TESTIMONY OF DOUGLAS J. MONAGHAN, ESQ.
IN SUPPORT OF RAISED H.B. NO. 7238
AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION
AND THE CHIEF CHILD PROTECTION ATTORNEY

I am a solo practitioner with an office in Groton, Connecticut, in the practice of law for 26 years. I concentrate my practice in juvenile matters, primarily child protection cases. I serve as the secretary of the board of directors of the Juvenile Matters Trial Lawyers Association (JMTLA), with members who practice in every Superior Court for Juvenile Matters (SCJM) across the state. I am also a member of the Connecticut Bar Association, a member of its Committee on Children and the Law and a member of the New London County Bar Association.

I am here to urge the passage of Raised H. B. 7238, chiefly with respect to the increase in the hourly rate of compensation of contract lawyers to $60 per hour. I have also testified recently before the Select Committee on Children in support of Raised S.B. 1203, which is very similar to 7238.

Based upon data compiled by the Chief Child Protection Attorney (CCPA), contract lawyers who labor in the Superior Court for Juvenile Matters currently average approximately $25 per hour. This is simply an unacceptably low rate of compensation, which "threaten[s] the adversarial process by creating an unacceptable tension between adherence to professional standards and the financial burden an attorney assumes when serving on an 18-B panel." New York County Lawyers' Assn v. State of New York, 294 A.D.2d 69 at ___, 742 N.Y.S.2d 16 (N.Y. App.Div. 2003).

The compensation scheme for juvenile court lawyers has for years operated as a substantial disincentive to perform the professional tasks required by filing an appearance in a case. I have attached to this testimony an exhibit which is the first page of the Judicial Department's fee schedule effective 10/01/86. You don't need to be an economist to see that contract lawyers in SCJM are paid less now than they were more than 20 years ago.

You cannot get a craftsman or tradesperson to work on your television, your car or your washing machine for less than $50 - $75 per hour. What is the hourly rate you pay your computer geek to come fix your computer? And yet what you currently pay lawyers who need to be schooled in the law, in psychology, child development, in educational issues, in substance abuse and its treatment, and a plethora of other issues, is a mere $25 per hour.

DCF is represented in court by lawyers called Assistant Attorneys General. The salaries and benefits of these lawyers come from the budget of the Attorney General, not DCF. Entry level salaries begin at $59,793 per year and include vacations, health care insurance and so forth. Their overhead is paid by the state. If I'm reading DCF and DAS information correctly, even DCF Social

Workers start at $55,237 per year.

In her written testimony, the CCPA noted that the lowest rates of private attorneys are between $175 to $225 per hour. Does anyone recall that lawyers representing John Rowland and others during the fun last days of his administration were charging $500 to $600 per hour? In fact, columnist Michele Jacklin reported in a commentary in The Hartford Courant in July 2004 that the chief impeachment counsel's firm billed the state $1,365 per hour! The CCPA is asking that you increase the hourly rate from $25 per hour to $60 per hour. I needed to repeat those figures because it is frankly an almost shocking level of compensation. Frankly, $90 per hour would be a more reasonable, although clearly discounted, hourly rate.

There is no court in this state that day in and day out has a more profound and immediate and lasting effect on families in our community than the Superior Court for Juvenile Matters. The system of justice requires that parents have an equal voice before the court so that judges can make the best decisions based upon complete and accurate information. DCF is not always right, and parents and children who are represented by zealous and fully prepared lawyers have the best chance of leveling the playing field. As much as DCF is charged with protecting the best interests of children, there are times when its own institutional bias, and stupidity, must be challenged by the child through the child's own attorney.

As detailed in information provided to you by the CCPA, studies have shown that improved legal representation and manageable caseloads have decreased the number of children removed from their homes, have decreased the length of a child's stay in foster care and as a result, have decreased not only the amount of money spent on foster care, but, more importantly, reduces the trauma to the children involved in these matters. My understanding is DCF's budget of $900 million dollars has been approved to receive an additional $75.2 million dollars. There should be consideration given to shifting just a few of the millions of dollars allocated to DCF to the CCPA to allow her to improve the legal representation for these children and their families.

Very Respectfully,

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REMEMBER WHEN

9/30/86

GUIDELINES FOR COURT TIME BILLING: JUDICIAL DEPARTMENT FEE SCHEDULE EFFECTIVE 10/1/86

In implementing the new Judicial Department Fee Schedule for court appointed counsel in Juvenile Matters cases, the following guidelines for counsel billing will apply as of 10/1/86:

1. The new fee schedule changes the system for court time billing only, and will apply to all court appearances by counsel on and after October 1, 1986 - regardless of the date of counsel's appointment to the case.

2. The fee schedule for case preparation continues the same as in the past: $20.00 for the first three hours of preparation on a case and then $15.00 per hour thereafter until the case is completed. All case preparation must be itemized and other than for a detention hearing, no preparation done the day of a court hearing will be compensated. Preparation must be billed by the actual time spent - whether under the minute billing system or by the tenth of an hour. For counsel's assistance in billing preparation charges, a breakdown of the $20 and $15 hourly preparation charges by the minute (5 minute intervals) and the .1 of an hour is attached.

3. Under the new court time schedule, all court hearings will be billed under a descending hourly rate which has a maximum of $135.00 per day. All cases heard and completed within a given hour (or hours) are included within the hourly payment(s): payment for the same hour may not be applied to more than one case.

   The hourly rates include:

   $50 - for the first hour, or any portion thereof, for one or more cases

   25 - for the second hour, or any portion thereof, for one or more cases

   15 - for the third and each succeeding hour, or any portion thereof, for one or more cases, up to a maximum of $135 per day

BILLING STANDARDS

In billing court time appearances, the following standards