
OLR Bill Analysis

sHB 6874

AN ACT CONCERNING JUDICIAL BRANCH OPERATIONS, THE SHARING OF JUDICIAL BRANCH RECORDS AND THE AWARD OF DAMAGES IN CERTAIN CIVIL MATTERS.

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Makes technical and conforming changes in statutes related to juvenile residential centers, FWSNs, capital projects the judicial branch oversees, and court messengers and repeals related obsolete provisions

BACKGROUND

SUMMARY

This bill makes various unrelated changes in laws on matters related to court procedures and operations. Among other things, it does the following:

1. eliminates the 90-day waiting period for non-contested dissolution or legal separation proceedings and makes conforming changes (§§ 2-4 & 20);
2. expands access to juvenile and youthful offender proceedings to include the victim's next of kin (§§ 5 & 6);
3. makes juveniles' risk and behavioral health screening information and results confidential and grants access to certain juvenile delinquency and youthful offender records to the Department of Children and Families' (DCF) education unit (§§ 7, 22 & 23);
4. requires the Department of Correction's Victim Services Unit (VSU), instead of the Judicial Branch's Office of Victim Services (OVS), to notify victims when the Board of Pardons and Paroles is terminating an offender's special parole period, if the victim is registered for notification with VSU (§ 8);
5. provides enhanced penalties for the post-conviction assault of judicial branch employees who provide certain services to

- juveniles accused of delinquency acts (§ 9);
6. requires the Judicial Review Council to (1) notify the chief court administrator when an admonishment has been issued to a judge and (2) provide the substance and complaint (§ 21);
 7. allows a broader range of damages to be awarded when an employer illegally disciplines or discharges employees for exercising their First Amendment rights, reverting these damages to how they were prior to the enactment of PA 22-24 (§ 24);
 8. renames the “judicial district of Fairfield” the “judicial district of Bridgeport” and makes conforming changes (§§ 26-37);
 9. extends state officers’ and employees’ hold harmless and indemnification protections to certain members of their immediate family named in the claim, demand, suit, or judgment (§ 38); and
 10. allows the Department of Revenue Services (DRS) commissioner to share taxpayer return information with the clerk of the United States District Court for the District of Connecticut (§ 39).

It also makes other minor, technical, and conforming changes (§§ 1, 10-19, 25 & 40-45).

EFFECTIVE DATE: Upon passage, unless stated otherwise below.

§§ 2-4 & 20 — DISSOLUTIONS AND LEGAL SEPARATIONS

Generally eliminates the 90-day waiting period for non-contested divorce or legal separation proceedings and makes conforming changes

Under current law, the court may generally proceed on a complaint for dissolution of marriage or legal separation 90 days after the return date of the complaint. Current law allows parties to a dissolution of marriage or civil union (“dissolution”) or legal separation action to file a motion to waive waiting periods for these actions if they have an agreement, make certain attestations, and request this waiver. (Unchanged by the bill, there is no 90-day waiting period for

nonadversarial divorces and annulments.)

The bill eliminates this generally applicable 90-day waiting period and instead generally allows the court to proceed following the second day after the complaint return date. However, the bill sets other waiting periods in certain circumstances and specifies when a conciliation request can be made, as described below.

The bill makes related conforming changes.

Default Judgments (§§ 4 & 20)

Under current law, if a defendant in a dissolution or legal separation case does not appear, the plaintiff may file a motion no sooner than 30 days after the return date of the complaint, seeking a waiver of the waiting periods. The bill instead allows the plaintiff, no sooner than 30 days after the return date, to file a motion for a default judgement for failure to appear.

The bill sets the following timeframes within which a default judgment for failure to appear may not be entered, depending on how process was served:

1. no sooner than 30 days after the return date if the defendant was served by personal or abode service of process and
2. no sooner than after a hearing which must be held at least 60 days after the return date if defendant was served in any other way.

The bill also makes a minor change to clarify the conditions under which a default judgment can be set aside and the case reinstated (§ 20).

Trials in Contested Cases (§ 4)

The bill maintains the 90-day waiting period for a contested dissolution or legal separation that will go to trial by prohibiting trials from beginning until at least 90 days after the return date.

Conciliation (§ 3)

Under existing law, on or after the return date of a complaint seeking a divorce or a legal separation and before the 90-day waiting period

expires, either spouse or the counsel for any minor children of the marriage may submit a request for conciliation (i.e., reconciliation) to the clerk of the court. The bill makes a conforming change and allows a request for conciliation to be made on or up to 90 days after the return date, but before a judgement is entered.

Under existing law, unchanged by the bill, if a divorce or legal separation proceeding is stayed for conciliation, the action cannot proceed before six months after the date the request for conciliation was granted.

