PA 11-045

SB0028

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| House | 5364-5370 | 7 |
| Insurance | 813-820, 825-858, 923-936, 938-945 | 64 |
| Judiciary | 829, 5339, 5341-5342, 5497-5498, 6327, 6442, 6445-6446 | 10 |
| Senate | 2044, 2082-2085 | 5 |
| | | **86** |

**H – 1107**

# CONNECTICUT
# GENERAL ASSEMBLY
# HOUSE

## PROCEEDINGS
## 2011

**VOL.54**
**PART 16**
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# CONNECTICUT
# GENERAL ASSEMBLY
# SENATE

## PROCEEDINGS
## 2011

**VOL. 54**
**PART 6**
**1735– 2085**

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# CONNECTICUT
# GENERAL ASSEMBLY
# SENATE

## PROCEEDINGS
## 2011

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**JOINT**
**STANDING**
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**2011**

Good evening, Mr. Speaker. Mr. Speaker, I move that this matter be referred to the Judiciary Committee. Thank you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Is there objection on referral to the Judiciary Committee? Is there objection on referral? I believe she said Judicial Committee. Is there objection? Hearing none, so ordered.

Will the Clerk please call Calendar Number 538.

THE CLERK:

On Page 29, Calendar 538, Substitute for Senate Bill Number 28 AN ACT CONCERNING SURETY BAIL BOND AGENTS AND PROFESSIONAL BONDSMEN. Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Megna of the 97th, you have the floor, sir.

REP. MEGNA (97th):

Thank you, Mr. Speaker, and good evening, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Good evening, sir.

REP. MEGNA (97th):

Mr. Speaker, I move the Committee's Joint Favorable Report in concurrence with the Senate and passage of the Bill. Passage of the Bill in concurrence with the Senate. I'm sorry. The hours are late.

DEPUTY SPEAKER ARESIMOWICZ:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the Bill. Representative Megna, you have the floor, sir.

REP. MEGNA (97th)

Thank you, Mr. Speaker. Mr. Speaker, this is what's referred to as the bail bond reform Bill. It's been before this Chamber I believe last year in similar fashion.

And what it is, is really a whole host of statutes empowering the Department of Insurance to further regulate surety bond agents, managing agents and surety companies as well as professional bondsmen.

And it actually empowers the DPS, the Department of Public Safety, who actually oversees and regulates the professional bondsmen, empowers them to regulate those bondsmen even further.

Briefly, Mr. Speaker, this Bill does things like requires a full premium to be collected by the surety bond agents.

It seeks to prevent what was commonly referred to as undercutting.

It establishes standards for solicitation, record retention, reporting requirements and accounting for premiums.

And does things like requiring the surety companies to conduct audits on bail bond agents, I believe twice a year and ensure that they receive full payment when posting bail bonds.

It requires bank accounts to be established in the counting of build-up funds.

It requires the surety companies to certify the integrity of bond agents and to assume full responsibility for the acts and conducts of their appointed agents, as well as a whole host of other standards that the Bill establishes in the 24 sections.

We're hopeful, Mr. Speaker, that a lot of the issues that were brought before this Legislature over the last many years regarding some bail bond

agents, that they will be addressed and taken care of with this Bill.

And with that, I would urge my colleagues to support this Bill, Mr. Speaker. Thank you.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir. Will you remark further on the Bill before us? Representative Coutu of the 47th, sir, you have the floor.

REP. COUTU (47th):

Thank you, Mr. Speaker. Mr. Speaker, a few questions, through you to the proponent of the Bill.

DEPUTY SPEAKER ARESIMOWICZ:

Please proceed, sir.

REP. COUTU (47th):

First question. I just want to verify this last year passed unanimously through the House and just got held up in the Senate?

DEPUTY SPEAKER ARESIMOWICZ:

Representative Megna.

REP. MEGNA (97th):

Through you, Mr. Speaker, I believe so.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Coutu.

REP. COUTU (47th):

And secondly, there's been no major changes with this piece of legislation? Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Megna.

REP. MEGNA (97th):

To my knowledge, no, through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Coutu.

REP. COUTU (47th):

Mr. Speaker, this has been a long process with this piece of legislation. It's been worked out with many parties to it. I believe it is a compromise and a solution.

It passed the Insurance Committee with no objections and I'm in support of this piece of legislation, and I urge my colleagues to do the same. Thank you.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much for your questions and comments, sir. Will you remark further on the Bill that's before us? Will you remark further on the Bill that's before us?

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

THE 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 ARESIMOWICZ:

Have all the Members voted? Have all the Members voted? Please check the Roll Call board to make sure your vote has been properly cast.

If all Members have voted, the machine will be locked. The Clerk will please take a tally.

Representative Mary Mushinsky, how are you doing this evening, madam?

REP. MUSHINSKY (85th):

Thank you, Mr. Speaker, good evening.

DEPUTY SPEAKER ARESIMOWICZ:

Good evening.

REP. MUSHINSKY: (85th):

I thought I pushed it, but it didn't register. I intended to vote yes.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Mushinsky in the affirmative.

The Clerk please take a tally and the Clerk please announce the tally.

THE CLERK:

Senate Bill Number 28 in concurrence with the Senate.

| | |
|---|---|
| Total Number Voting | 136 |
| Necessary for Passage | 69 |
| Those voting Yea | 129 |
| Those voting Nay | 7 |
| Those absent and not voting | 15 |

DEPUTY SPEAKER ARESIMOWICZ:

The Bill passes in concurrence with the Senate.

Will the Clerk please call Calendar Number --

SPEAKER DONOVAN:

Are there any announcements or introductions? Any announcements or introductions? Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker. Mr. Speaker, thank God I'm not saying good morning, Mr. Speaker. I'm still saying good evening.

SPEAKER DONOVAN:

CHAIRMEN: Senator Crisco
Representative Megna

VICE CHAIRMEN: Representative Johnson

MEMBERS PRESENT:
SENATORS: Kelly

REPRESENTATIVES: Alberts, Altobello, Aresimowicz, Crawford, Hoydick, Nardello, Roldan, Sampson, Schofield, Yaccarino

REP. MEGNA: Order at about 1:07. Each -- the emergency exits are in the -- the rear of the room here. Each one is illuminated in case of an -- an emergency. That's the way you leave the room unless directed otherwise. We're going to limit speakers to three minutes of testimony and we just ask that you be conscienous about that and always remember we have your testimony and we can ask you questions after your three minutes has expired.

The first hour we will leave -- we will have legislators, agencies and municipalities speak. And with that let's get rolling.

The first speaker is Kevin Lawlor. Your Mike's brother, right? That's a good thing -- that's a good thing.

SB 28

KEVIN LAWLOR: Yes. I should have my last name officially changed to Michael's brother because

it's usually Kevin Lawlor, Michael's brother is what I am.

First of all I'd like to thank the members of the Committee for the invitation to speak on this important topic today. Again my name is Kevin Lawlor. I'm the State's attorney for the judicial district of Ansonia/Milford and my testimony today will be on behalf of the Division of Criminal Justice.

My presentation this afternoon will focus on some of the important shortcomings in our criminal justice system which my office, in conjunction with a number of other law enforcement agencies, uncovered as we investigated the murder of a woman by the name of Shengyl Rasim last year on January 17, 2010. My testimony here is in support of S.B. 28.

As background, on January 17 of 2010, Selami Ozdemir brutally shot his young wife, Shengyl Rasim as she held her crying infant in her arms and their young son slept a short distance away in the next room. During the next four -- or during the prior four months, Mr. Ozdemis was arrested on two separate occasions by the West Haven Police Department for domestic violence offenses involving his wife.

On both occasions Mr. Ozdemir was bonded out by a bail bondsman. Shortly after his release on his second arrest, Ozdemir returned home and, armed with a friend's semi-automatic handgun, shot her multiple times while she was on the phone with

West Haven Police Department. He then turned the gun on himself. Mr. Ozdemir died from a self-inflicted gun shot wound to the head prior to the West Haven Police being able to arrive.

My office's investigation focused on determining the exact chain of events leading up to the murder and also to identify some gaps in the system that might have assisted in preventing this tragedy. My office identified several issues in this case. The one that I'm going to focus on this afternoon is the bail bondsman's ability to bond out Mr. Ozdemir on that second occasion without obtaining any monetary compensation whatsoever from the accused.

A troubling factual allegation in this matter involved Mr. Ozdemir's bail bondsman being able to obtain his release without receiving any payment whatsoever. Normally a professional bondsman, as I'm sure you are aware, obtains a -- a premium, normally the statutory rate is somewhere between 7and 10 percent, depending on the bond posted in exchange for a obtaining the suspect's release.

Under United States constitution, bail must be reasonable and designed to assure the defendant's appearance in court. Police and the courts are required by statute to take a number of factors into consideration when -- when setting a bond including the safety of the other persons involved in the case including the victim. Currently Connecticut state law, specifically 29-151, doesn't specifically prevent the

professional bondsman from posting a bond for an arrestee and not taking any fee at that time. The statute merely provides for the maximum allowable fee that can be charged but not a minimum required fee.

Theoretically an arrestee could obtain his release on a $1 million bond without providing any money to a bondsman up front whatsoever. This is currently a business decision made by a private party who has no responsibility as opposed to the police or the bail commissioner to weigh the significant public safety risks associated with the -- with that decision. The bondsman is also not currently required to immediately fill out any paperwork outlining the contractual relationship between the parties.

On the Ozdemir case, the police set a bond of $25,000 on three charges: disorderly conduct, risk of injury to a minor and violation of a protective order, the -- the last two being felonies. They set that bond based on the seriousness of the charges, the repeated activity against this particular victim and that the defendant had a -- a criminal record with no convictions but pending charges also against her.

Normal -- in a normal situation then he would have had to have raised approximately $2,500 to pay a bondsman prior to obtaining his release. If he didn't have that $2,500 on him, he would have, you know, obviously been allowed to have a phone call made and have someone appear with the money for him.

His -- his ability, however, to be immediately released by that bondsman who took him out without obtaining any fee prevented any cooling off period and allowed him to immediately leave the police department, return to his restaurant, obtain a handgun and commit that brutal homicide.

The Insurance Department, who is going to be testifying I believe after me, and the Division of Criminal Justice worked together on legislation in the past legislative session specific to this bail bond industry reform that failed on the last day of the session and I believe that's what brings us here today for S.B. 28.

There's a number of different issues raised in the bill. The ones that specifically I would address is allowing -- prohibiting an agent from executing a bail bond unless they charge the premium rate that the insurer filed with the Insurance Department, requiring a bail agent to certified under oath that the premium they charged did not differ from that which was filed and approved by the Insurance Department, allowing a bail agent to enter into a premium finance arrangement which is basically a loan, that's something that I'm going to address in a moment that I -- that the Division thinks is something that probably should be take -- you guys should take a look at, require surety companies to conduct audits on the bail bond agents to ensure that they're receiving the full payment that's due and require surety companies

to certify the integrity of the bail bond agents and assume full responsibility for the acts and conduct of their appointed agents.

This bill also establishes standards for solicitation and reporting requirements. In addition, the bill also includes a funding mechanism which I think is important. The Division agrees with the majority of these reforms. In several areas we would recommend, however, that the law go farther.

Section 3(b) of the bill, in particular, states that a surety bail bond agent who files a false certification on the premium rate charged, as outlined above, shall only have administrative action taken against him or her. I can only assume that that means some sort of a suspension of their -- their license if they file a false report. I think it should also specify that a -- a false certification on any official document such as that constitutes a violation of 53a-157b which is a false statement in the 2nd degree. I think if that was an intentional misrepresentation or an intentional false statement that it would certainly be intended to mislead a public servant, that being the insurance commissioner, and, therefore, that would constitute a violation of that statute. It's only fair for them to be pointed out to them that it's also a potential criminal conduct as opposed to just having their license suspended.

Section 4 allows for premium financing arrangements. As I mentioned earlier these are

basically arrangements that allow bail bondsmen to take promissory notes on bond fees. So that again would be a contractual arrangement. Under the bill they would have fifteen months to pay off the fee and 75 -- 75 days before a bondsman had to report a nonpayment on the case. As my testimony outlines I think there's some enforceability problems with that type of an arrangement. There's also -- I just have questions as to if you have 15 months to pay off the -- pay off the promissory note and your case only takes six months to be disposed of, who's really going to be looking nine months down the road after your case is over whether or not you ever paid the -- the bondsman the money that you were owed.

It's not really in their interest to sue you. You know they're going to be losing business in the future. And again that just becomes a -- a civil lawsuit, whether it's small claims or whether it's in regular -- a civil court where it becomes a negotiation. You're going to take ten cents on the dollar in order to avoid a lawsuit. You're going to take 50 cents on the dollar. And again we just get back to a situation where bail bondsmen are -- are going to be accepting much less than the statutory premium in order to obtain somebody's release. So I don't think that having loan situations to get people out on dangerous felonies is something that we should be in the business of legislating or condoning.

The Division also believes that there should be a -- a limited prohibition on the accepting of cash

from a principal or an indemnitor. I certainly think it would be easier to trace and for the Insurance Department or whoever the monitoring agency is to be able to trace how much money is coming in and how much money is going out on a particular case by using check, a money -- money order or a credit card. You know one of the -- my personal observation is, you know, seeing somebody come into the court house with a bag full of cash and handing it to a bail bondsman who then goes in and signs over the paperwork.

You know that -- that's unseemly at best and is something that at least opens up the possibility for fraud and abuse. Under the -- the current system I don't think it's really workable. The -- the case in West Haven I think exemplifies that. I commend the -- the Committee for taking a look at this important issue and I thank you for your time.

REP. MEGNA: Thank you, sir.

Are there any questions?

Thank you so much.

KEVIN LAWLOR: Thank you.

REP. MEGNA: Acting Commissioner Barbara Spear.

Representative Adinolfi, you want to -- you didn't sign up on the sheet but I recognize you. I know -- but come on, sit down and testify while we wait for the Acting Commissioner.

