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Judiciary Committee

Alice Pritchard, Executive Director,

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*House Bill 6286, An Act Concerning Parenting Time and Parental Responsibility
With Respect to the Custody of a Minor Child*

February 26, 2007

Good afternoon. My name is Alice Pritchard and I am the Executive Director of the Connecticut Women's Education and Legal Fund. CWEALF is a statewide non-profit organization dedicated to empowering women, girls, and their families to achieve equal opportunities in their professional and personal lives.

I am here today to address House Bill No. 6286, *An Act Concerning Parental Responsibility With Respect to the Custody of a Minor Child*. CWEALF believes that it often is in the best interests of a child to have as many loving parents as possible and applaud when both parents play a responsible role in the child's upbringing. We are concerned that this bill would create a "non-presumptive presumption" that many, if not most, parents who are seeking substantially equal or greater parenting time and parental responsibility be awarded joint equal physical custody of their children. We believe, however, that joint equal physical custody most often would not be in the best interests of a child and would disregard a child's need for stability.

The practical problems of joint equal physical custody would be immeasurable in a considerable number of these cases. Children would constantly be moving and likely would be compelled to attend different schools and leave their friends for long periods of time. They would be unable to establish primary residency for purposes of school, sports and other programs based on town of residence and can have their eligibility for assistance programs based on their having a household of primary residence threatened. Further, requiring joint equal physical custody would ignore the fact that split custody arrangements tend to work only when the parents, notwithstanding the failure of their marriage, are committed to working cooperatively with each other on a long-term basis and to maintaining residences near each other.

CWEALF has insight into family matters, and in particular, custody cases. CWEALF's Information and Referral Service receives approximately 25 calls a month from families regarding custody situations. Over 50% of these callers report that domestic violence is a factor when it comes to finalizing custody. However, many of the people have not reported the abuse and prefer to remain silent about this issue. A requirement of joint equal physical custody puts the victim in a precarious position because often the abuser can use a custody decision as a means to continue the abuse. Further, our experience shows that in some situations, parents try to make custody arrangements such as joint equal physical custody to avoid the payment of child support to the other parent.

Currently, courts may order that the custody of any child be granted to the parents jointly, to either parent, or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. Even though in many of these cases parents receive joint legal custody of a child or children, this does not indicate an order for joint equal physical custody unless such a plan is explicitly ordered.

This “non-presumptive presumption” would tend to elevate the claims of the parents over the best interests of the child and treat the child as divisible parental property. It also would diminish the ability of judges to come to the best decision in light of the individual facts of each specific custody case and in the best interests of the child, and would result in inappropriate decisions contrary to the best interests of the child. The subsequent litigation that would result from this would bog down the existing Family Court calendars considerably. House Bill 6286 would substitute an untried system for one which now works well and will be almost certainly opposed by the attorneys and judges who are most familiar with the dissolution of marriage process.

We believe that custody decisions should be made, as they are now, on a case-by-case basis taking into account the specific facts of the case. The current system is set up to allow a judge to order joint equal physical custody if he or she believes it is in the best interests of a child and makes available such alternatives as mediation to help parties come to joint decisions on custody matters. The family courts’ Family Services Departments assist the courts in these decisions with their assessments and subsequent recommendations of what situation would be in the best interest of the child. Given these resources, we believe this bill is unnecessary and will in fact cause more problems in family law cases than it solves.

It is for these reasons that we strongly urge you to reject H.B. No. 6286.