



General Assembly

Substitute Bill No. 1438

January Session, 2007

* SB01438HS 051607 *

AN ACT CONCERNING NOTICE OF CERTAIN PROBATE COURT HEARINGS AND THE FILING OF CERTAIN REPORTS.

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

1 Section 1. Subsection (c) of section 45a-607 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (c) Except as provided in subsection (b) of this section, upon receipt
5 of an application for temporary custody under this section, the court
6 shall promptly set the time and place for a hearing to be held on such
7 application. The court shall order notice of the hearing on temporary
8 custody to be given, [by regular mail] at least five days prior to the
9 date of the hearing, to the Commissioner of Children and Families by
10 first class mail and [by personal service in accordance with section 52-
11 50] to both parents and to the minor child, if over twelve years of age,
12 [at least five days prior to the date of the hearing,] by personal service
13 or service at the parent's usual place of abode or the minor's usual
14 place of abode, as the case may be, in accordance with section 52-50,
15 except that in lieu of personal service on, or service at the usual place
16 of abode of, a parent or the father of a minor child born out of wedlock
17 who is either an applicant or who signs under penalty of false
18 statement a written waiver of [personal] such service on a form
19 provided by the Probate Court Administrator, the court may order

20 notice to be given by [certified] first class mail [, return receipt
21 requested, deliverable to addressee only,] at least five days prior to the
22 date of the hearing. If the whereabouts of the parents are unknown, or
23 if such delivery cannot reasonably be effected, then notice shall be
24 ordered to be given by publication. Such notice may be combined with
25 the notice under section 45a-609, as amended by this act, or with the
26 notice required under section 45a-716, as amended by this act. If the
27 parents are not residents of the state or are absent from the state, the
28 court shall order notice to be given by [certified] first class mail [,
29 return receipt requested, deliverable to addressee only,] at least five
30 days prior to the date of the hearing. If the whereabouts of the parents
31 are unknown, or if delivery cannot reasonably be effected, the court
32 may order notice to be given by publication. Any notice by publication
33 under this subsection shall be in a newspaper which has a circulation
34 at the last-known place of residence of the parents. In either case, such
35 notice shall be given at least five days prior to the date of the hearing,
36 except in the case of notice of a hearing on immediate temporary
37 custody under subsection (b) of this section. If the applicant alleges
38 that the whereabouts of a respondent are unknown, such allegation
39 shall be made under penalty of false statement and shall also state the
40 last-known address of the respondent and the efforts which have been
41 made by the applicant to obtain a current address. The applicant shall
42 have the burden of ascertaining the names and addresses of all parties
43 in interest and of proving to the satisfaction of the court that [he or she]
44 the applicant used all proper diligence to discover such names and
45 addresses. Except in the case of newspaper notice, such notice shall
46 include: (1) The time and place of the hearing, (2) a copy of the
47 application for removal or application for termination of parental
48 rights, (3) a copy of the motion for temporary custody, (4) any affidavit
49 or verified petition filed with the motion for temporary custody, (5)
50 any other documents filed by the applicant, (6) any other orders or
51 notices made by the court of probate, and (7) any request for
52 investigation by the Department of Children and Families or any other
53 person or agency. Such notice shall also inform the respondent of the
54 right to have an attorney represent [him or her] the respondent and, if

55 [he or she] the respondent is unable to obtain or pay for an attorney,
56 the respondent may request the court of probate to appoint an attorney
57 to represent [him or her] the respondent. Newspaper notice shall
58 include such facts as the court may direct.

59 Sec. 2. Subsection (b) of section 45a-609 of the general statutes is
60 repealed and the following is substituted in lieu thereof (*Effective*
61 *October 1, 2007*):

