



STATE OF CONNECTICUT  
JUDICIAL BRANCH

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Testimony of the Honorable Barbara M. Quinn  
Chief Court Administrator  
Judiciary Committee Public Hearing  
March 30, 2011

**Senate Bill 1181, An Act Concerning Child Support Enforcement And Expedited  
Establishment Of Paternity And Support In Title IV-D Cases**

**Senate Bill 1221, An Act Concerning Paternity and Child Support Obligations**

**Senate Bill 1093, An Act Concerning the Continuation of Child Support Obligations after  
the Termination of Parental Rights due to Abuse or Neglect of the Child**

Thank you for the opportunity to testify, on behalf of the Judicial Branch, on three bills that concern child support. We support the bulk of **Senate Bill 1181, *An Act Concerning Child Support Enforcement and Expedited Establishment of Paternity and Support in Title IV-D Cases***, but are opposed to **Senate Bill 1221, *An Act Concerning Paternity and Child Support Obligations*** and **Senate Bill 1093, *An Act Concerning the Continuation of Child Support Obligations after the Termination of Parental Rights due to Abuse or Neglect of the Child***.

**Senate Bill 1181, *An Act Concerning Child Support Enforcement and Expedited Establishment of Paternity and Support in Title IV-D Cases***

The Judicial Branch largely supports **Senate Bill 1181, *An Act Concerning Child Support Enforcement and Expedited Establishment of Paternity and Support in Title IV-D Cases***. This bill, which was proposed by the Department of Social Services (DSS), would make several beneficial changes to our child support statutes.

As members of the Committee may be aware, in IV-D child support cases the Judicial Branch's Support Enforcement Services unit is responsible for monitoring child support awards for compliance with court orders and for initiating court-based enforcement actions such as

income withholdings and contempt applications when appropriate. These cases are heard by Family Support Magistrates.

I would like to draw your attention to sections 9, 10, 11, and 18, which are fully supported by the Judicial Branch. Sections 9 and 10 authorize electronic service of process of income withholding orders on employers, if the employer has agreed to accept electronic service. The Branch strongly supports this section because it will expedite delivery of the income withholding order to the employer, which, in turn, will expedite child support payments to the family. Electronic service will also be more cost-effective. Currently, most income withholding orders are served on employers by first class mail; if the employer fails to respond, the notice must be served by certified mail, incurring more costs and adding delay.

Section 11 authorizes the Commissioner of DSS to share information about noncustodial parents with the Department of Correction and the Judicial Branch. This proposal, which facilitates the implementation of a recommendation made by the Branch's Problem Solving in Family Matters Committee, would assist in identifying individuals who could benefit from services – such as educational, training, or rehabilitation programming – that are ultimately designed to increase their ability to pay child support.

The Judicial Branch also supports section 18, which provides our judicial marshals with the narrow authority to serve a *capias mittimus* on a child support obligor who is in the custody of the marshal or in the court facility where the judicial marshal is working. This section does not in any way diminish the jurisdiction of state marshals, who serve the majority of *capias* orders. Rather, it allows for the timely service of a *capias mittimus* if an obligor is in the presence of a judicial marshal; it also eliminates the possibility that a defendant could leave a courthouse before a state marshal or other proper officer could arrive to execute the *capias*.

I must note however, the Judicial Branch's opposition to sections 2 and 6. These two sections appear to be designed to equalize treatment between married and unwed parents. However, the proposal does not acknowledge that our law recognizes that married and unwed parents are not similarly situated. This is true even within the realm of child support. In fact, the Child Support Guidelines instruct that certain grounds for deviation occur only for couples who have been married, due to responsibilities and obligations incurred during the life of the marriage. In the litigious climate of family court, this proposal is likely to result in a surge in litigation on this issue.

In conclusion, I urge the Committee to act favorably on this proposal, with the exception of sections 2 and 6, which I ask to be stricken from the proposal.

## Senate Bill 1221, *An Act Concerning Paternity and Child Support Obligations*

The Judicial Branch is opposed to Senate Bill 1221, *An Act Concerning Paternity and Child Support Obligations*. This bill could limit the imposition of past-due child support if a court finds that the mother willfully prevented the father from learning of the birth or seeing the child. The bill poses a number of theoretical and practical concerns.

At the outset, it is important to note that child support belongs to a child, not the child's mother, and that a reduction of child support is likely to have a negative effect on the child. Furthermore, under current law there is a clear delineation between the issue of child support and the issue of access to the child. Simply put, child support is not tied to access. This bill would break down this barrier, to the detriment of the child. As you know, much of family law is child-centric; the "best interests of the child" standard is widely used. Taking the focus off of the child with respect to child support, and placing it on the conduct of the mother, does not ultimately serve the child's best interest.

From a practical standpoint, we also have a number of concerns with the bill as drafted. First off, the standard of proof put forward – willfulness – would be difficult for a court to interpret. The bill states that if a mother willfully prevents the father from learning of the birth, or seeing the child, the court may limit past-due support, but does not define willfulness. Is mere failure to contact the father willfulness? While the bill does provide an exception if the mother was protected by a protective or restraining order, we would respectfully submit that this exception is far too narrow. As drafted, it only pertains to mothers who have an order during the period of nondisclosure of parenthood; it excludes domestic violence victims who had an order prior to this period. It also excludes the many domestic violence victims who are afraid to pursue a restraining or protective order.

Lastly, we would note that this legislation, if passed, could lead to an onslaught of litigation by fathers with nothing to lose. Scarce judicial resources – namely, the time taken by judges or family support magistrates to hear these matters, as well as staff time needed to process these new cases – will be used inefficiently.

For the reasons stated above, I would respectfully request that the Committee take no action on this bill.

**Senate Bill 1093, *An Act Concerning the Continuation of Child Support Obligations after the Termination of Parental Rights due to Abuse or Neglect of the Child***

Thank you for the opportunity to testify, on behalf of the Judicial Branch, in opposition to **Senate Bill 1093, *An Act Concerning The Continuation of Child Support Obligations After the Termination of Parental Rights Due to Abuse or Neglect of the Child***. This bill would permit the continuation of child support after a parent's parental rights have been terminated, if the parent's rights were terminated on the grounds that the child was abused, neglected, or uncared for, and the court determines that continuation of child support is in the best interests of the child. The obligation would cease upon the adoption of the child.

The Judicial Branch opposes this bill based on both its uncertain constitutionality and its real-world, practical implications. In regards to its constitutionality, I would recommend that this be analyzed. As members of the Committee may be aware, the granting of a termination of parental rights petition severs the relationship between the parent and child in its entirety. All rights, responsibilities, and benefits of being a parent are extinguished. Continuing to require child support of an individual who is no longer a "parent" raises a constitutional red flag.

In terms of the practical implications of these sections, we believe it will have a chilling effect on adoption. Federal law encourages the timely adoption of children, so that the child can be placed in a permanent home as soon as possible. We believe that this bill would jeopardize this goal. The provisions of this bill will likely decrease the number of cases in which a parent consents to termination of parental rights because – for better or worse – the end of support payments is often an important factor in getting a parent to agree to termination. This will lead to longer court hearings, but more importantly, it will lead to a continuation of the child's precarious state for months, if not years. The process of the trial and the appellate process is avoided when a parent consents to the termination of rights.

We raise these concerns to demonstrate the unintended consequences that are likely to occur if this bill becomes law. We would respectfully request that the Committee not act favorably on this bill.

Thank you for your consideration.