

Legislative History for Connecticut Act

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<b>Act Number:</b> 208	2005
<b>Bill Number:</b> 6639	
<b>Senate Pages:</b> Senate: 4322-4331, 4390-4393	14
<b>House Pages:</b> House: 7224-7269	46
<b>Committee:</b> Labor: 1792, 1794-1795, 1804-1815, 1840, 1848-1850, 1884, 1886, 1927, 1928	23

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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SENATE

PROCEEDINGS  
2005

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Total number voting, 36; necessary for passage,  
19. Those voting "yea", 35; those voting "nay", 1.  
Those absent and not voting, 0.

THE CHAIR:

The bill is passed. Mr. Clerk.

THE CLERK:

Calendar Page 9, Calendar 615, Files 289 and 831,  
Substitute for H.B. 6639, An Act Concerning Offsets  
Against Disability Retirement Benefits for State  
Employees and Stress-Related Workers' Compensation  
Benefits for Police Officers, (as amended by House  
Amendment Schedule "A"), Favorable Report of the  
Committee on Labor and Appropriations.

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. Mr. President, I move  
the Joint Committee's Favorable Report and passage of  
the bill as amended by House "A".

THE CHAIR:

On acceptance and passage in concurrence, will  
you remark further? Senator Prague.

SEN. PRAGUE:

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Thank you, Mr. President. The bill before us was actually presented to the Labor Committee by Chairman of the Workers' Comp. Commission, John Mastropietro. And the bill prohibits a state from reducing a state retiree's disability retirement benefit by the amount of the attorney's fees the retiree incurs to obtain workers' compensation or as Social Security disability benefits.

So that the attorney's fees wouldn't be deducted twice, this bill is needed in order to protect that kind of situation.

I'd also like to explain House Amendment "A". House Amendment "A" provides to police only workers' compensation benefits for counseling when police officers are involved in a situation where deadly force has been used.

I urge passage of this bill as amended, and if there is no objection--

THE CHAIR:

Will you remark further on the bill as, will you remark further? Senator Newton.

SEN. NEWTON:

Just a question to the proponent.

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THE CHAIR:

Please proceed, Senator.

SEN. NEWTON:

And it's on the amendment, so help me understand. Aren't police officers right now covered for hypertension and if something happens to them using deadly force?

I don't understand why we need this House Amendment when I thought police already covered, if they had to use deadly force, that they would be covered already.

So I'm not sure about Amendment "A". I like the underlining bill, but I'm not sure about House Amendment "A".

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, Senator Newton, House Amendment "A" addresses an issue in the workers' comp system. There is no coverage for stress. The House Amendment "A" offers counseling, only counseling, to police officers who have suffered stress in a situation where deadly force was used in one form or

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another. Currently there is no coverage for that under workers' comp.

THE CHAIR:

Thank you, Senator. Senator Newton.

SEN. NEWTON:

Question through you, Mr. President.

THE CHAIR:

Please proceed, Senator.

SEN. NEWTON:

When you say deadly force, is that discharge of a weapon or could it be someone who has a baseball bat or a knife or is deadly force just if an officer has to discharge his weapon, through you, Mr. President?

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, so there will be no misunderstanding, I want to read you what the amendment says.

A mental or emotional impairment, unless such impairment arises from a physical injury or occupational injury or, in the case of a police officer, from such police officer's use of deadly

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force or subjection to deadly force in the line of duty, regardless of whether such police officer is physically injured, provided such police officer is the subject of an attempt by another person to cause such police officer serious physical injury or death through the use of deadly force, and such police officer reasonably believes such police officer to be the subject of such an attempt.

As used in this clause, police officer means a member of the Division of State Police, within the Department of Public Safety, an organized local police department, or a municipal constabulary, or in the line of duty means any action that a police officer is obligated or authorized by law, rule, regulation, or written condition of employment service to perform, for which the police officer is compensated by the public entity such officer serves.

So through you, Mr. President, to Senator Newton, this is a case, clearly described in the amendment, that offers only workers' comp counseling to officers under these circumstances.

THE CHAIR:

Thank you, Senator. Senator Newton.

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SEN. NEWTON:

Thank you, Mr. President. I just didn't know that officers didn't get counseling if deadly force was used against them, and mentally, emotionally, they had a problem that there was no help for these officers to get.

I'm really surprised at that, that officers didn't have the luxury to seek outside counsel should they have to use deadly force or deadly force is used against them in the line of duty.

My final question, through you, Mr. President, to the proponent.

THE CHAIR:

Senator.

SEN. NEWTON:

Who makes the determination, if I'm a police officer and deadly force is used against me or I have to use deadly force or I witness deadly force being used against another officer, who would make that determination that they need to seek outside counseling?

Is it just up to the officer to say, I need outside counseling because of what I experienced or

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what I've seen? Who would make that determination?  
Would the municipality make that determination that  
they need to seek outside help, the police chief? Who  
would make that determination, through you, Mr.  
President?

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. And through you to  
Senator Newton, Senator Newton, before I answer your  
question, I want you to know that nowhere in workers'  
comp is there coverage for stress. Nowhere, and  
that's something we need to deal with.

But to answer your question, the person who would  
determine whether counseling was needed would be a  
professional counselor, either a counselor who does  
this professionally or a psychiatrist. Whoever the  
police officer seeks for counseling, a professional  
would be involved and would document the counseling  
services.

THE CHAIR:

Senator Newton.

SEN. NEWTON:

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Thank you, Mr. President. Final question. So if that person went to a psychologist or someone to seek help because of deadly force, and they felt that person really doesn't need it, who would they report to?

If I went to counseling, and the person that was doing the counseling said, I don't really believe you need the help, would that person report back to anyone to say, we don't feel that officer needs the help, through you, Mr. President?

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, there is a process for filing for workers' comp benefits. And in the Department of Public Safety, there is somebody in Human Resources that takes care of the workers' comp claims.

And in any department, there is a designated person. There is a system in place. You have to file a claim. This doesn't give the police officer any monetary benefits. It just allows him to access

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professional counseling for the stress that he has suffered.

SEN. NEWTON:

Thank you, Mr. President.

THE CHAIR:

Senator Newton. Thank you. Will you remark further? Senator Cappiello.

SEN. CAPPIELLO:

Thank you, Mr. President. I rise in support of this bill as amended. And briefly, I would say that I don't think anyone in this Chamber knows what a police officer might go through if an attempt was made on his or her life or if they had to use deadly force.

And so, therefore, I wholeheartedly support Senator Prague and her efforts on this bill. Thank you, Mr. President.

THE CHAIR:

Will you remark further? Will you remark further? This is why this debate in the Senate is recorded and transcribed for posterity. Will you remark further? If not, Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. If there is no  
objection, I would like to place this on the Consent  
Calendar.

THE CHAIR:

Seeing no objection, so ordered. Mr. Clerk.

THE CLERK:

Calendar Page 13, Matters Returned From  
Committee, Calendar 113, File 57, S.B. 958, An Act  
Concerning Social Security Offsets Under the Workers'  
Compensation Act, Favorable Report of the Committee on  
Labor and Appropriations.

THE CHAIR:

Senator Prague, overcome by her success.

SEN. PRAGUE:

Wait, Mr. President, there's more to come.

THE CHAIR:

You ain't seen nothing yet, right?

SEN. PRAGUE:

Right. Mr. President, I move the Joint  
Committee's Favorable Report and passage of the bill.

THE CHAIR:

On acceptance and passage, will you remark?  
Senator Prague.

Thank you, Madam President. Madam President, if we might ask the Clerk to call for a vote on the first Consent Calendar at this time.

THE CHAIR:

The Clerk will read the Consent Calendar and announce a roll call vote.

THE CLARK:

Madam President, those items previously placed on the first Consent Calendar begin on Calendar Page 3, Calendar 539, Substitute for H.B. 6858,

Calendar Page 4, Calendar 547, Substitute for H.B. 6791.

Calendar Page 5, Calendar 584, Substitute for H.B. 6819.

Calendar Page 6, Calendar 586, Substitute for H.B. 6688.

Calendar Page 8, Calendar 603, Substitute for H.B. 6570.

Calendar 612, Substitute for H.B. 6732.

Calendar 614, Substitute for H.B. 6720.

Calendar Page 9, Calendar 615, Substitute for H.B. 6639.

Calendar 618, H.B. 5921.

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Calendar Page 10, Calendar 620, Substitute for  
H.B. 6882.

