

# Judiciary Committee

## JOINT FAVORABLE REPORT

**Bill No.:** SB-272

AN ACT CONCERNING ADOPTION OF THE CONNECTICUT UNIFORM

**Title:** TRUST DECANTING ACT.

**Vote Date:** 3/28/2024

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/4/2024

**File No.:** 503

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### SPONSORS OF BILL:

Judiciary Committee

### CO-SPONSORS OF BILL:

Sen. Heather S. Somers, 18th Dist.

### REASONS FOR BILL:

Although there is support for decanting in the common law and under existing Connecticut law, there are two primary issues with the current state of the law: 1) existing Connecticut law predates modern decanting statutes and lacks the safeguards and procedural mechanisms they provide, and 2) lack of clarity around the application of common law to trusts with different distribution standards. Because of this, trustees are often advised to either migrate to another jurisdiction that has a decanting statute or try to achieve the same objective through more time consuming and expensive court proceedings. Further, other trusts that may be decanted under Connecticut law may be inadvertently done in a way that causes unintended adverse tax consequences that are prevented by the safeguards in the legislation. This bill provides a robust statute that includes both a mechanism to decant and safeguards. The bill will also allow for trusts that are currently unable to decant to do so, provided certain procedural steps are taken to ensure that beneficiaries are informed and have a chance to object to any proposed use of the decanting statute by the trustee.

### SUBSTITUTE LANGUAGE:

The substitute language adds new Section 30 regarding the scope of the act and rules of construction of the provision based on what was done with the Uniform Trust Code in Section C.G.S. 45a-487t(a); it also makes internal reference changes needed because of the new

Section 30. The language also adds new Section 33 regarding the \$300 filing fee for the filing of a decanting petition in Probate Court. Additional language changes made were agreed upon between the Connecticut Bar Association, the Office of the Attorney General, the Department of Social Services, and the Probate Court.

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

**Cara Passaro, Chief of Staff, Office of the Attorney General:** She testified in support of this bill, stating that it would create a uniform system for moving assets from one trust to another, known as trust decanting, which trustees may want to use to “address changes in state law or other circumstances affecting management or administration of a trust after it becomes irrevocable.” She also noted that the office appreciates the revisions made to this bill based on past concerns from the office.

**Beverly Streit-Kefalas, Probate Court Administrator:** She takes no position on the bill but commented on how it will impact the Probate Court system. She stated that section 31 proposes an amendment to section 45a-499o that provides for Probate Court jurisdiction to hear and decide a petition related to the exercise of a decanting power as set forth in section 9. She asked the Committee for an amendment to add all petitions under section 9 of the bill as petitions under section 45a-106a; the Probate Court would be able to charge a filing fee for them, which will help this self-funded court system.

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

**Marissa Dungey, CT Bar Association:** She testified in support of the bill, stating that trust decanting pursuant to a statute has become the preferred method of decanting by fiduciaries and practitioners because of the protections provided by the statute. She furthered by stating it will start to affect who needs to be told about the trust decanting, the information that needs to be shared about it, a notice period, and how and when to involve the courts. She believes it will protect beneficiaries by ensuring they have advance notice, relevant information, and an opportunity for objection. She explained that it protects the fiduciaries by limiting time for their actions to be challenged. Additionally, she explained that it provides safeguards to protect beneficiaries from trustees personally benefiting from a decanting and more safeguards to protect both the fiduciaries and beneficiaries from unintended consequences.

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

None expressed.

**Reported by:** Hillary Desideraggio

**Date:** 3-28-24