

PA12-133

HB5365

House	5840-5851	12
Judiciary	1682-1683, 1686, 1701- 1707, 1728-1731, 1752- 1755, 1824-1836, 1869, 1872	33
<u>Senate</u>	<u>4447, 4497-4499</u>	<u>4</u>

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2012**

**VOL.55
PART 18
5829 – 6187**

smj/law/djp/gbr
HOUSE OF REPRESENTATIVES

82
May 4, 2012

here.

REP. BETTS (78th):

Oh, thank you so much.

SPEAKER DONOVAN:

I was going to clear the board. Go ahead.

REP. BETTS (78th):

Yes, I just wanted to let you know in response, I'm a big supporter of this as I know you are, and I'm looking forward to being able to put in perhaps additional contributions. If you were able to perhaps wear a bow tie, which is probably you could get from Representative Hetherington who might be able to tithe on your shirt, whatever your pleasure.

SPEAKER DONOVAN:

All right. The night is yet young,
Representative Betts.

Will the Clerk please call Calendar 340?

THE CLERK:

On page 38, Calendar 340, substitute for House Bill Number 5365, AN ACT CONCERNING COURT OPERATIONS AND VICTIM SERVICES, favorable report by the Committee on Appropriations.

SPEAKER DONOVAN:

Representative Jerry Fox, you have the floor,

Sir.

REP. FOX (146th):

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

(Deputy Speaker Kirkley-Bey in the Chair.)

DEPUTY SPEAKER KIRKLEY-BEY:

The motion before us is acceptance of the Joint Committee's favorable report and passage of the bill.

Will you remark further, sir?

REP. FOX (146th):

Thank you, Madam Speaker.

This is the bill that is brought to us through the judicial branch. They tend to bring a bill similar to this on an annual basis. And what it does is it tends to address certain circumstances that have occurred or to correct certain potential discrepancies that they would like to see addressed in order to allow them to effectuate things more smoothly.

Amongst the changes or the issues that are reflected in this bill include the expansion of the judicial performance evaluation program to include

judge trial referees, a clarification that summary process actions must be issued against all occupants, whether they be residential or commercial, and a summary in an eviction action. There is also a provision that would allow for electronic communication of court orders which goes towards their efforts to become more digitalized.

There is a provision that allows alternate jurors in civil cases to serve in the same manner as those judges -- those jurors in criminal cases. And what that means is that the alternate jurors are not released until the verdict is rendered. Currently what happens is when the jury begins its deliberations, the alternate jurors are released.

There was one amendment, Madam Speaker, LCO Number 4854, I would ask that that please be called.
DEPUTY SPEAKER KIRKLEY-BEY:

Repeat, repeat that, sir.

REP. FOX (146th):

I'm sorry, 4854.

DEPUTY SPEAKER KIRKLEY-BEY:

Will the Clerk please call LCO 4854?

THE CLERK:

LCO 4854 --

DEPUTY SPEAKER KIRKLEY-BEY:

House Schedule "A."

THE CLERK:

-- House Schedule "A" offered by Representative Fox, Senator Coleman, Representative Hetherington, Senator Kissel.

DEPUTY SPEAKER KIRKLEY-BEY:

The Representative asks these to summarize.

Is there any objection? Is there any objection?

Hearing none, please proceed, sir.

REP. FOX (146th):

Thank you, Madam Speaker. This amendment makes certain technical changes. In addition to that, it also makes a change to when the chief justice may appoint a chief -- a associate judge of the Supreme Court to remain or to appear on a panel and the situation would be when they are disabled, disqualified, or unavailable, or if another judge is disabled, disqualified, or unavailable, the chief justice may appoint an associate judge to serve on a panel.

I move adoption of the amendment.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is adoption on House

Schedule "A."

Will you remark further on House Schedule "A"?

If not, Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Madam Speaker.

Through you to the proponent, if I may.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fox, prepare yourself.

Representative Hetherington, please proceed.

REP. HETHERINGTON (125th):

Thank you.

Through you, Madam Speaker, it appears to me when compared with the existing language that lines 7 through 9 or through 11, this would be somewhat more restrictive in the powers of the chief justice to designate a replacement. And that would be now require that at least one of the judge whose replacement is sought, be disabled, disqualified, or otherwise unavailable. Is that consistent with your interpretation?

Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker, yes, it is.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you.

And proceeding through you, Madam Speaker, through the bill, it seems that we have in line 16 surrounding we -- we take away the term bail commissioners and we take it with intake assessment and referral specialists. If that is correct, would you kindly comment on the reason for making that change?

Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker.

It's actually after commissioners the word is inserted, so, it's both.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Hetherington.

REP. HETHERINGTON (125th):

I beg your pardon. Would the Representative kindly repeat that answer? I missed that.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fox, would you please repeat your answer?

REP. FOX (146th):

Yes, Madam Speaker, through you.

The insertion is, it's after the word commissioners. So, it would still include commissioners. That's the language as intake assessment and referral specialist.

REP. HETHERINGTON (125th):

As well as bail commissioners?

Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Through the Chair, sir.

REP. HETHERINGTON (125th):

I'm sorry, through you. (Inaudible), yes.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir.

Representative Fox.

REP. FOX (146th):

Yes, through you, Madam Speaker.

Yes, Bail Commissioner is the old job title. And what is happening is this would be -- so, it's inserted after the word "commissioners" on line 767.

REP. HETHERINGTON (125th):

I see, okay. Well, thank you. I appreciate that clarification, Madam Speaker. And I thank the Representative.

One thing more. It appears that in actions brought by, for example, a person who is incarcerated we have reduced the number of people that have to be served. And is that for reasons of efficiency within the administration of justice or is there another reason for that?

Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker, I do believe it's to enhance efficiency. It can get confusing when those types of actions are brought.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Madam Speaker. I thank the proponent for his helpful answers and I would urge adoption of the amendment. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you.

Will you remark further? Will you remark further on Schedule "A"? Will you remark further on Amendment "A"?

- If not, let me try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER KIRKLEY-BEY:

Those opposed nay.

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

Representative Rowe, you have the floor, Sir.

REP. ROWE (123rd):

Thank you. Good afternoon there, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Good afternoon.

REP. ROWE (123rd):

Just a thought and maybe a question. And starting with the question to Chairman Fox, can we just talk a little about the alternate juror changes made in the bill? I believe it's Section 17. Can you explain to the Chamber how this will change the current process and use of alternate jurors in a --

presumably in a jury case?

Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fox is presently looking for that section.

Representative Fox.

REP. FOX (146th):

Thank you, Madam Speaker.

The way that it would work is that a juror who is an alternate -- and as I know, the Representative is aware at the time the jury commences deliberations they would be dismissed. And at that time these jurors would still be impaneled throughout the entire time, until the case is determined by the jury.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Rowe.

REP. ROWE (123rd):

Thank you.

So, is my understanding correct that when we pass this and this becomes law, when the jury begins deliberation, the alternate juror or jurors would not sit in with the jury, but they would be kept on retainer is probably not entirely accurate, but essentially they'll be told, "Keep yourself available

for the duration of the deliberations because we may need you if this arises"?

Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fox.

REP. FOX (146th):

Through you, Madam Speaker, yes, that is correct.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Rowe.

REP. ROWE (123rd):

Thank you. That was really my only question. I do -- I'm glad that we are moving forward with the electronic notice provision. I think the fiscal note indicated that that's an expected savings of a little over \$100,000. So, I'm pleased that the department is moving in that direction, is formalizing something that recognizes the technology available and will be a six-figure savings to us.

So, I'm supportive and I appreciate the gentleman's responses.

Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir.

Will you remark further on the bill that is

before us? Will you remark further on the bill as amended?

If not, staff and guests please come to the well. Members, take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is taking a roll call vote. Members to the Chamber, please.

