



# Senate

General Assembly

**File No. 608**

February Session, 2014

Substitute Senate Bill No. 155

*Senate, April 17, 2014*

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 PROBATE COURTS.**

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

1 Section 1. Section 45a-731 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 A final decree of adoption, whether issued by a court of this state or  
4 a court of any other jurisdiction, shall have the following effect in this  
5 state:

6 (1) All rights, duties and other legal consequences of the biological  
7 relation of a child and parent shall thereafter exist between the  
8 adopted person and the [adopting] adoptive parent and the relatives of  
9 such [adopting] adoptive parent. Such adopted person shall be treated  
10 as if such adopted person were the biological child of the [adopting]  
11 adoptive parent, for all purposes including the applicability of statutes  
12 which do not expressly exclude an adopted person in their operation  
13 or effect;

14 (2) The [adopting] adoptive parent and the adopted person shall  
15 have rights of inheritance from and through each other and the  
16 biological and adopted relatives of the [adopting] adoptive parent. The  
17 right of inheritance of an adopted person extends to the heirs of such  
18 adopted person, and such heirs shall be the same as if such adopted  
19 person were the biological child of the [adopting] adoptive parent;

20 (3) The adopted person and the biological children and other  
21 adopted children of the [adopting] adoptive parent shall be treated,  
22 unless otherwise provided by statute, as siblings, having rights of  
23 inheritance from and through each other. Such rights of inheritance  
24 extend to the heirs of such adopted person and of the biological  
25 children and other adopted children, and such heirs shall be the same  
26 as if each such adopted person were the biological child of the  
27 [adopting] adoptive parent;

28 (4) The adopted person shall, except as hereinafter provided, be  
29 treated as if such adopted person were the biological child of the  
30 [adopting] adoptive parent for purposes of the applicability of all  
31 documents and instruments, whether executed before or after the  
32 adoption decree is issued, which do not expressly exclude an adopted  
33 person in their operation or effect. The words "child", "children",  
34 "issue", "descendant", "descendants", "heir", "heirs", "lawful heirs",  
35 "grandchild" and "grandchildren", when used in any will or trust  
36 instrument shall include legally adopted persons unless such  
37 document clearly indicates a contrary intention. Nothing in this section  
38 shall be construed to alter or modify the provisions of section 45a-257  
39 concerning revocation of a will or codicil when a child is born as the  
40 result of artificial insemination;

41 (5) Except in the case of an adoption as provided in subdivision (2)  
42 or (3) of subsection (a) of section 45a-724 or subsection (c) or (d) of  
43 section 45a-734, as amended by this act, the legal relationship between  
44 the adopted person and the adopted person's biological parent or  
45 parents and the relatives of such biological parent or parents is  
46 terminated for all purposes, including the applicability of statutes

47 which do not expressly include such an adopted person in their  
48 operation and effect. The biological parent or parents of the adopted  
49 person are relieved of all parental rights and responsibilities;

50 (6) Except in the case of an adoption as provided in subdivision (2)  
51 or (3) of subsection (a) of section 45a-724 or subsection (c) or (d) of  
52 section 45a-734, as amended by this act, the biological parent or  
53 parents and their relatives shall have no rights of inheritance from or  
54 through the adopted person, nor shall the adopted person have any  
55 rights of inheritance from or through the biological parent or parents  
56 of the adopted person and the relatives of such biological parent or  
57 parents, except as provided in this section;

58 (7) Except in the case of an adoption as provided in subdivision (2)  
59 or (3) of subsection (a) of section 45a-724 or subsection (c) or (d) of  
60 section 45a-734, as amended by this act, the legal relationship between  
61 the adopted person and the adopted person's biological parent or  
62 parents and the relatives of such biological parent or parents is  
63 terminated for purposes of the construction of documents and  
64 instruments, whether executed before or after the adoption decree is  
65 issued, which do not expressly include the individual by name or by  
66 some designation not based on a parent and child or blood  
67 relationship, except as provided in this section;

68 (8) Notwithstanding the provisions of subdivisions (1) to (7),  
69 inclusive, of this section, when one of the biological parents of a minor  
70 child has died, [and the surviving parent has remarried subsequent to  
71 such parent's death,] adoption of such child [by the person with whom  
72 such remarriage is contracted] shall not affect the rights of such child  
73 to inherit from or through the deceased parent and the deceased  
74 parent's relatives;

75 (9) Nothing in this section shall deprive an adopted person who is  
76 the biological child of a veteran who served in time of war as defined  
77 in subsection (a) of section 27-103 of aid under the provisions of section  
78 27-140 or deprive a child receiving benefits under the Social Security  
79 Act, 42 USC Sec. 301 et seq., as amended from time to time, from

80 continued receipt of benefits authorized under said act;

81 (10) Except as provided in subdivision (11) of this section, the  
82 provisions of law in force prior to October 1, 1959, affected by the  
83 provisions of this section shall apply to the estates or wills of persons  
84 dying prior to said date and to inter vivos instruments executed prior  
85 to said date and which on said date were not subject to the grantor's  
86 power to revoke or amend;

87 (11) The provisions of subdivisions (1) to (9), inclusive, of this  
88 section shall apply to the estate or wills of persons dying prior to  
89 October 1, 1959, and to inter vivos instruments executed prior to said  
90 date and which on said date were not subject to the grantor's power to  
91 revoke or amend, unless (A) a contrary intention of the testator or  
92 grantor is demonstrated by clear and convincing evidence, or (B)  
93 distribution of the estate or under the will or under the inter vivos  
94 instrument has been or will be made pursuant to court order entered  
95 prior to October 1, 1991;

96 (12) No fiduciary, distributee of the estate or person to whom a  
97 legacy has been paid shall be liable to any other person for any action  
98 taken or benefit received prior to October 1, 1991, provided any such  
99 action was taken or benefit was received in good faith by such  
100 fiduciary, distributee or legatee with respect to the applicability of  
101 statutes concerning the rights of inheritance or rights to take of  
102 adopted persons under any instrument executed prior to October 1,  
103 1959;

104 (13) No fiduciary shall have the obligation to determine the rights of  
105 inheritance or rights to take of an adopted person under an instrument  
106 executed prior to October 1, 1959, unless the fiduciary receives a  
107 written claim for benefits by or on behalf of such adopted person.

108 Sec. 2. Section 45a-734 of the general statutes is repealed and the  
109 following is substituted in lieu thereof (*Effective October 1, 2014*):

110 (a) Any person eighteen years of age or older may, by written

111 agreement with another person at least eighteen years of age but  
112 younger than himself or herself, unless the other person is his or her  
113 [wife, husband] spouse, brother, sister, uncle or aunt of the whole or  
114 [half-blood] half blood, adopt the other person as his or her child,  
115 provided the written agreement shall be approved by the [court of  
116 probate] Probate Court for the district in which the [adopting]  
117 proposed adoptive parent resides or, if the [adopting parent is not an  
118 inhabitant of] proposed adoptive parent does not reside in this state,  
119 for the district in which the adopted person resides.

