



Commission on Child Protection
State of Connecticut

JUDICIARY COMMITTEE
Public Hearing: March 10, 2008

RE: RB No. 605
Sec. 1: Oppose
Sec. 2 – 4: Support

Testimony of Carolyn Signorelli
Chief Child Protection Attorney

Senator McDonald, Representative Lawlor and esteemed Committee Members, I respectfully submit the following testimony in opposition to Section 1 of Raised Bill No. 605 proposing amendments to the procedures for adopting Judicial Branch Court Rules. I also offer testimony in support of Sections 2 through 4 regarding the Judicial Selection Commission and appointment process. I offer no position on the remainder of the Bill.

As you know, the Commission on Child Protection is responsible to provide and improve the system of legal representation for children and families in child protection matters in our juvenile courts. I consider it the Commission's primary duty to protect the rights of the clients our system serves: children and parents subject to petitions of neglect, abuse, termination of parental rights, and Family with Service Needs Petitions, as well as alleged juvenile delinquents in need of guardian ad litem services. The individuals my office serves are primarily under-represented and poor citizens. Their existence is costly to the general public, their ability to advocate for their needs is limited and budgetary constraints render the support necessary to protect their rights inadequate. These vulnerable citizens find themselves engaged in a legal battle with the Executive Branch of government over their most basic and essential rights. The

independence of the Judicial Branch and the judges who render decisions regarding their lives and their rights is critical to the equitable administration of justice where their legal representation is often less than skilled and zealous, the services they need are lacking, and the power of the Executive Branch seems overwhelming. Any usurpation of the balance achieved by our current system of co-equal branches of government that could interfere with the independence of the Judicial Branch threatens its ability to ensure that decisions are rendered consistent with existing laws and case law and in an efficient, fair and impartial manner.

This new procedure for Judicial rule making outlined in Section 1 of this bill not only constitutes a significant encroachment upon the doctrine of separation of powers upon which our democratic system of government is founded, it is extremely cumbersome, impractical and nebulous. It is a tremendous burden on the court system when all of the judges in the state need to meet. Planning months in advance is necessary to arrange the Judges Institute each year during which time the Judges vote on proposed rule changes and many court dockets are not held. Rule changes are thoroughly vetted by the Rules Committee in an open process pursuant to which the public and legislators can have their concerns communicated and considered.

Under sub-sections (c) and (d) found on page 3 lines 50 through 71, the Rule making process and convening of Judges will be dependent upon actions the Judiciary Committee may or may not take. The Judiciary Committee may forward its comments to the Chair of the Rules Committee the same day the Judges are meeting to vote on the proposed changes, giving them no time to adequately consider them and thereby requiring a second meeting. Convening all the judges in the state is no small feat and

extremely costly. The requirements outlined in sections (d) and (e) could force a third meeting of the Judges and unreasonably extends the time frames for finalizing amendments to the Rules. The steps described interferes with the Judicial Branch's ability to govern itself, adapt its rules to new laws and case law, as well as technological advances and potentially subjects it to micro-managing not only by the Legislature, but by just one committee of the Legislature. Obviously if there are serious concerns regarding a rule adopted by the Judicial Branch, our existing legislative procedures for creating laws can address those concerns. The Legislature's law making function, however, requires a public vetting of proposed laws and the majority of the General Assembly to agree that a change needs to be enacted. This existing check on the Judicial Branch's rule making authority works well. The process proposed in this bill has none of those protections and does not clearly delineate an end to the process.

Because I believe so strongly in the wisdom behind the doctrine of separation of powers and the importance of guaranteeing that our three branches of government are co-equal and operate to check each other in a balanced manner, I see this proposed procedure as an unnecessary interference with that delicate balance.

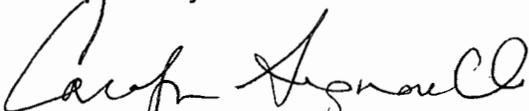
One of the means to achieve an appropriate check on the Judicial Branch is the current method whereby the Legislature ratifies the Governor's judicial appointments and re-appointments. In this way, citizens and Legislators have the ability to ensure that the individuals who are carrying out the profound responsibility that the Judicial Branch has within our form of government do so in a manner that is consistent with our laws and with procedural and ethical rules. That is why I support Sections 2 through 4

of Raised Bill 605 which render the practice for selecting Judges more open and which subject senior judges or state referees to the scrutiny of the re-appointment process.

While I recognize that during a first time appointment it is difficult to discern who will actually make a good judge, the reappointment process is crucial to holding the Judicial Branch accountable to its constituents. This review should be thorough and hold all Judges, including referees, to the highest standards of skill and decorum as set forth in the Judicial Code of Conduct. Because the potential jurists have the opportunity to testify before the Judiciary Committee and the entire Legislature must ultimately vote on appointment or reappointment, the process is fair. Only when we can assure our citizens that the judges hearing their cases possess those qualities necessary to conduct fair hearings and render sound legal decisions, can we claim that our system of justice is administered properly.

The Legislature's law making and ratification authority constitute sufficient checks on the Judicial Branch. Interference with that balance is unnecessary and dangerous. Therefore, I respectfully request that Raised Bill 605 be amended to remove Section 1, but proceed with Sections 2 through 4 as proposed.

Respectfully Submitted



Carolyn Signorelli