



STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE
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**Testimony of Michelle Cruz, State Victim Advocate
Submitted to the Judiciary Committee
Monday, March 16, 2009**

Good morning Senator McDonald, Representative Lawlor 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 in **SUPPORT** of:

Raised House Bill No. 6670, An Act Concerning the Rights of Crime Victims and the Duties of the Office of the Victim Advocate

I have been in this position now for approximately sixteen months. Throughout this time, I have worked diligently to build strong working relationships with criminal justice professionals, victim service providers and others within the criminal justice community. I have also had the opportunity to meet with many victims of crime. My priority as State Victim Advocate is to ensure that the voices of crime victims are heard, not only through the criminal justice process, but also regarding important proposals to improve the delivery of services to crime victims. Raised House Bill No. 6670 is a prime example of this effort beginning with crime victims.

Sections 1, 2 & 3 of the proposal will allow the Office of Victim Services (OVS) to award up to \$4,000.00 for burial expenses in cases where the surviving family member(s) of a victim of homicide have been denied compensation based on some form of contributory behavior on the victim's part. The surviving family would have to financially qualify and the award would be paid directly to a licensed funeral director in the state. This problem was brought to my attention by a group of inner city families that have lost family members to violence and do not have the financial means to bury their loved ones. As a result, the victim's body remains at the Office of the Chief Medical Examiner until such time that the surviving family can pay to bury their loved one.

The Office of the Victim Advocate (OVA) conducted a study of claims for compensation through OVS that were denied due to contributory behavior for an eighteen month time period. After review of each case, the OVA was able to determine that the denial of a claim for contributory behavior was largely based on the attitudes and opinions of the claims examiner reviewing the file. There are no clear guidelines for a claims examiner to rely on. For example, a claim could be denied based on the previous criminal activity of a victim, even if the victim, at the time of their death, was not involved in any criminal activity. Further, a claim could be denied based on statements made about the victim from the individual implicated in the death of the victim. There

were five (5) claims that were denied due to contributory behavior for the eighteen month period of time.

To quell any concerns regarding an applicant benefiting from a victim's death, the proposal requires the applicant to financially qualify (fifty percent below the state median income guidelines) and the award is paid directly to the state licensed funeral home director that is providing burial services to the victim's family. Although, the victim's actions may have somehow contributed to their own death, it is the surviving family members that are impacted by the death and burdened with the cost of burying their loved one unexpectedly.

Sections 4 & 5 of Raised House Bill No. 6670 creates a balancing test between an invasion of personal privacy versus the public's right to know when the Freedom of Information Commission is making a determination as to whether documents or other materials are available to the public, pursuant to a freedom of information request. This proposal **DOES NOT** keep information of legitimate concern to the public a secret. This proposal **DOES NOT** automatically prohibit the disclosure of information to the public. This proposal **DOES NOT** interfere with the public's inspection of information relating to the interworking of a public agency. This proposal **DOES NOT** obstruct the gathering of information regarding the actions of a public agency. This proposal **DOES NOT** limit the disclosure of information presented during a court proceeding. This proposal simply allows for a public agency to raise an objection to the request for information when the agency is of the belief that the disclosure of such information would be an invasion of personal privacy, based on a reasonable person standard.

A prime example of this problem is the tragic murder of thirteen year old Jajuana Cole of New Haven in 2006. All defendants arrested in connection with the killing of young Jajuana accepted plea agreements and have been sentenced. During the course of the police investigation, a cell phone video recording of Jajuana's killing was recovered from one of the defendants. The New Haven Register newspaper has now requested, through the freedom of information act, a copy of the cell phone video. It is important to note that there is no allegation of any wrong doing by any official or public agency relating to this tragedy. At this time, the decision has been appealed and continues to work its way through the court system.

The tragedy here lies with the decision of the Freedom of Information Commission to release this offensive video. What legitimate concern to the public would this video present? We are a curious society by nature; how many times have you slowed down to look at a car accident? We challenge authority and demand answers. These are the very reasons that the freedom of information act was established. Unfortunately, it has become necessary to have a process to ensure that public agencies and officials are held accountable and transparent in their actions. However, a freedom of information request for documents or other materials that do not serve a legitimate concern to the public is purely an abuse of its purpose. In addition, when documents or other materials are requested that only serve to exploit the suffering of crime victims, it is shameful.

