

**Connecticut Employer Lawyers Association
Connecticut Advocates for Employee Rights**

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Good afternoon Senators Harp and Kane, Representatives Walker and Miner and members of the committee.

My name is Deborah McKenna. I am an attorney at Emmett & Glander in Stamford CT and I practice in the area of plaintiff's side employment law. I am testifying today on behalf of the Connecticut Employment Lawyer's Association (known as CELA) in support of **Raised Bill No. 6595 "An Act Concerning the Commission on Human Rights and Opportunities."**

CELA is a voluntary membership organization whose members are attorneys from throughout Connecticut who devote at least 51% or more of their employment related practice to representing employees. As such, CELA attorneys represent individual employees in all types of employment related matters including, but not limited to, discrimination, wrongful termination, and claims involving state and federal FMLA and related leave of absence issues.

Our members routinely practice before the Connecticut Commission on Human Rights and Opportunities, and also provide counseling and guidance to individuals who may choose to proceed *pro se* in this forum. Collectively, we have a great deal of experience with this agency as well as many thoughts on how its service to the people of Connecticut can be improved. We support the intention of Raised Bill **6595** because we believe that the changes contained in this bill will help to move complaints more quickly through the Commission. At present, it is not

uncommon for a complainant to have to wait up to or over 2 years from the time he or she files a complaint to have a fact finding/mandatory mediation session.

For example, I currently have three pending CHRO cases, one which passed Merit Assessment in December of 2009 but was not assigned an investigator until the fall of 2010 and did not actually make connect with that investigator until February of this year. I have another case that passed Merit Assessment in March of 2010 and no investigator has yet been assigned to the case. And, I have a third case in which we passed MAR in May and the investigator made contact with me earlier this month. i have even had cases where the fact finding investigation was not held prior to the 2 year expiration to file a claim in state court. In those situations, a client is faced with either choosing to give up his or her state claim to complete the investigation or having to go forward without the benefit of an investigation and attempted mediation.

I can assure you that my experience is not uncommon and that many, if not all, of CELA's members can relate similar stories. While we can appreciate the fact that investigators are burdened by heavy caseloads, these delays create real hardship for our clients. It also creates a real disincentive on employers to resolve these matters quickly. As you know, as time passes between the act complained of and the actual investigation, it can make it harder to conduct a thorough investigation – people's memories fade and employees leave the workplace. Since **Raised Bill 6595** would require a mandatory mediation session within 60 days of the MAR review, it would provide complainants with an earlier opportunity to resolve their case if possible. We think this is a very positive step and will serve to keep all parties more focused on the case. As such, it is more likely that evidence will be preserved. We believe that the increased oversight proposed by the bill will also benefit the actual investigative process, by requiring

more thorough and more timely investigations.

Another important change proposed by **Raised Bill 6595** is the fact that if passed, it will enhance the CHRO's ability to award attorneys fees in certain cases by not making those fees contingent upon the amount of damages awarded to the Complainant. This will permit more complainants to secure representation.

Overall, the bill will require more timely and more thorough oversight of the complaint process by the CHRO and will hopefully lead to more expedited results that are supported by the law. One suggestion that CELA has which would further enhance **Raised Bill 6595's** changes to the Commission practices would be to look to **RB 1192**, which proposes to compress the time periods for various CHRO actions – such as decreasing the time for MAR from 90 days to 80 days and decreasing the time for an investigator to reach a decision to be issued from 190 days to 175 days. In addition, the Connecticut Trial Lawyers Association has offered language to modify **RB 1192** to permit individuals who wish to bring the claims to court to withdraw from the CHRO 90 days after the complaint has been filed.

Given the fact that there are certain cases that are simply going to be filed in court and not remain with the CHRO, it seems to make sense to permit those complainants to withdraw from the CHRO process earlier, thereby permitting the CHRO to focus its resources on those cases that will remain for investigation and resolution.

We believe that with **Raised Bill 6595** as well as the proposed changes in **RB 1192** and CTLA's modification the CHRO could really become a more effective and efficient agency, benefiting not only the individuals and employers who find themselves within its jurisdiction but the taxpayers who support that agency as well.

