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TESTIMONY IN OPPOSITION TO HB 6685, AN ACT CONCERNING THE PRESUMPTION OF SHARED CUSTODY IN DISPUTES INVOLVING THE CARE AND CUSTODY OF MINOR CHILDREN.

The legal services programs in Connecticut (Connecticut Legal Services, Greater Hartford Legal Aid and New Haven Legal Assistance Association) oppose Raised Bill No. 6685 as it will have a number of negative consequences that the Judiciary Committee should consider.

HB 6685 eliminates the current laws which define “legal custody” and “physical custody” as separate concepts and replaces them with a definition of custody that combines legal and physical custody parenting rights and presumes that they will be equal for both parents. Impacts of this bill will be:

1. The best interests of Connecticut’s children will NOT be met by automatically sharing custody equally between litigating parents.

a. The proposed presumption of shared physical custody elevates a parent’s time with a child over the best interests of the child and assumes each parent is able, available and amiable to parenting his/her children for substantial to equal amounts of time. A presumption of shared custody will give substantially equal physical custody to incarcerated parents, drug or alcohol addicted parents, absent parents, and abusive or neglectful parents. Such a presumption is tantamount to splitting the baby in half, a la the biblical King Solomon, and is not a thoughtful, practical approach to a child’s physical, emotional and educational needs.

b. A presumption of shared custody will ultimately lead to **protracted litigation over custody** as a parent seeking orders inconsistent with the presumption will have to prove his/her case. The family courts are already burdened with litigants disputing custody and seeking Family Relations services and this will certainly add tremendously to the caseloads.

c. **Reduced child support payments for children.** Connecticut’s Child Support Guidelines provide a formula by which the amount of child support payable should be determined. The Guidelines allow the payor of child support to “deviate” from the Guidelines and reduce/eliminate the support payable if the parties have a “shared custody” arrangement. See Reg. Ct. St. Agencies Sec. 46b-215a-a, *et seq.* If custody is presumed “shared” in all cases, the number of parents seeking a deviation to avoid paying child support will increase multifold. While it is possible that an order of support could be made in a shared custody situation, it is more likely to be made where one party’s income is significantly higher than the other party.



2. **HB 6685's redefinition of custody does not comport with the Uniform Child Custody Jurisdiction Enforcement Act, CGS 46b-115, et seq.,** which treats legal custody as separate from physical custody. Connecticut's statute should not be inconsistent with the uniform act, which has been adopted by most other states, as enforcement of CT's orders in other states will become difficult.
3. **Presumption of shared physical custody will wreak havoc with school districts.** In CT, a child's home school is determined by his/her primary residence. If CT statutes presume that child custody is shared equally between parents, children will be negatively impacted as courts will have to decide which school district is the child's home district and the child may not be able to attend either school until there is a court order.
4. **Parent's eligibility for subsidized housing may be negatively impacted.** The US Department of Housing and Urban Development's (HUD) rules concerning eligibility for federal subsidized housing allows only one household in a shared custody arrangement to have the dependent deduction which reduces the income counted toward eligibility. See HUD Handbook 4350.3: OCCUPANCY REQUIREMENTS OF SUBSIDIZED MULTIFAMILY HOUSING PROGRAMS, REV-1, CHG-3, ¶ 5-6 A 3 c. Moreover, housing authorities and landlords are not required to allow a larger apartment to both families who share custody of the same children. Therefore, one party who has to share custody of their children may not be able to find affordable housing that is large enough to accommodate the entire family. *Id* at ¶ 3-23 E 6.
5. This legislature amended General Statutes 46b-56a concerning joint custody and parental responsibility plans in 2005. The statute has been working well and has allowed for fair, well-reasoned decisions concerning the custody, care, education and upbringing of children involved in custody disputes. **Raised Bill 6685 ignores and contradicts the 2005 amendments to CGS 46b-56a which set forth criteria to be used in determining the best interests of the child.** We, at legal services, have not heard of any empirical evidence in support of shared parenting plans being in the best interests of children. Since the current statute has been working well, we see no basis for amendment and ask that the Judiciary Committee take no further action on HB 6685.

Thank you for your time.

Submitted by
Connecticut Legal Services
Greater Hartford Legal Aid
New Haven Legal Assistance Association