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Testimony of Randi Mezzy Before the Human Services Committee In Support of H.B. 5904

Good afternoon, Members of the Human Services Committee. My name is Randi Mezzy and I am a staff attorney with Connecticut Legal Services. I am here to speak in support of HB 5904.

HB 5904 seeks to make a technical change to Conn. General Statutes § 17b-93, which was designed to exempt from recovery by the state of Connecticut the proceeds of any discrimination award or settlement granted to a person who has been on state assistance. Normally, Connecticut claims 50% of any court ordered monetary award or settlement received by a welfare recipient (past or present), to repay the state for certain cash benefits it has provided.

At the time subsection (c) of § 17b-93 was passed, it specifically exempted housing discrimination awards and employment discrimination awards. The intent was to allow poor people who had suffered the indignity of discrimination to keep whatever compensation or damages were awarded to them by the Commission on Human Rights and Opportunities (CHRO) or the courts.

A similar law, C.G.S. § 46a-86(g), provides that the proceeds of such a discrimination award shall not be counted by the Department of Social Services as an asset or as income for a period of three months. That law's language did not specify what type of discrimination had to be endured by the victim in order to invoke the protection of this law.

Without these provisions, a welfare recipient would be faced with an impossible dilemma. If, after being brave enough to take on an employer, a landlord, or other authority figure and making them account for their discriminatory ways, the welfare recipient were to prevail and damages were awarded, the welfare recipient faced losing eligibility for their subsistence level benefits and life-saving medical coverage by having too many assets or too much income. By making the award exempt from being counted as an asset or income, the welfare recipient could use the discrimination award to buy clothing, furniture and other necessities for their families, as long as they did so within three months of receipt.



Similarly, the exemption from recovery allowed the welfare recipient to have full use of the award designed to compensate him in some way for the discrimination he experienced.

However, the exemption from recovery law does not encompass public accommodation discrimination, although the law that creates the 3 month exclusion from being counted as an asset does. There is no reason to exclude public accommodation discrimination awards from being exempted from recovery just as other discrimination awards are. HB 5904 would harmonize the two statutes and provide the same protections to all three types of discrimination awards.

I'd like to take a moment to tell you what happened to my client. We'll call him Mr. King. Mr. King is a 49-year-old man with end stage renal disease. He spends four hours a day, three times a week, hooked up to a dialysis machine. This has been his life for the last ten years. Mr. King is unable to work and receives Supplemental Security Income from the federal government and a small amount of monthly cash from the state.

Dialysis is not a perfect substitute for actual kidney function. Moreover, not all dialysis sessions go well. Many times, the patient feels worse after dialysis than before. It is an exhausting experience almost every time.

End stage renal disease has many unfortunate side effects. Among them are depression, mood swings, anxiety, incoherence, confusion and hostility. These side effects come and go unpredictably. They are caused by the difficulty of living with chronic illness that keeps one tethered to a dialysis machine, but they are also caused by the fact that there are toxins in the patient's body that are not completely removed by the dialysis process. In other words, the side effects are both mental and physical.

In 2002, Mr. King was banned from the outpatient dialysis facility in Waterbury run by a private company that accepted Medicaid payments. Staff members at this facility reportedly were unhappy with his behavior.

As a result of this banishment, Mr. King went into acute renal failure and had to be admitted to Waterbury Hospital through the emergency room. He received life-saving dialysis and was stabilized. However, he could not be discharged from the hospital because the outpatient clinic would not provide dialysis to him, and therefore no safe discharge plan was available. He remained as a patient in the Waterbury Hospital for **eighteen months**. As a result, Mr. King lost his apartment and all of his possessions.

Eventually, after Connecticut Legal Services (CLS) filed a CHRO complaint, he was allowed to resume dialysis as an outpatient. This lasted a few months, until the private dialysis company decided once again they didn't like him any more.

They told him his last day of dialysis would be December 10, 2004. CLS filed a court action seeking an emergency court ruling to keep his dialysis going. His doctor stated under oath that, without the court's ruling, Mr. King would be dead by Christmas. The Court granted the emergency ruling.

After 3 years, the private dialysis company agreed to settle the lawsuit for a grand total of \$15,000 (no attorney's fees were paid). My client was obliged to reimburse the state of Connecticut half of that amount, under § 17b-93 and § 17b-94. That left him with \$7500 to try to put his life back together. He has been homeless since leaving the hospital in 2004, relying on friends and relatives to let him sleep on their sofa. He is never sure where he will be able to rest after his dialysis session is over.

CLS wrote to Commissioner Starkowski of the Department of Social Services, proposing that he waive the recovery of Mr. King's discrimination award with the stipulation that it be used solely to pay his rent so his homelessness would end. Commissioner Starkowski, in an unprecedented decision, agreed to this proposal.

Today, thanks to Commissioner Starkowski's compassion, my client is living in a decent apartment in Waterbury. He continues his dialysis three times a week, trying to stay alive, but the difference is that now he knows he has a place to rest after dialysis and get a good night's sleep each night.

Public accommodation discrimination is not as commonly litigated as other forms of discrimination, but it is serious nonetheless. Other examples of public accommodation discrimination would be the case of someone with a disability that was not readily apparent, who required the assistance of a service dog, being told to leave a restaurant because of the dog. Another example is being barred from joining a club or visiting a hotel because of one's race, religion, gender, or disability.

It's hard to believe these things still occur in 2008, but they do. Our laws usually redress these wrongs through monetary awards. A poor person receiving state benefits is no less humiliated than someone of means. The law this bill seeks to fix recognizes this. It merely needs language added to it to make sure that all victims of discrimination are covered.

The intent of CGS 17b-93(c) was to recognize the benefit that retaining a court-ordered award or settlement could have on rebuilding the lives of a victim of discrimination. There is no reason to differentiate between victims of public accommodation discrimination and victims of employment or housing discrimination.

I urge you to pass HB 5904.