62 (b) The court shall order notice of the hearing to be given, [by
63 regular mail] at least ten days before the date of the hearing, to the
64 Commissioner of Children and Families by first class mail and [by
65 personal service in accordance with section 52-50] to both parents and
66 to the minor, if over twelve years of age, [at least ten days before the
67 time of the hearing,] by personal service or service at the parent's usual
68 place of abode or the minor's usual place of abode, as the case may be,
69 in accordance with section 52-50, except that in lieu of personal service
70 on, or service at the usual place of abode of, a parent or the father of a
71 child born out of wedlock who is either a petitioner or who signs
72 under oath a written waiver of [personal] such service on a form
73 provided by the Probate Court Administrator, the court may order
74 notice to be given by [certified] first class mail [, return receipt
75 requested, deliverable to addressee only,] at least ten days prior to the
76 date of the hearing. If such delivery cannot reasonably be effected, then
77 notice shall be ordered to be given by publication. If the parents reside
78 out of or are absent from the state, the court shall order notice to be
79 given by [certified] first class mail [, return receipt requested,
80 deliverable to addressee only,] at least ten days prior to the date of the
81 hearing. If the whereabouts of the parents are unknown, or if delivery
82 cannot reasonably be effected, the court may order notice to be given
83 by publication. Any notice by publication under this subsection shall
84 be in [some] a newspaper which has a circulation at the parents'
85 last-known place of residence. In either case, such notice shall be given
86 at least ten days before the [time] date of the hearing. If the applicant
87 alleges that the whereabouts of a respondent are unknown, such
88 allegation shall be made under penalty of false statement and shall also

89 state the last-known address of the respondent and the efforts which
90 have been made by the applicant to obtain a current address. The
91 applicant shall have the burden of ascertaining the names and
92 addresses of all parties in interest and of proving to the satisfaction of
93 the court that [he or she] the applicant used all proper diligence to
94 discover such names and addresses. Except in the case of newspaper
95 notice, the notice of hearing shall include the following: (1) The notice
96 of hearing, (2) the application for removal of parent as guardian, (3)
97 any supporting documents and affidavits filed with such application,
98 (4) any other orders or [notice] notices made by the Court of Probate,
99 and (5) any request for investigation by the Department of Children
100 and Families or any other person or agency. Such notice shall also
101 inform the respondent of the right to have an attorney represent [him
102 or her] the respondent in the matter, and if [he or she] the respondent
103 is unable to obtain or to pay an attorney, the respondent may request
104 the Court of Probate to appoint an attorney to represent [him or her]
105 the respondent. Newspaper notice shall include such facts as the court
106 may direct.

107 Sec. 3. Subsection (c) of section 45a-616 of the general statutes is
108 repealed and the following is substituted in lieu thereof (*Effective*
109 *October 1, 2007*):

110 (c) Upon receipt by the court of an application pursuant to this
111 section, the court shall set a time and place for a hearing to be held
112 within thirty days of the application, unless the court requests an
113 investigation in accordance with the provisions of section 45a-619, in
114 which case the court shall set a day for hearing not more than thirty
115 days following receipt of the results of the investigation. The court
116 shall order notice of the hearing to be given to the minor, if over twelve
117 years of age, by [certified] first class mail [, return receipt requested,
118 deliverable to the addressee only,] at least ten days prior to the date of
119 the hearing. In addition, notice by [regular] first class mail shall be
120 given to the petitioner and all other parties in interest known by the
121 court.

122 Sec. 4. Section 45a-671 of the general statutes is repealed and the
123 following is substituted in lieu thereof (*Effective October 1, 2007*):

124 (a) Within forty-five days of the filing of such application for
125 guardianship in the Court of Probate, such court shall assign a time
126 and place for hearing such application. Notwithstanding the
127 provisions of section 45a-7, the court may hold the hearing on [said]
128 the application at a place within the state other than its usual
129 courtroom if it would facilitate the presence of the respondent. Such
130 court shall cause a citation and notice to be served upon the
131 respondent by personal service made by a state marshal, constable or
132 an indifferent person not less than seven days prior to such hearing
133 date.

134 (b) The court shall direct notice by [certified] first class mail to the
135 following: (1) The parents of the respondent, provided the parents are
136 not the applicants; (2) the spouse of the respondent, provided the
137 spouse is not the applicant; (3) children of the respondent, if any; and
138 (4) the person in charge of the hospital, nursing home, residential
139 facility or other institution in which the respondent may reside.

140 (c) The court shall order such notice as it directs to the following: (1)
141 The applicant; and (2) the siblings of the respondent or their
142 representatives, if the respondent has no living parents, and the spouse
143 or children of the respondent.

144 (d) The court in its discretion may order such notice as it directs to
145 other persons having an interest in the respondent.

