



Testimony of Michael Rigg, JD

in Judiciary Committee

March 6, 2017

S.B. No. 932 (RAISED) AN ACT ESTABLISHING A STATUTORY CAUSE OF ACTION FOR INJURY TO PERSON OR PROPERTY BASED ON NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Good Afternoon Senators Doyle, Kissel, Representative Tong and other members of the Judiciary committee, I am Mike Rigg, I am an attorney and I am here to represent over 1000 physicians and physicians in training in the medical specialties of Dermatology, Otolaryngology, Ophthalmology and Urology in opposition of SB932.

This bill if passed would greatly expand the ability to sue even when the person suffers no actual physical harm. A plaintiff would merely have to show that there was an "unreasonable risk" that an action would cause them emotional distress and they would receive punitive damages and attorney fees. Doctors who are dedicated to the legislative process were chilled by the prospects that they could be sued for being "abrupt or rude" to a patient in the course of a busy, stressful day if a patient had to wait excessive amounts of time in the waiting room because other emergencies that needed immediate attention, forcing delays in the schedule, or what about when a patient is made to come back for further testing or has to anxiously wait for test results? If SB932 is passed into law, these situations will now make the physician vulnerable to being sued for punitive damages and attorney fees. Every day physicians deal with patients who are stressed and in emotional pain. Every illness carries a certain amount of anxiety and emotional pain, none of which are unusual.

The bill is quite frankly unnecessary because the law already allows plaintiff's to sue for negligent infliction of emotional distress. *Carrol v. Allstate Ins. Co*, 262 Conn.433, 446, 815, A.2d 119,128 (Conn, 2003). The only difference with this bill is that the plaintiff is allowed to recover punitive damages and ATTORNEY Fees, which is currently not allowed under Connecticut common law and for good reason. In Connecticut punitive damages are only allowed when the defendant's behavior is intentional, reckless or malicious. Simple negligence is not enough.

The United States Supreme Court has held that punitive damages, in general, should only be awarded if the defendant's behavior is "reprehensible." Obviously, negligent behavior is not sufficiently "reprehensible" to satisfy this constitutional requirement. But if SB932 is passed it would not only challenge a long standing U.S. Supreme Court decision, but would also open the flood gates to employer/employee suits. For example, an employee who is fired from his job, cannot sue for negligent infliction of emotional distress because the tort would have a dramatic chilling effect on employers running their businesses. No matter how incompetent an employee is, getting fired is always distressing. Hence every disgruntled employee could sue for punitive damages and ATTORREYS fee with the passage of SB457. And quite frankly just being disciplined or warned about doing a bad job by an employer is distressing to an employee and a case could be built for emotional distress, making the employee the plaintiff.

Furthermore, the common law in Connecticut (and everywhere else in the country) is that the prevailing party in a lawsuit is not entitled to recover attorney's fees or the costs of litigation. For example, if a doctor successfully defends himself/herself against a malpractice lawsuit, he/she is not entitled to recover his/her attorney's fees from the plaintiff.

We ask this committee to reject SB932 and allow the prevailing common law of Connecticut to continue to work for the protection of society and not create a self-employment act for attorneys which will cost the state far more in the long run.

RE: Bill SB7214

My Daughter has been blessed to have a service dog. For the 1st time in her life she has the freedom to go out on her own. Her dog, Ziva, allows her to be safe when she is out and about without another person by her side. Ziva, among other things, keeps her from falling and protects her from being trampled when she does end up on the floor. I know my daughter LOOKS healthy but looks can be deceiving. I also know Ziva is just so adorable that everyone just wants to say hello.

However, saying hello to a service dog puts the owner at real risk. These dogs are well trained but they are still living beings and even the best can be distracted. If a service dog is distracted even for a moment, they can miss an important sign that can save their person's life.

I have seen my daughter politely try explaining this to people but, while some some are very understanding and just needed to be educated, to many think they know better or it just doesn't apply to them.

If you put this law through, just being able to tell people it is against the law and if you don't stop than you can be fined would stop many. It will also give people like my daughter the means to get security of law enforcement officers to assist because now something can actually be done.

Please pass this bill so my daughter and others like her can be safe and independent.

Thank you for listening.