

LINDA S. SMITH, Ph.D.
1261 Post Rd., Suite 203
Fairfield, CT 06824
Ph: (203) 255-0325

Dear Senator Coleman, Representative Tong and Members of the Judiciary Committee,

Please accept this as my written testimony in strong opposition to HB 5505.

I am a forensic psychologist who has practiced in the field for approximately 15 years. I found myself bewildered upon reading this bill. I spent significant time trying to understand the rationale behind each section. What problem is each section of this bill trying to correct? What is the data that supports that this problem even exists? What are the potential positive and negative implications to each proposed section? And finally, how is this bill focused on improving the quality of care that is provided by all judicial, legal, and psychological professionals who serve the best interests of the child within an adversarial family court system. I address each section below.

Section 1:

Potential Rationale: This section appears to be based on a premise that parents should not be limited in their contact/relationship with their children unless there is a finding that supports such.

Problem: Some parents lose contact with their children based on false allegations or unfounded concerns. Sometimes these concerns/allegations can linger for an extended period of time.

Potential Positive Implications: There will be a much higher threshold to reach before parent-child contact is limited in any way. This is a protective factor that can ensure continuity of parent-child relationships.

Potential Negative Implications: This provision really places parent's rights above the best interests of the child. For example, is the Court more concerned about false positives (e.g., a parent who would not harm their child is identified/treated as though they would) or false negatives (e.g., a parent who would harm their child is not properly identified/treated/supervised as they should be). If the Court (or a related professional) were to make an error, would one prefer for that error to be a false positive or a false negative? Which is more likely to protect the safety and well-being of the child?

Future Implications: If this provision is trying to ensure that parent-child relationships are not negatively impacted by frivolous unfounded allegations, then what remedies may be available outside the ones proposed within this provision. Unfortunately, it takes time to assess these four factors (i.e., at minimum, a few weeks). So what type of parent-child access is in place during that evaluative period? This provision essentially states that parent-child contact should continue

unsupervised. What if there has been an allegation that a parent has threatened to kill themselves and their children. It is of course just an allegation. Should the child continue to have unsupervised contact through this period when the Court and other related professionals/agencies are trying to determine what is real and accurate. Is that a risk that the legislature truly wants the Court to take?

A more optimal, productive goal is that if supervised contact is recommended, that a quicker assessment period is put into place (e.g., a brief focused evaluation) that will facilitate that necessary information is provided to the Court in a quicker, more efficient manner. In addition, perhaps some type of regular “check in” period could be in place that allows more diligent monitoring of these families. Finally, if extended supervised contact is ultimately in place for a family, that the need for this supervised access should be adjudicated within a reasonable prescribed time period or agreed upon by the parties within a similar time period.

Section 2:

Potential Rationale: This section appears to be based on a premise that parents/litigants should be able to seek financial relief from Court appointed professionals who have aggrieved them.

Problem: Some parents/litigants may be harmed by the actions of the Court or Court related professionals.

Potential Positive Implications: Parents/litigants who have been harmed by a Court appointed professional would have redress available to them.

Potential Negative Implications: This provision places parents’/litigants’ rights over the rights of involved professionals who are trying to serve the public good. This provision opens the door widely for frivolous lawsuits against court appointed professionals who are in the middle of an adversarial system. It deprives these professionals of their due process rights.

Future Implications: If this provision is trying to protect the incredibly small group of litigants who may in fact be harmed by the Court or a Court appointed professional, it sacrifices the other 99.9% of Court Involved litigants to do so. Working in a high stakes, adversarial context where opinions are sought and actions are expected is already trying enough. Without immunity and protection, GALs will not be able to responsibly perform their duties. They would be lead into a position where they may be influenced by the more hostile, threatening, vociferous party in the action (i.e., likely the higher risk parent/litigant). This clearly would not be in the child’s best interests and threatens the GAL’s execution of responsibility for 100% of their cases.

It is notable that this bill appears to be focused on protecting parent’s rights in Section 1 against frivolous unfounded allegations. Yet, through Section 2, this bill promotes frivolous, unfounded allegations against GALs. It is a noteworthy contradiction.

A more optimal, productive goal is improved education/training for Court appointed professionals that would minimize the occurrence of actual harm.

Section 3:

Potential Rationale: This section appears to be based on a premise that parents/litigants should be able to select their own providers for evaluation and treatment.

Problem: Some parents/litigants may experience that certain professionals are being offered as evaluators/treatment providers. Often these providers are not covered by insurance, and therefore this may be a financial burden to some families.

Potential Positive Implications: Parents/litigants would be able to select evaluators and treatment providers who they feel comfortable with, and who also may be more financially affordable.

