



# Senate

General Assembly

**File No. 525**

February Session, 2024

Substitute Senate Bill No. 324

*Senate, April 17, 2024*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING PROBATE COURT OPERATIONS AND ADMINISTRATION.**

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

1 Section 1. Subsection (i) of section 3-95b of the 2024 supplement to the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2024*):

4 (i) No record shall be acknowledged remotely pursuant to subsection  
5 (b) of this section in (1) the making and execution of a will, codicil, trust  
6 or trust instrument, (2) the execution of health care instructions  
7 pursuant to section 19a-575a, (3) the execution of a designation of a  
8 standby guardian pursuant to section 45a-624, (4) the execution of a  
9 designation of a person for decision-making and certain rights and  
10 obligations pursuant to section 1-56r, (5) the execution of a living will,  
11 as defined in section 19a-570, (6) the execution of a power of attorney,  
12 as defined in section 1-350a, (7) the execution of a self-proving affidavit  
13 for an appointment of health care representative or for a living will  
14 under sections 1-56r and 19a-578, (8) the execution of a mutual

15 distribution agreement under section 45a-433, (9) the execution of an  
16 agreement as to the division of an estate under section 45a-434, (10) the  
17 execution of a disclaimer under section 45a-479 or 45a-583, or [(10)] (11)  
18 a real estate closing, as defined in section 51-88a. The performance of  
19 any such acknowledgment in connection with any of the acts described  
20 in this subsection shall be ineffective for any purpose and shall  
21 constitute a violation of section 51-88.

22 Sec. 2. Section 45a-112 of the general statutes is repealed and the  
23 following is substituted in lieu thereof (*Effective October 1, 2024*):

24 When the state or any of its agencies or the United States Department  
25 of Veterans Affairs Connecticut Healthcare System is an applicant,  
26 petitioner or moving party commencing a matter in a Probate Court, or  
27 is otherwise liable for the fees or expenses under sections 45a-106a to  
28 45a-112, inclusive, as amended by this act, the court shall accept such  
29 matter without the filing fee accompanying the filing thereof, and shall  
30 bill the filing fee or other fee or expense to the appropriate agency for  
31 subsequent payment, which payment shall be due and payable upon  
32 receipt of such bill.

33 Sec. 3. Section 46b-116d of the 2024 supplement to the general statutes  
34 is repealed and the following is substituted in lieu thereof (*Effective*  
35 *October 1, 2024*):

36 (a) In any involuntary proceeding in [a state court] the Superior  
37 Court, where the court knows or has reason to know that an Indian child  
38 is involved, the party seeking the foster care placement of, or  
39 termination of parental rights to, an Indian child shall notify the parent  
40 or Indian custodian and the Indian child's tribe, by registered or certified  
41 mail with return receipt requested, of the pending proceedings and of  
42 their right of intervention. If the identity or location of the parent or  
43 Indian custodian and the tribe cannot be determined, such notice shall  
44 be given, in like manner, to the Secretary or Bureau of Indian Affairs  
45 Regional Director in the case of an Indian child of a federally recognized  
46 Indian tribe, or the Commissioner of Children and Families in the case  
47 of an Indian child of an Indian tribe recognized by the state of

48 Connecticut, who shall have fifteen days after receipt of such notice to  
49 provide the requisite notice to the parent or Indian custodian and the  
50 tribe.

51 (b) In any involuntary proceeding in a Probate Court in which a party  
52 is seeking adoption or termination of parental rights where the party  
53 knows or has reason to know that an Indian child is involved, the court  
54 shall notify the parent in accordance with the provisions of section 45a-  
55 716 of the pending proceedings, which shall include notice of the right  
56 of intervention by the Indian custodian and the Indian child's tribe. The  
57 court shall notify the Indian custodian and the Indian child's tribe by  
58 registered or certified mail with return receipt requested. If the identity  
59 or location of the Indian custodian and the tribe cannot be determined,  
60 such notice shall be given, in like manner, to the Secretary or Bureau of  
61 Indian Affairs Regional Director in the case of an Indian child of a  
62 federally recognized Indian tribe, or the Commissioner of Children and  
63 Families in the case of an Indian child of an Indian tribe recognized by  
64 the state of Connecticut, who shall have fifteen days after receipt of such  
65 notice to provide the requisite notice to the Indian custodian and the  
66 tribe.

67 ~~[(b)]~~ (c) No foster care placement or termination of parental rights  
68 proceeding shall be held until at least ten days after receipt of the notice  
69 by the parent or Indian custodian and the tribe, the Secretary, the Bureau  
70 of Indian Affairs Regional Director or the Commissioner of Children  
71 and Families, provided the parent, Indian custodian or the tribe shall,  
72 upon request, be granted up to twenty additional days to prepare for  
73 such proceeding.

