



The Commonwealth of Massachusetts  
House of Representatives  
State House, Boston 02133-1054

CARMINE L. GENTILE  
STATE REPRESENTATIVE  
13TH MIDDLESEX DISTRICT  
SUDBURY • CONCORD • WAYLAND  
MARLBOROUGH • LINCOLN  
STATE HOUSE, ROOM 167  
TEL. (617) 722-2810  
Carmine.Gentile@MAhouse.gov

Vice Chair  
Joint Committee on Higher Education  
Committees:  
Environment and Natural Resources  
State Administration  
and Regulatory Oversight  
Elder Affairs

June 27, 2023

Senator James B. Eldridge  
Senate Chair, Joint Committee on the Judiciary  
State House, Room 511-C  
Boston, MA 02133

Representative Michael Day  
House Chair, Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

Dear Chairs Day and Eldridge,

I write to urge favorable action on H.1524/S.1064, *an Act to eliminate the charitable immunity cap*. This legislation would bring Massachusetts in line with the 49 other states in terms of liability treatment of nonprofits which are currently granted substantial charitable immunity from tortfeasors. In the status quo, judgments are capped at \$20,000 dollars for most successful plaintiffs and \$100,000 for medical malpractice cases. This prevents innocent, injured plaintiffs from fully recovering damages against the tortfeasors and leaves victims no option but to become wards of the state in order to bear the costs of necessary care.

I filed this legislation in response to a long-standing need to do away with or adjust the Charitable Immunity Cap which can be traced to the 1969 *Colby v. Carney Hospital* decision which observed that our current statute is “not only monetarily outdated, but also fails to recognize the evolving role of traditional charitable institutions”. Courts have also noted that insurance is available to guard against a possible dissipation of a charity’s assets. Any prudent charity would and does provide insurance protection, therefore justifying the abrogation of this statute.

The only responses so far to this decision have been a move by the Legislature in 1971 to abrogate the immunity as a complete defense to the extent of the inadequate \$20,000 cap and in 2012 an amendment to the statute raising the damages cap in medical malpractice claims to \$100,000. Eliminating the Charitable Immunity Cap and bringing the Commonwealth in line with the rest of the country is a cogent step in protecting the rights of injured plaintiffs and protecting Massachusetts taxpayers from unnecessary MassHealth expenses.

Thank you for your consideration of this written testimony and my request that the committee favorable report *an Act to eliminate the charitable immunity cap*. I look forward to the opportunity to discuss this matter with you further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Carmine L. Gentile". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping underline.

Carmine L. Gentile  
State Representative  
13<sup>th</sup> Middlesex District