

RICHARD BLUMENTHAL
ATTORNEY GENERAL



Office of The Attorney General
State of Connecticut

**TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE JUDICIARY COMMITTEE
MARCH 24, 2006**

I appreciate the opportunity to support House Bill 5819, An Act Concerning Harassment of Crime Victims, Compensation of Crime Victims and Waiver of Court Fees for Indigent Inmates.

The proposed legislation requires any person who sues the victim of crime committed by such person to file an affidavit asserting that the civil action is brought in good faith and not for harassment. The legislation also requires the court to review the certificate and other information to determine whether the action is without merit and brought with malicious purpose. The court may dismiss a harassing action and impose appropriate sanctions on the party bringing the action.

The legislation also permits the court to decline to waive filing fees for inmates who are indigent and authorize the Commissioner of Corrections to deduct the filing fees from the inmate's trust account.

House Bill 5819 addresses two distinct civil litigation problems. First, under current law, a convicted felon can continue to harass and intimidate the crime victim by filing civil actions compelling the victim to respond, and by subpoenaing the victim to testify in court where the victim may be subject to cross-examination by the convicted felon. Last year, a woman who had been raped and severely beaten by her ex-husband faced repeated meritless and harassing lawsuit by her abuser. In at least one case, she was compelled to endure cross-examination by the abuser, who asked a series of humiliating and harassing questions, victimizing her yet again.

Under House Bill 5819, the court has explicit responsibility to review all civil actions filed against a crime victim by the perpetrator of the crime and terminate such actions before the victim has to respond to the complaint. The proposal provides the court with clear authority to exact stiff sanctions against the perpetrator of the crime.

The committee should consider strengthening this legislation to provide more effective protection for victims. Under the proposed language, if the convicted felon does not submit an affidavit, there is no mechanism for the court to conduct the necessary review of the complaint and potentially dismiss the action prior to requiring the victim to appear in court. The victim should have the right to file an affidavit claiming that the civil action or a subpoena is being

served by the person who perpetrated a crime against the victim and that the civil action or subpoena is for the purpose of harassing the victim. The court should review the complaint or subpoena in the same manner as provided in section 1 of the proposed language in section 1 of House Bill 5819. I have attached a proposed amendment.

The second issue addressed by House Bill 5819 is the waiver of court filing fees for inmates. A significant increase in the number of lawsuits filed against it by inmates, many indigent, is imposing an increasing financial burden. Usually, these inmates obtain routine waivers of filing fees and payment of costs of their litigation. Ultimately, the vast majority of these lawsuits are dismissed -- but only after the state has expended significant resources filing answers and motions to dismiss, incurring hundreds of dollars or more in court costs and service of process fees.

House Bill 5819 will allow a court -- after reviewing the request for waiver of fees based on indigency-- to decline to waive such fees and, instead, authorize payment of those fees over a period of time through deductions from the prisoner's trust account. This authority allows the court to use its equitable powers to ensure that the state is not paying court costs and service of process fees for harassing or frivolous lawsuits filed by inmates.

Finally, I urge the committee to favorably consider extending the proposed court review of complaints filed by convicted felons against victims to all civil actions filed by prisoners. Many of these actions are frivolous or harassing and this type of review permits courts to dismiss frivolous complaints early in the civil process, thereby saving the Judicial Department, the Department of Corrections and the Attorney General's Office significant resources paying for and defending such complaints. Non-frivolous complaints would be allowed to proceed. This provision is based on the federal Prisoner Litigation Reform Act.

I urge the committee's favorable consideration of House Bill 5819 with the suggested amendment.

**PROPOSED AMENDMENT TO HOUSE BILL 5819, AAC HARASSMENT OF
CRIME VICTIMS, COMPENSATION OF CRIME VICTIMS AND WAIVER OF
COURT FEES FOR INDIGENT INMATES**

On line 17, delete "solely"

On line 18, delete "may" and insert in lieu thereof: "shall"

After line 25, insert the following new subsections (c) and (d) of section 1 as follows:

(c) In any pending civil action, a defendant may file an affidavit stating that the plaintiff in the matter has been convicted of a crime committed against the defendant and that the defendant believes the pending civil action is without merit and brought to harass the defendant. The defendant may file under seal any information that would identify such person's residence, work address or other location information. Upon the filing of such affidavit, the court shall stay all proceedings against the defendant. If the court finds, after review of the affidavit and such other information as it deems relevant to its review pursuant to this section, that the plaintiff has been convicted of a crime of which the defendant is a victim and that the pending civil action is without merit and brought to harass the defendant, the court, on its own motion or on motion of the defendant, shall dismiss such action and may order the plaintiff not to bring any further civil actions in state court based on the same or similar claims.

(d) Any person who receives a subpoena issued by a party in a civil action summoning such person to testify may file an affidavit stating that the party issuing the subpoena has been convicted of a crime of which the person receiving the subpoena was a victim and that such person believes the subpoena is being issued for the purposes of harassment and not in good faith. The person receiving the subpoena may file under seal any information that would identify such person's residence, work address or other location information. If the court finds, after review of the affidavit and such other information as it deems relevant to its review pursuant to this subsection, that the party who issued the subpoena has been convicted of a crime of which the person receiving the subpoena was a victim and that the subpoena is being issued for the purposes of harassment and not in good faith, the court, on its own motion or on motion of the person receiving the subpoena, may quash the subpoena and may order the party not to issue any further subpoenas to such person.