



# STATE OF CONNECTICUT

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**Testimony of Michelle Cruz, Esq., State Victim Advocate  
Submitted to the Judiciary Committee  
Friday, March 18, 2011**

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 Senate Bill No. 965**, *An Act Concerning the Use of an Ignition Interlock Device upon a First Drunken Driving Conviction*

**Raised Senate Bill No. 1031**, *An Act Increasing the Penalty for Manslaughter in the Second Degree with a Motor Vehicle*

**Raised Senate Bill No. 1034**, *An Act Concerning the Penalty for Manslaughter While Operating a Motor Vehicle Under the Influence of Intoxicating Liquor or Drug*

In Connecticut, a person arrested for driving under the influence (DUI) for the first time has the opportunity to apply for and participate in the alcohol education program. A successful completion of the program requirements will yield a dismissal of the charges. In addition to successful completion of the program, in some cases, the defendant may be required to pay restitution to the crime victim. This is often in cases that involve an accident with another vehicle, or other circumstances, leading to physical injury to another individual. However, as long as the restitution is satisfied, the charges are dismissed.

It is important to recognize that Raised Senate Bill No. 965 applies to individuals *convicted* of DUI, which in most cases, translates to the individual's second DUI offense, yet first conviction. According to the Judicial Branch statistics, there were 12,671 DUI cases in fiscal year 2010. Of those, 3,879 cases (30.6%) resulted in a guilty finding; guilty either by pleading guilty or convicted after a court or jury trial. The Office of the Victim Advocate (OVA) supports the proposal as it will allow for an ignition interlock device for those convicted of DUI, after a three month license suspension, in lieu of the one year license suspension. DUI offenders willing and capable of rehabilitation will accept the ignition interlock device to avoid the one year license suspension; those unwilling are the DUI offenders most likely to reoffend.

Raised Senate Bill No. 1031 seeks to increase the penalty for manslaughter with a motor vehicle while driving under the influence from a C felony to a B felony, consistent with the penalty for manslaughter first degree with a firearm. The OVA has assisted many surviving family members who have lost a loved one to drunken driving. The fact that a motor vehicle was the "weapon" used to cause the death does not minimize the trauma and impact of that loss on the surviving family members. However, the surviving family members of DUI related fatalities are faced with the reality that the consequence and penalty for this crime are very different than

if their loved one had been killed with a firearm. The trend in Connecticut is, on average, an eight year sentence for a DUI homicide. I point to the case of the young students, on their way to a class trip, who were killed while in route to the airport. Because the homicides were related to a drunk driver, the sentence reflected that of all Connecticut drunk driving homicides—again eight years. The family's pain is no different because the weapon is a car- the only difference is the sentence.

This is especially frustrating for surviving family members in cases where the drunk driver has had multiple convictions for DUI. In the case of State v. Michael Knybel, Docket # MV07-0405373, the defendant had previously been convicted of DUI on six occasions and his license had been suspended permanently. On January 1, 2007, the defendant, while driving under the influence, struck and killed Darren Fegan, son, brother, husband and father five children. A plea agreement was reached in this case and the defendant was sentenced to twelve years, suspended after eight years and five years of probation. The defendant in this case arguably has an extreme indifference to human life and yet, as a repeat drunk driver, will likely serve eighty-five percent of his sentence and be released early through parole or community release. Sadly, Darren Fegan will never see his boys grow to become men nor his triplet daughters blossom into young women.

According to the National Highway Transportation Safety Administration, there were 223 driving fatalities in Connecticut during 2009; of those, 99 (44%) were alcohol related crashes. Although Connecticut has made strides in its effort to reduce drunk driving, we clearly have more work to do. Those surviving family members of the 99 victims will likely witness the offenders who killed their loved ones release from prison. Raised Senate Bill No. 1031 will ensure that drunk driving offenders deserving of a lengthier prison sentence, like Michael Knybel, are taken off the streets.

While Raised Senate Bill No. 1034 seeks to increase the penalty for manslaughter with a motor vehicle, it will also establish a rebuttable presumption that will create a mechanism for offenders to challenge the circumstances of their reckless conduct. DUI offenders often refuse to submit to a breathalyzer test to avoid evidence of their alcohol impairment, a barrier prosecutors must overcome during the prosecution of a DUI case. I strongly urge the Committee to reject Raised Senate Bill No. 1034 and support Raised Senate Bill No. 1031 to increase the penalty for manslaughter second degree with a motor vehicle while under the influence of alcohol or drugs.

Thank you for consideration of my testimony.

Respectfully submitted,

  
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