

# NEWS RELEASE

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## **SENIOR, CONSUMER, DISABILITY, AND CIVIC ORGANIZATIONS URGE PASSAGE OF GRIEVING FAMILIES ACT**

### **GROUPS URGE MODERNIZATION OF NY'S *PRE-CIVIL WAR* WRONGFUL DEATH STATUTE**

(Albany, N.Y.) Advocates for seniors and individuals with disabilities, along with civic and consumer organizations today called on state lawmakers to pass the "Grieving Families Act," which would reform and update New York's wrongful death law, enacted in 1847.

The wrongful death law allows loved ones to seek damages from the responsible parties for the untimely, wrongfully-caused death of a close family member.

In a letter to state legislators, the groups wrote "Each year New Yorkers are killed by drunk drivers, medical negligence, defective products, dangerous roadway conditions, and countless other acts and omissions. *New York's antiquated wrongful death law fails to value the suffering and grief felt by survivors, nor recognize the loss of companionship, comfort and guidance provided by that wrongfully killed person.* This denies survivors a full measure of justice, devaluing the lives of children, seniors, and other loved ones who would not produce substantial income. As a result wrongdoers are not held fully accountable for the lives they have taken. The law also bars from the courthouse close *non-traditional family* members who suffer when a loved one's life is wrongfully taken."

New York's wrongful death law was adopted in 1847 – 174 years ago, 14 years before Abraham Lincoln was sworn in as president. While at least 41 other states have modernized their laws, New York's wrongful death law is frozen in the Antebellum: A death caused by a reckless or negligent act still is valued by the "pecuniary" loss, *i.e.*, financial loss to the survivors, not the loss of affection and emotional support that has been prematurely taken from them. The law was designed to compensate nuclear family members for the loss of a male breadwinner's income.

*The Grieving Families Act (S.74-A/A.6770)* recognizes that losing a loved one is more than missing their paychecks; that traditional family structures have changed since 1847; and that New York law inflicts great injustices when the life of a child, senior, woman, or person of color or individual with a disability is wrongfully taken and the hands of judges and juries are tied by an antiquated law.

The organizations urged that lawmakers "use the remaining time in the scheduled 2021 legislative session to correct a serious injustice...It's past time to fix New York's pre-Civil War wrongful death statute."

June 8, 2021

**AN OPEN LETTER TO THE NEW YORK STATE SENATE AND ASSEMBLY  
PASS THE GRIEVING FAMILIES ACT, S.74-A/A.6770**

Dear Senators and Assemblymembers:

Our organizations write to urge you to use the remaining time in the scheduled 2021 legislative session to correct a serious injustice that results in the devaluation of the lives of persons of color, women, children, seniors and persons with disabilities whose lives are wrongfully taken. It's past time to fix New York's pre-Civil War wrongful death statute.

You should not leave Albany without passing The Grieving Families Act [S.74-A (Hoylman)/A.6770 (Weinstein)], legislation that would modernize the state's wrongful death law - - as at least 41 other states have done -- to allow surviving loved ones to seek damages for their emotional and relational losses in addition to purely economic damages.

Each year New Yorkers are killed by drunk drivers, medical negligence, defective products, dangerous roadway conditions, and countless other acts and omissions. New York's antiquated wrongful death law fails to value the suffering and grief felt by survivors, nor recognize the loss of companionship, comfort and guidance provided by that wrongfully killed person. This denies survivors a full measure of justice, devaluing the lives of children, seniors, and other loved ones who would not produce substantial income. As a result wrongdoers are not held fully accountable for the lives they have taken. The law also bars from the courthouse close non-traditional family members who suffer when a loved one's life is wrongfully taken.

New York's wrongful death law was adopted in 1847 – 174 years ago, 14 years before Abraham Lincoln was sworn in as president. While some 41 other states have modernized their laws, New York's wrongful death law is frozen in the Antebellum: A death caused by a reckless or negligent act still is valued by the “pecuniary” loss, i.e., financial loss to the survivors, not the loss of affection and emotional support that has been prematurely taken from them.

The mid-19th century law perpetuates the values, biases, and injustices prevalent in the pre-Civil War era. The law was designed to compensate nuclear family members for the loss of a male breadwinner's income. In failing to recognize emotional and relational losses, today's New York's wrongful death law continues to devalue those who are past their prime earning years (seniors); had not reached the job market (children); are not prime breadwinners; or are underpaid due to baked-in biases in the American workplace.

The unmistakable message the law sends is that some lives are virtually without value in our justice system. New York must correct this injustice and fix its anachronistic wrongful death law.

The Grieving Families Act recognizes that losing a loved one is more than missing their paychecks; that traditional family structures have changed since 1847; and that New York law

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inflicts great injustices when the life of a child, senior, woman, or person of color or individual with a disability is wrongfully taken and the hands of judges and juries are tied by an antiquated law.

Introduced by Senator Hoylman (S.74-A) and Assemblymember Weinstein (A.6770), The Grieving Families Act would provide long overdue updates to New York's wrongful death law:

- Allow recovery by loved ones for "loss of love, society, protection, comfort, companionship, and consortium," the hallmarks of deep relationships.
- Include among damages survivors may claim "loss of nurture, guidance, counsel, advice, training, and education" that result from the loss of a loved one.
- Move beyond the constrained definition of "family" to allow recovery for a deceased's grandparents, siblings, domestic partners, and others close to the person whose life was wrongfully taken.

While New York was among the first to "modernize" its law by creating a wrongful death statute in the mid-19th century, nearly every other state has since updated their laws to more fully recognize the impact of the loss of a life wrongfully taken. At least 41 other states, including Arkansas, Florida, and Michigan, whether by legislative or judicial action, allow survivors to recover the damages for their emotional losses.

At a time of reckoning with injustices and discrimination deeply embedded in our laws, as legislators you have an historic opportunity to fix New York's pre-Civil War wrongful death statute and offer a path to justice for grieving loved ones by recognizing the full measure of lives wrongfully taken, regardless of their lost earning potential.

We urge you to pass The Grieving Families Act before you conclude the scheduled legislative session in early June.

Signed,

Bronx Independent Living Services  
Brooklyn Center for the Independence of  
the Disabled  
CARS (Consumers for Auto Safety &  
Reliability)  
Center for Justice and Democracy  
Center for the Independence of the  
Disabled New York (CIDNY)  
Church Women United in New York State  
Citizen Action of New York  
Community Service Society  
The CUNY Coalition of Students with  
Disabilities

Empire State Consumer Project  
The Feal Good Foundation  
Grey Panthers NYC  
Last Stop Project of Rochester  
Long Term Care Community Coalition  
NY Environmental Law and Justice Project  
NY Public Interest Research Group  
(NYPIRG)  
Peggy Lillis Foundation  
Statewide Senior Action Council  
Tenants Political Action Committee