



Senate

General Assembly

File No. 814

January Session, 2013

Substitute Senate Bill No. 870

Senate, May 14, 2013

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING VICTIM COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-201 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 As used in sections 54-201 to 54-233, inclusive, as amended by this
4 act, and section 17 of this act:

5 (1) "Victim" means a person who: [is] (A) Is injured, [or] threatened
6 with physical injury or death, or killed [as provided in section 54-209]
7 in the course of or as a result of (i) the commission or attempted
8 commission by another of a crime; (ii) an attempt to prevent the
9 commission of a crime or to apprehend a suspected criminal; (iii)
10 aiding or attempting to aid a police officer in preventing the
11 commission of a crime or apprehending a suspected criminal; or (iv)
12 any crime involving international terrorism, as defined in 18 USC 2331,
13 as amended from time to time; (B) is a victim of domestic terrorism or
14 a witness to domestic terrorism; or (C) qualifies for compensation

15 under subsection (b) of section 54-209, as amended by this act;

16 (2) ["Personal injury"] "Injury" means (A) [actual bodily harm and
17 mental anguish which is the direct result of bodily injury] physical
18 injury or emotional harm and includes pregnancy and any condition
19 thereof, or (B) injury to a guide dog or assistance dog owned or kept
20 by a blind or disabled person;

21 (3) "Dependent" means (A) any relative of a deceased victim who
22 was wholly or partially dependent on the victim's income at the time
23 of the victim's death, or (B) a person designated by a deceased victim
24 in accordance with section 1-56r; [who was wholly or partially
25 dependent upon his income at the time of his death or the child of a
26 deceased victim and shall include the child of such victim born after
27 his death;]

28 (4) "Relative" means a [person's] victim's spouse, parent,
29 grandparent, stepparent, child, including a natural born child born
30 prior to, on or after the date of the victim's death, stepchild and
31 adopted child, grandchild, brother, sister, half brother or half sister, [or
32 a parent of a person's spouse;] "Relative" may include a parent of a
33 victim's spouse, an uncle, aunt, nephew, niece, fiance, fiancée, brother-
34 in-law or sister-in-law. "Relative" does not include any person
35 responsible for the crime that resulted in the injury or death of the
36 victim;

37 (5) "Crime" means any act which is a felony, as defined in section
38 53a-25, or a misdemeanor, as defined in section 53a-26, and includes
39 any delinquent act that would constitute a felony or misdemeanor if
40 committed by an adult, a serious juvenile offense or other crime
41 committed by a [juvenile.] child or youth;

42 (6) "Emotional harm" means a mental or emotional impairment that
43 is directly attributable to a threat of serious physical injury, as defined
44 in section 53a-3, or death to the affected person that requires treatment
45 through services;

46 (7) "Domestic terrorism" means any act of terrorism committed in
47 violation of section 53a-300;

48 (8) "Victim of domestic terrorism" means a person who has suffered
49 an injury as a result of being in direct proximity to an act of domestic
50 terrorism, and includes, but is not limited to, any person responding to
51 the location of an act of domestic terrorism;

52 (9) "Witness to domestic terrorism" means a person who has
53 suffered an injury as a result of being in the general proximity of an act
54 of domestic terrorism, and has witnessed the domestic terrorism
55 through any of such person's five senses; and

56 (10) "Services" means any services provided to a victim, that the
57 Office of Victim Services determines to be compensable, including, but
58 not limited to, medical services, psychiatric services, psychological
59 services, social services and social rehabilitation services.

60 Sec. 2. Subsection (a) of section 54-202 of the general statutes is
61 repealed and the following is substituted in lieu thereof (*Effective*
62 *October 1, 2013*):

63 (a) On or before July 1, 1993, the Governor shall appoint five victim
64 compensation commissioners for a term of four years to conduct
65 hearings and make determinations as provided in sections 54-201 to
66 [54-233] 54-218, inclusive, as amended by this act. To be eligible for
67 appointment, a victim compensation commissioner shall have been
68 admitted to the practice of law in this state for at least five years prior
69 to the appointment.

70 Sec. 3. Subdivisions (1) to (7), inclusive, of subsection (b) of section
71 54-203 of the general statutes are repealed and the following is
72 substituted in lieu thereof (*Effective October 1, 2013*):

73 (1) To direct each hospital, whether public or private, to display
74 prominently in its emergency room posters giving notice of the
75 availability of compensation and assistance to victims of crime or their
76 dependents pursuant to [sections 54-201 to 54-233, inclusive] this

77 chapter, and to direct [every] each law enforcement agency of the state
78 to inform victims of crime or their dependents of their rights pursuant
79 to [sections 54-201 to 54-233, inclusive] this chapter;

80 (2) To request from the office of the state's attorney, state police,
81 local police departments or any law enforcement agency such
82 investigation and data as will enable the Office of Victim Services to
83 determine if in fact the applicant was a victim of a crime or attempted
84 crime and the extent, if any, to which the victim or claimant was
85 responsible for his or her own injury;

86 (3) To request from the Department of Correction, other units of the
87 Judicial Department and the Board of Pardons and Paroles such
88 information as will enable the Office of Victim Services to determine if
89 in fact a person who has requested notification pursuant to section 54-
90 228 was a victim of a crime;

91 (4) To direct the medical examination of [victims] a victim as a
92 requirement for payment under sections 54-201 to [54-233] 54-218,
93 inclusive, as amended by this act;

94 (5) To take or cause to be taken affidavits or depositions within or
95 [without the] outside of this state;

96 (6) To apply for, receive, allocate, disburse and account for grants of
97 funds made available by the United States, by the state, foundations,
98 corporations and other businesses, agencies or individuals to
99 implement a program for victim services which shall assist witnesses
100 and victims of crimes as the Office of Victim Services deems
101 appropriate within the resources available and to coordinate services
102 to victims by state and community-based agencies, with priority given
103 to victims of violent crimes, by (A) assigning, in consultation with the
104 Division of Criminal Justice, such victim advocates as are necessary to
105 provide assistance; (B) administering victim service programs; and (C)
106 awarding grants or purchase of service contracts to private nonprofit
107 organizations or local units of government for the direct delivery of
108 services, except that the provision of training and technical assistance

