

Senate, April 14, 1998. The Committee on Appropriations reported through SEN. CRISCO, 17th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ESTABLISHING THE OFFICE OF VICTIM ADVOCATE.

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

1 Section 1. (NEW) (a) There is established an
2 Office of the Victim Advocate. The Governor, with
3 the approval of the General Assembly, shall
4 appoint a person with knowledge of victim's rights
5 and services as Victim Advocate. Such person shall
6 be an attorney and qualified by training and
7 experience to perform the duties of Victim
8 Advocate as set forth in section 2 of this act.
9 The appointment shall be made from a list of at
10 least three persons prepared and submitted by the
11 advisory committee established pursuant to section
12 5 of this act. Upon any vacancy in the position of
13 Victim Advocate, the advisory committee shall meet
14 to consider and interview successor candidates and
15 shall submit to the Governor a list of no less
16 than five and no more than seven candidates not
17 later than sixty days after said vacancy. Such
18 list shall rank the candidates in the order of
19 committee preference. Upon receipt of the list of
20 candidates from the advisory committee, the
21 Governor shall appoint a candidate for Victim
22 Advocate from among the choices within eight weeks
23 of receipt of such list. If, at any time, any of

24 the candidates withdraws from consideration prior
25 to confirmation by the General Assembly, the
26 appointment shall be made from the remaining
27 candidates on the list submitted to the Governor.
28 The person appointed Victim Advocate shall serve
29 for a term of four years and may be reappointed or
30 shall continue to hold office until his successor
31 is appointed and qualified.

32 (b) The Office of the Victim Advocate shall
33 be in the Freedom of Information Commission for
34 administrative purposes only.

35 (c) Notwithstanding any other provision of
36 the general statutes, the Victim Advocate shall
37 act independently of any state department in the
38 performance of his duties.

39 (d) The Victim Advocate may, within available
40 funds, appoint such staff as may be deemed
41 necessary. The duties of the staff may include the
42 duties of the Victim Advocate if performed under
43 the direction of the Victim Advocate.

44 (e) The General Assembly shall annually
45 appropriate such sums as necessary for the payment
46 of the salaries of the staff and for the payment
47 of office expenses and other actual expenses
48 incurred by the Victim Advocate in the performance
49 of his duties.

50 (f) The Victim Advocate shall annually submit
51 to the Governor and the General Assembly a
52 detailed report analyzing the work of the Office
53 of the Victim Advocate.

54 Sec. 2. (NEW) The Victim Advocate shall:

55 (1) Evaluate the delivery of services to
56 victims by state agencies and those entities that
57 provide services to victims;

58 (2) Coordinate and cooperate with other
59 private and public agencies concerned with the
60 implementation, monitoring and enforcement of the
61 constitutional rights of victims and enter into
62 cooperative agreements with public or private
63 agencies for the furtherance of the constitutional
64 rights of victims;

65 (3) Review the procedures established by any
66 state agency or other entity providing services to
67 victims with respect to the constitutional rights
68 of victims;

69 (4) Receive and review complaints of persons
70 concerning the actions of any state or other
71 entity providing services to victims and

72 investigate those where it appears that a victim
73 or family of a victim may be in need of assistance
74 from the Victim Advocate;

75 (5) Represent any victim or appear, intervene
76 or bring an action on behalf of any victim, with
77 the consent of such victim or the parent or legal
78 guardian of such person, before any court, agency,
79 board or commission to ensure the legal, civil and
80 special rights of victims, provided prior to the
81 institution of any action, the Victim Advocate
82 shall make a good faith effort to resolve issues
83 or problems through mediation;

84 (6) Ensure a centralized location for victim
85 services information;

86 (7) Recommend changes in state policies
87 concerning victims, including changes in the
88 system of providing victim services;

89 (8) Take all possible action including, but
90 not limited to, conducting programs of public
91 education, undertaking legislative advocacy and
92 making proposals for systemic reform and formal
93 legal action, to secure and ensure the legal,
94 civil and special rights of victims;

95 (9) Take appropriate steps to advise the
96 public of the services of the Office of the Victim
97 Advocate, the purpose of the office and procedures
98 to contact the office.

