

**JUDICIARY COMMITTEE
11 MARCH 2015**

OPPOSE COMMITTEE BILL 5505

AN ACT CONCERNING FAMILY COURT PROCEEDINGS.

TESTIMONY OF ATTORNEY SHARON WICKS DORNFELD

Senator Coleman, Representative Tong, and Members of the Committee:

Thank you for the opportunity to address you today regarding 5505, which proposes a number of changes to family law statutes.

I am a past Chair of the Family Law Section of the Connecticut Bar Association. I have practiced Family Law in Danbury since 1988, and have limited my practice to representing minor children in custody disputes as their attorney or Guardian *ad litem*. For more than 25 years, I have been involved in hundreds of contested cases and represented many hundreds of children.

The proposals in this bill are ill-advised. If enacted, this bill will make it more difficult for courts to identify and serve the best interests of children who are the subject of custody disputes.

Section 1 would make it nearly impossible for a Family court judge to order supervised visits to PREVENT a child from being harmed, even when a parent has threatened to abscond with a child. It would also delay the entry of orders which would permit children to visit with parents safely, and lengthen the process and increase the cost by requiring additional hearings and referrals to DCF. It would erode the judicial discretion necessary to craft individualized decisions in Family Law matters.

Section 2 Our Supreme Court has held that AMCs and GALs "are entitled to absolute quasi-judicial immunity for actions taken during or, activities necessary to, the performance of functions that are integral to the judicial process" and "a substantial likelihood exists that subjecting such attorneys to personal liability will expose them to sufficient harassment or intimidation to interfere with the performance of their duties" and "they perform functions integral to the judicial process in carrying out the purpose of [section] 46b-54--to assist the court in determining and serving the best interests of the child." Further, "courts in other jurisdictions have almost unanimously accorded guardians ad litem absolute immunity for their actions that are integral to the judicial process" and "'a grant of absolute immunity is both appropriate and necessary in order to ensure that the guardian will be able to 'function without the worry of possibly later harassment and intimidation from dissatisfied parents" and "without immunity, guardians ad litem would act like lightning rods. Lawsuits would, in the words of Learned Hand, dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties." *Carrubba v. Moskowitz*, 274 Conn. 583 (2005).

This section, if enacted, is an invitation to the unhappy parent in every case to sue the AMC or

GAL, at no risk to the parent. If the goal is to leave kids unprotected in high conflict custody cases, increase the number of cases which need to be tried, and lengthen the process for all family cases, this should do it. This is nothing more than a thinly-veiled attempt to eliminate the role of AMC and GAL in custody cases by making the practice so risky that no one will be willing to accept an appointment. That is apparent from the fact that it would authorize suits AFTER the custody case is resolved. A parent who believes that the AMC or GAL is not acting properly already has recourse via Section 4 of P.A. 14-3 to bring a motion to remove the AMC or GAL.

Section 3 reflects a total lack of understanding of the purpose of court-ordered evaluations. In the small minority of cases in which evaluations are ordered, it is nearly always because one or both parents request the eval of the other. Those motions nearly always result in orders for both parents to be evaluated. Forensic Psychological Evaluators have completed post-doctoral studies and are highly trained. Both parents are sent to the same evaluator to provide consistency in the administration and interpretation of the battery of tests. This section would instead allow each parent to select his or her own evaluator, apparently without regard to qualifications. As to the selection of therapists, there is no doubt that parents SHOULD choose therapists for their children. If the parents were able to agree, however, they wouldn't be in court fighting over the selection in the first place.

Section 4 is yet another attempt to erode the role of the GAL. This subject matter was covered just last year when the legislature passed P.A. 14-3. After further consideration of the practical implications of limiting an AMC's or GAL's ability to share information obtained from health care professionals, the 14-3 language was modified by 14-207. That's apparently not good enough for the proponents of this bill; now they want to completely eliminate the AMC or GAL from being able to offer information gathered from the child's providers and require that the provider testify in person. Aside from the enormous—and potentially prohibitive—cost to subpoena the doctors, psychologist, etc. to court, the opportunity for the parents to cross examine the child's therapist, for example, would completely violate the child's own right of confidentiality and potentially do great damage to the child's relationship with one or both parents.

In short, the provisions of this bill are not intended to protect children or even support efficient resolution of custody cases. They are an intrusion on the judicial process of resolving custody disputes and a violation of the constitutional separation of powers.

I urge you to oppose passage of this Bill.