109 of victim service providers and the development and implementation
110 of public education campaigns may be provided by private nonprofit
111 or for-profit organizations or local units of government. Such grants
112 and contracts shall be the predominant method by which the Office of
113 Victim Services shall develop, implement and operate direct service
114 programs and provide training and technical assistance to victim
115 service providers;

116 (7) To provide each person who applies for compensation pursuant
117 to section 54-204, as amended by this act, within ten days of the date of
118 receipt of such application, with a written list of rights of victims of
119 crime involving [personal] injury and the programs available in this
120 state to assist such victims. The Office of Victim Services, the state or
121 any agent, employee or officer thereof shall not be liable for the failure
122 to supply such list or any alleged inadequacies of such list. Such list
123 shall include, but not be limited to:

124 (A) Subject to the provisions of sections 18-81e and 51-286e, the
125 victim shall have the right to be informed concerning the status of his
126 or her case and to be informed of the release from custody of the
127 defendant;

128 (B) Subject to the provisions of section 54-91c, the victim shall have
129 the right to present a statement of his or her losses, injuries and wishes
130 to the prosecutor and the court prior to the acceptance by the court of a
131 plea of guilty or nolo contendere made pursuant to a plea agreement
132 with the state wherein the defendant pleads to a lesser offense than the
133 offense with which the defendant was originally charged;

134 (C) Subject to the provisions of section 54-91c, prior to the
135 imposition of sentence upon the defendant, the victim shall have the
136 right to submit a statement to the prosecutor as to the extent of any
137 injuries, financial losses and loss of earnings directly resulting from the
138 crime;

139 (D) Subject to the provisions of section 54-126a, the victim shall have
140 the right to appear before a panel of the Board of Pardons and Paroles

141 and make a statement as to whether the defendant should be released
142 on parole and any terms or conditions to be imposed upon any such
143 release;

144 (E) Subject to the provisions of section 54-36a, the victim shall have
145 the right to have any property the victim owns which was seized by
146 police in connection with an arrest to be returned;

147 (F) Subject to the provisions of sections 54-56e and 54-142c, the
148 victim shall have the right to be notified of the application by the
149 defendant for the pretrial program for accelerated rehabilitation and to
150 obtain from the court information as to whether the criminal
151 prosecution in the case has been dismissed;

152 (G) Subject to the provisions of section 54-85b, the victim cannot be
153 fired, harassed or otherwise retaliated against by an employer for
154 appearing under a subpoena as a witness in any criminal prosecution;

155 (H) Subject to the provisions of section 54-86g, the parent or legal
156 guardian of a child twelve years of age or younger who is a victim of
157 child abuse or sexual assault may request special procedural
158 considerations to be taken during the testimony of the child;

159 (I) Subject to the provisions of section 46b-15, the victim of assault
160 by a spouse or former spouse, family or household member has the
161 right to request the arrest of the offender, request a protective order
162 and apply for a restraining order;

163 (J) Subject to the provisions of sections 52-146k, 54-86e and 54-86f,
164 the victim of sexual assault or domestic violence can expect certain
165 records to remain confidential; and

166 (K) Subject to the provisions of section 53a-32, the victim may
167 receive notification from a probation officer whenever the officer has
168 notified a police officer that the probation officer has probable cause to
169 believe that the offender has violated a condition of such offender's
170 probation.

171 Sec. 4. Subdivisions (15) to (18), inclusive, of subsection (b) of
172 section 54-203 of the general statutes are repealed and the following is
173 substituted in lieu thereof (*Effective October 1, 2013*):

174 (15) Within available appropriations, to establish a crime victims'
175 information clearinghouse which shall be a central repository for
176 information collected pursuant to subdivision (9) of this subsection
177 and information made available through the criminal justice
178 information system, to provide a toll-free telephone number for access
179 to such information and to develop a plan, in consultation with all
180 agencies required to provide notification to victims, outlining any
181 needed statutory changes, resources and working agreements
182 necessary to make the Office of Victim Services the lead agency for
183 notification of victims, which plan shall be submitted to the General
184 Assembly not later than February 15, 2000;

185 (16) To provide a training program for judges, prosecutors, police
186 officers, probation and parole personnel, bail commissioners, intake,
187 assessment and referral specialists, officers from the Department of
188 Correction and judicial marshals to inform them of victims' rights and
189 available services;

190 (17) To establish a sexual assault forensic examiners program [that
191 will] to train and make available sexual assault forensic examiners to
192 adolescent and adult victims of sexual assault who are patients at
193 participating acute care hospitals. In order to establish and implement
194 such program, the Office of Victim Services may apply for, receive,
195 allocate, disburse and account for grants of funds made available by
196 the United States, the state, foundations, corporations and other
197 businesses, agencies or individuals; and

198 (18) To submit to the joint standing committee of the General
199 Assembly having cognizance of matters relating to victim services, in
200 accordance with the provisions of section 11-4a, on or before January
201 15, 2000, and biennially thereafter a report of its activities under
202 [sections 54-201 to 54-233, inclusive] this chapter, including, but not
203 limited to, implementation of training activities and mandates. Such

204 report shall [include] indicate the types of training provided, the
205 entities providing training and the recipients of training.

206 Sec. 5. Section 54-204 of the general statutes is repealed and the
207 following is substituted in lieu thereof (*Effective October 1, 2013*):

208 (a) Any person who may be eligible for compensation or
209 [restitution] services, or both, pursuant to sections 54-201 to [54-233]
210 54-218, inclusive, as amended by this act, may make application
211 therefor to the Office of Victim Services. If the person entitled to make
212 application is a minor or incompetent person, the application may be
213 made on such person's behalf by a parent, guardian or other legal
214 representative of the minor or incompetent person.