Calendar Page 13, Calendar 158, Substitute for  
H.B. 6029.

Calendar 161, S.B. 83.

Calendar Page 18, Calendar 462, Substitute for  
S.B. 63.

Calendar Page 19, Calendar 495, Substitute for  
S.B. 1227.

Calendar 524, Substitute for H.B. 5615.

Calendar Page 20, Calendar 550, H.B. 6594.

Calendar Page 21, Calendar 239, Substitute for  
S.B. 1116.

Calendar 325, Substitute for S.B. 1358.

Madam President, that completes those items  
previously placed on the Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. The machine is open, and  
will you call for a roll call vote.

THE CLERK:

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

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

THE CHAIR:

Have all Senators voted? Senator LeBeau.  
Senator Ciotto. Senator Hartley. Senator Fonfara.  
Mr. Majority Leader.

SEN. LOONEY:

Yes, thank you, Madam President. If we might stand at ease for just a minute. There was a request to remove an item from the Consent Calendar that was not announced prior to the announcement of the vote on the Consent Calendar.

THE CHAIR:

The Senate will stand at ease.

[SENATE AT EASE]

THE CHAIR:

If all Members have voted, the machine will be locked, and the Clerk will call a tally for the first Consent Calendar.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

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

THE CHAIR:

Thank you, Mr. Clerk. The Consent Calendar is  
adopted.

[GAVEL]

Senator Fonfara.

SEN. FONFARA:

Thank you, Madam President. Madam President, I  
was on the prevailing side in that roll call vote on  
the Consent Calendar, and I would move for  
reconsideration of Calendar 158, H.B. 6029.

THE CHAIR:

Is there discussion of the motion? Are there any  
objections? Seeing no objections, the bill will be  
reconsidered. Mr. Majority Leader.

SEN. LOONEY:

Yes, thank you, Madam President. If bill is now  
before us, I would move that it be marked Passed  
Temporarily.

THE CHAIR:

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introductions? If not, the House will stand at ease  
for a moment.

(CHAMBER AT EASE)

DEPUTY SPEAKER FRITZ:

Will the House please come back to order. Will  
the Clerk please call Calendar Number 252.

CLERK:

On Page 20, Calendar Number 252, Substitute for  
House Bill Number 6639, AN ACT CONCERNING OFFSETS  
AGAINST DISABILITY RETIREMENT BENEFITS FOR STATE  
EMPLOYEES, Favorable Report of the Committee on  
Appropriations.

DEPUTY SPEAKER FRITZ:

Representative Kevin Ryan.

REP. RYAN: (139<sup>th</sup>)

Thank you, Madam Speaker. I move for acceptance  
of the Joint Committee's Favorable Report and passage  
of the Bill.

DEPUTY SPEAKER FRITZ:

The question is on acceptance and passage. Will  
you proceed, Sir.

REP. RYAN: (139<sup>th</sup>)

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Thank you, Madam Speaker. This Bill was brought to us by the Workers Comp Commission. And it's meant to be a technical change.

The Bill is going to require the state, when reducing the state retirees to disability retirement benefit duty, the Workers Comp or Federal Social Security Benefits, not to count any attorney's fees the retiree incurred in order to obtain the Workers Comp benefit or the Social Security Disability benefit.

In other words, the attorney's fees would be removed from the benefit before the state uses the benefit figure to offset the state disability retirement.

We had JFS language that made this change. It made a significant technical revision in response to concerns that were expressed in the public hearing.

Chambers of Commerce and various associations support this Bill because it does give a fairer distribution to the individual who is receiving these benefits and doesn't penalize them for having used an attorney. They required the benefits since the

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attorney's fees are not calculated as part of the offset.

This Bill, as another aspect, has another concern that we want to bring forward. And we ask the Clerk to please call LCO Number 5602 and I be allowed to summarize.

DEPUTY SPEAKER FRITZ:

Will the Clerk please call LCO Number 5602, and the gentleman has asked leave to summarize.

CLERK:

LCO Number 5602, House "A" offered by  
Representatives Ryan, Witkos and Berger.

DEPUTY SPEAKER FRITZ:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

Yes, thank you, Madam Speaker. What this Amendment would do, police officers would be eligible for counseling under Worker's Compensation, even if no physical injury occurs from using or being subject to deadly force.

It'll allow the coverage for state and local police to, for mental or emotional impairments for the

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officers who have used this deadly force or were the target of attempted use of deadly force.

Under current law, mental and emotional injuries are compensatable only if they result in physical injury. An individual may use his own personal medical care but there are a limited number of visits. And we want to bring this individual back into the workforce as quickly as possible.

So this will allow them to get the kind of coverage they need when they've undergone such an experience. And I move for adoption.

DEPUTY SPEAKER FRITZ:

Will you remark further on the Bill before us?  
Will you remark further on the Bill before us?  
Representative Berger from the fine city of Waterbury.  
REP. BERGER: (73<sup>rd</sup>)

Thank you, Madam Speaker. It's a pleasure for me to stand up and support, strong support of this Amendment.

And I thank Speaker Amann for his leadership, Majority Leader Donovan, the chairs and co-chairs of Labor, and also in a bipartisan fashion, across the

aisle from me, Representative Witkos, who is currently an active police officer in the State of Connecticut.

For a moment, Madam Speaker, I'd like to indulge the Chamber and just speak a moment to the mental and emotional strain that's involved when police officers are involved in deadly force or the target of attempted use of deadly force.

And even though the scope of this, even though this Amendment will make some changes in Workman's Compensation for those municipalities that are self insured, it is limited in its scope and narrow in its goal of protecting the integrity rights of police officers who are out there every day, 24 hours a day, 7 days a week enforcing laws and protecting the citizens of the State of Connecticut.

And as Representative and Co-Chairman Ryan has stated, the use of deadly force and assault on a police officer, we can only, Madam Speaker, turn to the news just recently over the last several days when a state police officer in a routine stop pulled over a suspect's vehicle on an off ramp.

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And thinking that it was a routine stop, was physically assaulted and almost resulted in serious physical injury to that state police officer.

And if it weren't for a Cheshire police officer, Madam Speaker, and I know that that's true and dear to your heart, a Cheshire police officer coming upon the scene to intervene, there may have been more physical injury to that state trooper.

So, again, this Bill, this Amendment on the Bill, and narrowing its scope, limits those Workman's Compensation benefits that are so very important for those officers.

Because oftentimes when an officer is involved in such a deadly force, either a shooting or an assault, he is often vanquished to the radio room or to the records room, not able to seek the most important, important treatments that can be afforded to him under Workman's Compensation.

And that in the end, Madam Speaker, and Members of this Chamber, will make him a productive, or her, a productive member of that force in continuing protecting and serve.

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Some statistics that we can refer to from the Chief State's Attorney's office. In 2005, there were four reports involved, resulting in the death of a suspect by a police officer and deadly force. Four reports, two in Hartford, one in New Haven, one in Bridgeport.

In 2004, we have one report in Bristol and 2003, three reports. One in New Britain, one in Bridgeport and one in Trumbull.

So in looking at the narrow scope, again, Madam Speaker, I urge strongly this Chamber to support those law enforcement officers, those police officers that are out there and that are involved in this narrow scope of deadly force or assault or use of deadly force.

I look for support and passage of this important Amendment for those all that are in blue that serve.  
Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative Belden, you have the floor, Sir. Representative Hetherington, would you care to speak, Sir?

REP. HETHERINGTON: (125<sup>th</sup>)

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Thank you, Mr. Speaker. I rise to urge support for this Amendment. The police officers in today's environment undergo considerably more in terms of stress, apparent immediate violence and very dangerous conditions of employment. And I think we have to recognize the psychological consequences of that.

In addition, I would point out that this Amendment is limited in its scope. The officer who benefits receives care, psychological counseling, and other treatment for emotional distress. This does not add a disability portion. It is entirely limited to remedial psychological treatment.

And I would emphasize again, this does not open the door to extensive disability payments to an officer who does suffer the kind of trauma that the proposal anticipates.

So I think it's a, it's certainly a very modest, it's a modest extension of help to those who hold the front line for us. And I would urge its adoption.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative Witkos, you have the floor, Sir.

REP. WITKOS: (17<sup>th</sup>)

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Thank you, Mr. Speaker. I rise in strong support of the Amendment before us today. Police officers are a separate group of people. They're held to a higher standard. We're told that we have skin of leather. That things should not bother us. Words of hurt should not pertain to us.