Thank you, Representative Aldinolfi.

Acting Commissioner Barbara Spear. Welcome.

ACTING COMMISSIONER BARBARA SPEAR: Can you hear me now? Okay.

I'm Barbara Spear, Acting Insurance Commissioner and it's an honor to appear before you today. As you are aware the Insurance Department lacks the requisite authority and statutory authority to regulate surety bail bond agency -- agents effectively and appreciates the opportunity to testify in favor of the provisions in Senate Bill 28.

Many are surprised to learn that the Insurance Department regulates a large contingent of bail bond agents. There are 459 bail bond agents in Connecticut and another 133 bail bond agencies. Insurance Department staff spends considerable amount of time and effort to regulate these agents, sometimes without having any clear authority to address issues related to the bail bond industry and the manner in which surety bail bond agents conduct business.

At this point I'd like to request that you also refer to my written testimony and -- as it does provide additional background and as well as purpose to our support of this bill. In general I want to acknowledge this is a problem industry in many ways and we do not have the statutory authority. This is also what we believe to be a

first step. There are, and -- and it's important to recognize, we believe that there are -- this is a first step of other efforts that may be coming from the Judiciary Committee.

In fact with me today is Tony Caporale. He's been legal counsel at the Department for quite a few years and he's quite -- he's been very involved in -- in affect trying to help us resolve some of the bad behavior we see in this industry. As such I'd like Tony to give you some examples of where we -- what we've tried to do and what we have not been able to do.

ANTHONY CAPORALE: Members of the Committee I'm Tony Caporale. I've been an attorney with the Insurance Department for a number of years and I've been involved with issues related to bail bonds for at least 12-13 years. I can remember a time when the Insurance Department was receiving calls on a daily basis from the Chief State's Attorney's Office because forfeitures were not getting paid. Bondsmen were passing -- passing the bonds, were getting people out. When these people did not show up for the hearing, they -- the bond was forfeited and the bondsman would not pay it. We, as Insurance Department, had a tough time at that -- under those situations to really take any action because there was no law that gave us the opportunity to go after this bondsman for failure to pay the money to the state.

The professional -- the statute related to professional bondsmen had a provision that allowed the Department of Public Safety to revoke

or suspend the license for somebody who did not pay the forfeitures. We didn't and we always had an -- an incredible time to try to take administrative action against these people. On a number of occasions we started administrative action, we went to a hearing, the hearing low and behold resulted in nothing because we really didn't have the authority to chase them out, get them out of business or at least fine them for failure to pay forfeitures.

Before we had -- we heard the testimony of Attorney Lawlor who cited a case in which a person was bonded out with no money, at least no money up front, and subsequently proceeds to kill his wife within hours after being let out of jail. Well what I can tell you is that the Insurance Department attempted to take administrative action against the person -- against the bail bondsman who provided the bond at that time. And once again, we could not do anything at all. Why? Because we had no statute stating that a person had to take money up front.

In fact, there -- there is a common practice in the bail bond industry to basically let people out with very little money on a promise that the rest of the amount will be paid and this has been going on for years. To a certain extent has been the case -- and I'm sorry is my time up? To a certain extent this fosters a number of other problems.

For example, can be used by unscrupulous bondsmen as a way to circumvent the requirement that the

premium on a bond must be paid in full as filed with the Insurance Department. What do some bondsmen do? What kind of tact do they employ? They enter into a payment plan. There is no requirement that this payment plan be written down somewhere. They accept a certain amount of money which maybe twenty, twenty-five, fifty cents on the dollar. And once the Department questions them as to why the premium on the bond has not been fully collected, we are presented with a situation where bondsman said I have a payment plan.

The person is going to pay me. Well can you show the Department some information, some document, that reduces the payment plan in writing and provides some terms? No. There's no documentation. There is nothing that relates to the payment plan and when the Department attempts to take action because the bond has been discounted, we have absolutely no evidence.

We have -- we have had in the past situations, and capital bonding comes to mind, where this -- these agencies that were placing bail bonds in Connecticut was going from insurer to insurer to insurer bleeding the insurance company dry because they were taking unnecessary risks and the Department could not do anything about it because there was no requirement that a -- an insurance -- I'm sorry a bail bond agent fulfill all its obligation to -- towards state or towards the insurance company that has appointed that agent prior to being allowed to conduct for the business under a different agent.

These are all problems that we have encountered time and time and time again and we do believe that bill S.B. -- Senate Bill 28, as drafted, will go a long way in addressing some of the issues; will go a long way in providing the Department with the kind of authority, with the kind of documentation, with the kind of power that we need to be able to regulate the bail bond industry.

And I would hope that this Committee sees it the same way and allows this bill to go forward. Thank you.

And if you have questions I'll be glad to respond.

REP. MEGNA: Thank you. Thank you very much. Hopefully it'll go through the entire process this year. I know we've made it through the House last year.

ACTING COMMISSIONER BARBARA SPEAR: Appreciate it.

REP. MEGNA: Are there any questions?

Senator Kelly.

SENATOR KELLY: You indicate that there's problems with payment of premiums up front but is there also a payment -- a problem with the payment of the bond in the event the individual doesn't present them self back at court?

ANTHONY CAPORALE: At the current time this problem has subsided a little bit. As I mentioned just a few years back we were receiving calls on a daily basis by the Chief State's Attorney's Office who was unable to collect on some of the forfeitures. This problem is not as prominent today as it once was but there is -- my understanding is that there is still a number of bonds who are forfeited and never paid and, once again, once the Insurance Department tries to intervene, tries to take action against people who are not honoring their obligation to the state, we are hitting a road block and the road block is that we have no clear mandate that allows the Department to suspend the license, to revoke a license or to impose a fine if somebody doesn't pay his or her forfeitures or if the person is late in paying the forfeitures.

SENATOR KELLY: And is it the Department of Insurance that's the only agency that would be charged with enforcement for nonpayment?

ANTHONY CAPORALE: My understanding is that the Insurance Department is the only agency that statutorily has the authority to take action against actors in the bail bond industry.

SENATOR KELLY: Thank you.

REP. MEGNA: Thank you, Senator Kelly.

Are there any other questions?

Representative Yaccarino.

REP. YACCARINO: Thank you, Chairman.

Is there a screening process to become a bails -- a bail bondsman currently? I mean it seems -- it seems like there should be.

ANTHONY CAPORALE: Well statutorily there is certain requirements for somebody to be a bail bondsman. For one thing the person has to be 18 years of age or older. The person cannot be -- cannot have been convicted of a felony or -- or a number of disqualifying misdemeanors and the person has to submit to a finger print process and to a background check by the Chief State's Attorney's Office.

But other than that, as long as the person passes -- takes a course and passes an examination, the person is entitled to receive a bail bonds license.

REP. YACCARINO: One more question. Has this problem been going on for years? Is it more prevalent now in current years?

ANTHONY CAPORALE: And I'm sorry which problem are you referring to?

REP. YACCARINO: With -- with non-payment -- non-payment basically or not paying enough back to the insurance company -- to -- to the state actually.

ANTHONY CAPORALE: As I mentioned before, this problem has been going on for a number of years and has recently subsided somehow but we have additional problems that, at this time, we are really trying to scratch -- to scratch our head to see how we can do to get our arms around it. For example, the problem of rebating, this allows a bail bondsman to compete on an unlevel playing field by offering discounts on the bonds. And we are just not able to gather evidence under the current system because there is no requirement that any receipts be kept. There is no requirement that documentation be kept. There is basically a -- a business that's conducted through word of mouth and it's very, very difficult for us to try to enforce what the law requires in those kinds of situations.

REP. MEGNA: Thank you, Representative.

Are there any other questions?

Thank you very much and hopefully this will -- this bill will become law this year. Thank you.

Representative Mae Flexer, I saw you around, there you are.

REP. FLEXER: Good afternoon, Representative Megna, Senator Crisco and distinguished members of the Insurance and Real Estate Committee. Thank you for the opportunity to testify today on Senate Bill 28. As Chair of the Speaker's Task Force on Domestic Violence I applaud your efforts over the last several years to reform the bail bond system

and appreciate that your Committee is once again looking closely at this issue.

Bail bond reform is an issue that the Task Force has been focusing on in the last several months. In the coming weeks the Task Force will be recommending a set of proposals for consideration during this legislative session. Reform of bail bond services will be one of the priorities of the Task Force's legislative recommendations.

The issue of bail bond reform has come to the attention of the Domestic Violence Task Force because it is an issue of victims' safety. The existing system, which allows offenders to bond out without paying the full premium rate or with no down payment in the payment agreement plan, leaves victims with the misconception that the offender would be incarcerated. We have heard about this issue in depth from victim advocates and from victims themselves across the state.

Perhaps the most high profile recent case of a failure of the existing system was the murder of Shengyl Rasim in West Haven on January 17, 2010. This case has been investigated thoroughly by the office of State's Attorney Kevin Lawlor who you heard from earlier. This investigation discovered the following troubling series of events. On January 17, 2010, Selami Ozdemir was arrested and charged with disorderly conduct, threatening and violation of a protective order.

A bail bondsman was able to bond out Mr. Ozdemir without retaining any monetary compensation from

the accused. The bond for Mr. Ozdemir was set at $25,000 because this was a repeat offense against the same victim. The charges were quite serious and the offender had a current criminal record, among other factors.

In a properly run system Mr. Ozdemir would have had to obtain $1,900 for a bondsman. Instead the bondsman obtained his release without any payment at all. This quick release allowed for absolutely no cooling off period after the initial incident that day. Mr. Ozmedir's almost instant departure from the police department allowed him to go on and obtain a handgun. Mr. Ozdemir then went home and horrifically shot his wife, Shengyl Rasim, while she held her infant in her arms, just feet away from her young son who slept in the next room.

As I mentioned earlier these types of scenarios are not uncommon circumstances for domestic violence offenders and their victims. This case, in particular, is unfortunately among the most shocking. Again, I applaud this Committee's efforts to reform the bail bond system in our state. However, I respectfully request that you revise the legislation before you and make it even stronger in order to truly protect victims of all crimes throughout our state.

I have attached the recommendations of the 2003 Program Review and Investigations Committee report on bail services in Connecticut. I encourage this Committee to look at each of these recommendations thoroughly and consider adding

them to your bill or adjusting your bill accordingly.

Thank you again for the opportunity to testify before you today and I look forward to working with all of you on this issue.

REP. MEGNA: Thank you, Representative and thank you for doing such hard work on domestic violence issues and bringing it to the forefront, you know. It's been a -- a real education to me in the last couple of years.

Are there any questions? No?

Representative, I also have you down for 5311 but that might have been just a mistake.

REP. FLEXER: I think so.

REP. MEGNA: Okay, all right. Thank you.

Representative Johnson.

REP. JOHNSON: Thank you, Mr. Chairman and thank you Representative Flexer for your hard work on the domestic violence issues.

Could you just tell us a little bit about some of the recommendations? I'd really appreciate it. If you have just some of the most -- the ones you feel are the -- the things that we really should incorporate into this bill.

REP. FLEXER: Sure. Well attached to my testimony, which I'm not sure if you have yet because I was late and I apologize to your Committee staff -- okay. There is the complete list of recommendations which is from the digest of the 2003 PRI report. I would echo the comments of State's Attorney Lawlor from earlier about some of the more specific things that we really need to look at to reform this system, especially filling in the gaps that we've seen in this case and that we see with many victims of domestic violence.

REP. JOHNSON: Great, so you're talking about, like in your testimony today, about the quick turnaround period that this person had. He was arrested, then he was arrested again and was released and didn't pay their proper bail.

REP. FLEXER: That's right. And there's no -- as was mentioned by previous people who have testified, there's no paper trail as to what the supposed arrangement was and there's no ability of the Insurance Department as they described pretty clearly to enforce these regulations and I would encourage this Committee to look at making some of these penalties criminal penalties.

REP. JOHNSON: Thank you for your testimony.

Thank you, Mr. Chairman.

REP. MEGNA: Thank you, Representative.

Representative Schofield.

REP. SCHOFIELD: Thank you, Mr. Chairman.

Thank you Mae for all your hard work also.

I just have a couple of questions. I support everything you're saying, I just don't fully understand, is the idea that you -- that if he had had to pay something, it would have taken him enough time to scrape that money together, that by then he would have, you're assuming, would have no longer been so out of his head that he wouldn't have murdered his wife. I mean what would have prevented him from going and doing it two days later once he got the $1,900 (inaudible)?

REP. FLEXER: Well no one can make any assumptions about what was in the head of a murderer. However, it perhaps would have provided more attention -- more -- it would have provided more time for that cooling off period as I described. And it also would have given the victim time to engage in her safety plan. She had that day been a victim of domestic violence for the second time and she hardly had any time to really process what had happened to her and -- and perhaps be able to leave that home.

REP. SCHOFIELD: I'm -- I'm just wondering is -- do we need to go further? Maybe he might have had enough cash readily availability that he could have gotten out. Is there something we need to do to make sure that they actually have to spend the night in jail before they can bail out?

REP. FLEXER: Well that's one of the things that we're -- we're looking at as a task force in trying to decide whether that's something we should be doing in particular with domestic violence offenders. But in the overall issue with the -- with the bail bond system I do think that actually having them to -- making sure that they have to produce some amount of money would change things and improve things dramatically.

REP. SCHOFIELD: It sounds reasonable. I also was really concerned to hear that he was able to get out and buy a gun right away. Do you know how long it takes for --

REP. SCHOFIELD: He didn't buy a gun, just so that you know. He did not buy a gun. He went to a family member and obtained a handgun.

REP. SCHOFIELD: Obtained it, okay, all right. Because I -- I wasn't sure how long it takes for the information from time of arrest to get into whatever database the gun dealers check and do the background check.

REP. FLEXER: Right. And right now existing statute is that if you have a protective order against you, that you have to turn over your -- your firearm, so they're not allowed to keep those firearms on their person or in their own home.

