



S.4423 (Hoylman-Sigal)

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BILL S.4423 (Hoylman-Sigal)
SUBJECT Wrongful Death Recovery for Emotional Anguish
DATE February 21, 2025
OPPOSE

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The Business Council of New York State strongly opposes S.4423 (Hoylman-Sigal), which amends Estates, Powers and Trusts Law in relation to payment and distribution of damages in wrongful death actions.

On behalf of our more than 3,500 members, who employ over 1.2 million New Yorkers, we are deeply concerned with the trend in legislation being considered that greatly expands legal remedies for various case types. This bill is no different in that it greatly expands remedies for the family of a person who died as a result of negligence to obtain non-economic compensation for the loss. In this case, the bill allows recovery for a decedent's grief and anguish.

Families of a person killed as a result of negligence have several legal avenues to recover financially for their terrible loss. Here, an estate may also bring a survivorship cause of action for the decedent's pain and suffering before death, with the law allowing for the pain and suffering damages also to include a component for "pre-impact terror." This goes far beyond the current law that limits economic and monetary damages. There is simply no question that this bill would result in severely increased costs for all New York civil defendants, public and private, who would see costs needlessly increase.

Families of the deceased are certainly not without remedy in New York. Adding a new claim for these families is unnecessary since a family can already recover from the decedent's pain and judgments already, in a practical sense, consider non-economic loss.

Although the Legislature amended this most recent version of the bill, this proposal fails to address all the concerns laid out in previous veto memos and does absolutely nothing to address the fiscal costs to consumers, businesses, and the State of New York. The Legislature has not provided any fiscal analysis of this legislation and continues to falsely state in its sponsor's memo that it has no fiscal implications for state or local governments. Not only will this bill deeply impact New York businesses and consumers dealing with an affordability crisis in the State, but it will also dramatically impact our healthcare system (including public hospitals), government services, transportation systems, and schools. Ultimately, it will jeopardize every aspect of our state's economy.

New York consumers will feel the brunt of this. It is estimated that personal automobile liability and small business general liability insurance premiums will increase by 6% and 10.9%, respectively. Coupled with increased medical professional liability premiums, this will result in an additional \$2.7 billion in annual premiums paid by doctors, hospitals, consumers, and businesses.

New York ranks number two on the American Tort Reform Association's (ATRA) list of Top 10 Worst Judicial Hellholes. ATRA estimates that New York businesses spent \$88.6 Billion dealing with frivolous lawsuits. These lawsuits not only cost New York businesses, but they directly impact New York consumers in the form of higher costs of goods and services (groceries, insurance premiums, etc). A recent study published by the US Chamber of Commerce showed that in 2022, the average tort costs per household in New York was \$7,027, in stark contrast to the national average of \$4,200. This bill will only skyrocket the already steep hidden tort costs New Yorkers pay annually.

The Business Council remains deeply concerned with this and many other expansions in tort law being considered by the Legislature and its impact to affordability for New York businesses and consumers. For these reasons, The Business Council strongly opposes S.4423 (Hoylman-Sigal).