When I graduated from the Police Academy in 1989, our guest speaker there said that there's four attributes that a police officer possesses that no other profession can profess that they have all four attributes.

One of them is that we can save a life. We save a life, Mr. Speaker, by taking a drunk driver off the road, by performing CPR on somebody, by educating youngsters in the dangers of drinking and driving.

Our second attribute, we can bring a life into this world, because we are the first responders. I have had the fortunate experience of being there assisting in the childbirth out in the field.

The third attribute is that we can take a life. A police officer can judiciously, if the circumstances warrant, take someone's life. And lastly, because of

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our profession, and only because of our profession,  
our life can be taken from us.

And Mr. Speaker, that's the part of the Bill that I think warrants extreme comment from my perspective as a police officer. Because people say as a police officer, well, that's one of the things that you might expect to happen to you.

Well, I dare say to anyone in this Chamber, to go this Sunday to East Hartford to the Memorial Run for Brian Aselton, and you tell his relatives that will be there, well, it should have been expected that he was shot in the forehead because he went to a noise complaint.

For Peter Lavery's widow and children, because he went to a domestic violence complaint, for Walter Williams because he saw some suspicious persons walking down the street, a person rubbed up against him, says he has a bulletproof vest on, I'm going to shoot him in the back of the head.

Or Daniel Wasson, a Milford police officer, who just in the course of a normal motor vehicle stop, was shot in the chest and killed because he's a police officer and only because he's a police officer.

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Mr. Speaker, since 1987, in 18 years, we've only had five Connecticut officers or troopers that died from gunshot wounds. That's not a lot. But one is too many. However, since 2000, in only five short years, we've had ten brother/sister officers commit suicide. There's a problem with our system.

I have an Amendment drafted which expanded the scope of what we're talking about here today. But I'm not going to call that. Because I really don't want to cloud the issue that officers that are subjected to deadly, serious physical force may need your assistance in obtaining psychiatric care.

We're not on a slippery slope here, folks. In 2004, the Workers Compensation Commission received 28,800 claims for injuries sustained on the job. And only 542 of those were from police officers. A very negligible amount.

In fact, three of our neighboring states, New York, New Jersey, and Rhode Island have stress related Bills under Workman's Compensation to cover officers and other works for just what we're speaking about here today.

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The Amendment I was going to call, and I'm going to speak about it, expanded the scope to provide coverage for psychological treatment for persons that were exposed to a traumatic or reoccurring events in their course of employment.

Now when we go on vacation, Mr. Speaker, we take cameras with us. And I ask, why do we take cameras with us? Because we want to record the happy event that we see.

We want to look back in a few years and say, oh, I remember, look how we looked then, look what we looked at. That was a great time we had, a fantastic time. We want to retain those memories.

Well, our brains act the same way. When we witness something that's very traumatic, it's like a file cabinet. We put something in the brain, and we maybe we store it away. And hopefully we'll never have to see that again.

I'm going to tell you about an officer that was on his way to work one day. And there was a 911 call at a residence, so he pulled in, because he was equipped for duty.

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And the person upstairs was yelling for help, saying, I need help, I need help. So the officer heard the Calvary coming, as we call it, and the backup officer arrived.

So they went inside the house and the woman says, well, he's in the bedroom, he's in the bedroom. The officer runs into the bedroom and there in the middle of the floor is a body. And there's a shotgun next to the body. So the two officers go into the room, and they make safe the weapon, move it out of the way.

They feel for a pulse, and there's a pulse on this person. So one officer says to the other officer, get the oxygen bag, get me a phone, let's get Life Star here, this person's still alive.

So the officers go to move the, roll the person over and apply an oxygen mask. But there's no place to put the mask because there is no face.

One of the officers, that was the backup officer, left the interior of the residence and unfortunately got sick because of the sight that he saw.

And then the ambulance crew arrived and they brought in the suction units and they made every attempt possible to save this life. Life Star came,

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landed a short while later and flew the person away, who subsequently died about two hours later in the emergency room.

Now, the reason why I think that's important is because you don't forget. I was the officer on that call and that happened in September of 1990. And it was an 11-year-old boy. And I tell you, that's something I will live with for the rest of my life. And luckily, I have been able to move past that.

But sometimes, some officers can not. They need to have psychological treatment to help them get through incidents such as these.

And all we're asking for in this Bill, it's not a wage replacement, so if you're out the incentive is to come back to work as best as you can. We're going to give you the psychological treatment that you need to get back to work.

Because imagine if we were called to the scene and an officer went to his chief or commanding officer and said, hey, I'm a little screwed up in the head. I need to go see a psychiatrist or psychologist. I need some help. And they're told, well, we don't have the insurance coverage for you. So you're on your own.

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And this officer is, well, you know what? I'm barely making ends meet now, I'm working 20 hours a week overtime, so I guess I'd rather provide for my children. At this point, I'm going to forgo the treatment.

And then because of circumstances beyond this officer's control, he gets into an incident and then there's an allegation of police abuse.

Imagine the lawsuits that are going to face those communities when an officer has gone forward and said, I need help, I'm suffering from a mental deficiency that has been refused treatment.

So with that, Mr. Speaker, I ask my colleagues to support the Amendment. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Witkos. Representative Miner, you have the floor, Sir.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. If I might ask a few questions to the proponent of the Amendment?

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. MINER: (66<sup>th</sup>)

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Thank you, Mr. Speaker. On Line 10 of the Amendment, the words repetitive acts incident is used. Could the presenter of the Amendment help me with that, understand what that might be, please? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

Thank you, Mr. Speaker. That is current language. That's not new language. And if you'll, I might ask Representative Berger if he'd be better able to give an example of what that might apply to.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan, are you requesting to yield to Representative Berger?

REP. RYAN: (139<sup>th</sup>)

Yes, Mr. Speaker, if I could.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger. He can't yield?  
Representative Miner.

REP. MINER: (66<sup>th</sup>)

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Thank you, Mr. Speaker. If it's alright with you, I'll direct the question to Representative Berger.

DEPUTY SPEAKER ALTOBELLO:

Without objection, without objection. Please proceed, Sir.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. On Line 10 of the Amendment, the words repetitive acts incident are included in the Amendment as proposed. Could the gentleman help me with the definition of what that might be, please.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Thank you, Mr. Speaker. Through you, Mr. Speaker, the line again that the Representative had question on.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner, would you repeat your question please.

REP. MINER: (66<sup>th</sup>)

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Certainly, Mr. Speaker. It would be on Line 10, it's the last word on Line 10, repetitive, and then Line 11, acts incident. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Thank you, Mr. Speaker. I had to get a copy of the Bill with the lines in it to see that. But for the legislative intent under that paragraph, Lines 6 through 10 on the personal injury, repetitive trauma, or repetitive acts could be considered, say, through you, Mr. Speaker, if the officer were involved in an assault either several times being assaulted on the same incident or repeated assaults on numerous occasions.

Therefore, through you, Mr. Speaker, the repetitiveness of that injury, trauma or incident. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. And if I could just follow up on that. In terms of an assault, is it an

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assault, I suspect there are different levels of assault.

And I certainly don't want to minimize this in any way. Are we talking about certain thresholds of assault under which this would qualify? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Yes, Mr. Speaker, through you. Certainly assaults, as they could be assumed through Connecticut constitutional law and/or assault and/or assault against a police officer. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. And so, I may be wrong here, but the threshold for assault against a police officer may be as much as striking an individual?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

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Yes, through you, Mr. Speaker. The Amendment addresses serious physical injury or use of deadly force in its language. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. And I thank the gentleman for his answer. And in terms of quantifying eligibility for this kind of treatment, if we were to imagine the scenario that Representative Witkos presented, I can envision where others might be present at the time of that kind of a situation.

Is it not, it wouldn't necessarily be the first responding or second responding officer, would it be fair to envision that this might affect any number of officers? Like quite often we see in very serious situations as many as 20. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Yes, through you, Mr. Speaker. The hypothetical that the Representative speaks of could, could occur as a hypothetical. If in the context of the Bill we

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were dealing with serious physical injury or death through such an attempt. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. I guess what I'm trying to understand here is, there have been some comments made about what the impact of this might be at both the state and local level. And there may very well be, or probably will be some impact with regard to some health insurance plans.

