
OLR Bill Analysis

sHB 6387 (as amended by House "A")*

AN ACT CONCERNING COURT OPERATIONS.

SUMMARY:

This bill:

1. clarifies the courts' authority over civil unions performed in foreign jurisdictions (§§ 1 & 3);
2. extends the validity of an ex parte restraining order until the day a hearing is held if the court is closed on the date of a scheduled hearing on the order (§ 2);
3. creates a procedure for an emergency ex parte order of child custody in a dissolution of marriage case or later proceeding regarding custody (§ 4);
4. requires court clerks to send the original of certain paternity acknowledgements to the Department of Public Health (DPH)(§ 5);
5. requires a parent seeking to regain legal guardianship of a child in certain cases to do so by filing a motion instead of a petition (§ 6);
6. eliminates a voluntary alternative dispute resolution program for parties to civil actions involving ownership, maintenance, or use of a private car (§§ 7 & 15);
7. allows attorneys who hear small claims cases to sign documents by computer, fax, or other technology (§ 9);
8. specifies that court support enforcement officers and support services investigators can serve all process related to cases where

the Department of Social Services is providing child support enforcement services (the law already allows them to serve motions for modification or contempt and wage withholdings in child support matters) (§ 12);

9. specifies the methods court clerks may use to record or copy certain documents and requires the person requesting the recording or copying to pay the associated fees regardless of the method the clerk used (§§ 13-14);
10. establishes a fee payable to the court clerk for applications to dissolve certain liens and substitute a surety bond (§§ 13-14); and
11. makes technical changes.

*House Amendment "A" (1) removes a provision making certain violations of the law punishing failure to remove ice or snow from vehicles payable by mail; (2) adds provisions on service of process in child support matters, court clerks' recording and copying, and fees to dissolve a lien and substitute a surety bond; and (3) makes a technical change.

EFFECTIVE DATE: October 1, 2013, except the provisions (1) on court clerks' methods of recording or copying and the \$350 fee for dissolution of lien applications are effective July 1, 2013 and (2) reducing the fee for dissolution of lien applications to \$300 are effective July 1, 2015.

§§ 1 & 3 — COURT ACTIONS REGARDING CIVIL UNIONS

The bill clarifies that the courts' authority over family relations matters extends to the dissolution, legal separation, or annulment of civil unions performed in a foreign jurisdiction. It allows a single party to a civil union from a foreign jurisdiction to bring an action for dissolution, annulment, or legal separation in Connecticut, rather than requiring both parties to do so as under current law.

The bill specifies that:

1. statutory procedures and requirements for dissolution, annulment, or legal separation of a marriage (including pre- or post-judgment) and requirements for enforcing or modifying a foreign matrimonial judgment apply to civil unions and
2. substantive statutes on dissolution, annulment, or legal separation of a marriage (including pre- or post-judgment) apply to foreign civil unions.

§ 2 — EX PARTE RESTRAINING ORDERS AND COURT CLOSURES

By law, someone subjected to continuous threats of present physical pain or injury, stalking, or a pattern of threatening by a family or household member can apply to the court for a restraining order. The court can grant an ex parte order (without a hearing and notice to the subject of the order) if there is immediate and present physical danger to the applicant. The law requires a hearing within 14 days of the order.

If a hearing on the application or an ex parte order is scheduled for a day that the court is closed, the bill requires the hearing to take place on the next day the court is open and extends the validity of an ex parte restraining order until the hearing.

§ 4 — EMERGENCY EX PARTE CHILD CUSTODY ORDER

The bill allows a person seeking custody in a dissolution of marriage proceeding or a later proceeding regarding child custody to apply to the court for an emergency ex parte custody order when he or she believes there is an immediate and present risk of physical danger or psychological harm to the child. The application must include an affidavit under oath stating:

1. the conditions requiring the order;
2. that the order is in the child's best interests; and
3. the actions taken by the applicant or others to inform the respondent of the request, or why the court should consider the

application if no actions were taken.

