

## **H.B. 6505 – Court Operations**

Judiciary Committee public hearing – March 15, 2021

**Recommended Committee action: AMENDMENT OF THE BILL**

With regard to Section 17 pertaining to restraining order application affidavits, legal services support the testimony submitted by the Connecticut Coalition Against Domestic Violence (CCADV).

Those sections of the bill dealing with Superior Court Family Division, Sections 16 to 24, are geared to enabling the court to make decisions based on affidavits submitted rather than hearings held. Should our current law be amended to implement this change, it will leave our most vulnerable litigants, those representing themselves, unprotected by our judicial system. Self-represented parties are at particular risk for abuse of the court process by opposing parties who resort to intimidation and coercion to achieve their goals. The ability to access justice is more than the ability to file pleadings and obtain court orders. Access to justice must ensure the availability of protections that can only be provided by Court review. Those protections must include a canvas of the parties or examination by a judge and an assessment of credibility. At the very least, if in-court review is not available to all parties for every agreement, then additional protections must be added into to this bill.

Financial affidavits are a particular concern. To ensure honesty, the Branch is relying on C.G.S. §53a-157b, which makes filing a fraudulent affidavit a Class A misdemeanor. In many couples, one partner is ignorant of the financial situation of the other. This is especially true of unmarried couples, and creates an incentive for omitting or supplying false information on the financial affidavit. Support Enforcement Services personnel have an important role to play in discovering the true income of the non-custodial parent, but it is necessary for the Judicial Branch to place more emphasis than it currently does on enforcing discovery compliance.

In addition, there should be a new section added to the bill providing the following additional penalties for the filing of a false financial affidavit: (1) a provision requiring any financial order or property distribution order, to be opened when the falsity of the affidavit is discovered; (2) a provision requiring remedial orders to be retroactive; (3) a provision requiring the finding of an arrearage based on the new orders; (4) a provision mandating interest at the judicial interest rate on any arrearage

found; and (5) a provision allowing for attorney's fees to the party who discovered the false affidavit. Only such financial penalties for the filing of a false affidavit will discourage practice.

In Sections 19-22, the bill rightfully carves out an exception for domestic violence, lines 1282-1287, 1326-1328, 1416-1419, and 1432-1436, but the delineation of who would qualify for the exception is too narrow. In addition to those instances in which there is a current order of protection issued by either the civil or criminal court, the exception should also include instances in which there has been a prior domestic violence conviction and either: (1) no contact is a condition of parole; (2) no contact is a condition of probation; or (3) there is a standing criminal restraining order.

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