146 Sec. 5. Subsections (c) and (d) of section 45a-716 of the general
147 statutes are repealed and the following is substituted in lieu thereof
148 (*Effective October 1, 2007*):

149 (c) Except as provided in subsection (d) of this section, notice of the
150 hearing and a copy of the petition, certified by the petitioner, the
151 petitioner's agent or attorney, or the clerk of the court, shall be served
152 at least ten days before the date of the hearing by personal service or

153 service at the person's usual place of abode on the persons enumerated
154 in subsection (b) of this section who are within the state, and by
155 [certified] first class mail [, return receipt requested,] on the
156 Commissioner of Children and Families and the Attorney General. If
157 the address of any person entitled to personal service or service at the
158 person's usual place of abode is unknown, or if personal service or
159 service at the person's usual place of abode cannot be reasonably
160 effected within the state, or if any person enumerated in subsection (b)
161 of this section is out of the state, a judge or the clerk of the court shall
162 order notice to be given by registered or certified mail, return receipt
163 requested, or by publication at least ten days before the date of the
164 hearing. Any such publication shall be in a newspaper of general
165 circulation in the place of the last-known address of the person to be
166 notified, whether within or without this state, or, if no such address is
167 known, in the place where the petition has been filed.

168 (d) In any proceeding pending in the Court of Probate, in lieu of
169 personal service on, or at the usual place of abode of, a parent or the
170 father of a child born out of wedlock who is either a petitioner or who
171 signs under penalty of false statement a written waiver of personal
172 service on a form provided by the Probate Court Administrator, the
173 court may order notice to be given by [certified] first class mail [,
174 return receipt requested, deliverable to addressee only,] at least ten
175 days before the date of the hearing. If such delivery cannot reasonably
176 be effected, or if the whereabouts of the parents is unknown, notice
177 shall be ordered to be given by publication as provided in subsection
178 (c) of this section.

179 Sec. 6. Subsection (c) of section 17a-11 of the general statutes is
180 repealed and the following is substituted in lieu thereof (*Effective*
181 *October 1, 2007*):

182 (c) Not more than one hundred twenty days after admitting a child
183 or youth on a voluntary basis, the department shall petition the
184 probate court for the district in which a parent or guardian of the child
185 or youth resides for a determination as to whether continuation in care

186 is in the child's or youth's best interest and, if so, whether there is an
187 appropriate case service or permanency plan. A case service plan shall
188 be required for all children and youths receiving services voluntarily
189 from the department who are not in an out-of-home placement. A
190 permanency plan shall be required for all children and youths
191 voluntarily admitted to the department and placed by the department
192 in a foster home licensed pursuant to section 17a-114 or a facility
193 licensed pursuant to section 17a-145 or 17a-154. Upon receipt of such
194 application, the court shall set a time and place for hearing to be held
195 within thirty days of receipt of the application, unless continued by the
196 court for cause shown. The court shall order notice of the hearing to be
197 given by [regular] first class mail at least five days prior to the hearing
198 to the Commissioner of Children and Families, and by [certified] first
199 class mail [, return receipt requested,] at least five days prior to the
200 hearing to the parents or guardian of the child and the minor, if over
201 twelve years of age. If the whereabouts of the parent or guardian are
202 unknown, or if delivery cannot reasonably be effected, then notice
203 shall be ordered to be given by publication. In making its
204 determination, the court shall consider the items specified in
205 subsection (d) of this section. The court shall possess continuing
206 jurisdiction in proceedings under this section.

207 Sec. 7. Section 46b-150 of the general statutes is repealed and the
208 following is substituted in lieu thereof (*Effective October 1, 2007*):

209 Any minor who has reached such minor's sixteenth birthday and is
210 residing in this state, or any parent or guardian of such minor, may
211 petition the superior court for juvenile matters or the probate court for
212 the district in which either the minor or the parents or guardian of
213 such minor resides for a determination that the minor named in the
214 petition be emancipated. The petition shall be verified and shall state
215 plainly: (1) The facts which bring the minor within the jurisdiction of
216 the court, (2) the name, date of birth, sex and residence of the minor,
217 (3) the name and residence of the minor's parent, parents or guardian,
218 and (4) the name of the petitioner and the petitioner's relationship to
219 the minor. Upon the filing of the petition in the Superior Court, the

