having to attach the state for the criminals they haven't caught yet.

REP. TULISANO: (29th)

Through you, Mr. Speaker. I understand we sent the Representative an application form as I recall.

REP. SWENSSON: (13th)

I'd like you to know, through the Speaker, that that's gone out to many people. Because I've had many calls and I didn't know anything about it until you just

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sent me the information. This is the law and I think people are entitled to follow through on it. Thank you.

SPEAKER ABATE:

Will you remark further on this bill as amended?  
Will you remark further on this bill as amended? If not, would all the members please be seated. Staff and guests please all 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 is voting by roll at this time. would the members please return to the Chamber immediately.

Have all the members voted? 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 5238 as amended by House Amendment Schedule "A".

Total number voting	140
Necessary for passage	71
Those voting yea	140
Those voting nay	0
Those absent not voting	11

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SPEAKER ABATE:

The bill as amended passes.

CLERK:

Calendar page 11, Substitute for House Bill No. 5820, AN ACT CONCERNING STATUTE OF LIMITATIONS ON CLAIMS UNDER UNINSURED MOTORIST POLICIES AND CONSTRUCTION PERFORMANCE BONDS. Favorable Report of the Committee on Judiciary.

REP. GROPPPO: (63rd)

Mr. Speaker,

SPEAKER ABATE:

Rep. Groppo,

REP. GROPPPO: (63rd)

Mr. Speaker, may this bill be recommitted to the Committee on Judiciary.

SPEAKER ABATE:

Is there objection? Is there objection. Hearing none, it is so ordered.

CLERK:

Calendar No. 292, Substitute for House Bill No. 5032, AN ACT CONCERNING LARCENY. Favorable Report of the Committee on Judiciary.

REP. ONORATO: (97th)

Mr. Speaker,

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House of Representatives Monday, May 3, 1982

REP. GROPPPO: (63rd)

Mr. Speaker.

SPEAKER ABATE:

Rep. John Groppo.

REP. GROPPPO: (63rd)

Mr. Speaker, may this be passed temporarily?

There is an amendment on it's way and it hasn't arrived yet.

SPEAKER ABATE:

Is there objection to the motion? Hearing none, it is so ordered.

CLERK:

Calendar Page 16, Potential Disagreeing Action, Calendar No. 289, Substitute for House Bill 5238, AN ACT CONCERNING CRIMINAL INJURIES COMPENSATION BOARD. As amended by House Amendment Schedule "A" and Senate Amendment Schedule "A". 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 Joint

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Committee's 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. The Clerk has amendment LCO 3671, formerly Senate "A".

SPEAKER ABATE:

The Clerk has in his possession an amendment. LCO No. 3761 previously designated Senate "A". Would the Clerk please call the amendment.

CLERK:

LCO No. 3671 designated Senate Amendment Schedule "A" offered by Senator Curry of the 9th District.

REP. TULISANO: (29th)

Mr. Speaker,

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for rejection of the Senate Amendment and I will summarize, with your permission.

SPEAKER ABATE:

Is there objection to the gentleman summarizing

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this amendment? Hearing none, you may proceed to summarize the amendment, Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, this amendment would extend victim compensation board to almost everybody and there is really no financial understanding of what this would occur and it went far beyond what was considered in the File Copy and I move its rejection.

SPEAKER ABATE:

The question now is on rejection of Senate "A". Will you remark further on the motion which is to reject Senate "A"?

All those in favor of the motion, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

All those opposed nay.

REPRESENTATIVES:

No.

SPEAKER ABATE:

The ayes have it, although the "no" was louder than the ayes. The motion carries. The amendment is rejected.

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REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for passage of the bill as amended by House "A".

SPEAKER ABATE:

Will you remark further on the bill as amended?

Would all the members please be seated. Staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll. 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? Please check the roll call machine. The machine will be locked.

Will the Clerk please take the tally.

Will the Clerk please announce the tally.

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CLERK:

House Bill 5238 as amended by House Amendment  
Schedule "A".

Total number voting	143
Necessary for passage	72
Those voting aye	143
Those voting nay	0
Those absent and not voting	8

SPEAKER ABATE:

The bill passes. Again, pursuant to the provisions of Rule 42 of the Joint Rules, and with reference to substitute Senate Bill No. 240 which appeared as File 682, Calendar 485, AN ACT CONCERNING TEFLON COATED BULLETS OR AMMUNITION IN THE PURCHASE OF BULLET PROOF VESTS FOR THE STATE POLICE.

