CCDLA
"Ready in the Defense of Liberty"
Founded 1988

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March 12, 2012

The Honorable Eric D. Coleman
The Honorable Gerald M. Fox.
Chairmen
Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

Re: Raised Bill No. 5148
AN ACT CONCERNING COMMUNICATIONS TO VICTIMS OF THE CRIMINAL OPERATION OF A MOTOR VEHICLE THAT RESULTS IN DEATH OR SERIOUS PHYSICAL INJURY

Dear Chairmen and Committee Members:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of over 300 licensed lawyers, in both the public and private sectors, dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA works to improve the criminal justice system by ensuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished. At the same time, CCDLA strives to improve and suggest changes to the laws and procedures that apply to criminal justice. By way of this testimony, CCDLA supports Raised Bill No. 5148, An Act Concerning Communications to Victims of the Criminal Operation of a Motor Vehicle that Results in Death or Serious Physical Injury.

Raised Bill 5148 enables a person convicted of a motor vehicle offense resulting in death or serious physical injury to make a statement, affirmation, gesture or expression of apology, fault, sympathy, commiseration, condolence, compassion or a general sense of benevolence to the victim of such offense, a relative of the victim or a representative of the victim, prior to sentencing for the offense, without the statement being admissible as evidence of an admission of liability or as evidence of an admission against interest in any civil or criminal proceeding.

Enabling criminal defendants to apologize under these circumstances benefits victims and defendants alike. As a general matter, apologies and other expressions of remorse have been found to produce a range of effects that tend to be positive for both

apologizers and recipients of apologies. Victims who receive apologies or believe that their offenders are remorseful are more likely to find emotional restoration, to feel a reestablished sense of security, to view the moral relation between the parties as back in balance, and to forgive their offenders.[1] Apologies offer the opportunity for reconciliation and healing, which is viewed by many victims as being as important as financial compensation.[2]

Defendants also benefit from having the opportunity to apologize to their victims. This ability presents a restorative opportunity to the offender because it gives him/her the opportunity to make amends with both the victim and the community. It enables the offender to assuage negative emotions and "begin to repair their relationships with their victims and society, improve their reputations, and begin a process of reintegrating into society."[3] Empirical evidence also shows that offenders are less likely to recidivate and more likely to be forgiven by their victims.[4] Removing the possibility that such an apology could be used against an offender in litigation will enable offenders to freely express their remorse without limitation.

For these reasons, CCDLA supports Raised Bill No. 5148.

Respectfully submitted,
CCDLA

By,
Moira L. Buckley
President Elect CCDLA

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[1] See Margareth Etienne and Jennifer K. Robbennolt, *Apologies and Plea Bargaining*, 91 Marq. L. Rev. 295 (2007).

[2] Id. (citing Heather Strang & Lawrence W. Sherman, *Repairing the Harm: Victims and Restorative Justice,* 2003 UTAH L. REV. 15, 22-23).

[3] Id. (citing Jonathan R. Cohen, *Advising Clients to Apologize,* 72 S. CAL. L. REV. 1009, 1015-23 (1999) (articulating benefits of apologizing in the civil context); Erin Ann O'Hara & Douglas Yarn, *On Apology and Consilience,* 77 WASH. L. REV. 1121, 1141-42 (2002); *see also* Jonathan R. Cohen, *The Culture of Legal Denial,* 84 NEB. L. REV. 247, 253-54 (2005)).

[4] See William R. Nugent et al., *Participation in Victim-Offender Mediation and the Prevalence and Severity of Subsequent Delinquent Behavior: A Meta-Analysis,* 2003 UTAH L. REV. 137, 140, 162 (finding a reduction in reoffending); Barton Poulson, *A Third Voice: A Review of Empirical Research on the Psychological Outcomes of Restorative Justice,* 2003 UTAH L. REV. 167, 190-91 tbl.7 & fig.7 (reviewing four studies of offenders' apologies and one study of victims' forgiveness to find that restorative justice procedures greatly increase the likelihood of forgiveness).