



STATE OF CONNECTICUT
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Testimony of the Honorable Elizabeth A. Bozzuto
Judiciary Committee Public Hearing
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House Bill 5055, An Act Concerning Family Court Proceedings

Good morning, Senator Coleman, Representative Tong, Senator Kissel, Representative Rebimbas, and other members of the Committee, I am Judge Elizabeth Bozzuto and I am the Chief Administrative Judge for Family Matters. Thank you for giving me an opportunity to comment, on behalf of the Judicial Branch, regarding **House Bill 5055, An Act Concerning Family Court Proceedings**. This bill contains several provisions of great concern, and in a moment, I will provide you with an overview of our specific concerns. More generally, however, I view this bill as inhibiting the Court's ability to render decisions that are as well-informed and as well-intentioned as they can possibly be.

As members of this Committee are aware, the 2014 Legislative session produced a number of meaningful family court reforms, which took effect not even six months ago. While not easy, progress was made. Having said that, I must reiterate what was said last year: family court handles some of the most difficult, emotionally-charged and contentious cases to be heard in our court system, and we are fortunate to have so many dedicated individuals – judges, lawyers, mental health professionals, court staff – working diligently, with the goal, as always, of doing what is in the best interests of the children.

Section 1 of the bill eliminates the Court's discretion in ordering supervised visitation of one's child unless one of four, very limited exceptions is met. While these

exceptions may appear reasonable, they fail to address the endless variety of factual circumstances before the Court. If such limitations are enacted, the result can only be one of two outcomes: either the harming of the parent-child relationship because access is denied all together, or placing a child into a potentially harmful situation.

For example, the Court may have evidence of instances where a parent is continuing to struggle with substance abuse/sobriety, lives in an environment that is not safe for a child, or has exhibited behavior that while not unlawful, or evidence of a severe mental disability, is still of great concern. In these situations, the Court currently has three options at its disposal: (1) an unrestricted access schedule, (2) an order that provides for access, but with supervision until more information is known, or (3) terminate access all together. I would respectfully submit to you that the Court should maintain the discretion to put in place the most appropriate, narrowly-tailored order, maintaining some form of visitation when at all possible.

Under this bill, however, the Court would have merely two choices: leave access as it is – potentially putting a child at risk, or more likely, terminate access altogether – potentially harming the parent-child relationship. Neither outcome serves the child's best interest, and I urge you to reject it.

Section 2 of the bill would permit a civil action to be brought against an attorney for a minor child (AMC) or a Guardian Ad Litem (GAL), eliminating absolute, quasi-judicial immunity for AMC's and GAL's. This immunity is critical, because as our Supreme Court said in *Carruba v. Moskowitz*, the lack of it may very well deter qualified individuals from serving in the first place.

AMC's and GAL's are integral to the process because they provide critical information to the Court in cases with a significant amount of conflict and highly-complex family dynamics. Judges rely on their input when making difficult decisions. As such, these individuals must be free to do their work without the fear of being sued by a parent who does not agree with their position or recommendation. Should fewer choose to serve, as suggested in *Carruba*, a valuable voice in the courtroom would be removed, leaving the Court without the vital information it needs to make informed decisions. Again, I urge you to reject this.

Section 3 (a) addresses the selection of a licensed health care provider should the Court order a parent to undergo treatment or receive an evaluation. The Branch opposes this subsection because enactment of it would completely remove any sense of the Court receiving an “independent evaluation” in matters where neutrality and objectivity are most sought. More often than not, the Court would be hearing from one or more “hired guns,” providing limited benefit to the Court.

As for subsection (b), which pertains to children, I would respectfully note that in the vast majority of cases, parents do agree to both the type of evaluation/treatment that is needed for the child, and the professional that will complete the service. This is as it should be. Specifically authorizing it, while still permitting the Court to select a provider if the parents do not reach an agreement in two weeks, is not problematic. I would respectfully note, though, that the bill ought to provide the Court with the authority to act in less than two weeks if it’s an emergency.

Lastly, subsection (c) presents a concern, namely, these reports should not be merely placed in an open court file. The Practice Book requires that these reports be submitted under seal to the Court.

Section 4 of the bill would preclude an AMC or GAL from being heard on a matter pertaining to a medical diagnosis or conclusion concerning a minor child made by a health care professional treating the child. This unnecessarily adds expense to the parties, potentially causing hardship, because it would require a mental health professional to be subpoenaed to court – in every case and at considerable expense to the parties – to render a report that can be capably outlined by an AMC or GAL. This is so, even if the parties agree with the professional’s report. Respectfully, the current framework strikes the more appropriate balance – costs are saved, and if there is controversy, the Court, or either party, can always call the professional to the stand.

Again, thank you for the opportunity to testify on this bill, and to voice our concerns that its provisions will harm the Court in its ability to render the most appropriate decisions in adverse circumstances.