EFFECTIVE DATE: October 1, 2023

§§ 5-7, 22 & 23 — JUVENILE MATTERS

Expands access to juvenile and youthful offender proceedings to include the victim's next of kin; makes risk and behavioral health screening information and results confidential; grants access to certain juvenile delinquency and youthful offender records to DCF's education unit

Juvenile Proceedings — Victim's Next of Kin Allowed (§ 5)

The bill expands access to juvenile proceedings to include the victim's next of kin.

The law generally requires juvenile matters to be kept separate from other matters in Superior Court as far as is practicable and allows the judge hearing the juvenile matter to exclude people from the hearing room whom the court believes are not necessary.

However, existing law prohibits a judge from excluding a victim from a delinquency proceeding unless, after hearing from the parties and the victim and for good cause shown, which must be clearly and specifically stated on the record, the judge orders otherwise. The bill extends this exception to the victim's next of kin.

Youthful Offender Proceeding — Victim's Next of Kin Allowed (§ 6)

The bill also expands access to youthful offender proceedings to include the victim's next of kin.

In a youthful offender proceeding, the law prohibits the court from

excluding the victim, unless the court orders otherwise, after hearing from the parties and the victim and for good cause shown, which it must clearly and specifically state on the record.

Victim’s Next of Kin Defined (§§ 5 & 6)

By law, a “victim” is a person who is the victim of a delinquent act, the person’s parent, guardian, or legal representative, or a victim advocate provided for the person by OVS.

Under the bill for purpose of a victim’s next of kin having access to juvenile or youthful offender proceedings, “next of kin” means a spouse, an adult child, a parent, an adult sibling, an aunt, an uncle, or a grandparent.

Confidential Juvenile Risk and Behavioral Health Screenings (§ 7)

The bill expands confidential records on juvenile matters to include risk and behavioral health screening information and results. Under the bill, any information about a child that is obtained during these screenings must be used solely for determining the child’s eligibility for community diversion and nonjudicial handling.

Specifically, the information obtained and results of the risk and behavioral health screening must be used to identify appropriate treatment and interventions and must otherwise be confidential and kept in the files of the person doing the screening.

Under the bill, upon motion and order of the court, the risk and health screening information and results must be disclosed to any attorney of record. Additionally, under the bill, any information and results disclosed upon the motion and order must (1) be available to any attorney of record for the case and (2) not be subject to subpoena or other court process for use in any other proceeding or for any other purpose.

Juvenile Proceedings — Records Disclosure to DCF (§ 22)

By law, records of juvenile cases involving delinquency proceedings are available only to certain people and in specified circumstances, such as employees and authorized agents of state agencies involved in the (1) delinquency proceedings, (2) provision of services directly to the child,

or (3) delivery of court diversionary programs.

Under existing law, these employees and authorized agents to whom juvenile records may be disclosed include DCF if the child is committed to DCF as neglected, uncared for, or abused. However, this disclosure must be limited to (1) information that identifies the child as the subject of the delinquency petition or (2) the records of the delinquency proceedings, when the juvenile court orders the department to provide services to the child.

The bill expands this by allowing juvenile offender records to also be disclosed to DCF if the child is under the oversight of the department's administrative unit established to oversee of the education of any child who resides in any juvenile justice facility and any incarcerated child (i.e., its "education unit"). Under the bill, this disclosure must be limited to information that identifies the child as residing in a juvenile justice facility or being incarcerated.

Youthful Offender Docket — Records Disclosure to DCF (§ 23)

By law, a juvenile transferred to Superior Court who meets certain criteria is presumed eligible for youthful offender status, which makes his or her records and information from the youthful offender docket confidential (CGS § 54-76c).

Under existing law, the records may be disclosed in certain circumstances, such as to law enforcement officials and prosecutors doing a legitimate criminal investigation. The bill allows a youthful offender's record to also be disclosed to DCF if the child is under the oversight of the DCF education unit. As is the case for juvenile records above, under the bill, disclosure of youthful offender records under this provision must be limited to information that identifies the child as residing in a justice facility or incarcerated.

EFFECTIVE DATE: July 1, 2023

§ 8 — VICTIM NOTIFICATION — TERMINATING SPECIAL PAROLE

Requires VSU, instead of OVS, to notify victims when the Board of Pardons and Paroles intends to terminate an offender's special parole period and the victim is registered with VSU for notification

Under current law, prior to the Board of Pardons and Paroles terminating a person's period of special parole (see Background below), OVS must notify the victim of that person's crime of the board's intent to consider doing so. Current law requires OVS to do so regardless of whether the victim registered for notification with OVS or VSU. Under the bill, if the victim is registered with VSU, that unit, rather than OVS, is required to notify these victims of the above information.

Under existing law, unchanged by the bill, any victim may submit a statement to the board on whether the person's period of special parole should be terminated.