On April 26 the Senate passed this bill with an Amendment, Schedule "A".

On May 3 the House passed it. We rejected Senate "A". Today the Senate passed it again, readopting Senate "A", placing us in a true posture of disagreement.

My appointees to a Committee of Conference are Reps. Swieszkowski, Thorp, Tulisano. Senate members, as I understand it, have not yet been appointed. I urged my colleagues in the Senate leadership to appoint three

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585, File No. 788, Substitute for House Bill No. 5823. An Act Concerning Highway Resurfacing and the Establishment of a Dedicated Fund. Unfavorable Report of the Committee on Finance, Revenue and Bonding.

SENATOR BAKER:

Mr. President.

THE CHAIR:

Senator Baker.

SENATOR BAKER:

I'm awaiting an amendment and a fiscal note on that and I would have to ask that it be passed temporarily.

THE CHAIR:

Is there any objection to passing this matter temporarily? Hearing none, it's so ordered.

THE CLERK:

Prior to moving on Resolutions, the Clerk would like to call your attention to an item that was previously passed temporarily on page 2 of the calendar. At the bottom of page 2, Calendar No. 442, Substitute for House Bill No. 5238. An Act Concerning Criminal Injuries Compensation Board. (As amended by House Amendment Schedule "A"), with a Favorable Report of the Committee on Judiciary, and the Clerk has some amendments which are presently being distributed.

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Is Senator Owens available? Senate will stand at ease temporarily. Senator Owens, on the bottom of page 2, the Act Concerning Criminal Injuries Compensation Board and there are some amendments.

SENATOR OWENS:

Mr. President, I move acceptance of the joint committee's favorable report and passage of this bill.

THE CHAIR:

Thank you, Senator. Will the Clerk call the first amendment?

THE CLERK:

The Clerk has Senate Amendment Schedule "A", LCO 3943 offered by Senator Owens. That's LCO 3943.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Could we pass this amendment and take the next one? I believe that Senator Curry has an amendment. I'd like to take Senator Curry's amendment.

THE CLERK:

Senator, are you withdrawing Senate Amendment "A" or would you like to have me call that ...

SENATOR OWENS:

No.

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THE CLERK:

... after your amendment.

SENATOR OWENS:

Please. That's what I would like (inaudible).

THE CHAIR:

How many more amendments does the Clerk have.

THE CLERK:

We only have two amendments on this bill.

THE CHAIR:

What LCO is yours, Senator Curry?

THE CLERK:

Senator Curry's LCO number is 3671.

THE CHAIR:

Clerk'll call that amendment.

THE CLERK:

All right. For the purposes of correcting the record, we will call Senate Amendment Schedule "A" LCO No. 3671 offered by Senator Curry. That's Senate Amendment Schedule "A", LCO No. 3671.

THE CHAIR:

Senator Curry.

SENATOR CURRY:

Mr. President, this ...

THE CHAIR:

Do you want to move adoption?

SENATOR CURRY:

Yes, thank you, Mr. President. I move adoption of the amendment and ask that the reading be waived.

THE CHAIR:

Any objection to waiving the reading? Hearing none, proceed.

SENATOR CURRY:

Thank you, Sir. This bill makes changes in the existing victim compensation process which we have devised in this State which has been so successful. The file copy makes a number of changes in procedures relating to that process and would leave us with definitions of eligible parties to receive compensation. The compensation available is up to a sum of \$10,000.00 in serious cases for all parties. The bill contains two excluded categories, two rules, well, one a rule and one an exclusion of a specific category of individuals, the first rule which would work under the board to exclude certain individuals is that no award shall be granted if the offender would profit from the granting of that award. The second rule which is contained within the file copy prohibits any award being granted if at the time of the offense the defendent and the victim were cohabiting. I would ask the circle to reflect upon the arbitrainess of

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that exclusion from potential compensation, and I would indicate that where there are situations in which we would not wish to see compensation, where in fact, two individuals continue to cohabit and would share in the, in the monies that were awarded, the board under the other rule which this amendment doesn't speak to, the rule which prohibits awards, where the defendant as well as the victim would benefit can apply that standard and deny compensation and we can all predict and we all know and that's precisely what would happen, but to say simply that where, in fact, at the time of an assault the two individuals were cohabiting is to make a distinction which really isn't justified in public policy. You really can't, I don't think, discover a decent reasonable rationale for excluding that single category in victims from all other types of victims. All of them are eligible for compensation except those which are cohabiting. We went through an analogist discussion here a year ago regarding the sexual assault in marriage bill which ultimately passed this Chamber unanimously and passed the legislature with virtual unanimity and I'd like to think that we've worked through some of the issues which would lead us to tolerate such an exclusion as the file copy contemplates making, so I would just, without saying anything much further, just reiterate. The principle, left in the file copy, untouched by the amendment, that the