215 (b) In order to be eligible for compensation or [restitution] services
216 under sections 54-201 to [54-233] 54-218, inclusive, as amended by this
217 act, the applicant shall, prior to a determination on any application
218 made pursuant to sections 54-201 to [54-233] 54-218, inclusive, as
219 amended by this act, submit reports if reasonably available from [all
220 physicians or surgeons who have] each physician or surgeon who has
221 treated or examined the victim in relation to the injury for which
222 compensation is claimed at the time of or subsequent to the victim's
223 injury or death. If, in the opinion of the Office of Victim Services or, on
224 review, a victim compensation commissioner, reports on the previous
225 medical history of the victim, examination of the injured victim and a
226 report [thereon] on such examination or a report on the cause of death
227 of the victim by an impartial medical expert would be of material aid
228 to [its] a just determination by the office or commissioner, [said] the
229 office or commissioner shall order such reports and examinations. Any
230 information received by the office or commissioner which is
231 confidential in accordance with any provision of the general statutes or
232 federal law shall remain confidential while in the custody of the Office
233 of Victim Services or a victim compensation commissioner.

234 Sec. 6. Section 54-205 of the general statutes is repealed and the
235 following is substituted in lieu thereof (*Effective October 1, 2013*):

236 (a) Upon application made under the provisions of sections 54-201
237 to [54-233] 54-218, inclusive, as amended by this act, the Office of
238 Victim Services shall evaluate such application, make an appropriate
239 determination in writing, and provide notice to the applicant of such
240 determination. In order to make a determination on an application, the
241 Office of Victim Services may administer oaths or affirmations, may
242 subpoena any witness to appear or may issue a subpoena duces tecum,
243 provided no subpoena shall be issued except under the signature of a
244 victim compensation commissioner. Any application to any court for
245 aid in enforcing such subpoena may be made in the name of the Office
246 of Victim Services only by a victim compensation commissioner.
247 Subpoenas shall be served by any person designated by a victim
248 compensation commissioner.

249 (b) An applicant may request that a determination made pursuant
250 to subsection (a) of this section be reviewed by a victim compensation
251 commissioner by filing a request for review with the Office of Victim
252 Services, on a form prescribed by the Office of the Chief Court
253 Administrator, within thirty days from mailing of the notice of such
254 determination.

255 (c) For the purposes of carrying out the provisions of sections 54-201
256 to [54-233] 54-218, inclusive, as amended by this act, a victim
257 compensation commissioner shall hear any request for review filed by
258 an applicant pursuant to sections 54-201 to [54-233] 54-218, inclusive,
259 as amended by this act, to which such commissioner is assigned and
260 shall make a written determination on such application for
261 compensation. A victim compensation commissioner shall hold such
262 hearings and take such testimony as such commissioner [may deem]
263 deems advisable. A commissioner may administer oaths or
264 affirmations to witnesses and shall have full power to subpoena any
265 witness to appear and give testimony or to issue a subpoena duces
266 tecum. Subpoenas shall be served by any person designated by a
267 victim compensation commissioner.

268 (d) No [witness] person under subpoena authorized to be issued [by

269 the provisions of] under this section shall be excused from testifying or
270 from producing records, papers or documents. If any person disobeys
271 such process or, having appeared in obedience [thereto] to such
272 process, refuses to answer any pertinent question put to [him] such
273 person by the victim compensation commissioner or to produce any
274 records, papers or documents and appears pursuant thereto, said
275 commissioner may apply to the superior court for the judicial district
276 of Hartford [,] setting forth such disobedience to process or refusal to
277 answer. The court shall cite such person to appear before [said] the
278 court to answer such question or to produce such records, papers or
279 documents or to show cause why a question put to [him] such person
280 should not be answered or why such records, papers or documents
281 should not be produced. Upon such person's refusal to answer or
282 produce records, papers or documents or to show cause, the court may
283 commit such person to a community correctional center until such
284 person complies, but not for a longer period than sixty days.
285 Notwithstanding any such commitment of such person, the victim
286 compensation commissioner may proceed with the hearing as if such
287 [witness] person had testified adversely regarding [his] such person's
288 interest in the proceeding.

289 (e) The applicant and any other person having a substantial interest
290 in a proceeding may appear before the victim compensation
291 commissioner and be heard, produce evidence and cross-examine
292 witnesses in person or by [his] such applicant's or other person's
293 attorney. The victim compensation commissioner also may hear such
294 other persons as in the commissioner's judgment may have relevant
295 evidence to submit.

296 (f) Any statement, document, information or matter may be
297 considered by the Office of Victim Services or, on review, by a victim
298 compensation commissioner, if in the opinion of said office or
299 commissioner, it contributes to a determination of the claim, whether
300 or not the same would be admissible in a court of law.

301 (g) If any person has been convicted of any [offense] crime with

302 respect to an act on which a claim under sections 54-201 to [54-233] 54-
303 218, inclusive, as amended by this act, is based, proof of that conviction
304 shall be taken as conclusive evidence that the [offense] crime has been
305 committed by such person, unless an appeal or any proceeding with
306 regard [thereto] to the conviction is pending.

307 Sec. 7. Section 54-206 of the general statutes is repealed and the
308 following is substituted in lieu thereof (*Effective October 1, 2013*):

309 The Office of Victim Services or, on review, a victim compensation
310 commissioner may, as part of any order entered under sections 54-201
311 to [54-233] 54-218, inclusive, as amended by this act, determine and
312 allow reasonable attorney's fees, which shall not exceed fifteen per cent
313 of the amount awarded as compensation under section 54-208, as
314 amended by this act, to be paid out of but not in addition to the
315 amount of such compensation. No [such] attorney shall ask for,
316 contract for or receive any larger sum than the amount so allowed
317 under this section.

318 Sec. 8. Section 54-207a of the general statutes is repealed and the
319 following is substituted in lieu thereof (*Effective October 1, 2013*):

320 The Office of the Chief Court Administrator shall prescribe such
321 policies and procedures, as deemed necessary, to implement the
322 provisions of [sections 54-201 to 54-233, inclusive] this chapter, and
323 may formulate standards for the uniform application of the payment
324 of compensation of claims under sections 54-201 to 54-218, inclusive, as
325 amended by this act.