120 [(b) The Court of Probate may, upon presentation of the agreement  
121 of adoption for approval, cause public notice to be given of the time  
122 and place of hearing on the agreement. If at the hearing the court finds  
123 that it will be for the welfare of the adopted person and for the public  
124 interest that the agreement be approved, it may pass an order of  
125 approval of it and cause the agreement and the order to be recorded.  
126 Thereupon]

127 (b) The Probate Court shall cause notice of the time and place of  
128 hearing on the proposed adoption to be given to each party to the  
129 adoption agreement. If the spouse of the proposed adoptive parent is  
130 not a party to the adoption agreement, notice shall be given to the  
131 spouse. The court may give notice to other persons interested in the  
132 welfare of the proposed adoptive parent or adopted person. The court  
133 shall approve the adoption agreement if it finds that the proposed  
134 adoptive parent and adopted person share a relationship that is similar  
135 to that between a parent and an adult child and that the adoption is in  
136 the best interests of the proposed adoptive parent and adopted person.  
137 Upon the court's approval of the adoption agreement, the adopted  
138 person shall become the legal child of the [adopting person] adoptive  
139 parent, and the [adopting person] adoptive parent shall become the  
140 legal parent of the adopted person, and the provisions of section 45a-  
141 731, as amended by this act, shall apply.

142 (c) One parent of an adult child may join in an adoption agreement  
143 between the parent's spouse and the adult child. Upon the court's

144 approval of the adoption agreement, the legal relationship between the  
145 adult child and the parent who did not join in the adoption agreement  
146 shall be terminated in accordance with subdivisions (5), (6) and (7) of  
147 section 45a-731, as amended by this act, and the adopted person shall  
148 be the child of the parent and spouse who joined in the adoption  
149 agreement, except that the adoption shall not affect the rights of the  
150 adopted person to inherit from or through a parent who died before  
151 the adoption occurred, as provided in subdivision (8) of section 45a-  
152 731, as amended by this act.

153 (d) One parent of an adult child may join in an adoption agreement  
154 between one other person and the adult child. Upon the court's  
155 approval of the adoption agreement, the legal relationship between the  
156 adult child and the parent who did not join the adoption agreement  
157 shall be terminated in accordance with subdivisions (5), (6) and (7) of  
158 section 45a-731, as amended by this act, and the adopted person shall  
159 be the child of the parent and other person who joined the adoption  
160 agreement, except that the adoption shall not affect the rights of the  
161 adopted person to inherit from or through a parent who died before  
162 the adoption occurred, as provided in subdivision (8) of section 45a-  
163 731, as amended by this act.

164 ~~[(c)]~~ (e) A married person shall not adopt a person under the  
165 provisions of this section unless both ~~[husband and wife]~~ the married  
166 person and the married person's spouse join in the adoption  
167 agreement, except that the ~~[Court of]~~ Probate Court may approve an  
168 adoption agreement by either of them upon finding that there is  
169 sufficient reason why the other should not join in the agreement.

170 ~~[(d)]~~ When one of the biological parents of an adult has died and the  
171 surviving parent remarries, the person with whom the remarriage is  
172 celebrated may become an adopting parent without the biological  
173 parent's joining in the adoption except to consent in writing. Upon the  
174 approval of the court, the adopted person shall be in law the child of  
175 both.]

176 Sec. 3. Section 45a-437 of the general statutes is repealed and the

177 following is substituted in lieu thereof (*Effective October 1, 2014*):

178 (a) If there is no will, or if any part of the property, real or personal,  
179 legally or equitably owned by the decedent at the time of his or her  
180 death, is not effectively disposed of by the will or codicil of the  
181 decedent, the portion of the intestate estate of the decedent,  
182 determined after payment of any support allowance from principal  
183 pursuant to section 45a-320, which the surviving spouse shall take is:

184 (1) If there is no surviving issue or parent of the decedent, the entire  
185 intestate estate absolutely;

186 (2) If there is no surviving issue of the decedent but the decedent is  
187 survived by a parent or parents, the first one hundred thousand  
188 dollars plus three-quarters of the balance of the intestate estate  
189 absolutely;

190 (3) If there are surviving issue of the decedent all of whom are also  
191 issue of the surviving spouse, the first one hundred thousand dollars  
192 plus one-half of the balance of the intestate estate absolutely;

193 (4) If there are surviving issue of the decedent one or more of whom  
194 are not issue of the surviving spouse, one-half of the intestate estate  
195 absolutely.

196 (b) For the purposes of this section: [issue shall include]

197 (1) Issue includes children born out of wedlock [and the issue of  
198 such children] who qualify for inheritance under the provisions of  
199 section 45a-438, as amended by this act, and the legal representatives  
200 of such children;

201 (2) A father of a child born out of wedlock shall be considered a  
202 parent if the father qualifies for inheritance from or through the child  
203 under the provisions of section 45a-438b, as amended by this act.

204 Sec. 4. Section 45a-438 of the 2014 supplement to the general statutes  
205 is repealed and the following is substituted in lieu thereof (*Effective*

206 October 1, 2014):

207 (a) After distribution has been made of the intestate estate to the  
208 surviving spouse in accordance with section 45a-437, as amended by  
209 this act, [all] the residue of the real and personal estate shall be  
210 distributed [in equal proportions] equally, according to its value at the  
211 time of distribution, among the children, including children born after  
212 the death of the decedent, as provided in subsection (a) of section 45a-  
213 785, and the legal representatives of any of them who may be dead,  
214 except that children or other descendants who receive estate by  
215 advancement of the intestate in the intestate's lifetime shall themselves  
216 or their representatives have only so much of the estate as will,  
217 together with such advancement, make their share equal to what they  
218 would have been entitled to receive had no such advancement been  
219 made.

220 (b) Except as provided in section 45a-731, as amended by this act,  
221 for the purposes of [intestate succession by, through or from a person,  
222 an individual is the child of his genetic parents, regardless of marital  
223 status of such parents. With respect to a child born out of wedlock, the  
224 father of a child born out of wedlock shall be considered a parent if (1)  
225 the father and mother have married after the child's birth, or (2) the  
226 father has been adjudicated the father of the child by a court of  
227 competent jurisdiction, or (3) the father has acknowledged under oath  
228 in writing that he is the father of the child, or (4) after the death of  
229 either the father or the child, paternity has been established by the  
230 Probate Court by clear and convincing evidence that the father has  
231 acknowledged in writing that he is the father of the child and has  
232 openly treated the child as his] this chapter, a child born out of  
233 wedlock and the child's legal representatives shall qualify for  
234 inheritance from or through the father if (1) the father's paternity was  
235 established by a written acknowledgment of paternity under section  
236 46b-172, or (2) the father's paternity has been adjudicated by a court of  
237 competent jurisdiction under chapter 815y.

