

# BOND

## LITIGATION INFORMATION MEMO

FEBRUARY 16, 2023

### Governor Hochul Vetoes Changes to Wrongful Death Law

On Jan. 31, 2023, New York Gov. Kathy Hochul vetoed a bill designed to dramatically overhaul the state's wrongful death statute by permitting the family members of wrongful death victims to recover for emotional distress.

Under the current law, economic recovery for wrongful death claims is primarily limited to the lost earning potential of the deceased individual. The Grieving Families Act (Senate Bill S74A) would have changed this by allowing the additional recovery of emotional and non-economic damages. Specifically, the bill would have allowed monetary damages for "grief or anguish caused by the decedent's death, and for any disorder caused by such grief or anguish"; "loss of love, society, protection, comfort, companionship, and consortium resulting from the decedent's death"; and "loss of nurture, guidance, counsel, advice, training, and education resulting from the decedent's death." Historically, the estates of wrongful death victims have been strictly forbidden from recovering these types of damages, and the proposed bill would have drastically increased the potential value of wrongful death lawsuits.

Other notable changes in the bill included an extension on the limitations period within which a deceased individual's estate could seek to recover for wrongful death and an expansion of the class of persons able to recover on a wrongful death claim. The bill would have extended the statute of limitations from the current two-year limitations period to three and a half years. The legislation also would have permitted all "close family members" to recover on a wrongful death claim. The proposed legislation left it up to the finder of fact to determine who qualified as a close family member. Under the current law, only specified persons are permitted to recover on a claim.

In an op-ed explaining her veto, Gov. Hochul lauded the goals of the Grieving Families Act, but expressed concerns over potential unintended economic consequences. The Governor specifically noted that the bill, as proposed, could have driven up health insurance premiums and added significant costs to many sectors of the economy, noting hospitals in particular. As a proposed compromise, Gov. Hochul suggested implementing a version of the bill that exempted medical malpractice claims.

Given the broad bipartisan support for the bill, the legislature is expected to bring another version to Gov. Hochul's desk in 2023.

If you have any questions, please contact [Jackson Somes](#), any attorney in Bond's [litigation practice](#) or the attorney at the firm with whom you are regularly in contact.

