CCADV
Connecticut Coalition Against Domestic Violence

90 Pitkin Street
East Hartford, CT 06108

(860) 282-7899
(860) 282-7892 Fax
(800) 281-1481 (CT only)

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The Center for Women & Families
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Domestic Violence Programs
Dayville, CT

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Enfield, CT

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Torrington, CT

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To: Members of the Judiciary Committee

From: Pamela Heller, Policy Intern, CCADV

Date: March 3, 2006

Re: Raised Bill No. 5536 – AN ACT CONCERNING THE BURDEN OF PROOF IN CUSTODY PROCEEDINGS REGARDING THE RELOCATION OF A PARENT WITH A MINOR CHILD.

Good afternoon, Senator McDonald, Representative Lawlor, and distinguished members of the Judiciary Committee. My name is Pamela Heller and I am a student at UConn School of Law and UConn School of Social Work, interning at Connecticut Coalition Against Domestic Violence. I am writing today in opposition to Raised Bill No. 5536: AN ACT CONCERNING THE BURDEN OF PROOF IN CUSTODY PROCEEDINGS REGARDING THE RELOCATION OF A PARENT WITH A MINOR CHILD.

This bill would overrule the decision of the Connecticut Supreme Court in Ireland v. Ireland (246 Conn. 413, 717 A.2d 676, Conn. 1998). In that decision, the Court established an extremely fair and judicious burden shifting scheme that required that the relocating custodial parent first show that the relocation is for a legitimate

purpose, and that the location is related to that purpose. Once this prima facie case is made, the non-custodial parent must then prove that it is not in the best interests of the child to relocate with the custodial parent. However, the proposed bill HR 5536 would unduly burden the relocating parent to prove that it is in the best interests of the child to move.

As Justice Katz pointed out in her 1998 decision, the trend across the country has been toward allowing greater leeway for the custodial parent to move. This proposed change to child custody law would be a step backwards for Connecticut. Custodial parents will now be forced to choose between starting a new life and an expensive legal battle that may or may not result in permission to move. When non-custodial parents wish to move, nothing prevents them from doing so.

For many divorced parents, this new proposal will not be relevant. When one parent wants to move, the other agrees and they come up with new terms of visitation and creative ways of maintaining the parent-child relationship with the non-custodial parent. This is an era of cheap and quick air travel, as well as multi-media communications. However, for survivors of domestic violence and their children, this legal burden will be yet another barrier preventing a fresh start.

Perpetrators of family violence crimes are more likely than other parents to fight the relocation of their spouses. Child custody litigation is widely recognized as a tool of further power and control to be

utilized by abusers. With the entire legal burden shifted to the custodial parent, as it would be under this proposed legislation, a battering spouse need only refuse to agree to the relocation in order to cause the victim tremendous expense and headache. This legislation is a boon to batterers who use child custody litigation to break down the resolve of victims who have chosen to leave the abuse.

Survivors of domestic violence face many barriers in starting a new life. The abuse kept them isolated from social networks and often unemployed. They may be judged in their community for having been a victim of domestic violence. The opportunity to seek employment, move to an area with family and friends, and to start over without anyone knowing their history can revitalize survivors. Being forced to choose an expensive battle or a new life, as this legislation would essentially ask, is not fair to victims of domestic violence.

As Justice Katz points out in her opinion, if custodial parents are foregoing opportunities to better their lives, it will not be good for their mental state. Parents may get depressed and discouraged and these states do not make for good parenting practices. This concern is especially significant with victims of domestic violence who will be recovering from the trauma of the violence and abuse and therefore more vulnerable to mental health issues like depression.

Please do not unduly burden victims of domestic violence. Thank you.