326 Sec. 9. Section 54-208 of the general statutes is repealed and the
327 following is substituted in lieu thereof (*Effective October 1, 2013*):

328 (a) If a person is injured or killed as [provided] described in section
329 54-209, as amended by this act, the Office of Victim Services or, on
330 review, a victim compensation commissioner may order the payment
331 of compensation in accordance with the provisions of sections 54-201
332 to [54-233] 54-218, inclusive, as amended by this act: (1) To or for the

333 benefit of the injured person; (2) in the case of [personal] injury of the
334 victim, to any person responsible for the maintenance of the victim
335 who has suffered pecuniary loss as a result of such injury; or (3) in the
336 case of death of the victim, to or for the benefit of any one or more of
337 the dependents of the victim, including any dependent child of a
338 homicide victim who was killed by the other parent, or to any person
339 who has suffered pecuniary loss, including, but not limited to, funeral
340 expenses, as a result of such death.

341 (b) For the purposes of sections 54-201 to [54-233] 54-218, inclusive,
342 as amended by this act, a person shall be deemed to have intended an
343 act notwithstanding that, by reason of age, insanity, drunkenness or
344 otherwise, [he] such person was legally incapable of forming a
345 criminal intent.

346 (c) In determining whether to make an order under this section, the
347 Office of Victim Services or, on review, a victim compensation
348 commissioner, shall consider all circumstances determined to be
349 relevant, including, but not limited to, provocation, consent or any
350 other behavior of the victim which directly or indirectly contributed to
351 such victim's injury or death, the extent of the victim's cooperation in
352 investigating the application and the extent of the victim's cooperation
353 with law enforcement agencies in their efforts to apprehend and
354 prosecute the offender, and any other relevant matters.

355 (d) An order may be made under this section whether or not any
356 person is prosecuted or convicted of any [offense] crime arising out of
357 such act. Upon application made by an appropriate prosecuting
358 authority, the Office of Victim Services or a victim compensation
359 commissioner may suspend making any determination or any
360 proceedings, as the case may be, under sections 54-201 to [54-233] 54-
361 218, inclusive, as amended by this act, for such period as [it] the office
362 or commissioner deems appropriate on the ground that a prosecution
363 for [an offense] a crime arising out of such act [or omission] has been
364 commenced or is imminent.

365 (e) In determining the amount of compensation to be allowed, the

366 Office of Victim Services or, on review, a victim compensation
367 commissioner shall take into consideration amounts that the applicant
368 has received or is eligible to receive from any other source or sources,
369 including, but not limited to, payments from state and municipal
370 agencies, insurance benefits [,] and workers' compensation awards, as
371 a result of the [incident or offense] crime giving rise to the application.

372 (f) Payments shall be made in a manner to be determined by the
373 Office of Victim Services, including, but not limited to, lump sum or
374 periodic payments. If an award is not claimed by the applicant within
375 forty-five days after notice of the award, the Office of Victim Services
376 may vacate such award or may order payments from such award to
377 health care providers or victim service providers and vacate any
378 remaining amount of such award.

379 Sec. 10. Section 54-209 of the general statutes is repealed and the
380 following is substituted in lieu thereof (*Effective October 1, 2013*):

381 (a) The Office of Victim Services or, on review, a victim
382 compensation commissioner may order the payment of compensation
383 to any victim in accordance with the provisions of sections 54-201 to
384 [54-233] 54-218, inclusive, as amended by this act. [for personal injury
385 or death which resulted from: (1) An attempt to prevent the
386 commission of crime or to apprehend a suspected criminal or in aiding
387 or attempting to aid a police officer so to do, (2) the commission or
388 attempt to commit by another of any crime as provided in section 53a-
389 24, (3) any crime involving international terrorism as defined in
390 Section 2331 of Title 18 of the United States Code.]

391 (b) The Office of Victim Services or, on review, a victim
392 compensation commissioner may also order the payment of
393 compensation in accordance with the provisions of sections 54-201 to
394 [54-233] 54-218, inclusive, as amended by this act, for [personal] injury
395 or death that resulted from the operation of a motor vehicle by another
396 person who was subsequently convicted with respect to such
397 operation for a violation of subsection (a) or (b) of section 14-224 or
398 section 14-225, 14-227a, 53a-56b or 53a-60d. In the absence of a

399 conviction, the Office of Victim Services or, on review, a victim
400 compensation commissioner may order payment of compensation
401 under this section if, upon consideration of all circumstances
402 determined to be relevant, the office or commissioner, as the case may
403 be, reasonably concludes that another person has operated a motor
404 vehicle in violation of subsection (a) or (b) of section 14-224 or section
405 14-225, 14-227a, 53a-56b or 53a-60d.

406 (c) Except as provided in subsection (b) of this section, no act
407 involving the operation of a motor vehicle which results in injury shall
408 constitute a crime for the purposes of sections 54-201 to [54-233] 54-
409 218, inclusive, as amended by this act, unless the injuries were
410 intentionally inflicted through the [use] operation of the vehicle.

411 (d) [In instances where] If a violation of section 53-21, 53a-70, 53a-
412 70a, 53a-70b, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a has been
413 alleged, the Office of Victim Services or, on review, a victim
414 compensation commissioner may order compensation be paid if: (1)
415 [the personal] The injury has been disclosed to: (A) A physician or
416 surgeon licensed under chapter 370; (B) a resident physician or intern
417 in any hospital in this state, whether or not licensed; (C) a physician
418 assistant licensed under chapter 370; (D) an advanced practice
419 registered nurse, registered nurse or practical nurse licensed under
420 chapter 378; (E) a psychologist licensed under chapter 383; (F) a police
421 officer; (G) a mental health professional; (H) an emergency medical
422 services provider licensed or certified under chapter 368d; (I) an
423 alcohol and drug counselor licensed or certified under chapter 376b; (J)
424 a marital and family therapist licensed under chapter 383a; (K) a sexual
425 assault counselor or battered women's counselor as defined in section
426 52-146k; (L) a professional counselor licensed under chapter 383c; (M)
427 a clinical social worker licensed under chapter 383b; or (N) an
428 employee of the Department of Children and Families; and (2) the
429 office or commissioner, as the case may be, reasonably concludes that a
430 violation of any of said sections has occurred.

431 (e) Evidence of an order for the payment of compensation by the

432 Office of Victim Services or a victim compensation commissioner in
433 accordance with the provisions of sections 54-201 to [54-233] 54-218,
434 inclusive, as amended by this act, shall not be admissible in any civil
435 proceeding to prove the liability of any person for such [personal]
436 injury or death or in any criminal proceeding to prove the guilt or
437 innocence of any person for any crime.

