

Legislative History for Connecticut Act

**Public Act:** 00-200

**Bill Number:** 5785

**Senate Pages:** 2353-2367, 2382-2383 **17**

**House Pages:** 4318-4360, 5896-5900 **48**

**Committee:** Judiciary: (1788-1789), 2245-2250, 2321, 2322, 2388-  
2392, 2393-2400, 2512-2528 **40**

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2000

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2083-2432

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Senate

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Motion is to refer this item to the Consent  
Calendar. Without objection, so ordered.

THE CLERK:

Calendar Page 5, Calendar 520, Files 460 and 683,  
Substitute for HB5785 An Act Concerning Victim's Rights,  
as amended by House Amendment Schedule "A". Favorable  
Report of the Committees on Judiciary, Appropriations,  
Planning and Development and Finance, Revenue and  
Bonding. The Clerk is in possession of an amendment.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. I move adoption of the  
Joint Committee's Favorable Report and passage of the  
bill in concurrence with the House.

THE CHAIR:

The question is on passage in concurrence. Will  
you remark?

SEN. WILLIAMS:

Yes, thank you, Madam President. This bill would  
permit the Office of Victim Services to provide low  
interest loans and compensation payments for losses  
suffered by the spouse or dependents of a murder or  
manslaughter victim.

The interest rate on those loans would be between

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zero and one percent.

It would require, rather than allow, towns to waive all or a portion of any interest on delinquent property taxes for recipients of victim compensation.

It would, under certain circumstances, permit a photograph of a murder victim to be displayed in a courtroom at certain times during the offender's murder trial.

It states that victims can make a statement at sentencing regarding their approval or opinion on any plea agreement.

It permits a victim and impact statement to be read at court at the sentencing stage of any defendant found guilty of a capital felony.

And it requires victims of violent crimes or the representative or immediate family of such deceased victims to be permitted to attend all court proceedings that are part of the court record.

And Madam President, I'd like to call at this time, LC05290.

THE CLERK:

LC05290 which will be designated Senate amendment  
Schedule "A". It is offered by Senator Williams of the 29th District.

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Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. I'd like to move adoption of the amendment.

THE CHAIR:

The question is on adoption. Will you remark?

SEN. WILLIAMS:

Yes, Madam President, this amendment provides criteria for the loans that would be extended by the Office of Victim Services.

It also clarifies that the victim can comment on a plea bargain but not veto a plea bargain agreement.

It also sets parameters for a photograph in the courtroom and those parameters would be that the photo could be 8" x 10" in size and that could be presented by the prosecutor to the jury at the opening of the trial and during closing arguments.

And it also clarifies that the victim advocate shall have cooperation from all state, local and private agencies when the victim advocate is conducting an investigation.

THE CHAIR:

Will you remark further? Senator Bozek.

SEN. BOZEK:

Thank you, Madam President. To the maker, through

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you, Madam President. Senator, does this bill require that there be a mandate for payment to the victims, I mean, there would be a mandate that his taxes, delinquent taxes be voided?

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Madam President, I'd be happy to address that on the bill. That question does not pertain to the amendment, but it does pertain to the body of the bill and if we vote on the amendment, I'd be happy to answer that question.

SEN. BOZEK:

Thank you, Madam President.

THE CHAIR:

Thank you, Sir. Will you remark further on Senate Amendment "A"? Will you remark further? If not, I will try your minds. All those in favor indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? The ayes have it. Senate "A" is adopted. Will you remark further on the bill? Senator Bozek.

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SEN. BOZEK:

Thank you, Madam President, to the maker. Senator, what is the limit on the mandate that requires a town to abate the taxes of the victim?

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Through you, Madam President, current law right now permits towns, if they take some affirmative action by their legislative body, to waive the interest on property taxes owed to the town. So it's permissive.

What this bill would do, would require that towns waive part or all of interest due on property taxes to a victim of crime who has been certified as entitled to victim compensation.

So it would not abate taxes, per se, but it would allow a municipality, there's still discretion in the municipality in the sense that they make the determination how much of the interest is waived. They're not required to waive all of the interest on deficient property taxes and so they could decide to waive one percent or 100% of the interest.

THE CHAIR:

Senator Bozek.

SEN. BOZEK:

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Through you, Madam President. If I could just, another, a little further on that, Senator. Is there, what is the length of time or period of time that this waiver would be in existence?

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. As long as someone is certified as a victim of crime who's entitled to victim compensation, there is not a time limit. But I think it's important to note that if we're talking about deficiencies in property taxes, for example, for real estate, there's nothing that prohibits a municipality from foreclosing if someone is two or three or more years in arrears on their property taxes.

This only has to do with a waiver of some or all of the interest that's owed.

SEN. BOZEK:

Thank you very much. Thank you, Madam President.

THE CHAIR:

You're very welcome, Sir. Will you remark further?

Senator Upson.

SEN. UPSON:

Yes, Madam President. I'd have the Clerk call LC05299.

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THE CLERK:

LC05299 which will be designated Senate Amendment  
Schedule "B". It is offered by Senator Upson of the  
15th District et al.

THE CHAIR:

Senator Upson.

SEN. UPSON:

I move adoption of this amendment and ask for  
permission to summarize.

THE CHAIR:

The question is on adoption. Please proceed.

SEN. UPSON:

Thank you, Madam President. And this takes up  
where the distinguished Senator from the 6th District  
was talking.

This would strike Section 2 in its entirety. Now,  
Section 2 requires the town, and I'll read the part, any  
municipality, the wording used to be may, by a vote of  
its legislative body and now it says shall. Any  
municipality shall waive all or a portion of interest  
due and payable under this section on a delinquent tax  
with respect to a taxpayer who has received compensation  
under Chapter 968 as a crime victim. It's a mandate  
upon the towns. We are requiring them to give up  
interest on delinquent taxes.

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And this is probably the second mandate, because the one we just passed before and even though I'm in favor of it mandating that children stay in school until they're 18 is going to cost us millions of dollars.

This is the second mandate tonight. I'm in favor of the program that we had. However, I'm not in favor of a mandate on the towns and that I think, I guess there's no fiscal note. I don't know if there's a fiscal note on Senator Williams' amendment. I don't know if there's one on mine, either, but maybe we'll waive both. Through you, Madam President, I'll just ask that if I may? On the amendment? Through you to Senator Williams.

THE CHAIR:

Senator Upson, it is your amendment that's on the floor. Are you questioning your amendment?

SEN. UPSON:

I'm questioning, oh, here's my fiscal note. I have it. There's no fiscal impact. It eliminates the municipal fiscal impact described in the fiscal note. All right. I'll ask that after this amendment. Thank you.

Anyway, I think this is another mandate on a town where there's a potential loss of revenue and again, I, coupled with some of the other mandates we're doing

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tonight, I think it's going to have a, be a crippling blow on many of the municipalities. So I would request support.

THE CHAIR:

Will you remark further? Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. I rise in opposition to the amendment. While I respect Senator Upson and his intention and being concerned about mandates on municipalities as we all are, especially those of us who were first selectmen or served in municipal government before coming here.

There is a fiscal note on this particular bill and on that particular section which would require a municipality to recognize this particular section and it says there is a revenue loss, but a minimal cost.

As a matter of fact, in 1999, last year, there were only 393 victims who were approved and received compensation awards through the victim compensation program throughout the entire State of Connecticut.

Now, you have to take into consideration, that does not mean that there would be 393 people who would be seeking to waive interest on property taxes, or other taxes due a municipality. So it would be a much smaller number of the 393. So we're talking about a very small

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number.

But for those particular crime victims who may need the extra time, if necessary, to pay those taxes, it could be critical aid and assistance that is really not going in any significant way to adversely impact our municipalities.

I would further oppose the amendment because while we have made it discretionary, where municipalities can enact an ordinance, such that interest would be waivable in some proportion, we have seen that that has not really occurred statewide, perhaps because when you go town by town by town, it's not as if you have large groups, thank goodness, of crime victims coming into the municipality asking for this to be implemented.

On a statewide basis, though, we do see organized groups of crime victims who do come and talk on a policy basis and ask us to enact policy on a statewide basis. So I think it does make sense to apply this statewide. I don't see it as adversely impacting municipalities and municipalities will still have the discretion to decide what proportion of the interest they want to waive. They are not required to waive 100% as I said before. They could waive one percent or 100% or any percentage in between and that would be up to the legislative body of the municipality.

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THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Thank you, Madam President. Madam President, I would like to share with this circle, a story about one of my constituents who lived in Norwich. He had a very good job at Electric Boat. He had a wife who was a school teacher. He had a teenaged son and a dog.

One day he came home and he found his wife and his son and his dog shot to death, shot to death by the son of his neighbor.

I can't even imagine that kind of a horror. This man became so emotionally traumatized that he really couldn't go to work. He lost his wife and his son and his dog, but he also lost the second income that his wife brought to the family. Together they owned their own home and they owned a house that had several apartments in it.

I can't tell you how much this man suffered. I can't tell you exactly how long it took him to get back on his feet, but in that length of time, because he was so traumatized, is the best word I can find to describe it, it just upsets me when I even think about what happened to this man.

His property taxes piled up and the interest on the

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property taxes started piling up and little by little he started paying the back taxes but he couldn't get ahead of the game because the interest kept piling up.

Anyhow, we went to the town council and they forgave, I think it was half of the interest that he owed on the back taxes.

Ladies and gentlemen, I would ask you to support this amendment that has been put forth by my very good friend and a colleague whom I respect very much.

I think if you have never experienced with a constituent, this kind of horror, you really don't have a sensitivity as to what is involved. And somehow in our society, we need to remember that there are times when we have to be concerned about the people out there who are suffering.

I think that the bill that was presented by Senator Williams ought to be passed unamended. And if it is passed unamended, it will reach out to those people who are not as lucky as we are, who have suffered and who need our help.

I would ask for a roll call on this amendment, Madam President. Madam President, I will withdraw that if that would be your preference.

THE CHAIR:

It makes no difference, Senator Prague.

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SEN. PRAGUE:

Okay, I would really ask for a roll call and hope that my colleagues will not support this amendment.

THE CHAIR:

Will you remark further on Senate Amendment "B"?  
Will you remark further? Senator McKinney.

SEN. MCKINNEY:

Thank you, Madam President, and I rise in support of the amendment and want to thank Senator Upson for bringing it out.

I think as a matter of public policy we are better served by having this be permissive in allowing towns to determine whether or not they want to engage in this policy than making it mandatory.

And I would say that we have done some wonderful things in the last two years in the Legislature before I got here in behalf of victims' rights, but I would just caution that as tragic as it is to a family to perhaps lose a father or mother or sibling, a father let's say, to the victim of crime, that is no less tragic than the young family that loses their father to an unexpected massive heart attack or a car accident.

Yet we seem to be carving out an exception that there can be an abatement for interest on tax payments based on one tragedy and not other tragedies. And I

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think that is a little bit unfair and I would support the amendment.

THE CHAIR:

Will you remark further? If not, would the Clerk please announce a roll call vote. The machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, if all members have voted the machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule "B".

Total number voting, 36. Those voting "yea", 17; those voting "nay", 19. Those absent and not voting, 0.

THE CHAIR:

The amendment fails. Will you remark further on the bill as amended? Will you remark further? If not, would the Clerk -- Senator Williams.

SEN. WILLIAMS:

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Madam President, if there's no objection, I would move this to the Consent Calendar.

THE CHAIR:

Motion is to refer this item to the Consent Calendar. Without objection, so ordered.

Senator Jepsen.

SEN. JEPSEN:

Madam President, before we break for a very brief recess, to be followed by the running of the tax package, I would ask that we return to Page 1, Calendar 187, a bill we need to get down to the House as quickly as possible. And it will go down quicker if there is less debate.

THE CLERK:

Turning to Calendar Page 1, Calendar 187, File 201, Substitute for SB437 An Act Establishing A Blue Ribbon Commission On The Future Of Hospitals. Favorable Report of the Committee on Public Health. The Clerk is in possession of amendments.

THE CHAIR:

Senator Harp.

SEN. HARP:

Thank you, Madam President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

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An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, Second Consent Calendar begins on Page 4. Calendar 496, Substitute for HB5297. Correction, HB5276.

Calendar 507, HB5523.

Calendar Page 5, Calendar 520, Substitute for HB5785.

And Calendar Page 6, Calendar 526, Substitute for HB5892.

THE CHAIR:

Thank you, Sir. Would you once again announce a roll call vote. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. The Clerk please announce the tally.

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THE CLERK:

Motion is on adoption of Consent Calendar No. 2.

Total number voting, 36. Those voting "yea", 36;  
those voting "nay", 0. Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar is adopted. Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. I would ask that the Chamber stand at a very, very brief recess and that the Senate Democrats caucus briefly for the purposes of a brief discussion of our tax and bond package.

Madam President, I would also move for an immediate transmittal of all items previously enacted upon this evening so far to the House of Representatives.

THE CHAIR:

Without objection, so ordered. Senator DeLuca.

SEN. DELUCA:

Thank you, Madam President. I would also announce there will be an immediate Senate Republic caucus and ask all Senators to report to the caucus room. Thank you, Madam President.

THE CHAIR:

Thank you, Sir. Without objection, the Senate will stand in recess subject to the Call of the Chair.

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House of Representatives

Friday, April 28, 2000

The House is voting by roll call. Members to the Chamber please.

DEPUTY SPEAKER CURREY:

Have all members voted? Have all members voted? Please check the board and be sure your vote is properly cast. If all members have voted, the machine will be locked. The Clerk will take a tally.

The Clerk will please announce the tally.

CLERK:

Senate Bill 528 as amended by House "A".

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	4

DEPUTY SPEAKER CURREY:

The bill passes. Will the Clerk please call Calendar 370.

CLERK:

On Page 27, Calendar 370, Substitute for House Bill 5785 AN ACT CONCERNING VICTIM'S RIGHTS. Favorable Report of the Committee on Finance.

DEPUTY SPEAKER CURREY:

Representative Lawlor.

