



CT FAIR HOUSING CENTER

**TESTIMONY OF GREG KIRSCHNER
DIRECTOR OF ENFORCEMENT FOR THE
CONNECTICUT FAIR HOUSING CENTER
REGARDING S.B. 1125, H.B. 6472 AND H.B. 6673**

Thank you for this opportunity to address the Committee. My name is Greg Kirschner. I am the Director of Enforcement at the Connecticut Fair Housing Center (hereinafter “the Center”). We are a private non-profit organization serving the entire state of Connecticut. We receive more than 300 complaints of housing discrimination each year. Each complaint is investigated by the Center staff to determine if there is evidence of discrimination. If we find such evidence, I file complaints on behalf of the victims of housing discrimination at the Commission on Human Rights and Opportunities, the Department of Housing and Urban Development, state court, or federal court. Since 2004 when I joined the Center, I have filed numerous cases at the CHRO, HUD, and in state and federal court. Because the Connecticut fair housing laws are so important to my work and the mission of my agency, I would like to offer my comments on the bills which have been proposed to modify the State’s fair housing laws.

**S. B. No. 1125 AN ACT CONCERNING THE COMPREHENSIVE REVISION OF
THE HUMAN RIGHTS AND OPPORTUNITIES STATUTES.**

The Center supports many of the changes to the state’s anti-discrimination statutes proposed in this bill. For example, we support the clarification contained in Section 50 of the

bill that includes a party to a civil union or a marriage recognized by the state of Connecticut in the definition of “spouse”, “family”, “immediate family”, “dependent”, and “next of kin.” This clarification simply codifies judicial changes in the law. In addition, we appreciate the efforts made to simplify and clarify the language in the statutes as well as the work to organize many of the provisions in a more logical manner.

I. Objection to Changes Throughout: Venue Change to Hartford Superior Court

However, we do have several issues which we would like to bring to the Committee’s attention. First, throughout the bill, changes have been made to allow the Attorney General or CHRO Commission counsel to bring suit in the Hartford Judicial District. Currently, the Attorney General or Commission Counsel are required to file actions in the judicial district in which the discriminatory practice occurred or the judicial district in which the respondent resides. The proposed change gives the Commission the option of always filing in Hartford. While this may be convenient for the Commission and, in fact, for my organization, it will be difficult for complainants and respondents who do not have attorneys. Low-income complainants without attorneys at the Commission are the most likely to be represented by Commission counsel since they have the least access to legal representation. If the proposed changes go through, these low-income complainants may be forced to travel to Hartford for every court proceeding, a hardship which may discourage some complainants from participating and may lead to a drop in the number of complainants willing to pursue a claim of discrimination.

II. Objection to Section 2: Change in Definition of Physical and Mental Disability

Second, the Center objects to the definition of physical disability that is contained in Section 2 of the bill. Many of the proposed changes in the Human Rights and Opportunities

statutes were made to ensure that Connecticut's law is substantially equivalent to the federal fair housing statutes. When Congress amended the federal Fair Housing Act in 1988, it created a program, the Fair Housing Assistance Program ("FHAP"), designed to build a "coordinated intergovernmental enforcement effort to further fair housing" and to encourage state agencies to assume a greater role in enforcing the fair housing laws and ordinances. 24 CFR §115.300. Participation in FHAP is available to states that provide "*rights*, procedures, remedies and the availability of judicial review that are substantially equivalent to those provided in the federal Fair Housing Act. 24 CFR §115.201 (emphasis added). One of the advantages of having Connecticut's law be substantially equivalent to federal fair housing law is that the State, via the Commission on Human Rights and Opportunities, is paid by HUD to investigate housing discrimination complaints. Without substantial equivalency, Connecticut could lose its federal reimbursement.

Unfortunately, this bill fails to ensure that Connecticut's definition of physical disability conforms to the federal law. Under federal law, there are three definitions of disability: 1) a physical or mental impairment which substantially limits one or more major life activities; 2) a record of such an impairment; or 3) being regarded as having such an impairment. 42 USC §3602(h). The proposed changes to Connecticut's definition of physical disability does not include the second or third parts of the federal definition thus making Connecticut's law not substantially equivalent to the federal law. To correct this problem, the Center recommends that the Committee add the phrase "or a record of or regarding a person as having one or more such disorders" to the definition of physical disability. This phrase is already contained in the definition of mental disability. In addition, including the second and third part of the federal definition will make clear that the state and federal law are substantially equivalent and will

ensure that Connecticut's definitions of physical and mental disability are the same. Failure to include the Center's suggested language will allow judges and lawyers to conclude that the definition of physical disability is more narrow than that of mental disability. As a result, there will be fewer protections for people with physical disabilities than for those with mental disabilities. Surely an unintended and undesired result.

