

Ronald B. Phillips
Vice President, Legislative and Public Affairs

March 3, 2016

Senator Ted Kennedy, Jr.
Chair, Environment
Legislative Office Building – Room 3200
Hartford, CT 06106

Representative James M. Albis
Chair, Environment
Legislative Office Building – Room 3201
Hartford, CT 0616

Senator Clark Chapin
Ranking Member, Environment
Legislative Office Building – Room 3400
Hartford, CT 06106

Representative John Shaban
Ranking Member, Environment
Legislative Office Building – Room 4200
Hartford, CT 06106

Re: Senate Bill 228

Dear Chairman Kennedy, Chairman Albis, Ranking Member Chapin, and Ranking Member Shaban,

The Animal Health Institute, a Washington, DC-based trade association of firms that make the veterinary medicines used to help pets and livestock live longer, healthier lives, strongly opposes SB 228, pending before your committee.

The bill would amend the current Conn. Gen. Stat. § 22-351a that sets forth the liability for intentionally killing or injuring a companion animal. The current law as enacted provides for the recovery of expanded economic damages when a companion animal is intentionally killed or injured, and for the opportunity to recover punitive damages and attorney's fees. We believe these current provisions appropriately balance the need to compensate animal owners and to deter and punish intentional conduct without beginning to move down a path that would ultimately lead to greater animal harm and suffering and that is out of step with the awarding of loss of consortium damages under other areas of Connecticut law.

Expanding available damages to encompass loss of consortium noneconomic damages here is the first step down a road that we firmly believe would ultimately harm animals and their owners, which of course is not the intent for the bill. The concern is that veterinary care will resemble human healthcare, where emotion-based damages increase cost and dictate care. People's ability to spend on pet care is limited and the market for the provision of veterinary care is elastic. In the recent economic downturn pet owners have avoided care over finances or been forced to euthanize pets. In fact, many households choose not to spend any money for veterinary services due to the expense. Allowing such noneconomic damages may also make it harder for shelters, rescues and other services to afford to take in companion animals if they and their staff face liability if an animal owner alleges a pet is injured under their care. In addition, the risks and costs for other pet services such as dog walking or boarding would rise and become less

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affordable. Even friends may not want to risk watching a pet if they could be sued for emotion-based damages if the pet is injured under their care.

While the impact would be greatest with broad application of such emotion-based damages, even beginning that process, as proposed here, could have a substantial impact. The current Conn. Gen. Stat. § 22-351a has been utilized by plaintiffs in attempts to “aggravate” negligence cases against veterinarians, and in an unreported decision a court has found that “[t]he plain language of the statute suggests that punitive damages may be enforced when a veterinarian fails to follow accepted standards of practice of the profession.”¹ Such a finding would seem to contemplate punitive damages to apply to ordinary negligence cases, even though that seems inconsistent with the purposes of punitive damages. The concern over the broadening of the impact is real, whether judicially or through sequential amendments over time.

Additionally, allowing loss of consortium type damages, such as loss of companionship damages, for the loss of an animal would be out of step with other areas of Connecticut law and would place human-animal relationships above many treasured human–human relationships, which does not seem congruous. Connecticut’s Wrongful Death Act only authorizes spouses to recover for loss of consortium.² In 2015, the Connecticut Supreme Court recognized a common law cause of action for *minor* children, but not for adult children, for the loss of parental consortium. The Court concluded that “[t]he child-parent relationship is unique in its emotional closeness, in its value to society and in its generation of enforceable legal rights and obligations.”³ The Court recognized the natural distinction between the relationship between minor children and parent from other very close familial relationships. Allowing consortium damages for the loss of a companion animal would allow recovery under circumstances not available for very close and treasured human–human relationships.

We urge you to act to protect the affordability and accessibility of animal care and not pass this bill. Should you have questions, please contact Ron Phillips at 202-662-4130 or via email at rphillips@ahi.org.

Sincerely,



Ronald B. Phillips

¹ *Silverman v. Animal Med. Clinic*, 2006 Conn. Super. LEXIS 1135

² See Conn. Gen. Stat. § 52-555b

³ *Campos v. Coleman*, 123 A.3d 854, 860-611 (Conn. 2015) (overruling *Mendillo v. Bd. of Educ.*, 717 A.2d 1177 (Conn. 1998)).