DEPUTY SPEAKER KIRKLEY-BEY:

Have all members voted? Have all members voted?

Please check the board to see that your vote has been properly cast. The machine will be locked and the Clerk will prepare the tally.

The Clerk will please announce the tally.

THE CLERK:

House Bill 5365 as amended by House "A."

Total number Voting	140
Necessary for Passage	71
Those voting Yea	140
Those voting Nay	0
Those absent and not voting	11

DEPUTY SPEAKER KIRKLEY-BEY:

The bill as amended passes.

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2012**

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4223 - 4505**

rgd/tmj/gdm/gbr
SENATE

268
May 9, 2012

SENATOR LOONEY:

Thank you, Madam President.

Madam President, calendar page 22, Calendar 508, House Bill 5365, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, calendar page 22, Calendar 510, House Bill 5170, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if we might stand at ease for -- for just a moment because I wanted to check on the page number of those items previously listed as page 24.

If we might stand at ease.

THE CHAIR:

Please. The Senate will stand at ease.

(Chamber at ease.)

SENATOR LOONEY:

Madam President.

THE CHAIR:

Senator, yes, Senator.

rgd/tmj/gdm/gbr
SENATE

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May 9, 2012

(HB 5283)

On page 3, Calendar 240, House Bill 3283; page 3, Calendar 299, House Bill 5437; page 5, Calendar 349, Senate Bill 374; page 6, Calendar 375, House Bill 5440; page 6, 362, House Bill 5011.

On page 7, Calendar 376, House Bill 5279; on page 7, 387, House Bill 5290; on page 8, 394, House Bill 5032; on page 8, 396, House Bill 5230.

Also on page 8, Calendar 398, House Bill 5241; on page 8, Calendar 393, House Bill 5307; on page 9, Calendar 403, House Bill 5087; on page 9, Calendar 406, House Bill 5276; on page 9, 407, House Bill 5484; on page 11, Calendar 424, House Bill 5495; on page 12, Calendar 435, House Bill 5232; on page 13, Calendar 5 -- excuse me Calendar 450, House Bill 5447; on page 14, Calendar 455, House Bill 3 -- I'm sorry -- House Bill 5353.

On page 14, Calendar 453, House Bill 5543; on page 14, Calendar 459, House Bill 5271; on page 15, Calendar 464, House Bill 5344; on page 15, Calendar 465, House Bill 5034; on page 16, Calendar 469, House Bill 5038; on page 17, Calendar 475, House Bill 5550; on page 17, Calendar 474, House Bill 5233; on page 17, Calendar 477, House Bill 5421.

Page 18, 480, House Bill 5258; on page 18, Calendar 479, House Bill 5500; page 18, Calendar 482, House Bill 5106; on page 18, Calendar 483, House Bill 5355; on page 19, Calendar 489, House Bill 5248; on page 19, Calendar 488, House Bill 5321; on page 20, Calendar 496, House Bill 5412.

On page 21, Calendar 504, House Bill 5319; page 21, Calendar 505, House Bill 5328; on page 22, Calendar 508, House Bill 5365; on page 22, Calendar 510, House Bill 5170; on page 23, Calendar 514, House Bill 5540; on page 23, Calendar 517, House Bill 5521.

Page 24, Calendar 521, House Bill 5343; page 24, Calendar 518, House Bill 5298; page 24, Calendar 523, House Bill 5504; page 29, Calendar 355, Senate Bill 418; on page 13, Calendar 444, 5037; and Calendar 507, House Bill 5467.

THE CHAIR:

Senator -- Senator Suzio.

SENATOR SUZIO:



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Bills placed on the Consent Calendar on May 9, 2012

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Bills from Senate Agenda Number 3 from the May 9th Senate Session that were placed on the
Consent Calendar

HB5304
HB 5342

rgd/tmj/gdm/gbr
SENATE

319
May 9, 2012

Good evening, Madam President.

I just want to clarify. I thought I heard the Clerk call House Bill 5034? Is that on the consent calendar?

THE CHAIR:

Do you know what page that is, sir?

SENATOR SUZIO:

No I -- he was reading so fast, Madam, I couldn't get it.

THE CHAIR:

It's -- yes it's 53 -- I don't know.

SENATOR SUZIO:

5034.

THE CHAIR:

5034, yes sir.

SENATOR SUZIO:

I object to that being put on the consent calendar, Madam President.

THE CHAIR:

Okay, that will be removed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Yes, just seeing that -- ask to remove that item from the consent calendar.

THE CHAIR:

So ordered.

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At this time we'll call a roll call vote on the consent calendar.

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Coleman, we need your vote, sir.

Senator Kissel, Senator Kissel. Senator Kissel, will you vote on the consent calendar please?

All members have voted?

If all members have voted, the machine will be closed.

Mr. Clerk, will you call the amendment -- I meant the tally.

THE CLERK:

On today's consent calendar.

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 has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, I believe the Clerk is in possession of Senate Agenda Number 6 for today's session.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 6
1642 - 2003**

2012

changes, interest rates, everything changes and folks say, whoa. You know, we're losing money here. Or that, you know, that actuarial calculation was off. I mean, is it a one-time thing or can it get revisited? How does that work?

KAREN BUFFKIN: Is a formula that's normally used based on life expectancy, your age, you know, the age of your spouse if you provided for your spouse. And so it's a number of things.

And I'd have to verify whether or not that comes out as a percentage or a flat dollar amount, but I believe it is a percentage.

REP. SHABAN: And it's a one-time calculation, is -- and I guess that kind of makes sense, because the theory here is this is sort of toward the end of the career, so maybe that does make sense. But my -- I guess I'm answering my own question.

KAREN BUFFKIN: Yes. I believe it is a one-time calculation. I apologize for not answering that part of the question.

REP. SHABAN: Thank you, Mr. Chairman.

SENATOR COLEMAN: Are there other questions for either Attorney McDonald or Secretary Buffkin?

Seeing none, thank you both.

KAREN BUFFKIN: Thank you very much.

SENATOR COLEMAN: Next is Judge Barbara Quinn.

Good morning -- afternoon.

THE HON. BARBARA M. QUINN: Good afternoon, Senator Coleman, Senator Kissel, distinguished members

HB 5388 HB 5365
HB 5290 HB 5034

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rgd/gbr JUDICIARY COMMITTEE

March 9, 2012
11:00 A.M.

of the committee. I appear before you today to testify in favor of four bills that are important to the judicial branch. I will start out with three bills that are part of our legislative package. The first --

SENATOR COLEMAN: Excuse me, Judge Quinn. Could you pull the microphone a little bit closer?

THE HON. BARBARA M. QUINN: That better?

SENATOR COLEMAN: Yeah. Thank you.

THE HON. BARBARA M. QUINN: Sorry.

The first of those is House Bill 5388, An Act Concerning Court Fees and the Delivery of Legal Services. Next is An Act Concerning Court Operations and Victim Services, that's House Bill 5365. And the third of those bills is House Bill 5290, An Act Concerning the Leasing of Judicial Branch Facilities. And the last is the one that you just heard testified about, which is House Bill 5034, An Act Concerning the Retirement Provisions Relating to Judges, Family Support Magistrates and Compensation Commissioners, which is a Governor's bill.

Let me start with An Act Concerning Court Fees and the Delivery of Legal Services to the Court. This bill calls for an increase in certain court fees and requires that the revenue realized would provide additional funding for legal services for the indigent and for judicial branch technology.

HB 5388

As you know, there is a significant crisis in funding for legal services and we believe this proposal begins to address their need for level funding. And if something is not done to increase funding for legal services we

we can continue to provide free access to our website information. So we urge you to support this proposal.

Let me turn now to the second bill, which is HB5365 An Act Concerning Court Operations and Victim Services. This bill, much of which was before you last year, would make a number of changes that will approve the operation of the judicial branch. It covers a variety of topics so I'll just highlight a few of those.

