

Moniz-Carroll, Rhonda

From: Adam Teller <ateller@ltnlaw.com>
Sent: Wednesday, March 11, 2015 1:12 PM
To: JudTestimony
Subject: Committee Bill No. 5505

Dear Senators Kissel and Coleman, and members of the Judiciary Committee:

I am writing to express my strong opposition to Committee Bill No. 5505, regarding family court proceedings. Unfortunately, I can't be present to speak at the hearing on the bill today before your committee. I am surprised that a bill which was only just introduced, and would have such sweeping and disastrous effects on the family courts, has been scheduled for hearing on such short notice.

I am an attorney in general private trial practice. I accept GAL appointments occasionally, but only on a sliding-scale/pro bono basis; I never serve as GAL in more than one case at a time, and such fees are not a significant part of my income. In fact, in the two cases which I have taken in the last year, I have yet to be paid anything and do not expect to be. I do not consider myself a family court "insider," but I do have an active family court practice which is perhaps 20% to 25% of my work at any given time. I have over 25 years of experience practicing in the criminal, juvenile, family, civil, probate, appellate, and federal courts as well as before the Workers Compensation Commission and the Commission on Human Rights and opportunities. In that time, I have rarely reviewed a proposal which shows so little understanding – or perhaps so cynical an understanding – of the court system it seeks to change.

Section 1 of this bill would tie the court's hands when a parent presents a physical or emotional risk to a child. The limitation in the bill would cede far too much authority to DCF investigators whose training, competence and judgment, in my experience, has been at best inconsistent and at worst shockingly bad. The threshold requirement of DCF substantiation will encourage a flood of marginal DCF complaints and substantiation appeals, and move those issues out of an open court system, with due process supervised by judges, to a secret administrative system dominated by bureaucrats. Anyone who has handled a substantiation hearing at DCF knows that this is not a good idea. It strikes me as strange that the drafters of this bill would trust overworked, inexperienced DCF social worker/investigators more than they would trust superior court judges whom the members of your committee have so carefully vetted and approved. I think the judges deserve a bit more respect from the Legislative Branch.

Section 2 of this bill would essentially eliminate GAL's as a tool for family judges to use in resolving matters involving children. No attorney would agree to serve as a GAL, even on a pro bono basis, where any "aggrieved" person could sue that attorney frivolously and without risk or responsibility. That would be bad public policy if we were talking about plumbers or surgeons; it is absolutely foolish when establishing a system for appointing professionals to assist the court in protecting the children caught in parental disputes. If the bill passes, or anything remotely like it passes, I will not be accepting such appointments and will look elsewhere for pro bono opportunities. It is troubling that the recent commission on the subject did not recommend these changes, but yet here they are in a bill.

Sections 3 and 4 of the bill are similarly objectionable. Section 3 would allow a party, whom the court has decided must undergo a mental health or medical evaluation, to choose that evaluator; that would not be permitted in a civil matter and will seriously impair the reliability and value of such evaluations. I predict that there will rapidly be a cottage industry of "hired guns" who will say what the parties want them to say, when the parties want them to say it. The bill does not even specify what kind of licensed professional may be chosen, which leave a broad range of possibilities for mischief by the parties. At the same time as the parties are given the ability to "front-load" medical and mental health evaluations, Section 4 would gag the GAL whenever the court addresses a medical or mental health issue - which will deprive the court of a neutral observer's input when the parents themselves are conflicted on those issues and may not be reliable reporters.

In short, this bill is ill-advised and should not be supported by anyone who hopes for a fair and practical family court system. It comes from an agenda of "I want what I want when I want it." Which, sadly, is the attitude we have seen from many of the most vocal critics of the current system in their own cases. In opposing this bill, it is not my intent to argue that the system is perfect. Rather, my (perhaps naïve) hope is that as you hear from many people who have experience in all roles in the system, you will be able to distinguish those who want to see the family courts become more just, efficient, and compassionate, from those who just want to bring the system to chaos so that it will not be an effective check on their behavior.

Thank you for the opportunity to submit my comments.

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