438 Sec. 11. Section 54-210 of the general statutes is repealed and the
439 following is substituted in lieu thereof (*Effective October 1, 2013*):

440 (a) The Office of Victim Services or, on review, a victim
441 compensation commissioner may order the payment of compensation
442 under sections 54-201 to [54-233] 54-218, inclusive, as amended by this
443 act, for: (1) Expenses actually and reasonably incurred as a result of the
444 [personal] injury or death of the victim, provided coverage for the cost
445 of medical care and treatment of a crime victim who does not have
446 medical insurance or who has exhausted coverage under applicable
447 health insurance policies or Medicaid shall be ordered; (2) loss of
448 earning power as a result of total or partial incapacity of [such] an
449 injured victim; (3) pecuniary loss to the spouse or dependents of [the] a
450 deceased victim, provided the family qualifies for compensation as a
451 result of [murder or manslaughter] homicide of the victim; (4)
452 pecuniary loss to an injured victim or the relatives or dependents of a
453 deceased victim [for] resulting from their attendance at court
454 proceedings with respect to the criminal case of the person or persons
455 charged with committing the crime that resulted in the injury or death
456 of the victim; [and] (5) loss of wages by any parent or guardian of a
457 deceased victim who is a minor, provided the total amount paid under
458 this subdivision shall not exceed five thousand dollars; and (6) any
459 other loss, except as set forth in section 54-211, as amended by this act,
460 resulting from the [personal] injury or death of [the] a victim which the
461 Office of Victim Services or a victim compensation commissioner, as
462 the case may be, determines to be reasonable.

463 (b) Payment of compensation under sections 54-201 to [54-233] 54-
464 218, inclusive, as amended by this act, may be made to a person who is

465 a recipient of public assistance or state-administered general assistance
466 for necessary and reasonable expenses related to injuries resulting
467 from a crime and not provided for by the [income] assistance program
468 in which such person is a participant. Unless required by federal law,
469 no such payment shall be considered an asset for [purposes] the
470 purpose of determining eligibility for such assistance.

471 Sec. 12. Section 54-211 of the general statutes is repealed and the
472 following is substituted in lieu thereof (*Effective October 1, 2013*):

473 (a) (1) No order for the payment of compensation shall be made
474 under section 54-210, as amended by this act, unless (A) the
475 application has been made within two years after the date of the
476 [personal] injury or death, (B) the [personal] injury or death was the
477 result of [an incident or offense] a crime listed in subsection (b) of
478 section 54-209, as amended by this act, and (C) such [incident or
479 offense] crime has been reported to the police within five days of its
480 occurrence or, if the [incident or offense] crime could not reasonably
481 have been reported within such period, within five days of the time
482 when a report could reasonably have been made, except [that a victim
483 of a sexual assault shall not be ineligible for the payment of
484 compensation by reason of failing to make a report pursuant to this
485 subparagraph if such victim presented himself or herself to a health
486 care facility within seventy-two hours of such sexual assault for
487 examination and collection of evidence of such sexual assault in
488 accordance with the provisions of section 19a-112a] as provided in
489 subsection (d) of section 54-209, as amended by this act.

490 (2) Notwithstanding the provisions of subdivision (1) of this
491 subsection, any person who, before, on or after October 1, 2005, fails to
492 make application for compensation within two years after the date of
493 the [personal] injury or death as a result of physical [, emotional] or
494 psychological injuries or emotional harm caused by [such personal] the
495 injury or death may apply for a waiver of such time limitation. The
496 Office of Victim Services, upon a finding of such physical, emotional or
497 psychological injury, may grant such waiver.

498 (3) Notwithstanding the provisions of subdivision (1) of this
499 subsection, any minor who, before, on or after October 1, 2005, fails to
500 make application for compensation within two years after the date of
501 the [personal] injury or death through no fault of the minor, may apply
502 for a waiver of such time limitation. The Office of Victim Services,
503 upon a finding that such minor is not at fault for such failure to make
504 application, may grant such waiver.

505 (4) Notwithstanding the provisions of subdivision (1) of this
506 subsection, a person who is a dependent of a victim may make
507 application for payment of compensation not later than two years from
508 the date that such person discovers or in the exercise of reasonable care
509 should have discovered that the person upon whom the applicant was
510 dependent was a victim or ninety days after May 26, 2000, whichever
511 is later. Such person shall file with such application a statement signed
512 under penalty of false statement setting forth the date when such
513 person discovered that the person upon whom the applicant was
514 dependent was a victim and the circumstances that prevented such
515 person discovering that the person upon whom the applicant was
516 dependent was a victim until more than two years after the date of the
517 [incident or offense] crime. There shall be a rebuttable presumption
518 that a person who files such a statement and is otherwise eligible for
519 compensation pursuant to sections 54-201 to [54-233] 54-218, inclusive,
520 as amended by this act, is entitled to compensation.

521 (5) Any waiver denied by the Office of Victim Services under this
522 subsection may be reviewed by a victim compensation commissioner,
523 provided such request for review is made by the applicant within
524 thirty days from the mailing of the notice of denial by the Office of
525 Victim Services. If a victim compensation commissioner grants such
526 waiver, the commissioner shall refer the application for compensation
527 to the Office of Victim Services for a determination pursuant to section
528 54-205, as amended by this act.

529 (6) Notwithstanding the provisions of [subdivision] subdivisions
530 (1), (2) [or] and (3) of this subsection, the Office of Victim Services may,

531 for good cause shown and upon a finding of compelling equitable
532 circumstances, waive the time limitations of subdivision (1) of this
533 subsection.

534 (b) No compensation shall be awarded if: (1) The offender is
535 unjustly enriched by the award, provided compensation awarded to a
536 victim which would benefit the offender in a minimal or
537 inconsequential manner shall not be considered unjust enrichment; or
538 (2) the victim [violated a penal law] committed a crime under the laws
539 of this state, which [violation] crime caused or contributed to [his] the
540 victim's injuries or death.

541 (c) No compensation shall be awarded for losses sustained for
542 crimes against property or for noneconomic [detriment] damages such
543 as pain and suffering, except for emotional harm.

