



Connecticut **Business & Industry** Association

Testimony Of
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My name is Kevin Hennessy. I am a staff attorney for the Connecticut Business and Industry Association (hereinafter "CBIA"). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. The vast majority of our member companies have fewer than 50 employees.

CBIA opposes **SB 1268 – An Act Concerning Loss of Life or Permanent Injury of a Family Member**. Generally, CBIA opposes **SB 1268** because it will increase the amount of lawsuits filed and it will increase the amount of damages awarded. Specifically, CBIA opposes **SB 1268** because it is poorly drafted and it is overbroad.

A fundamental cause of concern for Connecticut businesses is the increasing and unpredictable size of damage awards. The problem lies in juries' relatively unconstrained ability to award damages for intangible injuries. **SB 1268** would further exacerbate this problem by increasing the number of claims asserted, escalating the expense of settling or resolving such claims and expanding the ultimate liability of the defendant.

The Connecticut Supreme Court noted that the clear trend across the United States is to reject parental or filial consortium as a cause of action. *Mendillo v. Board of Education*, 246 Conn. 456 (1998). The Court reasoned that because "every serious injury to a parent would engender a claim for loss of consortium on behalf of each of his/her children, the expense of settling or litigating such claims would be sizable."

The Court further argued that creating a cause of action for parental loss of consortium creates a substantial risk of double recovery that undermines the balance of our civil justice system. Under current law, a parent is entitled, as part of his or her own damages for loss of life's ordinary activities, to recover for his or her inability to care for his or her minor children. Accordingly, the Court concluded that "to permit a child to recover for loss of an injured parent's society and companionship while the parent is also compensated for injury to the relationship creates a substantial risk of double recovery because of the difficulty of distinguishing the respective losses of the parties."

CBIA is specifically concerned that **SB 1268** is overbroad. For example, **Section 1** of the proposed bill allows a "minor" child to bring an action for the loss of companionship of a killed or permanently injured parent. Conversely, **Section 2** states that a parent may bring an action for the loss of companionship of a "child" who has been killed or permanently injured. Without limiting language, any parent, regardless of age, will have a valid claim if any child, regardless of age, is killed or injured do to the tortious conduct of another person. Additionally, the bill fails to define "permanently injured" and it does not address potential jurisdictional questions.

SB 1268 poses a significant threat by potentially extending the loss of filial consortium to other parties. According to the Connecticut Appellate Court, the right to consortium is said to arise out of the civil contract of marriage and, as such, does not extend to the parent-child relationship. *Mahoney v. Lensink*, 17 Conn. App. 141 (1988). By statutorily extending the claim to other parties, questions will inevitably arise concerning permitting such claims for grandparents, brothers and sisters, friends and others who could claim equally close personal relationships with the injured party.

Thank you for the opportunity to voice CBIA's comments and concerns. For the aforementioned reasons, we urge you to reject **SB 1268 – An Act Concerning Loss of Life or Permanent Injury of a Family Member**.