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Testimony Opposing Raised Bill 6692
(An Act Concerning Participation In A Program of Community Service for Persons Seeking Fee Waivers In Certain Civil Actions)

Susan Nofi-Bendici, New Haven Legal Assistance Association, Inc.

Good afternoon Senator Coleman, Representative Fox and members of the Judiciary Committee. My name is Susan Nofi-Bendici and I am the Executive Director of New Haven Legal Assistance. We are a nonprofit law firm that provides legal services to low-income people.

For people living below 125% of the poverty level, a fee waiver can be the difference between having access to our state's courts or being shut out. It has been reported that this bill seeks to cut down on repeated frivolous lawsuits by a handful of people who abuse the system. This bill not only fails to address frivolous litigation by those who can afford to pay the filing fees, but would effectively deny access to the courts to thousands of low-income people.

Most people seeking waivers are people like our client Renee. She needs a divorce and child support from her spouse, who subjected Renee and their children to horrific physical abuse. She must work as many hours as her employer will give her because she is an hourly employee: if she doesn't work, she doesn't get paid. At minimum wage, even when she works full-time she is still well below the poverty guidelines and eligible for a fee waiver. She and her children simply could not afford for her to give up any of her meager income – not to mention arranging child care and paying for transportation to a volunteer site - to perform 20 hours of community service.

Another client of ours who received a fee waiver was Sharon. After her husband strangled her until she passed out, Sharon called the police who arrested her husband. A protective order issued, he was ordered to leave their apartment and the landlord started an eviction action against Sharon and their four children. Sharon got a fee waiver so she could file for divorce, custody and child support. She is not currently receiving any child support at all, which is why she is working two low-wage jobs. Renee and Sharon are typical examples of those who seek fee waivers.

In 1969, our former client Gladys Boddie could not get a divorce from her husband because she could not scrape together the money to pay the filing fee. She sued the State of Connecticut. The United States Supreme Court held that denying her access to a divorce, because of her poverty, was a denial of due process. The Court acknowledged the public interest in allocating scarce resources and preventing frivolous litigation, but held that access to the courts was paramount. As the Court observed,

“other alternatives exist to fees and cost requirements as a means for conserving the time of courts and protecting parties from frivolous litigation, such as penalties for false pleadings or affidavits, and actions for malicious prosecution or abuse of process, to mention only a few.”

Connecticut courts today have other alternatives to protect against frivolous litigation. See *Ramin v. Ramin*, 281 Conn. 324, 338-339, 915 A.2d 790, 799 (Conn. 2007)(court has discretion to refuse to decide motions, to prevent vexatious litigation); and *In re Fusari*, 2012 WL 1139197, 1 (Conn. Super. 2012) (requiring prior court screening of cases before granting fee waiver from repeated frivolous litigant).

In addition to the serious constitutional issues raised by this bill, it would place burdens on nonprofit organizations and the courts. Charitable organizations would need to devote scarce resources to monitoring and reporting community service hours. Deciding whether each of the thousands of people applying for fee waivers are able to perform community service, and whether they have complied with a community service order, would be more of a drain on the court's resources than contending with a vexing but small number of frivolous filers.

This bill is unnecessary. The court has the ability to directly address those who abuse the system without requiring all poor litigants to provide free labor in order to exercise their fundamental right to access our courts. For these reasons, we oppose Raised Bill 6692. Thank you for your time today.