

# Judiciary Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-6505

**Title:** AN ACT CONCERNING COURT OPERATIONS.

**Vote Date:** 4/9/2021

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/15/2021

**File No.:** 594

**Disclaimer:** *The following JOINT FAVORABLE Report is prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose.*

## **SPONSORS OF BILL:**

The Judiciary Committee

## **REASONS FOR BILL:**

This bill represents the annual legislative package from the Judicial Branch. The bill amends various statutes that facilitate court processes during the pandemic; updates terminology; changes the process for adopting Judicial Rules and creates efficiencies in the court process. The bill allows family court litigants the opportunity to resolve family matters without the need to physically appear in court, updates language from "detention" to a more clinically appropriate description, "Juvenile Residential Center," permits the court to make certain findings without requiring the physical presence of the parties in court and permits the court to make certain findings without requiring the physical presence of the parties in court.

## **SUBSTITUTE LANGUAGE:**

The substitute language modifies the requirements for a child custody affidavit that allows a party to submit for a determination without a hearing as well as allows individuals to enter a juvenile residential center physically or virtually. It also requires an arbitration award in a dissolution of marriage be incorporated into a court order and be enforceable as with an agreement incorporated into an order and required any award related to child support to comply with legal requirements for support. It also removes provisions that imposed time limits for issuing decisions on short calendar matters and authorizes the Commissioner of the Department of Agriculture to issue citations for infractions and violations under the Commissioner's jurisdiction.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

State of CT Judicial Branch, Superior Court Judge, Michael A. Albis; as Chief Administrative Judge of the Family Division, limited his comments to the sections of the bill pertaining to the

Family Court Division and explained the following changes: 1. By permitting family court litigants the opportunity to resolve family matters without the need to physically appear in court increases efficiency & reduces cost & wasteful time spent in court especially for Pro Se litigants; 2. The requirement for an applicant for a temporary restraining order to appear in person to submit an affidavit under oath has been eliminated; and 3. If certain conditions are met, family support magistrates may approve an agreement to modify a child support order in IV-D support cases without a hearing on the record.

Board of Pardons and Paroles State of CT, Chairman, Carleton Giles; supports sections 51 and 52 for which the Board has cognizance of and take no position on the remaining portions of the bill. Sections 51 and 52 amend Sections 54-108f and 54-130e to clarify that the Board of Pardons and Paroles (Board) may, but is not required (as it currently is), to revoke Certificates of Rehabilitation (Certificate) and that neither the Board and the Judicial Branch Support Service Division (CSSD) are required to continue monitoring the criminal activity of any person to whom the Board or CSSD have issues a provisional pardon or Certificate, but who is no longer serving a sentence.

Office of Victim Advocate, State Victim Advocate, Natasha M. Pierre, Esq.; supports Section 29 of the proposed bill. Public Act No. 19-187 requires that in any case a juvenile, transferred to the adult criminal docket, to be private and confidential. It is noted that this was a complete violation of the constitutional rights of the crime victim. It is stated that Section 29 will restore the constitutional rights of crime victims and their families in such cases, by insuring they are not excluded in such proceedings and be able to obtain information about the criminal case and the defendant.

State of CT Judicial Branch, Chief Justice, Richard Robinson; supports the section of this bill that will make it easier for members of the public to have access to the courts, improve processes and makes courts more efficient. He is pleased the Judicial Branch is close to reaching an agreement with AFSCME who represent the court recording monitors. It is stated that the Judicial Branch was not included in the drafting of section 55, §52-408 permits the arbitration process to settle issue relating to child support, visitation and custody. There is concern that an arbitration award for child support, even if confirmed does not constitute a "child support order" for the Uniform Interstate Family Act. It is stated that it is unlikely that an arbitration award, which includes an agreement to pay child support, would be sufficient for the IV-D child support services, as well as the full scope of the statutory enforcements. Substitute language is requested by the Office of the Chief Public Defender to Section 51 of this bill, which the Judicial Branch also endorses.

State of CT Office of the Probate Court Administrator, Probate Court Administrator, Beverly K. Streit-Kefelas; supports Section 15 which amends sections 45a-78 and 51-14 to permit the Office of Probate Court Administrator to conduct public hearings rather than the Supreme Court on Probate Court rules of procedure. It is stated that this change is made from a collaboration between the Judicial Branch and the Probate Court Administrator.

