



CONNECTICUT LEGAL SERVICES

A PRIVATE NONPROFIT CORPORATION
85 CENTRAL AVENUE, WATERBURY, CT 06702
TELEPHONE (203) 756-8074 - 1 (800) 413-7797
FAX (203) 754-0504
E-MAIL WATERBURY@CONNLEGLALSERVICES.ORG

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MICHELLE FICA
MANAGING ATTORNEY
OFFICE

KEVIN J. BROPHY
MANAGING ATTORNEY
ELDER UNIT

MARY A. CONKLIN
THOMAS M. FORD
DAHLIA GRACE
ROBERT S. HIRST
CHERYL S. KOHLER
ESTHER RADA
NIEKA THOMPSON
SANDRA A. TRIONFINI
ATTORNEYS AT LAW

BEN A. SOLNIT
VOLUNTEER ATTORNEY

SHARON GASTON
PARALEGAL

MARIA HUERTAS
SUSAN D. KRUSKO
LEGAL ASSISTANTS

ADMINISTRATIVE OFFICE
62 WASHINGTON STREET
MIDDLETOWN, CT 06457
(860) 344-0447

ROSS H. GARBER
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STEVEN D. EPPLER-EPSTEIN
EXECUTIVE DIRECTOR

LAW OFFICES

211 STATE STREET
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16 MAIN STREET
NEW BRITAIN, CT 06051

153 WILLIAMS STREET
NEW LONDON, CT 06320

20 SUMMER STREET
STAMFORD, CT 06901

85 CENTRAL AVENUE
WATERBURY, CT 06702

872 MAIN STREET
WILLIMANTIC, CT 06226

SATELLITE OFFICES

5 COLONY STREET
MERIDEN, CT 06451

98 SOUTH MAIN STREET
SOUTH NORWALK, CT
06854

Testimony of Attorney Dahlia Grace

Re: Committee Bill No. 5505, An Act Concerning Family Court Proceedings

RECOMMENDED ACTION: REJECT RAISED BILL 5505

I represent victims of DV in family relations matters. I am here to express great concern over the potential evisceration of an effective and necessary system used to resolve custody disputes in the Family Courts of this State.

Each Section of Committee Bill No. 5505 is a slash in the fabric of the Custody Dispute Resolution system in this State.

Sec. 3 (a) and (b) allow parents to select their own and their children’s evaluator if a court orders treatment or evaluation. “Treatment” is very different from “Evaluation”.

Treatment may call for longer-term involvement between an individual and a health care provider and a good, cooperative, working relationship is needed to ensure successful therapy. Without patient/therapist rapport, it is arguable that the goals of the court for the individual to receive helpful treatment could be thwarted. In this context, it makes sense that parents should be able to select a licensed health care provider who is able to fulfill the purposes for which the court ordered treatment and who can meet the specific needs of the individual.

Evaluation, on the other hand, calls for shorter-term involvement with a health care provider and has the potential for a finding which may be adverse to the preferences of the individual. The patient’s relationship with the evaluator is not necessarily cooperative. The evaluating health care provider, of necessity, should not be the friend or relative of the parent. An evaluating health care provider needs to be unbiased and have the skills to conduct the type of evaluation required by the court. Many health care providers who provide treatment are not willing to provide court-ordered evaluations, especially not if they already have a treating relationship with an individual. In this context, it is far from appropriate for the parent to decide who should conduct an evaluation of the parent or a child.

If this Committee wants the usefulness of court ordered evaluations to be minimized, then the Judiciary Committee should pass Section 3 of Bill 5505 as written. However, if this Committee wants to facilitate unbiased evaluations that help the Family Court reach important decisions concerning a family relations matter, then this Committee should not pass Bill 5505, Section 3 as written.



Sec. 2 allows individuals to sue a Guardian ad Litem or Attorney for a Minor Child if they are aggrieved by the action of counsel or a guardian ad litem. Upon reading the provisions of Section 2, it is clear that Section 2 will engender countless civil actions against GALs and AMCs because, in almost every custody dispute, someone is not happy with the outcome.

It is clear that Section 2 is intended to eliminate the independent voices which have, for decades, represented the best interests of children, in the case of GALs, and the preferences of children, in the case of AMCs.

It is clear that Section 2 propels GALs and AMCs into an environment of fear of retribution from aggrieved parties.

It is clear that Sec. 2 will cause a dearth of GALs and AMCs to help courts reach decisions in custody disputes and other family relations matters.

It is clear that victims of Domestic Violence, who are often unrepresented, will suffer the consequences of not having GALs and AMCs who can bring to light violence and give voice to the silent parties, the children.

It is clear that Section 2 is NOT truly about the children at the heart of family relations matters, yet, it is clear that they will be the ones to pay.

The language in **Section 1** limits the discretion of the court to order supervised visits with a parent when it is in the child's best interests to do so. There are many circumstances beyond the proscribed factors in Sec. 1 that properly call for supervision until other criteria have been met, for example: (1) an incomplete DCF investigation where no decision has been issued; (2) cases of domestic violence in which DCF was not contacted; (3) situations where a parent has been absent for a significant period after having had a relationship with a child; (4) a parent suffers from an undiagnosed mental health problem and a parent is aware there is a problem and seeks to protect the child; (5) situations where a parent has tried to flee the state with a child; (6) cases of proven parental alienation, and so on.

Section 4 prohibits a GAL from testifying as to a medical diagnosis or a conclusion made by a health care professional concerning a minor child. The reality is that this section will require all parties who have obtained a diagnosis or conclusion concerning a minor child to subpoena the health care professional and pay for that professional's time in court. This might work to the advantage of wealthier litigants, but would certainly chill the efforts of low income parties from seeking to dispute child custody matters and will prevent the court from hearing important information vital to informed custody decisions.

I urge you to carefully consider that, many gains that have been made over the decades in addressing custody disputes will be lost with this entire bill.

Thank you for your time.