544 (d) (1) No compensation shall be in an amount in excess of fifteen
545 thousand dollars, except that compensation to or for the benefit of the
546 dependents of a homicide victim shall be in an amount not to exceed
547 twenty-five thousand dollars. The claims of the dependents of a
548 deceased victim, as provided in section 54-208, as amended by this act,
549 shall be considered derivative of the claim of such victim and the total
550 compensation paid for all claims arising from the death of such victim
551 shall not exceed a maximum of twenty-five thousand dollars.

552 (2) Notwithstanding the provisions of subdivision (1) of this
553 subsection, the Office of Victim Services or, on review, a victim
554 compensation commissioner may, for good cause shown and upon a
555 finding of compelling equitable circumstances, award compensation in
556 an amount in excess of the maximum amounts set forth in said
557 subdivision.

558 (e) Orders for payment of compensation pursuant to sections 54-201
559 to [54-233] 54-218, inclusive, as amended by this act, may be made only
560 as to injuries or death resulting from [incidents or offenses] crimes
561 arising on and after January 1, 1979, except that orders for payment of
562 compensation pursuant to subsection (b) of section 54-209, as amended

563 by this act, may be made only as to injuries or death resulting from
564 [incidents or offenses arising on and] crimes occurring on or after July
565 1, 1985.

566 (f) Compensation shall be awarded pursuant to sections 54-201 to
567 [54-233] 54-218, inclusive, as amended by this act, for [bodily] injury or
568 death resulting from a crime which occurs (1) within this state,
569 regardless of the residency of the applicant; (2) outside of this state but
570 within the territorial boundaries of the United States, provided the
571 victim, at the time of injury or death, was a resident of this state and
572 the state in which such crime occurred does not have a program for
573 compensation of victims for which such victim is eligible; and (3)
574 outside the territorial boundaries of the United States, provided the
575 applicant is a victim of international terrorism, as defined in [Section
576 2331 of Title 18 of the United States Code] 18 USC 2331, as amended
577 from time to time, and was a resident of this state at the time of the
578 injury or death.

579 Sec. 13. Section 54-212 of the general statutes is repealed and the
580 following is substituted in lieu thereof (*Effective October 1, 2013*):

581 (a) Whenever an order for the payment of compensation for
582 [personal] injury, [or] death or [for] the provision of [restitution]
583 services is or has been made under sections 54-201 to [54-233] 54-218,
584 inclusive, as amended by this act, the Office of Victim Services shall,
585 upon payment of the amount [of the order] ordered or the provision of
586 such services, be subrogated to the cause of action of the applicant
587 against the person or persons responsible for such injury or death. The
588 Attorney General, on behalf of the Office of Victim Services, shall be
589 entitled to bring an action and, if the Attorney General declines to [do
590 so] bring an action, the office may hire a private attorney to bring an
591 action against such person or persons and to recover, whether by
592 judgment, settlement or compromise settlement before or after
593 judgment, the amount of damages sustained by the applicant and shall
594 furnish the applicant with a copy of the action taken [within thirty
595 days of] not later than thirty days after the filing of such action. If an

596 amount greater than two-thirds of that paid pursuant to any such
597 order is recovered and collected in any such action, whether by
598 judgment, settlement or compromise settlement before or after
599 judgment, the state shall pay the balance exceeding two-thirds of the
600 amount paid pursuant to such order to the applicant less any costs and
601 expenses incurred therefor.

602 (b) If the applicant brings an action against the person or persons
603 responsible for such injury or death to recover damages arising out of
604 the crime for which an award has been granted, or, if the applicant
605 recovers money from any other source or sources including, but not
606 limited to, payments from state or municipal agencies, insurance
607 benefits or workers' compensation awards as a result of the [incident
608 or offense] crime giving rise to the application, the Office of Victim
609 Services shall have a lien on the applicant's recovery for the amount to
610 which the office is entitled to reimbursement. If [an action is brought
611 by] the applicant brings an action against the person or persons
612 responsible for [the] such injury or death, the applicant shall notify the
613 Office of Victim Services of the filing of such complaint [within thirty
614 days of] not later than thirty days after the filing of the complaint in
615 court. Whenever an applicant recovers damages, whether by
616 judgment, settlement or compromise settlement before or after
617 judgment, from the person or persons responsible for such injury or
618 death, and whenever an applicant recovers money from any other
619 source or sources including, but not limited to, payments from state or
620 municipal agencies, insurance benefits or workers' compensation
621 awards as a result of the [incident or offense] crime giving rise to the
622 application, the Office of Victim Services is entitled to reimbursement
623 from the applicant for two-thirds of the amount paid pursuant to any
624 order for the payment of compensation for [personal] injury or death
625 or for the provision of [restitution] services.

626 (c) Notwithstanding the provisions of subsection (a) of this section,
627 if the Office of Victim Services finds that enforcement of its
628 subrogation rights would cause undue harm to the applicant, the office
629 may abrogate such rights. Notwithstanding the provisions of

630 subsection (b) of this section, if the Office of Victim Services finds that
631 enforcement of its lien rights would cause undue harm to the
632 applicant, the office may abrogate such rights. "Undue harm" includes,
633 but is not limited to, considerations of victim safety and recovery by
634 the applicant of an amount that is less than the applicant's
635 compensable economic losses.

636 Sec. 14. Subsection (a) of section 54-215 of the general statutes is
637 repealed and the following is substituted in lieu thereof (*Effective*
638 *October 1, 2013*):

639 (a) The Office of Victim Services shall establish a Criminal Injuries
640 Compensation Fund for the purpose of funding the compensation and
641 [restitution] services provided for by sections 54-201 to [54-233] 54-218,
642 inclusive, as amended by this act. The fund may contain any moneys
643 required by law to be deposited in the fund and shall be held by the
644 Treasurer separate and apart from all other moneys, funds and
645 accounts. The interest derived from the investment of the fund shall be
646 credited to the fund. Amounts in the fund may be expended only
647 pursuant to appropriation by the General Assembly, except that any
648 recovery from the person or persons responsible for the injury or death
649 or any reimbursement from the applicant received by the Office of
650 Victim Services pursuant to section 54-212, as amended by this act, and
651 deposited in the fund may be expended in the subsequent fiscal year.
652 Any balance remaining in the fund at the end of any fiscal year shall be
653 carried forward in the fund for the fiscal year next succeeding.

