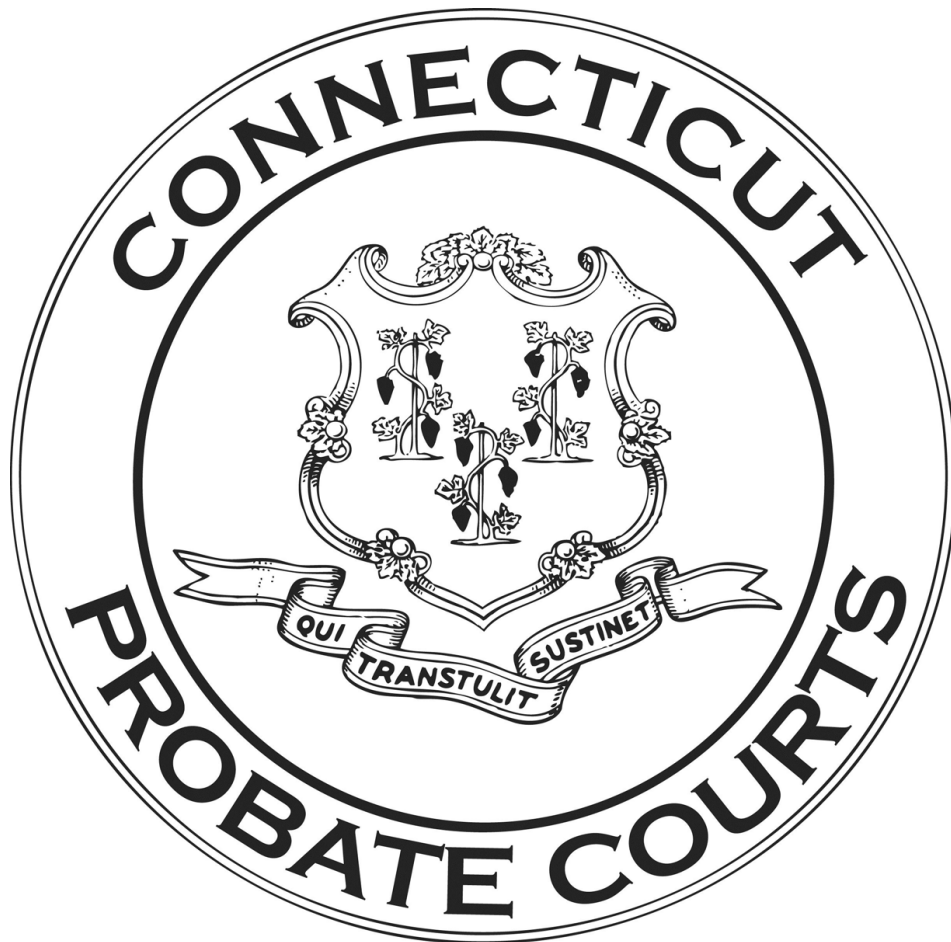


**2023
LEGISLATIVE
SUMMARY**



**Prepared
by the
Office of the Probate Court Administrator**



STATE OF CONNECTICUT

OFFICE OF THE
PROBATE COURT ADMINISTRATOR

BEVERLY K. STREIT-KEFALAS
Probate Court Administrator

HEATHER L. DOSTALER
Chief Counsel

EVAN C. BRUNETTI
Attorney

ERIC H. ROTHAUER
Attorney

186 NEWINGTON ROAD
WEST HARTFORD, CT 06110

TEL (860) 231-2442
FAX (860) 231-1055
ctprobate.gov

To: All Judges and Court Staff

From: Beverly K. Streit-Kefalas
Probate Court Administrator

Re: 2023 Legislative Summary

Date: October 4, 2023

The General Assembly enacted several important pieces of legislation affecting the Connecticut Probate Court system during the 2023 session. This packet includes a summary of each bill and a link to the text of the public act. Within the public acts, bracketed text indicates deletions, and underlined text indicates additions.

These summaries are not meant to replace the public acts, but are rather a basic outline of the legislation.