Sections 6 & 7 establish a Victim Services Advocate Program Account to provide victim services advocates in all courts around the state. Currently there are twenty-eight (28) victim services advocates, two of which are assigned to the Board of Pardons and Paroles. The remaining twenty-six (26) advocates provide assistance to crime victims that sustain physical injury only. There are a total of thirteen (13) Judicial District Courts; twenty (20) Geographical Area Courts; and thirteen (13) Juvenile Courts. It goes without saying that there is a significant shortage of victim services advocates.

Victim services advocates are a crucial component to ensuring that the rights of crime victims are honored and respected throughout the criminal justice process. Victim services advocates are the compass for crime victims as they navigate a confusing, frustrating and intimidating system. Further, victim services advocates are a valuable tool for prosecutors and judges during the pendency of criminal matters.

Victim services advocates are employees of the OVS, a Judicial Branch agency. Because of the placement within the Judicial Branch, the need for additional victim services advocates is often overlooked due to the many other needs, such as probation officers, judges, clerks, marshals and others. The reality is that, even in good times, the victim services advocate program will always be under funded. The proposal before you will levy a fine of \$75.00 for a felony conviction and \$50.00 for a misdemeanor conviction to criminal defendants. This fine would be deposited in a separate account (Victim Services Advocate Program Account) and be used to provide additional advocates in courts throughout the state. It is anticipated that over time the Victim Services Advocate Program Account could become self sustaining.

A Governing Board would be established to oversee the expenditures of the account. The board would also have the ability to authorize the allocation of money for the victim services advocate programs for the four (4) core victim service providers in the state; CT Coalition Against Domestic Violence; CT Sexual Assault Crisis Services; Mothers Against Drunk Driving; and Survivors of Homicide. Additionally, five percent (5%) of the account would be directed to the OVA in order to conduct and support programs of public education and outreach regarding crime victims' rights and services.

I realize that there are many fines and fees assessed to criminal defendants and that many of them are routinely waived by the court. The actions of criminal defendants bring crime victims into the criminal justice system. This fine, above all, should be imposed in every case. Most criminal defendants are offered a plea agreement in exchange for a plea of guilty. If the tone was set in the courtroom by the prosecutor and the judge that this fine was not going to be waived and the plea not accepted unless the fine is paid, my suspicion is that many criminal defendants will find the ability to pay the fine and take advantage of the plea offer.

Finally, all crime victims in the state have constitutional rights and protections, not just those that sustain physical injury. Therefore, all crime victims deserve the same availability of an advocate. Many crime victims that contact the OVA may never have known about their rights or services, largely because they are not provided an advocate.

We wouldn't think of providing a defense attorney to only those criminal defendants that caused physical injury to another person. No. So why are we willing to leave a large population of crime victims to fend for themselves now? It is time for us to balance the scales and hold those accountable for bringing victims into the system to begin with.

Section 8 of Raised Bill No. 6670 will formalize the process of requesting a continuance in sexual assault cases where the victim of the offense is a minor child or that a minor child is expected to testify as a witness. Sexual assault cases involving minor children often take months to investigate by law enforcement. Many times there is a delay in reporting the crime and therefore, there is little physical evidence, if any. Once the arrest occurs, the criminal process can then take up to three years or more.

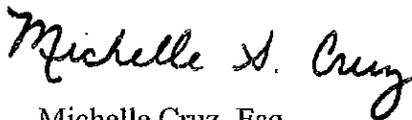
The traumas suffered by victims of sexual assault can last for years, including post traumatic stress disorder. Life's attitudes and behaviors change, especially when victims are minor children. The proposal will require that an impact statement be submitted to the court for each continuance requested in sexual assault cases involving minor children. The impact statement must state the reason for the continuance, whether the victim has been informed of the continuance and what, if any, impact the continuance will have on the minor child. This formalized process will ensure that each court date is useful and productive and that the best interests of the minor child victim are at the forefront of the court's mind when granting or denying a continuance.

Many continuances are requested and granted for good reason. However, many are not, without consideration of the impact the continuance may have on the minor child. Most criminal cases are resolved by plea bargain. Knowing that, minimizing the number of continuances through a formalized process will ensure that there are limited unnecessary delays in sexual assault cases involving minor children.

The Criminal Justice Policy and Advisory Commission (CJPAC), within the Office of the Policy and Management, was created to evaluate the criminal justice system and make recommendations for improvement. The OVA attends the meetings of CJPAC but is not a statutory member. Section 9 of Raised Bill No. 6670 will add the Victim Advocate or his or her designee to the membership.

The provisions of Raised Bill No. 6670 will benefit not only crime victims, but the efficiency of the criminal justice process. I strongly urge the committee's support. Thank you for the opportunity to provide testimony and for your continued support of crime victims.

Respectfully submitted,



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