General Assembly

Raised Bill No. 7381

January Session, 2007

LCO No. **5595**

05595_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING CHILD SUPPORT ENFORCEMENT AND RELATED COURT ORDERS.

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

Section 1. (NEW) (*Effective July 1, 2007*) Any judicial marshal may serve a capias mittimus on any person who is in the custody of the marshal or is in a courthouse where the marshal provides courthouse security if such capias mittimus was issued in a child support matter by (1) a court or a family support magistrate pursuant to subdivision (8) of subsection (a) of section 17b-745 of the general statutes, as amended by this act, or subparagraph (C) of subdivision (8) of subsection (a) of section 46b-215 of the general statutes, as amended by this act, or (2) a family support magistrate pursuant to subdivision (1) of subsection (m) of section 46b-231 of the general statutes, as amended by this act.

Sec. 2. (NEW) (*Effective July 1, 2007*) The Judicial Department may develop and implement, in cooperation with the Department of Public Safety, a means by which a capias mittimus issued in a child support matter by a court or a family support magistrate pursuant to section 17b-745, 46b-215, or 46b-231 of the general statutes, as amended by this

17 act, may be recorded in the Connecticut on-line law enforcement
18 communications teleprocessing system.

19 Sec. 3. Subdivision (8) of subsection (a) of section 17b-745 of the
20 general statutes is repealed and the following is substituted in lieu
21 thereof (*Effective July 1, 2007*):

22 (8) Failure of any defendant to obey an order of the court or Family
23 Support Magistrate Division made under this section may be punished
24 as contempt of court. If the summons and order is signed by a
25 commissioner of the Superior Court, upon proof of service of the
26 summons to appear in court or before a family support magistrate and
27 upon the failure of the defendant to appear at the time and place
28 named for hearing upon the petition, request may be made by the
29 petitioner to the court or family support magistrate for an order that a
30 capias mittimus be issued. Except as otherwise provided, upon proof
31 of the service of the summons to appear in court or before a family
32 support magistrate at the time and place named for a hearing upon the
33 failure of the defendant to obey the court order as contempt of court,
34 the court or the family support magistrate may order a capias mittimus
35 to be issued and directed to **[**some**]** <u>a judicial marshal pursuant to</u>
36 <u>section 1 of this act or any other</u> proper officer to arrest such defendant
37 and bring such defendant before the Superior Court for the contempt
38 hearing. The costs of commitment of any person imprisoned therefor
39 shall be paid by the state as in criminal cases. When any such
40 defendant is so found in contempt, the court or family support
41 magistrate may award to the petitioner a reasonable attorney's fee and
42 the fees of the officer serving the contempt citation, such sums to be
43 paid by the person found in contempt.

44 Sec. 4. Section 46b-168 of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective July 1, 2007*):

46 (a) In any proceeding in which the question of paternity is at issue
47 the court or a family support magistrate, on motion of any party <u>or on</u>
48 <u>its own motion</u>, may order genetic tests<u>,</u> which shall mean

49 deoxyribonucleic acid tests, to be performed by a hospital, accredited
50 laboratory, qualified physician or other qualified person designated by
51 the court, to determine whether or not the putative father or husband
52 is the father of the child. The results of such tests, whether ordered
53 under this section or required by the IV-D agency under section 46b-
54 168a, shall be admissible in evidence to either establish definite
55 exclusion of the putative father or husband or as evidence that he is the
56 father of the child without the need for foundation testimony or other
57 proof of authenticity or accuracy, unless objection is made in writing
58 not later than twenty days prior to the hearing at which such results
59 may be introduced in evidence.

60 (b) In any proceeding in which the question of paternity is at issue,
61 the results of such genetic tests, whether ordered under this section or
62 required by the IV-D agency under section 46b-168a, shall constitute a
63 rebuttable presumption that the putative father is the father of the
64 child if the results of such tests indicate a ninety-nine per cent or
65 greater probability that he is the father of the child, provided the
66 petitioner has presented evidence that sexual intercourse occurred
67 between the mother and the putative father during the period of time
68 in which the child was conceived.

69 (c) The costs of making tests provided by this section shall be
70 chargeable against the party making the motion, **[**provided**]** <u>except that</u>
71 <u>(1)</u> if the court finds that such party is a low-income obligor, as defined
72 in the child support guidelines established pursuant to section 46b-
73 215a, or is otherwise indigent and unable to pay such costs, such costs
74 shall be paid by the state<u>, and (2) if the court or a family support</u>
75 <u>magistrate orders such test on its own motion, such costs shall be paid</u>
76 <u>by the state</u>.