#### **NATURE AND SOURCES OF SUPPORT:**

Connecticut Coalition Against Domestic Violence (CCADV), Director of Public Policy and Communication, Liza Andrews; states support for section 17 but has concerns regarding section 22 that impact final agreements in custody cases. It is stated that the new language

strays from the traditional court canvas regarding fair and equitable decisions in the best interests of the child as it appears to potentially preclude victims from bringing up past abuse should they ever need to modify the resulting court order in the future. It is stated, there are times where a victim will make an agreement related to custody in a good faith belief that it is equitable, and in the best interest of their children and that ending the court proceedings is in the best interest of their children. It is also stated that circumstances can change related to care and custody of children, particularly when domestic violence is present and possibly continuing even after a divorce and/or custody agreement has been reached and, in these situations,, potentially precluding victims from pointing to past abuse in relation to parental fitness is neither safe for the victim nor the children.

#### **NATURE AND SOURCES OF OPPOSITION:**

Needle/Cuda, Partner, Alex Cuda; opposes sections 51 and 52 and takes no position on the remaining provisions of the bill. It is stated that during the pandemic it became necessary for the Judicial Branch to utilize affidavits for testimony in many cases. It is stated that by permanently changing this process, the public would be denied protections such as cross-examination. It is also stated that reliance on administrative paperwork and not on Judicial consideration could lead to a crisis of Constitutional dimensions.

Council 4 AFSCME Local 749, Colleen Birney; requests that Sections 42 and 43 be removed to preserve the status of court recording monitors as state employees. It is stated that this group represents over 200 court recording monitors throughout the state and these monitors have the responsibility of record keeping in the courts as well as producing accurate transcripts of what is said in court and other responsibilities as assigned. It is also stated that if no final agreement is made with the Judicial Branch on behalf of the court recording monitors before this legislation is approved, the position of court recording maybe privatized.

Stratford, Connecticut Resident, Jeryl Gray; opposes this bill stating disappointments with the system and addresses lines 414 – 425 regarding fees to the Probate Court for seeking on-line access for any documentation. It is also stated that the court system is well funded and does not to be charging any additional fees for these services.

CT Court Reporters Association, President, Christine Mannix (CCRA) – opposes this bill stating that court reporters could work remotely during the pandemic by Executive Orders 7K and 7Q. It is noted that the attorneys and stenographers were more efficient and were able to perform more work daily, due to lack of travel time. It is stated that as the end of the Executive Order nears, the stenographers would like to see this law codified, so they may continue to work from home, when necessary. It is also noted that there are concerns with Section 42(4) lines 2942-2943, “or any other entity” that anyone, if designated by the right court employee – can provide transcripts.

Connecticut, Activist, Mayce Torres; opposes this bill sharing personal experience with the Connecticut legal system, stating that the state and judges breaching HIPAA rights by publishing healthcare information.

Litchfield County Bar Association, Family Practice Section, Co-Chair, Regina M. Wexler; opposes this bill stating the input of the statewide Family Section of the Connecticut Bar Association (CBA) during the drafting process was not sought. It is stated that the notice of

the public hearing was not enough to allow for proper testimony to be delivered. It is stated that while the use of affidavits may have been necessary during the pandemic, it is not considered a good viable long-term solution. It is also stated that the affidavit process does not allow any cross-examination.

Connecticut Legal Services Inc., Attorney, Lorraine Carcova; opposes Sections 16-24 and supports Section 17 stating that it leaves the most vulnerable self-represented litigants unprotected by the Connecticut Judicial system. It is stated that self-represented parties are at particular risk for abuse of the court process by opposing parties who resort to intimidation and coercion and access to justice must ensure the availability of protections that can only be provided by Court review. It is stated that a new Section should be added providing additional penalties for of a false financial affidavit. It is also stated there are concerns with Sections 19 through 22, which carves out an exception for domestic violence but the delineation of who would qualify for the exception is too narrow. It is also stated that financial affidavits are of concern and in many couples, one partner is ignorant of the financial situation of the other and creates incentive for omitting or supplying false information on the financial affidavit.

**Reported by: Rick O'Neil, Assistant Clerk**

**Date: April 15, 2021**