238 [(c) For the purposes of this section legal representatives shall

239 include legal representatives of children born out of wedlock,  
240 provided any such child qualifies for inheritance under subsection (b)  
241 of this section.]

242 Sec. 5. Section 45a-438b of the general statutes is repealed and the  
243 following is substituted in lieu thereof (*Effective October 1, 2014*):

244 [For the purposes of this chapter, the father of a child born out of  
245 wedlock shall be considered a parent, provided paternity is established  
246 (1) prior to the death of such father by a court of competent jurisdiction  
247 or (2) after the death of such father by the Probate Court, provided  
248 paternity established after death is ineffective to qualify the father or  
249 his kindred to inherit from or through the child unless it is  
250 demonstrated by clear and convincing evidence that the father has  
251 acknowledged in writing that he is the father of the child and has  
252 openly treated the child as his.]

253 Except as provided in section 45a-731, as amended by this act, for  
254 the purposes of this chapter, a father and his kindred shall qualify for  
255 inheritance from or through a child who was born out of wedlock if (1)  
256 the father's paternity was established by a written acknowledgment of  
257 paternity under section 46b-172, or (2) the father's paternity has been  
258 adjudicated by a court of competent jurisdiction under chapter 815y.

259 Sec. 6. Section 45a-439 of the general statutes is repealed and the  
260 following is substituted in lieu thereof (*Effective October 1, 2014*):

261 (a) (1) If there are no children or any legal representatives of them,  
262 then, after the portion of the husband or wife, if any, is distributed or  
263 set out, the residue of the estate shall be distributed equally to the  
264 parent or parents of the intestate, [provided] except that no parent who  
265 has abandoned a minor child and continued such abandonment until  
266 the time of death of such child [,] shall be entitled to share in the estate  
267 of such child or be deemed a parent for the purposes of subdivisions  
268 (2) to (4), inclusive, of this subsection. (2) If there is no parent, the  
269 residue of the estate shall be distributed equally to the brothers and  
270 sisters of the intestate and those who legally represent them. (3) If

271 there is no parent or brothers and sisters or those who legally represent  
272 them, the residue of the estate shall be distributed equally to the next  
273 of kin in equal degree, [No] and no representatives shall be admitted  
274 among collaterals after the representatives of brothers and sisters. (4) If  
275 there is no next of kin, [then] the residue of the estate shall be  
276 distributed equally to the stepchildren and those who legally represent  
277 them.

278 (b) When any will executed prior to January 1, 1902, fails for any  
279 reason to dispose of the whole or any part of the estate of the testator,  
280 and such estate becomes intestate, the [same] estate shall be distributed  
281 in accordance with the statutes of distribution in force at the time such  
282 will was executed.

283 (c) Real property subject to the life use of husband or wife,  
284 remaining undivided at the expiration of such life use, shall be  
285 distributed in the same manner by the same or other distributors, or  
286 the [same] real property may be distributed during the continuance of  
287 such life interest and subject thereto.

288 (d) In ascertaining the next of kin in all cases, the rule of the civil  
289 law shall be used.

290 (e) Relatives of the half blood shall take the same share under this  
291 section that they would take if they were of the whole blood.

292 (f) For the purposes of this section:

293 (1) A father of a child born out of wedlock shall be considered a  
294 parent if the father qualifies for inheritance under section 45a-438b, as  
295 amended by this act; and

296 (2) Next of kin shall include the kindred of a deceased father of a  
297 child born out of wedlock if the father would have qualified for  
298 inheritance from or through the child under section 45a-438b, as  
299 amended by this act, had the father survived the child.

300 Sec. 7. Section 46b-172a of the general statutes is repealed and the

301 following is substituted in lieu thereof (*Effective October 1, 2014*):

302 (a) Any person claiming to be the father of a child born out of  
303 wedlock may [at any time, but no later than sixty days after the date of  
304 notice under section 45a-716,] file a claim for paternity with the [court  
305 of probate] Probate Court for the district in which either the mother or  
306 the child resides, on forms provided by such court. The claim may be  
307 filed at any time during the life of the child, whether before, on or after  
308 the date the child reaches the age of eighteen, or after the death of the  
309 child, but not later than sixty days after the date of notice under section  
310 45a-716. The claim shall contain the claimant's name and address, the  
311 name and last-known address of the mother and the month and year  
312 of the birth or expected birth of the child. Not later than five days after  
313 the filing of a claim for paternity, the [judge of the court of probate]  
314 court shall cause a certified copy of such claim to be served upon the  
315 mother or prospective mother of such child by personal service or  
316 service at her usual place of abode, and to the Attorney General by first  
317 class mail. The Attorney General may file an appearance and shall be  
318 and remain a party to the action if the child is receiving or has received  
319 aid or care from the state, or if the child is receiving child support  
320 enforcement services, as defined in subdivision (2) of subsection (b) of  
321 section 46b-231. The claim for paternity shall be admissible in any  
322 action for paternity under section 46b-160, and shall estop the claimant  
323 from denying his paternity of such child and shall contain language  
324 that he acknowledges liability for contribution to the support and  
325 education of the child after [its] the child's birth and for contribution to  
326 the pregnancy-related medical expenses of the mother.

327 (b) If a claim for paternity is filed by the father of any minor child  
328 born out of wedlock, the [court of probate] Probate Court shall  
329 schedule a hearing on such claim, send notice of the hearing to all  
330 parties involved and proceed accordingly.

331 (c) The child shall be made a party to the action [. Said child] and  
332 shall be represented by a guardian ad litem appointed by the court in  
333 accordance with section 45a-708. Payment shall be made in accordance

334 with such section from funds appropriated to the Judicial Department,  
335 [however] except that, if funds have not been included in the budget of  
336 the Judicial Department for such purposes, such payment shall be  
337 made from the Probate Court Administration Fund.

338 (d) In the event that the mother or the claimant father is a minor, the  
339 court shall appoint a guardian ad litem to represent him or her in  
340 accordance with the provisions of section 45a-708. Payment shall be  
341 made in accordance with said section from funds appropriated to the  
342 Judicial Department, [however] except that, if funds have not been  
343 included in the budget of the Judicial Department for such purposes,  
344 such payment shall be made from the Probate Court Administration  
345 Fund.