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board can apply to any situation, can deny in any situation, any compensation, in which the offender would tend to participate in the enjoyment of the award, takes care of all the kinds of a problems of people continuously cohabiting which might offend the sensibilities of people or which might offend the basic principles of the Victim Compensation Commission. All we're asking is this single category of cohabiting individuals not be (inaudible) presumed to be ineligible for compensation and I think that it's a reasonable problem, it's one we've talked through before. I think it's one upon which there is substantial agreement here in the circle and I would ask that every member in the circle support adoption of this amendment.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, I rise to oppose the amendment. I think I should very briefly give you a little history of the Criminal Injuries Compensation Board. As you know, this is funded with monies from costs that are derived from court cases and so forth, but the original provision of this bill was to exclude from compensation relatives of the offender and the purpose of that was we wanted to make certain that when we were awarding benefits, that the benefits were not

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being awarded to people who might gain from it by some circuitous manner, so House Bill 5238 eliminated the language which precluded compensation to a victim when the offender was a relative. We did say that, in fact, when a relative committed a criminal offense against the person who was seeking money from the claims, that just because it was a relative, that he should not be precluded from recovery because that was in the bill that was initially put in. However, the committee felt very strongly when it came before the committee that if, in fact, the injuries were sustained by someone who was cohabiting or living with the offender, that they should continue to be excluded and not get any benefits and not get compensation. We also think that there is limited funds that are available for the compensation awards board and the ones that are clearly entitled to it are the ones that first, the intention should be that those who don't even know the of .. don't know the offender, the ones that are unrelated, but we did feel that there were situations where relatives should not be excluded. We did feel, however, that if it was a wife or it was someone who was having a conjugal relationship and living with the individual that they should not be prioritized in any way and should not be included when we talk about benefits from this board. Senator Curry's amendment completely abrogates the so-called family exclusion

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provision and lest, I want to make it crystal clear, that we did, in the bill, take one step forward by allowing relatives to be considered for compensation, but we did not want the person who was living with the individual because what is going to happen in this instance is that it will, in all likelihood, or in many instances, come back to the offender. We don't want to have the offender get any money from this board and that's the long and short of it. Senator Curry's amendment clearly destroys the concept of the original intent or family exclusion. Although the phrase, "no compensation shall be awarded if the offender benefits from the award" is still included in the bill, the parameters of this exclusion will no longer be defined. In effect, Senator Curry's amendment will open up the availability of compensation to a victim who was living with the offender at the time of the offense and who may continue to live with the offender or may reunite with the offender after the personal injury takes place. There is no assurance, there's nothing to be said that the offender can no longer live with the woman. She can come before the board, take five thousand, ten thousand dollars, go back and live with this individual who was the offender and share this same sum. I don't think that that's our intention. As I said before, our intention with this type of legislation was primarily to benefit those victims who had no association

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with the offender, no social relationships, but we did feel it was important to relax the rules a bit to relatives who were not living with and had not that strong filial associations with, so I say to you that this amendment if adopted puts us in a very perilous position, that the next thing we'll know is we'll have the offender coming in instead of sending the person that he's living with. For these reasons, I oppose the amendment.

THE CHAIR:

Senator Curry was up before Senator Leonhardt. Senator Curry, for the second time and then Senator Leonhardt.

SENATOR CURRY:

Thank you, Mr. President. I just want to distinguish and clarify a few of Senator Owens's points. One, that the proposed amendment abrogates the family exclusion provision of the original law. The proposed amendment doesn't do that. That's what the file copy does, and that's one of the principle points of the bill which the Judiciary Committee reported out to us. The file copy abrogates that family exclusion provision just as we've abrogated family exclusion provisions in tort liabilities in two different pieces of legislation just here in the last four years and just as we abrogated a (inaudible) family exclusion in the criminal statute