One section would allow for the electronic communication of court orders, one more necessary step to move to an electronic rather than a paper-based system. Other sections codify into statute a common practice in our criminal courts regarding fee amounts and their collection.

Some sections improve and clarify certain victims compensation provisions and there are technical provisions, for example, regarding the authority of our courts to handle dissolution of civil unions that were solemnized in other states. There are some changes to eviction and some reprocess procedures. Some sections would repeal obsolete provisions. Each of these items taken individually is relatively minor, but as a whole I think they would allow us to operate more efficiently and effectively.

Let me turn just briefly to the leasing of judicial branch facilities. This bill would allow the commissioner of administrative services to delegate leasing authority to the branch under certain circumstances. Currently it has entered into 47 leases for facilities and parking, which are about 20 percent of the State's overall leasing portfolio. Our lease facilities include court locations and office

HB5290

court in the most efficient way, it is limiting to them.

REP. BARAM: I will just say, and you might want to inquire more on your own, many people in small claims do bring attorneys with them. And usually the fees are much less because you don't have to deal with all the pleading practice and hearings and whatnot. And that's why many lawyers won't even go to small claims because it's, for many it's not worth their time. But still there are a substantial number of attorneys who do have small claims practice.

So it will be much less expensive to take an attorney if you need one to go to small claims. And it might be an option, you might want to give it some thought, that that would alleviate the concerns you're worried about in terms of increased costs for superior court, but I'll let you do the research.

Thank you.

SENATOR COLEMAN: Are there others with questions? Seeing none, thank you Ms. Ivel.

JACQUIE IVEL: Thank you, Senator Coleman.

SENATOR COLEMAN: Michelle Cruz is next. Ms. Cruz will be followed by Scott Esdale.

MICHELLE CRUZ: Good morning. I always say good morning twice. So good morning, Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Michelle Cruz and I am the State Victim Advocate for the Office of Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony today.

HB5365

I would like to address two sections of House Bill Number 5365, first with respect to Section 28. A crime victim may apply to the Office of Victim Services, a judicial branch agency to receive compensation for certain expenses. All expenses being sought by the victim must be verified through receipts, and in some cases the provider will be paid directly. All awards of compensation are paid only after other payment sources are exhausted, such as medical insurance.

The compensation program is the payer of last resort. There are certain requirements and guidelines the State must follow to receive the VOCA funding that is a source, the financial source of these funds. Although there is an abundance of freedom for states to design their own criteria for compensation, there is an exception that the state compensation program screening criteria cannot enact discriminatory practices for determining eligibility for compensation. The OVA is concerned about the new proposed language in this section.

The new language of Section D establishes a new standard for compensation claims made by sex assault victims including a conclusion by the OVS or victim compensation commissioner that a crime had occurred.

This elevated standard for claims made by victims of sex assault is highly offensive. Not only has a sex assault victim experienced one of the most horrific, violent, traumatic crimes and made a report to the police and/or submitted to an invasive rape kit procedure, now with this change when applying for compensation to seek counseling services or medical reimbursements not covered by

insurance, the sex assault victim must rely on the Office of Victim Services or a victim compensation commissioner to reasonably conclude that a crime has been committed.

Equally troubling is the Office of Victim Services attempt to couch this offensive practice in language that seemingly helps victims of sex assault, but in reality is discriminatory. As many of you know or are probably aware, crimes involving sex assault are underreported, and even when reported oftentimes arrest is not made.

No other victim of crime that is seeking counseling costs or reimbursement for medical expenses not covered by insurance must meet this elevated criteria. Therefore claims for compensation by victims of sex assault are handled markedly different from claims of other crime victims.

And I'll give you an example. If I leave my office -- and whenever I give this example I'm always concerned about putting myself out there -- but if I leave my office and I'm robbed and when I'm robbed I break my arm, if I apply for victim compensation within five days I am then eligible, because I've done what I'm supposed to do.

However if I am sexually assaulted and I break my arm or I have physical injuries and I applied for compensation, what's been happening is if the rape kit that is done is inconclusive, which often they are, and the police don't issue a warrant, compensation will not be awarded to that particular victim. There's an elevated standard for this particular population.

The language that's proposed is proposing to

solve this problem, but in reality the problem is really an internal policy with OVS. I do agree that if we take some of the language we're going to be allowing certain sex assault victims who don't go to the police or report to a hospital compensation. And we can do that only if we strike line 933 from the word "and" and then all the way through line 935 which takes out that second offer of proof that the sex assault victim has to provide.

And for those reasons I strongly encourage the committee to reject the new language or strike that particular sentence at the end of those sections. Again, Section 933 after the word "and" through Section 2 all the way through 935.

Additionally the Office of Victim Advocate opposes Section 31 of House Bill 5365. Currently the Office of Victim Services is entitled to be reimbursed from a victim applicant two thirds of an award paid to the victim applicant for compensation for personal injury or death when the applicant has brought an action against the person or persons responsible for the injury or death and an award has been granted. Section 31 seeks to expand this entitlement to include monies from any other sources.

Let me first say that there is now no doubt that crime victims are not getting rich from the victim compensation program. Fortunately there are many kindhearted people among us in the state of Connecticut who will -- and across the nation who will gather together to provide funding efforts for victims of crime.

It seems that when the worst happens we pull together to offer help. Fundraising dinners to help with medical expenses, raffle tickets

sold to remodel a house, pass the hat collections for daily needs and money jar collections in various stores are examples of ways we contribute to help others without even knowing who these people are.

When the kindness of strangers befalls a crime victim, the crime victim should not be punished or worried to accept this generosity. the fact remains, aside from the emotional, psychological and physical trauma experienced by a crime victim as a result of the crime, the crime victims in most cases will suffer financial harms far more than what the compensation program can provide.

And I have a couple of examples. For instance, the compensation program in a homicide case will pay 25,000. They'll award 25,000. 5,000 of that goes to funeral expenses. Unfortunately some of us know funeral expenses are not \$5,000. So if a victim of a homicide has a fundraiser to make up the difference for that funeral expense, if and when those proceeds are brought to that victim they have to pay back the compensation from the victim compensation program two thirds percent of whatever money they have received. We find this problematic because many times the money that's provided from the victim compensation doesn't cover all the damage to the victim.

Another case would be a drunk driving victim. Say, a drunk driving victim has physical injuries and also loses their motor vehicle, maybe there's a loan on the motor vehicle. If the community gathers together to help the victim recoup some of the costs from the motor vehicle damage or other financial costs, and the victim also receives compensation for medical expenses, again this new language

would allow the Office of Victim Services to go after those proceeds even if they weren't necessarily for the medical expenses, though it may be for the car or other financial injuries the victim suffered.

The Office of Victim Advocate is currently working with the surviving family of a murder victim. The murder occurred in the family home. The family is no longer able to live in this home. The mortgage is not forgiven by the murder. A surviving family member was also a cosigner on the murder victim's school loans and the loans have not been forgiven. So if the family did receive competition, which they did, and there was a fundraiser to help some of these financial costs, that money would go back to the State as opposed to really helping that victim.

You know, for these reasons the Office of Victim Advocate is asking that you reject the new language. And again, it's just this one sentence that says -- it's the language, money from any other source. You know, clearly we already have a language in their regarding lawsuits. This is more targeted. This language is broad enough to target fundraising events that go specifically to help that particular victim.

And if you have any questions I'd be happy to answer them.

SENATOR COLEMAN: Are there questions for Ms. Cruz?

Senator Kissel.

SENATOR KISSEL: I just want to say thank you for coming to testify. I find your insights very welcome. And as my constituent it's always a pleasure to have you come before our

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rgd/gbr JUDICIARY COMMITTEE

March 9, 2012
11:00 A.M.

committee.

