



Senate

General Assembly

File No. 42

January Session, 2001

Substitute Senate Bill No. 1103

Senate, March 14, 2001

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE CHILD SUPPORT STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 46b-160 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (a) Proceedings to establish paternity of a child born or conceived
4 out of lawful wedlock, including one born to, or conceived by, a
5 married woman but begotten by a man other than [her] such married
6 woman's husband, shall be commenced by the service on the putative
7 father of a verified petition of the mother or expectant mother. The
8 verified petition, summons and order shall be filed in the superior
9 court for the judicial district [in which] where either [she] the mother
10 or expectant mother or the putative father resides or where the child
11 resides if the child does not reside with the mother or putative father,
12 except that in IV-D support cases, as defined in subdivision (13) of
13 subsection (b) of section 46b-231 and in petitions brought under

14 sections 46b-212 to 46b-213v, inclusive, such petition shall be filed with
15 the clerk for the Family Support Magistrate Division serving the
16 judicial district where either [she] the mother or expectant mother or
17 the putative father resides or where the child resides if the child does
18 not reside with the mother or putative father. In cases involving public
19 assistance recipients the petition shall also be served upon the
20 Attorney General who shall be and remain a party to any paternity
21 proceeding and to any proceedings after judgment in such action. The
22 court or any judge, or family support magistrate, assigned to said court
23 shall cause a summons, signed by [him] such judge or magistrate, by
24 the clerk of said court, or by a commissioner of the Superior Court to
25 be issued, requiring the putative father to appear in court at a time and
26 place as determined by the clerk but not more than ninety days after
27 the issuance of the summons to show cause, if any [he] the putative
28 father has, why the request for relief in such petition should not be
29 granted. A state marshal, proper officer or investigator shall make due
30 returns of process to the court not less than twenty-one days before the
31 date assigned for hearing. Such petition, summons and order shall be
32 on forms prescribed by the Office of the Chief Court Administrator. In
33 the case of a child or expectant mother being supported wholly or in
34 part by the state, service of such petition may be made by any
35 investigator employed by the Department of Social Services and any
36 proper officer authorized by law. Such petition may be brought at any
37 time prior to the child's eighteenth birthday, provided liability for past
38 support shall be limited to the three years next preceding the date of
39 the filing of any such petition. If the putative father fails to appear in
40 court at such time and place, the court or family support magistrate
41 shall hear the petitioner and, upon a finding that process was served
42 on the putative father, shall enter a default judgment of paternity
43 against such father and such other orders as the facts may warrant.
44 Such court or family support magistrate may order continuance of
45 such hearing; and if such mother or expectant mother continues
46 constant in [her] such mother's or expectant mother's accusation, it

47 shall be evidence that the respondent is the father of such child. The
48 court or family support magistrate shall, upon motion by a party, issue
49 an order for temporary support of the child by the respondent pending
50 a final judgment of the issue of paternity if such court or magistrate
51 finds that there is clear and convincing evidence of paternity which
52 evidence shall include, but not be limited to, genetic test results
53 indicating a ninety-nine per cent or greater probability that such
54 respondent is the father of the child.

55 Sec. 2. Subdivision (1) of subsection (a) of section 46b-215 of the
56 general statutes is repealed and the following is substituted in lieu
57 thereof:

58 (a) (1) The Superior Court or a family support magistrate shall have
59 authority to make and enforce orders for payment of support against
60 any person who neglects or refuses to furnish necessary support to
61 such person's spouse or a child under the age of eighteen or an
62 unmarried child under the age of nineteen and who is a full-time high
63 school student residing with the custodial parent, according to such
64 person's ability to furnish such support, notwithstanding the
65 provisions of section 46b-37.

66 Sec. 3. Subdivision (1) of subsection (a) of section 46b-171 of the
67 general statutes is repealed and the following is substituted in lieu
68 thereof:

69 (a) (1) If the defendant is found to be the father of the child, the
70 court or family support magistrate shall order the defendant to stand
71 charged with the support and maintenance of such child, with the
72 assistance of the mother if such mother is financially able, as said court
73 finds, in accordance with the provisions of section 17b-81, 17b-223,
74 17b-745, subsection (b) of section 17b-179, section 17a-90, 46b-129,
75 46b-130 or 46b-215 to be reasonably commensurate with the financial
76 ability of the defendant, and to pay a certain sum periodically until the
77 child attains the age of eighteen years or until the child attains the age

78 of nineteen if such child is unmarried and is a full-time high school
79 student residing with the custodial parent. The court or family support
80 magistrate shall order the defendant to pay such sum to the
81 complainant, or, if a town or the state has paid such expense, to the
82 town or the state, as the case may be, and shall grant execution for the
83 same and costs of suit taxed as in other civil actions, together with a
84 reasonable attorney's fee; and may require the defendant to become
85 bound with sufficient surety to perform such orders for support and
86 maintenance.