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to change which I alluded earlier here, in our last session. What the file copy does is to address one aspect of the family exclusion - by the way, what the amendment does is to address one aspect of the family exclusion which the file copy would retain, and that is the simple question of individuals who are cohabiting. It is not a prioritization of that relationship as Senator Owens indicated. It is not as the Senator would have it, a prioritization of these kinds of cases for treatment. It is simply the exclusion of those kinds of cases with all other cases for eligibility if, in fact, the board discovers or feels, looking at the facts of the case before it, that any of the instances which the Senator has enumerated are going to occur, it is entitled by language in the file copy which is left intact by the amendment to deny compensation. I would personally expect that that would be - that would occur in many, many instances as I think every member in the circle, the Senator included, would feel. The fact of the matter is that there are continuous family relations, two brothers who fought over a card game, one injuring the other, living together, are not excluded definitionally. They could bring that case forward. A parent and a child, any other conceivable form of filial or friendly relation can in fact go over, present all the same fact problems and have those problems determined by the board,

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if the determination is made that it's likely to benefit the defendent in the matter, a denial of the claim would be forthcoming. All we're saying here is that there's a kind of presumption which reflects a number of considerations which I really couldn't begin to articulate . I'm not sure what, in fact, would justify that presumption being made which I think is unjustified. I think it sets a double standard and I think that it really is incumbent upon us if we are to abide by the essential principle equal protection under the law not to arbitrarily exclude this category of potential claimants, and again I would reiterate if, just as the Senator said, if in fact we worry about this because it would be a drain in the system because, in fact, there are a number of claims out there that are potentially valid, that's not an argument for exclusion. That's an argument for inclusion in the system. It indicates a real need and a real provable reason for us to grant compensation, so I think we have something very simple and very straightforward here. I think it reflects elemental principles of equal treatment under the law and I would ask again that the members of the circle support my amendment.

Thank you.

THE CHAIR:

Senator Leonhardt.

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SENATOR LEONHARDT:

Thank you, Mr. President. I rise to speak in support of the amendment. The file copy, while eliminating really an old relic of tort law in terms of the family immunity, particularly the husband and wife immunity. It's something that goes back to the nineteenth century, carves out in its place a new exclusion that is really arbitrary and capricious, one without any real rational basis. Senator Owens says that the purpose of the exclusion in subsection b2 is to make certain that benefits wouldn't be flowing to the offender, but that situation is already covered in subsection 1 so that that principle is already elucidated in the bill and in that sense subsection b is redundant if the only purpose is to make certain that benefits do not flow to an offender. Further, I would argue that if persons had been in a relationship of cohabitation and there were criminal assaults taking place in that relationship and one member of the relationship goes to the Criminal Injuries Compensation Board and seeks a reward, I would say that in those circumstances it's extremely unlikely that that couple would ever get back together again. In other words, after one member of the couple has gone through a public process to get a, in effect, an award of damages as a result of the act of the other person, only in the rarest of instances would there be a reversal where the couple would get

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back together again, so that the file copy really does not hold up in its present form and the amendment is one that we should go forward with.

THE CHAIR:

Will you remark further? Senator Skelley to be followed by Senator Owens.

SENATOR SKELLEY:

Mr. President, I rise to support the amendment. I understand the intent and I seriously question whether, in fact, an individual that is living with another person that in fact is subject to certain abuses should be eliminated. I understand the fiscal problems, but if the problems are that great why should they be excluded? I think we've, we've tried to address this problem, and I don't think that we've really had the ability to deal with the fund or finance it to the best of our ability but, if it's going to bankrupt the fund and there are that many abuses, we should deal with it. I think Senator Curry's amendment is in order. I understand the problems that Senator Owens has, but I think we should pass this amendment.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Very briefly, I rise again to address myself to the issues that have been raised by Senator Leonhardt and Senator

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Curry. We have to treat this like it's something like an insurance company and that there's reserves set aside for various things, so that the members of these commissions are concerned first of all, we started this it was for people who were being assaulted, people who were being held up with guns, people who owned package stores, the little old lady who was walking down the street who was hit over the head and had a fractured skull and so forth. These were the people that it was initially intended to protect, so we have limitations with respect to funding. We also felt though that if there was someone - there was, in the beginning, a totality of family exclusion on the thing that just because someone happened to be a relative or wasn't living with them, we thought that that was some reason not to - that that might be a reason not to exclude. Senator Leonhardt points out that it's unlikely that they'll get to be back together again. You know, but he says that, but there's nothing to document this, there's nothing to support it. If we look at the history of battered wives and battered women and so forth, then it does happen that they do come back. Maybe they shouldn't, but the long and short of it is, it does happen, so I say to you, I know of no other state that has adopted this type of situation. Most of them have held to the family exclusion. I do feel that the bill that we have before us is a fair compromise of the situation. I

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think the amendment is untimely and I would oppose it and ask  
that when the vote be taken, it be taken by roll call.