I think Representative Witkos presented a scenario where 542 claims have been filed by police officers and I think it was 28,000 was the total number throughout the state.

I'm just not sure what the ramifications of this are. And I'm not questioning an individual employee's ability to get help. I think help is important.

But by supporting this Bill, I'd like to be able to tell our chief elected officials what this may mean to them in terms of premium costs, associated health care costs. Would the gentleman have any idea, please? Through you, Mr. Speaker.

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DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Yes, through you, Mr. Speaker. In the OFA analysis of the Amendment to bring some comfort for the good Representative in his inquiry, it was anticipated that an increase in the number of cases brought before the Workman's Compensation Commission as a result of this Amendment going through and subsequently enforced, it will not result in a need for an additional appropriation on Workman's Compensation, on the Workman's Compensation end for that municipality.

However, if that municipality is self insured, that municipality may incur additional expense through the mandate. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

And in terms of the additional expense that may be incurred by self insured municipalities, do we have any estimate as to what that might be? Through you, Mr. Speaker.

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DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Yes, through you, Mr. Speaker. Of course that is a number that is tough to extrapolate out not knowing the amounts of incidents that may or may not be subject to the Amendment under Workman's Compensation if it were to pass in this Body.

However, on a cost level, it can be stated that a psychological interview, normally as an initial exam, would run approximately \$185. And each follow-up visit could incur an expense of \$125 per that visit. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. And I thank the gentleman for his answers.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative McCluskey, you have the floor, Sir.

REP. MCCLUSKEY: (20<sup>th</sup>)

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Thank you, Mr. Speaker. I rise briefly in support of this Amendment and would like to associate my remarks with those of Representative Berger, Witkos and Hetherington. Mr. Speaker, I just think it's important for the Chamber to have a little history as regards to this proposal before us.

First of all, a similar proposal passed this General Assembly in 2000 but unfortunately it was not acted on until the very end in the Senate, was sent back to us 15 minutes before Scene A B A in 2000.

Mr. Speaker, I think it's also important for the Chamber to know that in 1993, when we did the Worker's Compensation reforms, the issue that this Chamber was trying to address was the issue of private sector mental health claims, not those of police officers.

In fact, Mr. Speaker, I've tried to investigate the issue that was raised by Representative Chapin earlier in the and really, prior to 1993, municipalities in the State of Connecticut were subject to having their police officers have the ability to file a mental stress claim without a physical injury.

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So I was trying to investigate whether or not this had been an issue with the municipalities. But to the best of my knowledge it was not something that was onerous to the municipalities.

Upon investigation, I had talked to one of the architects of the '93 Bill, Representative Kurt Andrews, and it was never, that was not the impetus for this piece of legislation, and it had been suggested earlier in the debate. It's a very narrowly crafted Amendment.

And finally, Mr. Speaker, I just want to, you know, put another personal case that had affected me when I was working with one of the associations that represents police officers. And in 1996, we had a trooper, Mark DeGavich, who was involved in a huge battle in North Grosvenor Dale with an armed robber.

And he suffered only a minor physical injury. His leg was pinned in his cruiser when he was rammed by the armed robber. He was in an extended gun battle with this armed robber.

He dropped him about seven feet from DeGavich when he was charging the trooper. And in fact, that was one of the reasons why the state police updated

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their caliber of bullets, because the perpetrator in question was wearing layered clothing.

But but for the minor injury, the minor injury that trooper DeGavich suffered for his leg, he would be unable to file a claim. And I know that after that incident, he was just a regular trooper who was responding to an armed robbery thing.

And he was, as I said, an extended, oh, by the way, his gum jammed during the gun battle with the perpetrator. And he had the presence of mind to clear his chamber, put in a new magazine and stop the assailant.

But after that incident, he was unable to continue to perform his duties. And all this Bill, all this Amendment does, Mr. Speaker, is to allow the police officer in question to file a claim. It's not a presumption that the claim will be honored. But it just allows him the ability to file the claim.

And to prove that he is suffering mental stress as a direct result of the incident, the shooting. So, Mr. Speaker, I urge all my colleagues to support this Amendment. Thank you.

DEPUTY SPEAKER ALTOBELLO:

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Thank you, Representative. Representative Belden, you have the floor, Sir.

REP. BELDEN: (113<sup>th</sup>)

Thank you, Mr. Speaker. Mr. Speaker, as I've been listening to the debate, one thing comes to my mind. Psychological situations don't always develop at the time of the incident. And my recollection under Worker's Comp law is that you have a time table that you have to file for a claim.

And I just wonder whether or not we might want to make some adjustment to the law along the way because if there's an incident and there's a potential, I assume that any time deadly force is going to be used, that in order to fall under the calendar of events, under the Worker's Comp law, that the individual will have to file a claim, whether or not at that moment they have mental stress.

And I think it may be something that we need to look at. Because sometimes it might not, a situation, the flashbacks and whatever, may not occur for a number of months. So I don't know exactly how that would be addressed. It's certainly not addressed in the Amendment before us.

And I just bring it up because I think we may want to look at that because it would be unclear if a police officer four or five months after the fact suddenly had psychological problems relating back to that.

And it does happen in this way that the individual would not be allowed to file a claim because the timetable under our current law is passed. So I just raise that as a point of consideration. Thank you.

DEPUTY SPEAKER ALTOBELLO:

And I thank you, Representative Belden. Representative Dargan, you have the floor, Sir.

REP. DARGAN: (115<sup>th</sup>)

Thank you, Mr. Speaker. I rise in support of the Amendment. I know Representative Witkos talked about some stories. I know Representative Berger.

Anybody that's really been in the law enforcement field or fire service field really has stories that they could share with this Chamber of their years of service and what they've seen.

I know a number of years ago, we did repeal heart and hypertension benefits that impacted our local law

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enforcement and fire service personnel within the  
State of Connecticut.

And I feel that this bill is nearly drafted to  
take care of issues within the law enforcement field  
that have been overlooked within our Workman's Comp  
laws. And I ask the Chamber for their support. Thank  
you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative  
Wallace, you have the floor, Sir.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. Through you, Mr.  
Speaker, a question to the proponent of the Amendment.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. WALLACE: (109<sup>th</sup>)

Thank you, through you, Mr. Speaker. I want to  
make sure I understand what deadly force is. Through  
you, Mr. Speaker. Is that with a weapon or is that  
with a, could that be just an officer being struck by  
a perpetrator? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

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Representative, if you could, Representative Ryan. Oh, Representative Wallace, you were directing that question to whom, Sir?

REP. WALLACE: (109<sup>th</sup>)

To the proponent of the Amendment. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

Thank you, Mr. Speaker. It could be with a weapon, a knife, a club, a gun, anything that could result in the death of an officer or another individual.

DEPUTY SPEAKER ALTOBELLO:

Representative Wallace.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. Through you, Mr. Speaker, perhaps, well, let me continue on. I'm not sure I heard the proponent definitely say that if there is a physical weapon that would qualify as deadly force.

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But again, suppose a perpetrator strikes a police officer, is that deadly, with his or her hand, is that deadly force? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

I believe it would be the type of striking, through you, Mr. Speaker, that would make that determination and the location of where the person was struck, the force with which the person was struck. I think all those would be determinants in deciding if that particular act was an act of deadly force.

DEPUTY SPEAKER ALTOBELLO:

Representative Wallace.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. So as I understand it now, it certainly could be if an officer is struck with a weapon, a knife a club, certainly deadly force would be the definition if the officer is shot or shoots at someone. And deadly force could be the case if the officer is in a fistfight with someone else.

Would it, through you, Mr. Speaker, would it also be the case if, say for instance, an officer was in a

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fight with another officer? Would both officers be able to file, if this Bill were to pass, for this type of counseling? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

Through you, Mr. Speaker. My understanding would be the deadly force would have to occur in the line of duty. Two officers fighting might be an example of willful misconduct if they're on duty when such a fight would take place, and thus would not be eligible for Worker's Comp.

DEPUTY SPEAKER ALTOBELLO:

Representative Wallace.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. Through you, Mr. Speaker. Our officers are, as I understand it, I know our officers are very brave and I'm not sure what their policy is regarding when an officer is not on duty. And if they're not on duty, are they not in the line of work?

So again, to clarify. Suppose an officer is off his or her shift, is attending a concert, sees an

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altercation, rushes to take action, is struck with a fist, would that officer, under this law, be eligible for counseling? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

No, they wouldn't be. But we do have a Bill that's going to correct that if we have a chance to have it. So maybe by the end of this Session, it's possible that it could be.