REP. SCHOFIELD: Okay. I was just wondering --

REP. FLEXER: But the family member certainly could keep it.

REP. SCHOFIELD: -- is there more that we should be doing to make sure that the information about an arrest gets into whatever registry there is that gun dealers check very promptly so he couldn't if he had bought one from an actual dealership to prevent him from buying one within that window of time that the paperwork takes to grind through to.

REP. FLEXER: Right, yes.

REP. SCHOFIELD: Yes. Okay, thank you.

REP. FLEXER: Thank you.

REP. MEGNA: Thank you.

Representative, in that -- this situation that we're talking about, last year we passed -- you passed that bill that had also to do with GPS monitoring. Would this individual, if that bill was law, would he have had this GPS monitoring, or is this -- is it just -- how -- how would an individual qualify for the GPS?

REP. FLEXER: It's hard for me to say in particular if this particular individual would have qualified for the GPS monitoring program. The way the GPS monitoring program works is that the Judicial Branch has devised a scoring system basically where they evaluate each domestic violence offender and, based on their history and the type

of offenses they have committed, they determine a score which decides and determines whether or not that person is eligible for the GPS monitoring system. Those things include the types of violent activity that have occurred, previous violations of a protective order, the violence occurring in front -- in front of children, things like that.

REP. MEGNA: Okay, thank you.

Are there any other questions? No?

Thank you very much, Representative.

REP. FLEXER: Thank you.

REP. MEGNA: Representative Slossberg. Is she here? I'm -- I'm sorry, Senator. No?

Okay we're going to move over to the public portion. We're going to start off on Senate Bill 28. Erika Tindill.

ERIKA TINDILL: Good afternoon, Senator Crisco, Representative Megna, members of the Insurance and Real Estate Committee. My name is Erika Tindill. I'm the executive director of the Connecticut Coalition Against Domestic Violence. I'm here today to express support for Senate Bill 28, An Act Concerning Surety Bail Bond Agents and Professional Bondsmen.

You may be wondering why the state domestic violence coalition is concerned with the

regulation of surety bail bond agents and professional bondsmen. For my organization support of policy and legislation that is responsive to the needs of victims as well as the safety concerns of their families and their communities is part of our mission.

CCADV has 18 member programs across the state that directly provide a comprehensive range of services. In the last fiscal year those programs collectively served more than 60,000 men, women and children, more than half of which came through the criminal courts or were dealing with an abusive partner with pending criminal charges. So at last tally that number was 37,370 involved in the criminal court system.

For those member programs, passing Senate Bill 28 translates into increased safety for many of the victims they serve. Family violence victim advocates working in geographical area courts employed by our member programs may be the first court personnel to be assisting victims whose abusers have benefitted from the practice of undercutting or payment plans for bail bonds.

You will hear later from Kathy Berkel and FVVA about her experience serving victims in these circumstances. FVVAs know firsthand the danger to victims and the public safety issues that arise from defendants who pay little or nothing to get out on bond almost immediately.

You heard previous people testify at length about the January 17th murder/suicide in West Haven. I

think you get the point. She was shot with her infant in her arms within 12 hours from the time her husband had been released to the time she was found dead, so a very quick time. And safety planning is much more complicated, as Representative Flexer points out, and labor intensive when a person from whom you're trying to stay safe gets out of jail quickly and unexpectedly.

And I'm not at all suggesting that the regulation of bail bonds would have prevented this murder/suicide. In fact, based on what we know about this case, it might only have prevented it from happening on that day. Nor do I believe Senate Bill 28 or any other legislation alone can play -- will solve the problem of intimate partner violence.

I am suggesting, however, that this legislation can play a part in addressing domestic violence and public safety concerns. The bill must have a balanced approach with respect to defendants' rights, public safety, business concerns, unintended consequences, crime rights for victims under the Connecticut constitution, and the disproportionate impact on certain criminal defendants. All of those have to be balanced.

And specifically, CCADV is in favor of provisions that 1) prohibit an agent from executing a bail bond at less than the premium rate which I understand is usually 10 percent, 2) allowing bail bond payment plans with at least a 35 percent down payment, and 3) increasing the

capacity, as you heard the attorney testify, of the Insurance Department and the Department of Public Safety to regulate and enforce certification and compliance.

Thank you.

REP. MEGNA: Thank you. Thank you. We do have your testimony and all too that people can review.

Are there any questions? No.

I do want to say though, I mean it doesn't have to do with the bill, but I really do think that GPS monitoring is a wonderful element in combating domestic violence.

ERIKA TINDILL: It is; I hope though that the members of the Committee understand that GPS monitoring is -- is simply a tool and as the Representatives point out it's based on a scoring system, a lethality assessment if you will, and so it's very possible in this particular instance in -- in the West Haven murder/suicide of last year that Mr. Ozdemir would not have scored high enough to qualify.

Again, GPS electronic monitoring is not going to be the -- the magic answer. You know for some defendants if today is the day, today is the day. But it's -- it's certainly a tool and we know of many high profile cases, the Tiana Notice case for example, where we believe, based on what we know about that case, that had James Carter been

on electronic monitor, Tiana Notice's life might have been saved.

But that is not the case in -- in every situation. There are many instances of victims whose names you will never hear that were not reported on for whom a bill like S.B. 28 or electronic monitoring buys them some time to be able to implement a -- a safety plan which is -- you know it's not a matter of creating a plan and -- and then continuing on with plan, it depends on if they're getting out.

REP. MEGNA: How much times does -- are they notified when the individual is in the area with the GPS monitoring? I know it doesn't have to do with this bill which I'm in support of. I'm just curious.

ERIKA TINDILL: Right. Well Connecticut's pilot has it on a minute by minute notification so defendants who are on it they know exactly where a defendant is and it -- and it depends on how the zones are set up. There is a 2,500 foot hot zone which is closest. And then there's another 2,500 foot hot zone, so it's -- it's fairly accurate and law enforcement and a victim, if they choose to have a device, are notified immediately. There -- there's a call system that is set up through law enforcement and also to the victim, they have a device.

So it -- it can be almost immediate and we're trying to work out some of the -- the bugs with that.

REP. MEGNA: Thank you. Thank you. Thank you for that information.

There are no other questions?

Representative Johnson.

REP. JOHNSON: It's a little bit on the GPS system. I -- I was just wondering do you -- does that system get put into place after a conviction or is it during the --

ERIKA TINDILL: It's at the arraignment, at the next day arraignment when family relations and also the family violence victim advocates are assessing whether or not the person is eligible, the victim is notified, everyone's educated on, you know, what the hot zones are. Victim gets to choose their sort of three levels of involvement. Many victims are choosing not to participate. If you can imagine for the amount of time I've been speaking, if your -- your abuser crosses the buffer zone, for example, say they're on 84 but they're crossing through a buffer zone, you've just received two notifications, one when they enter and another when it clears. And so for many people that's -- it's hard to constantly be looking over your shoulder and many choose not to use that as -- as part of their safety plan. But certainly for those who would like to use it, to know exactly where this person is, it -- it can be very helpful.

REP. JOHNSON: Thank you for your testimony.

Thank you, Mr. Chair.

REP. MEGNA: Thank you.

And thank you very much.

Katherine Verano-Berkel -- Berkel.

KATHERINE VERANO-BERKEL: Good afternoon, Senator Crisco, Representative Megna and members of the Insurance and Real Estate Committee. My name is Kathy Berkel and I am here to speak in favor of Senate Bill 28, An Act Concerning Surety Bail Bond Agents and Professional Bondsmen.

Presently I am employed as a family violence victim advocate supervisor at the Women's Center of Southeastern Connecticut. I oversee advocates in the New London and Norwich courts as well as an advocate located in the Norwich Police Department. Over the past few years I have been listening to victims' concerns and fears when their abusers are being arrested and are then bonding out shortly after arraignment. There are two particular cases I would like to share with you. I have detailed them greater at length in my written testimony.

The first is the case of a defendant who has 16 domestic violence arrests in three courts with many of them ending in convictions, jail time, suspended sentences and probation. After additional arrests for domestic violence, this defendant continued to bond out and was released

to the community where he could further threaten the victim. After one incident, I went to the domestic violence prosecutor in our court to find out how he was always able to make bond. The prosecutor immediately requested a bond hearing to be held within 48 hours to address these issues.

At this hearing the prosecutor wanted to know how someone who is not working and qualified for a public defender could post bond or surety in the amount the defendant would to have -- would have to produce. It was learned during this bond hearing that the bail bond company had set up a payment agreement with the defendant and he was not required to make any down payment prior to bonding out. After hearing this, the judge set bond at cash only and the defendant was unable to come up with any funds to bond out.

The other is a case of a victim who was kidnapped by her abuser. The abuser had multiple charges throughout the state and was being held on an extremely high bond for kidnapping and attempted murder. The victim was in -- in hiding pending the trial. One day the State's Attorney's Office contacted me to notify her that the abuser was bonding out. We were all shocked by this and the abuser had been incarcerated for some time and was not able to bond out so we could not understand what had transpired to get his release.

A bail bond company in another jurisdiction had accepted a letter supplied to them by the

defendant stating that he, the defendant, would be the recipient of a sum of money from a lawsuit of some type. The bail bond company accepted this letter in good faith. Had they investigated the letter, they would have learned that the letter was issued from an office of an attorney who had been deceased for over a year. Once again the defendant did not come up with any money and was released.

As an advocate is that our -- it is our practice to safety plan with victims to prepare for any and all scenarios. Much to my dismay I have received numerous frantic calls from victims informing me that the abuser bonded out with no money. A few victims shared with me that the abuser would brag to them that they did it before; they'll do it again.

I cannot express the fear, frustration and hopelessness in voices of victims who repeat over and over that there is no way they could have bonded out, they didn't have the money.

By providing increased oversight and regulation of the bail bond business, victims' safety across Connecticut will be greatly increased.

Thank you.

REP. MEGNA: Thank you.

Are there any questions?

Thank you very much for your testimony.

KATHERINE VERANO-BERKEL: Thank you.

REP. MEGNA: I just want to remind people about our three minute when you hear that little buzzer go off over there.

Roger Czuchra.

ROGER CZUCHRA: Roger Czuchra, thank you. Legislators, senators, I currently am a bail bondsman associated with All City Bail Bonds in Hamden, Connecticut. I do agree with the -- most of the -- the bill 28. I do oppose two portions of it. I'd like to express the reason why I oppose those two portions, okay?

Portion four, extension of credit to principals or indemintors, issue a minimum down payment of 35 percent, balance to be paid no later than fifteen months, 60 days to file appropriate relief with the court no later than 75 days. This actually -- we -- we continually hear about people being released from bond without having any payments. I've never done that. I -- it has happened I'm certain. We've gotten proof that it has happened.

I would like to state that this 35 percent will actually compound the issue. The reasonable amount is 10 percent of the first $5,000, 7 percent of everything thereafter. We should enforce that amount of money, not looking to precipitate discounts at this (inaudible), okay?

The balance to be paid of this credit -- if we didn't allow credit, these people wouldn't be out of jail. We wouldn't have the problems you have. Most of these people don't have the capital to get out. They have to find it somewhere and it takes time.

Issue, bail bonders currently experience abuse in discount. Yes it does. We run into it every day. That has to be corrected; again discounting.

The extension of credit allowed the court -- if you do allow the extension of credit, the court will adjust. It -- it has adjusted already because they're aware that there is discounting going on. I've been writing bonds for nine years; I'm seeing bonds issued at higher and higher denominations. If this is incorporated I think it would even get higher.

Some other observations, the penalty for not properly following credit extensions that are proposed in the bond, there isn't any. If the credit extension is incorporated, can we charge interest on outstanding balances? Fifteen months of, you know -- and -- and I think we all understand business. We know what, you know -- we can't run a -- run a business by extending working capital for fifteen months. There's got to be some type of compensation that we could get from the people that we're loaning this money to and it is a loan.

Some people who support said bill feel they can extend this type of money. I'll tell you I'll stand in that line any day. The amount of premium allowed is not mentioned in said bill. Nowhere in the bill does the amount of the statute of premium that's allowed in the State of Connecticut mentioned in that bill. People are oblivious to it. They're looking at one-third or 35 percent.

Has the new commissioner reviewed this -- these -- these -- this bill and other changes to the bill? I don't know. I know there's a new commissioner on board. Has anyone found out if she's been privy to all this information yet and, if so, does she want to get involved in this?

REP. MEGNA: Thank you, sir.

Are there any questions?

Thank you very much. We have your testimony.

Andrew Bloom.

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ANDREW BLOOM: Good afternoon distinguished senators and representatives. My name is Andrew Bloom and I'm a licensed surety bail bondsman, bail enforcement agent and one of the owners of 3-D Bail Bonds which employs about 27 people in the state.

I am also one of the owners of DADs Bail Bonds, LLC representing over 10,000 bail bonds written a year, a member of the Professional Bail Agents of

the United States and a founding member and current president of Bail Association of Connecticut.

As you may know I have been here to testify for many years in support of bail reform. I would now like the opportunity to demonstrate my support for Raised Senate Bill 28.

The Bail Association of Connecticut has developed a whistle blowers program to help self-police our fellow bail agents. We have a code of ethics requiring our members to be honest, ethical, licensed professionals or H.E.L.P.

Connecticut Bail Agents are extremely vital doing their part in the court process ensuring appearance of the accused in proceedings, upholding the Eighth Amendment having to do with reasonable bail. Connecticut makes arrests for over 125,000 cases per year. Take a conservative 25 percent of those arrests resulting in bail which is about 41,000 defendants, the average case takes six months. Multiply 41,000 defendants times the average cost to house an inmate for 12 months and you'll -- of $44,000 and you'll get $1.8 billion. Cut that in half for the six months that your average case takes and you'll find that bail agents of Connecticut are saving the taxpayers of Connecticut $900,000,000 annually.