346 [(e) Upon the motion of the putative father, the mother, or his or her  
347 counsel, or the judge of probate having jurisdiction over such  
348 application, filed not later than three days prior to any hearing  
349 scheduled on such claim, the Probate Court Administrator shall  
350 appoint a three-judge court from among the several judges of probate  
351 to hear such claim. Such three-judge court shall consist of at least one  
352 judge who is an attorney-at-law admitted to practice in this state. The  
353 judge of the court of probate having jurisdiction over such application  
354 under the provisions of this section shall be a member, provided such  
355 judge may disqualify himself in which case all three members of such  
356 court shall be appointed by the Probate Court Administrator. Such  
357 three-judge court when convened shall have all the powers and duties  
358 set forth under sections 17a-75 to 17a-83, inclusive, 17a-450 to 17a-484,  
359 inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive,  
360 17a-560 to 17a-576, inclusive, and 17a-615 to 17a-618, inclusive, and  
361 shall be subject to all of the provisions of law as if it were a single-  
362 judge court. The judges of such court shall designate a chief judge from  
363 among their members. All records for any case before the three-judge  
364 court shall be maintained in the court of probate having jurisdiction  
365 over the matter as if the three-judge court had not been appointed.]

366 [(f)] (e) By filing a claim under this section, the putative father

367 submits to the jurisdiction of the [court of probate] Probate Court.

368 [(g)] (f) Once alleged parental rights of the father have been  
369 adjudicated in his favor under subsection (b) of this section, or  
370 acknowledged as provided for under section 46b-172, his rights and  
371 responsibilities shall be equivalent to those of the mother, including  
372 those rights defined under section 45a-606. Thereafter, disputes  
373 involving custody, visitation or support shall be transferred to the  
374 Superior Court under chapter 815j, except that the [probate court]  
375 Probate Court may enter a temporary order for custody, visitation or  
376 support until an order is entered by the Superior Court.

377 [(h)] (g) Failing perfection of parental rights as prescribed by this  
378 section, any person claiming to be the father of a child born out of  
379 wedlock (1) who has not been adjudicated the father of such child by a  
380 court of competent jurisdiction, or (2) who has not acknowledged in  
381 writing that he is the father of such child, or (3) who has not  
382 contributed regularly to the support of such child or (4) whose name  
383 does not appear on the birth certificate, shall cease to be a legal party in  
384 interest in any proceeding concerning the custody or welfare of the  
385 child, including, but not limited to, guardianship and adoption, unless  
386 he has shown a reasonable degree of interest, concern or responsibility  
387 for the child's welfare.

388 [(i)] (h) Notwithstanding the provisions of this section, after the  
389 death of the father of a child born out of wedlock, a party deemed by  
390 the court to have a sufficient interest may file a claim for paternity on  
391 behalf of such father with the [probate court] Probate Court for the  
392 district in which either the putative father resided or the party filing  
393 the claim resides. If a claim for paternity is filed pursuant to this  
394 subsection, the [court of probate] Probate Court shall schedule a  
395 hearing on such claim, send notice of the hearing to all parties  
396 involved and proceed accordingly.

397 Sec. 8. (NEW) (*Effective October 1, 2014*) (a) For the purposes of this  
398 section and section 9 of this act, a minor child shall be considered  
399 dependent upon the court if the court has (1) removed a parent or

400 other person as guardian of the minor child, (2) appointed a guardian  
401 or coguardian for the minor child, (3) terminated the parental rights of  
402 a parent of the minor child, or (4) approved the adoption of the minor  
403 child.

404 (b) At any time during the pendency of a petition to remove a  
405 parent or other person as guardian under section 45a-609 or 45a-610 of  
406 the general statutes, or to appoint a guardian or coguardian under  
407 section 45a-616 of the general statutes, a party may file a petition  
408 requesting the Probate Court to make findings under this section to be  
409 used in connection with a petition to the United States Citizenship and  
410 Immigration Services for designation of the minor child as having  
411 special immigrant juvenile status under 8 USC 1101(a)(27)(J). The  
412 Probate Court shall cause notice of the hearing on the petition to be  
413 given by first class mail to each person listed in subsection (b) of  
414 section 45a-609 of the general statutes, and such hearing may be held  
415 at the same time as the hearing on the underlying petition for removal  
416 or appointment. If the court grants the petition to remove the parent or  
417 other person as guardian or appoint a guardian or coguardian, the  
418 court shall make written findings on the following: (1) The age of the  
419 minor child; (2) the marital status of the minor child; (3) whether the  
420 minor child is dependent upon the court; (4) whether reunification of  
421 the minor child with one or both of the minor child's parents is not  
422 viable due to any of the grounds sets forth in subdivisions (2) to (5),  
423 inclusive, of section 45a-610 of the general statutes; and (5) whether it  
424 is not in the best interests of the minor child to be returned to the  
425 minor child's or parent's country of nationality or last habitual  
426 residence.

427 (c) If the court has previously granted a petition to remove a parent  
428 or other person as guardian under section 45a-609 or 45a-610 of the  
429 general statutes or to appoint a guardian or coguardian under section  
430 45a-616 of the general statutes, a parent, guardian or attorney for the  
431 minor child may file a petition requesting that the court make findings  
432 under this section to be used in connection with a petition to the  
433 United States Citizenship and Immigration Services for designation of

434 the minor child as having special immigrant juvenile under 8 USC  
435 1101(a)(27)(J). The court shall cause notice of the hearing on the  
436 petition to be given by first class mail to each parent, guardian and  
437 attorney for the minor child, to the minor child if the minor child is  
438 twelve years of age or older and to other persons as the court  
439 determines. The court shall make written findings on the petition in  
440 accordance with subsection (b) of this section.

441 Sec. 9. (NEW) (*Effective October 1, 2014*) (a) At any time during the  
442 pendency of a petition to terminate parental rights under any  
443 provision of sections 45a-715 to 45a-717, inclusive, of the general  
444 statutes, or to approve an adoption under section 45a-727 of the  
445 general statutes, a party may file a petition requesting the Probate  
446 Court to make findings under this section to be used in connection  
447 with a petition to the United States Citizenship and Immigration  
448 Services for designation of the minor child as having special immigrant  
449 juvenile status under 8 USC 1101(a)(27)(J). The Probate Court shall  
450 cause notice of the hearing on the petition to be given by first class  
451 mail to each person listed in subsection (b) of section 45a-716 of the  
452 general statutes, and such hearing may be held at the same time as the  
453 hearing on the underlying petition to terminate parental rights or  
454 approve an adoption. If the court grants the petition to terminate  
455 parental rights or approve the adoption, the court shall make written  
456 findings on the following: (1) The age of the minor child; (2) the  
457 marital status of the minor child; (3) whether the minor child is  
458 dependent upon the court; (4) whether reunification of the minor child  
459 with one or both of the minor child's parents is not viable due to any of  
460 the grounds set forth in subdivision (2) of subsection (g) of section 45a-  
461 717 of the general statutes; and (5) whether it is not in the best interests  
462 of the minor child to be returned to the minor child's or parent's  
463 country of nationality or last habitual residence.