DEPUTY SPEAKER ALTOBELLO:

Representative Wallace.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. I'm reading the OFA Fiscal Note. I'm reading that the Police Officers Health Insurance Plan may limit the number of counseling sessions in charge of co-pay. Through you, Mr. Speaker, what is the standard in Connecticut for police officers counseling sessions?

Are they limited currently? Through you, Mr. Speaker. And do they charge a co-pay? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

Through you, Mr. Speaker, I think when we had testimony on a Bill that was before us, that was part of the problem. There were a limit, under the medical care, if I have the question correctly, under their medical insurance, there was a limit to the number of appointments one may have.

And it might not have been adequate to address the situation for the officer. Which is why we were looking for some relief with this process so that people may, officers may get the number of appointments with a psychologist/psychiatrist that they may require to make themselves whole again.

DEPUTY SPEAKER ALTOBELLO:

Representative Wallace.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. Through you, Mr. Speaker. And of course, deadly force, as I understand now, carries a wide spectrum. And every officer and individual is different. So there could be any number, I'm sure there's no common number of counseling cases.

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But, through you, Mr. Speaker, does the proponent have an average number of counseling cases an officer would go through when they've been the subject of deadly force? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan.

REP. RYAN: (139<sup>th</sup>)

I think, I don't have that information with me right now, since this is in the form of an Amendment. And I might suggest that possibly Representative Berger, since he did have information as this Bill was brought up, might be able to better answer that question.

DEPUTY SPEAKER ALTOBELLO:

Representative Wallace.

REP. WALLACE: (109<sup>th</sup>)

Through you, Mr. Speaker. Could I direct that question to the good colleague from Waterbury?

DEPUTY SPEAKER ALTOBELLO:

Please proceed.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. And the question I asked, Mr. Speaker, is, is there, realizing deadly

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force covers a wide spectrum of incidents and realizing every individual responds differently and has different needs in counseling.

Realizing all that, is there still an average number of counseling sessions an officer has required in the past because they've been involved in a deadly force incident? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Yes, thank you. Through you, Mr. Speaker. There is some accumulated data that can be imparted here in reference to, through assaults, reported injuries, and/or weapons used against police officers, state or municipal, if we look at 8,000 sworn police officers, municipal and state, police officers in the entire State of Connecticut.

There are statistics in 2002 that show that out of 707 state and municipal law enforcement officers reporting being assaulted, 275 of those total officers reported no injuries, that would not be the subject, or potentially could not be the subject of this Amendment.

Weapons being used in those assaults roughly ran approximately 111 of those total cases. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Wallace.

REP. WALLACE: (109<sup>th</sup>)

Thank you, Mr. Speaker. And it may be that the answer is not known. But my question was, so once an officer is involved in a deadly assault, how many counseling sessions does he or she go through? And that question may not have an answer.

Mr. Speaker, I ask these questions because there is a municipal mandate in this Bill. It affects each of our municipalities. I do have some concerns over that.

As Chairman of the Planning and Development Committee, I remember serving as the Assistant to the Mayor of Danbury when this Body passed the hypertension legislation. That legislation was subsequently grandfathered because of the cost.

I don't know if we're facing that again or not, so I look forward to hearing the remainder of the debate. And I just want to make sure I understood,

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had a little bit better sense of the ramifications of this. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Representative Miner, you have the floor, Sir.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. If I could just a few follow-up questions to my good friend from Waterbury. Maybe I'll stay here, if that's alright with you.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Sir.

REP. MINER: (66<sup>th</sup>)

I think I'm getting a handle on why this is here. And I want to be sure that I understand it completely, or as completely as we all understand it anyway. Currently if an individual seeks medical treatment related to one of these incidents, they may go to the municipal health insurance plan.

And the municipal health insurance plan may allow that first visit, may allow a follow-up visit, but somebody says, you know, this isn't related to a softball injury, this is related to work.

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And so the insurance company kicks the claim to Workman's Compensation. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

That is correct. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Going back to my prior career, I have some understanding of Workman's Compensation situations. And it was my understanding, and still is, that there's an evaluation that's done at the time you make a claim.

Or at least you report the injury and then, in seeking treatment, some value may be assigned to that. Is my understanding correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

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Yes, Mr. Speaker. I'm sorry, I was involved in a sidebar discussion. If the good representative could just quickly repeat that.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Would it be safe, correct to say that if this is going to be a Workman's Compensation issue, an incident report would have to be filed each time an employee feels they may be subject to this kind of treatment? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Yes, thank you, Mr. Speaker. Normally the procedure would be that if an officer were involved in this incident, assault or use of deadly force through the normal course of procedure within that municipality, that a report, an incident report and a follow-up report internally, would be normally filed to create a record of that incident. Through you, Mr. Speaker.

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Representative Miner.

REP. MINER: (66<sup>th</sup>)

And staying on that for a moment, Mr. Speaker. If you had an occasion to file one of these reports four or five times during the course of the year, you'd be establishing a precedent of the potential of an injury. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Through you, Mr. Speaker. The hypothetical that the Representative refers to could in essence, the officer could in essence refer back to that individual incident one of the four or five, or possibly all. And have a resulting claim if this Amendment were to pass.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. My recollection is that there, that sooner or later someone from CURMA, which might be the provider of your Workman's Compensation

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insurance, is going to write the chief elected official and say, we need to do an update. You've had ten incidents of this category over the period of a year, how do we correct that?

And I can't envision a way where you could correct the type of a situation you've got here. In other Workman's Comp situations that I'm familiar with, there is generally an assignment of value, an assignment of disability after a period of time. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

I'm sorry, could he just repeat that?

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. My recollection of Workman's Comp matters is that generally there's an assignment of value to a claim. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

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REP. BERGER: (73<sup>rd</sup>)

Yes.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

And after a period of time, is it conceivable that you might end up with an assignment of value of disability as a result of repeated claims here?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER: (73<sup>rd</sup>)

Potentially. Though you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Miner.

REP. MINER: (66<sup>th</sup>)

Thank you, Mr. Speaker. And I thank the gentleman for his answer. I mean, I guess I can understand the interest in trying to get people treatment. But at the same time, I think we should know what it is that we're getting involved here.

If there was an established practice of carpal tunnel within an office, somebody might recommend that

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you change the way someone does typing. It's a common occurrence if you have a public works situation where you had a lot of back strains, they'd recommend a change.

But I don't know how you could make a change in this case. And so, you know, it may just be an inherent cost of the job. But I do think that the potential is real and that the expense is probable. And it may be significant. And I thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Thank you very much. Would you remark further on the Amendment before us? Would you remark further on the Amendment before us? Representative Orange, you have the floor, Madam.

REP. ORANGE: (48<sup>th</sup>)

Thank you, Mr. Speaker. Good afternoon to you, Sir. I certainly understand the debate here that's before us and some of the concerns of municipalities and the police officers themselves.

But this deals basically, in my eyes, with use of deadly force whether the police officer is using deadly force or is the recipient of deadly force.

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And I believe, thank you, Kevin, excuse me. And I believe that the intent of this legislation is just that these police officers be cleared by a psychiatrist or a psychologist before returning to work. I think that's the basis of this legislation. And I urge your support.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Will you remark further on the Amendment? Will you remark further on House "A"? 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.

DEPUTY SPEAKER ALTOBELLO:

Those opposed, Nay. Amendment is adopted. Will you remark further on the Bill as amended? Will you remark further on the Bill as amended?

If not, staff and guests, please return to the Well of the House. Members, please take your seats, the machine will be opened.

CLERK:

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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 ALTOBELLO:

Have all Members voted? Have all Members voted?  
Members, please check the tally board to make sure  
your vote is property cast.

If Members have voted, the machine will be locked  
and the Clerk will please take the tally. Would the  
Clerk please announce the tally.

CLERK:

House Bill Number 6639, as amended by House

Amendment Schedule "A".

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	1
Those absent and not voting	4

DEPUTY SPEAKER ALTOBELLO:

The Bill as amended is passed. Will the Clerk  
please call Calendar Number 225.

CLERK:

JOINT  
STANDING  
COMMITTEE  
HEARINGS

LABOR AND  
PUBLIC  
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PART 6  
1763-2082

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SEN. PRAGUE: And does that time and a half, is that calculated in your retirement?