REP. LAWLOR: (99TH)

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Thank you, Madam Speaker. Good afternoon. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER CURREY:

The question before us is on acceptance and passage. Please proceed, Sir.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. This bill is the most recent in a series of efforts on behalf of this General Assembly to give greater clarity to rights that crime victims have in our court system.

I think it's important to point out at the outset that in 1996, the General Assembly and the people of the State of Connecticut approved a Constitutional Amendment that providing specific rights to victims of crime. In that Constitutional Amendment it obligates the General Assembly from time to time to elaborate on how those rights are to be enforced in our courts and this is an effort to do just that.

First of all, Madam Speaker, in Section 1, the bill establishes a first of its kind low interest loan program for persons who are the family members of homicide victims who are financially devastated by the crime itself.

The bill also adds some clarity to the

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constitutional provision which guarantees that victims of crime have the right to object to and support any plea agreement adding to our statutory scheme, specific reference to their right to object to that during the course of the negotiations of the plea agreement itself.

I just want to emphasize for legislative intent, Madam Speaker, this does not mean that the victim or anyone else has a right to be in any off the record in camera discussions which are customarily part of the pretrial phase of any court case including a criminal case.

It simply means that they do have the right to be consulted and to raise their concerns at any point in the process, not just during the formal proceedings.

Also, Madam Speaker, it provides some guidance to prosecutors and judges in the situation where they are not able to reach a victim who has requested to be notified of a particular event in a criminal case and requires that when the victim cannot be reached after such a request has been made, that a statement to the effect that a reasonable effort has been made must be part of the court record.

Madam Speaker, this contains language which provides that a photograph of a deceased person who is the victim in a homicide criminal trial may be

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displayed. It doesn't obligate the court to do it but indicates that it is, that it may be displayed in a courtroom assuming that the photo is not inflammatory and is in fact a fair and accurate representation of the victim which is a well known legal standard.

Also, the bill, Madam Speaker, this prohibits bail to be provided to any defendant who has been convicted of what is in essence a violent crime. After the conviction, I should point out, Madam Speaker. There's a similar provision to a change we made a few years ago for persons who were convicted of murder.

Section 7, it makes it clear that a victim of any violent crime has the right to attend any court proceedings that are part of the court record and there may be proceedings where the defendant may not actually be required or allowed to participate, perhaps on account of his or her incarceration. But if it is part of the court record then the victim does have the right to be there.

And finally, Madam Speaker, this would eliminate the statute of limitation for civil actions filed on behalf of a victim in a homicide related case in a variety of charges, in all of the homicide charges.

Madam Speaker, I know there are a number of amendments. I just wanted to call one first. The Clerk

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has LCO4628. I'd ask that the Clerk call and I be permitted to summarize.

DEPUTY SPEAKER CURREY:

Would the Clerk please call LCO4628 designated House "A".

CLERK:

LCO4628 designated House "A", offered by Representative Lawlor.

DEPUTY SPEAKER CURREY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. This makes a change in that final section I had just described eliminating the statute of limitations for civil actions following the conviction in a homicide case.

The adoption of this amendment would limit that change just to manslaughter first degree and manslaughter first degree with a firearm. It would eliminate the lesser homicide charges and the reason is this, Madam Speaker.

Manslaughter first degree and manslaughter first degree with a firearm requires specific intent in the same way as murder does. The other crimes which would be eliminated by this amendment could be committed through recklessness rather than intent and oftentimes

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those situations give rise to civil suits where there is a lot of contentions back and forth with regard to fault.

People are rightfully convicted of a reckless, of reckless conduct but I think it is qualitatively different than intentional conduct and I think it's appropriate to just limit this elimination of the statute of limitations and civil actions to the crimes requiring specific intent.

And I would urge adoption of the amendment.

DEPUTY SPEAKER CURREY:

The question before us is on adoption. Would you remark further? Would you care to remark further on the amendment before us?

If not, I'll try your minds. All those in favor please signify by saying "aye".

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER CURREY:

All those opposed, "nay".

REPRESENTATIVES:

No.

DEPUTY SPEAKER CURREY:

The amendment is adopted. Representative Lawlor, would you care to remark further? Would you care to

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remark further on the bill before us? Representative Farr of the 19th.

REP. FARR: (19TH)

Thank you, Madam Speaker. Madam Speaker, the Clerk has an amendment LCO3515. The Clerk please call and I be allowed to summarize.

DEPUTY SPEAKER CURREY:

Would the Clerk please call LCO3515 designated House "B".

CLERK:

LCO3515 designated House "B" offered by Representative Farr.

DEPUTY SPEAKER CURREY:

Representative Farr.

REP. FARR: (19TH)

Yes, Madam Speaker. The amendment does three things. First of all, it strikes the provision about the photograph in the courtroom.

Number two, it strikes the new provision about being released on bond for violent offenses.

And number three, it adds some new language about cooperation with the victim's advocate which had been in another bill that died somewhere along the process.

And I would urge adoption of the amendment, move adoption of the amendment. I moved adoption of the

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amendment.

DEPUTY SPEAKER CURREY:

The question is on adoption. Would you care to remark further?

REP. FARR: (19TH)

Yes. Thank you, Madam Speaker. Madam Speaker, the bill is a well intended bill in terms of victims' rights but I believe it has a few flaws with it.

First of all, I'd like to talk about the provision about the photograph in the courtroom. When the Judiciary Committee had a hearing on the so-called Father Liss bill, this was the bill concerning a commitment for individuals who were mentally ill so that it would be an outpatient commitment and Father Liss was the priest who had been killed by a mentally ill individual in Bristol.

When we had that hearing, the family members who were supportive of the bill brought with them a picture of Father Liss in the community, I guess it was a family in the community. And while we sat in hearing and trying to decide what to do with that bill, we were faced with looking at the face of Father Liss for the entire hearing.

It was a very powerful, powerful statement. And I think what the advocates in this case are saying, the

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victims' community is saying, is that they would like the opportunity to do the same thing in a criminal trial, that if somebody is tried for murder, they want the opportunity to have the jury looking at the victim, or a picture of the victim during the entire course of the trial.

It is their belief that it's important for the jurors to understand, to have in their mind the victim when they're making their deliberation.

And their argument is that this is consistent with the fact that in trials generally, we let victims sit in, family members sit in trials and that this should be a way in which the juror could take into account the victims.

The danger and the problem with it, however, is that as far as I know, no court has ever decided whether or not that's a reversible grounds for error. And so what you're faced with is this dilemma where the victims are saying, it would be nice to have a picture during the entire trial.

But we know that if in fact the defendant is convicted, that the presence of that photograph is going to be a grounds for a mistrial, or not, is going to be argued as a grounds for a mistrial. Since the court has never decided that, what we end up with is a situation

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where we might have ten or fifteen jury trials on murders, all of them with photos of the victims facing the jury during the entire trial and then the court coming out and saying that that's not appropriate and overturning ten or fifteen convictions.

When I balance those two, it seems to me that the risk far outweighs the benefit. I know that photograph would make the victims, the family of the victims feel better, but I think the risk of not having closure, the risk of having cases overturned outweighs that.

Number two, the issue of bond for violent offenders is also in my amendment would be stricken. This Legislature in its wisdom passed a bill that I had actually introduced I believe two years ago, which provides that if you're convicted of murder, you're not going to be released on bond pending sentence.

And the reason for that bill was the tragic case in West Hartford where a young man was murdered. The defendant was convicted. And then between the time of his conviction and the time of sentencing he was released on bond, fled the State of Connecticut and has been gone ever since.

But the problem with this amendment is that it goes far, it goes much too far. People who commit violent crimes should be treated seriously but you have to

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understand that not everybody who commits a violent crime is automatically going to be sentenced to jail.

So you may have somebody who has been held on pretrial for a year or two pending a trial, gets convicted of some violent crime and it may be, as I understand it, some sort of assault in which the judge would simply, on sentencing, might allow him to have time served. But this amendment says that he can't even get on a bail pending sentence.

I think the amendment is not well reasoned. I think it's far broader than what we did with the murders and for that reason, I would urge that we take that out of there.

And as far as the provision in here for the cooperation with the victim's advocate, that's something the victim's advocate has been seeking and I would, I believe that's a reasonable thing to do.

And I think if we pass this amendment we're left with a bill which is essentially a good bill for victims and I think it takes out a couple of the constitutional questions as well and I would urge passage of the amendment.

DEPUTY SPEAKER CURREY:

Representative Lawlor of the 99th.

REP. LAWLOR: (99TH)

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Thank you, Madam Speaker. Representative Farr's amendment adds one very good thing to the bill, I think and that is giving additional guidance to the Office of the Crime Victim Advocate in insuring that state agencies would be obligated to cooperate with him or as the case may be, her, in finding out what a particular problem is as it relates to crime victim's rights.

And I think it's important for us to understand the significance of that. A couple of years ago we created this Office of Independent Crime Victim Advocate and we did it not so much that that office would get involved in the day to day advocacy which needs to take place in individual courthouses, but instead so that that office could get involved when there is a problem of major proportions which really threatens to undermine victims' rights in our state, and there may be systematic either abuses of crime victims' rights or long-standing decision to ignore certain victim's rights in a police department or a prison or a courthouse or what have you.

And I think it's important that when that takes place that the Office of the Independent Crime Victim Advocate has the authority to step in get the records he needs to further pursue that problem.

Now the other part of Representative Farr's amendment I think is not well advised. And that is the

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stripping out of the bill the reference to having a photograph of a homicide victim in a courtroom.

This has been the subject of a good deal of discussion both last year and this year and I think there's a good deal of controversy around it and I think appropriately so. It is a very major step, I think, in coming to grips with what this concept is, this sense that crime victims actually do have rights in our court system.

But I'd like to emphasize one argument over the others and that is this. If it's an assault trial as opposed to a homicide trial, the victim who's alive has every right to sit in the back of the courtroom, be identified to the jury and as one would assume, they would show up dressed in their normal clothing and not bearing all the bruises, etc. that they might have received in the assault itself.

And if that is not prejudicial to the court proceedings, if that doesn't risk a conviction being overturned on appeal, how is it possible that fair and accurate representation of the appearance of the murder victim being in the courtroom would somehow jeopardize the conviction in a murder case.

If one is okay, how come the other can't be okay? The homicide victim could be in the courtroom if the

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homicide victim had survived. There's no rule against that. That's never been the basis for overturning a conviction that I'm aware of.

So the decision we need to make is whether a simple photograph, not of the crime scene, not of an unduly inflammatory scene, for example, maybe a first communion photograph of the victim as a child or the wedding day or a family photo which would evoke unnecessary sympathy but just a simple head shot of the appearance of the victim so that the jury can get a sense of what the victim was like other than the autopsy photos or the crime scene photos they might otherwise see in a murder trial.

So I think the time has come really for us to make that public policy decision, not to require it but simply authorize it.

Now it's true that a judge in a particular trial could theoretically say it's okay to display the photo in the courtroom. But I think a judge would naturally be reluctant to do it without some sense that it's authorized.

So I think it would be very important for us to give that clear authority to a judge but I'll be the first to acknowledge that it is a major step and it did meet with some skepticism last year in the Senate, in

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fact. But I think that one of these days, whether this year is the year or not, this will come to be the public policy of Connecticut and probably of many other states as all of our sister states and we continue to grapple with this issue of what really are the legitimate rights of victims of crime.

And finally, Representative Farr has highlighted his concern about a person who is convicted of a violent crime being prohibited from being released on bail pending the sentencing itself.

I think there are many cases where people are sentenced to time served. I don't think it happens a lot after an actual trial. I think more often than not it happens during a plea bargain but I think that is something that can be taken into consideration as part of the sentencing decision.

In other words, if there was an interesting continuing, after someone pleads guilty, continuing it for a sentencing date, or by the way, as a technical matter you're not convicted until you actually are sentenced and I think this really relates to, the language in the bill relates to being released after the sentencing while the conviction is being appealed.

So I would urge rejection of the amendment but even if it is adopted I think it's fair to say that there are

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many very important victims' rights that would remain in the bill. But I think this is something that each of us should consider on our own conscience and decide whether or not we think it's appropriate to provide these specific rights to victims of crime.

So I urge rejection, Madam Speaker.

DEPUTY SPEAKER CURREY:

Would you care to remark further on the amendment before us? Representative Farr of the 19th.

REP. FARR: (19TH)

Yes, thank you, Madam Speaker. Where is Representative Tulisano when I really need him?

I'm not sure that Representative Lawlor, he raises a good question of when you're actually convicted, but if you read the language of the bill it talks about any person who is awaiting sentence. So I'm not sure what the significance of this language. It may be right. Maybe it has no significant whatsoever.

But it certainly seems to me when you have a bill before you that says that nobody can be released on bail for a crime which may involved threatening and you're saying that the mere threatening, the threatened use of violence in itself means that you don't get released on bail pending sentence?

I mean, this is incredibly broad reaching. Now

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maybe true that it's not effective but I would suggest to you that this is really not an appropriate thing because people who are convicted of crimes of violence and in fact threatened use of violence don't necessarily get incarceration. And certainly on a threatened use of a violence one would expect that ordinarily you're not going to get incarceration unless it's a repeat offense.

So that to say there is no bail under those circumstances on its face is certainly very offensive.

And again, getting back to the argument about the photo in the courtroom, I just think that it's important, I guess what Representative Lawlor's argument is, is that the courts may be reluctant to do this so we ought to take the responsibility and then when cases are overturned on appeal because we've done this that it's our fault and not the courts.

Well, I agree that that's what the effect of this would be but passing this law won't in any way affect the, I don't believe, will affect the outcome of an appeal and whether or not that's a fair trial.

Representative Lawlor says that if you're the victim in a normal assault you can sit in the courtroom.

You may be sequestered and in many cases, particularly when it involves violence you are going to be a witness and therefore you will be sequestered and you won't be

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in the courtroom.

So right now in Connecticut you don't have a guarantee that you're going to be able to sit in a courtroom for other types of violent offenses. And in those cases if you're not there you don't get a photograph in the courtroom. But we're saying in a murder case you get a photo in the courtroom during the entire trial.