87 Sec. 4. Subsection (c) of section 46b-213w of the general statutes is
88 repealed and the following is substituted in lieu thereof:

89 (c) The Department of Social Services shall distribute to all
90 employers in this state a standard notice and claim form, written in
91 clear and simple language, which shall include:

92 (1) Notice that money will be withheld from the employee's wages
93 for child support and health insurance;

94 (2) Notice that eighty-five per cent of the first one hundred forty-
95 five dollars per week of disposable earnings are exempt from the
96 income withholding order;

97 (3) Notice that the amount of the income withholding order may not
98 exceed the maximum permitted by federal law under Section 1673 of
99 Title 15 of the United States Code, together with a statement of the
100 obligor's right to claim any other applicable state or federal
101 exemptions;

102 (4) Notice of the right to object to the validity or enforcement of such
103 income withholding order in a court in this state and of the right to
104 seek modification of the underlying support order in the court of
105 continuing exclusive jurisdiction;

106 (5) Notice of the right to seek the assistance of the Child Support

107 Enforcement Bureau of the Department of Social Services and the toll-
108 free telephone number at which the bureau can be contacted;

109 (6) A claim form which shall include (A) a list of the most common
110 defenses and exemptions to such income withholding order in a
111 manner which allows the obligor to check any of the defenses and
112 exemptions which apply; (B) a space where the obligor may briefly
113 explain [his] the obligor's claim or defense; (C) a space where the
114 obligor may initiate a request for services to modify the support order;
115 (D) a space for the obligor to provide [his] the obligor's address and
116 the name of the town in which [he] the obligor principally conducts
117 [his] the obligor's work for the employer; (E) a space for the obligor to
118 sign [his] the obligor's name; (F) the address of the Bureau of Child
119 Support Enforcement of the Department of Social Services to which the
120 claim form is to be sent in order to contest the validity or enforcement
121 of the income withholding order or to initiate a request for
122 modification; and (G) space for the employer to state the date upon
123 which the form was actually delivered to the obligor.

Statement of Legislative Commissioners:

In section 1, "in which" was changed to "where" for statutory consistency and section 3 was reworded for clarity and consistency with existing language.

JUD **JOINT FAVORABLE SUBST.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost, Federal Revenue Gain

Affected Agencies: Judicial Department, Department of Social Services

Municipal Impact: None

Explanation

State Impact:

This bill changes the rules concerning the location of paternity cases, conforms paternity and petition based support orders, and requires the Department of Social Services (DSS) to revise its child support notice that is distributed to employers.

The bill would result in a cost of \$180,000 - \$360,000 to the Judicial Department by extending eligibility for support orders in paternity or petition-based support order cases until the child's 19th birthday. Since the Judicial Department's current databases do not contain information on a child's high school status, four to eight additional support officers would be needed statewide to review annually an estimated 10,500 case files and make such determinations as appropriate. There are currently 122,000 support cases. It should be noted that these costs are 66% reimbursable from the federal government as part of the IV-D program (yielding estimated deferral revenue therefore of \$118,000-\$237,600).

This bill is not expected to result in any fiscal impact for DSS. The department is expected to implement the new requirements within its existing administrative efforts.

OLR Bill Analysis

sSB 1103

AN ACT CONCERNING REVISIONS TO THE CHILD SUPPORT STATUTES.**SUMMARY:**

This bill permits paternity cases to be brought in the judicial district where a child who is not living with either parent (for example, a child placed with foster or relative caregivers) resides. Current law specifies that paternity actions must be brought in the judicial district where either the mother or person thought to be the father (“putative father”) lives (SEE COMMENT).

It conforms paternity- and petition-based support orders with orders issued in divorce proceedings by extending, from age 18 up to age 19, the period for which noncustodial parents may be required to support their unmarried children.

Finally, it requires the Department of Social Services (DSS) to revise the notice it requires employers to give to employees whose wages are being withheld to satisfy a child support order issued in another state. The notice currently informs employees that the first \$145 of their disposable income is exempt from withholding. (This is sometimes called the “self-support reserve.”) Under the bill, the notice will indicate that 85% of the first \$145 (or \$123.25) is exempt from withholding. This change conforms the notice with a 1999 state law that reduced the self support reserve.

EFFECTIVE DATE: October 1, 2001

EXTENDING AGE OF SUPPORT

Under the bill, children for whom support orders are issued through paternity proceedings or petitions of support may receive support from their noncustodial parent for the same length of time as children

whose support orders were issued in divorce proceedings. Currently, a divorce court may order noncustodial parents to pay support until a child's 19th birthday, so long as he is (1) unmarried, (2) a full-time high school student, and (3) living with his custodial parent. Under the bill, the same eligibility criteria would apply to paternity- or petition-based support orders.

BACKGROUND

Paternity Filings

Paternity petitions may be filed at any time prior to a child's 18th birthday. They must be filed in a judicial district where either of the parents lives. If the case is one involving an out-of-state petitioner, or if DSS is providing child support enforcement services, the filing must be made in the Family Support Magistrate Division serving the applicable judicial district. These latter cases are referred to as "IV-D" support cases, in which children generally are (1) in foster care, (2) receiving cash assistance, or (3) living with a person who has requested support enforcement services from DSS.

Self Support Reserves

Almost every state exempts an amount from wage withholding, which the obligor (person owing support) gets to keep from his paycheck no matter how much child support he owes. PA 99-193 reduced this weekly reserve from the first \$145 of disposable income to 85% of disposable income up to \$145. Thus, for someone earning \$145 it would be \$123.25. As income declines so does the self-support reserve, so someone earning \$100 would have an \$85 reserve and \$15 withheld for child support.

Under Connecticut's Uniform Interstate Family Support Act (UIFSA), an employer in this state must follow our law regarding the self-support reserve when enforcing orders from other states. But when PA 99-193 reduced the self-support reserve amount, the law requiring DSS to provide employers with notices to distribute to employees subject to UIFSA withholding orders was not amended to reflect this change.

COMMENT***Paternity Filings – Conflict with Family Support Magistrate’s Act***

Section 1 of the bill, which permits paternity petitions to be filed where a child who is not living with his parents resides, appears to conflict with the Family Support Magistrate’s Act (CGS § 46b-231(m)(5)). That provision restricts paternity filings in IV-D support cases to the Family Support Magistrate Division for the judicial district where the mother or putative father resides.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0