74 Sec. 4. Subdivision (2) of subsection (a) of section 45a-649 of the  
75 general statutes is repealed and the following is substituted in lieu  
76 thereof (*Effective October 1, 2024*):

77 (2) (A) The court shall direct that personal service of the citation be  
78 made, by a state marshal, constable or an indifferent person, upon the  
79 [following: The] respondent and the respondent's spouse, if any, if the  
80 spouse is not the applicant. [, except that] Notwithstanding the

81 provisions of this subparagraph, in cases where the application is for  
82 involuntary representation pursuant to section 17b-456, and there is no  
83 spouse or the whereabouts of the spouse is unknown, the court shall  
84 order notice by certified mail to the children of the respondent and if  
85 none, the parents of the respondent and if none, the brothers and sisters  
86 of the respondent or their representatives, and if none, the next of kin of  
87 such respondent. (B) Except for the respondent, if the address of any  
88 other person entitled to personal service is unknown, or if personal  
89 service or service at the person's usual place of abode cannot be  
90 reasonably effected within the state, or if the person is out of the state,  
91 the judge or the clerk of the court shall order notice be given by  
92 registered or certified mail, return receipt requested, or by publication  
93 not less than ten days before the date of the hearing. Any such  
94 publication shall be in a newspaper of general circulation in the place of  
95 the last known address of the person to be notified, whether within or  
96 without this state, or if no such address is known, in the place where the  
97 petition has been filed.

98 Sec. 5. Subsections (b) to (e), inclusive, of section 45a-715 of the  
99 general statutes are repealed and the following is substituted in lieu  
100 thereof (*Effective October 1, 2024*):

101 (b) A petition for termination of parental rights shall be entitled "In  
102 the interest of .... (Name of child), a person under the age of eighteen  
103 years", and shall set forth with specificity: (1) The name, sex, date and  
104 place of birth, and present address of the child; (2) the name and address  
105 of the petitioner, and the nature of the relationship between the  
106 petitioner and the child; (3) the names, dates of birth and addresses of  
107 the parents of the child, if known, including the name of any [putative  
108 father] alleged genetic parent named by the [mother] birth parent, and  
109 the tribe and reservation of an American Indian parent; (4) if the parent  
110 of the child is a minor, the names and addresses of the parents or  
111 guardian of the person of such minor; (5) the names and addresses of:  
112 (A) The guardian of the person of the child; (B) any guardians ad litem  
113 appointed in a prior proceeding; (C) the tribe and reservation of an  
114 American Indian child; and (D) the child-placing agency which placed

115 the child in his current placement; (6) the facts upon which termination  
116 is sought, the legal grounds authorizing termination, the effects of a  
117 termination decree and the basis for the jurisdiction of the court; (7) the  
118 name of the persons or agencies which have agreed to accept custody or  
119 guardianship of the child's person upon disposition.

120 (c) If the information required under subdivisions (2) and (6) of  
121 subsection (b) of this section is not stated, the petition shall be dismissed.  
122 If any other facts required under subdivision (1), (3), (4), (5) or (7) of  
123 subsection (b) of this section are not known or cannot be ascertained by  
124 the petitioner, he shall so state in the petition. If the whereabouts of  
125 either parent or the [putative father] alleged genetic parent named  
126 under subdivision (3) of subsection (b) of this section are unknown, the  
127 petitioner shall diligently search for any such parent or [putative father]  
128 the alleged genetic parent. The petitioner shall file an affidavit with the  
129 petition indicating the efforts used to locate the parent or [putative  
130 father] the alleged genetic parent.

131 (d) If a petition indicates that either or both parents consent to the  
132 termination of their parental rights, or if at any time following the filing  
133 of a petition and before the entry of a decree a parent consents to the  
134 termination of [his] their parental rights, each consenting parent shall  
135 acknowledge such consent on a form promulgated by the Office of the  
136 Chief Court Administrator evidencing to the satisfaction of the court  
137 that the parent has voluntarily and knowingly consented to the  
138 termination of [his] their parental rights. No consent to termination by  
139 a [mother] birth parent shall be executed within forty-eight hours  
140 immediately after the birth of [her] the child. A parent who is a minor  
141 shall have the right to consent to termination of parental rights and such  
142 consent shall not be voidable by reason of such minority. A guardian ad  
143 litem shall be appointed by the court to assure that such minor parent is  
144 giving an informed and voluntary consent.

145 (e) A petition under this section shall be filed in the Probate Court for  
146 the district in which (1) the petitioner resides, (2) the child resides, is  
147 domiciled or is located at the time of the filing of the petition, or (3) in

148 the case of a minor who is under the guardianship of any child care  
 149 facility or child-placing agency, in the Probate Court for the district in  
 150 which any office of the agency is located. If the petition is filed with  
 151 respect to a child born [out of wedlock] to a birth parent unmarried to  
 152 the alleged genetic parent, the petition shall state whether there is [a  
 153 putative father] an alleged genetic parent to whom notice shall be given  
 154 under subdivision (3) of subsection (b) of section 45a-716.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	3-95b(i)
Sec. 2	<i>October 1, 2024</i>	45a-112
Sec. 3	<i>October 1, 2024</i>	46b-116d
Sec. 4	<i>October 1, 2024</i>	45a-649(a)(2)
Sec. 5	<i>October 1, 2024</i>	45a-715(b) to (e)

**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, which makes various technical changes to the Probate Court statutes and codifies current practices, is not anticipated to result in a fiscal impact to the state or to municipalities.

