

Statement

Insurance Association of Connecticut

Judiciary Committee

March 20, 2008

HB 5935, An Act Concerning The Disclosure Of Police And Other Public Records And The Tolling Of Time Periods For Bringing A Civil Action While Police Investigations Are Pending

The Insurance Association of Connecticut is opposed to Section 2 of HB 5935, An Act Concerning The Disclosure Of Police And Other Public Records And The Tolling Of Time Periods For Bringing A Civil Action While Police Investigations Are Pending. Section 2 seeks to toll the statute of limitations of any civil action until such time as the results of a police investigation are made public. It serves no valid purpose.

Tolling the statute of limitations pursuant to the provisions of HB 5935 until a possible police investigation is made public is completely unnecessary. Connecticut case law has already established that our current statutory scheme is to be interpreted to toll the statute of limitations until the claimant "knows or reasonably should know" the identity of the tortfeasor. Tarnowsky v. Socci, 271 Conn. 284 (2004). Additionally there are also provisions in current law and case law tolling the statute when a cause of action is fraudulently concealed.

Furthermore, the police report itself does not establish negligence or any other cause of action. It is just one piece of evidence in a party's case. It does not make any more sense to toll the statute of limitations for a police report than for a medical report, private investigator report, witness statement or any other piece of evidence that might be used in a case.

There is nothing to preclude a plaintiff from filing a civil action absent a report. What if the report is contrary to the plaintiff's claim? Regardless of the availability and content of a police report the plaintiff still maintains the burden of proof. Even in those situations where a

police report takes an extended period of time to complete, like in fatalities or accident reconstructions, the plaintiff should have enough preliminary information to formulate their case.

Tolling the statute so that the plaintiff may gather evidence is contrary to the purpose of a statute of limitation. Statute of limitations is designed to protect individuals from limitless litigation by providing a finite time in which a person can assert their rights. There is no demonstrated reason for this proposal. The statute of limitations to bring a civil action is two years. We are unaware of any situation in which it took more than two years for a police report to be filed. Additionally, there are court procedures available to plaintiffs if they need the court to intervene to gain assistance to develop the essential facts of their claim.

Furthermore, what is the actual event that triggers the statute to toll? Is it an initial investigation that occurs immediately following an event? What if an investigation is delayed? Or closed and re-opened? What if there are multiple investigations occurring simultaneously, which one would control? How would the defendant, whose rights are protected by the statute of limitations even know their rights have been altered?

Finally, HB 5935, as drafted, is not limited to any course of action that arises after the effective date. As such, HB 5935 could apply to a cause of action that occurred years ago, thus granting individuals rights that did not exist at the time of the loss.

The IAC strongly urges your rejection of Section 2 of HB 5935.