I love the symbolism. I love, I understand and I have great empathy for the families of these murder victims. I know some of the personally. I have friends who have been murdered. But I'm afraid that this bill could do more damage to those families, the passage of the bill than not passing it, because people are looking for closure and can you imagine the tragedy if somebody has a trial because a member of your family was killed, you try the case, you convict the defendant, and then it goes up on appeal and the court says, guess what, three years later the court comes down and says well this wasn't a fair trial because you had a photo sitting in the front row the entire trial.

So let's do it again. Let's do it again. That's not the closure the family members are looking for. And if that's the result, then that's more damage to the family than not doing it.

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Now I understand the victims feel that somehow that that photo is there maybe they have a better chance of conviction or certainly they psychologically feel a lot better. But I would suggest to you that the risk isn't worth it and I would urge passage of the amendment.

DEPUTY SPEAKER CURREY:

Would you care to remark further on the amendment before us? Would you care to remark further on the amendment before us? If not, I'll try your minds. Oh, Representative Hamm of the 34th.

REP. HAMM: (34TH)

Thank you, Madam Speaker. A question through you to Representative Lawlor if I might.

DEPUTY SPEAKER CURREY:

Representative Lawlor, prepare yourself. Please proceed, Madam.

REP. HAMM: (34TH)

Through you, Madam Speaker, I'm noticing Section 4 indicates that the type of photograph that can be used shall not in itself be inflammatory in nature and I wonder through you, how you would describe an inflammatory photograph?

DEPUTY SPEAKER CURREY:

Representative Lawlor.

REP. LAWLOR: (99TH)

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Thank you, Madam Speaker. Well, there's two requirements. The first one is that it must be a fair and accurate representation of the murder victim which is a common legal standard for introducing photograph evidence, although this is not necessarily evidence.

The noninflammatory reference seeks to take advantage of another well established legal concept and that is, it's prejudicial effect would not outweigh its probative value. So in other words, as I described earlier, there may be photographs that depict something other than the appearance of the crime victim. For example, it could be a family photo or a particular, the victim engaged in some type of conduct which would evoke sympathy from the jury and that's really not the intent to evoke sympathy but simply to allow the jury to get a sense of how this person appeared when they were alive.

So I think when it refers to noninflammatory nature, it is making reference to that well established concept that it's probative value does outweigh its prejudicial effect, if any. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Hamm.

REP. HAMM: (34TH)

Would you concur, Representative Lawlor that inflammatory is a subjective term that would be

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determined by the judge?

DEPUTY SPEAKER CURREY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Through you, Madam Speaker. Yes, as is the case with any photograph being introduced before a jury. It's probative value has to outweigh its prejudicial effect and that's a decision made by the judge in each case. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Hamm.

REP. HAMM: (34TH)

Thank you, Madam Speaker. I rise to support Representative Farr's amendment in an effort to delete the photograph. I certainly also concur with victims and understand somehow how they feel lost, that the process doesn't humanize the victim and their loved one.

I just think that it's much too controversial and subjective and will have an impact on the court proceeding itself that is unnecessary.

Murder trials are difficult enough without the emotionality that comes from all of the loss that families have and I think it's best if we can try to keep trials as objective as possible and so for that reason I support Representative Farr's amendment.

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Thank you.

DEPUTY SPEAKER CURREY:

Thank you. Would you care to remark further on the amendment before us? Representative Nystrom of the 46th.

REP. NYSTROM: (46TH)

Thank you, Madam Speaker. A question to Representative Farr through you please?

DEPUTY SPEAKER CURREY:

Representative Farr, prepare yourself. Please proceed, Sir.

REP. NYSTROM: (46TH)

Thank you, Madam Speaker. Through you. Representative Farr, I listened to your arguments in behalf of the amendment and I'd like to ask you if you are aware of any cases that on appeal were in essence overturned on the basis of the fact that the victim of a violent crime who happened to survive that assault was present during the trial and that was the basis for which the appeal was successful?

Do you know of anything or any case like that?

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Farr.

REP. FARR:

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Through you, Madam Speaker. I think Representative Nystrom has a good question. To my knowledge, the courts, today, if you're going to be a witness you may be sequestered and therefore may not be present in the court.

I gather generally after you've testified, you may be allowed to be in the courtroom. But if you're not a witness to the attack which I would assume in most cases you would be, you would be allowed to be there and I'm unaware of any court saying it was improper to be in the courtroom.

However, as far as the photograph is concerned, I would also point out, I'm unaware of any court that has ever allowed this photo during the course of a marriage in which this issue has been tested. And I think that's the danger here, that if we do it, it will be tested. And then the question is, if we do it, somebody's convicted and it's tested, then there will be a new trial.

And is that worth the risk? And that's what I think this Chamber has to answer.

DEPUTY SPEAKER CURREY:

Representative Nystrom.

REP. NYSTROM: (46TH)

Thank you, Madam Speaker. Another question,

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through you. When a question like this arises on appeal, at the appellate level, is the discretion similar to that to the superior court level when one weighs, in this case a judge weighs the presentation that's been made on the part of the defense. Is weight given to a request such as that compared to the level of crime, the severity of the crime? Are those the kinds of issues that are actually considered during an appeal when you're talking about a crime of a serious nature?

Is there not latitude in the appeal process for the decision before it's given, to give weight like we have given weight on the death penalty statute we talked about at one time. We didn't have the ability to weigh the issues of aggravating and mitigating circumstances.

Does there not exist in the appeal process that discretion in the appeal court? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Farr.

REP. FARR: (19TH)

Yes, thank you, Madam Speaker. In my experience, the appellate courts essentially set the same standards for trial without regard to the seriousness of the case.

Obviously, if somebody is charged with a homicide, with a murder charge, the court because of the seriousness of

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the charge, the courts generally are very protective of the individual's rights because they don't want to convict somebody of a murder without a fair trial.

But in my experience, they are every bit as protective of individuals who are charged with less serious crimes because the court attempts to assure that all defendants have a fair trial. And that's the balance you always have to do in these cases.

The court wants a fair trial and they recognize that we also have to, we have to administer justice and it's a balancing act. And that's the dilemma we're in here.

DEPUTY SPEAKER CURREY:

Representative Nystrom.

REP. NYSTROM: (46TH)

Thank you, Madam Speaker. and I thank the Representative. I'll just end with a comment.

I think you raise a very valid issue and that is, where is the balance here and where is the justice and I really think that's why the family members of homicide victims are asking to be represented and in fact they want the victim represented with the photograph.

It is a risk, I won't say that it isn't. But on balance in my opinion, I think we should take this risk so I would rise to speak against this amendment for

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those reasons and I thank the Chamber.

DEPUTY SPEAKER CURREY:

Would you care to remark further on the amendment?

Representative Mikutel of the 45th.

REP. MIKUTEL: (45TH)

Yes, thank you, Madam Speaker. I have listened very carefully to Representative Farr and Representative Lawlor on this issue of photographs of the deceased victim being used in the courtroom.

I understand exactly what Representative Farr is saying that it may be used as grounds for appeal and we don't want to put the victim's family through another trial.

But the victims are the ones who are advocating that the photograph be used in the courtroom. It's the victims who want to put a human face into the courtroom.

It seems that the victims are always having to back their way into the criminal justice system.

I think we ought to take the risk, let it be challenged and see where it goes from there. But I think it's time to support this effort on behalf of the victims of crime. I think it's a good provision. I would urge rejection of the amendment.

Thank you, Madam Speaker.

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Would you care to remark further on the amendment before us? Representative Farr of the 19th.

REP. FARR: (19TH)

Yes, thank you, Madam Speaker. Madam Speaker, a question through you to Representative Lawlor.

DEPUTY SPEAKER CURREY:

Representative Lawlor, prepare yourself.

Representative Lawlor. Representative Lawlor, prepare yourself please. Representative Farr.

REP. FARR: (19TH)

Thank you, Madam Speaker. Representative Lawlor, on the question of the bond in Section 5, as I read that, the language that's currently there, it says that any person who is convicted of an offense involving the threatened use of physical force against another person is awaiting sentence or given oral written notice of such person's intent to appeal, as I understand it you're not allowed to be out on bail. Is that correct?

Through you, Madam Speaker, to Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. Yes, I think that's correct.

REP. FARR: (19TH)

So, through you to Representative Lawlor. If an individual was arrested for the crime of threatening,

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disputed the fact that he did the threatening, was convicted of the crime of threatening, was place on probation by the court, filed a notice of appeal.

As I understand the process right now since the crime, offense would be on appeal, that in effect the probation would be stayed, but that individual as I understand this language, would now no longer be released on bail and would be incarcerated? Through you, Madam Speaker to Representative Lawlor.

DEPUTY SPEAKER CURREY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. I think the answer is no because he's already been sentenced. There's no bail to post once you've been sentenced. Right?

DEPUTY SPEAKER CURREY:

Representative Farr.

REP. FARR: (19TH)

Well, it's my understanding that if you were on bail in the first place and if you've been sentenced the court, and you file a notice of appeal, I guess the issue is then you're saying if you're not sentenced to incarceration there is no bail at that point so you're released?

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Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. Yes, through you, I think if the actual sentence didn't involved any incarceration I don't think there would be any bail.

DEPUTY SPEAKER CURREY:

Representative Farr.

REP. FARR: (19TH)

And through you, Madam Speaker, to Representative Lawlor, if the sentence involved incarceration. For example, if the sentence were a ten day sentence, what in the individual file, the notice of appeal, today as I understand it, you would be released on bail.

If you were sentenced to ten days and you posted your bond because you had filed an appeal bond, you had filed an appeal, what would the consequences of this language which says you can't post bail. You would just do your sentence, is that the understanding without the ability to appeal the conviction?

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. No, I think you'd simply sign a promise to appear. There would be no bail if there was no obligation, it would be a promise to appear not a bail situation.

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Representative Farr.

REP. FARR: (19TH)

Yes, I'm amazed that somebody would get out after a conviction on a promise to appear, particularly if the individual might have had to post some sort of bail beforehand.

If the individual had to post a bail beforehand are you suggesting that after conviction when a judge sentences him to do some time in jail that they're now going to release him on a promise to appear even though he's been sentenced to jail? Through you, Madam Speaker to Representative Lawlor.

DEPUTY SPEAKER CURREY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. Perhaps I misunderstood your question. I thought your question was if someone, if the sentence involved probation only I thought that was your question. Through you, Madam Speaker.

REP. FARR: (19TH)

Through you again to Representative Lawlor. If the sentence was a relatively short sentence, ten days, 30 days, 60 days, the individual decides to appeal that conviction, today as I understand it they post bond, they give a notice of appeal, they've posted the bond.

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As I understand this language, they can't any longer post bail, they can't post bail. They're not entitled to bail. They will then go do their sixty days without, while their appeal is pending. The court overturns the appeal, too bad. They've done the sentence. And if the appeal takes two years to complete, anybody who gets sentenced up to two years as I read this, does the sentence without regard to whether they've appealed it or not. Is that an accurate representation?

DEPUTY SPEAKER CURREY:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. Yes. It would be exactly the same as if they were not able to post bail in the first place. They get credit for the time. That would be it.

REP. FARR: (19TH)

Thank you, Representative Lawlor. That is, to me, that's probably an even more dangerous or more offensive part of the underlying bill than the photograph.

The photograph is very well intended but in this provision, we're essentially saying, you get convicted, you start doing your jail time so that you can appeal. But by the time you get your appellate, unless you have

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successfully completed your appeal, quicker than the term you've been sentenced to, it's going to be moot. You're going to do the time anyway.

That's a major change in the law. I don't think it's an appropriate one and I would urge passage of the amendment.

DEPUTY SPEAKER CURREY:

Would you care to remark further on the amendment before us? Would you care to remark further on the amendment before us?

If not, I will try your minds. All those in favor please signify by saying "aye".

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER CURREY:

All those opposed, "nay"?

REPRESENTATIVES:

No.

DEPUTY SPEAKER CURREY:

The amendment fails. Would you care to remark further on the bill before us? Would you care to remark further on the bill before us? Representative Belden.

REP. BELDEN: (113TH)

Thank you, Madam Speaker. Madam Speaker, the Clerk has an amendment, LC03392. Could the Clerk call and

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read please.

DEPUTY SPEAKER CURREY:

Could the Clerk please call LCO3392 designated House "C" and please read.

CLERK:

LCO3392, House "C" offered by Representative Belden.

Strike section 2 in its entirety and renumber the remaining sections accordingly.

DEPUTY SPEAKER CURREY:

Representative Belden.

REP. BELDEN: (13TH)

Madam Speaker, I move adoption.

DEPUTY SPEAKER CURREY:

The question before us is on adoption. Please proceed, Sir.

REP. BELDEN: (113TH)

Yes, thank you, Madam Speaker. Madam Speaker, what this amendment would do is strike this section. It essentially is a mandate to our cities that they shall forgive interest on any delinquent property taxes.

It's, I believe it really falls in the category, the current language was passed previously said the towns may waive it, gave them the ability if they cared to. I think to make it a mandate is stepping a little

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far. I think we should try to limit mandates as much as we can. I don't think deleting that section does any violence to the basic file copy before us and I would hope that we could pass this amendment. Thank you.

DEPUTY SPEAKER CURREY:

Would you care to remark further on the amendment before us? Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. I rise to oppose the amendment. I just want to explain why.

It's interesting. You know, last year we passed authority to municipal governments to waive delinquent property taxes if they found that the reason for the delinquency was the financial devastation that sometimes can be caused if someone is the survivor of a homicide victim.

In this particular case, we were inspired by the story of John Clooney who's wife and son were murdered one day by his son's 15 year old friend. And as a consequence, Mr. Clooney's life turned into a financial nightmare.

And one of the consequences was that very quickly he accumulated a large tax deficiency because he and his wife together had owned a good deal of investment property. In other words, a few apartment houses and

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things like that. When she died, she had a very substantial, well, she had a good income. I think she was a junior high school assistant principal, something along those lines and they were not able to keep up the, or he was not able to keep up the monthly payments and wasn't able to sell the property quick enough because it had been purchased back when the real estate prices were high, etc. I think we all know that story.