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

**OLR Bill Analysis****sSB 324*****AN ACT CONCERNING PROBATE COURT OPERATIONS AND ADMINISTRATION.*****SUMMARY**

This bill makes changes in laws governing probate court operations and related matters.

It prohibits using remote notarization to execute an agreement to divide a testate estate (i.e., an estate under a will). Existing law prohibits using remote notarization for agreements to divide an intestate estate (i.e., estates without a will) (§ 1).

The bill extends to the U.S. Department of Veterans Affairs Connecticut Healthcare System the same requirements that apply under existing law to state agencies for paying probate court fees. Under this law, if a state agency files a probate court matter or is otherwise liable for probate fees or expenses, the court must accept the matter without the filing fee and bill the agency for later payment, with the bill due upon receipt (§ 2).

The bill changes certain notice requirements for involuntary proceedings under the state's Indian Child Welfare Act (ICWA), including setting different requirements for probate court and Superior Court cases and making minor changes to related provisions (for cases in either court) (§ 3).

The bill specifies the procedures to notify the non-petitioning spouse of an involuntary conservatorship petition if the spouse is out-of-state, cannot be located, or cannot be served in the state. It also requires notice to be sent by certified mail to specified other family members if the spouse's location is unknown in certain cases involving elderly persons



(§ 4).

Lastly, the bill updates terminology in a law on the termination of parental rights (TPR), primarily by removing certain gender-specific references to conform to the Connecticut Parentage Act (§ 5).

EFFECTIVE DATE: October 1, 2024

### **§ 3 — NOTICES UNDER INDIAN CHILD WELFARE ACT**

PA 23-113 generally codified into state law the federal ICWA, which governs jurisdiction over American Indian children's removal from their families in custody, foster care, and adoption cases. The act gives exclusive jurisdiction to Indian tribes over certain proceedings involving Indian children and preferred jurisdiction in some others.

Under current law, for involuntary proceedings in state court (either probate court or Superior Court), the party seeking the foster care placement of, or TPR to, an Indian child must notify the parent or Indian custodian and the child's tribe about the pending proceedings and their right to intervene. The bill sets different notice requirements for probate court cases (specifically, those in which a party is seeking an adoption or TPR) and makes a few changes to the underlying requirements for cases in either court. Principally, the bill does the following:

1. specifically requires the probate court to notify the parent, and the notice to include the Indian custodian's or tribe's right to intervene, under existing notice procedures (outside of the ICWA) on TPR hearings (see BACKGROUND);
2. requires the probate court to notify the Indian custodian and tribe by registered or certified mail, return receipt requested;
3. for Superior Court cases, allows the notice (to the parent, custodian, or tribe) to be sent by certified mail, in addition to registered mail as under current law;
4. in probate court cases where the person's and tribe's identity or location cannot be determined, requires the probate court to send

the required notices to certain officials; and

5. for both Superior and probate court, where the person's and tribe's identity or location cannot be determined, allows the notice (for children from federally-recognized tribes) to be sent to the Bureau of Indian Affairs Regional Director instead of the U.S. Secretary of the Interior and makes a conforming change.

#### **§ 4 — INVOLUNTARY CONSERVATORSHIP NOTICES**

By law, the probate court may appoint a conservator of the person or a conservator of the estate, or both, after finding that a person ("the respondent") is incapable of (1) managing his or her affairs or (2) caring for himself or herself.

If someone other than the respondent's spouse files a petition to appoint an involuntary conservator, current law requires the spouse (in addition to the respondent) to receive personal (i.e., in-hand) service about the hearing. The bill specifies the required notice process if the spouse is out of state, his or her address is unknown, or if personal service or service at the spouse's usual residence cannot reasonably be done in the state. In these cases, the judge or court clerk must order the notice to be sent by registered or certified mail, return receipt requested, or by newspaper publication at least 10 days before the hearing. If the latter, the notice must be in a newspaper of general circulation in the area of the person's last known address (in Connecticut or elsewhere), or in the place where the petition was filed if that address is unknown.

For all involuntary conservatorship cases, the court must order notice to certain relatives of the respondent, as follows: the children; if none, the parents; if none, the siblings or their representatives; or if none, the next of kin. But existing law requires this notice to be sent by certified mail if the respondent is unmarried and the conservatorship application was brought by the Department of Social Services (DSS) commissioner for an elderly person who is being abused, neglected, exploited, or abandoned and lacks the capacity to consent to protective services. For these cases brought by DSS, the bill also requires the notices to relatives

to be sent by certified mail if the respondent’s spouse cannot be located.

**BACKGROUND**

***Notice of TPR hearings***

By law, at least 10 days before a hearing on a TPR petition, notice generally must be served on the (1) parents, and in some cases, other people, by personal service or service at the person’s usual residence (different requirements apply if the address is unknown or out of state) and (2) Department of Children and Families commissioner and attorney general by first class mail (CGS § 45a-716).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 25 Nay 11 (03/28/2024)