

### **Judiciary Committee**

Public Testimony of the Connecticut Women's Education and Legal Fund (CWEALF)  
H.B. 7095: *An Act Concerning a Grandparent's Right to Visitation with His or Her Grandchild*  
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The Connecticut Women's Education and Legal Fund (CWEALF) is a statewide, nonprofit organization that advocates for and empowers women and girls in Connecticut, especially those who are underserved or marginalized. For forty-five years, CWEALF has been a leading advocate of policy solutions that enhance women's economic security and combat discrimination at work.

Through CWEALF's Legal Education Program, we also provide information, education, referrals, and bilingual advocacy to the Connecticut community to ensure that all individuals in our state have access to legal justice. The majority of CWEALF's clients are low-income women with at least one dependent.

CWEALF respectfully opposes House Bill No. 7095: *An Act Concerning Grandparent's Right to Visitation with His or Her Grandchild*. The bill seeks to greatly reduce the fundamental rights that parents of a minor child hold to make decisions about who may visit their children when one or both parents have died or if the parents are divorced or living separate and apart in different locations. CWEALF opposes H.B. 7095 because it is potentially unconstitutional and may also put domestic violence survivors and their children at risk for further violence and abuse.

Currently, a grandparent may be awarded visitation rights upon petitioning the court if they can prove that a parent-like relationship exists between them and the child and that denial of visitation would lead to real and significant harm. Under current law, if the court finds by clear and convincing evidence that the grandparent should be granted visitation rights, the court is required to set the terms of visitation and what issues should be considered when setting those terms, such as the effect on the child of any domestic violence between or among the parents and/or grandparents.

Under H.B. 7095, when a child's parents are divorced, live separate from one another, or one or both are deceased, a grandparent could petition the court for visitation rights with substantially less to prove than that required under current law when a child's parents are married and/or living together. House Bill No. 7095 also does not include language that directs the court to consider the effect of domestic violence on the child.

This bill presents constitutionality issues, as well. The vast expansion of the rights contained in H.B. 7095 of grandparents to obtain a court order to visit their minor

grandchildren against the wishes of a parent of the child contravenes the fundamental and constitutional right of parents in the care, custody, and control of their children recognized by the U.S. Supreme Court (*Troxel v. Granville*, 530 U.S. 57, 2000). After that case, the Connecticut Supreme Court reviewed the state's third-party visitation statute and allowed a court to order a non-parent (including a grandparent) the right to visit a minor child (including a grandchild) against the parents' wishes only in very narrow circumstances, when:

- a parent-like relationship exists between the grandparent and the grandchild; and
- the denial of visitation would cause real and significant harm.

These requirements were codified in C.G.S. Section 46b-59. House Bill No. 7095 would amend Section 46b-59 to create a new and different standard for grandparent visitation when: (1) one or both parents have died; (2) the parents are divorced; or (3) the parents are living separate and apart in different locations.

House Bill No. 7095 is especially harmful to survivors of domestic violence who have sole custody of their child because it will create an easier path for grandparents to obtain visitation rights, which could then be used to provide access to the non-custodial parent without custody or visitation rights. If a court has already ruled that the other parent shouldn't have custody or visitation with the child, granting visitation to a grandparent without consideration of past abuse between the parents of the child jeopardizes the safety of that child.

House Bill No. 7095 gives more leeway to grant grandparent visitation rights without the existing constitutional safeguards of a court finding a parent-like relationship and potential harm to the child from non-visitation. Further, H.B. 7095 leaves several questions unclear, including situations in which:

- the grandparents had no pre-existing relationship with the grandchild;
- the grandparents are not fit,
- the grandparents made no good faith effort to resolve the situation before going to court, or
- the non-custodial parent of the child has been denied custody or visitation rights

Finally, H.B. 7095 also would allow a court to order a losing party to pay the prevailing party for attorneys' fees and unspecified costs and would eliminate the requirement that such payment would be in accordance with the losing party's financial ability. This creates an obstacle for fit, responsible parents to challenge a grandparent's visitation application in court because the parents may not be able to afford both their own and the other party's litigation costs if the grandparent wins.

Existing law provides sufficient opportunity for grandparents to seek and obtain visitation with a grandchild and comports with the State Constitution, as well as the many legal issues related to custody that have already been litigated and decided in Connecticut. For this reason, CWEALF urges the Committee to oppose H.B. 7095.