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Testimony of Edith F. McClure
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House Bill 5509, An Act Concerning the Payment of Alimony and Child Support
Judiciary Committee
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Senator Coleman, Representative Fox and members of the Judiciary Committee, thank you for the opportunity to appear before the committee to comment in opposition to House Bill 5509, An Act Concerning the Payment of Alimony and Child Support.

I have been in practice now for over thirty years, primarily in the area of family law. House Bill 5509 seeks to significantly change statutory provisions and case law regarding the amount and duration of alimony and would significantly alter Section 46b-86 (the cohabitation statute). It would also alter Section 46b-84 (child support) to allow the payor of child support to set up a trust, the terms of which would be decided by the payor. This bill creates serious problems, the most significant of which are:

- The bill would impose limits on the court's ability to set both the amount and duration of alimony. It specifies that the duration of any award of alimony cannot exceed half the length of the marriage and provide for termination of periodic alimony upon the party paying alimony reaching full retirement age even though that party may still be working. The bill also provides that the length of the marriage is determined by the date of the filing of the Complaint. Case law, however, requires that the financial circumstances of a case be determined as of the date of the divorce.
- It would provide for modification of the duration of alimony ordered entered prior to the enactment of the act without requirement of a showing of a substantial change in circumstances. Such retroactive modifications would create constitutional issues and undermine all existing child support and alimony provisions. This would work a significant injustice for recipients of alimony whose judgment was arrived at by agreement. The result of this provision would be to create a flood of motions which would paralyze our family courts.
- The bill would further provide that the amount of alimony would be limited to thirty-five percent of the difference between the gross incomes of the parties. This provision would presumably override the statutory criteria of 46b-82 including the age, health, station, occupation amount and sources of income, vocational skills, employment and the needs of the parties including the desirability of employment by a custodial parent. This "one size fits all" model would restrict the Court's ability to consider the special circumstances in individual cases.

- It would exclude capital gains, dividend and interest income generated by previously divided assets and would eliminate consideration of income already considered in setting child support. Accepting cases in which the parties' joint income exceeds \$4,000 per week (the cap under our current Child Support Guidelines), no alimony orders could be entered.
- While the Bill provides for a deviation from the listed guidelines, I would note that a deviation is significantly different from the current provisions of 46b-82 which requires the court to consider a list of separate criteria in making awards of alimony.
- It would significantly change the "cohabitation statute," Connecticut General Statutes Section 46b-86. Such changes would negatively impact current law and would be in contradiction to the existing Rules of Evidence. For instance, there is a provision which would permit evidence of "the community reputation of the recipient of alimony." I would also create a rebuttable presumption of economic interdependence of cohabiting individual thereby shifting the burden of proof.
- The bill would add provisions to Section 46b-84 (child support) allowing a payor to set up a child support trust, the terms of which would be determined by the payor. Such a provision would apparently permit a child support payor to divert control of funds necessary for the current support of a child away from the custodial parent into the hands of a trustee.

In summary, House Bill 5509 would significantly change the court's ability to create financial orders that fit the needs of a specific family. It would eliminate the ability of a Judge to fashion a mosaic of financial orders that would be fair and equitable for the divorcing parties before the Court. The Family Law Section of the CBA supports our family court judges who under our existing statutory and case law daily create orders that work well for divorcing parties. The section believes there is no need for this bill.

Thank you for allowing me the opportunity to comment on House Bill 5509. The CBA Family Law Section respectfully urges that the Judiciary Committee take **no action** on this bill. I would be glad to answer any questions that you may have.