

CONNECTICUT LEGAL RIGHTS PROJECT, INC.

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JUDICIARY COMMITTEE

Testimony of Thomas Behrendt Regarding Raised Bill No. 1337:

**AN ACT CONCERNING DISCRIMINATION AWARDS RECEIVED BY PERSONS
WHO HAVE BEEN SUPPORTED BY STATE HUMANE INSTITUTIONS**

March 6, 2007

Senator Harris, Representative Villano, and members of the Committee:

I am the Legal Director of the Connecticut Legal Rights Project (CLRP), and am here to support Raised Bill No. 1337, An Act Concerning Discrimination Awards Received by Persons Who Have Been Supported by State Humane Institutions. This legislation remedies an unfortunate gap in current law created by Public Act 05-280. Ironically, this Public Act, intended to further antidiscrimination laws, has the unintended consequence of denying certain DMHAS clients favorable treatment accorded other individuals.

Sections 17b-93 and 17b-94 of the General Statutes provide that the state has a claim against current and former recipients of public benefits who acquire property or "an interest in any property, estate or claim of any kind." In the case of causes of action of such individuals, "the claim of the state shall be a lien against the proceeds therefrom in the amount of the assistance paid or fifty per cent of the proceeds." Certain classes of individuals receive favorable treatment and are exempted from the state's claim to 50% of the proceeds of such legal claims. (See Conn. Gen. Stat. § 17a-93 (c))

Public Act 05-280 (Section 44, "Concerning Discrimination Awards Received by Recipients of State Assistance") extended this favorable treatment to claimants in discrimination actions who now get to keep 100% of the proceeds of their discrimination claims. The 2005 legislation received support from all quarters, with no opposition noted in this Committee's Joint Favorable Report (attached). It is exemplary public policy: The law advanced housing and employment opportunities for disadvantaged persons and removed an impediment to meritorious discrimination claims.

Unfortunately, Public Act 05-280 had the unintended effect of excluding certain clients – persons with psychiatric disabilities serious enough to require hospitalization – from its benefits. When an individual is hospitalized in a DMHAS facility for a significant length of time, his or her Title XIX and other public benefits are suspended; Once this happens, he or she ceases to qualify for favorable statutory treatment because the law is predicated upon receipt of public benefits. Therefore, these individuals are mandated to pay 50% of the proceeds of their discrimination claim to the state.

The bill under consideration is a "clean up" bill, intended to protect individuals inadvertently excluded from the scope of the law as amended in 2005.

The Connecticut Legal Rights Project (CLRP) is a statewide non profit agency that provides free legal assistance to low income adults with psychiatric disabilities on matters related to their treatment and civil rights. The majority of our clients are recipients of DMHAS services. Many of them are hospitalized in DMHAS-run inpatient facilities. In the case of longer-term inpatients, their public benefits of are cut off while they are hospitalized. This is particularly true of clients who reside at Connecticut Valley Hospital and, to a lesser extent, those at Cedarcrest Hospital. These individuals should be given the same favorable treatment that others receive under the provisions of Public Act 05-280. Full access to the proceeds of their discrimination claims would enhance the range of opportunities in their discharge planning and re-integration into the community.

Public Act 05-280 was intended "to promote and encourage enforcement of antidiscrimination laws." However, it has resulted in inadvertent discriminatory treatment of a class of persons who deserve to benefit from the law's provisions. Raised Bill 1337 is necessary to assure equal treatment of persons whose mental illness is serious enough to require hospitalization.

In addition to the Connecticut Legal Rights Project, the bill is supported by the Office of Protection and Advocacy for Persons with Disabilities, Advocacy Unlimited.

Thank you very much for your attention to this matter and for the opportunity to testify.

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REPORT ON BILLS FAVORABLY REPORTED BY COMMITTEE

COMMITTEE: Human Services Committee

File No.:

Bill No.: SB-1156

PH Date: 3/8/2005

Action/Date: JF Change of Reference

3/15/2005

Reference Change: Appropriations

TITLE OF BILL:

AN ACT CONCERNING DISCRIMINATION AWARDS RECEIVED BY RECIPIENTS OF STATE ASSISTANCE.

SPONSORS OF BILL:

Human Services Committee

REASONS FOR BILL:

To promote and encourage enforcement of antidiscrimination laws.

RESPONSE FROM ADMINISTRATION/AGENCY:

Patricia A. Wilson-Coker/Commissioner, Department of Social Services, testified: "(This bill) would add to the list of circumstances under which the department will not make a claim to recover public assistance payments, settlements received as a result of a housing or employment discrimination case. Currently, the department recovers 50% of the proceeds from legal actions brought by current and former recipients of cash assistance to repay benefits paid. I am in conceptual support of this bill because of the broader policy impact it will have in the areas of housing and employment discrimination. We are told by those operating the state's fair housing programs that victims of housing discrimination often are reluctant to proceed with a discrimination complaint because the state will attach the proceeds to recover past benefits. As a result, it is difficult to find complainants for housing discrimination actions. Landlords are therefore free to continue to discriminate against many low-income individuals because of race or their source of income. A similar impact on employment discrimination by the potential employers of low-income individuals can be expected. This bill will increase the incentive for such individuals to pursue a complaint and thus result in a fairer housing market and increased opportunities for employment for the low-income families of our state."

Hamisi Ingram/Executive Director, Commission on Human Rights and Opportunities, testified: Section 17b-93 currently exempts from its lien provision (other certain payments). Like these current exemptions, an act of discrimination is beyond the control of the target thereof, and exempting a financial award resulting from such an act is consistent with the exemptions already set forth. . . . The lien provision sometimes acts as an impediment to settlement. Complainants are reluctant to settle when they know that half the settlement will go to the state. Enactment may lead to increased settlements. In addition, the CHRO sometimes is served with these liens by the relevant assistance agency in the mistaken belief that we represent the recipient/complainant. This casts the commission in the role of a collection agency, which it is neither equipped nor empowered to fill.”

NATURE AND SOURCES OF SUPPORT:

Amy Miller/Program & Policy Director, CT Women’s Education and Legal Fund, testified: “Approximately 10 people a month contact (us) to discuss their employment discrimination complaints. Most complaints come from women who have experienced pregnancy discrimination at low-wage jobs. Taking the step to file a discrimination complaint is nothing short of an act of courage. . . . This state should act to encourage people to pursue discrimination complaints. SB 1156 takes the right approach to dealing with awards.”

Amy Eppler-Epstein/Attorney, New Haven Legal Assistance Assn., testified: “Tenant advocates have worked closely with DSS to help identify, and then break down, the barriers that make it hard for people to utilize their housing subsidies. One such identified barrier is housing discrimination. Despite a clear statute, many landlords still refuse to accept housing subsidies. . . . Under current law, tenants who receive TANF often will not want to pursue a housing discrimination case because winning can result in losing their benefits, including medical coverage. (This bill) is not only good public policy, to encourage tenants to pursue the vindication of their rights, it also makes sense and is consistent with other exceptions to the state lien.”

NATURE AND SOURCES OF OPPOSITION:

None expressed.

Art Mongillo 04/01/2005

Nancy V. Ahern

Reported by

Date