A "victim" is a person who is a victim of a crime, that person's legal representative, a deceased victim's immediate family member, or a person designated by a deceased victim (CGS § 54-126a).

Background

"Special parole" is part of the sentence that a judge can impose when someone is convicted of a crime. The judge can require a period of special parole under parole supervision after an offender completes his or her maximum prison sentence. Generally, the special parole must be between one and 10 years (CGS § 54-125e).

EFFECTIVE DATE: October 1, 2023

§ 9 — POST-CONVICTION ASSAULT OF JUDICIAL BRANCH EMPLOYEES

Provides enhanced penalties for post-conviction assault of Judicial Branch employees who provide certain services to juveniles accused of delinquency acts

Under existing law, the assault penalty is enhanced to a class C felony if it is an assault against a judicial branch employee assigned to provide pretrial secure detention and programming services to juveniles accused of committing a delinquent act. (A class C felony is punishable by up to 10 years in prison, a fine of up to \$10,000, or both.) The bill extends this enhanced penalty to assaults of a judicial branch employee occurring during a post-conviction assignment.

Under existing law, unchanged by the bill, a defendant may claim as a defense that he or she has a mental, physical, or intellectual disability, and the conduct was a clear and direct manifestation of it (CGS § 53a-167c(c)).

EFFECTIVE DATE: July 1, 2023

§ 21 — JUDICIAL REVIEW COUNCIL REPORT

Requires the Judicial Review Council to (1) notify the chief court administrator when an admonishment has been issued to a judge and (2) provide the substance and the complaint

By law, the Judicial Review Council investigates and resolves complaints or internal referrals about state judges, family support magistrates, and administrative law judges regarding misconduct, disability, or substance abuse.

Under existing law, the council must dismiss a complaint when it does not find probable cause to believe that judicial misconduct occurred. It may issue an admonishment if there is no misconduct, but the judicial official acted in a way that (1) created the appearance of impropriety or (2) constitutes an unfavorable judicial practice.

Under current law, if the council issues an admonishment, it must notify the legislature's Judiciary Committee and provide the committee with the substance of the admonishment, including copies of the complaint file. The bill additionally requires the council to notify the chief court administrator and provide him the same materials.

Existing law, unchanged by the bill, requires the council to inform the complainant if the admonishment is the result of alleged misconduct.

EFFECTIVE DATE: October 1, 2023

§ 24 — DAMAGES FOR DISCIPLING OR DISCHARGING EMPLOYEES FOR EXERCISING THEIR FIRST AMENDMENT RIGHTS

Allows a broader range of damages to be awarded when an employer illegally disciplines or discharges employees for exercising their First Amendment rights, reverting these damages to how they were prior to the enactment of PA 22-24

The law generally prohibits employers from disciplining or

discharging employees, or threatening to do so, for exercising their First Amendment rights under the U.S. Constitution, or similar rights under the Connecticut Constitution, as long as it does not substantially or materially interfere with their bona fide job performance or working relationship with their employer. Under current law, employers who violate this prohibition are liable to the employee for the full amount of gross lost wages or compensation, plus costs and attorney's fees.

The bill instead makes these employers liable for damages caused by the discipline or discharge, including punitive damages, plus attorney's fees as part of the costs for the action. This change reverts the damages in these cases back to how they were prior to the enactment of PA 22-24.

EFFECTIVE DATE: October 1, 2023

§§ 26-37 — JUDICIAL DISTRICT OF BRIDGEPORT

Renames the judicial district of Fairfield the judicial district of Bridgeport and makes conforming changes

By law, for the purpose of establishing venue for a court case, the Superior Court consists of 13 judicial districts, each serving designated towns.

Under current law they are named the judicial districts of Ansonia-Milford, Danbury, Fairfield, Hartford, Litchfield, Middlesex, New Britain, New Haven, New London, Stamford-Norwalk, Tolland, Waterbury, and Windham. The bill changes the judicial district of Fairfield to the judicial district of Bridgeport and maintains the same six towns that are assigned to that judicial district, namely: Bridgeport, Easton, Fairfield, Monroe, Stratford, and Trumbull.

The bill makes conforming changes by replacing references to "judicial district of Fairfield" with "judicial district of Bridgeport" throughout statutes related to things like where civil process should be made returnable; where related motions, pleadings or appearances must be filed; and housing proceedings.

EFFECTIVE DATE: January 1, 2024

§ 38 — STATE OFFICERS’ AND EMPLOYEES’ INDEMNIFICATION

Extends state officers’ and employees’ hold harmless and indemnification protections to certain members of their immediate family named in the claim, demand, suit, or judgment

Hold Harmless and Indemnification Protections

By law, the state must hold harmless and indemnify any state officer or employee (see below) from financial loss and expense arising out of any claim, demand, suit, or judgment by reason of the officer’s or employee’s alleged negligence or alleged deprivation of anyone’s civil rights or other act or omission resulting in damage or injury, if the officer or employee was acting in the discharge of his or her duties or within the scope of his or her employment and the act or omission was not wanton, reckless, or malicious.