Bail agents and bail enforcement agents, at no cost to taxpayers or risk to public safety

personnel, apprehend and return defendants who missed their court dates.

This bill passed the House last year unopposed. Proposed Senate Bill 28 would help regulate bail agents who break the rules by helping to fund the efforts of the Department of Insurance in offering stronger penalties for violations. Senate Bill 28 will help keep close -- will help keep close to 1,000 Connecticut taxpayers working.

And if I could just say one more thing. During State's Attorney Lawlor's testimony he discussed the idea of not having cash change hands in a bail bond and just using credit cards and checks. That would kind of annihilate the industry. People -- a lot of the people that are our customers do not have checking accounts nor do not have credit cards and they just have cash and to say that you cannot take cash in any transaction in the United States would kind of be uncapitalistic.

And the idea of GPS monitoring -- the idea of GPS monitoring has been addressed in the past in a bill that came up last year and as I showed -- as I cut the GPS bracelet off my arm and said come and find me, you know exactly where that defendant was when he cut that bracelet off and it does not replace bail.

REP. MEGNA: Thank you, sir. Thank you.

Are there any questions?

Thank you very much.

Daniel Toner.

DANIEL TONER: Good afternoon, senators and representatives. My name is Dan Toner and I'm a resident of Connecticut. I am a bail agent, a member of PBUS which is the Professional Bondsmen of the United States, as well as a founding member of the Bail Association of Connecticut.

I am here in support of Bill -- Senate Bill 28. I am an employer, actually Andrew's partner. We are an employer of 27 full-time employees, representing -- that is on the retail side. On the DADs Bail Bonds, which is the wholesale side, we write roughly 10,000 bonds a year and Drew had represented the math. As far as what the -- what the total bail agency -- or -- or bail bondsmen do -- save taxpayers in Connecticut, I will tell you that if you do that same math, my organization saved the taxpayers of Connecticut roughly $200,000,000.

Which I, once again, am in support of House Bill 28 -- I -- or Senate Bill 28, I beg your pardon. There are some needs for some changes and some things that we can work through but absolute support of Senate Bill 28.

That's all I really have.

REP. MEGNA: Thank you very much, sir. The savings you talked about --

DANIEL TONER: Yes sir.

REP. MEGNA: -- would be the same with the passage of 28 in your opinion?

DANIEL TONER: I -- I absolutely believe so, yes.

REP. MEGNA: Thank you very much.

Are there any questions?

Thank you very much for your testimony.

DANIEL TONER: Thank you.

REP. MEGNA: Mary Casey.

MARY CASEY: Oh I'm sorry, thank you.

SB28

But I'd also like to commend the Insurance Department on the strides that they have made with their hands being tied. As some of you may be aware, members of our association for years have been testifying and asking for bail reform. We were interviewed extensively by the investigator representing the legislative program review and investigative committee back in 2003. We were optimistic that that report, once it was made public, bail reform would occur. To date nothing has passed.

Many negative occurrences predicted in the program review report have come to fruition. The most appalling is that the -- the fatalities that have occurred while defendants have been released

on discounted bail bond premiums. We've heard this afternoon about the incident in West Hartford but the one that always comes to my mind is the execution of an eight year old boy and his mother that took place in Bridgeport, Connecticut by someone orchestrating the execution that was out on a discounted bail bond premium. I can assure you that less than 50 percent of that bond was paid. The premium amount totaled $950,000.

Unfortunately the bill as offered -- authored will do little in the way of true bail reform. I have three points of concern. First, and I'm assuming that this is just an oversight, there is no penalty for surety bail agent offenders. I did see penalties for professional bail agents issued by the state police but I did not see any for insurance.

The lack of criminal penalties for violators makes absolutely no sense and serves no purpose but to allow rogue agents to continue operating the way they have for the past 15 years. Furthermore without criminal state statute in place it makes regulating near impossible, allows those with the experience, such as the state police, the municipalities, to do the investigation. With all due respect to the Insurance Department, they do not have the expertise nor the resources to adequately investigate the numerous complaints that have been received about bail agents.

This is a very small part of what they do but I venture to say they receive more complaints about

bail agents than any other aspect of insurance. Criminal penalties are imperative.

Second to allow for only 35 percent of the filed premium rate to be given as a down payment or for a surety bond with a balance due in 15 months only serves to legitimize the practice of rebating, not to mention the risks that would continue for victims of domestic violence. Furthermore to allow for up to 15 months to pay the balance when the average case is disposed of in about six months will prove to be meaningless. Is one supposed to track each defendant that is released on 35 percent for 15 months to assure that rebating has not taken place?

Does anyone feel that balances due are going to occur once a case is disposed of? I think not. I recognize that the bill calls for audits but I do not think that's the solution. The file late rates were originated many years ago for indem -- indemnification purposes. Allowing 35 percent to be paid up front does not accomplish that. I would ask, at a minimum, 75 percent with only six months to pay should be implemented. I still feel strongly that it's going to be very hard to prove noncompliance but it would at least be a start.

And the only other thing that I wanted to add with regard to the solicitation aspect of this, it's section 11, subsection 2, I think you need to include not less than 1,000 feet from a court house, a jail, any place that bonds would normally be solicited. I think that would be

important because by doing that you would eliminate vans being parked in front of the court houses with their billboards with all that sort of things going.

In closing I'd like to thank this Committee for their time and attention. It's a very important issue and I hope that this is the year that something passes.

REP. MEGNA: Thank you. Ms. Casey, we didn't receive any written testimony from you.

MARY CASEY: No sir.

REP. MEGNA: And you -- and you brought up some important issues.

MARY CASEY: Would you like written testimony?

REP. MEGNA: It -- it would be very helpful.

MARY CASEY: I would be more than happy to provide that.

REP. MEGNA: Okay.

MARY CASEY: Thank you.

REP. MEGNA: Thank you very much.

Are there any questions?

Thank you very much, Ms. Casey.

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

James M Thomas
Commissioner

Lieutenant Edwin S Henion
Chief of Staff

February 8, 2011

Rep. Robert W. Megna, Co-Chairman
Sen. Joseph J. Crisco, Co-Chairman
Insurance and Real Estate Committee
Legislative Office Building
Hartford, CT 06106

**SB 28 AN ACT CONCERNING SURETY BAIL BOND AGENTS AND PROFESSIONAL BONDSMEN**

**The Department of Public Safety suggests changes to draft language to improve the bill.**

The Department of Public Safety supports this bill, but some drafting changes are either advisable or necessary.

In regard to Section 1(a) (3), it is recommended that the committee consider adding CGS 53a-73a Sexual Assault in the Fourth Degree as a disqualifying misdemeanor

Section1 (9) (c) provides that "No person engaged in law enforcement or vested with police powers shall be licensed as a surety bail bond agent." Consideration should be given to expanding this language to also disqualify from such employment persons employed by the, Judicial Department, Judicial Marshall service, and the Department of Corrections. This would eliminate anyone within the judicial process from arrest through court appearances and incarceration from operating a bail business for profit. If this change is made, it should also be made in section 16 of the proposed bill in regard to professional bail bondsmen.

In section 8, acceptable forms of collateral are set forth as follows: " (3) Acceptable forms of collateral security or other indemnity include, but are not limited to, cash or its equivalent, a promissory note, an indemnity agreement, a real property mortgage in the name of the insurer or any Uniform Commercial Code filing;" It is recommended that this section be revised by either removing the term "promissory note" or by further defining it to make it clear that only a promissory note owed to the person providing the collateral and subsequently assigned to the bail bondsman may be deemed collateral. A literal reading of the existing language of this proposed bill would suggest that the person needing the bond could provide a promissory note as collateral. In that case, it would not meet the definition of collateral, as it would not be an asset securing the promise, but instead just another promise to pay.

In regard to section 17, the existing language of the statute requires each professional bondsman to "forthwith inform" the Commissioner of Public Safety, in writing, of any material change in such professional bondsman's assets or liabilities affecting such bondsman's responsibility as a bondsman. This proposed bill would change this requirement to give the professional bondsman 30 days to inform the commissioner. This change is not in the best interest of public safety as it would allow a bondsman without financial responsibility to continue to do business for a month. It is respectfully requested that the existing statutory language remain in place.

Section 18 of the bill should be revised to change the language from 'residence addresses' to 'business addresses' Not all professional bondsmen work from their home. This proposed bill requires surety bondsmen to list business addresses. The requirement should be uniform in regard to business address and telephone of record.

In regard to Section 19, it should be noted that the existing language of this statute provides that any person violating any provision of the amended acts shall be fined not more than one thousand dollars or imprisoned not more than two years or both and be subject to forfeiture of license. This exposure to felony conviction would, if this bill becomes law, be triggered by any violation of the new language contained in section 21.

The proposed bill has identical prohibitions contained in sections 11 (for surety bail bondsmen) and section 21 (for professional bondsmen). Passage of the bill as drafted would result in vastly different consequences for the same conduct depending on the identity of the bondsmen. Identical bad conduct would result in felony offenses for professional bondsman, while surety bondsmen would merely face suspension. The language of section 19 should also be added to the statutory changes for surety bail bondsmen. It would violate equal protection of the laws and be very poor public policy to have identical conduct result in a mere license suspension for surety bail bondsmen, while professional bondsmen face exposure to felony arrest and conviction.

Sincerely,

James M. Thomas
COMMISSIONER

# STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE
505 HUDSON STREET, HARTFORD, CONNECTICUT 06106

Michelle S. Cruz, Esq.
State Victim Advocate

**Testimony of Michelle Cruz, State Victim Advocate**
**Submitted to the Insurance and Real Estate Committee**
**Tuesday, February 8, 2011**

Good afternoon Senator Crisco, Representative Megna and distinguished members of the Insurance and Real Estate Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

**Senate Bill No. 28**, *An Act Concerning Surety Bail Bond Agents and Professional Bondsmen* **(Support)**

In 1996, Connecticut residents overwhelmingly supported passage of the Victims' Rights Amendment to our state constitution. Among the constitutional rights of crime victims is the right to be treated fairly and with respect; the right to be reasonably protected from the accused; and the right to participate throughout the criminal justice process. The Office of the Victim Advocate (OVA) was created to protect and promote the constitutional rights of crime victims; to evaluate the delivery of services to crime victims; and to recommend changes in policy or legislation to advance the rights of crime victims in Connecticut.

While determining the amount of bond to place on an accused person to assure their appearance in court, a bail commissioner and/or a judicial authority will consider the nature and circumstances of the alleged offense, among other factors. Typically, the more severe the offense is, the higher the bond will be. Likewise, consideration of a defendant's previous conviction history and record of appearance in court may affect the amount of bond recommended by the bail commissioner and set by the court. Connecticut is unique in that when determining bond amounts, our state Courts are permitted to look at the safety concerns of a named victim(s) and/or the community. This is not the case in many of our neighboring states, and shows our legislators' keen sense of insightfulness in allowing bonds to be utilized in this manner. In cases of violent crime, including domestic violence, sexual assault, home invasion, robbery, and the like, the Court and community have a vested interest in setting a bond that will serve to ensure safety. However, when a violent offender's bond is undermined by the minority of bond persons who choose to ignore the standards set by our state, and are protected by the lack of enforcement through our continued failure as a state to address these gaps in our bond system, everyone suffers- crime victims whose offenders are set free to continue to terrorize them and, in the most egregious cases, harm the victims; the integrity of the Courts suffers; and bond persons who adhere to these standards, struggle to maintain their businesses.

Senate Bill No. 28 will improve the accountability and oversight of bail bond agents providing services to the accused persons seeking release on bond. Unfortunately, a lack of attention and supervision over the bail/bond system has created a system whereby certain bonds

agents have undertook questionable business practices to gain a competitive edge. Accused persons are striking side deals (without paying the statutory required percentage) with bail bond agents to gain release. In some cases, there have been reports that bail bonds agents have paid for the release of an offender, without first meeting the offender and obtaining agreement to the terms of the contracted bond. These practices are having a negative impact on the judicial authority, as well as compromising the safety of crime victims.

I strongly urge the committee to support Senate Bill No. 28 and put an end to the long history of bad business practices by bail bond agents. Thank you for your consideration of my testimony.

Respectfully submitted,

Michelle S. Cruz

Michelle Cruz, Esq.
State Victim Advocate

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KEVIN D. LAWLOR
STATE'S ATTORNEY

# State of Connecticut

DIVISION OF CRIMINAL JUSTICE

OFFICE OF THE STATE'S ATTORNEY
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## TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE STATE'S ATTORNEY KEVIN D. LAWLOR

## IN SUPPORT OF S.B. NO. 28: AN ACT CONCERNING SURETY BAIL BOND AGENTS AND PROFESSIONAL BONDSMEN

## INSURANCE AND REAL ESTATE COMMITTEE February 8, 2011

First of all I want to thank the members of the committee for the invitation to speak to you on this important topic. I am the State's Attorney for the Judicial District of Ansonia-Milford and my testimony today is on behalf of the Division of Criminal Justice. My presentation this morning will focus on some of the shortcomings in our criminal justice system which my office uncovered as we investigated the murder of Shengyl Rasim on January 17, 2010. This testimony is in support of SB 28.

As background, on January 17, 2010, Selami Ozdemir brutally shot his young wife, Shengyl Rasim, as she held her crying infant in her arms and their young son slept in the next room. During the prior 4 months, Mr. Ozdemir was arrested by the West Haven Police Department on two separate occasions for domestic violence offenses involving his wife. On both occasions, Mr. Ozdemir was bonded out by a bail bondsman. Shortly after his release on his second arrest, Ozdemir returned to the home and armed with a friends semi-automatic handgun, shot her multiple times. He then turned the gun on himself. Mr. Ozdemir died from a self-inflicted gunshot wound to the head.

My office's investigation focused on determining the exact chain of events leading up to the murder and also to identify gaps in the system that might have prevented the tragedy. My office identified several issues in this case. The one I will focus on this morning is the bail bondsman's ability to bond out Mr. Ozdemir without obtaining any monetary compensation from the accused.