When he applied to the Norwich Board of Tax Assessors, or whatever the municipal board was that would deal with this kind of things, I and a few of my colleagues and many of Mr. Clooney's supporters went down and advocated on his behalf in the hopes that they would forgive or waive just the tax penalties, not the tax itself, but the rather high penalties that sometimes can accrue, which by the way we mandate by statute, the percentage rate that is.

And the single loudest argument we got from the board involved was, why are you putting the decision on us? You're making us look like the bad guys giving us the discretion. You ought to tell us whether we have to do it or not and that's what gives rise to this particular proposal.

It was the local board that said they felt uncomfortable having to make some sort of decision based

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upon Mr. Clooney's circumstances. They didn't like being placed in that position and this would relieve them of that burden.

And let me just point out, Mr. Speaker, we're talking about an extremely unusual situation. We're talking about someone who, number one, is the innocent victim in the homicide. So this wouldn't be two drug dealers shooting at each other, the guy with the bad aim becomes the victim and his family trying to get off property taxes. We're talking about innocent victims of homicide who are financially devastated, which does not happen all the time, certainly sometimes.

And when that does happen, we're only talking about eliminating what is a mandate, which is the mandatory interest penalty. I think it's 18% a year that is required by us to be assessed to people on a delinquency regardless of what the reason for the delinquency is. That's the mandate that this seeks to waive in very limited circumstances.

So, number one, they asked for us to do this. And number two, it is eliminating a mandate which has a devastating financial effect on an individual in very extraordinary circumstances. And the effect on a particular municipality is negligible compared to the revenue a municipality acquires during the course of a

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year.

And finally, they said, you know, one of the arguments they had made was, if you feel so strongly about this on the state level, why don't you put some money aside for survivors of homicide and I just want to emphasize that we do, and we have consistently made financial benefits available to survivors of homicide. Not enough by my standards, but a lot of money and I think it's not much to ask that a municipality do the same when one of their own citizens is in the kind of financial distress that Mr. Clooney found himself in and continues to find himself in.

So, I don't think it's a lot to ask. They asked for it in the first place and I would urge rejection of the amendment.

DEPUTY SPEAKER HYSLOP:

Representative Belden.

REP. BELDEN: (113TH)

Thank you, Mr. Speaker. Mr. Speaker, I feel for the particular individual that has been mentioned here today. I feel for that local municipality that felt that they didn't have enough compassion on their own under the legislation we previously passed to grant an exemption from the penalties and the interest.

And their reasoning is, why make me the bad guy?

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Let's make the state the bad guy. How many times does your tax collector or your assessor call you up, or people call you up and say, the assessor or the tax collector told me to call you because it's your law. I get it all the time.

We're talking about policy here for the State of Connecticut. We're talking about taking away, through a mandate we want to put in the law right now, a tax penalty and interest that currently the towns are allowed to collect.

I will put forth the same argument Representative Lawlor did. If we think this is a great idea, why don't we take it out of the victims' compensation fund and reimburse the individual accordingly? At least then it's our fault. We did it and we paid for it.

If these are extraordinary circumstances and we previously gave the towns the right to forgive penalties, if they have enough compassion and they feel that they can afford to give up those penalties and still meet their obligations under the real estate property taxes where they raise their money, fine.

But we're talking about an individual circumstance here as best I can tell, where we're talking about putting a mandate on our cities for any future circumstance, so we can take the blame. So the town can

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be compassionate but we can take the blame.

I think we ought to leave the law the way it is. I think this amendment does that. Mr. Speaker, I would ask that when the vote is taken because this is a municipal mandate, that it be taken by roll call.

DEPUTY SPEAKER HYSLOP:

The question is when the roll is taken it be taken by roll call. All those in favor of a roll call signify by saying "aye".

REPRESENTATIVES:

No.

DEPUTY SPEAKER HYSLOP:

Twenty percent has not been met. When the vote is taken it will be taken by voice.

Representative Belden.

REP. BELDEN: (113TH)

Mr. Speaker, I really am concerned about that. I believe the rule is 20% of the members in the Chamber. And I think that rule was really well met.

DEPUTY SPEAKER HYSLOP:

If I'm looking at the Chamber now, Sir, I believe that the 20% has not been met. I heard only on this side those that said "aye". I did not hear any pass aside looking at the, judging by the numbers that are over here. It was not 20% of those that are assembled

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here in the Chamber.

Representative Nystrom.

REP. NYSTROM: (46TH)

Thank you, Mr. Speaker. Well, here I go rising to speak against an amendment from my side of the aisle, two in a row, but lucky me.

I knew Elaine Clooney very well and I knew her son David very well as well. And without getting into that crime in too much detail, if the issue is about the revenue not collected to a town, the way that decision came down was the interest was waived on the home. The other properties owned by the couple, it was not waived.

The Town exercised some discretion but the devastation that that man still feels will be with him the rest of his life. He lost his entire family. And I think that raises the point, nobody's getting in line to stand in his shoes. You don't know what it's like. I hope no one ever knows what it's like.

I think this is a request that originally started last year that was humane on our part. My city, whether you like their reasoning or not, this is what they asked for how to be treated, and quite frankly, I think we should go with it.

So I rise to oppose this amendment. Thank you.

DEPUTY SPEAKER HYSLOP:

004358

pat

120

House of Representatives

Friday, April 28, 2000

Will you remark further on House "C"? Will you  
remark further on House "C"? Representative Mikutel.  
REP. MIKUTEL: (45TH)

Yes, thank you, Mr. Speaker. Mr. Speaker, I rise  
to support the Chairman of the Judiciary Committee in  
opposing this amendment.

As Representative Lawlor said, the tax collectors  
in the communities don't want to have this burden put on  
them and having that discretionary decision to make.

I feel that it doesn't cost that much, so I would  
urge that we don't, in fact punish the victims of  
violent crime a second time by putting them into  
continued financial hardship.

So I would recommend rejection of this amendment.  
DEPUTY SPEAKER HYSLOP:

Representative Nystrom.  
REP. NYSTROM: (46TH)

Thank you, Mr. Speaker. I apologize, for a second  
time. But if this is to pass and it becomes law, it  
seems to me that it actually won't be a lost revenue  
because towns knowing that they would have to waive it  
will never assess it in the first place.

So I think the point becomes moot. So again, I  
would ask rejection of this amendment. Thank you.  
DEPUTY SPEAKER HYSLOP:

004359

pat

121

House of Representatives

Friday, April 28, 2000

Will you remark further on House "C"? Will you remark further on House "C"? If not, we'll try your minds. All those in favor of House "C" signify by saying "aye".

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

All those opposed?

REPRESENTATIVES:

No.

DEPUTY SPEAKER HYSLOP:

House "C" fails. Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber.

The House is voting by roll call. Members to the Chamber.

DEPUTY SPEAKER HYSLOP:

Have all members voted? Have all members voted? If all members have voted, please check the machine to make sure your vote is properly recorded. The machine will be locked. The Clerk will take a tally.

004360

pat

122

House of Representatives

Friday, April 28, 2000

The Clerk will announce the tally.

CLERK:

House Bill 5785 as amended by House "A".

Total Number Voting	148
Necessary for Passage	75
Those Voting Yea	138
Those Voting Nay	10
Those absent and not voting	3

DEPUTY SPEAKER HYSLOP:

The bill as amended passes. Are there any announcements or points of personal privilege?

Are there any announcements or points of personal privilege? Representative Mantilla.

REP. MANTILLA: (4TH)

Thank you, Mr. Speaker. For the point of an introduction, please.

DEPUTY SPEAKER HYSLOP:

Proceed.

REP. MANTILLA: (4TH)

Thank you, Mr. Speaker. I am very proud to stand here before the Chamber to introduce all of you to the Bulkeley High School Class "LL" Boys Basketball Team who are the champions in Connecticut for all of the negative things that we often hear about the Hartford school system, those of us who are so proud to be Hartford

H-835

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
2000

VOL. 43  
PART 17  
5507-5900

005896

kmg

132

House of Representatives

Wednesday, May 3, 2000

CLERK:

Senate Bill Number 501, as amended by Senate A, in concurrence with the Senate.

Total Number Voting	144
Necessary for Passage	73
Those Voting Yea	144
Those Voting Nay	0
Those absent and not voting	7

SPEAKER LYONS:

The bill as amended passes. Would the Clerk please call Calendar 370.

CLERK:

On page 21, Calendar 370, Substitute for House Bill Number 5785, AN ACT CONCERNING VICTIM'S RIGHTS. As amended by House Amendment Schedule A and Senate Amendment Schedule A. Favorable Report of the Committee on Finance, Revenue and Bonding. The Senate adopted Senate A on May 2nd.

SPEAKER LYONS:

Representative Lawlor.

REP. LAWLOR: (99th)

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

SPEAKER LYONS:

kmg

133

005897

House of Representatives

Wednesday, May 3, 2000

The question before the Chamber is on acceptance and passage. Will you remark?

REP. LAWLOR: (99th)

And, happy birthday, Madam Speaker.

SPEAKER LYONS:

Thank you, sir.

REP. LAWLOR: (99th)

Madam Speaker, this bill was adopted by the House a week or so ago. In the Senate, the Senate adopted an amendment. I'd ask that the Clerk call and I be permitted to summarize, LCO-5290. Previously designated as Senate Amendment A.

SPEAKER LYONS:

Clerk has in his possession LCO-5290, previously designated Senate A. Would the Clerk please call, the gentleman has asked leave to summarize?

CLERK:

LCO-5290, Senate A, offered by Senator Williams.

SPEAKER LYONS:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Madam Speaker. This amendment, I think, responds to a number of the concerns that were raised during the debate in the House. And I think it appropriately clarifies certain provisions of the bill.

First of all, Madam Speaker, in the first section providing a special emergency loan type situation to victims of the most serious forms of crime, it narrows the purpose of those loans to pay for essential living expenses directly resulting from the loss of income provided by the deceased victim. Madam Speaker, this amendment also makes it clear that the participation of the victim in the plea bargaining process is limited to expression of their opinions, and not necessarily a direct veto over a specific proposed plea agreements.

Also, Madam Speaker, this addresses the concerns raised about the photograph of the deceased person during a homicide trial, and indicates that the size of the photo is limited to eight-by-ten inches.

And that the only time that it could be displayed is during the closing arguments by the prosecutor. And, Madam Speaker, it also adds language indicating that the state's independent office of the crime victim advocate shall have access to state, local, and private agency files which it needs in connection with an investigation it's undertaking.

Madam Speaker, I think it's a perfectly good amendment. I think it appropriately clarifies the intent of the bill and I urge its adoption.

SPEAKER LYONS:

kmg

135

005899

House of Representatives

Wednesday, May 3, 2000

Thank you, sir. Will you remark? Will you remark on the amendment that is before us? Representative Farr.

REP. FARR: (19th)

Thank you, Madam Speaker. I agree with Representative Lawlor. I think the amendment addresses a lot of the concerns I had with the original bill. I did oppose the bill. I do think the amendment makes the bill acceptable and I would urge passage of the amendment. Thank you.

SPEAKER LYONS:

Thank you, sir. Will you remark further on the amendment? If not, let me try your minds. All those in favor please signify by saying aye?

REPRESENTATIVES:

Aye.

SPEAKER LYONS:

Those opposed nay? The aye's have it. The amendment is adopted. Will you remark further on the bill as amended? Will you remark further? If not, staff and guests come to the well. Members take your seats. The machine will be open.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by

kmg

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005900

House of Representatives

Wednesday, May 3, 2000

roll call. Members to the Chamber, please.

SPEAKER LYONS:

Have all the members voted? Have all the members voted? Will the members please check the board to make sure that your vote is accurately recorded.

If all the members have voted, the machine will be locked and the Clerk will take a tally. If all the members have voted, the machine will be locked and the Clerk will take a tally. Clerk will please announce the tally.

CLERK:

House Bill Number 5785 as amended by House A, and Senate A, in concurrence with the Senate.

Total Number Voting	143
Necessary for Passage	72
Those Voting Yea	141
Those Voting Nay	2
Those absent and not voting	8

SPEAKER LYONS:

Bill as amended passes. Are there any points of personal privilege? Representative Clemons.

REP. CLEMONS: (56th)

Thank you, Madam Speaker. I rise for the point of personal privilege. Introducing a friend from Vernon, who is in the well of the House today. I want to ask

JOINT  
STANDING  
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1765-2147

2000

We will try to do everything we can for them to make their sorrow less than what it is, but I guess everything is a little too late right now.

If we ever knew something like this would ever happen, we would have tried to take other measures, but as a mother, I did everything humanly possible, I thought.

We are very, very, very sorry."

Thank you for coming up from New Jersey and spending the day with us for your three minute presentation.

THOMAS LYSZ: Thank you very much for that piece from Mrs. Ouellette. Thank her for me, if you would.

REP. MICHELE: I will do that.

SEN. WILLIAMS: Chairman Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. Let me also say thanks for coming up.

First of all, is that - I assume that's a photo of Father Lysz behind you?

THOMAS LYSZ: That's correct.

REP. LAWLOR: Could you just hold it up a little bit because it's interesting. We have a bill we're going to hear on Friday, rights for victims of crime and one of the initiatives of Survivors of Homicide is that whenever there's a trial, that because it's a murder, the victim is dead and is not in the courtroom. If it were an assault, the victim would have every right to sit in the back of the courtroom and be visible to the jury, for example.

(HB 5785)

Although it's a little bit controversial and it's a novel idea, I certainly think there's no reason not to allow, if the victim wants it, the victim's family, to have a photo in the back of the courtroom so that - not a prejudicial photo,

necessarily, but just a normal photo of what the person looked like in life so the victims - so that the jury and others can get a sense of what this person was like.

Since you've got such a photo here, I thought it was important for the members of the committee to see it.

Also I would like to say that on this topic it's such a controversial one, it's interesting a lot of debate is around the philosophical implications or what your point of view is on civil rights, etc. But interestingly it seems like the bigger problem is more of a fiscal problem. That what this bill actually calls for is monitoring in the community which assumes there's going to be people who will be out there, outreach workers to ensure that people take their medication and ironically at the very time this bill is pending here, other committees in the Legislature are considering proposals to actually cut the amount of money that's dedicated to monitoring people in the community and I think we've got to find a way to deal with that too because without the people in the community to do the monitoring, the rules would be ineffective and we would find out very clearly we passed specific rules for victims of crime. In fact, we put them in our Constitution and even though they're there, they're routinely ignored in our courts every day.

