

**STATEMENT**

**BY**

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**IMMEDIATE PAST PRESIDENT**

**THE BARRISTERS' ASSOCIATION OF PHILADELPHIA, INC.**

**BEFORE THE HOUSE OF REPRESENTATIVES**

**SUBCOMMITTEE ON COURTS OF THE HOUSE JUDICIARY COMMITTEE**

**Wednesday, March 26, 1997**

Good Afternoon. Thank you for the invitation to present a broad comment on House Bill 22. I appear before the subcommittee on behalf of the Barristers' Association of Philadelphia, Inc., an organization representing the interest of African-American Lawyers who practice in and around Philadelphia. I also speak individually as a family law practitioner with a practice in all areas of domestic relations, and who actively participates in the affairs of family law sections of both the Philadelphia Bar and The Barristers'.

House Bill 22 and Judicial Determinations that establish the Nurturing Parent Doctrine seek to relieve those custodial parents from the imposition of child support payments while rearing a child. While at first impression, the codification of this Doctrine seems a logical extension of the law, a closer examination motivates an opinion that to do so is problematic for a number of reasons. First, the common law of the Nurturing Parent Doctrine is well settled. It has worked to provide equity in situations where a parent chooses to remain home to care for a child. The Courts have developed this Common Law on the theory that the nurturing parent sacrifices income in order to rear a child. It is the sacrifice of income of the nurturing parent that in my view establishes the case for the application of the Doctrine.

Alternatively, House Bill 22 tracks most of the purposes of the common law, with exceptions. Under this Bill, specifically, paragraph (a)(1), a nurturing parent is not precluded from earning income *while at home with the child*. This provision and paragraph (b)(1)(iv), read together raise the issue of whether the legislature intends to shelter from a support analysis some

Milton S. Savage, Jr.

Page 2

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amount of income earned by the nurturing parent. The Courts have granted application of the Doctrine on the theory that the nurturing parent does not have a source of income, either outside or within the home.

Additionally, House Bill 22 would create a new challenge to Courts to develop rules governing the imposition of support obligations on parents of children in multiple families. Courts would then develop more rules dealing with parents of multiple families. These rules would necessarily impact on those rules that now exist, and in some instances, may cause unintended results.

I will use paragraph (c) Limitation, to illustrate such an unintended result. Suppose Father A has custody of the child of the union with Mother. Mother has custody of a child with Father B. Mother asserts the common law parental nurturing doctrine as applied to child with father B to avoid paying child support to father A. Under the cited limitation provision, the parental nurturing doctrine is not available for Mother. Therefore, Mother must pay child support to Father A. If Father B pays little or no child support, then the Limitation may cause a financial hardship on Mother. Such a hardship is unavoidable unless the Court has discretion to enter an Order that responds to just such a situation.

The following are other points to consider in the review of this Bill:

1. The effect on the increase number of people who live in separate residences and live with financial hardship,
2. The overall financial condition of the party seeking to avoid a support obligation.

In conclusion, The Barristers' Association is opposed to the codification of the Nurturing Parent Doctrine. I trust that the following comments will help the Committee in its important work. The Barristers' would like to reserve further comment for submission or testimony prior to a vote.

Thank you.