77 Sec. 5. Subsection (f) of section 46b-213a of the general statutes is
78 repealed and the following is substituted in lieu thereof (*Effective July*
79 *1, 2007*):

80 (f) In a proceeding under sections 46b-212 to 46b-213v, inclusive, the

family support magistrate [may] shall permit a party or witness residing in another state to testify by telephone or other electronic means, if available, and such costs for such testimony shall be assessed to the party requesting such method of providing testimony.

Sec. 6. Subparagraph (C) of subdivision (8) of subsection (a) of section 46b-215 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(C) The court [,] or any judge thereof, when said court or judge is not sitting, or a family support magistrate, when said [court or] family support magistrate is not sitting, may require the defendant or defendants to become bound, with sufficient surety, to the state, town or person bringing the complaint, to abide such judgment as may be rendered on such complaint. Failure of the defendant or defendants to obey any order made under this section, may be punished as contempt of court and the costs of commitment of any person imprisoned therefor shall be paid by the state as in criminal cases. Except as otherwise provided, upon proof of the service of the summons to appear in court or before a family support magistrate at the time and place named for a hearing upon the failure of the defendant or defendants to obey such court order or order of the family support magistrate, the court or family support magistrate may order a capias mittimus be issued, and directed to [some] a judicial marshal pursuant to section 1 of this act or any other proper officer to arrest such defendant or defendants and bring such defendant or defendants before the Superior Court for the contempt hearing. When any person is found in contempt under this section, the court or family support magistrate may award to the petitioner a reasonable attorney's fee and the fees of the officer serving the contempt citation, such sums to be paid by the person found in contempt.

Sec. 7. Subsections (f) and (g) of section 46b-231 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

113 (f) The Family Support Magistrate Division shall include **[**nine**]**
114 eleven family support magistrates who shall be appointed by the
115 Governor to serve in that capacity for a term of three years. A family
116 support magistrate may be reappointed upon completion of his term
117 of office by the Governor. To be eligible for appointment, a family
118 support magistrate must have engaged in the practice of law for five
119 years prior to his appointment and shall be experienced in the field of
120 family law. **[**He**]** A family support magistrate shall devote full time to
121 his duties as a family support magistrate and shall not engage in the
122 private practice of law. A family support magistrate may be removed
123 from office by the Governor for cause.

124 (g) A Chief Family Support Magistrate shall be designated by the
125 Chief Court Administrator of the Superior Court from among the
126 **[**nine**]** family support magistrates appointed by the Governor pursuant
127 to subsection (f) of this section. Under the direction of the Chief Court
128 Administrator, the Chief Family Support Magistrate shall supervise
129 the Family Support Magistrate Division and submit an annual report
130 to the Chief Court Administrator and perform such other duties as
131 provided in this section.

132 Sec. 8. Subdivision (1) of subsection (m) of section 46b-231 of the
133 general statutes is repealed and the following is substituted in lieu
134 thereof (*Effective July 1, 2007*):

135 (1) A family support magistrate in IV-D support cases may compel
136 the attendance of witnesses or the obligor under a summons issued
137 pursuant to sections 17b-745, 46b-172 and 46b-215, as amended by this
138 act, a subpoena issued pursuant to section 52-143, or a citation for
139 failure to obey an order of a family support magistrate or a judge of
140 the Superior Court. If a person is served with any such summons,
141 subpoena or citation issued by a family support magistrate or the
142 assistant clerk of the Family Support Magistrate Division and fails to
143 appear, a family support magistrate may issue a capias mittimus
144 directed to a judicial marshal pursuant to section 1 of this act or any

145 other proper officer to arrest the obligor or the witness and bring him
146 before a family support magistrate. Whenever such a capias mittimus
147 is ordered, the family support magistrate shall establish a recognizance
148 to the state of Connecticut in the form of a bond of such character and
149 amount as to assure the appearance of the obligor at the next regular
150 session of the Family Support Magistrate Division in the judicial
151 district in which the matter is pending. If the obligor posts such a
152 bond, and thereafter fails to appear before the family support
153 magistrate at the time and place he is ordered to appear, the family
154 support magistrate may order the bond forfeited, and the proceeds
155 thereof distributed as required by Title IV-D of the Social Security Act.