So we have to figure out a way not just to get beyond the philosophical discussion, but also in practical terms make sure these services are delivered.

So, I hope that your message is heard by the people who are cutting the money available to do this community monitoring, as well.

DEAN KILBOURNE: Mr. Chairman, regarding the financial issue, I certainly don't have numbers in front of me, but it's my understanding that to keep Mr. Ouellette at Whiting Forensic where he is right now for a year is in excess of \$300,000 and for the small group that we're talking about for this

HB5699

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 7  
2148-2437

2000

SECRETARY MARC RYAN: I believe there is the ability of the Governor to increase bond because of concerns he has, but ultimately that bond is picked up back by the State of Connecticut. So that has very little impact. I think there are certain provisions that can be done, but they are clearly long and drawn out, I believe.

REP. LAWLOR: Thank you.

SEN. WILLIAMS: Are there other questions? Other questions? Representative Conway.

REP. CONWAY: Marc, my question was about the process servers. So they would be grandfathered in? Because you mentioned before about term in the beginning. You know? But they would be grandfathered in?

SECRETARY MARC RYAN: That is correct. I think again there are slight differences between the Judiciary Committee bill before you today and the Governor's bill. It was our assumption that as long as they performed well in their duties, that they would be reappointed. If that language needed to change to say that they would continue in that job as long as they performed the duties and there was no reason for removal, we would favor that.

REP. CONWAY: Thanks very much.

SEN. WILLIAMS: Anything further? Thank you.

SECRETARY MARC RYAN: Thanks very much.

SEN. WILLIAMS: Is Gerard Smyth here?

DEBORAH DELPRETE SULLIVAN: Good afternoon. Gerard Smyth is not able to be here right now. I'm Deborah DelPrete Sullivan, legal counsel to the agency and he has asked that I read the testimony from the Office of the Chief Public Defender in regard to HB5785, AN ACT CONCERNING VICTIMS RIGHTS.

Although the Office of Chief Public Defender does not oppose this act in its entirety, it does oppose

certain sections of the bill and those are the actual sections that I would like to address now in my testimony.

In Section 3b, this section would amend the General Statutes and permit the victim of certain crimes to appear before the court in order to make a statement for the record including approval or disapproval of any plea agreement.

The concern that we have is that this maybe providing the victim with the veto power over a plea agreement that has been reached between either the defendant and the judge or the defendant and the State's Attorney.

If that is not the intent of this amendment, then we would just suggest that perhaps this language be reworded to make sure that it is clear that it is not a veto power. However, if the amendment and the intent of the amendment is to provide a veto power to the victim, we would oppose this language as we believe that such power could halt the criminal process. A direct result of such a veto power would be an increase in the number of cases that would be placed on the firm jury docket. Not only would the increase in the number of jury trials created create a substantial hardship upon the staff of the Public Defender Agency, but such an increase would also strain the resources of the entire criminal justice system.

In regard to Section 5, the Chief Public Defender's Office would strongly oppose this section that would permit the display of a photograph of a deceased victim during a murder trial in the presence of the jury. This is not an issue of whether or not the photography would be inflammatory in nature. In a trial it is not uncommon right now for a photograph to be part of the exhibits that are actually admitted into evidence by the court.

The issue of concern here is in regard to the influence that the photograph may have on a jury if it is openly displayed during trial and not an exhibit. A photograph may influence the emotions

and arouse the sympathy of a juror and it may influence a juror to the extent that the juror will consider factors other than the actual evidence that has been presented at trial and as the result of this, it would prejudice the defendant and deny him or her a due process and a fair trial. And as a result, that would be of constitutional magnitude. I have cited some case law as well as statutory provisions in my written testimony that may be referred to by the committee and I have other case law, as well, if there are any questions about it.

Section 6, this would add to the list of offenses for which a person could be denied bail prior to the imposition of a sentence or pending appeal. Any offense involving the use, attempted use, or threatened use of physical force against another person. This would result in someone who maybe pending appeal on a misdemeanor charge such as a breach of peace or an assault in the third degree who may receive a sentence of incarceration up to a year. This would provide that they would not be able to have an appeal bond for such an offense. And we believe that this would be unnecessary.

Section 8 is the provision that we strongly oppose out of the entire bill. This would give the Victim Advocate investigative subpoena power. The proposal provides power to subpoena any person in any matter under investigation by the Victim Advocate.

As written, it would permit the Victim Advocate to subpoena not only witnesses in regard to the criminal matter, but the very defendant who has been charged in the matter and his or her former defense counsel.

If a defendant were subpoenaed, the constitutional violations that would result would be egregious if a defendant was compelled to give testimony against himself especially while the criminal matter was pending.

In addition, a subpoena against defense counsel, even if in regard to a former client to which we still have confidentiality and owe that duty of

confidentiality, would have adverse effects upon the attorney/client relationship.

As a state agency, public defenders are particularly vulnerable to these adverse effects because of the pre-existing view of many of our clients that public defenders are merely part of the system.

This view is reinforced whenever a public defender is compelled to present testimony or any information or produce his or her attorney file which would be permissible under this section in an investigation against a former or present client and cooperate with the victim or the Victim Advocate. The ability of an individual public defender or that office to have the confidence of its clients to expedite the court's business is irreparably threatened as a result.

As attorneys, the public defenders are also bound, as I indicated, by the rules of professional conduct here in the State of Connecticut and the ABA standards and the rule of confidentiality under 1.6.

The last section I just wish to address is in regard to Section 9. We would strongly oppose this amendment that would permit a victim of a violent crime or their legal representative or member of the family if the person is deceased, to attend all pre-trial proceedings. That would mean any pre-trial proceeding between a judge, prosecutor, and the defense counsel or between the State's Attorney and the defense counsel.

Such a requirement would impede the candid discussions in regard to case resolution and substantially delay the criminal justice process.

I did attach an amendment in regard to Section 8, the investigative subpoenas for the committee's consideration which would except out anyone who happens to have been charged with an offense against that victim as well as their counsel, whether it was former or current counsel and I'd be happy to answer any questions on behalf of our

agency.

SEN. WILLIAMS: Thank you. Representative Farr.

REP. FARR: Yes. First, your objection to including approval or disapproval of the plea agreement. Do you have language on that because I don't think anybody here intended to say that the victim is going to be able to veto a plea agreement.

DEBORAH DELPRETE SULLIVAN: I'd be happy to submit some language. I don't have it with me today, but I'd be happy to do that.

REP. FARR: Your testimony on the subpoena. You know, I guess I feel somewhat of an over-reaction. My understanding is right now the victim could initiate a suit against the alleged perpetrator of the crime and the victim's attorney would have a right to subpoena everybody including all the attorneys and including all of the defendants and the witnesses and everything else. But obviously no attorney is going to disclose anything that's confidential and obviously the alleged victim, alleged perpetrator, rather, is going to have a right to not make any comments because he has a constitutional right not to impeach himself.

So I don't see how this language gives anybody anymore jeopardy than they have right now and how this gives anymore power to the Victim Advocate than the victim's attorney would have.

DEBORAH DELPRETE SULLIVAN: Well, it's giving a statutory right which doesn't exist right now. We have had cases where a defendant has been subpoenaed into a civil matter during the pendency of the case and we have had to assert his constitutional right at that time. So therefore, there is nothing - no information that can be given.

I've also been in the situation as legal counsel to the agency to have to go in with our attorneys who have been subpoenaed with their criminal files from former cases or pending cases in regard to civil suits. I just believe that this section could use

some re-working. The fact - we're not opposing the fact that they're able to investigate certain things by way of a subpoena. It's the fact that we're more concerned about them subpoenaing an attorney in regard to getting our attorney/client file. There's no language in there that actually talks about excepting out attorney/client privileged information or work product, etc. And there's also nothing that really would stop the Victim Advocate in this language that's been proposed from subpoenaing in the defendant during the pendency of the criminal charge and those were the things we wanted to highlight to the committee.

If there were some excepting language or clarifying language, that maybe helpful.

REP. FARR: Okay. Thank you.

SEN. WILLIAMS: Are there further questions? Thank you very much.

DEBORAH DELPRETE SULLIVAN: Thank you.

SEN. WILLIAMS: I just want to point out that we've got about 60 folks who have signed up to testify. And at this point, we usually reserve the first hour of our hearing. We started about 11:30 today. Four department heads, etc. and we're starting to alternate back and forth with the public.

What I would do is I would ask folks to try and hold things down to two to three minutes for an opening statement. Of course, you know, if it has to go beyond that, we allow people traditionally to summarize, but because of the number of folks who are signed up here, what we want to do to the greatest extent possible is to accommodate as many people as possible and give the folks who have taken time out of their day to testify without having to be here at seven or eight o'clock tonight.

Next on the list is Andrew Groher.

ANDREW GROHER: Good afternoon, Senator Williams, members of the committee.

SB585

REP. LAWLOR: It might be --

JOHN JOHNSTONE: That's why I took it to Elections Enforcement before I mailed it.

REP. LAWLOR: I understand. Well, thank you.

JOHN JOHNSTONE: Very sensitive to those --

REP. LAWLOR: Thank you very much.

JOHN JOHNSTONE: Thank you.

REP. LAWLOR: Are there other questions? If not, thank you very much, Sheriff.

WALTER KUPCHUNOS: You're welcome.

REP. LAWLOR: Next is Gail Burns-Smith.

GAIL BURNS-SMITH: Representative Lawlor, members of the Judiciary Committee, my name is Gail Burns-Smith. I'm the executive director of Connecticut Sexual Assault Crisis Services which is a statewide association of community-based rape and sexual assault crisis centers throughout the State.

HB 5785

HB 5873

I'm here today on behalf of the thousands of sexual assault victims and their families and community members and your constituents who would like you to support passage of several different bills I'll speak to.

I will briefly talk about sheriff reform. We're not taking a specific position on how we think the Sheriff's Department needs to be reformed. However, given the explanation of how the assault took place, given our understanding of the reaction of the sheriffs after the assault, we believe that what happened was an outrage.

HB 5832

We are happy to see that others agree and we hope that indeed there will be some real reform including training, and including a look at their policies and, in fact, we'd like to make the offer to provide training around sexual assault response

if the sheriffs would like it.

Additionally, we're speaking on raised HB5785, AN ACT CONCERNING VICTIMS' RIGHTS. We support this with a couple of minor changes and those are in our written testimony.

The bill I'd like to bring most of our attention to today is raised HB5873, AN ACT CONCERNING STANDARDS FOR SEX OFFENDER TREATMENT PROVIDERS. This committee and this Legislature have done an excellent job in responding to the concerns of victims and communities in regard to addressing the complex issue of sexual offenders.

It's now essential that you continue that commitment to victim and community safety by doing what many other states have done and that is establish a multi-disciplinary board based within an agency that is committed to public safety, that will set standards for those who provide treatment to sex offenders, mandate that state agencies be held to the standard of reporting illegal sexual behavior committed by any person under their care, and allow access by bonafide researchers to recidivism data so we can determine if what we're doing with sex offenders is working.

With the short turn around for this public hearing, there are several people that could not be here today, but they asked specifically that I bring some issues to your attention.

Specifically, we would like and hope that you understand that having a Ph.D., an M.D. or a masters degree does not ensure that you understand how to take care of this population. Specialized training and an understanding of the need to treat this population differently is critical. Connecticut must draw upon the experience of those who have been in this specialized field for years and upon the international and state standards that have been adopted by ATSA and CATSA, two organizations that you'll hear about today.

Also, there are two victims that have asked me specifically to ask that you support mandating

REP. HAMM: Thank you.

REP. LAWLOR: Any further questions? If not, thank you very much.

DR. RONALD ANDERSON: Thank you.

REP. LAWLOR: Sam Reiger. Sam, before you testify, you should know that all the members of the committee have received your pamphlet on the Melanie Reiger conference.

DEE CLINTON: I'm not Sam Reiger. I'm Dee Clinton.

REP. LAWLOR: Dee.

DEE CLINTON: We come as a unit.

REP. LAWLOR: I know that. I know that. We get a package, I know.

DEE CLINTON: Thank you so much for hearing us. Today is the death anniversary of my son, Anson who was murdered by a hired hit man in 1994. It is my duty to be here today.

I am a self employed citizen who has lost another day's wages in order to testify. Because of my commitment to this cause, my family also sacrifices as I contribute less income. I am in full support of HB5785 in its entirety.

Subsection 2 is especially necessary for the independent victim advocate. Through my tragedy I've had the honor and privilege to become acquainted with Attorney James Papillo, an honorable man willing to take on this important and necessary task to protect victims' rights.

Without subpoena power, Attorney Papillo will be working with one hand or maybe two hands tied behind his back. Section 5 of this bill, a photograph deceased victim that is not of itself inflammatory in nature, may be displayed in a courtroom during a murder trial in the presence of the jury.

It is not only necessary, but morally right to have this bill passed.

I would like to see this added to this section or in the presence of a judge or panel of judges. There would be no trial if not for the victim. After all, the accused has the right to face his accuser. The victim must be allowed to be present and party to the party. A picture will make that possible and bring comfort to the surviving family members.

Since my time is limited to a few minutes, I cannot possibly speak on every issue, so I beg you to see the importance of enacting this bill. It is vitally necessary to protect victims and survivors in their hour of need. This bill goes a long way in reaching that end. We must work together for truth, for without truth, justice will never prevail.

We are part of the criminal justice system and deserve rights and protection under the law.

I cannot fathom why the Chief Public Defender's Office would be in opposition to any of these victims' rights in HB5785.

Thank you.

REP. LAWLOR: Thank you, Dee. Are you going to testify also, sir?

JOHN CLOONEY: For those of you who don't know, my name is John Clooney. My wife and son, of course, were murdered on May 24, 1993 and my wife of 25 years and my only child.

As Representative Farr said, the only way you know the consequences is when you hear it from us. So I'm interested and in support of HB5785 and the portion that gives low interest disaster loans to crime victims.