RICK SWEET: Yes, Madam.

JAMES LONG: Yes, Madam.

SEN. PRAGUE: So overtime is part of your retirement benefit.

RICK SWEET: Yes, it is.

SEN. PRAGUE: Okay. I just wanted to make sure. Do you have a question? Thank you very much.

RICK SWEET: Thank you.

SEN. PRAGUE: The next bill is Raised Senate Bill 958, AN ACT CONCERNING SOCIAL SECURITY OFFSETS UNDER THE WORKERS' COMPENSATION ACT. Our first speaker is Jay Byland.

JOY BYLAND: Joy.

SEN. PRAGUE: Joy? Thank you, Joy.

JOY BYLAND: Senator Prague, Representative Ryan, SB 1021 and Members of the Committee, I am Joy Byland. HB 6639 I am representing Connecticut Employees Independent Union, SEIU Local 511.

I have been doing workers' comp cases for more years than I want to talk about. But anyhow, I wanted to just give you couple of real brief remarks on three of the bills.

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jms

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under the workers' compensation act for  
[inaudible].

And I think that is something that was taken  
away many years ago, and it's time to put it  
back.

I think there are parts of the body that can be  
injured, and there is permanent, loss and  
employees are not being paid. So I would urge  
your support of that bill.

The last bill that I have is Raised House Bill  
6639, AN ACT CONCERNING CERTAIN PAYMENTS  
AWARDED UNDER THE WORKERS COMPENSATION ACT.  
We would not support this bill.

First of all, I think it is aimed specifically  
at State employees, and I'm not sure why they  
are being singled out.

But I have to say that, in some cases, if you  
collect a State disability retirement benefit,  
that benefit would be offset already by  
workers' compensation benefits.

So it's kind of like you are looking at two, a  
double whammy. You could be offset from either  
side.

So I think if, that we shouldn't do anything  
about that bill. So I would urge that you not  
support that. That's it.

SEN. PRAGUE: Joy, SEIU, right, the Union?

JOY BYLAN: Yes, SEIU, right, and CUI rather.

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SEN. PRAGUE: And tell me again why you oppose  
Raised House Bill 6639?

JOY BYLAN: Well, it's apparently aimed specifically  
at State Employees because they are talking  
about the State Employees Retirement Commission  
and workers' compensation.

I think the main thing is that if you are in  
receipt of a State disability retirement  
benefit, there are various offsets, and one of  
them could be workers' compensation benefits.

So I think if the workers' comp is going to  
offset for, yes, then it's going back and  
forth.

There could be two offsets, and I don't know  
which one would go first. I think the bill is  
just confusing, and I think its interpretation  
might be even more confusing.

SEN. PRAGUE: We are confused too. We are gong to  
have to work this out with LTL client to figure  
out what this is.

JOY BYLAN: Okay.

SEN. PRAGUE: Thank you very much for your  
testimony. The next speaker is Kyra Nesteriak.

KYRA NESTERIAK: Good afternoon, Senator Prague, SB1021 SB958  
Representative Ryan, and the Members of the  
Committee.

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My husband has always did this footwork for me, so they have paid me back some of my sick days, but I have nothing in writing yet, and I am still working on that part of my problem.

SEN. PRAGUE: So, but this is a big problem.

JOAN MORIN: Yes, yes.

SEN. PRAGUE: You go back to work and you are injured, 100%, not even 50%, but 100% of the Social Security comes off of the workers' comp benefit which you are entitled to. This is an outrage.

JOAN MORIN: It is. It's wrong. Thank you.

SEN. PRAGUE: Thank you for coming here today.

JOAN MORIN: Thank you so much.

SEN. PRAGUE: We have the Chairman of our Workers' Compensation Commission here with us. Where are you? I'm sorry if I have kept you waiting. You are next.

COMM. MASTROPIETRO: Thank you, Senator. I had not planned to testify today. I only volunteered for what appeared to be some confusion on the bill that was just previously discussed, which is Raised House Bill 6639, AN ACT CONCERNING CERTAIN PAYMENTS AWARDED UNDER THE WORKERS' COMPENSATION ACT.

I think you heard the testimony of Ms. Byland that expressed some concerns with respect to

exactly what the intent and purpose of that bill was.

And as you know, Senator and Representative Ryan, that issue was raised to you by me as more of a technical adjustment, and I wanted to try to clarify.

So that there was no confusion, the person who is receiving disability retirement benefits from the State of Connecticut, who also would have been eligible for workers' compensation benefits under 31-308a, Discretionary Benefits.

When the commissioner awarded those benefits, if the commissioner decided that those benefits were warranted, when the commissioner ordered those benefits, he or she would take into consideration the amount of money that the person was receiving on disability retirement.

Then adjust the award of 308a, so that the combination of the two benefits would not exceed what that person would have received had he or she never been hurt and was continuing to work.

There was a challenge to the workers' comp reduction that went to the Supreme Court and was decided in the case of Starks v. the University of Connecticut.

What the Supreme Court said was although we concur with your philosophy, although we agree with the purpose and the intent of which you are attempting to accomplish, we believe that the statutes under the State of Connecticut

require the offset to take place on the side of the retirement disability, as opposed to on the workers' compensation side.

What I raised to you at that time was that puts the State worker in an unfortunate circumstance.

In the sense that, sometime down the road, they are going to get a letter from disability retirement saying we are going to need to reduce your benefit for X number of months, weeks, whatever the case might be, in order to recoup back that which you have been overpaid. That was never offset by virtue of what you received in workers' compensation.

The injured worker wouldn't really know that they were being overpaid. They were getting two separate, from two separate funds, both of them approved by officials who otherwise supposedly are knowledgeable as to what they are supposed to be getting, so they would have no clue.

They would then end up finding out that they have been overpaid at a later point and would be put through the hardship of having to have their disability retirement reduced for a period of time.

The court suggested, as a matter of fact, as part of its language, that the most efficient way to do it would be on the workers' comp side, but that, unfortunately, the laws don't exist to allow that to happen at this point.

I then brought it to your attention for you to consider whether or not adjusting the disability retirement laws and ours to allow us to take the offset might be the more prudent way to approach it.

I have had conversations with the Comptroller's Office, who is responsible for that responsibility on the disability retirement side.

I think there is an agreement there that it makes more sense for it to happen immediately when we can do it when the parties are right before us.

And it terms of the amount of benefits or who pays or anything of that nature. It is exactly as it was.

The workers are not getting any more or any less than they otherwise would have. There is no increase in benefits. There is no financial situation.

Actually, there can be an argument made that since the administrative costs associated with disability retirement would need to do, at a later point, it actually would be more expensive to do it that way because they would have to be playing catch up.

Whereas, we would have the parties in front of us and would be able to make the decision right there, issue the order accordingly. There is no administrative follow-up at a later point.

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So I wanted to simply bring that to your attention the way it was described by Ms. Byland.

I don't think, let me not speak for her because I did step out to inform her as to what the purpose of the bill was, she still expresses some concern as to whether or not the bill, as it is written, accomplishes that.

So I don't want to speak for her, but I did and want to bring to your attention that that was the purpose of the bill.

And by no means does this alter in any way, or is the intent of this bill to alter in any way, a benefit that a State Employee would receive.

It would just simply facilitate the distribution of that benefit and not have them have to repay it back at a later point.

SEN. PRAGUE: Commissioner, I mean, Mr. Chairman, is this the bill that deals with the 20% that the lawyers get?

COMM. MASTROPIETRO: There is another, yes, Madam. There is another question associated with that. And that is, under the discretionary benefit 308a, under workman's compensation, if the injured worker is represented by counsel, counsel is eligible to receive 20% as his or her fee for that particular benefit.

This has not been tested, but clearly, when the offset occurs through disability retirement, do they offset at 100%, which presumably would be

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the case, in which case then, the employee would lose 20% or do they offset it 80%. I can't answer that question.

I don't know how disability retirement will judge it, but if they see it as a dollar-for-dollar offset because that is what the statutes require them to do, it's conceivable that the injured worker would actually end up receiving 20% less than doing it the way it is now, as opposed to letting us make the offset and taking it into consideration in the beginning.

SEN. PRAGUE: Are there any questions from anybody? I'm not going to let you off the hook yet. I want to ask your opinion about how [inaudible - microphone not on].

COMM. MASTROPIETRO: The Social Security offsets. I think, let me say this, as you know, I have always had a policy where I leave the formulation of policy to those who have been elected by the public to do that.