MICHELLE CRUZ: Well, thank you. Thank you very much.

SENATOR COLEMAN: Chairman Fox.

REP. G. FOX: Thank you, Attorney Cruz for being here today. And thanks again for your testimony.

I know we have a number of bills during the course of the next two weeks that we'll have public hearings on that will involve victims and victim -- and how they impact victims. So we do look forward to your testimony and thanks again.

And as we go through this process, please -- and I know you will, let us know your thoughts on the various bills. Thank you.

MICHELLE CRUZ: Thank you. Thanks very much.

SENATOR COLEMAN: Any further questions?

Seeing none, thank you.

MICHELLE CRUZ: Thank you.

SENATOR COLEMAN: Scott Esdale.

Mr. Esdale will be followed by Tim -- Timothy Fisher.

SCOTT X. ESDALE: I think it's still -- good afternoon, Senator Coleman and Representative Fox, Senator Kissel and the other members of the Judiciary Committee. My name is Scott X. Esdale and I'm the state president of the Connecticut NAACP. I am here today in the spirit of the great Thurgood Marshall, Charles

SB 31

job on the testimony. We appreciate it and our best wishes to both you and your son.

SHALISHA MILLER: Thank you.

SENATOR COLEMAN: Raphie Podolsky.
Attorney Podolsky will be followed by Nancy Piccirillo.

RAPHAEL PODOLSKY: Thank you, Mr. Chairman. My name is Raphael Podolsky. I'm a lawyer with the Legal Assistance Resource Center in Hartford. And I'm here on a fairly obscure point and so I'll try to be brief.

We're asking the committee -- I'm asking the committee to remove from House Bill Number 5365, which is the (inaudible) operations bill to remove Section 5. That bill I think is primarily technical, but the change in -- and I'll tell you what the change is -- but the change that it makes in Section 5 actually is substantive and not technical. And from the perspective of people who live in mobile homes parks, it's quite undesirable, an undesirable change.

We represent renters generally and that includes renters in mobile home parks. The Mobile Home Park Act provides more protections generally for the unit owner in a mobile home park than for tenants. Some of the rules are the same. Some are different.

One of the rules is there's a 30-day provision for giving, what they call curative notice, the opportunity to correct a violation without the lease being terminated. It used to be 30 days for renters. Generally in the -- I believe it was 1997 the Legislature cut the period to 15 days for apartment renters, but kept it at 30 days for mobile home parks.

I think that this particular bill is just looking at it technically and saying, oh, they should have been conformed. But they shouldn't be conformed because all the timelines in mobile home park cases are longer and different. And actually in 2004 the court operations bill proposed the same thing and the Judiciary Committee took it out of the bill in 2004. I'm basically asking you to take it out again.

It really protects the right of -- it is a longer period that mobile home park owners have. Mobile home owners in a park. And they, typically they own their home, but they rent. They rent a lot. That's all.

SENATOR COLEMAN: Are there questions?

Representative Smith.

REP. SMITH: Thank you, Mr. Chair.

And thank you, Counsel. I'm just wondering -- I guess the basis for the longer period is the fact that they do own the mobile home versus the land and need time to address that issue versus just finding another spot to live?

RAPHAEL PODOLSKY: Well, it's -- no. Actually it's bold. They're interrelated.

It's very hard. First of all, a mobile home is not mobile. These are not trailers. These are homes that sit on foundations.

And second of all, largely as a result of zoning there are very few places. Towns typically zone out mobile home parks. Most of the mobile home parks we have are

pre-zoning and so are grandfathered into place.

In addition, most parks don't like bringing a used home in. They would rather have a new home. So the result, as a practical matter is that if somebody -- your mobile home loses most of its value if you can't keep it in the park where it is. By statute, for example, you have a right to sell your home in the park. So if you buy a home in a park it may cost 50, 60, 70 thousand dollars.

If you are forced to move, say, if you're evicted, that home is likely to end up being worth a couple thousand dollars as sort of junk metal, because it is so difficult to move it somewhere else. It's so difficult to find a place. So they tie in with each other. It's partly the ownership, but it's partly, really the (inaudible) the practical immobility of the home.

And so the eviction statute in numerous ways gives more time and greater rights to unit owners in mobile home parks than it does to the regular apartment tenant and this is one of those distinctions. So it's not just a matter of conforming two different statues to each other. The statutes really are intended to be different.

REP. SMITH: Thank you for that clarification. So your primary concern then is the -- as far as the change in this bill, is the reduction in time.

RAPHAEL PODOLSKY: And that's what Section 5 does. Section 5 Reduces the time to 15 days, which is the time in the landlord-tenant act for an apartment tenant. But it's been what? Fifteen years since they changed that for

apartment tenants and no one has asked -- other than as sort of a quasi technical matter, nobody has asked to conform them. And they shouldn't be conformed.

I mean, a notice to quit for a regular apartment tenant is three days. It's 30 days for nonpayment of rent in a mobile home park. It's 60 days for breach of the lease. And there's a -- the timelines are different. It's 535 days if you're going to close a park, which is -- there's nothing equivalent to that for any apartment renter.

And so there's just numerous ways in which the Legislature has adapted the landlord-tenant statutes for mobile home park residents. It's different. Same structure, but the greater rights.

REP. SMITH: Thank you. Appreciate the clarification. That was helpful. Thank you.

RAPHAEL PODOLSKY: Thank you.

SENATOR COLEMAN: Are there further questions from any other members? If not, thank you Raphie.

RAPH PODOLSKY: Thank you very much.

SENATOR COLEMAN: Nancy Piccirillo to be followed by Russell London.

NANCY PICCIRILLO: Hi. My name is Nancy Piccirillo. I'm 59 years old. And I'd like to share with you my story and share my experience that I've had with legal aid. I'd like to share that with you.

HB 5388

Two years ago I was renting a room from someone and it was on a temporary basis. It was only for six months. I faced the prospect

along with Marilyn Denny, is here and he might be able to answer any questions that I couldn't, if you have any.

REP. G. FOX: Okay. Thank you very much and thanks for being here and for your testimony today.

KAREN FRITSCHER: Thank you.

REP. G. FOX: Next is Andrew Burns followed by Kimberly Knox.

Good afternoon.

ANDREW BURNS: And good afternoon, committee members. I'm a widowed, mostly retired engineer.

HB 5365

Late on Christmas Eve, 2002, that's nine years ago, a large thug who hated my guts with a passion approached me as I was sitting in my driver seat of my standing car. He began to berate me, broke into the backseat of my car and robbed -- overpowered me -- and robbed the traffic control cones that I had there. In a subsequent rage, he assaulted my car with those cones.

Police responded to the practice in due course and it turns out that the policeman who responded was one with whom the thug had negotiated two hours earlier. The policeman was dumb, dishonest and abusive. He forcibly prevented me from engaging witnesses. And I didn't learn until I went down to the police station after the scene was totally vacated that I was being charged with a felony.

I hired an attorney to take care of me, certainly in that case, and it turned out to be a very unfortunate choice. He insisted that the system -- he knew how the system

worked. It was too corrupt for me to count on justice and he would -- I should -- I must, and that was his word, "must" settle for an AR deal in which no harm would come to me.

Well, over the next couple years a series of events all instigated by the same thug introduced me to several engagements with the justice system. And that ranges all the way from the police department to the municipal activity to all levels of prosecutorial services and to, ultimately all levels of the judge system up to a supreme court judge.

By the way, the lawyer that I hired -- I refuse to call him my lawyer because he did not serve me -- ultimately spent the last four months of his life in prison.

The experience -- by the way, the damages done to innocent parties in this thing, I ballpark at about \$90,000, about \$14,000 out of my pocket. Ruminating on this experience and research that I did and just, you know, thinking about it all, led me to think of several new, fresh rules that would reduce this.