I made up a chart here that I would like to show you. And it has - if you notice both names, the

killer's family Bernier and the Clooney's name is Diane in black. That represents both families before the murder. If you look at the Bernier side, their son committed murder. That's in red. That's a negative. They have no delinquent taxes on their property. They have no land for sale. They transferred the most expensive child raising years to John Q. Taxpayer, you and me. No \$100,000 for college. No car insurance, no medical expenses, no allowances.

Increased income, decreased liabilities. They got rid of one big headache and they still both work with annual increases.

Best years of a person's life are preparation for retirement are the last ten to fifteen years of their working career. They're the peak years. Those are still in front of the Berniers. They're 45 and 47. No bad credit. They will have grandchildren by their older son. No one is dead in their family. They go visit their son every other day, fifteen times a month. New truck and new car in driveway for son and wife. Clooney can't finance a car until he's 62 because of bankruptcy. Bernier's house will be paid for long before they retire. Clooney's house won't be paid for until he's 86 years of age.

They took their pants off, brought him into the world, educated him, taught him values or the lack of. He commits murder at 15 and victim pays the price.

Now, let's look at what happened to the Clooney side since 1993. Dead wife. Dead son. We'll never have any grandchildren. Clooney name ceases to exist when I'm dead. No spousal companionship. Bankruptcy. Bad credit until age 62. Delinquent taxes due to the loss of \$50,000 in income. Had to sell half my land in order to pay taxes. Best earning years of wife destroyed, \$750,000 in earned income gone.

Best years of husband's years spent fighting for justice that he shouldn't have to do after paying taxes for 36 years. Trying to keep his retirement

years from deteriorating into an economic cesspool.  
Sued by Chelsey Bank for \$50,000. Facing two 30-year mortgages on properties that should have been paid for by now.

Clooney's financial business all over the papers. This is what you get for working for 38 years paying taxes and being an asset to the community and not sucking off or bleeding the system in one way or another.

This is the results of inadequate laws to protect crime victims from the devastation of crime.

I strongly urge all this side here with the check marks is eight categories. It would be totally unnecessary for a victim to go through if he could get a low interest disaster loan or one or two percent disaster loan.

It's going to cost you \$1.8 million to incarcerate my killer for the next 60 years at today's prices. You give a \$200,000 or \$150,000 loan just loaned to a crime victim, you're going to get every nickel back. You're not going to get one nickel of your \$1.8 million back from the killer.

Yet, we don't have anything for the victim. It seems to me that it's the State's job - it seems to me that money is the bottom line. Alright. It seems that we need a law, we need something where it costs the State more money not to pay attention to the victim than it does to pay attention. As long as it's cheaper not to pay attention to the victim, that's the way we're going to go.

And I strongly urge you to pass this bill which gives victims, relatively few in number that are put into this situation, but remember, you will get every nickel back that you give a crime victim in the form of a low interest disaster loan so they are not pushed into these circumstances. It's bad enough dealing with your family's loss and then to have to face this afterwards.

And I think it's the government's obligation to cushion that blow as much as it can for the few

people that are drastically affected.

Thank you.

DR. SAMUEL REIGER: First, let me thank the committee for being so steadfast and staying to hear us. I might suggest that one time when we have these, you might start from the bottom of the list up so we could get through before seven o'clock.

I am Doctor Samuel Reiger, president of Survivors of Homicide. I come before you today to speak for raised HB5785.

Approximately one week ago I spoke before the Public Safety Committee with regard to the rights of convicted felons. There has been great publicity recently regarding the movement of prisoners to Virginia and their rights of visitation. I am glad that this committee has chosen to consider the rights of victims which have been overlooked in this state and country for far too long. It is sad that those who have the power to affect change for victims often are more concerned with the rights of those who have made them victims.

I applaud this committee's attempt to level the playing field for victims and survivors. Most of this bill attempts to tighten some of the loopholes of previous victim friendly legislation. It is admirable that this bill will provide low interest loans for homicide survivors. I hope the amount is considerably more than the misprint of \$100. Is it \$100,000? Is that what it is?

REP. LAWLOR: I was told earlier it's got to be \$200,000.

DR. SAMUEL REIGER: Okay. We'll take \$200,000.

REP. LAWLOR: Right, John?

DR. SAMUEL REIGER: Okay. I also urge you to support Senator Edith Prague's proposed bill Number 7 which provides reimbursement to municipalities for interest waived on delinquent taxes for crime

victims. I'm sure that John Clooney has already discussed that matter in great detail.

I strongly urge you to pass the provision that allows for the placement of a picture of the murder victim in the courtroom. The murderer is presently as a wholesome looking specimen with new suit, clean shaven and haircut even with glasses, although they may not wear glasses, to make them look studious. The victim is only presented in horrible autopsy pictures and often callously referred to, as in our case, the "body in the storage locker".

HB 5785

The jury, judge and attorneys in the courtroom should have to recognize that the victim was once a living, breathing, vibrant human being who had much to contribute to society. We need to give crime victims more of a voice in the criminal justice system. It's disgusting that we must just sit there without having any input into the proceedings.

I applaud the effort to allow victims to make a statement before the court with regard to plea bargains with the court having the right to reject the plea bargain afterward. I believe crime victims should have equal opportunity to reject plea bargains as do the criminals.

Anything less would probably maintain the status quo. I believe that victims are reasonable and will listen to the options presented by the prosecutor.

However, if victims want to take the option of having the case go to trial, they should be allowed to do so. Why should the perpetrator only have this option? They plea bargain for lighter sentences and then once sentenced, file motions to have their sentence reduced further. Is this fair?

I don't think so.

Similarly, it's commendable that you have a provision for attendance at all pre-trials. But as you know, most pre-trial motions are heard in the judge's chamber with only the judge, prosecutor and defense attorney present. So, is the intent of your motion that we or our representative be

allowed into these meetings? Certainly, all pre-trial proceedings should always be placed on the public record.

As we personally have found in our case, failure to do so could almost result in a reversal of the verdict. I believe a victim impact statement should be read in court prior to imposition of sentence upon a defendant found guilty of a crime punishable by death. But I think that a representative of the victim's family should do this, not the Victim Advocate unless the family would prefer to have the Advocate present and present the statement.

Why are we always hiding the thoughts and feelings of the families who have been permanently traumatized by these violent deaths? Are you afraid to deal with this because it comes too close to your own homes?

I also strongly support the provisions which grant the power of investigative subpoena to the Victim Advocate and the elimination of the statute of limitations for filing wrongful death actions against a person convicted of manslaughter.

I would suggest that you clarify the language so that it is clear you mean the independent Victim Advocate and not those employed by the Office of Victim Services.

Though not included in this bill, I would again raise the point of terminating violent felons' rights to visitation from their minor children without regard to whom they have murdered. Their rights should decrease, not increase after they commit violent crimes.

In summary, I applaud the efforts of this committee to strength the rights of crime victims. I urge you to make these provisions as specific as possible so we don't have to return next year, at this late hour, to tackle these issues again.

This legislation must have enough teeth so that we have real rights rather than paper ones. If our

society can care so much about the rights of convicted violent offenders, it can care no less for the rights of the victims created by these people.

I urge you to pass HB5785.

Thank you.

REP. LAWLOR: Representative Farr.

REP. FARR: A couple of comments. First of all, the photograph issue in the bill. We had a hearing on the Father Lysz bill which - I think you might have been present, I'm not sure. This was a psychiatric bill concerning requiring outpatient commitment for psychiatric individuals who were violent and dangerous. (HB 5699)

And during that hearing, the family members had a picture of Father Lysz and I think it was family members and we were faced, as a committee, we were in a position that we had to look at that picture during the whole hearing and it was, indeed, a very powerful, very powerful thing.

But I still remain very, very nervous about this concept and let me tell you what my reservations are.

My concern is that this -- as far as I know, this concept has not been tested in the courts. And the thought of passing this bill and having 20 murder cases go to trial in which the picture of the victim is out in front of the jury the entire time and then have the Supreme Court come out and say that's prejudicial and ordering 20 new trials to me is really frightening and that's my big reservation with this.

It's a very powerful concept, but I'm just concerned about having to re-try cases because boy, talk about devastating the victims. That would be even more devastating than --

DR. SAMUEL REIGER: Well, the problem is that that person was a living, breathing human being --

REP. FARR: I fully --

DR. SAMUEL REIGER: And very often it's totally ignored in the courtroom and it's really terrible that everybody is concerned about how the violent criminal looks and everybody disregards the fact that there was -- I mean, we even had a case once where it was a six year girl that was murdered by her biological father during a court imposed supervised visitation. And the family brought in pussy willows to the courtroom because Alia Rose Moylan loved pussy willows and they were made to take those pussy willows out.

There are times when the family of the criminal starts crying and the deputies run over with tissues and comfort those people. When the families of the victims cry, you're told if you don't shut up you're out the door and don't come back.

I think it's time that we took a little risk. You know, I always hear this thing, well, we don't want to do this or we don't want to do that because it's going to be appealed. Well, just about every damned case we are involved in gets appealed over and over and over again anyway. So it's not going to change the appeals. I don't know if it would change the outcome.

REP. FARR: I understand and in murder cases at the trial, there are always going to be appeals. As I say, my concern and I just wanted to express it to you today is - in murder cases it's very hard to make family members understand that sometimes when the defense is able to get certain rulings that you don't like, it is actually in the outcome in the end is advantageous to you because, for example, when you're told to leave the courtroom because -- we had a hearing on Judge Fineberg earlier about all these issues and when somebody's told to leave the courtroom because it could be prejudicial, it's offensive and everything else, but on the other hand, that's one less grounds for appeal and in that case, the defendant was found not guilty, but in those cases where the defendant is found guilty,

if the outcome is that they're found guilty, but there are some things that were done that might have been grounds for appeal, then it's a better chance that the verdict is going --

DR. SAMUEL REIGER: But the problem is that what it does is it victimizes the family all over again when you're sitting there and you have to put up with this stuff and you just feel that the system is so unfriendly to victims that you don't count at all and your loved one's death doesn't matter either because of the way you're being treated. And one of those things is the fact that your loved one cannot be represented in any living fashion whatsoever, but the violent criminal can sit there plus they can show slides and they can show movies and video tapes of this kid when he was ten years old in a Christmas pageant.

REP. FARR: No, in addition, of course, it's even more emotional when the raise the self defense type of defenses and those cases are even worse because they try to prosecute, in effect, the victim and those cases are just incredibly --

DEE CLINTON: May I just get in on this a little bit? If it wasn't for the fact that our loved one was dead, there wouldn't be a trial. So since he is the guest of honor in that courtroom or she is the guest of honor in that courtroom, should she not be represented or he not be represented? Should not the victim be present? If you weren't dead you would be allowed to be present. And as far as -- well, what happens if? They worked so hard -- Michael Ross, right now, 14 years later, they can't kill the guy. How much money do we spend on saving evil?

Need I say more? Am I willing to take the chance? Not one, not one of my murderers will be sentenced to the death penalty, not even get tried for it. Do you know what the justice system is to me? Let's make a deal. You get arrested, you're accused, you go on trial and you start bargaining. The fourteen year old son that went with his father to kill my son was given immunity to rat out the father. The father was given 45 years with the right to argue

for less to rat out his lawyer. The lawyer was given 45 years with the right to argue for less to rat out his lover lawyer who just got back from Ireland.

Now I'm waiting for the daughter - I mean the lover lawyer to rat out - to make a deal to rat out the rest of the bums that put my son in a box. So, this let's make a deal has got to stop and the victim has got to be represented because if it wasn't for my son being dead, none of those people in that courtroom would have a job. They all get paid on his death.

REP. LAWLOR: In interest -- I think Representative Farr has a point and he has a way of dealing with it and I just - we've asked our Office of Legislative Research -- you know, in some states you can ask the Supreme Court to rule ahead of time on how they would find the question with the photo in the courtroom, for example, and if there's a way to do it, perhaps through the new independent victim advocate, we can put the question before the Supreme Court before there's a trial and find out ahead of time. But I have to say I've thought about this a lot and as you point out, Sam and Dee, if the victim were still alive and it was an assault trial they could sit in the back of the courtroom and the court can enact reasonable rules and limitations on what they can say or do or dress or that type of thing and the way this bill is crafted it can't be any photo. It would have to be a fairly neutral photo, but just to give you a sense that there is --

DR. SAMUEL REIGER: We're not asking for anything more than that, but we have spoken to some of the judges and they said they would be in favor of this if it was a statute. In other words, they're not going to allow it unless there is a statute.

REP. LAWLOR: And I think as long as it's clear that a judge could prohibit it if it was in any inflammatory or too big or whatever, but as long as it's a reasonable photo with a neutral depiction of the person, I don't see how it could be prejudicial in light of the fact that if they weren't dead they

could be sitting in the back of the courtroom anyway.

So, if there's a way of getting the question answered ahead of time, we'll try and do that. Otherwise, I think it's not a bad idea to put it in statute.

And on the other things, John, we'll certainly -- you know, we tried last year and it kind of got killed in the process.

JOHN CLOONEY: Is that something that can be go through Judiciary and then be killed by the budget committee? Do we have to address the budget committee on that?

REP. LAWLOR: Yes. Well, you don't have to address them, but that's where it would run into a problem, but I think - as you point out, the number of people who would even be eligible for this is very, very limited and the way the bill's written it's got to be an innocent victim in a homicide who actually does experience financial hardship. You know, some people will go through this and not - I mean, have an emotional hardship, but not a financial hardship. Yours was a unique situation really and I think if there was a flood or a fire we'd be falling all over ourselves to offer financial assistance and I don't see why we can't do it for -

JOHN CLOONEY: Well, you know, the cost would be almost negligible to the State. You get your money back. It's a win/win situation for victims. Myself, Mr. Fridge in New London and anybody else who goes through - in Columbine we had 15 people killed and we only had one severely which was a school teacher. Well, that's the one family that could be hurt severely because they lost their income.

REP. LAWLOR: Right.

JOHN CLOONEY: While it's small in number, it can be disastrous for those too.

REP. LAWLOR: Okay. Are there further questions? If

not, thanks again for staying for this.