464 (b) If the court has previously granted a petition to terminate  
465 parental rights under section 45a-717 of the general statutes or to  
466 approve an adoption under section 45a-727 of the general statutes, a  
467 statutory parent, guardian, adoptive parent or attorney for the minor

468 child may file a petition requesting that the court make findings under  
469 this section to be used in connection with a petition to the United  
470 States Citizenship and Immigration Services for designation of the  
471 minor child as having special immigrant juvenile under 8 USC  
472 1101(a)(27)(J). The court shall order notice of the hearing on the  
473 petition to be given by first class mail to the statutory parent, each  
474 guardian, adoptive parent and attorney for the minor child, to the  
475 minor child if the minor child is twelve years of age or older and to  
476 other persons as the court determines. The court shall make written  
477 findings in accordance with subsection (a) of this section.

478 Sec. 10. Section 46b-124 of the general statutes is repealed and the  
479 following is substituted in lieu thereof (*Effective October 1, 2014*):

480 (a) For the purposes of this section, "records of cases of juvenile  
481 matters" includes, but is not limited to, court records, records  
482 regarding juveniles maintained by the Court Support Services  
483 Division, records regarding juveniles maintained by an organization or  
484 agency that has contracted with the Judicial Branch to provide services  
485 to juveniles, records of law enforcement agencies including  
486 fingerprints, photographs and physical descriptions, and medical,  
487 psychological, psychiatric and social welfare studies and reports by  
488 juvenile probation officers, public or private institutions, social  
489 agencies and clinics.

490 (b) All records of cases of juvenile matters, as provided in section  
491 46b-121, except delinquency proceedings, or any part thereof, and all  
492 records of appeals from probate brought to the superior court for  
493 juvenile matters pursuant to section 45a-186, shall be confidential and  
494 for the use of the court in juvenile matters, and open to inspection or  
495 disclosure to any third party, including bona fide researchers  
496 commissioned by a state agency, only upon order of the Superior  
497 Court, except that: (1) [The records concerning any matter transferred  
498 from a court of probate pursuant to section 45a-623 or subsection (g) of  
499 section 45a-715 or any appeal from probate to the superior court for  
500 juvenile matters pursuant to subsection (b) of section 45a-186 shall be

501 available to the court of probate from which such matter was  
502 transferred or from which such appeal was taken; (2) such] Such  
503 records shall be available to (A) the attorney representing the child or  
504 youth, including the Division of Public Defender Services, in any  
505 proceeding in which such records are relevant, (B) the parents or  
506 guardian of the child or youth until such time as the child or youth  
507 reaches the age of majority or becomes emancipated, (C) an adult  
508 adopted person in accordance with the provisions of sections 45a-736,  
509 45a-737 and 45a-743 to 45a-757, inclusive, (D) employees of the  
510 Division of Criminal Justice who, in the performance of their duties,  
511 require access to such records, (E) employees of the Judicial Branch  
512 who, in the performance of their duties, require access to such records,  
513 (F) another court under the provisions of subsection (d) of section 46b-  
514 115j, (G) the subject of the record, upon submission of satisfactory  
515 proof of the subject's identity, pursuant to guidelines prescribed by the  
516 Office of the Chief Court Administrator, provided the subject has  
517 reached the age of majority or has been emancipated, (H) the  
518 Department of Children and Families, [and] (I) the employees of the  
519 Division of Public Defender Services who, in the performance of their  
520 duties related to Division of Public Defender Services assigned  
521 counsel, require access to such records, and (J) judges and employees  
522 of the Probate Court who, in the performance of their duties, require  
523 access to such records; and [(3)] (2) all or part of the records concerning  
524 a youth in crisis with respect to whom a court order was issued prior  
525 to January 1, 2010, may be made available to the Department of Motor  
526 Vehicles, provided such records are relevant to such order. Any  
527 records of cases of juvenile matters, or any part thereof, provided to  
528 any persons, governmental [and] or private agencies, [and] or  
529 institutions pursuant to this section shall not be disclosed, directly or  
530 indirectly, to any third party not specified in subsection (d) of this  
531 section, except as provided by court order, [or] in the report required  
532 under section 54-76d or 54-91a or as otherwise provided by law.

533 (c) All records of cases of juvenile matters involving delinquency  
534 proceedings, or any part thereof, shall be confidential and for the use  
535 of the court in juvenile matters and shall not be disclosed except as

536 provided in this section.

537 (d) Records of cases of juvenile matters involving delinquency  
538 proceedings shall be available to (1) Judicial Branch employees who, in  
539 the performance of their duties, require access to such records, (2)  
540 judges and employees of the Probate Court who, in the performance of  
541 their duties, require access to such records, and [(2)] (3) employees and  
542 authorized agents of state or federal agencies involved in (A) the  
543 delinquency proceedings, (B) the provision of services directly to the  
544 child, (C) the design and delivery of treatment programs pursuant to  
545 section 46b-121j, or (D) the delivery of court diversionary programs.  
546 Such employees and authorized agents include, but are not limited to,  
547 law enforcement officials, community-based youth service bureau  
548 officials, state and federal prosecutorial officials, school officials in  
549 accordance with section 10-233h, court officials including officials of  
550 both the regular criminal docket and the docket for juvenile matters  
551 and officials of the Division of Criminal Justice, the Division of Public  
552 Defender Services, the Department of Children and Families, the Court  
553 Support Services Division and agencies under contract with the  
554 Judicial Branch. Such records shall also be available to (i) the attorney  
555 representing the child, including the Division of Public Defender  
556 Services, in any proceeding in which such records are relevant, (ii) the  
557 parents or guardian of the child, until such time as the subject of the  
558 record reaches the age of majority, (iii) the subject of the record, upon  
559 submission of satisfactory proof of the subject's identity, pursuant to  
560 guidelines prescribed by the Office of the Chief Court Administrator,  
561 provided the subject has reached the age of majority, (iv) law  
562 enforcement officials and prosecutorial officials conducting legitimate  
563 criminal investigations, (v) a state or federal agency providing services  
564 related to the collection of moneys due or funding to support the  
565 service needs of eligible juveniles, provided such disclosure shall be  
566 limited to that information necessary for the collection of and  
567 application for such moneys, and (vi) members and employees of the  
568 Board of Pardons and Paroles and employees of the Department of  
569 Correction who, in the performance of their duties, require access to  
570 such records, provided the subject of the record has been convicted of

571 a crime in the regular criminal docket of the Superior Court and such  
572 records are relevant to the performance of a risk and needs assessment  
573 of such person while such person is incarcerated, the determination of  
574 such person's suitability for release from incarceration or for a pardon,  
575 or the determination of the supervision and treatment needs of such  
576 person while on parole or other supervised release. Records disclosed  
577 pursuant to this subsection shall not be further disclosed, except that  
578 information contained in such records may be disclosed in connection  
579 with bail or sentencing reports in open court during criminal  
580 proceedings involving the subject of such information, or as otherwise  
581 provided by law.