The court must order a hearing on the application to take place within 14 days of issuing its order. The court may issue an emergency ex parte order for the child's protection before or after the hearing if it finds an immediate and present risk of physical danger or psychological harm to the child. It may inform the Department of Children and Families of relevant information in the affidavit for investigation.

An emergency ex parte order may prohibit the respondent from:

1. removing the child from Connecticut,
2. interfering with the applicant's custody of the child,
3. interfering with the child's education, and
4. taking other specific actions if they are in the child's best interests.

If a hearing is postponed at the request of either party, the court cannot issue an ex parte order and an order already issued can only continue (1) on the parties' agreement or (2) for good cause.

The applicant must serve notice of the hearing, a copy of the application and affidavit, and any order, on the respondent at least five days before the hearing.

§ 5 — PATERNITY ACKNOWLEDGEMENT COPIES

The law allows a father and mother in a case involving a petition for a neglected, uncared for, or abused child or youth to sign a paternity acknowledgement. Currently, the court clerk sends a certified copy of the acknowledgment to DPH for the paternity registry (which collects paternity acknowledgments or adjudications for child support enforcement purposes). The bill instead requires the clerk to send the original acknowledgment. It requires the court to keep a copy, rather than a certified copy as currently required.

§ 6 — LEGAL GUARDIANSHIP MOTIONS

By law, the court can order a suitable and worthy person to be the legal guardian of a neglected, uncared for, or abused child. A parent can request the return of the child's legal guardianship to that parent. The bill requires the request to be in a motion before the court rather than a petition.

§§ 7 & 15 — ALTERNATIVE DISPUTE RESOLUTION FOR CERTAIN CASES

The bill eliminates a voluntary alternative dispute resolution program for parties to a civil action based on ownership, maintenance, or use of a private car. The program sets timeframes for the resolution process and the related court case, allows parties to agree to refer the case to binding arbitration, and allows the court to confirm an arbitration award. The program is considered settlement negotiations for purposes of evidence and confidentiality.

The bill also eliminates provisions making these cases privileged for assignment for trial when (1) the parties agree to it and each plaintiff claims no more than \$75,000 (current law also designates the case an expedited process case) or (2) at least one plaintiff claims more than \$75,000.

The bill eliminates the courts' authority to adopt rules for the expedited process of these cases and the requirement that they be heard by a Superior Court judge.

§ 9 — SMALL CLAIMS CASES AND DOCUMENT SIGNING

The bill allows attorneys approved by the chief court administrator to hear small claims cases to sign decisions, orders, and other documents by computer, fax, or other technology according to the chief court administrator's procedures. The law already allows judges, judge trial referees, family support magistrates, and small claims court magistrates to do so.

§§ 13-14 — METHOD OF RECORDING OR COPYING DOCUMENTS AND FEE FOR DISOLUTION OF LIEN ON SUBSTITUTION OF BOND

Method of Recording or Copying Certain Documents

The bill allows court clerks to record or copy certain documents by photograph, microfilm, computerized image, or another process that accurately reproduces or forms a durable medium for reproducing the original. It requires the person requesting the recording or copying to pay the associated fees regardless of the method the clerk used. These provisions apply to the following documents with the following fees: (1) recording the commission and oath of a notary public, \$10; (2) making copies, \$1 per page; (3) copying a judgment file, \$15 or \$25 for a certified copy; and (4) copying a foreclosure judgment certificate, \$25.

Dissolution of Lien on Substitution of Bond

The bill establishes a fee payable to the court clerk for applications to dissolve one of the following types of liens and substitute a bond with surety: mechanic’s lien on real property, vessel lien, bailee for hire’s lien on personal property (for example, a repair shop that takes possession of property in order to repair it has a lien for the amount of the work performed), purchaser’s lien on real property (for the amount of the deposit under a contract to purchase property), or aircraft lien.

Under the bill, the fee is \$350 for two years (from July 1, 2013) but is reduced to \$300 on July 1, 2015.

By law, an owner or person with interest in property subject to one of these liens can apply to court to have the lien released and a bond with sufficient surety substituted for it.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 1 (03/13/2013)