



STATE OF CONNECTICUT
JUDICIAL BRANCH

CHAMBERS OF
Michael A. Albis
Superior Court Judge

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MIDDLETOWN, CT 06457

**Testimony of Judge Michael A. Albis
Judiciary Committee Public Hearing
March 15, 2021**

H.B. 6505, An Act Concerning Court Operations

Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Fishbein and members of the Judiciary Committee, my name is Judge Michael Albis and I am the Chief Administrative Judge of the Family Division. Thank you for the opportunity to testify in support of **H.B. 6505, *An Act Concerning Court Operations***. I would like to limit my comments to the sections of the bill that pertain to the Family Division. Those sections are: Sections 11, 16 -24, 35 - 38, 45 - 49, 55 and 58. I have provided a summary of those sections below.

I would also like to focus my comments today on Sections 11, 17 - 24 and 35 - 38, which would permit family court litigants the opportunity to resolve a family matter without the need to physically go to court. These processes not only expand the options available to family court users, but serve to enhance access to justice, by leveraging technology, increasing efficiency, and most significantly, reducing cost, and wasteful time spent in court, particularly for those individuals who are unable to afford representation. These new processes do not deny anybody an opportunity to appear before a judge at any time. It just provides additional options to more quickly and cost efficiently utilize the court system. We should not deny the opportunity to do so to anybody who wants to avail themselves of these new processes.

Section 17 of the bill would continue to permit an applicant for a temporary restraining order to include a statement of the conditions from which relief is sought made under penalty of false statement with an application, instead of requiring the applicant to submit an affidavit made under oath. This eliminates the requirement for an applicant to appear in front of someone qualified to administer oaths, typically a court clerk. The Judicial Branch worked collaboratively with the Connecticut Coalition Against Domestic Violence during the beginning of the pandemic to implement this procedure through Executive Order. We should not deny the opportunity for domestic violence victims who seek to process temporary restraining order applications remotely this new process.

Section 38 of the bill would permit a family support magistrate to approve an agreement to modify a child support order in IV-D support cases without a hearing on the record, if certain conditions are met. These provisions would permit litigants to continue to submit partial or complete agreements “on the papers” for review and approval by the court. I want to point out the following: 1) No one is required to proceed in this manner. If the lawyers or a litigant would prefer to go into court, and present the agreement in person, they may continue to do so; 2) This type of process is not new to family court. The Judicial Branch has had “on the papers” dissolutions for several years now with a proven record of success. Litigants use it, and to date, not a single problem, error or appeal has been cited; and 3) This process accommodates the bulk of family court litigants - those who just want to get in and out of family court as quickly and easily as possible. They can’t afford to lose time from work, want to avoid the stress of an unnecessary court appearance, and want to avoid the expense of making arrangements for child or elder care.

As this Committee knows, the Judicial Branch has been working for some time to reduce conflict, increase efficiency and decrease costs to parties who have matters in family court. We would urge the Committee to approve these provisions. Thank you for the opportunity to provide this testimony. I am happy to answer any questions that the Committee may have.

Summary of the provisions of H.B. 6505, An Act Concerning Court Operations that impact the Family Division

Section 11

Section 17b-745 permits the Superior Court or a family support magistrate to order cash medical support provided that such expenses are documented and identified specifically on the record. The amendment permits the Superior Court or a family support magistrate to order cash medical support if the expenses are identified in an affidavit made under oath that also states that no restraining order or protective order issued between the parties is in effect or pending before the court.

Reason: To permit the court or a family support magistrate to make certain findings without requiring the physical presence of the parties in court.

Section 16

Corrects an apparent technical error in section 46b-1 (Matters within the jurisdiction of the Superior Court deemed to be family relations matters.) 46b-1(1) includes “dissolution of marriage ... except dissolution upon conviction of crime as provided in section 46b-47.”

Reason: 46b-47 does not speak to convictions; it refers to complaints for dissolution on the ground of confinement for mental illness. 46b-48 refers to dissolution upon conviction of a crime against chastity.

Section 17

Amends section 46b-15 to remove the requirement that an affidavit, made under oath, stating the conditions from which relief is sought accompany an application for a temporary restraining order, and instead requires that a statement of the conditions from which relief is sought made under penalty of false statement pursuant to section 53a-157b accompany an application.

Reason: To allow remote applications for temporary restraining orders. During the pandemic this was permitted via Executive order, but statutory change is needed once the order expires.

Section 18

Amends section 46b-16a to remove the requirement that an affidavit made under oath stating the conditions from which relief is sought accompany an application for an order of civil protection, and instead requires that a statement of the conditions from

which relief is sought made under penalty of false statement pursuant to section 53a-157b accompany an application.

Additionally, adds language to mirror temporary restraining order language in section 46b-15, such that if service has not been effectuated in a timely fashion for a civil protection order, the ex parte order can now be extended another fourteen days to allow more time for service.

Reason: To allow remote applications for civil protection orders. During the pandemic this was permitted via Executive Order, but statutory change is needed once the order expires. Additionally, mirrors the service of process procedures in 46b-15.