We will present continuing education seminars on the new legislation at the Judges Institute in October and the Fall Clerks Roundtables. Please contact us with any questions.

P.A. 23-16: AN ACT CONCERNING ARTIFICIAL INTELLIGENCE, AUTOMATED DECISION-MAKING AND PERSONAL DATA PRIVACY

Effective date: July 1, 2023, except where noted

Summary: Requires the Department of Administrative Services (DAS) and the Judicial Department to perform annual inventories of all systems that employ artificial intelligence (AI); to work with the Office of Policy and Management (OPM) and the Chief Court Administrator, respectively, to establish policies and procedures related to AI use; to ensure that AI use does not result in any unlawful discrimination, or have a disparate impact, on specified populations; and, effective October 1, 2023, to ensure that any state contract includes a provision that the vendor must comply with Connecticut's consumer data privacy law.

P.A. 23-28: AN ACT CONCERNING REMOTE NOTORIAL ACTS

Effective date: October 1, 2023

- **Section 1:**
 - Defines "communication technology," "identity proofing," "outside the United States" and "remotely located individual";
 - Document may be notarized for individual who is not in physical presence of notary at time of notarization if:
 - individual and notary can communicate simultaneously, in real time, by sight and sound, using communication technology; and
 - notary reasonably identifies the individual at time of notarization
 - When individual physically located outside of Connecticut or the U.S., the record being notarized must
 - be intended for filing or presentation in a matter before a court, governmental entity, public official or other entity subject to the jurisdiction of Connecticut;
 - involve property located in Connecticut or a transaction substantially connected to Connecticut; or
 - otherwise not prohibited by the laws of Connecticut to be notarized outside the state
 - Once record is notarized, individual must mail or deliver the signed original copy to the notary for certification and execution with the notary's commission signature and official stamp or seal.
 - The date and time of notarization is when the notary witnessed the signature by means of communication technology.
 - The notary may refuse to perform a remote notarization.

- Prohibits remote notarization of the following:
 - a will, codicil, trust or trust instrument
 - health care instructions pursuant to C.G.S. § 19a-575a
 - designation of a standby guardian pursuant to C.G.S. § 45a-624
 - designation of a person for decision-making and certain rights and obligations pursuant to C.G.S. § 1-56r
 - a living will, as defined in C.G.S. § 19a-570
 - a power of attorney, as defined in C.G.S. § 1-350a
 - a self-proving affidavit for an appointment of health care representative or for a living will under C.G.S. §§ 1-56r and 19a-578
 - a mutual distribution agreement under C.G.S. § 45a-433
 - a disclaimer under C.G.S. §§ 45a-479 or 45a-583
 - A real estate closing, as defined in C.G.S. § 51-88a

P.A. 23-44: AN ACT CONCERNING THE MINIMUM AGE TO BE ELIGIBLE TO MARRY

Effective date: July 1, 2023

- **Section 1:** Amends C.G.S. § 46b-20a by repealing provision that allowed individuals 16 to 17 years of age to obtain a marriage license and get married.
- **Section 2:** Amends C.G.S. § 45a-8a by removing jurisdiction of the Regional Children’s Probate Courts to hear matters relating to issuance of marriage licenses to a minor who is 16 or 17 years of age under C.G.S. § 46b-20a.
- **Section 3:** Amends C.G.S. § 46b-150d eliminating the ability of emancipated minors to obtain a marriage license.

P.A. 23-48: AN ACT CONCERNING NOTICE OF A PROPOSED INVOLUNTARY TRANSFER OR DISCHARGE OF A NURSING FACILITY RESIDENT, FAMILY COUNCILS IN MANAGED RESIDENTIAL COMMUNITIES, COORDINATION OF DEMENTIA SERVICES, NURSING HOME TRANSPARENCY AND HOMEMAKER COMPANION AGENCIES

Effective date: June 13, 2023

- **Section 1:** Amends C.G.S. § 19a-535(c) to require a facility to provide notice to the Long-Term Care Ombudsman of a proposed involuntary transfer or discharge of a resident and failure to do so invalidates the transfer or discharge.

