

McCall, Brandon

From: David W. Griffin <DGriffin@rutkinoldham.com>
Sent: Thursday, April 04, 2013 6:10 PM
To: Jud Testimony
Subject: R.B. 1155 and R.B. 6688

To: Senator Coleman and Representative Fox, Co-Chairs of the Joint Committee on Judiciary:

I write to share my thoughts regarding two bills which are the subject of public hearing tomorrow – R.B. 1155 and R.B. 6688. Both bills are directed toward family law matters – and both bills address the hot topic of “alimony reform” albeit in dramatically different ways. I have dedicated nearly my entire legal career to family and matrimonial law; I feel that I am well-positioned to understand the effects of the proposed bills and to understand as well how the legislature might best address legitimate questions which exist regarding our family law system.

I am a Fellow of the American Academy of Matrimonial Lawyers, an officer and member of the Executive Committee of the Family Law Section of the Connecticut Bar Association and Senator Kissel’s designee to the Connecticut Commission For Child Support Guidelines. My comments as set forth below are my own and while they may be consistent with the positions of groups of which I am a member, I do not speak for those organizations, which have submitted their own position papers and provided testimony on these issues directly to the Judiciary Committee.

At the outset, I want to be clear that I urge you to **oppose** R.B. 1155 and **support** R.B. 6688.

AS TO R.B. 6688 – PLEASE **SUPPORT** R.B. 6688.

1. Without question, the most important aspect of Raised Bill 6688 is that it calls for the creation of a Committee to fairly and comprehensively study the fairness and adequacy of state statutes relating to the awards of alimony. This is consistent with public policy and is in keeping with the approach taken, for example, in the process to create child support guidelines, which, among other steps, utilizes economic research and data as one aspect of developing the child support guidelines. The use of research, the application of socio-economic data and the study of how our statutes in fact carry forward our legislative goals is an appropriate way to take on the question of whether our alimony statutes are fair, gender neutral and responsive to the needs of divorcing families in our modern society. R.B. 6688 specifically calls for the committee to “collect empirical data relating to the award of alimony ... and make recommendations for revisions to State statutes as the committee deems just and equitable.”
2. Contrast the provisions of R.B. 6688, calling for a careful study of our alimony scheme, against the provisions of R.B. 1155, which seeks to amend our alimony statute to incorporate for the first time in Connecticut alimony “guidelines”. While the proponents of R.B. 1155 will claim that the guidelines are “permissive” and “need not be followed” the reality is that R.B. 1155 requires any judge who does not follow the guidelines to explicitly explain each and every statutory factor involved in the judge’s decision not to follow the so-called “permissive” guidelines. The practical effect of these guidelines is that they will require judges to utilize a series of percentages, formulae and dollar amount caps which have not been shown to have any basis in research, socio-economic data or any study aimed at understanding their impact on alimony recipients, who are historically female.
3. Much of the language in R.B. 6688 serves to edit the statutes to make them gender neutral or to provide clarifications of issues which are already established by our case law.

AS TO R.B. 1155 – PLEASE **OPPOSE** R.B. 1155

1. There are many reasons to oppose Raised Bill 1155. As mentioned above, the practical effect of the guidelines set forth in R.B. 1155 is that they will require judges to utilize income percentages, formulae and dollar amount caps which have not been shown to have any basis in research, socio-economic data or any study aimed at understanding their impact on alimony payors or recipients. Recall that the current alimony statute requires a judge to consider a series of “alimony factors”, including, “the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81, and, in the case of a parent to whom the custody of minor children has been awarded, the desirability of such parent's securing employment.” Importantly, the guidelines as presented in R.B. 1155 improperly minimize the alimony factors in 46b-82 (a) and artificially elevate income and percentages above all else. Similarly, R.B. 1155 contains a random, unproven and unresearched \$1,000,000 cutoff above which the “guidelines” would not apply. Query where these percentages, formulae and dollar value cutoff come from? The answer is – they apparently are random. The better approach would be to adopt R.B. 6688, which calls for a committee to study the entire alimony scheme, in a careful, methodical manner.
2. R.B. 1155 is very broad and complicated. It seeks to make changes to a variety of family law statutes relating to property division, legal separation, arbitration, alimony, modification of alimony, child support, cohabitation. To the extent that any of those statutes deserve amendment, proposals as to their modification should be broken down into separate bills and be reviewed on their own merits. This is the reason why R.B. 6688's recommendation for a Legislative Program Review and Investigation Committee makes so much sense.

I appreciate your consideration of my thoughts. Please do not hesitate to contact me with any questions you may have.

Sincerely,

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