THE CHAIR:

Senator Johnson.

SENATOR JOHNSON:

Thank you, Mr. President. I rise in support of the amendment. I appreciate the point that Senator Owens is making which is indeed a very, very legitimate point. However, if you're going to include families and relatives, then the exclusion of the adult female partner in that family is really an extremely arbitrary and unfair exclusion. The bill does require that the Criminal Injuries Compensation Board look at the individual victim, evaluate the impact on that victim and that, under no circumstances may the perpetrator of the crime benefit from the award. That is protection enough. That is the same protection, the same guidelines under which they will be required to look at the child or the brother or the sister or whatever other relative is within, often living within that household. The exclusion of the female adult partner is really an arbitrary and unfair exclusion. A victim is a victim and the situation individually should be evaluated. The fact that the committee has now decided that excluding relatives was arbitrary is to me an indication that indeed each case is unique and individual and

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must be considered on its own merits. Now to retain in the law a similarly arbitrary exclusion doesn't make sense and I would simply urge support of the amendment.

THE CHAIR:

Will you remark further? Senator Ballen.

SENATOR BALLEEN:

Thank you, Mr. President. I rise in opposition to the amendment. I think Senator Owens makes by far the stronger argument in this particular situation. The amendment, to my mind at least, seems to subvert the original intention of this bill. It's a good idea, but I think we're carrying it just a little too far with this amendment. It's not an unlimited fund of money that we're dealing with and I think the money should be used for the purpose for which it was originally intended and that is to compensate people that are justly entitled to that compensation and I'm afraid the amendment is just going to carry it a little too far. I won't go into the reasons because Senator Owens has more than adequately covered, but I think he makes a very strong argument against the amendment and I would urge the members of the circle to reject this amendment.

THE CHAIR:

Will you remark further? Senator Curry, with leave of the Chamber, for the third time. Is there any objection

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to Senator Curry speaking for the third time? Proceed,  
Senator.

SENATOR CURRY:

Thank you, Mr. President. I simply want to clarify, and this may be some comfort to Senator Ballen, another point that was made before, but I want to be sure that people understand it's not only if the commission feels that in fact a defendant would benefit. Does it have the right to deny compensation? It is expressly instructed by the statute to deny compensation. It cannot make an award where the defendant would in any way profit, so that you're going to have a very strict standard in judging each of these cases as they come along and I think if we understand how strict that is and I think that the best, we would decide the best way to implement that. Senator Ballen's desire to see that this statute be used as it was designed to be used, to give compensation where compensation is due, would be to throw out all artificial presumptions about the nature of individual cases, judge each one on its merits.

THE CHAIR:

Will you remark further? Senator Beck.

SENATOR BECK:

Mr. President, speaking on behalf of the amendment, and I certainly think Senator Owens has made a strong case in

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his direction, and I think this is an extension of the concept of the victim and does raise the question of cohabitation and sharing in perhaps some of the payments back. I think that, however, one can make the case that there is an independence and particularly in terms of a legal person, in terms of statutory rights and I am going to be supporting the amendment, but I certainly do recognize that it is a different application of the original concept.

THE CHAIR:

Senator Schneller.

SENATOR SCHNELLER:

Mr. President, briefly I'm going to associate myself with the remarks of Senator Owens and Senator Ballen. I don't think any of us who are opposing this amendment are in any way saying that we are not sympathetic to the needs of the claimants that would be included were this amendment to pass. What we're saying is that the criminal injuries fund is limited. It comes from an assessment or a portion of court fees and there's a limited amount of money that can be distributed to victims. Now if you're going to include another class of victim, what that means is that the classes of victims or the victims that are presently included are going to receive less. The chairman of the commission has indicated to me that as the fund grows, additional classes of victims will be included

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and it is their intention to phase in additional classes of victims. This is their policy and it's the policy in other states that have followed this practice, but the commission at the present time is opposed to this inclusion because it simply has a limited source of funds. The reason I've come to my decision is that I think that we have to give some credence to the chairman and the members of the commission, incidentally who are doing an excellent job. I don't know if any of you have read the annual report of the commission. I think it's an outstanding commission and it takes care of a real need. I think some of these victims of crime, who have no other recourse, do need compensation and I think it's important for the State to recognize that. But in many instances you have to creep before you walk. We're able to do a reasonably good job with a certain class of victim and now to suddenly legislate an additional class where the members of the commission simply feel they don't have the funds and that it will have an affect on those groups that are now included, seems to me to be a, just an erroneous thing to do and I would suggest that we follow the recommendation of the commission and wait until they feel they have accumulated enough additional money before we make this additional inclusion, so I would urge members of the circle to vote against this amendment.