220 court shall cause a summons to be issued to the minor and the minor's
221 parent, parents or guardian, in the manner provided in section 46b-
222 128. Service on an emancipation petition filed in the superior court for
223 juvenile matters pursuant to this section shall not be required on the
224 petitioning party. Upon the filing of the petition in the Probate Court,
225 the court shall assign a time, not later than thirty days thereafter, and a
226 place for hearing such petition. The court shall cause a citation and
227 notice to be served on the minor and the minor's parent, if the parent is
228 not the petitioner, by personal service or service at the minor's place of
229 abode and the parent's place of abode, at least seven days prior to the
230 hearing date, by a state marshal, constable or indifferent person. The
231 court shall direct notice by [certified] first class mail to the parent, if
232 the parent is the petitioner. The court shall order such notice as it
233 directs to: (A) The Commissioner of Children and Families, (B) the
234 Attorney General, and (C) other persons having an interest in the
235 minor. The Attorney General may file an appearance and shall be and
236 remain a party to the action if the child is receiving or has received aid
237 or care from the state, or if the child is receiving child support
238 enforcement services, as defined in subdivision (2) of subsection (b) of
239 section 46b-231.

240 Sec. 8. Subsection (a) of section 46b-172a of the general statutes is
241 repealed and the following is substituted in lieu thereof (*Effective*
242 *October 1, 2007*):

243 (a) Any person claiming to be the father of a child born out of
244 wedlock may at any time, but no later than sixty days after the date of
245 notice under section 45a-716, as amended by this act, file a claim for
246 paternity with the court of probate for the district in which either the
247 mother or the child resides, on forms provided by such court. The
248 claim shall contain the claimant's name and address, the name and
249 last-known address of the mother and the month and year of the birth
250 or expected birth of the child. Not later than five days after the filing of
251 a claim for paternity, the judge of the court of probate shall cause a
252 certified copy of such claim to be [mailed by certified mail to] served
253 upon the mother or prospective mother of such child [at the

254 last-known address shown on the claim for paternity] by personal
255 service or service at her usual place of abode, and to the Attorney
256 General by first class mail. The Attorney General may file an
257 appearance and shall be and remain a party to the action if the child is
258 receiving or has received aid or care from the state, or if the child is
259 receiving child support enforcement services, as defined in subdivision
260 (2) of subsection (b) of section 46b-231. The claim for paternity shall be
261 admissible in any action for paternity under section 46b-160, and shall
262 estop the claimant from denying his paternity of such child and shall
263 contain language that he acknowledges liability for contribution to the
264 support and education of the child after its birth and for contribution
265 to the pregnancy-related medical expenses of the mother.

266 Sec. 9. Subsection (a) of section 45a-92 of the general statutes is
267 repealed and the following is substituted in lieu thereof (*Effective*
268 *October 1, 2007*):

269 Each person who is a judge of probate at any time during any
270 calendar year shall file with the Probate Court Administrator on or
271 before [March] April first of the succeeding year a statement signed
272 under penalty of false statement showing the actual gross receipts and
273 itemized costs of his or her office and the net income for each such
274 calendar year. If such person ceases to hold office, he or she shall also
275 file with the Probate Court Administrator, on or before [March] April
276 first of the second and third years next following, a statement signed
277 under penalty of false statement showing his or her net income from
278 his or her former office for the first and second calendar years next
279 following the calendar year in which he or she ceased to hold office. At
280 the time of filing, each such person shall pay to the State Treasurer as
281 hereinafter provided the sum required by this section, less sums
282 previously paid to the State Treasurer on account. Payment shall be
283 credited by the State Treasurer to the fund established by section
284 45a-82.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	45a-607(c)
Sec. 2	<i>October 1, 2007</i>	45a-609(b)
Sec. 3	<i>October 1, 2007</i>	45a-616(c)
Sec. 4	<i>October 1, 2007</i>	45a-671
Sec. 5	<i>October 1, 2007</i>	45a-716(c) and (d)
Sec. 6	<i>October 1, 2007</i>	17a-11(c)
Sec. 7	<i>October 1, 2007</i>	46b-150
Sec. 8	<i>October 1, 2007</i>	46b-172a(a)
Sec. 9	<i>October 1, 2007</i>	45a-92(a)

JUD *Joint Favorable Subst.*

HS *Joint Favorable*