

Legal Assistance Resource Center

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H.B. 6688 -- Alimony revisions

Judiciary Committee public hearing -- April 3, 2013

Testimony of Raphael L. Podolsky

Recommended Committee action: DELETION OF SECTION 6

This bill modernizes the language of some of the alimony statutes. It also makes a number of modest changes and mandates a study of alimony by the legislative Program Review and Investigations Committee. We do not object to the bill in general.

We are concerned, however, about the last section of the bill, which repeals C.G.S. 46b-8. That section reads in full as follows:

Whenever a motion for modification of an order for support and alimony is made to the superior court by a moving party against whom a motion for contempt for noncompliance with such order is pending, the court shall accept such motion and hear both motions concurrently.

Contempt citations are often a signal that a support order is no longer based on ability to pay, since a common reason for not paying support is that the obligor no longer has the income to do so. Hearing a motion to modify at the same time as the hearing on a motion for contempt helps avoid unnecessary incarceration for contempt while also economizing on judicial time, since the same issue (current income and ability to pay) is key to both motions. It is both illegal and counterproductive to jail someone for contempt if he has no capacity to pay -- illegal because there is no contempt without an ability to pay and counterproductive because incarceration is likely to lead to the loss of the obligor's job.

It is important that the concept of C.G.S. 46b-8 not be removed from the statutes. Unless there is another statute that imposes the same rule -- that the motion to modify and the motion for contempt will be heard together -- C.G.S. 46b-8 should not be repealed. We therefore urge the Committee to remove Section 6 from the bill.