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JUDICIAL BRANCH

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Testimony of the Honorable Elizabeth A. Bozzuto
Judiciary Committee Public Hearing
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Senate Bill 1029, An Act Concerning A Nonadversarial
Dissolution of Marriage

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. I am pleased to appear before you today on behalf of the Judicial Branch, in support of one of the Judicial Branch's legislative proposals, *Senate Bill 1029, An Act Concerning A Nonadversarial Dissolution of Marriage*. This bill establishes a judicial process that promotes an expeditious, nonadversarial dissolution of marriage.

More than two years ago, the Judicial Branch began to explore whether a simplified judicial process could be created for dissolutions of marriage where the parties agreed to the dissolution, had only been married for a short period of time, had no children, and had no real property. Research conducted at the time demonstrated that approximately half of our sister states had a process in place that permitted a simplified dissolution of marriage under certain circumstances, and this research served as a guide as we crafted this proposal. If enacted in this state, it would likely benefit thousands of litigants.

The benefits of this bill are two-fold. As members of the Committee are undoubtedly aware, even the simplest dissolution of marriage requires time, energy, and resources. It often requires the parties to miss work and come to court on more

than one occasion. Simply put, it is considerably harder to get divorced in this state than it is to get married. This bill re-shapes the process for parties who have reached an agreement. It will require the parties to file a joint petition, but in most instances nothing more. In fact, the parties may not even have to visit a courthouse at all, if they choose to file the petition electronically.

Time spent in court is a frequent criticism of our current processes. In fact, although a recent Satisfaction Study of Family Court commissioned by the Judicial Branch found that nearly 75% of respondents were very, or somewhat, satisfied with their overall court experience, the lowest positive ratings received were for "length of the process overall" and "time spent in court on a given day." Parties that meet the criteria of this new process will not have to appear before a judge and will spend considerably less time in court.

In addition to providing this category of litigants with an expeditious and efficient alternative to the dissolution process, the Court, and its staff, also receives an ancillary benefit. Permitting cases to proceed in a simplified manner means that more time and attention can be paid to cases with more significant issues in dispute. This goes well beyond merely more time being available on a judge's docket; in fact, it would allow court staff - Clerks, Court Service Center employees, and Family Relations Counselors - to spend more time assisting parties with more complicated issues achieve resolution. And to those of you who have seen how busy the courthouse can be on any given day, putting this simplified framework in place can only serve to reduce the number of parties who must go to the courthouse.

I thought it was important to first explain why this proposal is currently before you. I would now like to describe to you how it would work. Section 1 of the bill establishes this new nonadversarial process, and allows parties to file a joint petition of dissolution of marriage if certain criteria are met. Namely, parties must attest under oath that:

- The marriage has broken down irretrievably;
- The duration of the marriage does not exceed eight years;
- Neither party is pregnant;

- No children were born to or adopted by the parties prior to, or during, the marriage;
- Neither party has any interest or title in real property;
- The total combined fair market value of all property owned by either party excluding all encumbrances, is less than \$35,000;
- Neither party has a pending petition for relief under the United States Bankruptcy Code;
- Neither party is applying for or receiving benefits pursuant to Title XIX of the Social Security Act;
- No other action for dissolution of marriage, civil union, legal separation, or annulment is pending in this state or in a foreign jurisdiction;
- A restraining order, issued pursuant to section 46b-15, or a protective order, issued pursuant to section 46b-38c, between the parties is not in effect; and
- Residency provisions have been satisfied.

Section 1 also provides that the parties must file financial affidavits, and certify that they are proceeding by consent, waiving service of process, and are not acting under duress or coercion. Each party must also assert that they are waiving any right to a trial, alimony, spousal support, or an appeal. In addition, Section 1 also permits the parties to file a settlement agreement, and states that the statutory waiting period does not apply to actions brought under this section. This last point is critical – under current law, again, even the most simple, nonadversarial dissolution is subject to waiting 120 days before proceeding. This proposal would shave off 75% of this time, with most dissolutions being granted in 30 days.

There are safeguards in place as well. Section 2 allows either party to file a notice of revocation of the joint petition. Although we believe that this will be a rare occurrence, there may be times when one party no longer wishes to pursue a nonadversarial resolution of his or her marriage. Should that occur, the action would be placed on the regular family docket of the Superior Court and all provisions of Chapter 815j of the general statutes would apply, except for service provisions.

Section 3 of the bill is critical. It permits the Court to enter a decree of dissolution without the parties appearing in court no less than 30 days from the date that the joint petition has been filed. In order for the Court to do so, it must find that the conditions enumerated in Section 1 exist, and that if a settlement agreement was submitted, that it is fair and equitable. As a procedural safeguard, this section also provides that nothing would prohibit either party from commencing an action to set aside the final judgment for fraud, duress, accident, mistake, or other grounds recognized at law or equity.

Lastly, Section 4, as an additional safeguard, authorizes the Court to order the parties to appear in court if the Court cannot determine whether a settlement agreement is fair and equitable, or it is not apparent that the criteria in Section 1 has been met. Following the parties' appearance, the Court can either enter the decree of dissolution if satisfied, or order that the matter be placed on the regular family docket.

In sum, we believe that the provisions of this bill will dramatically change the landscape for parties wishing to proceed in a more simplified manner. I cannot overstate how much I believe this will improve the lives of the parties; freed from court appearances, they will be able to move forward with their lives, unburdened by current statutory constraints.

The bill before you does have one more very important section, and although unrelated to this new nonadversarial dissolution process, it too will assist parties to achieve a more timely resolution of their dissolution of marriage. As I noted earlier, parties to a dissolution must currently wait at least 120 days before their matter can be heard. Section 5 would permit, but not require, the Court to waive this statutory waiting period if the parties file a motion, and attest under oath that they have an agreement as to all terms of the dissolution of marriage and are ready to proceed on an uncontested basis.

The Judicial Branch takes very seriously the concern noted in the Satisfaction Survey about the time lost by the parties as they wait for their dissolution. Sometimes this is unavoidable - the issues may be complex, the parties inflexible - but in far more

instances, the parties arrive in court ready to proceed with their action, only to be told that it will take at least four months.

Section 5 is designed to assist these parties. Perhaps it's because they fall just outside the criteria for a nonadversarial dissolution, or perhaps the parties have worked diligently before the action is filed to resolve all pertinent issues. In these instances, it would seem prudent to allow these parties to proceed in a more expeditious manner. This provision would allow the parties to do so, but again, only if the Court permits, and only if the parties have an agreement to all terms of their dissolution.

Thank you for allowing me to take so much of your time today to discuss this bill. We have taken a hard look at our framework, and believe this proposal will provide meaningful relief to a great number of residents we serve. I therefore respectfully request that the Committee approve this bill, and would be pleased to answer any questions that you may have.