DR. SAMUEL REIGER: And thank you for staying late for us.

REP. LAWLOR: Did you want to introduce your other members? Your lovely wife, Wanda is here, right?

DR. SAMUEL REIGER: Joe Bellevue, Frank Blackford. Our staff member John's saintly mother has to put up with him.

REP. LAWLOR: Hello, Mrs. Clooney.

DR. SAMUEL REIGER: And the Poulands are also here.

REP. LAWLOR: And I'm sure all of the members of the committee are invited to attend your meetings if they decide to to get a sense of --

DR. SAMUEL REIGER: Any time.

REP. LAWLOR: -- the good work you do.

DR. SAMUEL REIGER: And come to the conference.

REP. LAWLOR: I'll be there, don't worry. Good night. Thanks.

Next is Maria Andrade.

MARIA ANDRADE: Distinguished members of Judiciary Committee and Representative Lawlor.

My name is Maria Andrade and I am student at the UCONN School of Social Work and I'm also representing the Bridgeport Child Advocacy Coalition. I'm going to be speaking on HB5835.

Last year after hearing from many of our member organizations about increasing housing concerns for low income families, BCAC organized a committee responsible for addressing housing needs of low income families in Bridgeport.

Members of this committee conducted a survey of local housing needs. We found that the lack of

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**OFFICE OF THE VICTIM ADVOCATE**  
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**Testimony of James F. Papillo, Victim Advocate  
Before the Judiciary Committee  
March 10, 2000**

Good afternoon members of the Judiciary Committee. My name is James Papillo and I am the Victim Advocate for the State of Connecticut. I appreciate this opportunity to testify regarding **Raised Bill No. 5785, An Act Concerning Victim's Rights.**

First, I must state that the Office of the Victim Advocate strongly supports the efforts to recognize and appropriately expand the rights of crime victims in Connecticut. Victims' rights are established in our state constitution and this constitutional provision requires the General Assembly to provide by law for the enforcement of these constitutional rights of victims. Raised Bill No. 5785 is a significant step in carrying out this constitutional mandate. I would like to focus my testimony, in particular, on Section 8 of this bill.

Although I strongly support Raised Bill No. 5785, I would urge the Committee to implement a relatively minor but important amendment to the current language. In proposed Section 8(a), I urge this committee to delete the words "to the same extent as a victim would have access to such records" which are found on lines 225-226. This change would eliminate confusion and ambiguity about the scope of access to records by the Victim Advocate and create consistency with the language of proposed subsection (a)(2). The appropriate scope of access to records should be "any records necessary to carry out the responsibilities of the Victim Advocate as provided in section 46a-13c" as Section (a)(1) provides, and this scope should not be limited or restricted by the language which immediately follows.

Subsection 2 of Section 8(a) is an extremely important addition to the powers of the Office of the Victim Advocate. It grants subpoena power to the Office of the Victim Advocate, a tool that is essential to the important investigatory responsibility that the Office of the Victim Advocate is charged with. Among the many important responsibilities of the Office of the Victim Advocate is the responsibility to "receive and review complaints of persons concerning the actions of any state or other entity providing services to victims and investigate those where it appears that a victim or family of a victim may be in need of assistance from the Victim Advocate." (CGS § 46a-13c(4)). This responsibility is nearly identical to the statutory responsibility of the Child Advocate to review complaints of persons concerning the actions of any entity providing services to children. (CGS § 46a-13l(3)). Indeed, the Office of the Victim Advocate is modeled after the Office of the Child Advocate. While the legislature has charged these

two agencies with similar responsibilities, it has given only the Office of the Child Advocate the necessary authority to access information to effectively carry out this responsibility. The Office of the Child Advocate has statutory authority to "issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers or other documents and to administer oaths to witnesses in any matter under his investigation." [CGS § 46a-13m(c)]. Additionally, the Office of the Child Advocate has statutory authority to access any records, even confidential records, which are necessary to carry out its statutory authority to investigate complaints.

The authority to issue subpoenas in the course of an investigation is common in Connecticut. For example, the Commissioner of Motor Vehicles has such subpoena power to investigate complaints against licensed Dealers and Repairers of motor vehicles (CGS § 14-65k) and the Commissioner of Consumer Protection has such subpoena power to investigate complaints relating to a boxing exhibition or a wrestling bout (CGS § 21a-196) and complaints relating to home improvement contractors (CGS § 20-424). Where the legislature has deemed it appropriate to grant subpoena power to investigate complaints in these areas, it should find the investigations related to entities that provide services to victims no less important.

A survey of thirty-two statutes that authorize investigation of complaints reveals that twenty-five statutes confer subpoena power (twenty confer investigative subpoena power and five confer subpoena power in hearings). Of the seven statutes that do not confer subpoena power, four statutes imposed a duty to cooperate with the investigation. Only three of the thirty-two statutes do not confer subpoena power or impose a duty to cooperate with the investigation.

In the vast majority of cases, the statutory authority to issue subpoenas, by itself, will ensure access to information necessary to properly investigate complaints. The absence of such subpoena power will, in many cases, prevent access to information necessary to properly investigate complaints. Currently, entities that provide services to victims have no statutory duty to cooperate in the investigations that the Office of the Victim Advocate is required to conduct. Even in the relatively brief existence of the Office of the Victim Advocate, many government officials have questioned whether they have a duty to cooperate in an investigation being conducted by the Office of the Victim Advocate. Two agencies have refused to comply with our requests for information in connection with investigations.

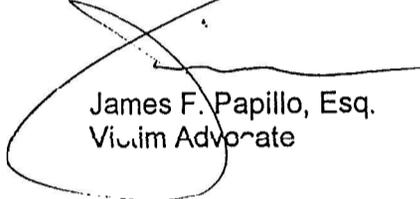
The power to issue subpoenas provided in Section 8 of Raised Bill 5785 will have adequate protection from potential misuse or abuse by the Victim Advocate in the form of judicial oversight. Similar subpoena power has been the subject of court actions in Connecticut. The Connecticut Supreme Court has upheld this authority and has approved a three-part test to be satisfied by the issuing authority before a court will order compliance with an investigative subpoena. See, Shulansky v. Rodriguez, 235 Conn. 465 (1995), approving and adopting decision in 44 Conn. Sup. 72 (1994). I, therefore, strongly urge favorable consideration of this essential tool to effectively carry out the statutory responsibilities of the Office of the Victim Advocate.

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In Section 8, subsection 2, I would like to call attention to a typographical error in the last sentence (Line 235). The word "or" which follows "Superior Court" should be "for."

Thank you for the opportunity to testify about this very important bill.

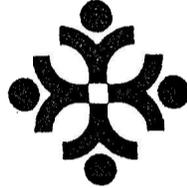
Respectfully Submitted,



James F. Papillo, Esq.  
Victim Advocate

SURVIVORS  
OF  
HOMICIDE  
INC.

002515



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Chairman Lawlor & Williams and members of the judiciary committee.

I come before you today to speak for raised bill #5785. Approximately one week ago, I spoke before the public safety committee with regard to the rights of convicted felons. There has been great publicity recently regarding the movement of prisoners to Virginia and their rights of visitation. I am glad that this committee has chosen to consider the rights of victims, which have been overlooked in this state and country for far too long. It is sad that those who have the power to effect change for victims often are more concerned with the rights of those who have made them victims.

I applaud this committee's attempts to level the playing field for victims/survivors. Most of this bill attempts to tighten some of the loopholes of previous victim friendly legislation. It is admirable that this bill will provide low interest loans for homicide survivors. I hope the amount is considerably more than the \$100 currently listed in this bill. I also urge you to support Sen. Edith Prague's proposed bill #7 which provides reimbursement to municipalities for interest waived on delinquent taxes for crime victims. I'm sure that John Cluny will have much to say on these provisions.

I strongly urge you to pass the provision that allows for the placement of a picture of the murder victim in the courtroom. The murderer is presented as a wholesome looking specimen with new suit, clean shaven and haircut, even with glasses to make them look more studious. The victim is only presented in horrible autopsy pictures and often callously referred to, as in our case, "the body in the storage locker". The jury, judge and attorneys in the courtroom should have to recognize that the victim was once a living, breathing, vibrant human being who had much to contribute to society.

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Ex Officio  
John Armstrong, Commissioner  
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Honorable Michael Lawlor  
State Representative  
  
Dr. Henry Lee, Director  
State Police Forensic Science Laboratory  
  
Charles Lexus, Victim Services Supervisor  
Office of Victim Services  
  
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Dr. William Pilkington  
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Kathryn Jaeger Ripley  
Wellness Counselor  
  
T. nya Sharpe  
Violence Prevention Coordinator  
Children's Medical Center  
  
Carol Walsh, Development Director  
Connecticut Sexual Assault Crisis Service

PAGE 2

believe that victims are reasonable and will listen to the options presented by the prosecutor. However, if victims want to take the option of having the case go to trial, they should be allowed to do so. Why should the perpetrator, only have this option. They plea bargain for lighter sentences and then, once sentenced, file motions to have their sentence reduced further. Is this fair? I don't think so.

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Though not included in this bill, I would again raise the point of terminating violent felons' rights to visitation from their minor children without regard to whom they have murdered. Their rights should decrease not increase after they commit violent crimes.

In summation, I applaud the efforts of this committee to strengthen the rights of crime victims. I urge you to make these provisions as specific as possible so we don't have to return next year to tackle these issues again. This legislation must have enough teeth so that we have "real" rights rather than paper ones. If our society can care so much about the rights of convicted violent offenders, it can care no less for the rights of the victims created by these people. I urge you to pass bill #5785.

002517



## State of Connecticut

### DIVISION OF PUBLIC DEFENDER SERVICES

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### OUTLINE OF TESTIMONY OF DEBORAH DEL PRETE SULLIVAN, LEGAL COUNSEL TO THE OFFICE OF THE CHIEF PUBLIC DEFENDER CONCERNING PROPOSED LEGISLATION

#### H.B. No. 5785

#### An Act Concerning Victim's Rights

March 10, 2000

Although the Office of Chief Public Defender does not oppose **H.B. No. 5785, An Act Concerning Victim's Rights** in its entirety, the Office of Chief Public Defender does oppose certain sections of the bill. The comments contained in this testimony shall identify those sections that the Office of Chief Public Defender opposes and propose language for other sections that may need further clarity.

*Section 3 (b)* – This section would amend C.G.S. 54-91c as amended by section 1 of public act 99-247 and permit the victim of certain crimes to appear before the court “for the purpose of making a statement for the record, including approval or disapproval of any plea agreement.” There is a concern that this language provides a victim with veto power over any plea agreement between the defendant and the state’s attorney. If this is not the intent of the amendment, it is suggested that the amendment be reworded. A suggestion would be to clarify that the victim does not have veto power over the plea agreement but may make a statement to the court and merely express his/her opinion as to the plea agreement.

However, if the amendment would permit a victim the power to veto a plea agreement, the Office of Chief Public Defender would oppose this language, as it believes that such power could halt the criminal process. A direct result of such veto power would be an increase in the number of cases that would be placed on the firm jury docket. Not only would an increase in the number

of jury trials create a substantial hardship upon the staff of this agency, but such an increase would strain the resources of the entire Criminal Justice system.

*Section 5* – The Office of Chief Public Defender strongly opposes this section that would permit the display of a photograph of a deceased victim during a murder trial in the presence of the jury. This is not an issue of whether the photograph itself would be inflammatory in nature. In a trial, it is not uncommon for a photograph of the victim to be part of the exhibits admitted in evidence by the court that the jury views. (See State v. Piskorski, 177 Conn. 677, cert. denied, 444 U.S. 935 (1979)).

The issue of concern is in regard to the influence that the photograph may have on the jury if openly displayed during the trial. A photograph may influence the emotions and arouse the sympathy of a juror. A photograph may influence a juror to the extent that the juror will consider factors other than the evidence presented at trial. Such an influence would prejudice the defendant and deny him/her due process and a fair trial. The harm that would result would be of constitutional magnitude. U.S. Const., Amend. V (Due Process), VI (Right to Jury Trial), XIV (Equal Protection); Conn. Const., Art. I, Sec. 8, as amended by Art. XVII; Art. XXIX (Due Process/Rights of Accused), Sec. 19 as amended by Art. IV (Right to Jury Trial); and, Sec. 20 as amended by Art. V and Art. XXI (Equal Protection); see also, State v. Gannon, et al., 75 Conn. 206 (1902) (*Discussion in regard to the history of the jury and the duty of the jury to follow the instructions of the court in applying the law to the facts found from the evidence presented*); Connecticut Rules of Court, Sec. 42-23. Material to Be Submitted to Jury.

*Section 6* – The Office of Chief Public Defender opposes this section that would add to the list of offenses for which a person would be denied bail, prior to the imposition of a sentence or pending appeal, any offense “involving the use, attempted use or threatened use of physical force against another person”. This would result in a person being denied bail pending appeal or prior to sentencing for a person convicted of certain misdemeanor offenses for example: disorderly conduct (C misdemeanor), breach of peace (A misdemeanor), assault in the third degree (A misdemeanor) or threatening (A misdemeanor). Such a provision would remove the discretion of the judge as provided by Connecticut Rules of Practice (Sec. 43-2. Posttrial Release Following Conviction) to release a person convicted of an offense pending appeal.

*Section 8* - The Office of Chief Public Defender strongly opposes the proposed amendment that would give the Victim Advocate investigative subpoena power. The proposal provides power to subpoena any person in any matter under investigation by the Victim Advocate. The amendment as written would permit the Victim Advocate to subpoena not only witnesses in regard to a criminal matter, but the defendant charged in the matter and his/her former or current counsel and file.

If a defendant were subpoenaed, the constitutional violations that would result would be egregious if a defendant was compelled to give testimony against himself, especially while the criminal matter was pending. In addition, a subpoena against defense counsel, even if in regard to a former client, would have adverse effects upon the attorney-client relationship. As a state agency, public defenders are particularly vulnerable to these adverse effects because of the pre-existing view of many clients that public defenders are merely part of the “system.” This view is

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reinforced when a public defender is compelled to present testimony or any information and produce his/her attorney file in an investigation against a former or present client and cooperate with the victim and the Victim Advocate. The ability of an individual public defender or an entire office to have the confidence of its clients and to expedite the court's business is irreparably threatened as a result.

