

**PA13-301**

HB6694

House	7052-7182	131
Judiciary	4331-4333, 4335-4341, 4343-4346, 4682-4683	16
Senate	5462, 5467-5468	3
		<b>150</b>

**H – 1170**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2013**

**VOL.56  
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Have all Members voted? Have all Members voted?  
Will the Members please check the board to determine  
if your vote is properly cast.

If all Members have voted, the machine will be  
locked and the Clerk will take a tally. Will the  
Clerk please announce the tally.

THE CLERK:

Substitute House Bill 5480 as amended by House  
"A".

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Those absent and not voting	4

DEPUTY SPEAKER MILLER:

The bill as amended is passed.

Will the Clerk please call Calendar Number 519.

THE CLERK:

On Page 20, Calendar 519, Madam Speaker,  
Favorable Report of the Joint Standing Committee on  
Judiciary. Substitute House Bill 6694 AN ACT  
CONCERNING THE INHERENT RIGHTS OF A CHILD WHO WAS BORN  
AFTER THE DEATH OF A MARRIED PARENT.

DEPUTY SPEAKER MILLER:

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Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER MILLER:

The question before the Chamber is on acceptance of the Joint Committee's Favorable Report and passage of the bill.

REP. GODFREY (110th):

Thank you, Madam Speaker. What I'm going to do colleagues is, I'm going to kind of give a little bit of the back story on where this came from and where we're hoping to go with it. I'll be offering a strike-all amendment. It's already on the system at the end of that, and then we can proceed to the debate.

As many of you know, I've been very active in the Council of State Government, chairing the organization in 2011 and I continue to be active on its legal task force, and what we do is monitor and sometimes intervene in court cases that are coming before the U.S. Supreme Court that deal with the rights of states.

In 2012 the Court set off a ruling in Astro v. Caputo dealing with exactly that. It was an appeal regarding some federal benefits, but one of the interesting things that I found in it is that the claimant was a child who was posthumously conceived and then applied for these federal benefits.

Interestingly enough, the U.S. federal government in a rare occasion, relies on state law to make the determination of eligibility and in this case, it was the case that arose out of Florida. Florida had no laws regarding the inheritance rights of posthumously conceived children.

So I, of course came back, and went up to OLR and asked them to do a research report 2012-R-0319. We found that seven states provide intestacy succession rights to posthumously conceived children, California, Colorado, Iowa, Louisiana, North Dakota, Texas and Virginia, all with different requirements having to deal with a lot of the local probate law.

Of course, without a statutory inheritance rights for posthumously conceived children, there are none, so we kind of had the threshold question of, do we want to provide for them, and at that point I called upon our good friend and former colleague, Paul

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Knierim, the Probate Administrator, a former probate judge himself, and certainly a very well respected Member of the Connecticut House of Representatives not so awfully long ago, and drew him and his staff into the discussion.

Yes, we need to have a statute to just simply declare whether these rights exist or not, and then it got a little stickier, because then I got drawn into Probate Court procedure.

Now yeah, I'm an attorney, but I'll tell you. I know jack about Probate Court procedure. I didn't know much then and I don't know much today. But in the course of the discussions we began to kind of flush out some ideas that we would necessarily have to put in Connecticut law, and it kind of led to also some kind of minimal but research into, well, is this a common occurrence? Is it an occurrence at all?

And we came to find out there's, I think it was nine fertility clinics in the State of Connecticut. We did a Google search, one of which was the University of Connecticut Health Center.

So through the University, we contacted some of the people who are running that and said, explain to us how this process works. In the course of that, we

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found out that people actually do have to sign contracts that attempt to deal with almost any possible outcome of what happens to these human gametes after they have been frozen. Clearly there's no ownership interest but there is a possessory interest and we just found quite a few dealings with couples, married couples who are freezing the gametes.

And they do provide for divorce. They do provide for the death of one of the spouses, so we're going, okay, so all this kind of pre-exists.

Well, who uses these facilities, these opportunities? I regret that the stories we got were only anecdotal, HIPAA and other privacy protections, of course really prevent us from doing any significant research.

But we found out, I have to admit, I originally thought it was rich people who were doing this. Well, I suppose, but interestingly enough, two common examples of couples that use these facilities are, one member of a couple being deployed into a war zone. That kind of began to make sense for me.

And the other were particularly young people who were facing disease where the outcome wasn't quite certain, where the questions of the treatment for it,

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would that interfere with the ability to reproduce.

So it was a pretty broad number of people who were interested in preserving their sperm and eggs for future use.

Of course, as we all know as humans, we die. We die unexpectedly and how do you make provision for the use of the genetic material after the death of one of the spouses?

So, in our discussions, we kind of began to limit the inheritance rights. We had to of course, make the threshold decision, do we need to provide these? Do we want to deny children who are posthumously conceived inheritance rights? No one has so far has come forward and said no, no, we need to deny it outright, but how do we provide in our statutes for these occurrences?

