CONNECTICUT TRIAL LAWYERS ASSOCIATION

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Raised Bill 1026
Public Hearing: 3-20-09

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: MARCH 20, 2009

RE: SUPPORT OF RAISED BILL 1026 – AN ACT CONCERNING THE TOLLING OF THE TIME PERIODS FOR BRINGING A CIVIL ACTION WHILE POLICE INVESTIGATIONS ARE PENDING

The CTLA **supports bill 1026**, and respectfully contends that the bill should be passed.

The CTLA respectfully submits that the bill is vitally important to the protection of an individual's right to timely obtain the information necessary to pursue legal remedies within the time limits imposed by the State's statutes.

Almost every cause of action under Connecticut law has an associated time limit, referred to as a "statute of limitations", in which a plaintiff must initiate suit in order to protect his remedies under the law. Moreover, many of the causes of action created by statute in Connecticut also have a notice period, in addition to a statute of limitations, which requires a plaintiff to provide notice to a potential defendant within a certain time period, as a condition to bringing suit.

In order to pursue legal remedies within the applicable statute of limitations, and in order to provide the notice as required under the statutes, a victim of a personal injury must have sufficient information regarding the cause of action and the identity of the defendant. In many, if not most cases, the plaintiff learns of this information from the police report. Thus, the police report is a critical document for the plaintiff.

In recent years, the time period for obtaining a police report after an accident has become longer and longer. One reason for the delay is the development of a State Police Accident Reconstruction Team, which is called to investigate many of the more serious accidents on the state roads, as well as many of the more serious accidents on municipal roads. The CTLA applauds the efforts of the State Police in creating this unit, and notes that the reports of the State's Accident Reconstruction Unit are often very detailed and of professional accident reconstruction quality. The difficulty, however, is that in many serious auto accidents, it can now take over one year and sometimes significantly more than one year, in order to obtain the State Police report for an accident. Thus, the police report is not available during the time period in which the injured party must comply with the various statutory notice provisions and limitation periods.

Nowhere is this problem more acute than in claims against bars and taverns for serving intoxicated patrons. If an innocent party is killed by *a* drunk driver who was served while intoxicated at a bar or tavern, the injured party has a cause of action, typically referred to as a "Dram Shop action", under

Connecticut General Statute § 30-102. According to the provisions of that statute, the injured party must provide notice to the bar or tavern within 120 days of the injury that a claim is going to be pursued.

However, when an innocent person is struck by *a* drunk driver, the injured party has no way of knowing where the drunk driver was consuming alcohol prior to the time of the accident. The intoxicated driver rarely cooperates with the plaintiff in forwarding this information and in fact, in most cases, is advised by his insurance carrier and/or defense counsel not to speak with plaintiffs counsel. Accordingly, until the police report issues, the innocent victim has no way of obtaining the information necessary to file the notice as required by the statute. However, since in many cases the police report does not issue within the 120 days, the injured party is literally left without any way of satisfying the necessary notice requirements in order to proceed with the claim, In addition to the Dram Shop statute, there are many other statutory causes of action in Connecticut which contain similar, and in some cases even shorter notice periods. For example, the notice period on the Defective Highway statute is 90 days, Connecticut General Statute § § 13a-144, 13a-149. See also Connecticut General Statute § 7-465 (six month notice period), Connecticut General Statute § 7-308 (six month notice period), Connecticut General Statute § 4-148 (one year filing deadline).

Raised Bill 1026 seeks to remedy this situation. Pursuant to the provisions in the Bill, an innocent party would not lose his cause of action if a police report has not issued during the time period necessary to provide notice or file suit under the necessary statutory requirements. The bill seeks to toll the notice deadlines and the limitation periods until such time as the police report issues.

WE RESPECTFULLY URGE YOU TO SUPPORT RAISED BILL 1026. Thank you.