By the way, I came to the conclusion in a phrase I've said hundreds of times, there's -- I came to appreciate that there was a widespread and callous indifference to the achievement of justice by those responsible for the administration of justice in our State. I began saying in our community, it's big enough to be our State.

I formulated several rules, new rules that I think would -- wouldn't cure everything, but it would help a lot. And I submitted those rules to the rules committee of the superior court. And they in effect -- by the way, that

was 70-odd pages of material to them. And well organized, and by the way, by an independent party. The counsel to the committee said it was well written.

The committee, in effect, told me to go fry ice. Since I was getting nowhere there I thought that the proper thing to do would be to get a legislative push to the -- getting these rules put in place since the judges were not going to do it on their own. And I submitted them to Senator Rob Kane, who in this short session, offered them to you to your committee to pursue them, which your committee apparently elected not to do that at this time. My -- I'm here kind of to do whatever I can to motivate you.

I would say, if you'll give me the chance, there has been distributed to you folks four pages (inaudible) which include eight recommendations. The second recommendation which I identified to the committee and to everybody else -- that's the rules committee -- as the most important -- it's only 44 words. And if it were in place nine years ago, that \$90,000 worth of injury would not have occurred, I'm persuaded.

Because it turns out if I knew what that lawyer was saying when he negotiated out of my presence, I would have either redirected him totally or discharged him. Because I told him in the beginning I wouldn't concede no guilt whatsoever because that would be perjury by itself.

And if you'll permit, I'll read that one recommendation, which says, no -- top of the second page by the way -- no negotiation relating to a charge/breach of the law shall take place between a prosecutorial agent and a

representative of the charged party unless charged party is present or explicitly and formally says he doesn't want to be there.

And the purpose of that is so the client knows what the lawyer is saying and doing, because if I knew what the lawyer was saying and doing it wouldn't have happened.

REP. G. FOX: Well, thank you, sir. And thank you. We do have your written testimony, as you stated.

ANDREW BURNS: By the way, can I offer one phrase? I don't know if I said it or not. It's -- I guess I did, but I'm going to say it again, a widespread and callous indifference to the attainment of justice among those responsible for administering justice -- throughout the system. And the only way to do it is legislative push because the people in the system don't care. They suffer from what I call the royal priesthood syndrome.

REP. G. FOX: Well, we have -- as I said, we have your testimony. It has been distributed to members of the committee who will have an opportunity to take a look at it as well as in conjunction with your testimony.

ANDREW BURNS: Let me -- I will say it as I depart that this is available in MS Word format by e-mail if anybody cares to see the 70-odd pages.

REP. G. FOX: Okay. Well, thank you, sir.

ANDREW BURNS: Well, thank you.

REP. G. FOX: I don't see any questions.

Kimberly Knox followed by Charles Ford.



Connecticut Sexual Assault Crisis Services, Inc.

96 Pitkin Street · East Hartford, CT 06108 · Phone: 860-282-9881 · Fax: 860-291-9335 · www.connsacs.org

Testimony of Connecticut Sexual Assault Crisis Services
In Support of Sec. 28 of HB 5365, An Act Concerning Court Operations and Victim Services

Anna Doroghazi, Director of Public Policy and Communication
Judiciary Committee Public Hearing, March 9, 2012

Senator Coleman, Representative Fox, and members of the Judiciary Committee, my name is Anna Doroghazi, and I am the Director of Public Policy and Communication for Connecticut Sexual Assault Crisis Services (CONNSACS). CONNSACS is the association of Connecticut's nine community-based sexual assault crisis services programs. Our mission is to end sexual violence and ensure high quality, comprehensive and culturally-competent sexual assault victim services. We would like to offer our support for the changes to victim compensation outlined in Section 28 of HB 5365, *An Act Concerning Court Operations and Victim Services*.

HB 5365 makes changes to C.G.S. § 54-209 that would remove a barrier for sexual assault victims who need access to victim compensation. These changes take into consideration the unique challenges associated with reporting a sexual assault to law enforcement, and they give the Office of Victim Services more authority to order compensation payments for credible claims.

In most circumstances, crime victims are not eligible for compensation unless they report their victimization to law enforcement within five days of the crime occurring. Existing Connecticut law [C.G.S. § 54-211(a)(1)(C)] makes an exception for sexual assault victims, who can be considered eligible for compensation if they have a forensic evidence collection kit completed within 72 hours of their assault. This provision has greatly benefited sexual assault survivors who may be reticent to file a police report, but it does not help victims who are too traumatized, ashamed, or fearful to seek medical attention immediately after an assault. Following a sexual assault, it is not uncommon for victims to delay disclosure for weeks, months, or even years. When they do decide to disclose the fact of their victimization, they may reach out to a sexual assault counselor, healthcare provider, or mental health professional – none of whom are currently able to validate a victim's claim and help them gain access to compensation.

Regardless of whether or not a sexual assault victim makes a police report or has forensic evidence collected, the physical and emotional aftereffects of victimization can last for years and require intensive medical and psychological intervention. The expenses associated with sexual victimization can be considerable, and victim compensation is critical for survivors who might not otherwise have the financial resources needed to receive assistance.

HB 5365 would make it possible for the Office of Victim Services to approve compensation for sexual assault victims who have disclosed their victimization to specified healthcare providers, psychologists, police officers, mental health professionals, emergency medical services providers, alcohol and drug counselors, marital and family therapists, sexual assault or battered women's counselors, professional counselors, clinical social workers, or an employee of the Department of Children and Families. This change to § 54-209 would benefit sexual assault survivors in two key ways: 1) it would make it possible for survivors to become eligible for compensation if they seek assistance from a range of service providers, and 2) it would give the Office of Victim Services increased authority to order compensation for sexual assault victims if the Office or a compensation commissioner can reasonably conclude that an assault has occurred.

Access to compensation is critical for victims of sexual violence who have incurred expenses as a result of their assault. HB 5365 acknowledges the unique obstacles that sexual assault survivors face in reporting their victimization, and it gives the Office of Victim Services more discretion in determining eligibility for compensation.

CONNSACS supports the changes that this bill would make to C.G.S. § 54-209, and we encourage the Committee to do the same.

Thank you for your consideration.

Anna Doroghazi
anna@connsacs.org

CONNECTICUT MANUFACTURED HOME OWNERS ALLIANCE

A voice for mobile home park residents in Connecticut

5 Robin Road
Colchester, CT 06415

March 9, 2012

To: Members of the Judiciary Committee
From: Deborah Wolf, President, Connecticut Manufactured Home Owners Alliance
Re: House Bill No. 5365 - An Act Concerning Court Operations and Victim Services

I am writing to ask to you remove Section 5 from House Bill No. 5365. Section 5 cuts the time in half that a mobile home resident has to correct an alleged violation of his or her lease -- from 30 days down to only 15 days. This is not a minor change. It will hurt those of us who own mobile homes in mobile home parks. We would appreciate it if you would eliminate this section from the bill so that it will keep our 30-day period to correct lease violations.

The Connecticut Manufactured Home Owners Alliance is a statewide organization which represents residents of mobile home parks throughout Connecticut. There are about 10,000 Connecticut households that live in mobile home parks. We are tenants, because we rent the land on which our mobile homes sit, but we are also homeowners who own our own mobile homes. Although mobile homes are a relatively affordable form of housing, they are not inexpensive and many of us have invested thousands of dollars -- sometimes our entire life savings -- to buy these homes, which will lose most of their value if we are evicted from a park. Many of us are older or retired and would be forced into other kinds of living arrangements -- even nursing homes -- if we have to relocate. Many of us have lived at the same location for decades.

