

CONNECTICUT
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Raised Bill 1346

Public Hearing: 3-5-07

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: MARCH 5, 2007

**RE: OPPOSITION TO RAISED BILL 1346 – AN ACT CONCERNING INDEPENDENT
MEDICAL EXAMINATIONS IN PERSONAL INJURY ACTIONS**

The CTLA **opposes raised bill 1346**, and respectfully contends that the bill should be defeated.

This proposal attempts to subject the plaintiff in personal injury lawsuits to an examination by a doctor of the defendant's choosing. With the increasing use of doctors as partisan expert witnesses it is unfair to subject the plaintiff to the examination of a doctor solely of the defendant's choosing.

There exists an interest in personal autonomy and bodily integrity that must be carefully weighed against a defendant's right to choose any doctor to perform often obtrusive medical examinations upon a plaintiff. The CTLA strongly feels that the current statute does that, and this proposal gives that interest in personal autonomy little if any weight.

Currently C.G.S. 52-178a recognizes the interest in personal autonomy by stating that no party can be compelled to undergo a physical examination by a physician that they object to. In fact, the statement of purpose of the original 1965 legislation (HB 3757) creating this section of the statutes was "[t]o provide that no person be required to undergo a physical examination in connection with a personal injury action by a doctor to whom he objects."

This proposal also does not reflect the language in the Connecticut Rules for the Superior Court, Practice Book Section 13-11(b), which states in accord with the intention of the original legislation, "[n]o plaintiff shall be compelled to undergo a physical examination by any physician to whom he or she objects in writing."

Attached is *Privee v. Burns*, 46 Conn. Sup. 301, 1999, a case which outlines in great detail the history of this legislation and explains why it works in its current form to benefit both the defendant and the plaintiff in the current legal landscape.

WE RESPECTFULLY URGE YOU TO DEFEAT RAISED BILL 1346. Thank you.