582 (e) Records of cases of juvenile matters involving delinquency  
583 proceedings, or any part thereof, may be disclosed upon order of the  
584 court to any person who has a legitimate interest in the information  
585 and is identified in such order. Records disclosed pursuant to this  
586 subsection shall not be further disclosed, except as specifically  
587 authorized by a subsequent order of the court.

588 (f) Records of cases of juvenile matters involving delinquency  
589 proceedings, or any part thereof, shall be available to the victim of the  
590 crime committed by such child to the same extent as the record of the  
591 case of a defendant in a criminal proceeding in the regular criminal  
592 docket of the Superior Court is available to a victim of the crime  
593 committed by such defendant. The court shall designate an official  
594 from whom such victim may request such information. Records  
595 disclosed pursuant to this subsection shall not be further disclosed,  
596 except as specifically authorized by a subsequent order of the court.

597 (g) Information concerning a child who has escaped from a  
598 detention center or from a facility to which [he] the child has been  
599 committed by the court or for whom an arrest warrant has been issued  
600 with respect to the commission of a felony may be disclosed by law  
601 enforcement officials.

602 (h) Nothing in this section shall be construed to prohibit any person  
603 employed by the Judicial Branch from disclosing any records,

604 information or files in [his] such employee's possession to any person  
605 employed by the Division of Criminal Justice as a prosecutorial official,  
606 inspector or investigator who, in the performance of his or her duties,  
607 requests such records, information or files, or to prohibit any such  
608 employee of said division from disclosing any records, information or  
609 files in [his] such employee's possession to any such employee of the  
610 Judicial Branch who, in the performance of his or her duties, requests  
611 such records, information or files.

612 (i) Nothing in this section shall be construed to prohibit a party from  
613 making a timely objection to the admissibility of evidence consisting of  
614 records of cases of juvenile matters, or any part thereof, in any  
615 Superior Court or Probate Court proceeding, or from making a timely  
616 motion to seal any such record pursuant to the rules of the superior  
617 court or the rules of procedure adopted under section 45a-78.

618 [(i)] (j) A state's attorney shall disclose to the defendant or [his] such  
619 defendant's counsel in a criminal prosecution, without the necessity of  
620 a court order, exculpatory information and material contained in any  
621 record disclosed to such state's attorney pursuant to this section and  
622 may disclose, without a court order, information and material  
623 contained in any such record which could be the subject of a disclosure  
624 order.

625 [(j)] (k) Notwithstanding the provisions of subsection (d) of this  
626 section, any information concerning a child that is obtained during any  
627 mental health screening or assessment of such child, during the  
628 provision of services pursuant to subsection (b) of section 46b-149, or  
629 during the performance of an educational evaluation pursuant to  
630 subsection (e) of section 46b-149, shall be used solely for planning and  
631 treatment purposes and shall otherwise be confidential and retained in  
632 the files of the entity providing such services or performing such  
633 screening, assessment or evaluation. Such information may be further  
634 disclosed only for the purposes of any court-ordered evaluation or  
635 treatment of the child or provision of services to the child, or pursuant  
636 to sections 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a.

637 Such information shall not be subject to subpoena or other court  
638 process for use in any other proceeding or for any other purpose.

639 [(k)] (l) Records of cases of juvenile matters involving delinquency  
640 proceedings, or any part thereof, containing information that a child  
641 has been convicted as delinquent for a violation of subdivision (e) of  
642 section 1-1h, subsection (c) of section 14-147, subsection (a) of section  
643 14-215, section 14-222, subsection (b) of section 14-223, subsection (a),  
644 (b) or (c) of section 14-224, section 30-88a or subsection (b) of section  
645 30-89, shall be disclosed to the Department of Motor Vehicles for  
646 administrative use in determining whether administrative sanctions  
647 regarding such child's motor vehicle operator's license are warranted.  
648 Records disclosed pursuant to this subsection shall not be further  
649 disclosed.

650 [(l)] (m) Records of cases of juvenile matters involving adoption  
651 proceedings, or any part thereof, shall be confidential and may only be  
652 disclosed pursuant to sections 45a-743 to 45a-757, inclusive.

653 Sec. 11. (*Effective October 1, 2014*) (a) Wherever the words "adopting  
654 parent" are used in the following general statutes, "adoptive parent"  
655 shall be substituted in lieu thereof: 45a-727, 45a-736 and 45a-746.

656 (b) The Legislative Commissioners' Office shall, in codifying said  
657 sections of the general statutes pursuant to subsection (a) of this  
658 section, make such technical, grammatical and punctuation changes as  
659 are necessary to carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	45a-731
Sec. 2	<i>October 1, 2014</i>	45a-734
Sec. 3	<i>October 1, 2014</i>	45a-437
Sec. 4	<i>October 1, 2014</i>	45a-438
Sec. 5	<i>October 1, 2014</i>	45a-438b
Sec. 6	<i>October 1, 2014</i>	45a-439
Sec. 7	<i>October 1, 2014</i>	46b-172a

Sec. 8	<i>October 1, 2014</i>	New section
Sec. 9	<i>October 1, 2014</i>	New section
Sec. 10	<i>October 1, 2014</i>	46b-124
Sec. 11	<i>October 1, 2014</i>	New section

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes various changes to inheritance laws, adult adoption laws, and special immigrant juvenile status cases in the Probate Court and does not result in a fiscal impact to the state and municipalities.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sSB 155*****AN ACT CONCERNING PROBATE COURTS.*****SUMMARY:**

This bill makes numerous changes in the laws that govern adult adoptions. It:

1. establishes new hearing notice requirements and factors the court must consider before approving such an adoption,
2. allows one biological parent to join in an adult child's adoption agreement,
3. terminates the legal relationship between the adopted person and the parent who does not join the agreement (thereby limiting an adopted person to two parents), and
4. allows an adopted person (adult or minor child) to inherit from or through a parent who died before the adoption occurs.

The bill makes numerous changes in the laws that govern the distribution of the property of a person who dies without a will (i.e., intestate succession) as it relates to children born out of wedlock. In determining the inheritance rights of such a child or his or her father, the bill requires the child's paternity to be established by (1) court adjudication or (2) written acknowledgment signed by both the mother and father.

The bill also establishes a framework that allows a party in a probate court case involving guardianship, parental rights, or adoption to petition the court to make certain findings that a person may use to apply to the U.S. Citizenship and Immigration Services (USCIS) for special immigrant juvenile status (SIJS) (see BACKGROUND). SIJS

allows an immigrant child who has been abused, neglected, or abandoned to legally remain in the United States.