Potential Negative Implications: Parents/litigants are not trained in identifying what is needed in an evaluation or treatment or what skills are needed to execute this evaluation/treatment. The stakes are quite high in a court related context. High quality is very important. This provision increases the likelihood that parents/litigants will end up in treatments that may be less effective. They may also participate in evaluations that ultimately are found to be not helpful and possibly even meaningless to the Courts. This will extend the time involved in the Court process. It will create additional financial costs for the family (and the Courts). Children will be stuck in a slowly moving, high conflict process.

Future Implications: Unfortunately, this provision may be a part of this proposed bill because of the conspiracy theories that abound regarding the *alleged* "nepotism" of family court professionals. And of course, these family court professionals are *allegedly* conspiring to take financial advantage of these families. In non-adversarial systems, working with other related professionals is normative and expected. A physician can provide the name of a physical therapist without concern of being accused about conspiracy or trying to take advantage of a sick/injured patient. A contractor can provide the name of a plumber without similar concern. But this is not a perception in the minority of vocal, dissatisfied consumers of the family court system.

The old adage, 'you get what you pay for', is definitely applicable here. Lower cost generally means lower quality. This is true in all aspects of day to day life. Whether it is toothpaste, a haircut, a car, a computer, a painter, a therapist, a tutor, etc. Don't get me wrong. Sometimes you can get a good deal. Everyone loves when they find that great deal. But that is the exception, not the norm. Instead, lower cost services generally turn out to be more expensive or more detrimental in the long run. Working with highly conflicted, separating/ed families is incredibly complex and trying. It requires a high level of expertise and training. And then more expertise and training. I have been thrilled when I have found lower cost providers to work with these families. But ultimately, over

time, these providers drop out from providing services to these families. It is an unfortunate occupational hazard in this field.

A more optimal, productive goal to strive for is improved education/training for mental health professionals who can work with these high conflict, court-involved families. This can open up more potential providers. As it is, there is truly a shortage of skilled providers to evaluate and treat court-involved families. Everyone (including the current professionals who work within this system) would appreciate having more colleagues available to properly treat and evaluate these court-involved parents and children.

Section 4:

Potential Rationale: This section appears to be based on a premise that parents/litigants are spending too much on GAL related fees. In addition, it appears that there is a concern about GALs reporting on health care providers' opinions and data.

Problem: Parents/litigants are spending a lot of money on their high conflict divorces. GALs may not accurately represent the medical information to the Court because they are not trained medical professionals?

Potential Positive Implications: Parents/litigants would have reduced financial costs associated with their family court matter. In addition, the Courts would always receive accurate, first-hand information from medical providers.

Potential Negative Implications: One obvious negative implication is that health-care providers would quickly be dragged into these highly contentious court proceedings which would result in additional costs to the litigants or even a dropped care scenario where the health care provider is no longer willing to treat the individual or family. Health care providers want to serve patients. They do not want to be testifying in Court. GALs offer a process through which relevant healthcare information can be provided to the Court without directly involving these professionals in an adversarial court system.

Future Implications: If this section is trying to address financial costs of litigation, it may ultimately result in more financial (and emotional) costs to these litigants. In addition, encouraging that health care providers' testimony and statements be provided to the Court first hand also violates litigants' healthcare related protections and privacies.

A more optimal, productive goal is setting forth clear parameters around the GAL's time and involvement with the family, including attendance at court hearings, trial, etc. In addition, the Court currently allows for providers to be called as a witness regardless of whether the GAL testifies on a certain issue/matter or not. I cannot see how removing the GAL from health related testimony improves the court hearing process in terms of time, cost, or efficiency.

Conclusion:

In conclusion, it seems to me that many of the family court bills that have been presented to the legislature appear to be centered on parents/litigants and not on the children who are the most vulnerable in these dysfunctional processes. It also appears to me that the adversarial high conflict that defines many of these families is now presenting itself within the legislature. Success was not achieved in family court, thus some litigants are looking for new venues to conflict in and new individuals to conflict with. It is truly striking (and saddening) how many of these “family court reform” bills are not even focused on children, and are presented with destruction as a goal rather than construction. The targets are the family courts and the professionals who work within the extended family court system. I hope that the legislature will eventually take a stand against the use of their important public service as a way to continually act out pathology and destruction. At some point, I hope the legislature will move away from being bystanders to this destructive force and become actors against it. There will be no positive change in the greater family court system *until* the legislature includes conversations with ALL groups involved (the courts, the professionals, the litigants, etc.). Creating bills that are based on perceptions of a minority group of litigants will not help to create positive change. Please support collaboration instead of destruction in this very high risk, complex context of contested family law.

Thank you for your time and consideration of this testimony.



Linda S. Smith, Ph.D.