



STATE OF CONNECTICUT
JUDICIAL BRANCH

CHAMBERS OF
RICHARD A. ROBINSON
CHIEF JUSTICE

231 CAPITOL AVENUE
HARTFORD, CT 06106

**Testimony of Chief Justice Richard A. Robinson
Judiciary Committee Public Hearing
March 15, 2021**

H.B. 6505, An Act Concerning Court Operations

Thank you for the opportunity to testify in support of **H.B. 6505, *An Act Concerning Court Operations***. This is our annual court operations bill designed to make it easier for members of the public to have access to the courts, improve processes and to make the courts more efficient. I have attached a summary of the bill for your convenience.

I am pleased to report that the Judicial Branch is close to reaching an agreement with AFSCME, which represents the court recording monitors, so we would appreciate it if Sections 42 and 43 of the bill are enacted into law.

I would like to bring to your attention two provisions in the bill that were not submitted by the Judicial Branch.

Section 55 amends C.G.S. 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.). The Judicial Branch is happy to work with the proponents of this section to try to address these concerns.

Section 59 requires a judge of the Superior Court and any judge trial referee to issue a decision on (1) any motion to strike, motion to dismiss and motion for summary judgment no later than 120 days from the date of submission; (2) any motion related to a discovery issue or a deposition within 30 days; and (3) any motion within 60 days. The Judicial Branch and the proponent have had the opportunity to discuss this section, and have agreed to give the Judicial Branch one year to address these concerns internally.

Additionally, I would like to bring to the Committee's attention a change that was requested to Section 21 of the bill by the Connecticut Coalition Against Domestic Violence, which the Judicial Branch endorses.

Proposed change in Section 21

Please strike the entirety of subsection (b) and substitute the following:

(b) The inquiry required pursuant to subsections (a) and (e) of this section may take place on the record at a hearing, or if each party attests that no restraining order issued pursuant to section 46b-15, or a protective order, issued pursuant to section 46b-38c, between the parties is in effect or pending before the court, the court may accept an affidavit from each party, made under oath, stating facts satisfying the requirements of the inquiry in question, in order to determine whether the agreement of the parties is fair and equitable under all the circumstances and to make any other findings required by this section.

Additionally, the Office of the Chief Public Defender has requested a change to Section 51 of the bill, which the Judicial Branch also endorses.

Proposed change in Section 51

Sec. 51. (NEW) *(Effective from passage)*

(a) Notwithstanding the provisions of section 46b-124 of the general statutes, as amended by this act, the Judicial Branch, subject to policies and procedures approved by the Chief Court Administrator, may

permit the following individuals to enter, physically or virtually, a juvenile residential center and interact with staff and juveniles in that facility without a court order, provided [that] such entry and interaction is required for the performance of that individual's duties:]

(1) An employee or official of the Judicial Branch;

(2) An employee or authorized agent of the organization or agency responsible for providing educational services in the center;

(3) An employee of the Division of Public Defender Services;

(4) An attorney representing a juvenile;

(5) An employee or official of the Department of Children and Families;

(6) An employee or authorized agent of an organization or agency contracted with the Judicial Branch to provide direct services to juveniles;

(7) An individual who has been authorized by the Judicial Branch to provide training, enrichment, recreational or religious services to the juveniles; and

(8) An individual who has been authorized by the Judicial Branch to repair or maintain the center.

(b) A judge of the Superior Court may, upon finding that an individual not authorized under subsection (a) of this section has a legitimate interest in entering a juvenile residential center, order that such individual be allowed to enter that juvenile residential center.

(c) An individual permitted to enter into a juvenile residential center pursuant to this section shall not disclose, directly or indirectly, by any means, any information obtained by such individual that specifically identifies a juvenile, unless authorized by court order or otherwise provided by law.

(d) Any person who violates subsection (c) of this section shall be deemed guilty of a class B misdemeanor with a fine not to exceed one hundred dollars or imprisonment not greater than six months.

Thank you for the opportunity to provide this testimony.

Summary of H.B. 6505, An Act Concerning Court Operations

Section 1

This is a conforming change because of the amended language in sections 29 of this bill. Section 1 of the bill amends Section 1-56r, which allows a person to execute a document that designates another person to make certain decisions on behalf of the person.

Sections 2-10, 12-14, 25, 28, 30-34

To change all statutory references from “Juvenile Detention Center” to a term that more accurately reflects the current role of the centers.

Reason: To update language from “detention” to a more clinically appropriate description, namely, “Juvenile Residential Center.”

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 15

Clarifies that the Probate Court Administrator shall hold a public hearing on proposed Probate Court rule changes as opposed to the Supreme Court.

Reason: Currently, the statute requires that the CT Supreme Court hold a public hearing on proposed Probate Court rule changes. It would be more appropriate for the Probate Court Administrator to hear comments from the public about potential rule changes.