The bill expands the circumstances in which the Superior Court may disclose confidential juvenile records.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2014

## **§ 2 — ADULT ADOPTION**

By law, a person over age 18 may be adopted by a non relative older than him or her under a written agreement, approved by the probate court.

The bill eliminates a requirement that the court provide public notice of the time and place of the hearing on the agreement. It instead requires the court to provide a notice to (1) each party to the adoption agreement and (2) the spouse of the proposed adoptive parent, if he or she is not a party to the agreement. It allows the court to also notify other people interested in the proposed adoptive parent's or adopted person's welfare.

### ***Probate Court Approval***

The bill requires the court to approve the adoption agreement if it finds that the (1) proposed adoptive parent and adopted person share a relationship like that between a parent and his or her adult child and (2) adoption is in their best interests. Under current law, the court may approve the agreement if it finds that approval is for the public interest and the welfare of the adopted person.

### ***Joining the Adoption Agreement***

Under current law, when one of the parents of an adult child dies, the surviving parent's spouse may adopt the child without the surviving parent joining the adoption agreement, if the surviving parent gives written consent. The bill instead (1) allows one parent to join with his or her spouse or another person in an adult child's

adoption agreement and (2) terminates the legal relationship between the adult child and the parent who did not join the adoption agreement. Under the bill, adoption does not affect the adopted person's rights to inherit from or through a parent who died before the adoption occurred.

The law, unchanged by the bill, prohibits a married person from adopting an adult if his or her spouse does not join in the adoption agreement, unless the court finds that there is reason why the spouse should not join in the agreement.

## **§ 1 — LEGAL EFFECTS OF ADOPTION**

### ***Legal Relationship — Biological Parent and Adopted Adult Child***

Under current law, with some exceptions, a final decree of adoption terminates the legal relationship between the adopted person and his or her biological parent or parents and their relatives with regard to (1) the applicability of certain statutes, (2) inheritance rights, and (3) the construction of documents and instruments executed before or after the adoption decree was issued.

Under the bill, the legal relationship is not terminated in the case of an adult child adoption whose biological parent joins the adoption agreement.

### ***Inheritance Rights of an Adopted Minor Child***

Under the bill, adoption does not affect an adopted minor's rights to inherit from or through a parent who died before the adoption occurred. Under current law, an adopted child retains those inheritance rights only in cases in which the spouse of the surviving biological parent adopts the minor.

## **§§ 3-6 — INHERITANCE RIGHTS OF A CHILD BORN OUT OF WEDLOCK AND HIS OR HER FATHER**

When a person dies intestate, the intestate succession laws determine to whom and how the person's property is distributed.

The bill aligns the means by which a court establishes paternity in

various intestate succession statutes with the procedure for establishing paternity for all other legal purposes. Under this procedure, the father of a child born out of wedlock is considered the child's parent for intestate succession purposes only if the child's paternity is established either (1) through a court proceeding after the mother files a petition and serves process on the putative father or (2) by the father's written acknowledgment. A written acknowledgement must be accompanied by (1) an attested waiver of a right to a blood test, a trial, or an attorney and (2) written affirmation of paternity executed and sworn to the child's mother.

**§ 4 — Distribution of Property to Children Including Those Born Out of Wedlock**

By law, when a person dies intestate, his or her estate is first distributed to the surviving spouse. The residual estate is then distributed equally among the children, including those born out of wedlock.

The bill changes the requirements for a child who was born out of wedlock to qualify for inheritance from or through his or her father's estate by changing how the father's paternity is established, as described above (i.e., through a court proceeding or his written acknowledgment.)

Under current law, a person is considered the child of his or her genetic parents for intestate succession purposes, regardless of the parents' marital status. And, the father of a child born out of wedlock is considered a parent if:

1. he and the mother marry each other after the child's birth;
2. he has been adjudicated the father of the child by a court of competent jurisdiction;
3. he has acknowledged under oath in writing that he is the father of the child; or
4. after his or the child's death, the probate court establishes

paternity by clear and convincing evidence that the father has acknowledged in writing that he is the child's father and has openly treated the child as his.

**§ 5 — *Inheritance Rights of a Father of a Child Born out of Wedlock***

Under current law, in order for a father or his relatives to qualify for inheritance from or through a child born out of wedlock who dies intestate, the father's paternity must be established by (1) a court of competent jurisdiction before the father's death or (2) the probate court after the father's death, if it has been demonstrated by clear and convincing evidence that the father acknowledged his paternity in writing and openly treated the child as his.

Under the bill, a father and his relatives qualify for inheritance from or through a child born out of wedlock who dies intestate if the father's paternity was established through court adjudication or written acknowledgement signed by both the mother and the father.

The bill also changes the way in which paternity is established in order for a child who was born out of wedlock to qualify for inheritance as an issue under this scenario. Under the bill, "issue" includes (1) a child born out of wedlock whose father's paternity was established either through a court proceeding or by the father's written acknowledgement accompanied by (a) an attested waiver of a right to a blood test, a trial, or an attorney and (b) written affirmation of paternity executed and sworn by the mother of the child, and (2) the legal representative of such a child.

Under current law, "issue" includes children born out of wedlock, and their issue, where the father's paternity was established by:

1. the father and mother marrying each other after the child's birth,
2. the father being adjudicated the father of the child by a court of competent jurisdiction;
3. the father acknowledging under oath in writing that he is the

father of the child; or

4. the probate court, after the death of either the father or the child, by clear and convincing evidence that the father acknowledged in writing that he was the father of the child and openly treated the child as his.

### **§ 3 — Distribution to Spouse**

Existing law prescribes the portion of a person's estate that is distributed to the surviving spouse when the person dies intestate or leaves a will that does not fully dispose of all the property.

By law, the surviving spouse gets:

1. the entire intestate estate, if there is no surviving "issue" or parent of the decedent;
2. the first \$100,000 plus three quarters of the balance of the intestate estate, if there is no surviving issue but the decedent is survived by a parent or parents;
3. the first \$100,000 plus half of the balance of the intestate estate, if there is surviving issue who are all also children of the surviving spouse;
4. half of the intestate estate, if there is surviving issues and at least one is not an issue of the surviving spouse.

Under the bill, a father of a child born out of wedlock must be considered a parent for estate distribution purposes if he qualifies for inheritance from or through such a child who dies intestate (see § 5).

The bill also changes the way in which paternity is established in order for a child born out of wedlock to qualify for inheritance as an issue under this scenario by changing the definition of issue as described in § 5 above.

### **§ 6 — Distribution When There are No Children or Representatives**

When a person dies intestate, if there are no children or their legal representatives, existing law prescribes how the residual estate of the intestate must be distributed. By law, after distribution to any surviving spouse, the residue of the estate is distributed equally to the parent or parents of the intestate, then equally to the intestate's siblings and any legal representatives, then equally to the "next of kin", then equally to stepchildren and their legal representatives.

