

Moniz-Carroll, Rhonda

From: Carolyn Swiggart <carolyn@swiggartlaw.com>
Sent: Wednesday, March 11, 2015 9:56 AM
To: JudTestimony
Cc: zRepresentative Fred Camillo; zRepresentative Livvy Floren; zRepresentative Mike Bocchino
Subject: HB 5505 - Opposed

Ladies and Gentlemen:

I have been admitted to practice in the State of Connecticut for nearly 30 years, and for the past 25 years I have practiced family law. In addition, I have served as a Special Master in the Superior Court for over 15 years. I believe I am qualified to issue a credible opinion about HB 5505. I am opposed to HB 5505 for the following reasons:

The first section restricts the Superior Court from issuing orders for supervised visitation except for the most dire of dangerous circumstances, the determination of which may be too expensive for most parties to obtain. The Superior Court must be given the power to make the determination based upon the facts and circumstances presented to the judge, and that the judge be empowered to make quick decisions. Paying and waiting for mental health and other "third party" determinations could work to the detriment and danger of children's welfare. In addition, there are circumstances where supervised visitation is appropriate even if there are no criminal or mental health issues.

The second section strips immunity of Guardians ad litem [GAL] and Attorneys for Minor Child [AMC] from civil lawsuits. This is absolutely contrary to case law as decided by the Connecticut Supreme Court [Carrubba v. Moskowitz, 274 Conn. 533 (2005)]. GALs and AMCs are extremely important in highly contested custody matters, and they do protect the rights of children – often because the parents of the minor children are so consumed with their own combat that the best interests of the children are not always served by them. GALs and AMCs give the judge opinions and positions that may be different from the parents of the child, but that independent opinion and position is vital to the judge. AMCs and GALs have absolute immunity in most states.

The third section requires the Court to permit a parent ordered to undergo mental health treatment or evaluation to choose their treatment provider or evaluator. This provision is like asking the fox to guard the chicken coop. Common sense dictates that this provision is faulty.

The fourth section limits the ability of the GAL to provide the court with information about a child's mental health and health conditions. This bill would require all of the medical professionals involved in a child's case to appear in court to testify about the child, instead of letting the GAL report his or her findings. This adds another expense to the court action as any medical professional would expect to be paid for the time away from their practice. Medical and mental health practitioners will not take cases involving children in divorcing families for fear of being swept into litigation. This is not in the best interests of minor children, divorcing families, and the medical and mental health professions.

In addition, I will state that the faction supporting the creation of this bill is made up of disaffected persons who are angry with the results of their own personal divorce and custody cases. They are a distinct and vocal minority. Families who undergo the transition of a divorce mostly want to live in peace afterwards, and revisiting their divorces – even for the sake of fighting legislation such as this – is something they are loath to do. The disaffected individuals have embarked upon a campaign of harassment and threats, by telephone and e-mail, to a number of family law practitioners with the aim of scaring them off from voicing opposition to this and other pieces of legislation. Do not be bullied by such individuals. Act with the best interests of minor children and the judicial process.

Thank you.

Carolyn C. Swiggart

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