And since this was clearly a very delicate family issue that we needed more than political action, we needed to have legal action. We needed to have good research done. We needed to understand that. And as we have in the past, with Judge Knierim's advice, created a four-person, four Legislator task force of sorts to work on this bill, and that's pretty much where we got to today.

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Happily, I had asked Paul to give us, give me some names of people who are practicing attorneys and who practice probate law because I clearly don't, and so the four of us, including not only myself, Senators Tony Musto and Kevin Kelly and our good colleague here in the House, Rich Smith from New Fairfield.

So that's pretty much how we got to where we are today and where we got today is an amendment, and Madam Speaker, the Clerk is in possession of LCO Number 7658. If the Clerk would kindly call the amendment, and I be granted leave of the Chamber to summarize.

DEPUTY SPEAKER MILLER:

Would the Clerk please call LCO 7658, which will be designated House Amendment Schedule "A".

THE CLERK:

House Amendment Schedule "A", designated LCO 7658, introduced by Representative Godfrey and Smith and Senators Musto and Kelly.

DEPUTY SPEAKER MILLER:

The Representative seeks leave of the Chamber to summarize the Amendment. Is there objection to summarization? Is there objection to summarization?

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Hearing none, Representative Godfrey, you may proceed with summarization, sir.

REP. GODFREY (110th):

Thank you, Madam Speaker. Madam Speaker, this Amendment, which is a strike everything Amendment, creates the inheritance rights of children conceived and born after the death of a decedent who's a married couple and creates the statutory requirements and process by which that can be demonstrated and upheld. I move adoption.

DEPUTY SPEAKER MILLER:

The question before the Chamber is on adoption of House Amendment Schedule "A". Will you remark further on the Amendment? Will you remark further?

REP. GODFREY (110th):

Yes, Madam Speaker. Let me quickly go through the sections of House Amendment "A". The first one does establish the inheritance rights of a child who was conceived after the death of one of its parents just as a policy decision since this is kind of a first stab at this kind of law. We are limiting it to the children of married couples.

Obviously there are other cases that we just weren't prepared at this time to deal with and we'll put that off for another day if it's necessary.

We do require a written document that grants the surviving spouse the authority to use the decedent spouse's genetic material to conceive a child and that the child must be in utero no later than one year after the death of the deceased parent. That's for some very practical reasons. Almost all of the laws in the other states that we looked at do have a time limit from what I understand. This genetic material that is frozen can last at least five years, often longer. We have the impetus of requiring to get an estate to a closure, to getting all the heirs determined and to get all of the property correctly dealt out to the heirs and we chose one year in the case of Connecticut because that's about the average time it takes to close an estate out in Connecticut.

There has to be a writing, as I mentioned. There is existing writing through the fertility clinics that are providing the services that will be sufficient to meet the writing requirement.

And then of course there has to be some kind of requirement that the Court know whether or not the

genetic material exists and the possibility of a conception is part of the estate. And certainly we're granting the Probate Court and the Probate Court system jurisdiction over any disputes that may arise conceiving the property rights. That's pretty much Section 1.

Section 2 indicates that posthumously conceived children will be included in any will or trust instruments that would include any class of descendent of the deceased. We've already under our law dealt with surrogacy. We've already dealt in our law and actually for centuries through our common law dealt with posthumously born children.

Obviously, the law hasn't kept up with science and we now have this scientific change that allows children to be conceived after the death of one of the parents.

Sections 3 and 4 do deal with the process by which courts and fiduciaries and commissioners and judges and other interested party have to establish the existence of the genetic material where the surviving spouse necessarily must inform the court in some way that he or she is going to utilize these to conceive a child, deals with distributions, deals with

appeals, deals with beneficiary liability after the distribution of assets.

And we tried as closely as possible to parallel existing law in every one of the cases. We set a maximum liability for beneficiary and we've made technical changes to existing state statutes to include posthumously conceived children as beneficiary in both testate and intestate proceedings.

We've tried to cover all of the bases. Obviously, this is a brand new topic to us, certainly to me. Science is moving much more rapidly than the law, or a lot of the considerations that we have to deal with in our own everyday work here in the General Assembly. This is a first step. It is experimental in one sense, I suppose, but if you've kind of made up your mind that the potential children of heroes, the potential children of young people who are facing cancer, who are facing other diseases that could even be life threatening, do deserve to be able to take the opportunity of using modern science to continue to be able to procreate even after their death.

This, I hope is the big step in the right direction to begin that process. So I encourage you

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all to support and vote for House Amendment Schedule  
"A". Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Will you remark further? Will  
you remark further on the Amendment before us?  
Representative Smith of the 108th.

REP. SMITH (108th):

Thank you, Madam Speaker, and good afternoon to  
you.

DEPUTY SPEAKER MILLER:

Good afternoon to you, sir.

REP. SMITH (108th):

You know, unlike what happened the other night  
when we kind of rammed an immigration bill right  
through the Chamber, I must say this has really been a  
collaborative effort between Representative Godfrey  
and the probate administration and my colleagues in  
the Chamber here, so I do appreciate the opportunity  
to have worked on this bill and being given the chance  
to help draft some new law here in the State of  
Connecticut that hopefully will pass out of the  
Chamber today.