99 Sec. 3. (NEW) (a) Notwithstanding any
100 provision of the general statutes concerning the
101 confidentiality of records and information, the
102 Victim Advocate shall have access to, including
103 the right to inspect and copy, any records
104 necessary to carry out the responsibilities of the
105 Victim Advocate as provided in section 2 of this
106 act. If the Victim Advocate is denied access to
107 any records necessary to carry out said
108 responsibilities, he may issue a subpoena for the
109 production of such records as provided in
110 subsection (c) of this section.

111 (b) In the performance of his
112 responsibilities under section 2 of this act, the
113 Victim Advocate may communicate privately with any
114 victim or person who has received, is receiving or
115 should have received services from the state. Such
116 communications shall be confidential and not be
117 subject to disclosure except as provided in
118 subsection (a) of section 4 of this act.

119 (c) The Victim Advocate may issue subpoenas
120 to compel the attendance and testimony of
121 witnesses or the production of books, papers and
122 other documents and to administer oaths to
123 witnesses in any matter under his investigation.
124 If any person to whom such subpoena is issued
125 fails to appear or, having appeared, refuses to
126 give testimony or fails to produce the evidence
127 required, the Victim Advocate may apply to the
128 superior court for the judicial district of
129 Hartford-New Britain* which shall have
130 jurisdiction to order such person to appear and
131 give testimony or to produce such evidence, as the
132 case may be.

133 (d) The Victim Advocate may apply for and
134 accept grants, gifts and bequests of funds from
135 other states, federal and interstate agencies and
136 independent authorities and private firms,
137 individuals and foundations, for the purpose of
138 carrying out his responsibilities.

139 Sec. 4. (NEW) (a) The name, address and other
140 personally identifiable information of a person
141 who makes a complaint to the Victim Advocate as
142 provided in section 2 of this act, all information
143 obtained or generated by the office in the course
144 of an investigation and all confidential records
145 obtained by the Victim Advocate or his designee
146 shall be confidential and shall not be subject to
147 disclosure under the Freedom of Information Act or
148 otherwise, except that such information and
149 records, other than confidential information
150 concerning a pending law enforcement investigation
151 or a pending prosecution, may be disclosed if the
152 Victim Advocate determines that disclosure is (1)
153 in the general public interest or (2) necessary to
154 enable the Victim Advocate to perform his
155 responsibilities under section 2 of this act,
156 provided in no event shall the name, address or
157 other personally identifiable information of a
158 person be disclosed without the consent of such
159 person.

160 (b) No state or municipal agency shall
161 discharge, or in any manner discriminate or
162 retaliate against, any employee who in good faith
163 makes a complaint to the Victim Advocate or
164 cooperates with the Office of the Victim Advocate
165 in an investigation.

166 Sec. 5. (NEW) (a) There is established an
167 advisory committee to the Office of the Victim
168 Advocate which shall meet three times a year with
169 the Victim Advocate and his staff to review and
170 assess the following: (1) Patterns of treatment
171 and service for victims; (2) policy implications
172 of the findings of subdivision (1) of this
173 subsection; and (3) necessary systemic
174 improvements. The advisory committee shall also
175 provide for an annual evaluation of the
176 effectiveness of said office.

177 (b) Said advisory committee shall consist of
178 one member of a private victim's advocacy group,
179 appointed by the speaker of the House of
180 Representatives; one member of hospital emergency
181 room personnel, appointed by the majority leader
182 of the House of Representatives; one therapist who
183 deals with victims and trauma, appointed by the
184 minority leader of the House of Representatives;
185 one attorney, appointed by the Connecticut Bar
186 Association; one judge of the Superior Court,
187 appointed by the Chief Justice of the Supreme
188 Court; one prosecutor, appointed by the president
189 pro tempore of the Senate; one representative of
190 law enforcement, appointed by the majority leader
191 of the Senate; one representative from the
192 educational community with an expertise in
193 victimology, appointed by the minority leader of
194 the Senate. Each member of the advisory committee
195 shall serve a five-year term.