Under the mobile home laws, if a park resident is accused of breaking the lease, the resident gets 30 days to correct the problem. Some years ago, the legislature shortened this period to 15 days for other tenants but left it at 30 days for park residents. Section 5 of House Bill No. 5365 would make it only 15 days for us, too. That change would not be consistent with the rest of mobile home law, because the mobile home law often gives park residents, especially those who own their own homes, more time than other tenants. For example, the notice to quit for non-payment of rent is 30 days in a mobile home park (and during that time we have a right to catch up on the rent). Other tenants don't have these rights. All of this is because we are homeowners and not just tenants and the entire value of our homes is at stake if we get evicted.

The change made in Section 5 will give mobile home park residents less time to correct violations, which means that there is a greater chance of losing our leases and our homes. Please don't put that burden on the many homeowners who live in mobile home parks.

Thank you very much.

TESTIMONY OF ANDY BURNS
HB 5365 -
 (Section 9b - a Revision of Original Section 9 - 4 pages)

Proposed Enhancements to Official Connecticut Practice Book

My Recommendations -- In the opening preface to this document, I remarked my October 3, 2009 submission to you of six specific edit recommendations for the Official Connecticut Practice Book which recommendations you summarily dismissed. For the sake of brevity, I limited that presentation to a brief (3-page) hint of the extent of that experience without offering exposure of the experience itself.

The first six recommendations presented here are essentially those included in the cited previous submission with significant elaboration of the first recommendation and minor elaborations of the third and fifth recommendations. Those elaborations and the additional seventh and eighth recommendations were stimulated by my further rumination on that cited experience.

In this presentation, the proposed new Practice Book text and the brief vindicating commentaries are cited separately.

I treat my reactions to your dismissal of the originally submitted six recommendations in the following Section 10.

1) Proposed Text Recommendation #1:

A police report, including associated witness statements, dealing with a postulated breach of the law shall be available to all concerned parties, including any party charged with such breach, the instant the report is available to any party outside the police department. Redactions judged by the senior police official to be essential for witness protection may be made but shall be expressly identified and shall apply equally to copies provided to prosecutorial personnel with the qualification that the latter may gain access to redacted information if given judicial authorization for such in response to explicit justifying petition. Redacted text not made available to a charged party within 14 days after such authorization may not be used against that party in any related court proceeding. Early neutralization of all redactions shall be treated as a high priority for all parties involved.

1) Commentary on Text Recommendation #1:

A charged party's right to pursue investigation of a charge is equal to that of a prosecutor. A citizen's Constitutional right to face his accuser implies the right to know who his accusers are and what they are accusing him of. Delay in the availability to a charged party of pertinent data is a potentially serious impediment to the charged party's opportunity for investigation. I was seriously impacted by the unjustifiable limitation to police report text and associated witness statements contained in a false charge.

→

(9b-2)

2) Proposed Text Recommendation #2:

No negotiation relating to a charged breach of the law shall take place between a prosecutorial agent and a representative of the charged party unless such charged party is present or explicitly and formally (e.g. by notarized signature) agrees not to be so present.

2) Commentary on Text Recommendation #2:

This is a maximum priority recommendation. It is intended to prevent an attorney from concealing his negotiation process from a client he purports to represent. I was greatly injured by such a concealment by the grievously incompetent attorney that I hired to assist me in dealing with a false charge.

3) Proposed Text Recommendation #3:

Any information pertinent to a negotiated agreement between a prosecutor and a charged party or his representative shall be available to the charged party without any requirement for the intervention of an attorney – of record or otherwise. This requirement does not proscribe giving notice of such access to a charged party's attorney of record where such a relationship has been established.

3) Commentary on Text Recommendation #3:

The goal of this proposal is to authorize a charged party to gain access to information regarding negotiations affecting his welfare without his having to pay an attorney (or any other intermediary) to collect and transmit such information. My pursuit of justice was substantially impaired by bureaucratic denial of such information.

4) Proposed Text Recommendation #4:

Any party authorized to audit an open court process shall be authorized to utilize any non-intrusive media, including electronic devices, to record such court session process.

4) Commentary on Text Recommendation #4:

A party entitled to audit an open court process is entitled to recall it accurately. A non-intrusive medium that enhances the accuracy and reliability of the accounting of that process serves the cause of impartial justice. This is a simple "transparency" requirement.

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(9b-3)

5) Proposed Text Recommendation #5:

There shall be no restraints on the distribution of material incorporated in the "OFFICIAL CONNECTICUT PRACTICE BOOK". A call for notice of such distribution and for attribution is permissible.

5) Commentary on Text Recommendation #5:

Restraints on general dissemination of information which bears on prescribed and proscribed procedures for administering the affairs of justice in the State of Connecticut are plainly reprehensible. Obscuring the rules for the administration of justice and requiring notice of motivation for such exposure is fundamentally un-American! Inhibiting the distribution of such material is especially offensive where the pertinent text was prepared at Connecticut taxpayer expense.

6) Proposed Text Recommendation #6:

No rudeness or bullying on the part of justice system personnel (including jurists) is to be condoned.

6) Commentary on Text Recommendation #6:

By the nature of justice system operations, justice system personnel have an uncommon capacity for inflicting unwarranted harm on parties who are the object of their professional attention and further, such personnel have an uncommon freedom from exposure to responsibility for such harm as they may inflict. Not uncommon rudeness and bullying on the part of justice system parties betray a personal subjectivity that can severely compromise the attainment of justice. In dealing with justice system personnel in connection with false charges, I have several times been exposed to such offensive deportment.

7) Proposed Text Recommendation #7:

Each of the several state agencies concerned with justice seeking operations shall provide meaningful and timely response to such citizen protests or inquiries concerning specific judicial system actions as that agency may receive and there shall be no limit to such agency's freedom - or obligation - to respond to a citizen's reaction to the agency's response with the qualification that such citizen(s) may be referred to specific other justice seeking system agencies judged to be better equipped to deal with the applicable matter(s). Where conventional communications fail to resolve an issue at hand, due consideration shall be given to a request by the contacting citizen for an open hearing between that citizen and cognizant agency personnel.

→

(9b-4)

7) **Commentary on Text Recommendation #7:**

In not less than four separate instances, I have submitted complaints concerning lamentable Connecticut legal system operations and/or recommendations for ameliorative action to Connecticut agencies charged with promoting the attainment of justice and have had my submissions dismissed with very unsatisfactory responses and, further, then had my explicit challenges to such responses dismissed with the proposition that challenges are out of order.

8) **Proposed Text Recommendation #8:**

The Attorney's Oath shall be modified by including in the existing text (from Public Act 02-71, General Statutes 1-25 and annotations) the additional phrase as indicated by the bold text below:

"You solemnly swear or solemnly and sincerely affirm, as the case may be, that you will do nothing dishonest, and will not knowingly allow anything dishonest to be done in court, and that you will inform the court of any dishonesty of which you have knowledge; that you will not knowingly maintain or assist in maintaining any cause of action that is false or unlawful **and that you will make a reasonable effort to ascertain the validity of such claim as you do maintain**; that you will not obstruct any cause of action for personal gain or malice; but that you will exercise the office of attorney, in any court in which you may practice, according to the best of your learning and judgment, faithfully, to both your client and the court; so help you God or upon penalty of perjury."

8) **Commentary on Text Recommendation #8:**

The additional phrase is proposed for the purpose of denying civil claims attorneys and prosecuting attorneys the defense of innocence when pursuing claims of reasonably questionable validity. I was seriously injured by both prosecuting attorneys and by an attorney I engaged to serve me because these parties failed to reasonably evaluate a false police charge which contained conspicuous internal contradictions. Also, my (admittedly incompetent and ultimately dishonest) auto insurer was seriously injured in a related civil action pursued by an attorney who failed to reasonably evaluate his client's claim - or, possibly, was simply dishonest!

