

# THE PUTNAM COUNTY LEGISLATURE

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November 30, 2022



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Carl L. Albano	Dist. 5
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Joseph Castellano	Dist. 7
Amy E. Sayegh	Dist. 8
Neal L. Sullivan	Dist. 9

Honorable Kathy Hochul  
New York State Governor  
Executive Chambers, State Capitol  
Albany, New York 12224-0341

RE: New York State Bills S74A / A6770 – Grieving Families Act

Dear Governor Hochul:

We, the undersigned members of the Putnam County Legislature, write to respectfully request that you veto S74A / A6770, known as the “Grieving Families Act,” which amends the Estates, Powers and Trusts Law (EPTL) in relation to payment and distribution of damages in wrongful death actions.

This proposed law is vague in many critical aspects and has the potential to adversely affect the availability and affordability of medical professional liability insurance. That will prompt even more doctors, nurses, and health care professionals to leave our state, exacerbating an already significant employment crisis.

As examples of vagueness, it is unclear just who is eligible to recover damages in wrongful death claims. The types of losses and damages for which plaintiffs may receive compensation is also unclear. The bills also lack important payout caps adopted by many of the nearly 40 other states with these types of laws.

The bills would extend the statute of limitations from two years to three years and six months, likely increasing the volume of wrongful death lawsuits. This extension may also lead to injustices, with litigants unable to properly defend claims brought years after the alleged wrongful acts because documents and/or witnesses are no longer available.

If enacted, this law would needlessly result in severely increased costs for all New York civil defendants, public and private. It would amend the EPTL to allow for the recovery of emotional damages against someone found liable for causing a death. This will open the door to such non-economic damages as grief, sympathy, and “loss of love, society, protection, comfort, companionship, and consortium.”

Such damages may far exceed the amount of economic damage awards because intangible factors, such as subjective values, beliefs, emotional sensitivities, and differing perspectives of justice, often drive their assessments. Courts and juries often struggle to calculate fair and rational non-economic damage awards, and they can vary widely from case to case.

Authorizing new types of claims for families of a person killed as a result of negligence is unnecessary. Such families already have numerous and adequate legal avenues to recover financially for their loss.

Under current law, a family can recover not just for economic loss but for the decedent's pain and suffering. Civil judgements already, in a practical sense, factor-in the value of non-economic losses.

Critically, this law would have unintended consequences that damage medical care throughout the state. In addition to forcing health care professionals to leave New York, it will significantly increase the financial strain on hospitals and medical practices, which continue to deal with considerable pandemic-related struggles.

More than 30 hospitals in New York already receive extraordinary financial assistance from the state to sustain patient care services. Enactment of this law may well lead to closures of financially struggling hospitals, emergency rooms, and primary and urgent care facilities.

These consequences will most severely impact safety-net care providers in underserved communities, placing those with below average access to quality care at risk. The law would thus compromise the social equity the bills' proponents seek to achieve.

Our state's healthcare infrastructure simply cannot bear the burden that this law would impose. New York is already by far the costliest state in the nation for medical liability, with medical malpractice payouts of \$661,703,250 in 2019. In fact, New York's payouts exceeded medical malpractice payouts made in the entire Midwest region of the United States.

Again, we respectfully request that you veto S74A / A6770. A veto will offer the Legislature the opportunity to clarify the ambiguous elements in the bills and bring New York into alignment with other states that have applied necessary and reasonable restrictions to similar legislation.

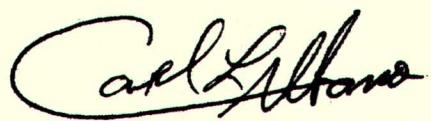
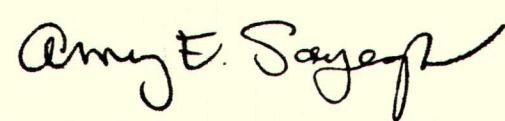
Sincerely,

Neal L. Sullivan  
Chairman  
Legislator, District #9

Toni Addonizio,  
Legislator, District #3

Ginny Nacerino  
Legislator, District #4

Carl L. Albano  
Legislator, District #5

Amy Sayegh  
Legislator, District #8