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**Testimony of Ralph J. Monaco**  
**Connecticut Bar Association**  
**Task Force to Study Converting Legislative Documents**  
**From Paper to Electronic Form**  
**Public Hearing**  
**Thursday, November 18, 2010**

Senator Crisco, Ms. Henry and members of the Task Force to Study Converting Legislative Documents from Paper to Electronic Form, thank you for the opportunity to appear before the committee to comment on the Governor's Proposed Deficit Mitigation Plan and the Impact of the Governor's Rescissions. My name is Ralph J. Monaco and I am the President of the Connecticut Bar Association, the preeminent voluntary association of attorneys in Connecticut with over 9,000 members who practice in every, diverse area of the law. The CBA has a great interest in matters concerning the interpretation of state laws, particularly where in the course of legal counseling or litigation issues arise regarding the legislative intent of statutes. For these reasons, the CBA **opposes** the elimination of printed or transcribed committee public hearing transcripts and urges the Task Force to **recommend that such transcripts not be eliminated** for the following reasons.

Parties in cases pending in state courts often raise questions about the meaning of a particular statute. Where the meaning or intent of the statute cannot be determined in the first instance by the plain language of the statute, lawyers will often research the law's legislative history in an effort to ascertain why the legislature used a particular word or phrase or to determine the legislative intent relative to the passage of the statute. The public hearing transcripts of legislative committee public hearings sometimes provide greater detail about such history than the House or Senate session transcripts, particularly when the legislation is placed on a consent calendar or passed in the waning minutes of a session. Unless committee public hearing transcripts are transcribed and a written record of them made, the courts and the public will lose an invaluable resource in determining what and why the General Assembly passed a particular piece of legislation.

A quick search of CaseMaker® demonstrates the value of such committee public hearing transcripts. The following excerpt from *Robin Walsh Malone, Commissioner of Social Services v. Jeffery Jodoin*, 05-CBAR-2184 (October 25, 2005), a case involving certain statutory rights of children and parents, demonstrates a rather typical example of how such transcripts are used:

Although the stated purpose of Public Act 04-100 was to "treat children in need of support the same, regardless of the marital status of the parents" and to "create parity between children of divorces and children of unmarried parents" (see Report on S.B. 596 Favorably Reported by Judiciary Committee; **testimony of Diane Frey, Judiciary Committee public hearing, March 15, 2004; testimony of Stephen Ment, Judiciary Committee public hearing, March 15, 2004**), no remarks were made either during the Judiciary Committee's public hearing or during debate either in the House or Senate which would indicate an intention to apply the statute in a remedial manner, or more particularly, retroactively. Based on the legislative history of these statutes, it appears that the remarks do not clearly and unequivocally express a legislative intent for either of them to apply retroactively. The remarks do indicate that P.A. 04-100 was intended to extend the same rights of support to children born to unmarried parents as previously granted to children of divorced parents under General Statutes §46b-84(b). [Emphasis added.]

The committee public hearing transcripts assisted the court in understanding the legislative intent of Public Act 04-100 in the case above. Eliminating written or transcribed committee public hearing transcripts may lead to a potential misunderstanding or misinterpretation of state statutes. The importance of getting the right decision in these cases must be weighed against the potential savings of eliminating the written transcripts.

Finally, the CBA agrees with previous comments that have been filed with the Task Force concerning substituting audio transcripts for written transcripts. The ability – or lack thereof – to search such audio files will almost make virtually useless as a tool for divining legislative intent. Worse, there is no present system for verifying or citing such audio transcripts in court proceedings. Until those challenges have been addressed, eliminating written committee public hearing transcripts should be avoided.

The CBA fully understands the harsh fiscal reality facing the State of Connecticut, yet we must urge the Task Force and the legislature to **oppose elimination of transcribed or printed committee public hearing transcripts.**