As attorneys, public defenders are bound not only by the attorney-client privilege but also by the rules on confidentiality. Rule 1.6 of the Rules of Professional Conduct is broader than the protections afforded by the attorney client privilege. "The confidentiality rule applies not merely to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source." Rules of Professional Conduct Rule 1.6, Comment.

*Section 9* – The Office of Chief Public Defender strongly opposes this amendment that would permit a victim of a violent crime or the legal representative or member of the immediate family of a victim who is deceased to attend all pretrial proceedings. Such a requirement would impede the candid discussions in regard to case resolution and substantially delay the criminal justice process.

**Proposed Amendment: H.B. 5785. An Act Concerning Victim's Rights.**

**Section 8.**

LINE 232     any matter under the investigation of the Victim Advocate, **EXCEPT THAT THE VICTIM ADVOCATE, DURING THE COURSE OF AN INVESTIGATION OF ANY MATTER PURSUANT TO THIS SECTION, SHALL NOT HAVE THE AUTHORITY TO SUBPOENA: (1) A PERSON CHARGED WITH AN OFFENSE AGAINST A VICTIM IN REGARD TO AN INVESTIGATION THAT THE VICTIM ADVOCATE IS CONDUCTING OR (2) A LAWYER IN REGARD TO EVIDENCE OR INFORMATION OF ANY KIND ABOUT A PAST OR PRESENT CLIENT.**

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Connecticut Sexual Assault Crisis Services, Inc.

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March 10, 2000

To: Senator Williams, Representative Lawlor and Members of the Judiciary Committee

From: Gail Burns-Smith  
Connecticut Sexual Assault Crisis Services

Re: R.B. 5785 An Act Concerning Victim's Rights

Position: Support

My name is Beverley Brakeman Colbath and I am the Associate Director for the Connecticut Sexual Assault Crisis Service, Inc. which is an association of 11 rape crisis centers located around the State. Through our community based member centers we provide confidential, free and 24 hour crisis intervention counseling, medical, legal advocacy, information, referrals and risk reduction education.

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Bridgeport

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New Britain YWCA

Northeastern Connecticut  
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Rape Crisis Center of Milford

Sexual Assault Crisis Center,  
Stamford

Susan B. Anthony Project,  
Inc., Torrington

Women's Center of Greater  
Danbury, Inc., Sexual  
Assault Crisis Services

Women's Emergency Shelter,  
Waterbury

YWCA Central Connecticut,  
Meriden/Middletown

YWCA of the Hartford  
Region, Inc.

We support this proposal as it identifies a number of ways in which crime victim's rights will be addressed and protected.

In Section 3, subsections a and b, we would raise the concern that the definition of victim does not include those whose offenders have been charged with sexual assault in the 4<sup>th</sup> degree which is unwanted sexual contact. We believe it is essential that victims of all types of sexual assault should be able to approve or disapprove a plea agreement, therefore, we would recommend that section 53a-73a of the statutes be added to these sections.

Additionally, we support the Office of Victim Advocate having the ability to issue subpoenas in any matters under his/her investigation, just as the Office of the Child Advocate currently has in our State. Members of this committee will remember that the original intent of this Office was to ensure that crime victims were given more options than just civil actions to protect their rights. In order for this Office to be successful in that regard, we think the power of subpoena is essential.



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Testimony of Dee Clinton on HB No. 5785 March 10, 2000

Today is the death anniversary of my son, Anson, who was murdered by a hired hit man in 1994. It is my duty to be here today. I am a self-employed citizen who has lost another day's wages in order to testify. Because of my commitment to this cause, my family also sacrifices, as I contribute less income.

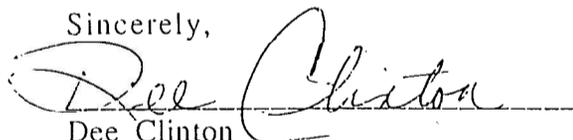
**I am in full support of HB No. 5785 in its entirety.**

Sub Section 2 is especially necessary for the Victim Advocate. Through my tragedy, I have had the honor and privilege to become aquatinted with Attorney James Papillo, an honorable man willing to take on this important and necessary task to protect victim's rights. Without subpoena power, Attorney Papillo will be working with one hand or maybe two hands tied behind his back.

Section 5 of this bill, "A photograph of a deceased victim, that is not of itself inflammatory in nature, may be displayed in the courtroom during a murder trial in the presence of the jury." is not only necessary but morally right. I would like to see added to this section: or in the presence of a judge or panel of judges. There would be no trial if not for the victim. After all, the accused has the right to face his accuser. The victim must be allowed to be present and party to the party. A picture will make that possible and bring comfort to the surviving family members.

Since my time is limited to three minutes, I cannot possibly speak on every issue so I will beg you to see the importance of enacting this bill. It is vitally necessary to protect victims and survivors in their hour of need. This bill goes a long in reaching that end. We must work together for truth for without truth, justice will never prevail. We are a part of the criminal justice system and deserve rights and protection under the law.

Sincerely,



Dee Clinton  
29 Old Stagecoach Rd.  
Old Lyme, CT. 06371  
860-434-3888

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State of Connecticut  
DIVISION OF CRIMINAL JUSTICE

OFFICE OF  
THE CHIEF STATE'S ATTORNEY

JOHN M. BAILEY  
CHIEF STATE'S ATTORNEY

300 CORPORATE PLACE  
ROCKY HILL, CONNECTICUT 06067  
TELEPHONE (860) 258-5800

TO: Judiciary Committee

FROM: John F. Cronan  
Executive Assistant State's Attorney

DATE: March 10, 2000

RE: Raised Bill 5785 AN ACT CONCERNING VICTIM'S RIGHTS

While the Division of Criminal Justice strongly supports the rights of crime victims, there are two sections of **Raised Bill 5785** that the Division must oppose.

**Section 9.** For one of the few times during the legislative session, the Division joins with the defense bar to **strongly oppose** this section. It is unrealistic, unworkable and ultimately may even **harm** the position of victims in the criminal justice process. The pretrial process allows prosecutors and defense attorneys to argue the strengths and weaknesses of cases, sometimes in the presence of a judge, sometimes not. With public defenders and many private attorneys, several cases are discussed with prosecutors one after another; many times this is done when there is a break or recess in court. The pretrial process is not structured to be done in a time certain manner. Secondly, I would doubt that many defense attorneys would be willing to discuss cases if the victim is present and would put the case, instead, on a firm jury list; creating unmanageable delays. Ironically, the defense could then seek a dismissal of the case if the state is unable to meet speedy trial deadlines. Finally, if a victim did participate in the pretrial process and the case ultimately went to trial, the victim's status or value as a witness could be in jeopardy. In the alternative, the Division of Criminal Justice would strongly support additional resources for court based advocates to keep victims or victims's families aware of the proceedings.

**Section 8.** The Division opposes, at this time, granting subpoena powers to the Victim Advocate. The Office of the Victim Advocate has been in existence for approximately six months. As with any new function, the Office is still undergoing the process of defining its mandates. I believe that after a year's work, the Victim Advocate would be in a position to better articulate whether such authority is needed or not. The Division's position is that Section 8 should be set aside for a year and revisited during the 2001 General Assembly Session. If, at that time, the Victim Advocate and his staff can point to the need for subpoena power based on the first year's

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cases, the Division of Criminal Justice would be willing to support granting this authority to the Office at that time.

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**STATEMENT**

**THE INSURANCE ASSOCIATION OF CONNECTICUT**

**Judiciary Committee**

**HB 5785 – An Act Concerning Victim's Rights**

**Friday, March 10, 2000**

The Insurance Association of Connecticut opposes Section 10 of HB 5785 – An Act Concerning Victim's Rights. Section 10 eliminates the statute of limitations and repose in an action for wrongful death for a person convicted of or found not guilty by reason of mental disease or defect for a violation of sections 53a-55, 53a-55a, 53a-56, 53a-56a or 53a-56b of the general statutes. Each of these provisions relates to manslaughter.

Statutes of limitation and repose provide finality and certainty in the civil justice system. They protect parties from stale claims and help to ensure the availability of evidence. Given the public policy objectives that underlie statutes of limitations and repose, the IAC is uncertain as to why the current two-year statute of limitations and five-year statute of repose are insufficient for the crimes in HB 5785.

If passed, HB 5785 will require insurers to defend claims that are ten, fifty or even a hundred years old. Under these circumstances, the defense of a civil case is unfairly compromised. Evidence and witnesses may no longer be available. A fair defense cannot be mounted. The result of HB 5785 will be to interject uncertainty and confusion into the claims settlement process.

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CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION

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March 9, 2000

The Honorable Donald Williams, Senator  
The Honorable Michael Lawlor, House Representative  
Chairmen, Judiciary Committee  
Room 2500, Legislative Office Bldg.  
Hartford, CT 06106

Re: H.B. No. 5785 *An Act Concerning Victim's Rights*

Dear Chairmen and Committee Members:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is an organization comprised of two hundred and eighty members. Founded in 1988, the organization serves to protect and insure those individual rights guaranteed by the Connecticut and United States Constitutions. The above-noted legislative proposal is scheduled for public hearing before the Judiciary Committee on March 10, 2000. CCDLA takes the following position on this proposal:

The organization opposes House Bill number 5785, *An Act Concerning Victim's Rights*, for several reasons.

First, Section 8 which proposes to empower the Victim's Advocate to issue subpoenas to compel the attendance and testimony of witnesses or the production of documents in any matter under investigation by the Victim Advocate, is problematic and unnecessary. Currently, pursuant to Conn. Gen. Stat. § 46a-13c, the Victim's Advocate may investigate complaints concerning the actions of any state agency or other entity providing services to victims where it appears that a victim or family of a victim may be in need of assistance from the Victim's Advocate. If the Victim's Advocate becomes aware of improper conduct towards a victim by a prosecutor, a judge or another attorney, there are already established procedures for complaints to be heard.<sup>1</sup> The proposal, as written,

<sup>1</sup> Pursuant to Conn. Gen. Stat. § 51-278b, the Criminal Justice Commission is responsible for imposing discipline and/or removal of members of the State's Attorney's office. Likewise, complaints against members of the judiciary may be heard by the Judicial Review Council, *see* Conn. Gen. Stat. § 51-51k, which has the

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would permit the Victim's Advocate to conduct private investigations and Star Chamber proceedings without the benefit of a neutral hearing officer.

To permit the Victim's Advocate to issue investigative subpoenas compelling the attendance of prosecutors, judges or any other State officials would interfere with the orderly administration of justice. Further, the proposed language would permit the Victim's Advocate to issue subpoenas for defense attorneys and/or witnesses in a criminal case which would interfere with an accused's constitutional rights, including the right to counsel and to due process of law.

Additionally, CCDLA respectfully submits that Section 8 will result in permitting the staff of the Victim's Advocate to engage in the unauthorized practice of law. While the Victim's Advocate is an attorney, *see* Conn. Gen. Stat. § 46a-13b(a), members of his or her staff are not always attorneys and staff members are permitted to engage in the same duties as the Victim's Advocate if performed under his or her direction. *See* Conn. Gen. Stat. § 46a-13b(d). By permitting staff members to issue subpoenas and administer oaths, they will be engaging in the unauthorized practice of law. Conn. Gen. Stat. § 51-88.

Secondly, Section 9 of H.B. 5785 which proposes that any victim of a violent crime, or the legal representative or family member of a deceased victim, shall be permitted to attend all pretrial proceedings and that all pretrial proceedings must be made part of the court record is unrealistic and unconstitutional. First, it should be noted that any person has the right to be present in the courtroom during pretrial motions and other pretrial proceedings in a criminal case. However, assuming that the purpose of this provision is to permit a victim to be present for either a pretrial conference between the State and the defense, or for a judicial pretrial conference which is held in-chambers between the Court and counsel for the State and defense, CCDLA submits that this proposal interferes with an accused's constitutional right to effective assistance of counsel by interfering with his or her right to have a meaningful and candid pretrial with a prosecutor and/or judge who is not being second-guessed

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power to issue subpoenas. Finally, complaints against attorneys are handled through established grievance procedures, *see* P.B. §§ 2-32 *et seq.* and Conn. Gen. Stat. § 51-90 *et seq.*

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by a non-party. As noted by the United States Supreme Court in *Santobello v. New York*, 404 U.S. 257, 260 (1971):

The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called 'plea bargaining,' is an essential component of the administration of justice. Properly administered, it is to be encouraged. If every criminal charge were subject to full-scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities.

Permitting victims to attend pretrial conferences will not only interfere with an accused's constitutional rights, hamper judicial autonomy and hinder prosecutorial discretion, but it also will bring the criminal justice system to a halt. The number of cases to be tried will significantly increase, straining an already overburdened system. Additional judges, prosecutors, public defenders, courts and staff will have to be approved in order to address the inevitable backlog.

Furthermore, this provision is unnecessary since the victim's rights constitutional amendment to the state constitution, Art. I, Section 8(b), mandates that a victim has the right to be kept informed of court proceedings, to communicate with the prosecution, and to object to or support any plea agreement entered into by the state and the defendant prior to the acceptance by the court of the plea. Since a victim is not a party to the criminal case, nor are they bound by the ethical constraints of the Code of Professional Conduct, their participation in the litigation aspect of the case (i.e., being present during the plea bargaining sessions) is inappropriate.

Finally, CCDLA objects to Section 5 of H.B. 5785 which proposes that a photograph of a deceased victim, that is not of itself inflammatory in nature, may be displayed in the courtroom during a murder trial in the presence of the jury. Assuming that this proposal refers to a photograph of the decedent that depicts him or her in a picture unrelated to the crime (i.e., a photograph showing a candid of the victim prior to the crime), such a depiction is wholly irrelevant to the issue of guilt and would only serve to prejudice the jury, thereby jeopardizing the soundness of any conviction on appeal.

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Thank you for your consideration.

Respectfully submitted,

*Hope C. Seeley*

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Vice President  
Connecticut Criminal Defense  
Lawyers Assoc.