Then I take whatever your collective wisdom is and try to implement it to the best of my ability.

So I religiously try to avoid telling you your job. However, to try to be somewhat cooperative, I would ask that perhaps the Committee might want to consider a couple of things as they are considering this bill.

One of the things is that should this bill pass, please consider that the Supreme Court

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has already ruled on this and determined that this is a substantive benefit.

What I mean by that is since it is a substantive benefit, you may not apply it retroactively.

It will not be applied retroactively unless you take affirmative steps to cause it to be applied retroactively.

There will be a period of time in which people, like the woman who just testified before me, will have been treated differently than the people next week, should you pass this bill, obviously, whatever its effective date would be.

The question would be then, since it cannot be applied retroactively, since it is a substantive matter, if you wanted it to apply retroactively, someone has to pay that back benefit.

In all likelihood, what you have done in the past is charge the second injury fund with that responsibility.

I just forewarn you to think about the other consequences associated with it because the next step will be, if you do change it, what about all of those who are affected.

Isn't that unfair? And if you deal with that, it will open up that other aspect. Whether that is right or wrong, that is your decision,

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but I do bring it to your attention, to think about how that might work. Other than that-

SEN. PRAGUE: [inaudible, microphone not on]

COMM. MASTROPIETRO: Let me see. I am sorry, Senator, I just don't have them committed to memory as you do.

SEN. PRAGUE: So we will give it to you.

COMM. MASTROPIETRO: Oh, Raised Senate Bill 1021. Okay.

SEN. PRAGUE: Do you have it?

COMM. MASTROPIETRO: Yes. Oh, I have them all. I just, this is a question that we have been debating for a number of years.

Obviously, the degree to which you choose to balance is appropriate compensation for an injured worker versus what needs to happen to allow business to remain competitive and continue to foster jobs.

It's a very difficult line to walk. Your decision will be implemented, no matter what it is, the nonscheduled body part scenario, in other words, the discussion that I think it was Ms. Pelletier that spoke to earlier, with respect to skin and that not being an enumerated organ, etc.

To give you a little bit of history, back in 1967 or thereabouts, the Legislature basically

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said to the Commission, for those body parts that are not scheduled, deal with them.

The way that the Commission dealt with it, as you recall back now, the Commission structure was different then, there were individual commissioners and individual districts that had authority.

There was no overall structure, and the Chairperson of the Committee was a facilitator, as opposed to someone who had the statutory authority to allow or position the commissioners to follow specific guidelines.

So the way they chose to do that was they came up with a list of unscheduled body parts, collectively, and assigned weeks to it, just exactly the way the Legislature did with those that were scheduled. Those became known as the unscheduled schedule.

That's how it was implemented. That's how it was done, up until the changes that occurred in 1993, when the Legislature decided for all of the reasons that they decided, that we are going to limit it to those body parts which we have enumerated. So, now, it really becomes a policy decision.

The answer to your question is, can it be done, sure. Mechanically, we have been there before. We can make it happen, if that is what the collective wisdom of the body is.

But you are still dealing with the same issues that you were dealing with in 1993, which is

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what is it that we need to do in order to meet our obligations to injured employees, while at the same time meeting our obligations to employers to allow them to continue to employ those people that we are trying to protect that are working for them?

Difficult line of work, difficult line to walk, and is one of the very reasons I never ran for elective office. I take my hat off to each of you.

SEN. PRAGUE: I appreciate all of your comments. We are glad you are sitting there as the chairman. In our opinion, you are fair, and we respect you for that.

COMM. MASTROPIETRO: Thank you I appreciate that. I try. Thank you, folks.

SEN. PRAGUE: Representative Esposito has a question, Commissioner.

COMM. MASTROPIETRO: Almost.

REP. ESPOSITO: Your staff is having so much fun, I hated to let you go, but you bring up an interesting point. You had the unscheduled schedule.

COMM. MASTROPIETRO: That did exist at one point. That is correct.

REP. ESPOSITO: Well, forgive me if I seem, you know, but why can't we just incorporate what we had at the unscheduled and go into the schedule that was set forth by the Legislature and that

would set everything out so it would be uniform throughout the State?

Then if there was any other discretionary awards, they could be dealt with on an individual basis, rather than having a whole hosts of unscheduled awards.

COMM. MASTROPIETRO: I'm sorry. Maybe I misspoke or maybe you misunderstood. There are no unscheduled awards. When you did the changes in 1993, you told us to stop.

REP. ESPOSITO: But I was saying prior to that, you had an unwritten rule that certain [inaudible] and certain things would be assigned a certain number.

Why can't we just bring that list back up, put it back into statute, and then go from there, so there would be discretionary, so that all the commissioners who are acting throughout the State would have the same book to go by?

COMM. MASTROPIETRO: There is nothing that would prohibit you from doing that, but it would be extending the benefits that presently exist, and you get into the same argument that existed in 1993 about the balancing act.

REP. ESPOSITO: But if we go with the discretionary awards, as it is written now, we would still be extending the benefit, but on a case-by-case basis.

COMM. MASTROPIETRO: That's absolutely correct.

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REP. ESPOSITO: [inaudible] 5% from 1, 50% from another, and there would be no uniformity.

COMM. MASTROPIETRO: I think I understand what you are saying. You are saying then instead of the discretionary part that presently exists in the bill, if we came up with a schedule and just included them in the statute, can that be done? The answer is yes.

Would it take away the potential ambiguity, the answer is, yes. There would have to be a certain degree of uniformity because you would have capped the award that can go to a body part that presently is not scheduled.

REP. ESPOSITO: That's basically the answer I was seeking. Thank you.

COMM. MASTROPIETRO: Yes, that can be done.

REP. ESPOSITO: Thank you, Madam Chair.

SEN. PRAGUE: Are there any more questions from the Committee Members? Thanks for joining us.

COMM. MASTROPIETRO: Thank you.

SEN. PRAGUE: Representative O'Rourke is here and asks courtesy to a fellow legislator. We are going to give him the opportunity to come up and testify.

REP. O'ROARKE: Thank you very much, Madam Chairman. Mr. Chairman, Members of the Labor Committee, I'm State Representative Jim O'Rourke for the

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REP. BELDEN: Oh, I see. Thank you.

SEN. PRAGUE: And, Nathan, you are next.

NATHAN SHAFNER: Good afternoon. Senator Prague, Representative Ryan, Members of the Committee, it's always a pleasure of my year to appear in front of this Committee and other Committees to testify in various workers' compensation bills that are raised.

I have submitted my position on behalf of the Connecticut Trial Lawyers Association. I would like to comment specifically on the two bills.

SB1021

Raised Senate Bill 958, AN ACT CONCERNING SOCIAL SECURITY OFFSETS UNDER THE WORKERS' COMPENSATION ACT, you have heard a number, I think, of heartfelt stories, and accurate ones too.

This bill came about in response to the draconian affects that this offset provision has had since 1993.

In 1993, this Legislature passed a number of measures, one of which would be able to reduce the receipt of workers' compensation benefits that were characterized as total disability, dollar for dollar, by what a person was receiving from Social Security retirement.

Recently the Supreme Court in 2003 in a case of Rayhall v. Acomb, which we appeared on an amicus, upheld the constitutionality that this Legislature had in passing the law.

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his Social Security was deducted off of that workers' comp.

NATHAN SHAFNER: That's right. The workers' comp, essentially, obviously, the medicals get paid, but the income associated with the workers' comp, which is wage replacement, doesn't get paid as a result of that.

SEN. PRAGUE: And just for the record, I want you to say it again, so that ears in this Committee room will hear.

It is not the business that saves money by having this Social Security deducted off of the workers' comp, it is the insurance company.

Because the business has already paid for that insurance coverage for our workers' comp for their employees.

NATHAN SHAFNER: Yes, I believe that to be the case because premiums are based on wages collected in a certain year. I believe that's to be the case.

SEN. PRAGUE: Thank you very much. Representative Ryan has a question.

REP. RYAN: Changing gears and going to another bill, I noticed on House Bill 6639, it was brought to my attention that, I don't know if you were here when we had the discussion with the commissioner, the Chairman of the Workers' Comp Committee.

NATHAN SHAFNER: Yes, I do recall that.

REP. RAYAN: You mentioned that your final resolution, it should be opposed because it makes benefits received by the worker taxable.