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THE CHAIR:

Will you remark further? If not, the Clerk will make the appropriate announcement for a roll call.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all Senators please take their seats. An immediate roll call has been called for in the Senate. Will all Senators please be seated.

THE CHAIR:

Issue before the Chamber is Senate Amendment Schedule "A". It's LCO No. 3671, Substitute House Bill 5238, File No. 655, Calendar No. 442. Machine is open. Have all Senators voted? Machine'll be closed and locked. Total voting is 36, necessary for passage is 19, voting yea is 20, voting nay is 16, the matter is adopted. Clerk'll call the next amendment.

THE CLERK:

The Clerk has Senate Amendment Schedule "B", LCO No. 3943 offered by Senator Owens.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Yes, Mr. President. This amendment will specify the conditions under which a victim who lived with an offender at the time of the offense may receive compensation from the

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board. It will ensure that the offender does not benefit from the award and will protect the funding that we talked about before that the board appropriate from being used in a manner which is in conflict with the intent of the legislature. If a victim is in fact living with the offender and he seeks compensation, the board must find that the victim has, one, reported the offense to the police within twenty-four hours; two, files a complaint with the police; three, cooperates with the police in seeking conviction at the time of trial in cooperation a civil action initiated by the board to recover funds from the offender and terminates the relation with the offender in a reasonable time after the offense. As Senator Leonhardt said in his argument that this never happens or it rarely happens, so as long as that occurs, then there will probably be no reason to support the amendment. I'd ask the - the limitations that I've asked for in this amendment seem reasonable. I don't think we need a great deal more of debate on it. I think we've hear the issue in the original amendment. I'd ask when the vote be taken it to be taken by roll call.

THE CHAIR:

Senator Curry.

SENATOR CURRY:

Mr. President, I just wish to object very strongly

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to this amendment. It is a step back from the original file copy. It's a complication on every level procedurally. I'm not sure what its intention is in terms of - I'm not sure what it hopes to accomplish in terms of this whole process, but the distinctions that are made here in terms of time limitations in filing complaints, requirements and "cooperation", the question of termination - distinctions like the differences in deductible amounts of injury and so forth, tripling the deductible injury, I can't even begin to see the relationship of that to any of the issues that we've been discussing here for forty-five minutes. I don't really understand the point of it. I think that it is not only a step back from amendment "A", it's a strong step back from the file copy. It only confalutes the bill and imperils the whole process and I would ask that the members of the circle defeat this amendment.

THE CHAIR:

Will you remark further on Senate "B"? Senator Leonhardt.

SENATOR LEONHARDT:

Thank you, Mr. President. I rise to speak in support of the amendment. I think that this amendment is well drawn to - and speak in support of Senator Owens's position. I think this amendment is well drawn to deal with the problem

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of persons acting in concert with one another to, in effect, defraud the Criminal Injuries Compensation Board. I think that where persons are living together and in assault and take situation might take place, there would be, or allegedly takes place, there is always the possibility of defrauding the Criminal Injuries Compensation Board, so that I think with the guarantees that Senator Owens has built into this amendment, he is, through these various procedural things that the offense is reported expeditiously and so forth, he is guaranteeing that there was an actual assault and that there wouldn't be any defrauding of the fund. I think that he is guaranteeing the purpose that is stated in sub-section b-1 of the statute that no offender benefits from the award, so that I think actually this amendment on an emotional issue finally hits the proper middle ground balancing on the one hand the fact that there should not be any arbitrary and capricious exclusion of persons who happen to be living together from benefitting legitimately from the fund. I think that's the point that was sustained in the roll call vote a moment ago and is a proper point on the one hand, but then on the other hand, also sustaining the aspects of Senator Owens's argument that are legitimate that where persons are living together there's some possibility that an offender could benefit from the awards, so I rise to speak in support of this amendment as

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the proper compromise language, the kind of thing that often is done in committee, but we're doing it out here, that balances the competing interests in a proper way.