2023 LEGISLATIVE SUMMARY

- **Section 4:** Amends C.G.S. § 19a-693 by adding a definition of “family council” which is an independent, self-determining group of family members and friends who advocate and facilitate communications on behalf of a resident in a facility.
- **Section 5:** Amends C.G.S. § 19a-694 by requiring managed residential communities offering assisted living services to encourage and assist in the establishment of a family council.
- **Section 6:** Creates a dementia services coordinator within the Department of Aging and Disability Services who is tasked with (1) coordinating dementia services across state agencies; (2) assessing data; (3) evaluating state-funding dementia services; (4) identifying and supporting development of dementia-specific training programs; and (5) other relevant duties to support individuals with dementia in Connecticut.
- **Section 10:** Requires the Commissioner of Social Services to develop a guidebook that includes a glossary and plain language explanation of the terms relating to the Medicaid nursing home rate setting process.
- **Section 13:** Amends C.G.S. § 20-679 by requiring the written contract or service plan between a homemaker-companion agency and the person who receives the services, or their authorized representative, to be developed in consultation with the person or authorized representative and include (1) a person-centered plan of care and services; (2) anticipated scope, type and frequency of oversight of an employee assigned to the person; and (3) predetermined frequency of meetings between the person overseeing the employee and the person who receives the services or their authorized representative.

P.A. 23-101: AN ACT CONCERNING THE MENTAL, PHYSICAL AND EMOTIONAL WELLNESS OF CHILDREN

Effective date: July 1, 2023, unless otherwise noted

Summary: Provides Connecticut children with access to an improved continuum of mental, physical and emotional health services; establishes an Office of the Behavioral Health Advocate that, among other services, will help state residents access mental and behavioral health services and resources, as well as provide relevant information to the public, agencies, legislators and other related stakeholders.

P.A. 23-113: AN ACT CONCERNING THE CONNECTICUT INDIAN CHILD WELFARE ACT

Effective date: June 26, 2023

Summary: Codifies the federal Indian Child Welfare Act so it is now also state law and expands its applicability to include state-recognized tribes; the tribes recognized by Connecticut are the Golden Hill Paugussett, Paucatuck Eastern Pequot and Schaghticoke Tribes. Note that the Mashantucket Pequot and Mohegan Tribes are federally recognized tribes.

- **Section 5:** Requires the court, in an involuntary proceeding seeking foster care placement of or termination of parental rights to, where the court knows, or has reason to know, that a child of an Indian tribe recognized by the state of Connecticut is involved, to send notice to the parent or Indian custodian and the Indian child’s tribe, by registered mail with return receipt requested of the pending proceedings and their right of intervention. In addition, if the identity or location of the parent or Indian custodian and tribe cannot be determined, the court must send notice by registered mail with return receipt requested to the Commissioner of Children and Families. The Commissioner has fifteen days from receipt of the notice to provide notice to the parents or the Indian custodian and tribe.
 - Proceedings cannot take place until at least ten days after notice is received
 - Upon request, a parent or Indian custodian or tribe will be granted up to twenty additional days to prepare for a proceeding

The courts continue to notify the U.S. Secretary of the Interior if the child is, or may be, a member of a federally recognized tribe in accordance with the federal ICWA now codified under Connecticut law.

P.A. 23-137: AN ACT CONCERNING RESOURCES AND SUPPORT SERVICES FOR PERSONS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY

Effective date: Multiple

Summary: A broad bill that calls for the creation of programs, tools, and strategies designed to give people with an intellectual or other developmental disabilities (IDD) better access to educational resources, employment opportunities, and health care; a broader safety net through expanded state programs and protections, and greater respect and understanding via the establishment of professional education programs and a review of the rights of people with IDD.

- **Section 1:** (*Effective July 1, 2023*) Requires the Commissioner of Developmental Services to produce a plan to establish a Transitional Life Skills College program to provide transitional tools and life skills development for adults at least 22 years of age and transitioning to living independently or quasi-independently.