196 STATEMENT OF LEGISLATIVE COMMISSIONERS: In
197 subdivision (5) of subsection (2) "any victim or"
198 was added after "Represent" and "in any
199 proceeding" was deleted for clarity.

200 JUD COMMITTEE VOTE: YEA 39 NAY 0 JF C/R APP
201 APP COMMITTEE VOTE: YEA 28 NAY 21 JFS-LCO

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 449

STATE IMPACT Implements a Provision in the Budget, Potential Significant Cost, Cost, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Office of Victim Advocate, Freedom of Information Commission, Various Criminal Justice Agencies

	Current FY	1998-99	1999-2000
State Cost (savings)	: 0	: 100,000	: 200,000+ :
St Revenue (loss)	: :	: :	: :
Net St Cost (savings)	: :	: :	: :
Municipal Impact	: :	: :	: :

EXPLANATION OF ESTIMATES:

Funds in the amount of \$100,000 have been included within sHB 5021 (the FY 1998-99 Revised Appropriations Act as favorably reported by Appropriations) for partial-year funding for the new agency. This funding is for three staff and expenses and is based on the start up appropriation for the Office of the Child Advocate (OCA). The OCA is currently experiencing a need for more resources.

It should be noted, however, that certain provisions of the bill could result in a significant cost to the new agency as well as to criminal justice agencies. These provisions include:

Section 1(e) which mandates the appropriation of funds as necessary for actual expenses incurred by the Victim Advocate in the performance of his duties;

Section 2(2) which includes among his duties the coordination with private and public agencies concerned with the implementation, monitoring and enforcement of the rights of victims and the entering into agreements with public or private agencies for the furtherance of victims' rights;

Section 2(5) which allows the agency to bring actions to ensure the rights of victims; and

Section 2(8) which allows the agency to take all possible action to secure and ensure the rights of victims.

Note that the Office of Victim Services (Judicial Department) recently submitted a report pursuant to PA 97-257 that details various victim services enhancements. The cost of such enhancements were estimated to be \$5.4 million.

In addition, there is a cost by assigning the agency to the Freedom of Information Commission for administrative purposes. Currently, the Commission shares the services of its business office with two other agencies. Based upon the agency's prior experience with a start up agency (the OCA), additional costs beyond their anticipated budgetary resources are expected to result. It is not clear, however, if the workload increase could be handled by a part-time Business Assistant, or if a full-time employee will be needed. The full-year cost for a Business Administrative Assistant is \$35,000.

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OLR BILL ANALYSIS

sSB 449

AN ACT ESTABLISHING THE OFFICE OF VICTIM ADVOCATE

SUMMARY: This bill establishes an Office of Victim Advocate (OVA). The office is in the Freedom of Information Commission for administrative purposes, but otherwise it acts independently of any state department. A victim advocate, who must be appointed by the governor and approved by the General Assembly, heads the office.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION**Victim Advocate**

The advocate must be an attorney with the training and education necessary to perform the duties outlined in the bill. The governor must make his initial appointment from a list of at least three attorneys whose names are submitted by OVA's advisory committee. The advocate serves for four years or until his successor is appointed and qualified. The advocate may be reappointed.

Within 60 days after a vacancy, the bill requires the advisory committee to interview successor candidates and submit between five and seven names, ranked in the order of committee preference, to the governor. The governor must appoint a candidate to fill the vacancy within eight weeks of the date he receives the list. If a candidate withdraws from consideration before legislative confirmation, the appointment must be made from the remaining candidates on the list.