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.

Sections 26, 27, 40, 41, 50

Allows the Judicial Review Council to access juvenile records when required for an investigation of a complaint against a judge.

Reason: To allow for review of pertinent confidential juvenile court records related to a complaint filed with the Judicial Review Council.

Section 29

Amends section 46b-127 to allow victims access to the private proceedings of juveniles being tried on the adult criminal docket.

Reason: To mirror the access available to victims of cases on the juvenile docket.

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.

Section 39

Amends section 51-14 to eliminate the reference for adopting rule changes to court procedures that were in existence on or before 1957 and allows for the waiving of the 60 day requirement if a rule must be adopted expeditiously.

Reason: It takes a lot of research to determine if the judges adopt any rules changes that impact statutes that were in effect in 1957, and the reason for this statute is unclear. The bill also provides an option for rules to become effective prior to 60 days, if the circumstances require that a rule be adopted expeditiously.

Sections 42 and 43

Section 42 amends Section 51-60 to allow the Chief Court Administrator to designate any other entity, besides a court recording monitor to produce transcripts. Section 43 amends section 51-63 to no longer provide the per page rate to court reporting monitors when they type transcripts for a judicial officer or employee of the Judicial Branch.

Reason: The Judicial Branch is close to reaching an agreement with the union representing court recording monitors to implement the recommendations of the State Auditors. The State Auditors have recommended that Judicial implement recommendations made by the Committee on Court Recording Monitors and Court Reporters in its final report issued in 2010. The report pertains to court reporters/monitors producing transcripts for fees on state time for private parties, adopting uniform standards for the type of work they may perform on state time, and creating a list of transcriptionists/companies that meet department standards.

Section 44

Amends section 51-164n to allow for the collection of fines imposed by the changes to the hemp law to be paid by mail.

Reason: When the hemp law was passed it did not make the change to allow for payment of the fine by mail, which is allowed for other infractions.

Section 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 51

Amends section 54-108f to clarify that the Court Support Services Division (CSSD) can only revoke a certificate of rehabilitation for a new criminal conviction upon completion of supervision if CSSD learns of such conviction.

Reason: Current law requires CSSD to revoke a certificate of rehabilitation if the recipient sustains a new criminal conviction, however, once the recipient is no longer under the supervision of CSSD, there is not a mechanism in place for CSSD to learn of new criminal convictions.

Section 52

Amends section 54-130e to clarify that the Board of Pardons and Parole is not required to continue monitoring the criminal activity of any person to whom the board has issued a provisional pardon or certificate of rehabilitation but who is no longer under parole or special parole supervision, but provides the Board discretion to revoke if it becomes aware of such activity.

Reason: Current law requires the Board of Pardons and Parole to revoke a certificate of rehabilitation if the recipient sustains a new criminal conviction, however, once the recipient is no longer under the supervision of the board, there is not a mechanism in place for the board to learn of new criminal convictions.

Section 53

Amends section 54-209 to add additional clinicians to whom a victim can disclose and incorporates the language that was in subsection (e) to allow victims of family violence crimes to have more opportunities for whom they can make a disclosure.

Reason: This would allow child victims of sexual assault to potentially be compensated if their disclosure is made to certain individuals associated with Child Advocacy Centers.

Section 54

Amends section 54-228 to allow for a victim to designate an immediate family member in lieu of the victim to receive certain notifications from the Office of Victim Services and the Department of Correction.

Reason: There are times when a victim who has been traumatized by crime would like to designate someone other than themselves to receive certain notifications. The current statute does not allow for that to occur.

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 56

Adds a new section to the juvenile statutes to allow certain classes of educational and service providers to enter juvenile detention centers upon approval by a Center Superintendent, without necessitating a court order.

Reason: As educational and other services increase for juveniles, there is an increasing number of court orders needed. This would allow these individuals to enter juvenile facilities in a more efficient manner.

Section 57

Creates a new section of the penal code that would make it an offense to fraudulently use a judge's oath of office document to defraud, deceive, injure, or harass another.

Reason: To provide an avenue for prosecution and to dissuade sovereign citizens from requesting signed copies of oaths of office executed by judges and using them to fraudulently claim that a judge has agreed to personally assume a litigant's debt, or to assert that the judge has consented to arbitration.

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.

Section 59

This section was not part of the Judicial Branch's original legislative proposal. It requires a judge of the Superior Court and any judge trial referee to issue a decision on (1) any motion to strike, motion to dismiss and motion for summary judgment no later than 120 days from the date of submission; (2) any motion related to a discovery issue or a deposition within 30 days and (3) any motion within 60 days. The Judicial Branch is discussing this issue with the proponent.

Revised March 10, 2021