2023 LEGISLATIVE SUMMARY

- **Section 4:** (*Effective June 27, 2023*) Tasks the Secretary of the Office of Policy and Management (OPM) to solicit input from a wide array of stakeholders – including people with IDD – to develop and recommend by January 1, 2025, new statutory definitions for intellectual disability and developmental disabilities, along with a list of programs that may need to be changed in accordance with any new definitions.
- **Section 6:** (*Effective July 1, 2023*) Starting January 15, 2024, the Department of Emergency Services and Public Protection (DESPP) must include individuals with IDD of any age on the Missing Children Information Clearinghouse established under C.G.S. § 29-1e.
- **Section 17:** (*Effective June 27, 2023*) Establishes May 23 as Intellectual and Developmental Disabilities Awareness and Advocacy Day in Connecticut.
- **Section 41:** (*Effective July 1, 2023*) Requires the Department of Education to work with in-state disability rights advocacy groups, and other agencies, to develop a plain-language, online resource for special education students 14 years or older, along with their parents, guardians, or surrogate parents. Completed no later than July 1, 2024, this web-based tool will provide information about training and support available for when the child turns 18, including alternatives to guardianship and conservatorship, such as supported decision making,¹ powers of attorney, advance directives and other decision-making alternatives.
- **Section 59:** (*Effective October 1, 2023*) Amends C.G.S. § 17b-95 to exempt money invested in Achieving a Better Life Experience (ABLE) accounts from claims by the state to the extent permissible under federal law.
- **Section 60:** (*Effective June 27, 2023*) Authorizes the Department of Social Services (DSS), in consultation with the Department of Developmental Services (DDS), to apply for a waiver to authorize compensation to the spouse, parent or legal guardian of a client of DDS enrolled in a Medicaid Home and Community Based Services waiver program established by § 1915(c) of the Social Security Act.

¹ To date, the Connecticut General Assembly has not adopted legislation relating to supported decision making.

P.A. 23-161: AN ACT CONCERNING THE FINANCIAL EXPLOITATION OF SENIOR CITIZENS

Effective date: July 1, 2024

- **Section 1:** Creates a process for a qualified person who has reason to suspect or believe financial exploitation of a resident of Connecticut who is 60 or older (“eligible adult”) may have occurred or been attempted, to disclose the possible exploitation to the Department of Social Services and the Banking Commission. In addition, the bill sets forth the steps that a broker-dealer or investment advisor may take to place a temporary hold on a transaction from an account of an eligible adult when financial exploitation may have occurred and the internal review and investigation process.
- **Section 2:** Creates a process for a financial institution to suspend a transaction or disbursement for not more than seven (7) business days if the institution has reasonable cause to believe the transaction or disbursement involves financial exploitation of an eligible adult. The financial institution shall notify all account holders of any suspension, declination, or return of such transaction or disbursement. A financial institution may elect to extend the suspension for an additional forty-five (45) business days under certain circumstances. The financial institution must notify in writing the eligible adult, each account holder, each signatory and each trusted contact person of the extension within three business days of the extension date’s start unless any of the foregoing are suspected of being involved in the fraud. Along with other pertinent information, the notice must include a statement that the eligible adult may petition the Probate Court for an order releasing the suspension pursuant to Section 3 of this Act.
- **Section 3:** Allows a Connecticut resident who is 60 or older (“eligible adult”), or the authorized representative, to petition the Probate Court to remove a financial hold imposed by a financial institution or a hold by a broker-dealer or investment advisor.

The petition is filed in the Probate Court district in which the eligible adult resides, is domiciled, or is located at the time the petition is filed, or where the financial institution has an office. If, however, the eligible adult has a conservator, the petition must be filed in the district in which the conservatorship is pending. The petition must state:

- The name, date of birth and address of the eligible adult;
- The name and address of the eligible adult’s spouse, if any;
- The name and address of the eligible adult’s conservator, if any;
- The name and address of the petitioner, if the petitioner is not the eligible adult;
- The name and address of the financial institution, broker-dealer or investment advisor imposing the financial hold;

- Whether the Department of Social Services is known to be investigating the welfare of the eligible adult;
- Whether a petition to appoint a conservator is pending in any Probate Court, and, if so, which court;
- A description of the transaction that is the subject of the financial hold; and
- A statement as to why the transaction will not result in financial exploitation of the eligible adult.