A troubling factual allegation in this matter involves the ability of Mr. Ozdemir's bail bondsman to obtain his release without receiving any payment whatsoever. Normally, a professional bondsman obtains a premium of between 7% and 10% of the bond posted in exchange for a suspect's release. Under the United States Constitution, bail must be reasonable and is designed to assure a defendant's future appearance in court. Police and the courts are required by statute to take a number of factors into consideration when determining the amount of bond to be set in any particular case including reasonably assuring the safety of other persons involved in the case, see C.G.S. §54-64a(2). Currently, Connecticut state law, C.G.S. §29-151 does not prevent a professional bondsman from posting a bond for an arrestee and not taking any fee. This statute merely provides a maximum allowable percentage fee but not a minimum required fee. Theoretically, an arrestee could obtain his release on a one million dollar bond without providing any money to anyone if a bondsman is willing to post the bond for free. This is currently a business decision made by a private party who has no responsibility to weigh the significant public safety risks associated with his decision. The bondsman is also not

currently required to immediately fill out any paperwork outlining the contractual relationship between the parties.

In the Ozdemir case, police set a $25,000.00 bond based on the seriousness of the charges, the repeated activity against the victim, the defendant's current criminal record and other factors. Under normal circumstances, the defendant would have had to raise $2500.00 to pay the bondsman prior to his release or provide $25,000 cash himself to the police. His ability to immediately be released prevented any cooling off period and allowed him to immediately leave the police department and obtain the handgun used in this homicide.

The Insurance Department in consultation with the Division of Criminal Justice introduced legislation this past legislative session specific to bail bond industry reform. This proposed legislation failed on the last day of the General Assembly session.

Before the committee today is SB 28 which would:

1. Prohibit an agent from executing a bail bond unless they charge the premium rate the insurer filed with the insurance department;
2. Require a bail bond agent to certify under oath that the premium charged did not differ from that which is filed and approved by the insurance department;
3. Allow a bail bond agent to enter into premium financing arrangements to allow payment plans for defendants with a minimum down payment of 35%, with payment in full due within 15 months;
4. Require surety companies to conduct audits of bail bond agents to ensure that they receive full payment when posting bail bonds; and,
5. Require surety companies to certify the integrity of the bail bond agents and to assume full responsibility for the acts and conduct of their appointed agents.

The bill also establishes standards for solicitation, reporting requirements and accounting for premiums along with establishing uniform standards of record retention to ensure that the Insurance Department has access to tangible records when conducting market conduct exams of bail bond agents.

In addition, the bill includes a funding mechanism by assessing bail bond agents an annual fee of $450.00 that would enable the department to have adequate resources to conduct market conduct examinations of the bail bond industry.

The Division agrees with the majority of these reforms. In several areas we would recommend that the law go farther. Specifically:

- Sec. 3(b) of the bill states that a surety bail bond agent who files a false certification on the premium rate charged shall only have "administrative action" taken against him or her. It should also specify that a false certification constitutes a violation of CGS Sec 53a-157b False Statement 2d Degree. If intentional, the false statement certainly could be intended to mislead a public servant i.e.: the Insurance Commissioner

- Section 4 allows for "premium financing arrangements". These arrangements allow bail bondsmen to take promissory notes on bonds fees. I think these arrangements are unwise, hard to enforce and ripe for abuse. If you have 15 months to pay off the fee and 75 days after that before a bondsman has to report non-payment the case could be almost 18 months old before the bill comes due. What happens if the case is disposed of prior to that time period? Who is watching to make sure these time tables are enforced once the case is disposed? This appears to be very labor intensive and not really workable at an administrative level. There have been several notable cases in the past year where individuals were released on bond where no bond was posted but rather

currently required to immediately fill out any paperwork outlining the contractual relationship between the parties.

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promises of future payment were made. As I outlined above, these arrangements have led to tragic results all too often. Why not just require full payment up front?

- The Division also believes there should be a limited prohibition on accepting cash from a principal or indemnitor. It would certainly be easier to trace and verify what percentage was paid as a fee on a bond if the transaction was by check, money order or credit card. Over my career I have observed cash transactions in the clerk's office where a large bag of money is handed over from a family member of an accused to a bondsman. It's unseemly at best and at worst leaves open a significant chance for fraud. Perhaps a rule where fees for bonds over a certain amount ($10,000) must be by check, money order or credit card would limit the possibility of fraud while still allowing bondsman to accept cash on less serious cases for example DUI, Possession of Narcotics in small amounts or Assault 3rd degree.

These common sense reforms would help prevent arrestees in domestic violence cases from literally getting a "Get out of jail free" card and almost instantly re-offending against unsuspecting victims or fleeing the jurisdiction.

Our current system, where an individual can post only a nominal amount and be released on bond has had an unexpected consequence: bail inflation. This problem has created a system where no one knows how much a person needs to post to be released from pre-trial incarceration. Prosecutors, Judges and Bail Commissioners increase the recommended amounts in some cases to attempt to guard against this problem. Simply put, right now the numbers are not real, it's like monopoly money. Just this past month, in my court, an individual failed to appear on a serious armed robbery. At his arraignment, it was pointed out it was a dangerous offense and he was a serious risk of flight because he was a Polish born legal alien. The Judge set a $200,000 bond. Last week, when he failed to appear for court we found out that his family only had to post $2000 or 1% of his bond to secure his release.

Thank you for allowing me to speak to you and I would be happy to answer any questions that committee members may have.

p1
L20

# STATE OF CONNECTICUT

*INSURANCE DEPARTMENT*

**Testimony of**

**The Connecticut Insurance Department**

**Before the**

**Insurance and Real Estate Committee**

**February 8, 2011**

Spear

## S.B. 28--An Act Concerning Surety Bail Bond Agents and Professional Bondsmen

S.B. 28--An Act Concerning Surety Bail Bond Agents and Professional Bondsmen, reflects many provisions that the Connecticut Insurance Department negotiated in the past with interested legislators. The Insurance Department currently lacks the requisite statutory authority to regulate surety bail bond agents effectively and appreciates the opportunity to testify in favor of those provisions in S.B. 28 that provide the Connecticut Insurance Department with additional regulatory authority over the surety bail bond industry. The provisions of S.B. 28 that impact professional bondsmen fall within the authority of the Department of Public Safety and, therefore we will offer no testimony on those provisions.

Many are surprised to learn that the Insurance Department regulates a large contingent of bail bond agents. Currently, there are 459 bail bond agents in Connecticut and another 133 bail bond agencies. Insurance Department staff spends considerable amount of time and effort to regulate these agents, sometimes without having any clear authority to address a number of issues related to the bail bond industry and the manner in which surety bail bond agents conduct business. The Department lacks the requisite statutory authority to regulate them effectively and repeated attempts seeking appropriate legislation have failed in the past. Last year, we were very close to gaining passage of a comprehensive proposal, HB 5147, which passed four separate committees with one dissenting vote and the House of Representatives unanimously, only to die in the Senate on the last day of session.

Last year's legislation reflected appropriate compromise and consensus among the Insurance Department, stakeholders and interested legislators, and many of those provisions are contained in the current proposal. This year, rather than reintroduce the comprehensive legislation sought last year, out of respect for the legislative process that shaped the legislation and achieved consensus through compromise, the Department would ask the Committee to take favorable action on S.B. 28, which reproduces the compromise and consensus bill of last year that died in the Senate. The Department is hopeful that those legislators who sincerely seek to improve the regulation of the bail bond industry in this state will honor the compromise and consensus agreement embedded in this legislation so that we may move forward in its timely passage.

S.B. 28 reflects the agreement that was reached last session and includes the following substantive provisions.

The proposal requires bail bond agents to charge the full premium and directly addresses a practice known as "undercutting", which occur when bail bond agents compete for business by discounting the premium due on a bond and do not charge their clients the amount they are statutorily required to charge them. This unlawful behavior allows defendants to post bond at rates lower than what the state requires. For example, bail set by a judge at $10,000, has a premium of $850 that must be paid by the defendant. In some instances, in order to get business from a client, a bail bondsman will charge a $600 premium (instead of $850) for the same bond. This is commonly referred to as "undercutting" and it is illegal. The bill's language, similar to the language negotiated last year, allows the use of payment plans that would allow defendants to pay any amount due on a bond within 15 months. Any payment plan, however, would require that defendants provide a down payment of no less than a 35% of the total premium on a bond.

Second, this proposal establishes standards for solicitation, record retention, reporting requirements, and accounting for premiums that allow for strong regulatory oversight by the Insurance Department. Further, these provisions establish uniform standards of record retention to ensure that the Insurance Department has access to tangible records when conducting market conduct examinations of bail bond agents. These standards will provide much needed transparency in an industry that currently has virtually none. Such transparency will be enhanced by posting the results of market conduct examinations on the Department's website for public inspection.

To guarantee that the Department has adequate resources to conduct market conduct examinations of the bail bond industry, this negotiated agreement includes a funding mechanism that will enable the Department to cover the costs of such examinations. These funds will be deposited in a Surety Bail Bond Agent Exam Account within the Insurance Fund to be used to pay the costs associated with examinations aimed at ensuring that surety bail bond agents are maintaining the proper records, are managing collateral from defendants in a legal manner, and are adhering to all applicable provisions of the law. We are asking the Committee to amend this provision to require that any funds that have not been expended in this fund at the end of each year, be transferred to the General Fund rather than accrue in this new account. This change, along with additional modifications previously developed in conjunction with the Judicial Department, is attached to this testimony.

To prevent the kind of disruptive behavior that currently occurs from time to time because of the conduct of certain surety bail bond agents, this initiative also prohibits both bail bond agents and professional bail bondsmen from soliciting business inside courthouses, police stations, correctional institutions, community correctional centers and detention facilities.

Other provisions in this bill include:

Establishing standards for bail bond agent licensure and company appointments;

Requiring surety companies to conduct audits of bail bond agents to ensure that they receive full payment when posting bail bonds;

Requiring surety companies to certify the integrity of the bail bond agents and to assume full responsibility for the acts and conduct of their appointed agents;

Establishing standards for the return of collateral to defendants;

Requiring bail bond agents to swear under oath that they have charged the state approved premium;

Prohibiting bail bond agents from rebating law enforcement and other officials to secure a bond; and,

Prohibiting bail bond agents from executing a bond without the defendant's knowledge or consent.

In the end, if these reforms are enacted, the Insurance Department will have the tools needed to regulate bail bond agents in a manner that protects the public from potentially dangerous criminals who, under the current system that lacks adequate safeguards to prevent surety bail bond agents from discounting the premium on bonds, may not have sufficient financial exposure when they post bail and, as such, compromise the integrity of the bail bond system in Connecticut.

Reform of the bail bond industry is needed and long overdue. The Connecticut Insurance Department urges you to support this important agreement and appreciates that the Insurance and Real Estate Committee has raised this vitally needed initiative.

**Insurance and Real Estate Committee**
**February 8, 2011**

**Proposed Changes Requested by the Connecticut Insurance Department Regarding Senate Bill 28 – An Act Concerning Surety Bail Bond Agents and Professional Bondsmen**

Line 97, after the term "defendant" insert "who has absconded"

Line 157, after the term "and" delete "any such moneys shall not be"

Line 158, delete "transferred to the General Fund" and replace with the following language, "any such moneys remaining in this account at the close of a fiscal year shall be transferred to the General Fund."

Line 259, delete "verified complaint" and insert "civil action"

Line 396, delete "If" and insert "Whenever"

Line 411, delete "an application with the court,"

Line 412, delete "which may allow recovery of" and insert "a civil action to recover"

Line 502, delete "Permissible" and insert "Except that"

Line 502, after the term "print advertising" insert "that may be permitted"

Line 541, delete "Execute" and insert "Write"

Line 544, after the end of the sentence, add the following sentence "Such signed authority shall be maintained by the surety bail bond agent."

Line 554, delete "information" and insert "records"

Line 821, delete "Permissible" and insert "Except that" and after the term "print advertising" insert "that may be permitted"

Line 898, at the beginning of the sentence, add "During regular business hours,"

Line 905, delete the "." And replace it with ", in the centralized computer database pursuant to s. 54-2a(e)."

P 4
Ln 1

Connecticut Coalition Against Domestic Violence
90 Pitkin Street, East Hartford, CT 06108
Tel. 860.282.7899; Fax: 860.282.7892

**To:** Members of the Insurance and Real Estate Committee

**From:** Erika Tindill, Esq., Executive Director
Connecticut Coalition Against Domestic Violence

**Date:** February 8, 2011

**RE:** S.B. 28: ACC Surety Bail Bond Agents and Professional Bondsmen

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Good afternoon, Senator Crisco, Representative Megna and members of the Insurance and Real Estate Committee. My name is Erika Tindill and I am the Executive Director of the Connecticut Coalition Against Domestic Violence (CCADV). I am here today to express support for Senate Bill 28, An Act Concerning Surety Bail Bond Agents and Professional Bondsmen.

You may be wondering why the state domestic violence coalition is concerned with the regulation of surety bail bond agents and professional bondsmen. For my organization, support of policy and legislation that is responsive to the needs of victims, as well the safety concerns of their families *and* their communities is part of our mission. CCADV has 18 member programs across the state that directly provide a comprehensive range of services. In the last fiscal year, those programs collectively served more than 60,000 men, women, and children - nearly half of which came through the criminal courts or were dealing with an abusive partner with pending criminal charges. For those member programs, passing SB 28 translates into increased safety for many of the victims they serve. Family Violence Victim Advocates (FVVAs) working in the Geographical Area (G.A.) courts employed by our member programs may be the first court personnel to be assisting victims whose abusers have benefitted from the practice of

"undercutting" or payment plans for bail bonds. You will hear later this afternoon from Kathy Berkel, an FVVA, about her experience serving victims in these circumstances. FVVAs know firsthand of the danger to victims and the public safety issues that arise from defendants who pay little or nothing to get out on bond almost immediately. You may recall the tragic murder of Shengyl Rasim in West Haven on January 17, 2010. It was reported that her husband shot her in the face as she held their infant in her arms with their toddler sleeping in another room; this within hours after he was released *without having paid a dime* to a bondsman. Safety planning is much more complicated and labor intensive when the person from whom you are trying to stay safe gets out of jail quickly and unexpectedly.