Date: February 1, 2012

From: Andrew Burns <andrewburns@juno.com> 203-262-8245
790B Heritage Village, Southbury CT 06488-5323

To: Senator Rob Kane <rob.kane@cga.ct.gov>
Representative Arthur O'Neill <arthur.oneill@housegop.ct.gov>

cc: Senate Republican Counsel Michael Cronin <michael.cronin@cga.ct.gov>

Subject: **My Recommendations for Legislative Action**

Gentlemen:

Just a quick note to refresh your awareness of my passion for legislative action bearing on the attainment of justice in our state.

In the preface to that 66-page proposal I addressed to the Rules Committee of the Superior Court (and included in my 1/19 e-mail to you) I remarked the "widespread and callous indifference to the realization of justice among those responsible for the administration of justice" in Connecticut and in that proposal I documented extensive personal experience exposing the consequences of such indifference.

For this refresher, lemme offer a Big Picture Illustration.

In the several years I've been pursuing amelioration of defects in Connecticut's justice seeking operations I've acquainted a least a couple dozen prosecutorial and judicial system agents with abuses that afflicted me in a two-year series of justice system breakdowns.

None of these agents ever explicitly challenged any of my claims. None ever expressed regrets that the system unjustly burdened me. Indeed, none has betrayed any recognition that he or she or the system might have gone wrong. That is the crux of the problem.

These people, as a class, suffer from the Royal Priesthood Syndrome; they are indifferent to their fallibility, unable - or unwilling - to objectively evaluate consequences of their own professional pursuits. Such indifference necessarily compromises the attainment of justice in our state.

The goal of the legislative proposals I cited to you when I touched base with you after the 1/18 Heritage Village meeting (on condominium budget matters) is to gain a smidgeon of protection from such indifference for potentially innocent objects of justice system attention.

As I've previously remarked: I'd be pleased to receive any guidance you'd care to offer regarding what initiatives I might take in pursuing my mission.

Best regards,

Andy Burns

Date: March 7, 2012

To: Senator Rob Kane <rob.kane@cga.ct.gov>

cc: Legislative Aide to Senator Kane <andrew.larson@cga.ct.gov>
Senate Republican Counsel Michael Cronin <michael.cronin@cga.ct.gov>
Representative Arthur O'Neill <arthur.oneill@housegop.ct.gov>

Subject: Reinforcing my Call for Legislative Action

References: My 2-1-12 e-mail to you re My Recommendations for Legislative Action,
and Andrew Larson 2-1-12 e-mail Acknowledgement.

I sortuv summarized in my 1-page referenced e-mail my previously communicated passion for legislative action. By way of reinforcing the need for such I here call attention to two specific demonstrations of failure to fully embrace existing law on the part of senior justice-seeking system administrators.

1) From CT PA 51-14(c) I excerpt the following text:

"A public hearing shall be held at least once a year, of which reasonable notice shall likewise be given, at which any member of the bar or layman may bring to the attention of the judges any new rule or change in an existing rule that he deems desirable."

In response to my first contact with the Rules Committee of the Superior Court (comprising eight Superior Court judges plus one Supreme Court Justice as chair) I was advised that the Committee "voted not to submit (my) proposals to public hearing and will therefore not be recommending them to the Superior Court judges for adoption." In the course of 14 months of interaction with the Committee, I never received a single hint of the public hearing opportunity that I since discovered in PA 51-14.

2) From Connecticut Constitutional Amendment Article XXIII (1984) I excerpt the following phrase:

"The prosecutorial power of the state shall be vested in a chief state's attorney..."

A substantial portion of my recommendations for changes in justice-seeking procedures deals with prosecutorial steps. The Official Connecticut Practice Book, with which I associated my recommendations, contains considerable text pertaining to prosecutorial procedure. Our Constitution appears to place such text outside the hegemony of the Rules Committee.

I see nothing in the law to indicate that the Chief State's Attorney could not delegate such hegemony and, indeed it was Chief State's Attorney Kevin Kane who referred me to the Rules Committee in connection with my mission. I did address a 5-15-11 e-mail to him (cc'd to you) seeking, among other things, to determine whether such a delegation had ever been implemented.

I never succeeded in reaching Atty Kane or his deputy in telephone follow up efforts but Mike Gailor of the Chief State's Attorney Office did indicate to me that the office has not issued a specific license for the Judicial Branch to control prosecutorial aspects of the Official Connecticut Practice Book.

To my mind, the seeming indifference of senior justice-seeking system agents to the letter and just application of Connecticut law truly warrants legislative push.

Andy Burns



STATE OF CONNECTICUT

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

PAGE 7
LINE 20

Michelle S. Cruz, Esq.
State Victim Advocate

**Testimony of Michelle Cruz, Esq., State Victim Advocate
Submitted to the Judiciary Committee
Friday, March 9, 2012**

Good morning Senator Coleman, Representative Fox and distinguished members of the Judiciary 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:

Raised House Bill No. 5365, An Act Concerning Court Operations and Victim Services (Oppose subsection (d) of Section 28 and Oppose Section 31)

I would like to address two sections of House Bill No. 5365; first, with respect to Section 28. A crime victim may apply to the Office of Victim Services, a Judicial Branch agency, to receive compensation for medical expenses or counseling services that are not otherwise covered by insurance. All expenses being sought by the victim must be verified through receipts, and in some cases, the provider will be paid directly. All awards for compensation are paid only after other payment sources are exhausted, such as medical insurance. The compensation program is the payer of last resort.

The Crime Victim Fund was established by the Victims of Crime Act of 1984 and is administered through the Office for Victims of Crime (OVC), U.S. Department of Justice. VOCA fund dollars are generated from offenders convicted of federal crimes, not from taxpayer dollars. Every state receives VOCA funding to provide financial assistance to crime victims for expenses such as:

- Medical and dental expenses related to the crime, not covered by insurance or when insurance has been exhausted;
- Funeral expenses and burial costs, not to exceed \$5,000;
- Mental health counseling;
- Lost wages or loss of support in cases of homicide; and
- Expenses for crime scene clean up

There are requirements and guidelines that states must follow to receive VOCA funding. Although there is an abundance of freedom for states to design their own criteria for compensation, there is an exception that the state compensation program screening criteria cannot enact discriminatory practices for determining eligibility for compensation. The new language of subsection (d) of Section 28 (lines 916-935) does just that.

The new language of subsection (d) establishes new standards for compensation claims made by sexual assault victims, including a conclusion by the Office of Victim

Services or a victim compensation commissioner that a crime occurred. This elevated standard for claims made by victims of sexual assault is highly offensive. Not only has a sexual assault victim experienced one of the most horrific, violent and traumatic crimes and made a report to police and/or submitted to an invasive rape kit procedure, now, with this change, when applying for compensation to seek counseling services or medical reimbursement not covered by insurance, the sexual assault victim must rely on the Office of Victim Services or a victim compensation commissioner to "reasonably conclude" that a crime occurred. The Office of Victim Services or a victim compensation commissioner is not qualified or trained to make that kind of determination; that is left to law enforcement and the courts.

Equally troubling is that the Office of Victim Services attempts to couch this offensive practice in language that seemingly helps victims of sexual assault, but in reality, it is discriminatory. Why then would the state's lead agency that provides services to victims of crime support this change? As many of you are probably aware, not only are crimes involving a sexual assault one of the most underreported crimes but additionally, even when reported, few rise to the probable cause standard for an arrest and even fewer yield a conviction. The Office of Victim Services has mistakenly interpreted the "lack of sufficient probable cause to make an arrest" as a determination that no crime had been committed. This misinterpretation then leads to a denial of the claim. No other victim of crime that is seeking counseling services or reimbursement for medical expenses not covered by insurance must meet this elevated standard. Therefore, claims for compensation by victims of sexual assault are handled markedly different than claims from all other crime victims—a discriminatory practice. This places Connecticut's VOCA funding at risk.

