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SENT VIA EMAIL
Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

Re: HB 5505

Dear Co-Chairs and Honorable Members:

I am writing to state my opposition to HB 5505. I have been a member of the Connecticut Bar since 1984. While I originally started out as a general practitioner, my practice is currently concentrated in the area of family law. I represent clients in divorce, legal separation, custody, support, criminal, and probate matters. I have also been representing children, as attorney for minor child and guardian ad litem, since 1987.

I believe that this proposed bill is detrimental to the families of Connecticut. This bill would limit the courts from exercising their responsibility to serve the best interests of the children. These children are caught in the middle of their parents' conflict, and often the parents cannot see the impact of the conflict on their children. One needs a neutral, independent judiciary to ensure that the children are heard. The courts often appoint a guardian ad litem or attorney for the minor child(ren) in order to hear independent testimony as to the best interests of the children. If the court is concerned about parenting ability, independent evaluations may be ordered. Also, if there is an issue that interferes with the ability to parent, supervised visitation may be ordered so that there is not a disruption in the parent-child relationship.

This proposed Bill does nothing to achieve harmony for families and will cause families more harm than good. This bill is not child-focused. In addition, this proposed bill will increase the financial and emotional costs for custody cases. The bill also seems to give the moneyed parent an increased advantage in these cases. I will specifically address the sections below.

Section 1 will have a direct and negative impact on my child clients/wards. This Section attempts to delineate the factors where a court could order supervised visitation. However, there are other situations where supervised visitation would be appropriate that are not covered by this section. We need to leave it to the court to fashion the appropriate parenting access arrangements for children. If there is a situation that does not fall under these four criteria, the court may have no choice but to order a cessation of visitation between a parent and his/her child or children. That may not be in a child's best interests. For example, DCF may be investigating one parent, and while the investigation is pending the other parent may file for a custody determination or a modification of the current custody arrangement. Under the proposed bill, the court could not order supervised visitation until after the DCF investigation is completed. Instead, the court would have to order a suspension of contact. That will cause a disruption in the parent-child relationship, and could result in a child not seeing a parent for an extended period of time. That is not in a child's best interests. I am opposed to legislation that hampers the Court's ability to protect children and promote their best interests. The proposed bill only speaks to four situations and I can tell you from experience there are many others that are not covered by this proposed legislation. Section 1 is not in the best interests of children.

Section 2 is meant to circumvent the current case law of *Carrubba v. Moskowitz* (274 Conn. 533 (2005)). If this proposal passes, certain litigants will use this provision to harass, bully and intimidate the attorney for their children or the guardian ad litem. There is often at least one unhappy parent in custody cases, especially when there is high conflict between the parents. The unhappy parent will use this provision to gain an advantage with the child's attorney or guardian ad litem. This Section also provides that if the parent wins in the litigation, he/she can recover all fees and costs. First, Connecticut is not a "loser pays" jurisdiction; each party is normally responsible for his/her litigation costs (except for some limited circumstances). Second, this provision is not reciprocal, in that it does not provide that if the attorney or guardian ad litem wins, he/she can recoup the fees and costs for the litigation. Many states offer immunity to attorneys and guardians ad litem, so Connecticut is not an aberration. It is important that Connecticut continue to offer immunity to the guardians and attorneys for children, so that guardians and attorneys may act independently of any influences, including coercive tactics of one or both parents. This Section would also allow some litigants to delay the litigation with extraneous court actions. Again, this section is not in the best interests of children.

I am also opposed to Section 3. When an evaluation is ordered, the Court is looking for a neutral third party to evaluate parents. Allowing parents to select their own evaluators will result in skewed evaluations. It could also encourage parents to become entrenched in a position because his or her evaluator is the "right" evaluator. There would also be potential bias in the evaluations if the parent gets to choose the evaluator. This proposal could increase the costs for a family, if the evaluations are unhelpful and not productive for the court. Also, if a treating professional conducts the evaluation, and is later called to court to testify at the trial, then the confidentiality between patient and treatment provider is lost. The provision that evaluation reports be submitted to court within 30 days of completion is truly inappropriate and potentially harmful, as that means that personal and sensitive information will be accessible to the public. This information could then be spread on social media or other websites or blogs, leading to

irreparable harm to the parties and/or children. This could be extremely devastating to the parents and the children involved in a case. Again, this section is not in the best interests of the parents or children.

Section 4 fails to offer any protection to children involved in custody disputes. Section 4 could be used as another delay tactic, at the expense of the parents and the children. This proposed section would also destroy the patient-provider confidentiality and therapeutic relationship. It would expose the child's information to publication in the file. It would also increase the costs to the parties by requiring the medical professionals to appear in court. It may also add to delay in these time-sensitive matters. The parents may be so entrenched in the litigation that they cannot make a determination as to their child's best interests and the guardian ad litem is the appropriate person to exercise or waive the child's privilege. It is important to protect the child's confidentiality with the treatment provider. Again, this section is not in the children's best interests.

No one wins in contested custody cases, but it is often the children who lose the most. This is an area full of heart-ache for the litigants and their children. Children should be free to be kids, and to love and have a relationship with both parents. The legal system is only involved in a family's life for a limited time period, but the parents remain the parents until the parent dies or the child dies. Parenting is a life-long responsibility. Some parents are able to rise to the challenge after court intervention, and some need the oversight of the Court to assist them in becoming a functioning and capable parent.

In conclusion, I am opposed to the proposed bill. I would ask that this proposed bill not pass out of committee and that it not be presented to the Legislature. It is a bad bill that will harm parents and their children. All of the provisions attempt to circumvent case law and statutes that were designed to protect children, litigants and the professionals involved in the cases. It would increase delay and financial burdens for the parties. This proposed bill would hamper the independence of our judiciary. The proposed legislation ignores the best interests of Connecticut's youngest citizens and will have a harmful impact on both adults and children.

. Thank you.

Very truly yours,

Bridget A. Garrity