I am not at all suggesting that regulation of bail bonds would have prevented this murder-suicide (based on what is known about the case, such regulation might only have prevented it on that particular day). Nor do I believe SB 28 or any other legislation alone will solve the problem of intimate-partner violence. I am suggesting, however, that this legislation can play a part in addressing domestic violence victim and public safety concerns. The bill must have a balanced approached with respect to defendants' rights, public safety, business concerns, unintended consequences, crime victims' rights under the Connecticut constitution, and the disproportionate impact on certain criminal defendants.

Specifically, CCADV is in favor of provisions 1) prohibiting an agent from executing a bail bond at less than the premium rate (usually 10%), 2) allowing bail bond payment plans with at least a 35% down payment, and 3) increasing the capacity of the Insurance Department and Department of Public Safety to regulate and enforce certification and compliance.

**There is no testimony for page 937. The next page is 938.**

p4
Ln 11

To: Members of the Insurance and Real Estate Committee
From: Katherine Verano-Berkel, Women's Center of SE CT
Date: February 8, 2011
Re: S.B. 28: ACC Surety Bail Bond Agents and Professional Bondsmen

Good Afternoon Senator Crisco, Representative Megna and members of the Insurance and Real Estate Committee. My name is Kathie Berkel and I am here to speak in favor of Senate Bill 28, An Act Concerning Surety Bail Bond Agents and Professional Bondsmen.

I am employed as the Family Violence Victim Advocate Supervisor at the Women's Center of Southeastern Connecticut. I oversee advocates in the New London and Norwich courts as well as an advocate located in the Norwich Police Department. As family violence victim advocates, it is our responsibility to provide services to victims of family violence crimes. Over the past few years I have been listening to victim's concerns and fears when their abusers are being arrested and are then bonding out shortly after the arraignment hearing. These victims are bewildered as they claim that the abuser did not have resources to bond out. Many victims have told me that this has happened in the past and they will think twice about calling the police in the future because the courts cannot protect them when their abusers are bonding out with little or no money.

As an advocate it is our practice to safety plan with victims to prepare for any and all scenarios. Much to my dismay, I often receive frantic calls from victims informing me that the abuser bonded out. I cannot express the fear, frustration and hopelessness in the voices of the victims who repeat over and over that there is no way the abuser had the money to bond out. A few victims shared with me that their abuser would brag that they got out without paying anything and they would do it again.

In response to their claims, I made a special effort to follow a few cases over a period of

time to determine the cause of their concerns. I monitored the amount of bond set by local police departments when arresting an abuser with criminal records and the bond amounts seemed to be appropriate. I observed the court room arraignment in which the judge would set a bond to ensure that the abuser would return to court as well as considering the safety of victims involved. Once again, appropriate protocols seemed to be adhered to. I would assist the victim in registering with the Department of Corrections Victim Services Unit to be notified in the event that the abuser was to bond out. When I relayed the bond amount to victims, they felt confident that their abuser would be unable to come up with the funds to be released, giving them a sense of safety and security.

There are two particular cases that I would like address. One is the case of a defendant who had sixteen domestic violence arrests in three different courts with many of them ending in convictions, jail time, suspended sentences and probation. When I became involved, this abuser had two cases with two different victims. One of the victims had injuries that left scars on her face and her body. As I was unable to reach the victim at the time of the arraignment, a full no contact protective order was issued. I later found out, that she had been staying in a domestic violence shelter out of the area. Upon coming to court, the victim shared with the prosecutor that she was fearful of her abuser and showed the prosecutor her injuries. The prosecutor requested that a detective from the local police department come and take photos of the victim's injuries.

I was contacted to meet with this victim and to be with her for the photos. I met with her after to discuss the arrest, her wishes and her safety plan to leave court that day. A police escort was offered but the victim refused. The victim felt safe with the plan we had put in place. But when she left the court house, the abuser had her followed, picked up and brought to him. He threatened that should she pursue the domestic violence charges she would die as well as her child and whoever was assisting her. Her abuser had gone through her personal belongings and found my name. I did not learn of this incident until the victim made contact with the police some time later. She wanted to meet with the prosecutor and me. She had a failure to appear on a motor vehicle charge but she would not come back to court out of fear of being found by her abuser again. She contacted the police and was brought in through lock-up, feeling that this was the safest move. I met

with her in lock up and she expressed her fears for her life, her daughter's life as well as mine. She felt that the abuser would not hesitate to carry out his threats. Arrangements were made for her safety on that day as well as for any future court appearances. I then contacted the detective involved for advice on my safety.

The detective informed me that this defendant had a lengthy criminal history and record, and that I should be very concerned for my safety. Eventually the defendant was convicted of the domestic violence charges as well as the drug charges and sentenced to serve jail time followed by probation. The victim remained in hiding and I was in constant contact with her. The other victim of this abuser remained in the area and her safety plan was to not testify against him.

I continued to work with these victims for the next two years. We were notified of parole hearing dates and the relocation of the defendant as a protocol of the Department of Correction. We were all notified of the defendants pending release and I safety planned with each victim accordingly. Each victim expressed a different level of anxiety and fear. But I felt another form of anxiety for my own safety and that of my family. I started asking myself, "Would he come after me? What about my daughter?" I felt embarrassed to admit that I did not feel safe and I could not imagine what the victims of his assaults were feeling. All of my years of experience when I would reassure a victim that everything would be okay seemed to lose its effect. I did not feel safe and I was scared.

This defendant was only out of prison and on probation a short time before he was arrested once again on drug charges. The police set bond at close to $100,000. When he was arraigned, the judge kept the same bond in place due to his lengthy criminal history. He once again utilized the services of the public defender's office as he had on numerous prior criminal arrests. Because the defendant was held on bond for a non domestic violence charge, I was not aware that he had bonded out. A few weeks later the defendant was arrested on a new domestic violence charge involving one of the prior victims. Once again, the police set a high bond and the judge kept it in place. When I learned that the defendant had once again bonded out, I went to the domestic violence prosecutor to find out how he was able to make bond. The prosecutor immediately

requested a bond hearing to be held within forty eight hours to address these issues. At this hearing, the prosecutor wanted to know how someone who was not working and qualified for a public defender could post bond or surety in the amount that the defendant would have to produce. It was learned during this bond hearing that the bail bond company had set up a payment arrangement with this defendant and was not required to make any down payment prior to his release. After hearing this, the judge then set bond at cash only and the defendant was incarcerated as he was unable to come up with any monies.

I know that accepting little or no money for bond is a practice is followed by bail bond agents working in other courts as well. I worked with a victim who was kidnapped by her abuser. The abuser had multiple charges throughout the state and was being held on an extremely high bond for kidnapping and attempted murder. The victim was in hiding pending the trial. The states attorney's office contacted me, asking me to notify the victim that the abuser had bonded out. We were all shocked by this news because the abuser had been incarcerated for some time and the bond was not reduced. It came to my attention that a bail bond company in another jurisdiction had accepted a letter supplied to them by the defendant stating that he would be the recipient of a sum of money from a law suit of some type. The bail bond company accepted this letter in good faith. Had they investigated it, they would have learned that the letter was issued from the office of an attorney that has been deceased for over a year. Once again, the defendant did not come up with any money and was released. Repeatedly, the victim and her mother expressed their concerns that this type of thing could happen. They indicated that in this case, having bond set at any dollar amount created a false sense of security for them because they were certain that he would be released.

I have had numerous conversations with victims who have questioned how their abusers bonded out without the resources. I feel that policies and laws need to be made and enforced to protect victims, not to be made easier for an abuser to be released. Please support Senate Bill 28. Thank you for your time.

Andrew (Drew) Bloom
President of the Bail Association of Connecticut
EVP 3-D Bail Bonds, Inc. DADs Bail Bonds, LLC
57 Fishfry Street, Hartford, CT 06120
860-247-BAIL(2245)

p4
Ln 17

February 8th, 2011

Good Afternoon distinguished Senators and Representatives,

My name is Andrew Bloom. I am a licensed surety bail bondsman, bail enforcement agent, and one of the owners of 3-D Bail Bonds, Inc. which employs about 27 people.
I am also one of the owners of DADs Bail Bonds, LLC representing over 10,000 bail bonds written a year, a member of The Professional Bail Agents of The United States, and a founding member and current President of the Bail Agents of Connecticut Association.

As many of you may know, I have been here to testify for many years in support of bail reform. I would now like the opportunity to demonstrate my **support of Raised Senate Bill 28.**

The Bail Association of Connecticut has developed a "Whistle Blowers" program to help self police our fellow Bail Agents.
We have a code of ethics requiring our members to be Honest Ethical Licensed Professionals, or H.E.L.P.

Connecticut Bail Agents are extremely vital doing their part in the court process insuring appearance of the accused in proceedings, upholding The Eighth Amendment having to do with reasonable bail. Connecticut makes arrests for over 125,000 cases per year. Take a conservative 25% of those arrests resulting in bail, which is about 41,000 defendants. The average case takes 6 months. Multiply 41,000 defendants times the average cost to house an inmate for 12 months in Connecticut of about $44,000 and you get $1.8 billion. Cut that in 1/2 for the 6 months for an average case and you get the bail agents of Connecticut saving taxpayer $900,000,000 annually. Bail agents and bail enforcement agents at no cost to taxpayers or risk to public safety personnel apprehend and return defendants who miss their court dates.

- This bill passed The House last year unopposed
- Proposed Senate bill 28 will help regulate bail agents who break the rules by helping to fund the efforts of the Department of Insurance and offering stronger penalties for violations
- Senate bill 28 will help keep close to 1000 CT taxpayers working

Let's get it done.

Thank you,

Andrew Bloom

**Topic:**
CORRECTIONS; CRIMINALS, JUVENILE DELINQUENCY, PERSISTENT OFFENDERS, PRISONS AND PRISONERS,
**Location:**
CRIME AND CRIMINALS - PERSISTENT OFFENDERS, PRISONS AND PRISONERS,

February 13, 2008 2008-R-0099

**COST OF INCARCERATION AND COST OF A CAREER CRIMINAL**

By: Christopher Reinhart, Senior Attorney

You asked about the cost of incarcerating an inmate in Connecticut and the cost of having a career criminal on the street.

**SUMMARY**

According to information provided by the Office of Fiscal Analysis, the annual cost to incarcerate an inmate in Connecticut in FY 06 was $ 44,165. This figure includes fringe benefits, statewide cost allocation program distribution (which the Department of Correction (DOC) must pay other state agencies to provide services), building depreciation, equipment depreciation, bond interest, and miscellaneous revenue. A chart below displays the annual costs for an inmate in specific facilities.

We did not find information on the cost of a career criminal specifically in Connecticut. But we did find a study by Professor Mark Cohen at Vanderbilt University that breaks down the lifetime costs imposed by a career criminal. In a 1998 article, he looked at a target population of chronic juvenile offenders who are assumed to continue a life of crime as an adult. The assumptions used in this study include that a typical adult crime career is six years and the criminal spends nearly eight years in prison. Using 1997 dollars, he concluded that the total external costs of a life of crime range from $ 1. 5 to $ 1. 8 million (Cohen, "The Monetary Value of Saving a High-Risk Youth," *Journal of Quantitative Criminology*, Vol. 14, No. 1, 1998).

Using 1997 dollars, Cohen estimated:

1. $ 165,000 in victim costs per year of a criminal's career (about 35% attributable to tangible costs such as lost wages and medical bills and 65% attributable to the value of lost quality of life to victims);

2. the average career criminal annually adds $ 40,000 to the cost of the criminal justice system (including investigation, defense, incarceration, parole, and probation); and

3. the prisoner is not a productive member of society while incarcerated and, based on an average of eight years in prison, the total foregone earnings for a career criminal is $ 60,000 or $ 52,000 in present value terms.

Cohen concluded that juvenile delinquency between age 14 and 17 imposes $ 83,000 to $ 335,000 while an adult career criminal adds $ 1. 4 million. He concluded that the total external costs of a life of crime range from $ 1. 5 to $ 1. 8 million. Of this amount, about 25% is tangible victim costs, 50% lost quality of life, 20% criminal justice costs, and 5% offender productivity losses (Cohen, "The Monetary Value of Saving a High-Risk Youth," *Journal of Quantitative Criminology*, Vol. 14, No. 1, 1998).

A number of other studies try to measure the overall cost of crime to society or the cost of specific types of crimes. If you would like information about these studies, please let us know.

**COST OF INCARCERATION IN SPECIFIC FACILITIES**

The Office of Fiscal Analysis provided us with the annual cost to incarcerate an inmate in specific facilities in Connecticut in FY 06. This figure includes fringe benefits, statewide cost allocation program distribution (which the Department of Correction (DOC) must pay other state agencies to provide services), building depreciation, equipment depreciation, bond interest, and miscellaneous revenue. The chart below displays this information.

