

HB 7128

PA 238

FAX

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CONNECTICUT
SEN. ASSEMBLY
HOUSE

PROCEEDINGS

1991

VOL. 34

PART 14

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House of Representatives

Tuesday, May 14, 1991

DEPUTY SPEAKER MARKHAM:

The bill as amended is passed.

CLERK:

Page 10, Calendar 531, Substitute for House Bill 7128, AN ACT CONCERNING STATUTE OF LIMITATIONS FOR WRONGFUL DEATH ACTIONS. Favorable Report of the Committee on Judiciary.

REP. LAWLOR: (99th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Lawlor of the 99th.

REP. LAWLOR: (99th)

I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER MARKHAM:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark, Sir?

REP. LAWLOR: (99th)

I will, Mr. Speaker, thank you very much. Mr. Speaker, this bill would extend the statute of limitations on wrongful death actions to two years from the time of death, but under no circumstances, more than five years from the date of the act or omission complained of.

tcc

005171
153

House of Representatives

Tuesday, May 14, 1991

Mr. Speaker, I'd urge the members to approve this bill resoundingly as we did in the Judiciary Committee. Thank you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill?

REP. CHASE: (120th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Chase of the 120th.

REP. CHASE: (120th)

Thank you, Mr. Speaker. Mr. Speaker, I appreciate the proponent's explanation of the bill, but if he could, through you, be a little more specific and tell us why this bill is needed, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Lawlor.

REP. LAWLOR: (99th)

Sorry, I didn't hear the question, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Chase, will you reframe your question, Sir.

REP. CHASE: (120th)

Thank you, Mr. Speaker. Could the proponent please tell us why this bill is needed, Mr. Speaker?

REP. LAWLOR: (99th)

tcc

House of Representatives

Tuesday, May 14, 1991

Yes, Mr. Speaker. It comes often enough that discoveries, especially in the case of misdiagnosis, especially in a cancer situation, will not be known, in other words, the act or omission will not be known until three or four or five years from the time of the actual act or omission, in other words, the misdiagnosis, and under those circumstances, I believe it's fair and I believe the Judiciary Committee believes it's fair that a person could bring an action for wrongful death.

DEPUTY SPEAKER MARKHAM:

Representative Chase.

REP. CHASE: (120th)

Thank you, Mr. Speaker. Then if I understand, through you, what you're saying is, using your example, if a physician doesn't discover or diagnose that someone is dying of cancer or has died of cancer, then this would allow the patient or their estate, I assume, to sue that doctor. Through you, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Lawlor.

REP. LAWLOR: (99th)

Through you, Mr. Speaker, the answer is yes.

REP. CHASE: (120th)

Thank you, Mr. Speaker.

tcc

House of Representatives

Tuesday, May 14, 1991

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill? Will you remark further? Representative Andrews of the 86th.

REP. ANDREWS: (88th)

Thank you, Mr. Speaker, a question, through you, to the proponent please.

DEPUTY SPEAKER MARKHAM:

Please frame your question, Sir.

REP. ANDREWS: (88th)

Representative Lawlor, could you please clarify the definition please of wrongful death.

REP. LAWLOR: (99th)

Through you, Mr. Speaker, yes. A wrongful death is a death caused by the negligence of another person.

REP. ANDREWS: (88th)

Thank you very much, Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Will you remark further on the bill? Will you remark further? If not, staff and guests please come to the well of the House. Members please take their seats. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. Members to the Chamber, please. The House is voting by roll.

tcc

House of Representatives

Tuesday, May 14, 1991

DEPUTY SPEAKER MARKHAM:

Have all members voted? Have all members voted?
Please check the roll call machine to see that your
vote is properly cast. The machine will be locked.
The Clerk take a tally.

The Clerk please announce the tally.

CLERK:

House Bill 7128.	
Total number voting	147
Necessary for passage	74
Those voting yea	136
Those voting nay	11
Those absent and not voting	4

DEPUTY SPEAKER MARKHAM:

The bill is passed.

