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Testimony of Edith McClure, Member, Executive Committee,  
Family Law Section of the Connecticut Bar Association  
**House Bill 5258**  
**An Act Adopting Certain Recommendations of**  
**the Governor's Commission on Judicial Reform**  
Judiciary Committee  
January 17, 2007

Senator McDonald, Representative Lawler and members of the Judiciary Committee, thank you for the opportunity to appear before the Committee to comment on House Bill 5258, An Act Adopting Certain Recommendations of the Governor's Commission on Judicial Reform.

My name is Edith McClure. I am a member of the Executive Committee of the Family Law Section of the Connecticut Bar Association and a Fellow in the American Academy of Matrimonial Lawyers. My practice, for over 25 years, has been concentrated in the area of family law. The Connecticut Bar Association Family Law Section, which consists of over 700 members, has a great interest in bills affecting Family Law procedures and issues concerning dissolution of marriage. On behalf of this Section, I respectfully request that the Judiciary Committee **amend** House Bill 5258 by **deleting Section 7** of the bill for the following reasons.

Section 7 provides that "except as otherwise provided by law" the Court shall not order files, affidavits, documents or other materials filed in connection with a Court proceeding be sealed or their disclosure limited. The Family Law Section is concerned that sensitive documents filed with the Court in divorce actions which are currently protected by Rules of Court, namely Financial Affidavits, psychological and psychiatric reports and Family Services Division reports, would be completely open and accessible to public scrutiny should the bill pass in its present form.

Under the Rules of Court (also known as the Practice Book) Section 25-59A(h) Financial Affidavits filed with the Court are automatically sealed with the provision that any person may file a

motion to unseal the file and the person who filed the document has the burden of proving that the Affidavit should remain sealed. The automatic sealing terminates if there is a hearing concerning financial matters. This procedure has worked effectively and encourages settlement of cases. If section 7 of Bill 5258 is passed it would create a conflict between the statutes and the Rules of Court. It is also important to note that the Governor's Commission on Judicial Reform ("Commission") **did not recommend legislative action** regarding the sealing of Financial Affidavits but rather recommended that the Practice Book section be repealed by the judiciary. (See Recommendation #8 of the Governor's Commission on Judicial Reform.)

In regard to Family Division Evaluation and Studies, Practice Book Section 25-60 provides that an evaluation or study is to be filed with the clerk who will "impound" the report making it available for inspection only by counsel of record and the parties. The Commission's Family Court Subcommittee found that "this rule is designed to protect the privacy of the family...the rule protects the litigants rights to medical privacy" and, therefore, did not recommend any changes to the practice. (See recommendations of Family Court Subcommittee dated September 8, 2006.) If passed, Section 7 would conflict with Practice Book Section 25-60 and potentially require that such documents be filed without the protection afforded by current court rules. Such a result, in fact, would be **contrary** to the Commission's recommendation that Connecticut General Statutes Sections 46b-10 and 46b-49 be amended to track the language of Practice Book Section 25-60. (See Recommendations #9 and #10 of the Governor's Commission on Judicial Reform.) In light of the Commission's concern over the protection of the litigant's rights to medical privacy, the Family Law Section would recommend the sealing of psychological and psychiatric reports in family matters.

Thank you for allowing me the opportunity to comment on House Bill 5258. For all of the foregoing reasons, the CBA Family Law Section respectfully requests that the Judiciary Committee **amend** this bill by **deleting Section 7** before taking further action on the bill.

I would be happy to answer any questions you may have.