***Annual Cost to Incarcerate an Inmate in Specific Connecticut Facilities in FY 06***

| *Facility* | *Annual Cost Per Inmate* |
|---|---|
| Bergin Correctional Institution | $ 31,008 |
| Bridgeport Correctional Center | 46,923 |
| Brooklyn Correctional Institution | 34,564 |
| Cheshire Correctional Institution | 41,476 |
| Corrigan/Radgowski Correctional Institution | 39,745 |
| Carl Robinson Correctional Institution | 34,455 |
| Enfield Correctional Institution | 41,576 |

-Continued-

| *Annual Cost to Incarcerate an Inmate in Specific Connecticut Facilities in FY 06* | |
|---|---|
| *Facility* | *Annual Cost Per Inmate* |
| Garner Correctional Institution | 86,694 |
| J. B. Gates Correctional Institution | 38,288 |
| Hartford Correctional Center | 48,794 |
| MacDougall/Walker Correctional Institution | 44,663 |
| Manson Youth Institution | 65,855 |
| New Haven Correctional Center | 45,654 |
| Northern Correctional Institution | 100,385 |
| Osborn Correctional Institution | 34,121 |
| Webster Correctional Institution | 35,123 |
| Willard/Cybulski Correctional Institution | 29,493 |
| York Correctional Institution | 54,090 |
| **Cumulative Inmate Rate** | **$ 44,165** |

CR: ts

## GEOGRAPHICAL AREA LOCATIONS - CRIMINAL DIVISION

## JULY 1, 2009 - JUNE 30, 2010

| | CASES PENDING ON 7/1/09 | | | | FISCAL YEAR 09-10 | | | CASES PENDING ON 6/30/10 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| LOCATION | ACTIVE | INACTIVE | PENDING REARRESTS | TOTAL | ADDED DURING PERIOD | TRANS. TO JUDICIAL DISTRICT | DISPOSED DURING PERIOD | ACTIVE | INACTIVE | PENDING REARRESTS | TOTAL |
| STAMFORD | 723 | 2,301 | 1,514 | 4,538 | 3,771 | 127 | 3,573 | 799 | 2,207 | 1,603 | 4,609 |
| BRIDGEPORT | 1,371 | 3,333 | 1,428 | 6,132 | 9,292 | 373 | 8,514 | 1,432 | 3,594 | 1,511 | 6,537 |
| DANBURY | 412 | 1,512 | 786 | 2,710 | 2,858 | 0 | 2,876 | 400 | 1,450 | 842 | 2,692 |
| WATERBURY | 1,735 | 2,752 | 1,405 | 5,892 | 10,142 | 376 | 11,618 | 1,571 | 978 | 1,491 | 4,040 |
| DERBY | 599 | 1,300 | 326 | 2,225 | 2,866 | 55 | 3,109 | 454 | 1,173 | 300 | 1,927 |
| NEW HAVEN | 1,670 | 3,361 | 1,928 | 6,959 | 14,312 | 398 | 12,982 | 2,588 | 3,346 | 1,957 | 7,891 |
| MERIDEN | 1,034 | 2,015 | 349 | 3,398 | 7,012 | 115 | 7,198 | 856 | 1,849 | 392 | 3,097 |
| MIDDLETOWN | 1,013 | 1,270 | 550 | 2,833 | 4,018 | 63 | 4,198 | 778 | 1,257 | 555 | 2,590 |
| NEW LONDON | 788 | 2,094 | 1,362 | 4,244 | 5,534 | 139 | 5,445 | 718 | 2,043 | 1,433 | 4,194 |
| DANIELSON | 1,159 | 1,656 | 480 | 3,295 | 3,692 | 118 | 3,409 | 1,207 | 1,743 | 510 | 3,460 |
| MANCHESTER | 1,352 | 1,903 | 440 | 3,695 | 6,306 | 88 | 5,509 | 1,948 | 1,994 | 462 | 4,404 |
| ENFIELD | 630 | 1,796 | 671 | 3,097 | 3,797 | 39 | 3,521 | 808 | 1,873 | 653 | 3,334 |
| HARTFORD | 3,819 | 6,616 | 1,708 | 12,143 | 22,322 | 250 | 21,138 | 4,398 | 6,648 | 2,031 | 13,077 |
| NEW BRITAIN | 1,382 | 2,064 | 532 | 3,978 | 7,598 | 145 | 7,082 | 1,474 | 2,363 | 512 | 4,349 |
| BRISTOL | 745 | 1,580 | 806 | 3,131 | 3,695 | 55 | 4,144 | 482 | 1,332 | 813 | 2,627 |
| BANTAM | 471 | 1,689 | 105 | 2,265 | 3,751 | 310 | 3,597 | 454 | 1,524 | 131 | 2,109 |
| ROCKVILLE | 613 | 1,223 | 235 | 2,071 | 3,291 | 129 | 2,998 | 663 | 1,318 | 254 | 2,235 |
| NORWALK | 468 | 1,733 | 1,245 | 3,446 | 3,530 | 73 | 3,202 | 511 | 1,944 | 1,246 | 3,701 |
| NORWICH | 772 | 1,488 | 351 | 2,611 | 4,473 | 66 | 4,158 | 959 | 1,524 | 377 | 2,860 |
| MILFORD | 750 | 1,300 | 319 | 2,369 | 4,044 | 66 | 3,902 | 745 | 1,401 | 299 | 2,445 |
| STATE | 21,506 | 42,986 | 16,540 | 81,032 | 126,304 | 2,985 | 122,173 | 23,245 | 41,561 | 17,372 | 82,178 |

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*Connecticut Chapter*
*645 Farmington Ave.*
*Hartford, Connecticut 06105*
*www.connecticut.sierraclub.org*
Martin Mador, Legislative Chair

Judiciary Committee
April 4, 2011

Testimony in Support of
HB 6557 AAC Liability For The Recreational Use Of Lands

I am Martin Mador, 130 Highland Ave., Hamden, CT 06518. I am the volunteer Legislative Chair for the Sierra Club-Connecticut Chapter. I hold a Masters of Environmental Management degree from the Yale School of Forestry and Environmental Studies.

In addition to my own testimony, I have submitted statements separately from 123 Connecticut residents in support of HB 6557. These statements were forwarded to the Sierra Club within the past week specifically for submission to the Committee. I have printed them together in order to save paper.

Ensuring that town-owned open space is open for hiking, boating, cycling, and other "passive" recreation is the reason we are here today. Connecticut towns and agencies such as the MDC lost their liability protections for allowing use of open space without charge in 1996. The state Supreme court that year in Conway vs Wilton ruled that towns were not "landowners" for purposes of the 1971 Recreational Land Use Act. Not that they were ineligible for protection somehow, just that they had not been included. So some towns have closed their open space lands, some have considered doing so, and all towns are paying a price. The MDC considered closing their lands following a$3M judgment last year.

Fifteen years of legislative efforts to restore the immunity have failed due to the influence of what I will call "special interests".

For reasons I cannot fully explain, there are no fewer than 14 bills filed this year, all calling for restoration. These 14 bills have had 6 public hearings in 3 committees. There are currently 38 legislative sponsors: 3 senate democrats, 6 senate republicans, 19 house democrats, and 10 house republicans. The Environment Committee JFSed SB 831 to Judiciary by a vote of 26-0. Planning and Development JFSed SB 43 to the floor by a vote of 19-1.

This year, for the first time, the public interest advocates have taken up the restoration effort. Of the many issues we support, this is a top legislative priority. Our grateful thanks to Rep. David Baram, who supports the bill, and has been working diligently for the past few weeks with representatives of the "special interests" in an effort to fashion a compromise bill.

You will receive written testimony from several hundred supporters today. Over twenty people will sign up to testify. In addition, written testimony on essentially the same bill as HB 6557 is available on SB 831 in Environment, and SB 43, HB 5254, SB 90, SB 507 in P&D.

The citizens of Connecticut have been waiting for fifteen years to remedy this unfortunate 1996 court decision. We have been concerned for 15 years about the closing of public lands to the public because of liability concerns. This year, we add concerns about the costs to towns to carry insurance coverage, the costs of defending court suits, costs of settling nuisance cases, costs of jury awards ($3M against the MDC last year). Open spaces are not manicured, engineered lands. They are natural spaces, which is why we appreciate them. The financial burden on towns to continuous find and remove fallen tree limbs, clumps of wet leaves

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Ron Thomas

# TESTIMONY

of the

## CONNECTICUT CONFERENCE OF MUNICIPALITIES

to the

## JUDICIARY COMMITTEE

April 4, 2011

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 90% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

*There are several bills before you today that would increase municipal liability exposure during the most devastating municipal fiscal crisis since the Great Depression. Towns and cities have made uncomfortable budget cuts and are girding for additional cuts. These include layoffs of police officers, firefighters, road personnel and teachers.*

SB43
SB1230
SB1231
SB1232
HB6555
HB6641
HB6557

*In Connecticut's central cities, the situation is increasing grave and dire. Deep cuts in services and massive layoffs have occurred in these communities – with promised cuts and layoffs to come. Municipalities must still provide the services residents depend on for education, public safety and infrastructure maintenance, regardless of the economy.*

*The proposals before you represent attempts to get at the perceived "deep pockets" of towns and cities.*

***With towns and cities about to fall over a fiscal cliff, we urge you to protect residential and business property taxpayers and take no action on these bills. Now is the time for mandates relief, not for imposing new unfunded state mandates!***

900 Chapel St., 9th Floor, New Haven, CT 06510 P. 203-498-3000 F. 203-562-6314 www.ccm-ct.org

Increasing Municipal Liability Exposure

**S.B. 1231, "An Act Concerning Notice of An Action Regarding A Defective Highway, Bridge, Sidewalk, Road or Railing"**

CCM opposes this unfunded state mandate.

S.B. 1231 would increase municipal liability exposure by extending the defective highway notice period to 180 days *and* start the clock ticking after completion of a police investigation. There is no reason why the notice period should be extended except, of course, because the plaintiff's counsel failed to file a timely notice.

The bill mixes up two principles. It seems to be based on the assumption that the notice should only be issued after the potential plaintiff has determined that a cause of action exists. That's incorrect. The point of the notice requirement is to give municipalities the chance to do a timely investigation into whether a defect actually existed and whether it was the sole proximate cause of the accident. For self-insured municipalities, it also allows them to start reserving for the claim if they think there may be potential exposure to a significant liability. If the driver thinks a defective highway contributed to the accident, he/she is going to be aware of the alleged defect at the time the accident happens. The driver doesn't need to determine whether a cause of action exists until the two-year statute of limitations for actually bringing the cause of action is winding down. Extending the *notice period* until a police report is completed has nothing to do with that. Instead, it may hamper municipalities' ability to determine whether there were other contributing factors involved. Furthermore, extending the notice period would push municipalities into subsequent budgetary cycles so that their ability to reserve for the claim is delayed.

There are a number of obvious practical problems with this. In the case of a fatal accident, the police investigation may be completed, but not closed for months if the Medical Examiner's Office is backlogged with its reports. What if the town is serviced by a resident state trooper? In those cases, the bill effectively puts control over the duration of the notice period for a claim against the municipality into the hands of a state agency which has no reason to act promptly. What if there is no investigation because the accident was not reported to the police? (Countless defective highway claims involve sidewalk trip-and-falls or minor property damage incidents where the matter is never reported to the police.)

*CCM urges you to take a stand for property taxpayers by taking no action on this bill.*

**S.B 1232, "An Act Concerning Municipal Immunity for the Negligent Acts or Omissions of Employees, Officers and Agents"**

CCM opposes this bill.

S.B. 1232 would limit governmental immunity to discretionary acts made at a planning or decision-making level as opposed to an operational level.

This bill raises several questions: Isn't it somewhat definitional that discretion is exercised at a "decision-making level"? Isn't it also fairly clear that "operational level" and "decision-making level" are not mutually exclusive? As a strictly statistical matter, aren't most discretionary decisions made at an "operational level"? When a police officer is aiming a weapon at someone, they're both operational *and* engaging in a decision-making process. Also, when a Director of Public Works decides when he's going to start snow plowing or salting operations, that's both an operational matter and a decision-making process.

S.B. 1232 is a badly disguised effort to kill the great majority of cases in which governmental immunity currently applies on a daily basis.

**H.B. 6555, "An Act Concerning Civil Actions Against the State and Municipalities for the Sexual Assault of Children"**

CCM opposes this bill.

H.B. 6555 would allow a family to bring an action against a municipality for the sexual assault, sexual abuse or sexual exploitation of a minor by any municipal employee, officer or agent. In addition, the bill proposes that any sort of special defense of governmental immunity would be stripped away.

This is in direct contravention of the provisions of CGS Sect. 52,557n that provides that a municipality cannot be held liable for the intentional or criminal acts of its employees. It is antithetical to centuries of common law dealing with the concepts of respondeat superior and ultra vires acts. It changes every single city employee (or agent – how far does this go? Someone selling ice cream at the beach?) into a ticking financial time bomb. Thus, regardless of how careful the screening process, a municipality can be held directly liable if one of its employees goes off track and commits a criminal act against a child (regardless of whether or not the town had any prior notice or warning).

*CCM urges you to take no action on this bill.*

***CCM urges the Committee to protect the interest of towns and cities – and their property taxpayers – and take no action on the aforementioned bills.***

Other Proposals

**S.B. 1230, "An Act Concerning Traffic Stop Information"**

While CCM appreciates the intent behind this proposal, it would impose costly administrative burdens on towns and cities during a period when there are layoffs of police officers.

CCM is unaware of any widespread problems with the current system, whereby municipalities adhere to local written policies governing traffic stops.

CCM urges the Committee to include a funding source to reimburse municipalities for costs associated with S.B. 1230.

**H.B. 6641, "An Act Concerning the Use of Credit Reports in Employment Decisions"**

CCM urges the Committee to amend this bill, if it is to proceed.

H.B. 6641 would prohibit employers from obtaining credit reports on applicants, except under certain conditions.

CCM is concerned that existing exceptions do not seem to include municipal employees whose positions require them to handle cash (such as tax collection staff or treasury/accounting staff) or people who hold positions of public trust, such as police officers or firefighters. The bill should be amended to include exceptions in those instances.

**H.B. 6557, "An Act Concerning Liability for the Recreational Use of Lands"**

CCM appreciates the intent behind this proposal – to provide some liability relief to municipalities for certain cases involving injuries as a result of recreational activities on certain lands made available as open space. However, the proposal does not go far enough in providing needed relief. CCM supports S.B. 43, which the Planning and Development Committee favorably reported. S.B. 43 overturns *Conway v. Wilton*.