THE CHAIR:

Will you remark further? Senator Curry, apparently removing himself from the state of shock, wants to speak for the second time.

SENATOR CURRY:

Mr. President, I just wish first to voice again my strong opposition to the adoption of this amendment. I feel that it unduly complicates this process. I feel that it's a step backward not only from Senate Amendment "A" but from the original file copy. I don't think that it in any way balances the various concerns that were mentioned and I would just say this. I think its most glaring defect is its insensitivity to the emotional realities into the physical dangers which in fact in which people are often placed who are in this kind of situation requesting, indeed, requiring, this whole - behavior of this whole sequence of obligations to be discharged of an individual who continues to feel threatened and unsafe in the situation as we all know that in many instances it can be and the kind of situations we know can arise. To require all this further kind of involvement from a vulnerable individual is an insensitive act. It's something we don't require

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of anyone else, of any of the other kinds of family and personal relationships which could conceivably be covered here. I think it's a tremendous mistake. The fact of the matter is that 80% of all battered women do leave their spouses and what that amounts to is just about everyone who in fact can do so, does so, and when you have people who are trapped, who are being subjected to these kinds of requirements, who are being asked to take active roles in situations in which they themselves are so threatened, I think it's an unwarranted, unsupportable intrusion into that process. I think it makes just the kinds of distinctions that we've talked about not making and think it inflicts just the kind of unequal protection of the law that we would want to resist, and I would ask the members of the circle to oppose the amendment.

THE CHAIR:

Will you remark further?

SENATOR BECK:

Mr. President, speaking in ...

THE CHAIR:

Senator Beck.

SENATOR BECK:

Speaking in opposition to the amendment, this does single out this class of victims for discriminatory treatment in the law, requires standards which are not applied to others,

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and I think really is detrimental to the very concept that's going into this bill which is treatment as an equal with the other victims and I would urge opposition to this.

THE CHAIR:

Will you remark further? If not, the Clerk will...

SENATOR LEONHARDT:

Mr. President, could I just be heard very briefly?

THE CHAIR:

Senator Leonhardt.

SENATOR LEONHARDT:

I don't think it's arbitrary or singling out one class of persons because you do have a situation of persons who are cohabitating and that's the rational basis for requiring slightly different rules, because persons who are cohabitating there would be special opportunities to defraud the fund beyond what are normally available and I don't think there's anything wrong with asking that the crime be reported to the police and I don't think there's anything wrong with asking that the victim cooperate with the police in enforcing a criminal law, so for those reasons I think that the amendment should be supported.

THE CHAIR:

Will you remark further? If not, the Clerk will make the appropriate announcement for a roll call.

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THE CLERK:

An immediate roll call has been called for in the Senate. Will all Senators please take their seats. An immediate roll call has been called for in the Senate. Will all Senators please be seated.

THE CHAIR:

Senator Johnson, do you wish to be recognized?

SENATOR JOHNSON:

Yes, very, very briefly, I rise in support of the amendment. Again, we're back to the very, very simple basis of this fund, the issue of victim and criminal action. Once the victim should be looked at and each individual case should be looked at in terms of its own merits under the umbrella of the prevention of the perpetrator of the crime benefitting from the compensation. That in itself is protection enough. The relationships within that group, whether they're familiar or non-familiar, are not the business of the State.

THE CHAIR:

Clerk will make one announcement and then we're about to take a roll call.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all Senators please be seated. An immediate roll call has been called for in the Senate. Will all Senators

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please take their seats.

THE CHAIR:

The issue before the Chamber is Senate Amendment Schedule "B", LCO No. 3943, Substitute House Bill 5238, File 398, Calendar No. 442. Machine is open. Have all Senators voted? Machine'll be closed and locked. Total voting is 36, necessary for passage is 19. Voting yea is 15, nay, 21, the amendment is defeated.

THE CLERK:

The Clerk has no further amendments.

THE CHAIR:

Will you remark on the bill as amended Senator Owens?

SENATOR OWENS:

Yes, Mr. President, if I may have a second please? Most of the debate that we've heard with respect to these amendments has explained pretty much what the bill is about. I don't think we need any further debate on it. I'd ask, if there's no objection, that it be placed on consent.

THE CHAIR:

Is there any objection to placing the item as amended on consent? Senator Morano. Oh, excuse me. Is there any objection to placing on consent? Hearing none, the matter will be placed on consent. Senator Morano, do you care to be recognized?