Can you give us an explanation why you think that is the case, so we can see if it is not the case, that we can get it clarified?

NATHAN SHAFNER: Okay. The purpose of this bill has come out as a result of the Starkes v. State of Connecticut decision, which came out this past July.

There, what the Supreme Court, I believe, specifically found is that you can't have a double, the injured worker whose workers' compensation is being reduced by what the receiving disability retirement has already been reduced by disability retirement.

Therefore, you can't have a double whammy, if you will, on the injured worker. What we believe to be the case is that, if they are going to take the disability retirement and reduce their workers' comp by that, they are already being taxed on the disability retirement. So, in essence, the workers' comp is already being considered a nontaxable event.

Perhaps I didn't state this correctly in here. Because they are already being taxed on the disability retirement, and I used that amount to reduce their workers' comp even more, in essence, it has more of an effect of a tax than it does an actual tax.

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It wouldn't make workers comp a taxable event, because workers' comp, by federal law is considered nontaxable.

So it's more of a, I was using it more of an adjective than an actual tax consequence. I apologize for that.

REP. RYAN: Thank you.

REP. CAFERO: Good afternoon. Thanks for your testimony. With regard to House Bill 958, the way you have put it, and I can't argue with it, is that somebody contracts, if you will, with the Social Security system, they work, they put aside, and at a certain age, they are entitled to benefits.

That is the contract we make with government when we are working and paying through the system.

That is regardless of your physical health, etc. When you get to that stage, you are entitled to those benefits.

When you make a contract with an employer for a job and you get hurt on that job, our system as a workers' comp system, pays you out certain benefits.

What I hear you are saying is that the two should not be intertwined. They were entitled to that Social Security.

**EMBRY AND NEUSNER**LAW OFFICES AT: 118 POQUONNOCK ROAD, P.O. BOX 1409 GROTON, CONNECTICUT 06340-1409 (860) 449-0341 FAX (860) 449-9070 

March 3, 2005

The Honorable Edith Prague, Co-Chairperson  
The Honorable Kevin Ryan, Co-Chairperson  
Labor and Public Employees Committee  
Legislative Office Building  
Hartford, CT 06106

RE: March 3, 2005 Public Hearing  
Position of the Connecticut Trial Lawyers Association

Dear Senator Prague and Representative Ryan:

Thank you for the opportunity to submit the position of the Connecticut Trial Lawyers Association on a number of bills that have been presented to the Labor and Public Employees Committee :

1: Bill No. 534:  
**An Act Concerning Sole Proprietors and Workers Compensation Insurance**

CTLA maintains that this bill is in need of some clarification so it does not impact on the employees of the sole proprietors. Currently, the law provides that in the event an injured workers' employer does not have any workers compensation insurance, that employee can bring a claim against the workers compensation carrier of the general contractor under the doctrine of the "principal employer"

CTLA has concerns that this bill would erode the concept of the principle employer so as to leave unfortunate employees, who would have no means to determine whether their employer has workers compensation, without any means of coverage. CTLA therefore suggests that the bill be modified so as to not impact on the employees of the uninsured sole proprietor.

2: Bill No. 958  
**An Act Concerning Social Security Offsets Under  
the Workers Compensation Act**

CTLA strongly urges the Committee to unanimously pass this bill, which will rescind one of the greatest injustices passed by the General Assembly in 1993.

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3: Bill No. 849  
**An Act Concerning Workers Compensation Coverage for Emergency Personnel**

CTLA supports the passage of this bill.

4: Bill No. 429  
**An Act Concerning Workers compensation Claims**

CTLA strongly opposes this bill which allows an employer to intervene or bring a lawsuit against an injured workers uninsured or underinsured motorist insurance carrier. A person purchases uninsured or underinsured motorist coverage above and beyond what the law allows. If one is hurt in a motor vehicle accident that arises out of and in the course of one's employment, that person is entitled to workers compensation benefits. Both the employer and the employee maintain the right under 31-293 to file a lawsuit against the alleged negligent tortfeasor. If that case were to settle, then the employer or their carrier that pays the workers compensation sits in a priority situation to receive reimbursement. Additionally, the employer also gets a moratorium against paying any further workers compensation to the extent that the employee receives a third party recovery. So under the current the system, the employer has a right to seek reimbursement in the initial action and gets a credit against future payment up to the extent of the injured workers third party recover.

In the event the employee through its own policy chooses to pursue claims against their own insurance, is something that employee paid for. Why should the employer be able to ride the coat tails for something that the claimant personally contracted for?

5: Bill No: 6639  
**An Act Concerning Certain Payments Awarded Under the Workers Compensation Act**

CTLA strongly opposes this bill which will weaken the minimal benefits that 31-308a provides. This bill is intended to overrule the Starks v. State decision which specifically rejected the State of Connecticut's attempt to take into account one's disability retirement for purposes of calculating a 308a award. It should be opposed as it makes the benefits received by the worker taxable.

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**Marshall R. Collins & Associates**

**TESTIMONY OF THE:**

**GREATER DANBURY CHAMBER OF COMMERCE**  
**GREATER HARTFORD PROPERTY OWNERS' ASSOCIATION**  
**LUMBER DEALERS ASSOCIATION OF CONNECTICUT**  
**MILFORD CHAMBER OF COMMERCE**  
**NORTHWEST CONNECTICUT CHAMBER OF COMMERCE**  
**QUINNIPIAC CHAMBER OF COMMERCE**

**BEFORE THE LEGISLATURE'S**  
**LABOR AND PUBLIC EMPLOYEES COMMITTEE**  
**THURSDAY, MARCH 3, 2005**  
**1:30PM, ROOM 1D**  
**LEGISLATIVE OFFICE BUILDING**  
**HARTFORD, CONNECTICUT**

Good afternoon, my name is Marshall R. Collins. I am appearing before you in my capacity as the Counsel for Government Relations for the six organizations set forth above. These "Organizations" represent more than 4,500 employers of approximately 140,000 men and women in Connecticut. The Organizations collectively represent small and large employers, for-profit and not-for-profit entities, and businesses in every virtually every sector of our economy from across the state. The Organizations **support House Bills 6639 and 5396 and oppose Senate Bills 958 and 1021 and House Bill 6751.**

**SB 1021 AAC Discretionary Benefits Under The Workers' Compensation Act** would give the Chairman of the Workers' Compensation Commission the sole discretion to award benefits for injuries not currently on the statutory schedule. This proposal would repeal a significant aspect of the workers' compensation reforms of 1993 and increase workers' compensation costs. Today when Connecticut companies are struggling to remain competitive, this proposal contributes nothing positive to efforts to create and retain jobs in Connecticut. If we are to increase our tax revenues by growing our economy, this proposal must be rejected. The Organizations strongly oppose **SB 1021.**

**SB 958 AA Concerning Social Security Offsets Under The Workers' Compensation Under The Workers' Compensation Act** would increase the cost of workers' compensation to employers of all sizes. This proposal violates the principal that an employee should not receive more compensation when out of work than when working. There is language in **HB 6639** that is relevant here. In part, that bill is intended to:

*"...prevent the claimant from receiving a combined benefit greater than the wages the employee would have earned had the employee continued in the position held prior to the injury."*

That same standard should be applied here. Connecticut's workers' compensation benefits remain among the most generous in the nation. There is no need for this bill. The bill should not be favorably reported.

HB 6751 AA Concerning The Unemployment Compensation Alternative Base Period would continue the use of the alternative base period rather than allowing it to sunset. To the extent that this methodology increases unemployment compensation eligibility and further draws down the fund, the Organizations oppose the proposal. The Organizations continue to oppose increases to the anti-competitive cost of doing business in Connecticut.

HB 6639 AAC Certain Payments Awarded Under The Workers' Compensation Act requires the Workers' Compensation Commissioner to offset disability retirement benefits from workers' compensation benefits to avoid unnecessary payment of benefits by the state and to prevent a hardship on claimants who may be forced to repay all or a portion of their excess benefits. The Organizations support this effort to avoid making excessive payments rather than trying to regain the money after it has been paid. The overriding principle should remain the prevention of providing benefits greater than the wages that the employee would have earned while working.

HB 5396 AAC Unemployment Compensation Hearings requires employees to personally appear at any unemployment compensation hearing and that no such hearing shall be cancelled more than twice. The Organizations support this common sense approach to resolving claims in a timely fashion.

This concludes my testimony. Thank you for your consideration.