The bill extends this protection to any member of the employee’s or officer’s immediate family who is named or included in the claim demand, suit, or judgment solely because the family member is the officer’s or employee’s relative. Under the bill, “immediate family” means any spouse, children, or dependent relatives who reside in the individual’s household.

State Officers and Employees Defined

By law, “state officers and employees” include:

1. every person elected or appointed to or employed in any office, position, or post in the state government, regardless of title, classification, or function and whether the person serves with or without remuneration or compensation;
2. attorneys appointed as victim compensation commissioners, public defenders, assistant public defenders, or deputy assistant public defenders;
3. assigned counsel, guardians ad litem, or assigned attorneys for a party in certain proceedings, such as child neglect;
4. the attorney general, deputy attorney general, any associate attorney general or assistant attorney general, or any other attorneys employed by any state agency;

5. any Superior Court commissioner hearing small claims matters or acting as a factfinder, arbitrator, or magistrate or acting in any other quasi-judicial position;
6. any person appointed to a committee established by law for the purpose of rendering services to the Judicial Department;
7. any member of a multidisciplinary team established for certain purposes by the DCF commissioner, Municipal Electric Consumer Advocate, or Independent Consumer Advocate; and
8. any physicians or psychologists employed by any state agency.

It does not include certain UConn medical or dental interns, residents, or fellows under certain circumstances (CGS § 4-141).

§ 39 — TAX RETURN INFORMATION DISCLOSURE

Allows the DRS commissioner to share taxpayer return information with the clerk of the United States District Court for the District of Connecticut

Under current law, the DRS commissioner may disclose return information to the jury administrator when the information disclosed is limited to the names, addresses, federal Social Security numbers, and dates of birth, if available, of Connecticut residents (as determined for purposes of the state income tax). The bill broadens this exception and allows the commissioner to also disclose this specific information to the clerk of the United States District Court for the District of Connecticut.

By law, “return information” includes:

1. a taxpayer’s identity;
2. the nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, tax under- or over-reporting, or tax payments; and
3. any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner about (a) a return or (b) any determination of liability for a tax, penalty, interest, fine,

forfeiture, or other imposition or offense (CGS § 12-15(h)(1) & (2)).

§§ 1, 10-19, 25 & 40-45 — TECHNICAL AND CONFORMING CHANGES AND REPEALERS

Makes technical and conforming changes in statutes related to juvenile residential centers, FWSNs, capital projects the judicial branch oversees, and court messengers and repeals related obsolete provisions

Juvenile Residential Centers — Grants in Lieu of Taxes (§ 1)

The bill makes a conforming change in the law that provides state grants in lieu of taxes to certain properties to reflect the transfer of juvenile residential centers from DCF to the judicial branch. It also replaces references to the term “juvenile detention centers” with the term “juvenile residential centers.” This renaming was made throughout the statutes on juvenile matters under PA 21-104.

Family With Service Needs (§§ 10-19 & 45)

The bill removes reference to the term “family with service needs” (FWSN), which was made obsolete by PA 19-187, §§ 8-10, that after June 30, 2020, eliminated provisions allowing parties (e.g., a parent or police officer) to file a FWSN petition with the juvenile court. This petition was allowed when a child (1) committed certain status offenses, such as running away from home, or (2) was out of the control of his or her parent or guardian.

Judicial Branch’s Authority Over Building Projects (§ 25)

The bill makes a conforming change to reflect PA 22-26, § 1, which expanded the judicial branch’s authority over building projects by increasing the maximum value of projects it has charge and control of from \$1.25 million to \$2 million.

Court Messengers (§§ 40-44)

The bill removes provisions related to court messengers. (In practice, the judicial branch no longer has court messengers.)

The bill correspondingly repeals laws addressing court messengers’ duties, vacancies, and continuation of service after retirement.

EFFECTIVE DATE: Upon passage, except the building project, juvenile residential center, and FWSN provisions are effective July 1, 2023.

BACKGROUND

Related Bills

sSB 382, favorably reported by the Government Administration and Elections Committee, gives the state treasurer access to state income tax return information (§ 6).

sHB 6889, favorably reported by the Judiciary Committee, (1) reinstates a procedure made obsolete by PA 19-87 by again allowing parties, such as parents and police officers, to file a FWSN petition with the juvenile court and (2) expands the circumstances under which these petitions may be filed for truancy.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 26 Nay 11 (03/28/2023)