The Probate Court must conduct the hearing within ten days from receipt of the petition, unless continued by the Probate Court for cause shown. Notice must be given to each person and institution listed on the petition, the financial institution or broker-dealer or investment advisor, and the Commissioner of Social Services.

If the Probate Court determines there is no reasonable cause to conclude that the transaction or disbursement involves, facilitates, results in or contributes to the financial exploitation of the eligible adult—or finds that the eligible adult is not a Connecticut resident—the Probate Court will order the release of the financial hold. If, however, the Probate Court determines there is reasonable cause for the belief that financial exploitation occurred, the Court may order the hold be modified or continued to the earlier of:

- A period not to exceed thirty days from the date of the order; or
- Until the appointment of a conservator for the eligible adult.

The Probate Court may order the financial institution to reimburse the petitioner for the filing fee to remove the hold if the court found that the financial institution did not have reasonable cause to support the hold. The court cannot order a financial agent to reimburse the petitioner for the filing fee.

- **Section 4:** Amends C.G.S. § 45a-106a(b)(10) to provide a \$250 fee for the petition to release the financial hold under this Act.

P.A. 23-189: AN ACT CONCERNING PROBATE COURT OPERATIONS

Effective date: October 1, 2023

- **Section 1:** Amends C.G.S. § 45a-8(a) to require municipalities to provide network wiring, electrical wiring, and internet service consistent with advancements in technology.
- **Section 2:** Amends C.G.S. § 45a-64 to allow the Council on Probate Judicial Conduct 30 days after the close of a public hearing to publish its findings.

2023 LEGISLATIVE SUMMARY

- **Section 3:** Amends C.G.S. § 46b-571 to change the notice requirement for a birth parent in a parentage claim. The Probate Court now must cause a certified copy of the parentage claim and notice of hearing to be served on the birth parent not less than ten days prior to the date of the hearing. The Act also makes technical changes by replacing “court” with “Probate Court” where applicable.
- **Section 4:** Amends C.G.S. § 46b-496 clarifying that the Probate Courts have jurisdiction to order genetic testing in connection with a proceeding to adjudicate parentage.
- **Section 5:** Amends C.G.S. § 46b-497 clarifying that the Probate Courts may order genetic testing in connection with a proceeding to adjudicate parentage in contested matters.

P.A. 23-204: AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2025, AND MAKING APPROPRIATIONS THEREFOR, AND PROVISIONS RELATED TO REVENUE AND OTHER ITEMS IMPLEMENTING THE STATE BUDGET

Effective date: July 1, 2023, except where noted

- **Section 1:** Appropriates to the Probate Courts from the General Fund \$81,024 for FY 2024 and \$13,281,024 for FY 2025.
- **Section 33:** (*Effective June 12, 2023*): Amends C.G.S. § 45a-82(j) suspending the automatic sweep of the Probate Court Administration Fund (PCAF) on June 30, 2023, allowing the full balance to remain in the PCAF rather than be swept into the General Fund.
- **Section 57:** Amends C.G.S. § 5-259(g) providing that the PCAF will pay not more than 70% of Probate Court Judges’ and employees’ share of their health insurance premium making it commensurate with contributions made on behalf of state employees.
- **Section 81:** Amends C.G.S. § 51-47 to increase salaries for judges.
- **Section 286:** Amends C.G.S. § 17b-84 to increase the funeral and burial expenses allowance for deceased individuals who were enrolled in the Department of Social Services’ Temporary Assistance for Needy Families and State Supplement Cash Assistance programs, raising the benefit to \$1,800.
- **Section 287:** Amends C.G.S. § 17b-131 increasing the amount the Department of Social Services will pay for funeral and burial expenses to \$1,800.

2023 LEGISLATIVE SUMMARY

- **Section 308:** Amends C.G.S. § 45a-106a(b)(19) by repealing the filing fee relating to name change petitions.