Immediate roll call has been called for in the Senate. Will all Senators please take their seats. An immediate roll call has been called for in the Senate. Will all Senators please be seated. We'll now proceed with the call of the consent calendar. On page 1, Calendar 93 and 414. On page 2, Calendar 420, 437 and 442. On page 4, Calendar 533 and 558. On page 5, Calendar 559 and 577. On page 6, Calendar 591 and 592, Page 7, Calendar 594, 595, 596 and 598. On page 8, Calendar 599, 600, 601 and 602. On page 9, Calendar 605 and 607. On page 10, Calendar 609, 611 and 613. On page 11, Calendar 615, 616, 618 and 619. On page 12, Calendar 620. On page 13, Calendar 142, 143, 108 and 195. And that concludes today's consent calendar.

THE CHAIR: HB 5243, HB 5683, HB 5731, HB 5732, HB 5238, HB 5863, HB 5844, HB 5561, HB 5965, HB 5605, HB 5662, HB 5793, HB 5796, HB 5946, HB 5233, HB 5717, HB 5865, HB 5551, HB 5916, HB 5903, HB 5251, HB 5718, HB 5522, HB 5425,

Is there any question or any item that anyone objects to having placed on the consent calendar? If not, the machine is open. Machine'll be closed and locked. Total voting is 35, necessary for passage is 18. Those voting yea is 35.

The consent calendar is adopted. HB 5590, HB 5661, HB 5710, HB 5486, HB 5795, SB 587, SB 414, SB 298, HB 5396.

THE CLERK:

The Clerk at this time would like to call your attention to page 3 of the calendar, page 3, on an item that was previously passed temporarily, Calendar No. 518, File No. 497, 746, Substitute for House Bill No. 5575. An Act Concerning Gifts and Expenditure Reporting By Lobbyists. (As amended by

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SENATE

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SENATOR OWENS:

I didn't even have to call for the Roll Call and I apologize for the--

THE CLERK:

The Clerk is now prepared to move on the items on today's Senate Agenda. Moving to page one, on today's Senate Agenda, under the heading of Disagreeing Actions, under the Judiciary, Substitute for Senate Bill 217, AN ACT CONCERNING JUDGES RETIREMENT CONTRIBUTION. It passed the Senate on April 20th. Passed the House with House B on May 3rd.

THE CHAIR:

Senator Owens. The Senate will stand at ease. You might ask Senator Gunther. He might have your file.

SENATOR OWENS:

May we go to the next one and come back? I'm just getting the file.

THE CHAIR:

Passed temporarily.

THE CLERK:

Senator, would you like to take the next Judiciary Bill? That's Judiciary, Substitute House Bill 5238, AN

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ACT CONCERNING CRIMINAL INJURIES COMPENSATION BOARD,  
passed the House with House A on April 19th. Passed the  
Senate with House A and Senate A on April 29th. The  
House rejected Senate A and passed it with House A on  
May 3rd.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

I move acceptance of the Joint Committee's Favorable  
Report and as--in accordance with the action of the House  
in rejecting Senate Amendment A and passage of the Bill.

THE CHAIR:

In essence you're saying adoption of the Bill in  
concurrence with the House.

SENATOR OWENS:

Correct, Mr. President, Thank you.

THE CHAIR:

Will you remark?

SENATOR OWENS:

No. We've been through it. I'd ask if there is  
no objection that it be placed on Consent.

THE CHAIR:

Hearing no objection, so ordered.

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page 7, Substitute for Senate Bill 459. And that concludes the second phase of today's Consent Calendar.

THE CHAIR:

Any changes, corrections or omissions? The machine is open. Please record your vote. Has everyone voted? Senator Wilber Smith, Senator Zinsser, Senator Johnson, Senator O'Leary, Senator Curry, Senator Labriola. The machine is closed. Clerk please tally the vote.

The result of the vote:

30	YEA	<u>HB 5676, HB 5883, SB 240, SB 217,</u> <u>HB 5238, SB 370, HB 5127, HB 5548,</u> <u>SB 141, SB 308, SB 459</u>
0	NAY	

The Consent Calendar is adopted. Senator Gunther.

SENATOR GUNTHER:

Mr. President, the record should show that Senator Johnson, Senator Labriola and Senator Zinsser are out on Legislative business, servicing their constituency.

THE CHAIR:

The record will so note. Senator Schneller.

SENATOR SCHNELLER:

Yes Mr. President. I would like the record to show that Senator Wilber Smith and Senator O'Leary were absent due to legislative commitments.