I strongly urge the Committee to reject the new language of subsection (d) of Section 28 of House Bill No. 5365.

Additionally, the Office of the Victim Advocate opposes Section 31 of House Bill No. 5365. Currently, the Office of Victim Services is entitled to be reimbursed from an applicant for two-thirds of the award paid to the applicant for compensation for personal injury or death when the applicant has brought an action against the person or persons responsible for the injury or death and an award has been granted. Section 31 seeks to expand this entitlement to include "money from any other source or sources."

First let me say so there is no doubt—**Crime victims are not getting rich from the victim compensation program.** Fortunately there are many kind hearted people among us, in the state of Connecticut and across the nation. We have seen entire communities come together for a number of devastating tragedies. It seems when the worst happens, we pull together to offer our help. Fundraising dinners to help with medical expenses; raffle ticket sales to remodel a home; pass the hat collections for daily needs; and money jar collections in various stores—examples of the ways we contribute to help others without even knowing them.

When the kindness of strangers befalls a crime victim, the crime victim should not be punished or worried to accept that generosity. The fact remains, aside from the emotional, psychological and physical trauma experienced by crime victims as a result of the crime, crime victims, in most cases, will suffer financially far more than what the compensation program can provide. Just ask any crime victim.

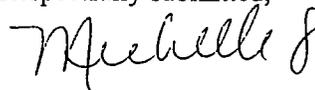
The Office of the Victim Advocate is working with the surviving family of a murder victim. The murder occurred in the family home. The family is no longer able to live in the home; the mortgage is not forgiven by murder. A surviving family member was a co-signer on the murdered victim's school loans; loans not forgiven by murder. Oh yes, the surviving family applied for and received compensation to assist with the funeral, \$5,000.00. The funeral cost far exceeded the compensation award. Getting rich? Think again.

The Office of Victim Services (OVS), through the Attorney General's Office, has a subrogated cause of action against any person or persons responsible for the injury or death of any person that led to an award for compensation, pursuant to C.G.S. § 54-212. Rather than holding the crime victim responsible, the OVS should be seeking to expand this authority and hold offenders accountable for the payments being made to the very crime victims they've harmed.

I strongly urge the Committee to reject the new language of Section 31 of House Bill No. 5365.

Thank you for consideration of my testimony

Respectfully submitted,



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H.B. 5365 -- Right to cure violations in mobile home parks

Judiciary Committee public hearing -- March 9, 2012

Testimony of Raphael L. Podolsky

Recommended Committee action: REMOVE SECTION 5

We urge you to delete Section 5 from this bill. H.B. 5365 is a largely technical Judicial Branch bill, but this change is not technical. It is instead a significant substantive reduction in the rights of mobile home park residents. It should not be part of this bill, which is a technical bill, and it should not be adopted in any bill, because it is contrary to the state's public policy on mobile home park evictions.

Under Connecticut landlord-tenant law (C.G.S. 47a-15), a tenant who the landlord seeks to evict for a breach of the lease (other than non-payment of rent or serious nuisance) is entitled to a notice that gives the tenant the right to cure the violation. That notice is commonly called a "Kapa" notice, because it was originally construed by the courts in a case known as Kapa Associates v. Flores, 35 Conn. Sup. 274 (1979). The cure period was originally 30 days, but in 1997 the legislature cut that time period to 15 days. The legislature, however, retained the 30-day period in the similar provision in the Mobile Manufactured Home Park Act (C.G.S. 21-80). Section 5 of H.B. 5365 proposes to shorten the mobile home period to 15 days, apparently to conform to 47a-15. The same request was made by the Judicial Branch and rejected by the Judiciary Committee in 2004. We urge you to reject it again.

While many rights of apartment tenants and mobile home park residents are the same, in other cases the rights of mobile home park residents are substantially greater. This is not an accident. Mobile home park residents usually own their homes but rent the lots on which they sit. Because their homes are of little value if forced out of a park, the consequences of an eviction are especially serious. The General Assembly has long given enhanced rights to park residents so as to protect their tenancies. For example, home owners in mobile home parks have perpetually renewing leases, the right to sell their homes in the park, and cannot be evicted for lapse of time ("just cause eviction"). They are entitled to 535 days' notice and to relocation assistance if a park is closed. Other notice provisions are also longer. For example, the notice to quit is 30 days for non-payment of rent and 60 days for other breaches, compared with 3 days for residential tenants.

It is against this background that the legislature in 1997 chose to leave the mobile home park "Kapa" notice at 30 days when it reduced the "Kapa" notice for other tenants to 15 days. In effect, the "conforming" change proposed in Section 5 would cut the cure period for mobile home park residents in half. The longer notice for park residents is an important protection, and there is no good reason to change existing law.

We urge you to remove Section 5 from the bill.



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Testimony of the Honorable Barbara M. Quinn,
Chief Court Administrator
Judiciary Committee Public Hearing
March 9, 2012

H.B. 5388, An Act Concerning Court Fees and the Delivery
of Legal Services to the Poor

H.B. 5365, An Act Concerning Court Operations and Victim Services

H.B. 5290, An Act Concerning the Leasing of Judicial Branch Facilities

H.B. 5034, An Act Concerning Retirement Provisions Relating to Judges, Family
Support Magistrates and Compensation Commissioners

Good morning, Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, and members of the Judiciary Committee. I appear before you today to testify in favor of four bills that are important to the Judicial Branch. I will start out by discussing the three bills that are part of the Judicial Branch's legislative package: H.B. 5388, An Act Concerning Court Fees and the Delivery of Legal Services to the Poor; H.B. 5365, An Act Concerning Court Operations and Victim Services, and H.B. 5290, An Act Concerning the Leasing of Judicial Branch Facilities, and will conclude with H.B. 5034, An Act Concerning Retirement Provisions Relating to Judges, Family Support Magistrates and Compensation Commissioners, which is a Governor's bill.

H.B. 5388, An Act Concerning Court Fees and the Delivery of
Legal Services to the Poor

This proposal calls for an increase in certain court fees and requires the revenue realized from these fee increases be used to provide additional funding for legal services for the poor and Judicial Branch technology. There is a significant crisis in funding for legal

day's testimony from their own computer, without the expense or delay of an official transcript.

Let me add that, unlike many other states, the Judicial Branch does not charge the public or attorneys for access to the information we make available on our website, and it is not our intent to start doing so. When we considered the various options that would provide us with consistent and reliable funding to support the technology that is integral to making this information readily available, we made a conscious decision not to begin charging for website access. Passage of this bill will ensure that we can continue to provide free access to our website information.

House Bill 5365, An Act Concerning Court Operations and Victim Services

This bill would make a number of changes that will improve the operation of the Judicial Branch. It covers a variety of topics, so I thought it would be best not to go through it section by section, but to highlight the most significant provisions of the bill.

One section allows for electronic communication of court orders, one more necessary step to move to an electronic rather than a paper based court system. Other sections codify into statute a common practice in our criminal courts regarding fee amounts and their collection. Some sections improve and clarify certain victims' compensation provisions. There are technical provisions regarding the authority of our courts to handle dissolutions of civil unions solemnized in other states, there are other technical provisions concerning evictions and summary process procedures. Some sections would repeal obsolete provisions of the General Statutes. As you can see, each of these items taken individual is relatively minor, but as a whole they are important to ensuring that the Judicial Branch is able to function more effectively and efficiently.

House Bill 5290, An Act Concerning the Leasing of Judicial Branch Facilities

This bill would allow the Commissioner of Administrative Services (DAS) to delegate leasing authority to the Judicial Branch under certain circumstances.

On behalf of the Branch, DAS has entered into approximately 47 leases for facilities and parking, which comprises approximately twenty percent of the state's overall lease