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Subject: S.B. 350: An Act Concerning the Appointment of Family Support Magistrates

Members of the Judiciary Committee

My name is Louis Kiefer. I speak in favor of the above mentioned bill.

I am a retired attorney which gives me some license to testify without fear of retribution. I have practiced in the courts of Connecticut for over 55 years, primarily in the Family Court system - from the Magistrate's Court to the Supreme Court. In addition, throughout the years I have appeared at the trial court levels in the states of New Jersey, Massachusetts, New Hampshire, and New York, as well as *amicus* in the U.S. Supreme Court, the New York Court of Appeals and the Delaware Court of Appeals.

When Robert Reich claims in "Saving Capitalism," and Bernie Sanders claims in his political speeches that the system is rigged, one need look no further than the magistrate system.

While in any system, there are less than adequate people, there is no way to effectively remove those magistrates who should not be serving.

For example, consider the following case, and how the father was treated by the system.

John had casual sex with a woman. He had never lived with her, knew nothing about her. She became pregnant and did not tell John for several years. She then had a second child (John was not the father) and applied for financial assistance from the State.

On January 1, 2015, before the support action was commenced, John was awarded and spent a bonus. On July 1, 2015 the Bureau of Support commenced a support action against John, Since he had no ongoing relationship and was not told that he was the father, he filed a motion for DNA testing on July 25 which came back positive. It should be noted that the State provided an attorney without charge to the mother but no attorney was provided to John. On September 19, 2015 both the father and the mother provided financial affidavits, which called for current income. The father put down his current income and the mother, because of a new born child had voluntarily withdrawn from the labor market, put down zero for her income.

On September 19, 2015 the Magistrate ordered both parties to provide their 2011 and 2012 tax returns (the most recent) which John did. The mother did not. Instead the State, prior to the hearing on October 31, provided the Department of Labor records of the mother. The father had no access to the records on his own.

The issues of the case were: What was the father's present income, for which current support should be issued, and what was the mother's earning capacity since she had withdrawn from the labor market.

Since the mother had filed a financial affidavit in the other case in 2008, John attempted to see what her previous income was. The Magistrate ruled that he was not entitled to examine it - it wasn't relevant.

John also filed what are called Interrogatories to have the mother answer certain questions. The rule permits the filing of interrogatories, they have a form for interrogatories in family cases. The rule provide that objections must be in writing, that there be a conference between the parties to attempt to resolve issues before being ruled on by the court.

In this case the Magistrate (not the mother) objected to the interrogatories. The Magistrate claimed that the answers were irrelevant, Of course the rules of discovery require the furnishing of evidence "which are relevant or may lead to relevant evidence" the court interrupted and said: "I don't need a lecture on evidence." In other words, rather than listening to an argument, she construed John's attorney as lecturing her.

When I made the argument on whether a person was a student (and legitimately had no earning capacity) as opposed to a person who had decided to have another child with another man and had withdrawn herself from the labor market, the Magistrate stated: "Attorney Kiefer, I would not describe being a mother of a newborn doing nothing and I would caution you to take that position too."

Nothing in the Child Support Guidelines provide an exception to the law which requires that each parent is responsible for the support of him or

herself and to contribute to the support of a child. Thus the Magistrate would like for John to support the child and the mother and the mother's newborn.

At this time of the proceeding the mother still hadn't produced her income tax returns. When John asked for another continuance the Magistrate put the blame on John even though it was a legitimate request.

The Magistrate also threatened John with sanctions if he didn't bring \$198.00 each week with him to the next continuance date. This was curious because the court had not set any child support order; had not found any arrearage; had not determined which the payment on the arrearage should be. Nevertheless the court ordered him to pay an additional \$20.00 per week on the arrearage before it had been set.

Not only was the Magistrate either so biased or ignorant of the law and the rules, there was no effective remedy to have her removed. Counsel filed a Motion to Recuse, but they are seldom granted. There is no remedy for reviewing a magistrate's performance other than an appeal which is difficult for a *pro se* litigant. That is why SB 350 is so important.

I am attaching a redacted copy of the Motion to Recuse and attached affidavit.

Since it is rare to have an attorney in the Magistrate's court, they can and often run roughshod over payers. In this case it was apparent that the Magistrate was wholly and totally invested in the mother's cause.

Because of bias, the Magistrate wanted to include bonus income, earned, received, and spent before the Support action started. This would have resulted in a higher support obligation that was justified under the Child Support Guidelines.

Unfortunately there was a very high support arrearage. It was occasioned by the mother's failure to establish paternity at the earliest time. We would hope that paternity would by law established at birth rather than let the mother decide. Also, John, a good man, would have wanted to participate in the child's life but was denied that opportunity. The mother's motives are unknown but under the system as long as she didn't tell the father, she didn't have to share the child with the father and that, sooner or later, she could collect all the support that was due.

It is very important that the legislature provide oversight to the Magistrate's court.

Very truly yours,

Louis Kiefer