Section 19

Amends section 46b-51 to permit the Court to make a finding that a marriage has broken down irretrievably on the basis of an affidavit filed by either party, so long as the affidavit was made under oath, and a restraining order or protective order is not in place or pending before the Court.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court. During the pandemic this was permitted via Executive Order, but statutory change is needed once the order expires.

Section 20

Amends section 46b-56c to permit the Court to accept a waiver of the right to file a motion or petition for educational support on the basis of an affidavit, rather than in court, if the parent attests that the parent fully understands the consequences of such waiver, and a restraining order or protective order is not in place or pending before the Court.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court. During the pandemic this was permitted via Executive Order, but statutory change is needed once the order expires.

Section 21

Amends section 46b-65 to permit the Court to enter a decree of dissolution after a decree of legal separation without requiring the presence of either party, as long as a restraining order or protective order is not in place or pending before the Court.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court. During the pandemic this was permitted via Executive Order, but statutory change is needed once the order expires.

Section 22

Amends section 46b-66 to allow the Court to accept an affidavit from each spouse stating that each spouse has the financial resources and is fit to have physical custody of or rights of visitation with any minor child, in order for the Court to determine whether the agreement of the spouses is fair and equitable under all of the circumstances. The Court may accept the affidavit so long as a restraining order or protective order is not in place or pending before the Court.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court. During the pandemic this was permitted via Executive Order, but statutory change is needed once the order expires.

Section 23

Amends section 46b-84 to allow the Court to accept an affidavit that documents and identifies medical and dental expenses, rather than holding a hearing on such expenses on the record, so long as a restraining order or protective order is not in place or pending before the Court.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court. During the pandemic this was permitted via Executive Order, but statutory change is needed once the order expires.

Section 24

Amends section 46b-86, pertaining to the modification of alimony or support. The section currently says that one can seek an order for modification, in part, upon a showing that the final order for child support substantially deviated from the child support guidelines, unless there was a specific finding on the record that the application of the guidelines would be inequitable or inappropriate. The change would indicate that the finding could have been made in a written judgment, order, or memorandum of decision of the Court, in addition to on the record.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court.

Section 35

Amends section 46b-171, which pertains to cases where the defendant is found to be the father of the child, to allow the judge or family support magistrate to accept an affidavit that documents and identifies medical and dental expenses, rather than holding a hearing on such expenses on the record, so long as a restraining order or protective order is not in place or pending before the Court.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court.

Section 36

Amends section 46b-215, which pertains to cases where the judge or family support magistrate has ordered payment of support against any person, to allow the judge or family support magistrate to accept an affidavit that documents and identifies medical and dental expenses, rather than holding a hearing on such expenses on the record, so long as a restraining order or protective order is not in place or pending before the court.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court.

Section 37

Amends 46b-215b to include a finding made at a hearing, in a written judgment, or memorandum of decision, in addition to a finding on the record, to rebut the presumption pertaining to the child support guidelines.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court.

Section 38

Amends section 46b-231 to allow a family support magistrate to approve an agreement to modify a child support order in IV-D support cases without a hearing on the record, if such motion is filed with an affidavit made under oath by each party attesting to the financial resources of each party, the agreement is fair and equitable, and there is no restraining order or protective order in place or pending before the Court.

Also adds language to 46b-231 to permit family support magistrates, after reviewing and approving an affidavit filed by a support enforcement officer, to modify an existing support order to \$0 when the child support obligor has qualified for disability under the federal Supplemental Social Security Income Program. The affidavit requires the support enforcement officer to confirm a number of things including that the custodial party was contacted and did not object to the modification.

Reason: To allow the court to make certain findings without requiring the physical presence of the parties in court.

Sections 45 and 46

Amends section 52-212 and 52-212a to allow for a judgment upon default or nonsuit to be set aside within four months following the date decision was sent, as opposed to when it was “rendered.”

Reason: It is not always possible to determine when a judgment was rendered, whereas, it is very easy to determine the date that a decision was sent to the parties.

Sections 47-49

Amends sections 52-361b, 52-362, and 52-367b by replacing references to setting matters down for “a short calendar hearing” to setting matters down for a “hearing.”

Reason: This flexibility would be beneficial because of the Family Court’s new triage process and the adoption of new individual calendar scheduling.

Section 55

This section was not part of the Judicial Branch’s original legislation proposal. It amends section 52-408 to permit parties to settle by arbitration issues related to child support, visitation and custody. We have concerns that an arbitration award for child support, even if confirmed, does not constitute a “child support order” for purposes of the Uniform Interstate Family Support Act. Additionally, it is unlikely that an arbitration award, which includes an agreement to pay child support, would be sufficient for IV-D child support services and the full scope of statutory enforcements (liens, tax offset, income withholding, credit bureau reporting, license suspensions, etc.)

Section 58

Creates a new statute to specify that a judge, clerk or deputy clerk of any court of record is authorized to administer an oath during a court proceeding that is held using remote technology.

Reason: Now that so many hearings are being conducted remotely, it is prudent to make it absolutely clear that an oath can be administered using remote technology.