156 Sec. 9. Section 54-64d of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective July 1, 2007*):

158 (a) When any person is taken into custody on a capias issued by
159 order of the Superior Court, the proper officer or state police officer
160 taking the person into custody shall, without undue delay, bring such
161 person before the court that issued the capias or to the nearest judicial
162 district or geographical area courthouse. When any such person is
163 brought to the nearest judicial district or geographical area courthouse
164 after being taken into custody on a capias mittimus issued pursuant to
165 subdivision (8) of subsection (a) of section 17b-745, as amended by this
166 act, or subparagraph (C) of subdivision (8) of subsection (a) of section
167 46b-215, as amended by this act, a judicial marshal shall bring such
168 person before the Superior Court that issued the capias mittimus.

169 (b) If a courthouse lockup operated by the judicial branch is
170 available at the court that issued the capias and is operational at the
171 time the proper officer or state police officer brings the person taken
172 into custody to the court, the proper officer or state police officer shall
173 transfer the custody of such person to a judicial marshal at the court
174 unless such person requires medical attention or there is insufficient
175 space for such person at such lockup.

176 (1) If the court is in session, the judicial marshal shall present such

177 person before the court. If the court is not in session but the clerk's
178 office is open, the judicial marshal shall present such person before the
179 clerk or assistant clerk or a person designated by the Chief Court
180 Administrator.

181 (2) If the court is not in session and the clerk's office is closed, and
182 such person indicates to the judicial marshal that he or she can meet
183 the conditions of release fixed by the court, the judicial marshal shall,
184 without undue delay, either (A) transport such person to a community
185 correctional center within the judicial district or, if there is no
186 community correctional center within the judicial district, to the
187 nearest community correctional center, for the purpose of entering into
188 the condition of release fixed by the court, or (B) if more expedient,
189 hold the person in custody until the clerk's office is open or the next
190 session of the court, for the purpose of entering into the condition of
191 release fixed by the court. If such person does not indicate to the
192 judicial marshal that he or she can meet the conditions of release fixed
193 by the court, the judicial marshal shall hold the person in custody until
194 the clerk's office is open or the next session of the court, for the
195 purpose of entering into the condition of release fixed by the court.

196 (c) If a courthouse lockup operated by the judicial branch is not
197 available at the court that issued the capias, or is available but is not
198 operational or has insufficient space, the proper officer or state police
199 officer taking the person into custody shall, without undue delay,
200 transport such person to a community correctional center within the
201 judicial district or, if there is no community correctional center within
202 the judicial district, to the nearest community correctional center for
203 the purpose of entering into the condition of release fixed by the court.

204 (d) The clerk or assistant clerk or a person designated by the
205 Commissioner of Correction or by the Chief Court Administrator shall
206 order the person taken into custody on the capias to enter into the
207 condition of release fixed by the court on the condition that such
208 person shall appear before the next session of the superior court that

209 issued the capias. Upon the failure of such person to enter into the
210 condition of release fixed by the court, the person shall be held in the
211 correctional center pursuant to the capias until the next session of the
212 court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2007*	New section
Sec. 2	*July 1, 2007*	New section
Sec. 3	*July 1, 2007*	17b-745(a)(8)
Sec. 4	*July 1, 2007*	46b-168
Sec. 5	*July 1, 2007*	46b-213a(f)
Sec. 6	*July 1, 2007*	46b-215(a)(8)(C)
Sec. 7	*July 1, 2007*	46b-231(f) and (g)
Sec. 8	*July 1, 2007*	46b-231(m)(1)
Sec. 9	*July 1, 2007*	54-64d

Statement of Purpose:

To (1) permit judicial marshals to serve a capias mittimus issued in a child support matter to persons in the custody of the judicial marshal or within a courthouse where the judicial marshal provides security, (2) permit the Judicial Department and the Department of Public Safety to work in cooperation to add capias mittimuses to the Connecticut on-line law enforcement communications teleprocessing system, (3) permit a court or a family support magistrate to order, on its own motion, a genetic test to determine paternity and provide for the state to pay the costs of such test, (4) require family support magistrates to permit a party or witness to testify by telephone or other electronic means, if available, if residing in another state, (5) increase the number of family support magistrates from nine to eleven, (6) require state marshals or state police officers to transport individuals arrested on a capias to the nearest courthouse, and to require judicial marshals to take such individual to the Superior Court that issued the capias if the capias was issued in a child support matter.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]