Under this scenario, the bill makes a father of a child born out of wedlock and the father's relatives qualify for inheritance from or through that child if paternity is established either through a court proceeding or by the father's written acknowledgement accompanied by (a) an attested waiver of a right to a blood test, a trial, or an attorney and (b) written affirmation of paternity executed and sworn by the mother of the child. And, the relatives of that child's father qualify for inheritance as next of kin, if the father would have qualified for inheritance from or through that child who was born out of wedlock (see § 5).

#### **§ 7 — PATERNITY CLAIM REGARDING CHILDREN BORN OUT OF WEDLOCK**

By law, if a person claiming to be the father of a child born out of wedlock receives notice from the Superior Court of a petition filed to terminate his parental rights, he has 60 days to file a paternity claim with the probate court in the district where either the mother or the child resides. Under current law, if no such notice has been received, the person may file the claim at any time. The bill specifies that such a paternity claim may be filed at any time during the child's life, regardless of his or her age, and also after the child's death. It eliminates a requirement for the probate court administrator to appoint a three-judge court to hear the paternity claim.

#### **§§ 8 & 9 — PROBATE COURT'S JURISDICTION REGARDING SPECIAL IMMIGRATION JUVENILE STATUS (SIJS)**

The bill allows probate courts, in certain family matters, to make findings that someone can use to apply to the USCIS for SIJS (see BACKGROUND). By law, a person granted SIJS is allowed to stay in

the United States. Under federal law, one of the criteria for getting SIJS status is for a child to be determined a dependent on a juvenile court.

Under the bill, a child under age 18 must be considered dependent on the court, if the court has:

1. removed his or her parent or another person as guardian,
2. appointed a guardian or co-guardian for him or her,
3. terminated the parental rights of his or her parent, or
4. approved his or her adoption.

### **§ 8 — Parental Removal or Guardian Appointment**

The bill allows a party, at any time during a case for parental removal or guardian appointment, to file a petition requesting the court to make certain findings to be used for SIJS purposes. A hearing on the petition may be held at the same time as the underlying case.

**Notice.** The probate court must send notice of the hearing on the petition, by first class mail, to (1) the commissioner of children and families; (2) both parents; and (3) the child, if he or she is over age 12.

**Written Findings.** If the court grants the underlying petition to remove the parent or other person as guardian or to appoint a guardian or co-guardian, the court must make written findings on the following:

1. the child's age and marital status;
2. whether the child is dependent upon the court;
3. whether reunification of the child with one or both of the child's parents is not viable because he or she was (a) abandoned by the parent, (b) denied the care necessary for his or her well-being, (c) physically injured intentionally by a person responsible for his or her well-being or a person given access to the child by the responsible person, or (d) neglected or uncared for; and

4. whether it is not in the child's best interests to be returned to the child's or parent's country of nationality or last customary residence.

**Removal or Appointment Previously Granted.** Under the bill, a parent, guardian, or attorney for the child may petition the court to make findings for SIJS purposes, if the court previously granted the request to remove a parent as guardian or appointed a guardian for the child.

The court must (1) notify, by first class mail, each parent, guardian, and attorney for the child and the child, if he or she is age 12 or older, of the petition hearing and (2) make written findings on the issues listed above.

#### **§ 9 — Termination of Parental Rights or Adoption Approval**

The bill allows a party, at any time during a case for terminating parental rights or approving an adoption, to petition the probate court to make certain findings to be used for SIJS purposes. A hearing on the petition may be held at the same time as the underlying case.

**Notice.** The court must send notice of the hearing on such petition, by first class mail, to the:

1. parents, including anyone who was removed as guardian;
2. father of any child born out of wedlock who, at the time of the petition, (a) was adjudicated the father by a court, (b) acknowledged paternity in writing, (c) provided regular support to the child, (d) was named on the birth certificate, (e) filed a paternity claim, or (f) was named by the mother in a petition to establish paternity;
3. guardian or others the court deems appropriate;
4. commissioner of children and families; and
5. the attorney general.

**Written Findings.** If the court grants the underlying petition to terminate parental rights or approve the adoption, it must make written findings on:

1. the child's age and marital status,
2. whether the child is dependent upon the court, and
3. whether it is not in the minor child's best interests to be returned to the minor child's or parent's country of nationality or last customary residence.

The court must also make written findings on whether reunification of the minor child with one or both of the child's parents is not viable due to:

1. abandonment,
2. denial of the care, guidance, or control necessary for the child's physical, educational, moral or emotional well-being,
3. absence of an ongoing parent-child relationship and allowing time for the establishment or reestablishment of such a relationship would not be in the child's best interests,
4. a parent's failure to rehabilitate to assume a responsible position in the life of the child,
5. the termination of parental rights related to another child, or
6. the parent's commission of certain crimes.

**Termination or Adoption Previously Granted.** Under the bill, a statutory parent, guardian, adoptive parent, or attorney for the minor child may petition the court to make findings for SIJS purposes, if the court previously terminated the parental rights or approved the adoption.

The court must (1) give notice of the petition, by first class mail, to

the statutory parent, each guardian, adoptive parent, attorney for the minor child, the minor child, if he or she is age 12 or older, and other persons as it determines; and (2) make written findings on the items listed above.

## **§ 10 — DISCLOSURE OF JUVENILE RECORDS**

The bill allows the Superior Court to disclose confidential records of cases of juvenile matters, including those involving delinquency matters, to probate court judges and employees who need access to such records to do their work. Existing law, records on matters transferred to, or on appeal from, a probate court to a Superior Court are available to the probate court from which the matter was transferred or appealed.

By law, “records of cases of juvenile matters” include (1) court records; (2) records maintained by the Court Support Services Division, law enforcement agencies, or any organization or agency contracted with the Judicial Branch to provide services to juveniles; and (3) studies and reports by juvenile probation officers, public or private institutions, and social agencies and clinics.

The bill specifies that it must not be construed to prohibit a party from making (1) a timely objection to the admissibility of records of cases of juvenile matters in Superior Court proceedings or (2) a motion to seal such records.

## **BACKGROUND**

### **SIJS**

By law, the Department of Homeland Security may grant SIJS to an immigrant in the United States if:

1. he or she has been declared dependent on a juvenile court or whom a juvenile court has legally committed to, or placed under the custody of, a state agency or department, or a person or entity appointed by a state or juvenile court located in the United States;

2. his or her reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
3. it was determined in an administrative or judicial proceedings that it would not be his or her best interest to be returned to the child's or parent's previous country of nationality or last habitual residence (8 USCA § 1101(a)(27)(J)).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 32 Nay 0 (04/01/2014)