

Session Year 2015  
H.B. No. 5055

Public Hearing 3/11/2015

Testimony of Attorney Brette H. Fitton  
*In Opposition to H.B. 5505 An Act Concerning Family Court Proceedings*  
To the Distinguished Co-Chairs, Vice Chairs and Members of the Judiciary Committee

Good afternoon, Distinguished Co-Chairs, Vice Chairs and Members of the Judiciary Committee. My name is Brette Fitton. I am an attorney and the majority of my legal practice is devoted to the representation of children as an Attorney for the Minor Child and as a Guardian ad Litem. I am here to voice my opposition to House Bill 5505, An Act Concerning Family Court Proceedings. I oppose this bill because if enacted, it will operate to deny children the opportunity to have legal representation in Connecticut Family Court proceedings and will silence the voices of children in the very courts tasked with making decisions about those children's best interest.

The language of Section 1 of this bill, which sets out an extremely limited list of circumstances under which supervised visitation can be ordered is dangerously vague and, if implemented, will be a lesson in the law of unintended consequences. The language providing that evidence of criminal conduct can confer authority upon a judge to order supervised visitation fails to indicate whether such evidence has to be of a conviction or whether pending charges suffice. In my experience, the resolution of a criminal case through plea or trial can take several months, and often over a year. It takes tremendous courage for a child to disclose abuse by an adult, this legislation will leave a child who has taken that enormous risk, vulnerable to further damage by linking the ability to provide supervised visitation to the outcome of a court that has no obligation to consider what is in the child's best interests. Similarly, Section 11 refers to a severe mental disability, but contains no definition of such disability nor is it clear how such a disability is to be established given that section (e) of this bill prevents the Guardian ad Litem from presenting any evidence of disability and most self-represented parties have neither the means nor the knowledge necessary to subpoena a medical professional to court. On the ground, if implemented, this section may achieve the goal of lowering the number of supervised visitation orders, but the practical effect of removing this critical tool for maintaining parent-child relationships will be to leave the judge with only two options: full contact or none. If you are a judge presented with allegations that a child is being harmed, and your inclination is to err on the side of safety, your only option will be to suspend visitation. For my wards, seeing a parent in a supervised setting or with a relative in the room is far better than not seeing that parent at all.

Rather than being forthright with the public and directly proposing the elimination of the positions of Guardian ad Litem ("GAL") and Attorney for the Minor Child ("AMC"), the drafters

of Section 2 of HB 5505 seek to achieve that same end by making it virtually impossible for attorneys to practice children's law in Connecticut. Contrary to the picture that has been painted, the lawyers I know who practice in this area are making a living at it, and not a great deal more. This is particularly true for attorneys like me, who are one of the few remaining attorneys willing to take cases with indigent parties. In cases where a judge had determined that parties are unable to afford an AMC or a GAL, the State of Connecticut pays a flat fee of \$500 per child. Expenses such as money spent on gasoline for home visits and obtaining copies of relevant records can cut this amount down by as much as \$100 right at the outset of the case. Depending on the number and complexity of issues in a specific case, an attorney's hourly rate can drop precipitously. In one case I have spent well over 100 hours conducting home and school visits, communicating with parties, reviewing records, speaking with collateral contacts and appearing in court on multiple occasions. After expenses are factored in, I will have earned less than \$10.00 per hour working on behalf of my wards and this rate will continue to decline as the case goes forward. To impose civil liability on my actions, when I am already subject to motions for removal and grievances, is unnecessary and quite frankly calculated by the sponsors to make working in my field cost prohibitive.

The work of a Guardian ad Litem is extremely challenging and the hours long. I work evenings and weekends to that I minimize the disruption of the lives of the families with whom I work. On a daily basis, I speak with multiple people who are going through one of the worst periods of their lives. I speak with parents who are in tremendous pain and extremely angry and, who often have difficulty productively expressing their emotions. I speak with children who are confused and upset and who want nothing more than their parents to be together. I have had several cases involving allegations of sexual abuse and/or allegations of physical abuse. Going to sleep after you have spent hours reading graphic descriptions of the abuse and neglect of a child can be impossible. Guardian ad Litem do important work. People who choose to do this work do so because they care about children. You will not hear today from proponents of this bill about the successful work of Guardian ad Litem. I am here to tell you that for every negative story you hear today, there are countless success stories. The vast majority of cases in which I am involved settle and that I work very hard to facilitate those settlements. These settlements protect my wards from the trauma of litigation. These settlements conserve precious court resources for the more challenging court cases in which I am involved. The elimination of legal representation for children will have disastrous consequences for the court system and for children.

H.B. 5505 is legislation intended to tie the hands of judges and keep them in the dark at a time when they are tasked with making incredibly important decisions regarding our most vulnerable citizens. I ask you to remember that children do not ask to be the subject of litigation in Family Court. It is the actions of one or both parents that put them there. Please do not take away their right to be heard.