



STATE OF CONNECTICUT

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Honorable Members of the Judiciary Committee

From: Paul J. Knierim
Probate Court Administrator

Re: RB 155 An Act Concerning Probate Courts

Date: February 24, 2014

Thank you for the opportunity to testify in support of Raised Bill No.155, which the Connecticut Probate Assembly and the Office of the Probate Court Administrator jointly support. This testimony will summarize each section of the bill.

Sections 1 and 2 deal with the statutes governing adult adoption. Adult adoption is a legal framework under which a person over the age of 18 agrees to be adopted by another person who is unrelated and older than the adopted person. Individuals seek adult adoption in a variety of circumstances, but it is most frequently used when a young adult wishes to establish a legal relationship with a stepparent.

Like the adoption of a minor, adult adoption requires Probate Court approval, but a key difference is that an adult adoption occurs without a prior proceeding to terminate the parental rights of the adopted person's biological parents. Adoptions for minors and adults also differ in their legal consequences. While the adoption of a minor brings with it duties of financial support and rights of custody, the principal legal effect of adult adoption relates to inheritance rights.

The proposed language is intended to clarify the circumstances under which the legal relationship between a biological parent and an adult child is not terminated when the child is adopted by another person. Current law describes only one explicit circumstance under which the relationship between a biological parent and child continues after an adult adoption, which is set forth in C.G.S. section 45a-734 (d). Under that provision, the legal relationship between an adopted person and his or her biological parent is not terminated if the adopted person's other biological parent is deceased and the adoptive parent is the spouse of the surviving parent. It is not clear whether the statute is intended to sever the relationship between the biological parent and the adult adopted person in all other circumstances.

The bill would answer that uncertainty by establishing that a biological parent is not terminated if he or she joins in the adoption agreement between the adult child and the adoptive parent. The bill also makes it clear that an adult may be adopted by only one person when a biological parent is a party to the agreement (thus limiting the adult adopted person to two parents) and that the parent who does not join in the adoption agreement is terminated.

Due to the ambiguity of the C.G.S. section 45a-734, sections 1 and 2 of this bill are intended to have retroactive effect.

Sections 3 through 6 update the statutes governing intestate succession as they relate to children born out of wedlock. The intestate succession statutes, which determine how the property of a person who dies without a will is distributed, refer to criteria for determining paternity that are inconsistent with other statutory provisions dealing with paternity. For example, C.G.S. section 45a-738b provides that a person may inherit from a deceased child only if he can prove that he had "acknowledged in writing he is the father of the child and openly treated the child as his."

The proposed amendments would replace the varied methods of establishing paternity in the intestate succession statutes with reference to the two methods by which paternity is established for all other legal purposes: (1) a written acknowledgement of paternity signed under oath by both the mother and father pursuant to C.G.S. section 46b-172 or (2) an adjudication of paternity by a court.

An important companion to these revisions is contained in **Section 7**, which amends the statute governing paternity proceedings in the Probate Courts. Under C.G.S. section 46b-172a, a person claiming to be the father of a child born out of wedlock may petition the Probate Court for a paternity determination. The bill would broaden the statute to permit paternity claims at any time during the child's life or after the death of the child.

Sections 8 and 9 would establish a statutory framework by which Connecticut's Probate Courts can exercise available jurisdiction under the provisions of federal

immigration law. Federal law permits state courts that have jurisdiction over children's matters to make findings of fact that a family may then use to apply for Special Immigrant Juvenile Status (SIJS) with the U.S. Citizenship and Immigration Services. A person who is granted SIJS status is able to legally remain in the United States.

Under the proposal, a party to a Probate Court proceeding involving guardianship, parental rights or adoption may file a motion requesting written findings in connection with an SIJS petition. The written findings address whether reunification with one or both of the parents is viable and whether return to the country of origin is in the child's best interests.

Section 10 permits the Superior Court for Juvenile Matters to disclose otherwise confidential records to judges and employees of the Probate Courts. Existing statutes already permit Probate Courts to disclose records to the Superior Court and to DCF and allow DCF to disclose records to both courts. Enactment of this provision will ensure that agency and court personnel are able to share critical information about the safety and well-being of a child in the event that legal proceedings affecting the child transition from one court to another.

On behalf of the Probate Court system, I respectfully request that the committee to act favorably on the bill. Thank you for your consideration.