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House Judiciary Committee
Annapolis, MD 21401-1991

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Position: SUPPORT House Bill 594

Dear Chairman and Committee Members:

I am a resident of District 33, a trial lawyer, cyclist, and walker. I support House Bill 594 for a variety of reasons. As a trial lawyer for over 30 years, who has litigated and tried cases involving pedestrians and cyclists, I have considerable experience with how juries and lawyers view crash cases between autos and Vulnerable Road Users ("VRUs").

Jurors' perspectives: Many jurors either don't cycle or won't do so near autos. As a result, they may unfairly attribute ***some fault*** to a cyclist simply for doing so. In a contributory negligence state like Maryland, this can defeat a worthy crash victim's Plaintiff's case. Likewise, in a pedestrian v. vehicle case in which the status of a walk signal at a cross-walk is at issue, (for example, was it still on "walk" or did it just turn to "don't walk") could defeat a case.

Attorney's perspective: Under current Maryland law, if a Plaintiff is found 1% contributorily negligent by a jury,[1] the Plaintiff loses. Plaintiffs are often deposed (questioned under oath by opposing counsel with a court reporter transcribing the session) for hours. It is a stressful, exhausting process. It is too easy for a Plaintiff to make factual mistakes in such a fraught setting. It is also easy for a talented and experienced defense attorney to take some minor point and turn it into that 1% that will kill a worthy Plaintiff's case. This unfairly affects case selection and settlements. This deep unfairness is why only 4 of our 50 states (Maryland, Virginia, North Carolina, and Alabama) still have contributory negligence (D.C. does too, but not for VRUs).

HB 594 remedies contributory negligence's harshness by having the factfinder (judge or jury) compare the fault of the VRU/Plaintiff with that of the Defendant(s)—and allowing the Plaintiff to recover if his/her percentage of fault is less than each Defendant's combined percentage of fault—creating a much fairer system. The fact that under HB 594 the Plaintiff's *damages*[2] would be reduced by the percentage of his/her negligence, makes this system eminently fair to the plaintiff ***and*** defendant. It would also keep cases that ***should*** be settled from going to trial because a finding of a small amount of negligence would reduce the value of the case rather than destroying it. This would allow more VRUs to get justice for their injuries, which are often

[1] Or judge, if it is a bench trial.

[2] Economic and non-economic harms and losses (e.g., lost wages, diminution in income, medical bills, pain and suffering or in the event that the victim dies, survivor and wrongful death damages).

fractures or worse, rather than having their cases rejected by good attorneys or settled for too little because of the threat of contributory negligence. It would also help reduce the burden on the Courts.

Respectfully submitted,

Eric N. Stravitz