654 Sec. 15. Section 54-216 of the general statutes is repealed and the
655 following is substituted in lieu thereof (*Effective October 1, 2013*):

656 (a) The Office of Victim Services or, on review, a victim
657 compensation commissioner may order that services be provided for
658 [the restitution of] any person eligible for such services in accordance
659 with the provisions of sections 54-201 to [54-233] 54-218, inclusive, as
660 amended by this act. [Such services may include but shall not be
661 limited to medical, psychiatric, psychological and social services and
662 social rehabilitation services.]

663 (b) The Office of Victim Services or, on review, a victim
664 compensation commissioner may order that such [restitution] services
665 be provided to: [victims] (1) Victims of child abuse and [members of
666 their families] their relatives, (2) victims of sexual assault and
667 [members of their families] their relatives, (3) victims of domestic
668 violence and [members of their families] their relatives, [members of
669 the family] (4) the relatives of any victim of a homicide, [and] (5)
670 children who witness [domestic] a homicide resulting from domestic
671 violence, including, but not limited to, children who are not related to
672 the victim, (6) victims of domestic terrorism, and (7) witnesses to
673 domestic terrorism. [For the purposes of this subsection, "members of
674 their families" or "member of the family" does not include the person
675 responsible for such child abuse, sexual assault, domestic violence or
676 homicide.]

677 (c) The Office of Victim Services may contract with any public or
678 private agency for any services ordered under this section.

679 Sec. 16. Section 54-220 of the general statutes is repealed and the
680 following is substituted in lieu thereof (*Effective October 1, 2013*):

681 (a) Victim advocates shall have the following responsibilities and
682 duties: (1) To provide initial screening of each [personal injury] case;
683 (2) to assist victims in the preparation of victim impact statements to
684 be placed in court files; (3) to notify victims of their rights and request
685 that each victim so notified attest to the fact of such notification of
686 rights on a form developed by the Office of the Chief Court
687 Administrator, which form shall be signed by the victim advocate and
688 the victim and be placed in court files and a copy of which form shall
689 be provided to the victim; (4) to provide information and advice to
690 victims in order to assist such victims in exercising their rights
691 throughout the criminal justice process; (5) to direct victims to public
692 and private agencies for [service] services; (6) to coordinate [victim]
693 victims' applications to the Office of Victim Services; and (7) to assist
694 victims in the processing of claims for restitution.

695 (b) Within available appropriations, the Office of Victim Services

696 may contract with any public or private agency for victim advocate
697 services in geographical area courts.

698 Sec. 17. (NEW) (*Effective October 1, 2013*) On and after October 1,
699 2013, if the costs of any services to be provided to a victim under
700 sections 54-201 to 54-218, inclusive, of the general statutes, as amended
701 by this act, are eligible for funding under the federal Antiterrorism and
702 Emergency Assistance Program, such services shall be provided only
703 to the extent that such funding is received by the state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	54-201
Sec. 2	<i>October 1, 2013</i>	54-202(a)
Sec. 3	<i>October 1, 2013</i>	54-203(b)(1) to (7)
Sec. 4	<i>October 1, 2013</i>	54-203(b)(15) to (18)
Sec. 5	<i>October 1, 2013</i>	54-204
Sec. 6	<i>October 1, 2013</i>	54-205
Sec. 7	<i>October 1, 2013</i>	54-206
Sec. 8	<i>October 1, 2013</i>	54-207a
Sec. 9	<i>October 1, 2013</i>	54-208
Sec. 10	<i>October 1, 2013</i>	54-209
Sec. 11	<i>October 1, 2013</i>	54-210
Sec. 12	<i>October 1, 2013</i>	54-211
Sec. 13	<i>October 1, 2013</i>	54-212
Sec. 14	<i>October 1, 2013</i>	54-215(a)
Sec. 15	<i>October 1, 2013</i>	54-216
Sec. 16	<i>October 1, 2013</i>	54-220
Sec. 17	<i>October 1, 2013</i>	New section

APP *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Judicial Dept.	Federal Funds - Cost	Up to \$4 million	Up to \$4 million

Municipal Impact: None

Explanation

The bill expands victim compensation to include those suffering from emotional harm without physical injury from an act of domestic terrorism but limits services provided to the amount of federal funding the state receives for a federal grant under the Anti-Terrorism and Emergency Assistance Program with the U.S. Department of Justice Office for Victims of Crime. The Judicial Department Office of Victim Services estimates that the potential total impact for services provided by the federal grant for witnesses affected by the Sandy Hook school shooting is approximately \$4 million in FY 14 and FY 15.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the amount of federal funding received.

OLR Bill Analysis**sSB 870*****AN ACT CONCERNING VICTIM COMPENSATION.*****SUMMARY:**

This bill expands the definition of a victim but limits who can receive victim compensation by prohibiting compensation orders except for victims of certain motor vehicle-related crimes. It expands who can be considered a victim of those crimes by extending eligibility to those who suffer emotional harm without a physical injury. The bill expands (1) the types of losses that can be used to calculate the amount of a compensation payment and (2) who can receive victim compensation as a victim's dependent.

The bill expands eligibility for victim services by including (1) victims threatened with physical injury or death and (2) those who suffer physical or emotional injuries as victims or witnesses of domestic terrorism. Victim services include medical, psychiatric, psychological, social, and social rehabilitative services. But the bill also limits services provided to a victim to the amount of federal funding the state received when the services are (1) eligible for funding under the federal Antiterrorism and Emergency Assistance Program and (2) provided on or after October 1, 2013.

The bill extends the chief court administrator's authority to adopt implementing policies and procedures to cover the response system for trafficking victims and the statewide victim information and notification system. As part of the information already provided to victims, the bill requires hospital emergency room posters and law enforcement personnel to provide information on these systems. It also requires the Office of Victim Services' (OVS) biennial report to the Judiciary Committee to cover these systems.

Lastly, the bill makes several minor and technical changes.