Victim Advocate Duties

The victim advocate must:

1. evaluate the victim services delivery system, including services provided by state agencies;
2. coordinate and cooperate with other agencies concerned with the implementation, monitoring,

- and enforcement of victims' constitutional rights;
3. enter cooperative agreements with other agencies to further these rights;
 4. review service providers' procedures concerning victims' constitutional rights;
 5. receive and review complaints against victim service providers and conduct investigations when a victim or his family appears to be in need of assistance;
 6. represent or appear, intervene in, or bring actions on behalf of victims with their consent or that of their parents or legal guardians to ensure victims' legal, civil, and special rights;
 7. before any such legal action starts, make a good faith effort to resolve issues or problems involving victims or their parents or legal guardians;
 8. ensure a central place for victim services information;
 9. recommend changes in state policies concerning victims, including changes in the service delivery system;
 10. take all possible action to secure and ensure victims' legal, civil, and special rights, including conducting public education programs, undertaking legislative advocacy, and making proposals for systemic reform and formal legal action;
 11. take appropriate steps to advise the public of OVA's services, purpose, and contact procedures; and
 12. give the governor and the legislature a detailed annual report analyzing the office's work.

The advocate may, within available funds, appoint staff

as he deems necessary. If the advocate provides direction, the staff may perform his duties.

Funding OVA

The legislature must annually appropriate to the advocate sums necessary to pay salaries, office expenses, and other actual expenses incurred while running the office. In addition, the advocate may apply for and accept grants, bequests, and gifts from any source to carry out his responsibilities.

OVA's Records

The bill authorizes the advocate to talk privately with any victim or person who has received, is receiving, or should have received state services, if the talks are necessary for the advocate to perform his duties. The bill provides that the following is confidential and not subject to disclosure under the Freedom of Information Act:

1. personally identifiable information, including names and addresses, submitted by complainants to OVA;
2. all information obtained or generated by the office during an investigation; and
3. all confidential records that the advocate or his designee obtains.

The advocate may disclose any information he determines is in the general public interest or necessary for him to perform his duties. But confidential information related to a pending law enforcement investigation or prosecution cannot be disclosed and personally identifiable information can be disclosed only with the subject's consent.

Advocate's Access to Records and Subpoena Power

The bill gives the advocate access to, including the right to inspect and copy, any records necessary to carry out his duties. If denied access, the advocate may issue a subpoena to compel witnesses' attendance and testimony or production of books, papers, and other documents in connection with his investigation. If the

recipient of a subpoena fails to appear or appears but refuses to testify or produce required evidence, the advocate may apply to the Hartford-New Britain Superior Court for an order compelling the person to comply.

Personnel Action Against OVA Complainants

The bill prohibits any state or municipal agency from discharging or discriminating or retaliating against an employee who makes a good faith complaint to OVA or cooperates with OVA in an investigation.

Advisory Committee

The bill establishes an OVA advisory committee. The eight-member committee must meet with the advocate and his staff three times a year to review and assess patterns of victim treatment and service, policy implications of the patterns, and necessary systemic improvements. The committee must also provide for an annual evaluation of OVA's effectiveness. Committee members serve five-year terms.

The committee must consist of one representative of each of the following groups or professions, appointed as indicated:

<u>Member</u>	<u>Appointment</u>
Private victim advocacy group	House speaker
Hospital emergency room personnel	House majority leader
Trauma therapist who deals with victims	House minority leader
Attorney	Connecticut Bar Association
Superior Court judge	Chief Justice Supreme Court
Prosecutor	Senate president pro tempore
Law enforcement	Senate majority leader

Educator with expertise in
victimology

Senate minority
leader

BACKGROUND

Crime Victims' Constitutional Rights

Crime victims have a number of constitutional rights, including the right to:

1. be treated with fairness and respect and be protected from the accused throughout the criminal justice process;
2. notification of court proceedings and information about the arrest, conviction, sentence, imprisonment, and release of the accused;
3. communicate with prosecutors and attend all criminal proceedings, unless the court determines that their impending trial testimony would be materially affected if they heard other testimony; and
4. object to or support any plea agreement entered into by the accused and the prosecution and to make a statement to the court before any plea agreement is accepted.

Office of Victim Services

The Office of Victim Services is responsible for compensating injured crime victims; providing victims with notification and a list of their rights; appointing victim advocates; developing and implementing public education campaigns; providing a central repository for notification requests; providing a telephone hotline; making recommendations to state and local agencies concerning crime victims; and a host of other victim-related services.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Change of Reference

Yea 39 Nay 0

Appropriations Committee

Joint Favorable Report

Yea 28 Nay 21