



State of Connecticut
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

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"Equality and Justice"
Testimony of R. Hamisi Ingram

Executive Director

Commission on Human Rights and Opportunities

March 14, 2006

Raised Bill No. 598: An Act Adopting the Connecticut Uniform Mediation Act

This bill would amend Connecticut law by adopting a uniform mediation act in place of CONN. GEN. STAT. § 52-235d, which this bill would repeal.

The Commission resorts to mediation in three situations. First, under CONN. GEN. STAT. § 46a-83b, the parties to a Commission complaint may consent to alternate dispute resolution, with the cost to be borne by the parties. Second, under CONN. GEN. STAT. § 46a-83(c), the Commission may engage in mandatory mediation as part of its efforts to resolve a discriminatory practice complaint and must attempt to conciliate the complaint after a finding of reasonable cause is made. Finally, if conciliation endeavors are unsuccessful and a complaint is certified to hearing, the Commission tries to resolve a complaint pursuant to Section 46a-54-80a of the Regulations of Connecticut State Agencies at a hearing conference.

Case law has recognized the importance of conciliation endeavors to the process of resolving discrimination complaints. The leading case is Ierardi v. CHRO, 15 Conn.App. 569, 583 n.6, cert. denied, 209 Conn. 813 (1988), which emphasized that conciliation "should always be available to the parties." Due to the caseload of the agency, resolving complaints informally through conciliation and mediation is a high priority that allows the Commission to better manage its resources.

The Commission has some concern that the bill will complicate the efforts of our investigators in resolving discriminatory practice complaints. Given the broad definition of "proceeding" in Section 2(7), it seems clear that all of the Commission's mediation and conciliation endeavors will be covered by the bill. While there may be good reason to cover mediation elected by the parties, there is less reason to include mediation that takes place at more informal levels of Commission proceedings. Current Commission practice is to use mediation as a tool in conjunction with its investigation of complaints, with the same investigator assigned to the mediation as is assigned to investigate the underlying complaint. As the Commission understands the bill in its current format, Sections 4 and 7 would no longer permit this practice. As a result, the Commission will have to assign two investigators to resolve a complaint. Besides being an inefficient use of agency resources, assigning two persons to do the work of one will increase the length of time it takes to resolve complaints and impose added costs on the agency.

Even with adequate resources, the Commission is at best neutral toward the bill. Although the differences do not appear to be major, the Commission notes that the definition of "person" in Section 2(6) differs from the definition of "person" in CONN. GEN. STAT. § 46a-51(14). And safeguards that the bill provides in Section 9 regarding conflict of interest are already in place at the Commission.

Thank you for your consideration of the Commission's views on this bill.