



HARTFORD MEDIATION AND LAW, LLC

Mediation and Legal Counsel for Individuals, Families and Businesses

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Member*

From: Attorney Douglas I. Fishman

To: Judicial Committee Members

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

This bill is bad for the children of divorcing parents, bad for divorcing spouses, bad for health care professionals, and bad for the state of Connecticut.

Section 1: This section unwisely restricts judges from acting to protect children during high-conflict divorce matters. One might say that this section is exactly backwards, and that it should require that judges order supervised parenting time when: 1) DCF substantiates abuse or neglect; 2) a parent does not have an established relationship with the child; 3) a parent engages in criminal conduct that presents a potential risk to the health, safety and well-being of a child or 4) suffers from a severe mental disability that presents a potential risk to the health, safety and well-being of a child.

Beyond that error in logic, the stated requirement that “supervised visitation” must be based upon a finding of “neglect or abuse that has been substantiated by the Department of Children and Families” will result the terrible unintended consequence of a massive increase in the number of calls to DCF by feuding, divorcing, parents. This will, in turn, result in an enormous backlog of investigations by DCF and/or necessitate the hiring many more investigative workers to handle this upsurge in allegations, all at great expense to the taxpayers of Connecticut. I further believe that this requirement will actually be an incentive to litigants in highly contested divorce actions to make abuse and neglect allegations as a way to harass and intimidate their soon-to-be-former spouses.

Section 2: Stripping GALs and AMCs of judicial immunity will remove this tool from the court’s toolbox. If an “aggrieved” litigant is allowed to sue the GAL or AMC, private attorneys and mental health professionals will simply not accept such assignments. No professional will expose himself or herself to the possibility of litigation at the hands of disgruntled divorce litigants, because of a) the financial exposure; b) the potential loss of time involved in defending such actions; and, c) the inevitable skyrocketing of professional liability insurance premiums which will accompany this exposure.

Without being able to enlist the help of GALs or AMCs, the only recourse for judges will be to refer cases to Family Relations, which will experience an even deeper backlog of cases than currently exists, and/or the necessity of hiring many more Family Relations Officers at great expense to the taxpayers of Connecticut.

Section 3: Allowing litigants to choose their own psychological evaluators will result in a lack of objectivity in those reports. The reports would come from multiple sources in a single case, thereby depriving the court the professionally objective feedback it needs in order to provide for the best interest of the children. Requiring judges to defer to high-conflict litigants' preferences of health care providers for custody evaluations is akin to giving the fox the keys to the henhouse. Further, as written, there is no requirement that the "licensed health care provided" be trained or certified in areas of practice related to the types of services needed in these matters. At a minimum there must be an approved list of providers for this important and necessary services.

Section 4: Disallowing GALs from testifying as to the diagnoses or conclusions of health care professionals regarding the minor child will also inevitably decrease the amount of information available to the court and increase the cost of litigation. Health care professional, understanding that they face an increased likelihood of being called to testify, will refuse to take cases involving the parents and children involved in high-conflict custody matters. For those who choose to continue working with families involved in such cases, there will be substantial fees associated with preparing for and testifying at trial. Removing the GAL's authority to testify about the diagnoses and conclusions of health care professionals may also result in high-conflict litigants' refusing to authorize contact between the GAL and the health care professional, further depriving the courts of important and necessary information in these cases. It will also have a chilling effect on ongoing mental health treatment since it increases the likelihood that the privilege of therapeutic care could be breached by an adverse party.

In summary, Committee Bill 5505 will result in more expensive divorce litigation and less information for the courts pertaining to the vulnerable children of high-conflict divorcing parents. The Bill will result in tremendous increases in calls to DCF alleging abuse or neglect, which in turn will result in greater workloads for caseworkers, more backlog, and/or the necessity of hiring more investigative workers, at great expense to the taxpayers of Connecticut. The Bill will also result in an increase of referrals to Family Relations, which will also result in greater workloads for Family Relations Officers, more backlog, and/or the necessity of hiring more Officers, also at great expense to the taxpayers of Connecticut. The Bill will effectively remove GALs and AMCs from the court's toolbox, and will deny judges the information they need to make informed decisions regarding the children of divorce.

For all these reasons and more, I urge you to vote NO on Committee Bill 5505.

With concern,

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Attorney/Mediator



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