CLERK:

Calendar 529, Substitute for House Bill 7059, AN
ACT CONCERNING THE RECORD OF ZONING CASES. Favorable
Report of the Committee on Judiciary.

REP. LANGLOIS: (51st)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Langlois of the 51st.

REP. LANGLOIS: (51st)

Yes, thank you, Mr. Speaker. I move acceptance of

S-320

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1991

VOL. 34
PART 7
2230-2562

TUESDAY
May 28, 1991

002483
126
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there any objection? Hearing none, so ordered.

THE CLERK: . . .

Calendar 466, File 610, Substitute HB7128, AN ACT
CONCERNING STATUTE OF LIMITATIONS FOR WRONGFUL DEATH
ACTIONS. Favorable Report of the Committee on
JUDICIARY.

THE CHAIR:

Thank you very much, Mr. Clerk. The Chair
recognizes Senator Avallone.

SENATOR AVALLONE:

I would move the Joint Committee's Favorable Report
and passage of the bill.

THE CHAIR:

Thank you. Would you care to remark further?

SENATOR AVALLONE:

Yes. Current law requires a lawsuit for wrongful
death to be filed within two years of the time that the
injury is sustained or discovered and within three
years from the date of the act causing the injury.
This would change that three year period to a five year
period.

THE CHAIR:

Thank you very much, Senator. Would anyone else
care to remark? Any further comments on Senate
Calendar 466? If not, Senator Avallone.

TUESDAY
May 28, 1991

002484
127
aak

SENATOR AVALLONE:

I would move it to Consent.

THE CHAIR:

Thank you. Is there any objection in placing Senate Calendar 466, Substitute HB7128 on the Consent Calendar? Any objection? Hearing none, so ordered.

THE CLERK:

Calendar Page 9, Calendar 481, File 532, Substitute HB6398, AN ACT CONCERNING ENFORCEMENT OF THE CLEAN WATER ACT. Favorable Report of the Committee on APPROPRIATIONS. The Clerk is in possession of one amendment.

THE CHAIR:

Thank you, Mr. Clerk. The Chair recognizes Senator Spellman.

SENATOR SPELLMAN:

Thank you, Madam President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Thank you. Mr. Clerk.

THE CLERK:

LC06719 designated Senate Amendment Schedule "A" offered by Senator Avallone of the 11th District.

THE CHAIR:

TUESDAY
May 28, 1991

002497

140
aak

read the items that have been placed on the third Consent Calendar.

THE CLERK:

The third Consent Calendar begins on Calendar Page 3, Calendar 286, HB7178. Calendar Page 5, Calendar 415, Substitute HB7316. Calendar Page 7, Calendar 462, Substitute HB6814. Calendar Page 8, Calendar 464, Substitute HB6962. Calendar 466, Substitute HB7128.

Madam President, that completes the third Consent Calendar.

THE CHAIR:

Thank you very much, Mr. Clerk. As you have heard we have before us the 3rd Consent Calendar. The Clerk has read the items that have been placed on Consent. The machine is open. You may record your vote. All Senators present and voting have voted. The machine is closed.

The result of the vote.

36 Yea

0 Nay

0 Absent

The Consent Calendar is adopted.

Mr. Clerk, do you have any further business?

THE CLERK:

Madam President, we are awaiting the 3rd Agenda to

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 2
327-651

1991

And therefore, we would urge you to adopt this bill which would prevent that. The next bill that I'd like to speak about is HB7128 an act concerning the Statute of Limitations for Wrongful Death Actions. We oppose this bill because it will totally eliminate the statute it proposed in wrongful death actions and it would change the Statute of Limitations from two years, from the date the injury was discovered to two years from the date of death.

The existing Statute of Repose, that is the last day the claim can be made, is three years from the date of the (inaudible) complained of. We believe that the Statute of Repose is necessary to prevent an indefinite period of liability. This is the only way that the potential liability can be accurately anticipated and planned for, both from the perspective of the individual or the entity at risk as well as the insurer at risk.