III. Section 30: Shortening Time for a Party to Remove a Complaint to Court

Third, the Center objects to the changes made in Section 30 of the bill which would shorten the time period during which a complainant can elect to proceed in court rather than have an administrative hearing. This change also threatens the substantial equivalency of Connecticut's fair housing laws. Pursuant to the federal Fair Housing Act, 24 CFR §103.410, once a finding of reasonable cause is made, a party has 20 days after the receipt of service of the charge to elect to have his or her case heard in court. The change suggested by this bill shortens the election time to 20 days from the date of mailing, not 20 days from receipt of the charge.

This change will also hurt many self-represented or *pro se* litigants. A charge mailed out on a Thursday or Friday from Hartford, may take as long as a week to get to a person living in some parts of Connecticut. This leaves an unrepresented person less than ten business days to find someone to explain the difference between continuing the case at the Commission versus proceeding in court, find an attorney willing to represent them, and then get that attorney enough information to determine which forum to choose. The statute as it is currently written, allows a party to elect to go to court within 20 days of the receipt of a finding of reasonable cause. To assist *pro se* litigants and to retain Connecticut's substantial equivalency, the change suggested by Section 30 of H.B. 1125 should be rejected.

H. B. No. 6452 AN ACT CONCERNING DISCRIMINATION.

The Center wholeheartedly supports the changes suggested by H.B. 6452 which would add gender identity or expression as a protected class in all of the state's anti-discrimination laws. This will extend the protections of the law to many who are most vulnerable to discrimination and who will benefit most by these protections.

H. B. No. 6673 AN ACT CONCERNING HOUSING DISCRIMINATION AND ATTORNEY'S FEES.

The Center supports all of the changes made to the housing discrimination laws by H.B. 6673. One change suggested by this bill would alleviate a potential problem with the state's substantial equivalency to federal law. There is currently a case before the Connecticut Appellate Court that challenges a complainant's right to intervene in a complaint brought on her behalf in state court. Under the federal law found at 42 USC §3614(e), a complainant must be permitted to intervene in a case filed in court on her behalf as of right. If a complainant is not permitted to intervene as of right, Connecticut's law is not substantially equivalent to the federal law. The change suggested by Section 2 of this bill gives complainants that right in Connecticut. To maintain Connecticut's substantial equivalency, this change must be implemented.

The Center also supports the change suggested by Sections 3 and 4 of this bill which states that the amount of attorney's fees awarded to a prevailing plaintiff or complainant shall not be contingent upon the amount of damages obtained. This change is in accordance with many United States Supreme Court civil rights decisions which state that attorneys' fees are awarded to encourage individuals to bring civil rights cases as "private attorneys general." Unlike employment discrimination cases, housing discrimination cases do not typically result in large

damage awards to plaintiffs. Limiting the amount of attorney's fees by the amount recovered will discourage private attorneys from taking these cases since the attorneys may be unable to devote the time necessary to winning a case if there is no hope of being paid for the time spent. To ensure that victims of housing discrimination in Connecticut have access to attorneys willing to represent them, we urge the Committee to report favorably on this bill.

Changes Do Not Address Other Concerns about State Law.

Finally, the Center is disappointed that none of the proposed changes to the State's housing discrimination laws address serious problems which exist in the current statutes. First, the current statute prohibits discrimination based upon sexual orientation but permits discrimination against unmarried unrelated men and women who want to live together. When my colleagues and I explain this to landlords, tenants, people seeking housing and those providing housing, this portion of the law elicits laughter. Many landlords acknowledge that if they discriminated against unmarried unrelated men and women, they would have no one to rent their apartments. When it was passed, this portion of the statute may have been a reaction to religious objections. However, as evidenced by virtually every landlord we have spoken to, the world has changed since this law was passed. In addition, the law permits owners who live in a two-unit building to discriminate based on marital status. In other words, landlords who object to sharing a building with unmarried couples do not have to rent to them. This Committee should change the current state fair housing laws on marital status discrimination which permits landlords to refuse to rent to an unmarried, unrelated couple.

Second, the current statute permits owners who live in four unit buildings to discriminate against families with children. In a state where many of the larger apartments are in small

owner-occupied buildings, this exemption severely limits the number of units available to families with children. Many of the complexes built in the last ten years have mostly two- and a few three-bedroom units. As a result of the current foreclosure crisis, many families are leaving homes with four bedrooms or doubling up with older family members to ensure that no one is homeless. If their choice of housing is further limited by discrimination against families with children in buildings with four units, the number of homeless children and their families will continue to grow. We recommend that the exemption for familial status discrimination be reduced to owner-occupied two family buildings.

Thank you for your time. I would be happy to answer any questions.