EFFECTIVE DATE: October 1, 2013

§§ 1 & 9-12 — VICTIM COMPENSATION

§§ 1, 10, & 12 — Compensation Eligibility

Under current law, OVS or a victim compensation commissioner can order compensation for victims injured or killed as a result of:

1. attempts to prevent crime, aid police, or apprehend criminal suspects;
2. attempts or actual commissions of any crime by another;
3. operation of a motor vehicle by someone else who violated certain motor vehicle-related statutes, even without a conviction;
4. an alleged sexual assault crime or risk of injury to a minor, absent a conviction, if the personal injury was disclosed to certain individuals (see COMMENT); or
5. terrorist crimes.

While the bill expands the definition of a victim, it limits eligibility for compensation orders by referencing victims of the motor vehicle-related crimes only. For this category of victims, the bill expands who can receive compensation by including victims who suffer only emotional harm. It defines emotional harm as mental or emotional impairment, directly attributable to a threat of serious physical injury or death, requiring treatment services. Currently, a victim must be killed or suffer bodily harm, and any mental anguish is eligible for compensation only if it is related to a physical injury.

Motor Vehicle-Related Crimes. Under current law, someone can receive victim compensation if injured due to:

1. the operation of a motor vehicle by someone else in violation of the statutes on driving under the influence of drugs or alcohol,

2. 2nd degree assault with a motor vehicle while intoxicated,
3. 2nd degree manslaughter with a motor vehicle while intoxicated,
or
4. evading responsibility after causing serious physical injury or death with a motor vehicle.

OVS can award compensation without a conviction. The bill also allows compensation if the driver violates the statutes on evading responsibility after causing physical injury or property damage with a (1) motor vehicle or (2) other vehicle. Because the bill still requires operating a motor vehicle in these provisions, it does not appear that someone can receive compensation based on violation of the statute punishing evading responsibility with another type of vehicle.

As under current law, claims related to the motor vehicle offenses must be filed within two years of the injury or death, and a police report must be filed within five days of the crime or when it could reasonably have been reported.

§§ 1 & 11 — Calculating Compensation

Under current law, OVS or a victim compensation commissioner can order compensation for:

1. expenses actually and reasonably incurred as a result of personal injury or death (compensation for medical care and treatment costs must be ordered if the victim does not have insurance or exhausted it or Medicaid),
2. loss of earning power due to the victim's total or partial incapacity,
3. pecuniary loss of a homicide victim's spouse or dependents,
4. pecuniary loss of a deceased victim's relatives or dependents due to attending court, and

5. other losses resulting from the victim's injury or death and determined to be reasonable.

For all of these categories, the bill extends compensation for losses and expenses based on a victim's emotional harm, even without a physical injury.

The bill also allows compensation for (1) a victim's pecuniary loss related to attending court and (2) lost wages of a deceased minor victim's parent or guardian, up to \$5,000.

As under current law:

1. compensation cannot cover losses sustained to property, or noneconomic damages such as pain and suffering (except for emotional harm as provided in the bill);
2. the maximum allowable compensation award is \$15,000, except that dependents of a homicide victim can receive up to \$25,000; and
3. awards can exceed the maximum allowable compensation for good cause and compelling equitable circumstances.

§§ 1 & 9 — Dependents Receiving Compensation Payments

By law, OVS or a victim compensation commissioner can pay victim compensation to an injured victim, a person responsible for the victim's maintenance who suffers pecuniary loss as a result of the victim's injury, dependents of a deceased victim, or a person who suffered pecuniary loss because of the victim's death.

The bill expands who is considered a dependent and, thus, eligible for compensation. Currently, a dependent is a relative or person, designated by the deceased victim to make certain decisions on his or her behalf, who is wholly or partially dependent on the victim's income at the time of the victim's death. The bill adds uncles, aunts, nephews, nieces, a fiancé, a fiancée, and brothers- and sisters-in-law, other than someone responsible for a crime causing death.

The bill removes a requirement that a person designated to make decisions on the victim's behalf be dependent on the victim's income to qualify as a dependent.

§ 15 — VICTIM SERVICES

The bill expands who is eligible for victim services, which include medical, psychiatric, psychological, social, and social rehabilitative services.

Currently, a victim or other eligible individual can receive services if the victim received a personal injury or died from (1) attempting to prevent a crime or apprehend a suspect or assisting a police officer to do so, (2) another's commission or attempt to commit a crime, or (3) a crime of international terrorism under federal law. The bill expands eligibility to include someone who:

1. was threatened with physical injury or death in any of the circumstances described above or
2. suffered physical or emotional injury as result of being in (a) direct proximity of an act of domestic terrorism, including those responding to the location of the act, or (b) general proximity of an act of domestic terrorism and witnessing it through one of the five senses.

An act of domestic terrorism is a felony involving the unlawful use or threatened use of physical force or violence committed with intent to intimidate or coerce the civilian population or a government.

This expanded definition of victim also applies to OVS' other responsibilities to victims, including providing notices, training, and working with other agencies.

§ 5 — CONFIDENTIALITY

The bill specifies that information OVS or a compensation commissioner obtains for determining a claim remains confidential if protected by federal law. As under current law, it remains confidential

if protected by state law.

BACKGROUND

Federal Antiterrorism and Emergency Assistance Program

This federal program assists communities after terrorist attacks and cases of mass violence. It provides grants to target specific phases of the aftermath of a crisis, including crisis response, consequence management, criminal justice support, and crime victim compensation. Crime victim compensation grants can supplement state victim compensation programs to reimburse victims for out-of-pocket expenses. The program also provides training and technical assistance.

Legislative History

The Senate referred the bill (File 260) to the Appropriations Committee, which reported a substitute adding the provision limiting services to a victim to the amount of federal funding received when the services are (1) eligible for funding under the Antiterrorism and Emergency Assistance Program and (2) provided on or after October 1, 2013.

COMMENT

Victim Compensation and Notice to Police of Crime

The bill gives certain sexual assault victims claiming victim compensation an exemption from the requirement to provide notice to police of the crime. But the bill limits eligibility for victim compensation awards to victims of certain motor vehicle-related crimes only. Thus, the effect of this reporting exception is unclear.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 1 (03/13/2013)

Appropriations Committee

Joint Favorable Substitute

Yea 52 Nay 0 (04/30/2013)