S.B. 43 would codify municipalities under the protections of the Recreational Land Use Act (CGS 52-557f et. seq.), which provides partial immunity to owners of recreational land made available to the public without charge. That is, they are liable only for injuries occurring on such land when there is a "willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity."

Such protections provided by S.B. 43 should be provided to municipalities for the following reasons:

- As a result of *Conway v. Wilton*, some municipalities have closed, stopped construction on, halted acquisition of, or restricted the use of recreational facilities;

- Even with the partial immunity offered by the Recreational Land use Act, municipalities have spent significant dollars and made significant efforts to make recreational areas safe for their citizens;

- Many other states provide some form of immunity from liability to municipal and other public landowners when they make their land available without charge for recreational use;

- Some recreational activities are inherently risky. Municipalities and other public agencies cannot prevent injuries to people who undertake them, and municipalities should not be held responsible for those injuries;

- Failure to add legal protections to municipalities costs hard-pressed property taxpayers money and services; and

- The recent outcome off a recreational land use lawsuit against the Metropolitan District Commission has increased the fears of local officials that litigious individuals will take advantage of "perceived" deep-pockets and exploit their voluntary use of public open space lands.

Thank you.

★ ★ ★ ★ ★

If you have any questions, please call Ron Thomas at rthomas@ccm-ct.org or (203) 498-3000.

MIDDLESEX COUNTY MEDICAL ASSOCIATION
Executive Office: One Regency Drive • P.O. Box 30
Bloomfield, CT 06002-0030 • Tel: (860) 243-3977
Fax: (860) 286-0787 • Email: MCMA@SSMGT.COM

**Statement in Support of**

**House Bill 6343 – An Act Concerning Cooperative Health Care Arrangements**

**Labor and Public Employees Committee**

**March 4, 2011**

This statement is being submitted in support of House Bill 6343 – An Act Concerning Cooperative Health Care Agreements. The concepts in this bill have been raised before the General Assembly over the past few years and we have consistently supported them. Given that physicians are finding it increasingly difficult to serve the needs of their patients because of the medical malpractice crisis, cuts to Medicare and Medicaid and other factors, it is now more important than ever that you pass this bill.

Raised Bill 28 would make two very important changes to the delivering of health care in Connecticut. First, the bill would change current anti-trust laws that prevent physicians from entering into "cooperative agreements." Such agreements would allow physicians to join together in order to provide health care services, negotiate pricing, share patients, personnel, support services, laboratory facilities and/or procedures. Such agreements would also enable physicians to increase quality of care, help to contain costs, and improve access to health care especially in rural areas.

(OVER)

defend themselves or to -- to get what's rightfully theirs, but at some point, my perspective -- the -- the folks that are being affected by this, I feel the victims have -- have a right and I would appreciate the opportunity and -- and again, I'm not living this. I'm speaking for them. I wish they -- they could have come with me, but they have fear of retribution. Maybe another lawsuit. So it's very difficult. I'm trying to give you their words unfortunately without them sitting right next to me.

REP. O'NEILL: Thank you, Representative.

REP. FOX: Thank you.

And thank you, Representative Morin, for -- for waiting this long to be here so --

REP. MORIN: It was well worth it.

REP. FOX: Thank you.

Next is Patrick Moynihan. And Mary Casey. Okay. Okay.

Good evening.

MARY ANNE CASEY: (Inaudible). Oh, thank you.

My name is Mary Anne Casey. I'm President of the Connecticut State Surety Association, and Vice President of the Professional Bail Agents of the United States.

HB6629
SB28

I've been a licensed bail agent for the past 30 years, and I carry both a surety bail license and a professional license issued by the Department of Public Safety. I'm here today to testify and comment on a particular issue in

Raised Bill 6629, AN ACT CONCERNING DOMESTIC VIOLENCE, in particular, Section 19.

As many of you are aware, members of our association for years have been testifying and asking for bail reform. We were interviewed extensively by the investigator representing the Legislative Program Review and Investigations Committee back in 2003, and we were optimistic after that report was made public, bail reform would occur. To date, nothing has been passed.

Many negative occurrences predicted in the Program Review Report have come to fruition, the most appalling is the fatalities that have occurred while defendants have been released on discounted bail premiums, or in the matter of the West Haven tragedy, no money was paid at all. If Section 19 was taken from Senate Bill 28 and placed in this proposed bill as a way of achieving bail reform, as authored it will do little, and here are my reasons.

First, there are no criminal penalties listed for bail agent offenders. The lack of any criminal penalties for violators is mystifying. What it succeeds in doing is to allow the rogue agents to continue operating the way they have for the past 15 years. Furthermore, without criminal statute in place, it makes regulating near impossible. Criminal penalties for violators are imperative.

Second, to allow for only 35 percent of the file premium rate to be given as a down payment, if you will, for a surety bond, with a balance due in 15 months, only serves to legitimize the practice of rebating, not to mention the risk that would continue for victims of domestic violence.

To understand the financial component of this bill, I will use the example of the West Haven tragedy. The bail was set at $25,000. Under this proposed -- under this proposed bill, the defendant would only have to come up with a mere $665, with a balance due in 15 months, clearly not an adequate amount to protect the victim. As I'm stating now, and previous speakers in -- including Speaker Donovan, and State's Attorney Kevin Kane, the victims will not be protected.

I do realize that the intent as written is that the balance will be paid in 15 months' time, but the reality is that more often than not, this will not occur. Furthermore, to allow for up to 15 months to pay the balance when the average case is disposed of in about six months, will prove to be meaningless. Nor, based on this legislation, would a bail agent be found in violation if they are unable to collect the balance due if the defendant is presently incarcerated. We are then back to the issue of rebating, only now, if this legislation were to pass, the bail agent has done nothing illegal.

The file rates were originated many years ago for indemnification purposes. Allowing 35 percent to be paid upfront does not accomplish that. I would ask for a compromise of at least 50 percent with only six months to pay the -- the balance.

Finally, I readily admit to being confused. I testified at an Insurance Committee public hearing a month ago pertaining to Senate Bill 28, AN ACT CONCERNING BAIL AGENTS AND PROFESSIONAL BONDSMEN. As I stated earlier, Section 19 of Raised Bill 6629 has inserted some of the language regarding surety bail reform. One very important piece has been left

out, and that's regarding solicitation by a licensed bail agent. Raised Bill 6629 would prohibit the soliciting of bail bonds by an unlicensed person, but Senate Bill would prohibit a licensed agent from soliciting in places like courthouses, jails, and police departments.

Throughout the country, solicitation has been banned in these places, and with very good reason. Time and again, families are accosted, badgered, and sometimes threatened by bail agents in their quest to secure the bond. It also provides for a -- a breeding ground for the -- feeding frenzy to continue. There are some courts in Connecticut where the administrative judges have posted notice prohibiting solicitation due to the negative impact it has on the general public. If the language in this bill is to be in lieu of Senate Bill 28, I urge this committee to insert the no solicitation language.

I closing, I would like to thank this committee, in particular Representative Flexer, for bringing the issue of domestic violence to the forefront. I recognize that surety bail is a very small piece of this legislation. Please keep in mind that by keeping the premium requirement level at 35 percent, this enables violent domestic offenders ease of a quick release, therefore eliminating a much needed cooling off period necessary to protect their victims. If you have any questions, I'd be happy to answer them.

REP. FOX: Thank you very much for your testimony.

Are there any questions?

Representative Flexer?

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Testimony for Mary Anne Casey

Raised Bill 6629

An Act Concerning Domestic Violence

March 30, 2011

Sen. Coleman, Rep. Fox and members of the Judiciary Committee:

My name is Mary Anne Casey and I am President of the CT State Surety Association and Vice President of the Professional Bail Agents of the United States. I have been a licensed bail agent for 30 years and I carry both a surety bail license and a professional license issued by the Dept. of Public Safety. I am here today to testify and comment on a particular issue in Raised Bill 6629, An Act Concerning Domestic Violence, Sec. 19(b) in particular.

As many of you are aware, members of our Association for years have been testifying and asking for bail reform. We were interviewed extensively by the investigator representing the legislative program review and investigations committee back in 2003 and were optimistic after that report was made public, bail reform would occur. To date, nothing has been passed. Many negative occurrences predicted in the Program Review report have come to fruition; the most appalling is the fatalities that have occurred while defendants have been released on discounted bail premiums or in the matter of the West Haven tragedy, no money was paid at all.

If Sec. 19 was taken from Sen. Bill 28 and placed in this proposed Bill as a way of achieving bail reform, as authored, it will do little and here are my reasons:

First, there are no criminal penalties listed for bail agent offenders. The lack of any criminal penalties for violators is mystifying. What it succeeds in doing is to allow rogue agents to continue operating the way they have for the past 15 years. Furthermore, without criminal statute in place, it makes regulating near impossible. Criminal penalties for violators are imperative.

Second: To allow for only 35% of the filed premium rate to be given as a "down payment" for a surety bond with the balance due in 15 months only serves to legitimize the practice of rebating not to mention the risk that would continue for victims of domestic violence. To understand the financial component of this Bill I will use the example of the West Haven tragedy. The bail was set at $25,000. Under this Bill the defendant would only have to come up with a mere $665.00 with the balance due in 15 months. Clearly not an adequate amount to protect the victim. I do realize that the intent as written is that the balance will be paid in 15 months time but the realty is that more often than not this will not occur. Furthermore, to allow for up to 15 months to pay the balance when the average case is disposed of in about 3-6 months will prove to be meaningless. Nor, based on this legislation, would a bail agent be found in violation if they are unable to collect the balance based on the defendant being incarcerated. We are then back to the issue of rebating only now, if this legislation were to pass, the bail agent has done so legally. The filed rates were originated many years ago for indemnification purposes.

Allowing 35% to be paid up front does not accomplish that. I would ask for a compromise of at least 75% down with only 6 months to pay.

Finally, I readily admit to being confused. I testified at an Insurance Committee public hearing a month ago pertaining to Sen. Bill 28 An Act Concerning Bail Agents and Professional Bondsman. As I stated earlier, Sec. 19 of Raised Bill 6629 has inserted some of the language regarding surety bail reform in it's language. One very important piece was left out and that was regarding solicitation by a licensed bail agent. Raised Bill 6629 would prohibit the soliciting of bail bonds by an unlicensed person but Sen. Bill 28 would prohibit a licensed agent from soliciting in places like court houses, jails and police departments. Throughout the country solicitation has been banned in these places and with good reason. Time and again families are accosted, badgered and sometimes threatened by bail agents in their quest to secure the bond. It also provides for a breeding ground for the illegal practice of bail bond premiums. There are some courts in Connecticut where the Administrative Judge has posted notice prohibiting solicitation due to the negative impact it has on the general public. If the language in this Bill is to be in lieu of SB28 I urge this Committee to insert the no solicitation language.

In closing, I would like to thank this Committee, and Rep. Flexer for bringing the issue of Domestic Violence to the forefront . I recognize that surety bail is a very small piece of this legislation. Please keep in mind that by keeping the premium requirement level at 35% this enables violent domestic offenders the ease of a quick release therefore eliminating a much needed cooling off period necessary to protect domestic violence victims.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 13, Calendar 425, House Bill 5174; move to place that item on the consent calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 19, Calendar 479, House Bill 5468; move to place that item on the consent calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

And Calendar page 26, Calendar 56, Senate Bill 28; move to place that item on the consent calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

And Madam President, if we might call as the

Thank you, Mr. President.

Also on calendar page 13, Calendar 423, House Bill 6286, Mr. President, move to place that item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

And additionally on calendar page 27, Calendar 92, Senate Bill 912, Mr. President, move to place that item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, if the Clerk would call the items on the first consent calendar and if we might proceed to a vote on that consent calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the Chamber. Immediate roll call

has been ordered in the Senate on the consent calendar. Will all Senators please return to the Chamber.

Mr. President, those items placed on the first consent calendar begin on calendar page 11, Calendar Number 373, Substitute for Senate Bill 951; calendar page 12, Calendar 414, Substitute for House Bill 6299; Calendar 416, House Bill 6345; Calendar 417, Substitute for House Bill 6462; calendar page 13, Calendar 419, Substitute for House Bill 6310; Calendar 420, House Bill 6419; Calendar 423, Substitute for House Bill 6286; Calendar 425, Substitute for House Bill 5174.

Calendar page 19, Calendar Number 479, House Bill 5468; calendar page 26, Calendar Number 56, Substitute for Senate Bill 28; calendar page 27, Calendar Number 92, Senate Bill 912; and calendar page 32, Calendar Number 190, Substitute for Senate Bill 957.

Mr. President, that completes the items placed on the first consent calendar.

THE CHAIR:

This is an inquiry, was Calendar 416 on page 12 among those items that you called?

THE CLERK:

Yes, Mr. President. Calendar Number 416, which was House Bill 6345 was called and placed on the first consent calendar.

THE CHAIR:

Thank you.

THE CLERK:

The Senate is now voting by roll call on the consent calendar. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the Chamber.

THE CHAIR:

The machine is open.

Senators, please check the board to see that your vote is properly recorded. If all members have voted and if all votes are properly recorded the machine will be locked. Would the Clerk please take a tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number 1.

| | |
|---|---|
| Total Number voting | 36 |
| Necessary for adoption | 19 |

Those voting Yea 36

Those voting Nay 0

Those absent and not voting 0

THE CHAIR:

The consent calendar is passed.

SENATOR LOONEY:

Mr. President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes. Thank you. Thank you, Mr. President.

I have some additional items to mark go at this time.

THE CHAIR:

You may proceed, sir.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, first, on calendar page 6, Calendar 229, Senate Bill 205 might be marked go. Next, Mr. President, calendar page 36, Calendar 273, Senate Bill 1115 is marked go. And then, Mr. President, moving back to calendar page 9, Calendar 330, Senate Bill 3673 is marked go.

THE CHAIR: