

Greater Hartford Legal Aid, Inc.

MEMORANDUM

TO: Judiciary Committee

FROM: Attorney Shirley M. Pripstein

On Behalf of Legal Services

RE: HB 6286
AAC Parenting Time and Parental Responsibility with Respect to the
Custody of a Minor Child.

Recommended Committee Action: REJECT THE BILL

This bill would amend C.G.S. §46b-56a by adding a provision that “there shall be no presumption that ... substantially disproportionate parenting time” is in the best interest of a minor child. This bill should be rejected as superfluous and in contradiction with the comprehensive amendment to C.G.S. 46b-56 regarding child custody passed in 2005.

A legal presumption is a rule of law that requires a particular finding unless evidence is introduced sufficient to support a contrary finding. In Connecticut, we have never had presumptions either in our statutes or our case law regarding the best interest of the child and the apportionment of parenting time in child custody cases. The only possible purpose of a law stating that “there shall be no presumption” when there isn’t any is to create the opposite presumption: a presumption of equal parenting time. This is an approach that this committee specifically rejected in 2005 and should reject again. It is bad law.

In 2005, following the recommendations of the Governor's Commission on Divorce, Custody, and Children, PA 05-258 amended C.G.S. §45b-56 by setting forth sixteen factors for the court to consider when making orders of child custody and apportioning time between parents.

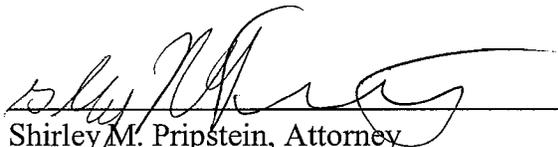
Among those factors were the following:

“ (6) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (8) the ability of each parent to be actively involved in the life of the child; (9) the child's adjustment to his or her home, school and community environments; (10) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment,; (11) the stability of the child's existing or proposed residences, or both; ...”

These factors appropriately recognize and attempt to balance the need of a child for stability against the need of a child for contact with both parents, and recognize that there other factors that the court should consider in deciding what orders to make regarding child custody when the parents are unable to agree. This bill is a thinly disguised and ill-advised attempt to elevate parental time considerations above the other factors set for in P.A. 05-258.

Ignoring the factors generally considered important to determining what is in a child's best interest and placing the emphasis the child's time with each parent takes us back to the 18th century when children were treated as chattel. It is an approach that should be rejected.

By


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