This bill would really create a wild expansion of liability and necessarily result in an increase in premiums for all forms of liability insurance. Also, I would add that the elimination of the Statute of Repose would cause evidentiary problems. An administrator or an executor of a deceased estate could potentially bring an action twenty, thirty, forty years after after the incident, when the availability of documents and recollection of the parties would be greatly diminished.

And generally, any evidence after such a long period of time would be unreliable. We believe that the current law provides a delicate balance of the interest of all parties and would urge you to maintain that balance and reject HB7128. The next bill is House Bill HB6962, very briefly, this is a bill concerning the protection of pension benefits and I would I would voice our support for this bill, it would provide that qualified retirement plans or spend thrifts trust under state laws and therefore, they are exempt from creditors in a bankruptcy proceeding.

We believe that this is good protection for the citizens of Connecticut. We do however have one

All I'm asking you to do as a Committee is put something into effect as far as the old wording went, and make it known so that they can't get away with it any longer.

As far as contempt goes, I don't believe in it because too many cases with nine, six and nine contempt charges against them, and they're still floating around. Nobody's getting penalized for it.

REP. MINTZ: Thank you. Any questions? Thank you.
David Skolnick.

DAVID SKOLNICK: Mr. Chairman, members of the Committee I am here in support HB7128 which is the statute of limitations applicable to wrongful death actions. And I speak in favor of the bill, because the bill in its language changes the beginning or running of the statute from the time of the injury or wrongful act or omission was committed to the actual occurrence of the death. And the reason I speak in favor of this bill is that in my experience there are more and more individuals who having been diagnosed with cancer, are living more than three years from the situation where the diagnosis should have been made and hasn't been made because of the wrongful act or omission of the health care provider, and these individuals who are treated with chemotherapy and other modes of treatment which have come into vogue, which keep them alive longer if they would survive more than three years from the time they were, from the time that their illness should have been diagnosed, they are barred from bringing a wrongful death action, their estate is, from bringing a wrongful death action if they survive more than three years from the time of the actual omission complained of.

The language in the bill that would change the time when the statute starts to run to the time of death and provide two years from the bringing of such an action after death, would bring Connecticut into a line of cases, into a line of states, excuse me. 32 in number all of which start the running of the statute of limitations from the time that the death occurs. And those states include all our neighborly states, New York, Massachusetts, New

Hampshire, New Jersey, Rhode Island, Vermont, Maine and Pennsylvania, and they number 32 and I do believe that the Connecticut statute should join them in starting the running of the statute of limitations for wrongful death actions from the time that the death occurs.

I have no further comments.

REP. MINTZ: Thank you. Any questions? Thank you.
John Karvaras.

JOHN KARVARAS: Good evening, my name is John karvaras and I am the Director of Coop Center and I am also an attorney. I am here to speak today in favor of HB6189, AN ACT PROVIDING FOR FUNDS OF THE COOP SERVICE CENTER IN BRIDGEPORT. Coop Center has been serving people in the criminal justice and the under the supervision of the criminal justice system since 1972. We have provided a comprehensive and rounded program providing for the needs of people who are on pretrial and exoffender status.

What we are, what we see happening to us more and more, is people presenting themselves with needs that we cannot service, because their needs are of a illegal nature and they don't have other resources or avenues to go to, and we ask that you seriously consider HB6189.

REP. MINTZ: Thank you, any questions? Representative Arthur.

REP. ARTHUR: Is this an established program?

JOHN KARVARAS: Yes it is. We have been established since the, the legal services aspect of it is not established, but as far as providing services to the community, it has been established since 1972.

REP. ARTHUR: With this sum of money for the legal aide services part of it, is that a number of people you intend to have full time, working for your coop?

JOHN KARVARAS: The number of people we intend to have, currently we have a staff of eleven. The legal services aspect of it would be, would be, the figure you have would be for an attorney, a