This is something that I never really thought  
about, but since I do a fair amount of probate

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practice, I was asked to lend a hand and see if we could come up with some language that works with existing law, and delve into the future a little bit, if you will.

So I was excited to do that. I learned some things and that's always a good process. You become educated each and every day as we come up to the Chamber, so it was an exciting topic. It took quite a while. We had several meetings between Representative Godfrey and the probate administrators and some counsel, just to make sure that the language that we have here today, even though its, and especially because it's new law, that the language that we have here today is a good piece of legislation that people can understand, that people can follow and they know what to do in the event that they're put into this type of situation.

So, Representative Godfrey went through the bill very nicely. I think I'll just highlight a little bit more just for the Chamber's edification so they, I'm sure many people may have some questions about this, and if not, then that's great, but if they do, hopefully I'll be able to address some of the

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questions ahead of time with some of the comments that I'm about to make just going through the bill.

I think it's important to understand that for a child to receive an inheritance, there are certain conditions that must occur. There must be a written document. It's really a contract between the spouses, the husband and wife where they set forth an agreement that the sperm or the eggs will be able to be used somewhere down the road. So the document must be in writing, and they must have signed it, and the documents that we receive, Madam Speaker, also require witnesses.

Now, this bill doesn't talk about witnesses, but for legislative intent purposes, we would hope there would be witnesses and I would suspect that there needs to be a witness on the document itself just to make sure that the document is, in fact signed and witnessed and authentic.

The document must also specify that the spouse has authority to exercise control, custody and use of the sperm or eggs in the event of death.

There also must be a condition that the child be in utero not later than one year after the death of the decedent spouse and Representative Godfrey got

into why that is, and again, most probate estates in Connecticut tend to take at least a year, some a little bit longer, some a little bit shorter, but by the time the probate estate is well along, anyone who has a claim or may have a claim should have plenty of opportunity to actually file that with the Probate Court.

So therein lies the question. Well, how will the Probate Court find out about this claim? Well, the surviving spouse is required, Madam Speaker, to give to the Probate Court this contract or this written document that sets forth the rights of this child, and they must do so within 30 days.

There's also language within the bill that would require a fiduciary. Once a fiduciary is appointed by the Probate Court, if the fiduciary has knowledge of the contract, the fiduciary is also then required to file that with the Probate Court.

There are also circumstances in our probate law where an estate is not open. There's an Affidavit in Lieu of Administration is what it's called and that's a situation where the estate is such that it's below a certain number. I believe it's \$40,000 today where

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there is no fiduciary appointed and perhaps the spouse hasn't filed it.

This would obligate the person who administers or petitions the Probate Court for an Affidavit in Lieu of Administration to actually file that with the Probate Court as well.

So obviously the idea here is to put this document on notice, on record, so everyone is aware that there is potentially an inheritance right by another child that may not be evident.

Now, Madam Speaker, there could be some questions, but what happens if the estate is distributed and there's no distribution made for the child who was conceived after the fact. In that situation, there's no liability on the fiduciary unless the fiduciary had actual knowledge of the child and the rights of the child.

So if no claim was made to the Probate Court at all, then there is no rights for the child. However, if there is a claim made and the fiduciary knew about it and yet distributed without accounting for the posthumously conceived child, then the fiduciary would be held liable.

The question of whether one has inheritance rights under this bill is first determined by the Probate Court, and that's typical of today's law. I think it's important for the Chamber to realize that the proof that must be made in this type of situation is by clear and convincing evidence, which is a heightened standard.

Our normal standard in civil jurisprudence is proof beyond a reasonable doubt. This is clear and convincing evidence, which is not quite proof beyond a reasonable doubt, but a little bit higher than the preponderance of evidence, so it's a higher standard and much more difficult to prove.

Madam Speaker, if the estate had been distributed and the posthumously conceived child had again, not been accounted for, but still feels he or she wishes to make a claim, they could do so after the fact, but that claim would then be made with the Superior Court as opposed to the Probate Court.

Again, this is consistent with the current types of administrations in probate jurisdiction and Superior Court jurisdiction.

It's also important to note that this bill really becomes effective for all intents and purposes for wills and trusts, October 1, 2013.

There have been questions posed to me throughout my meetings with Representative Godfrey and the probate administration, well what happens when the estate is distributed? What happens to the share of the beneficiary when the estate is distributed and we find out after the fact that he or she does have a claim?

So if I'm a beneficiary, I receive my one-third share, because I have two other brothers, and I find out after the fact that well, I guess I have another sibling that I wasn't aware of and the court finds, in fact, that the share should have been made to my other sibling?

Current law already provides for that, Madam Speaker, and the beneficiary would be liable as he or she would be now under current law for the pro rata share, so the beneficiary would be liable for, if there were four of us then that child should have received one-fourth, my pro rate share would come out of that as would my other siblings.

However, if there are no assets, if I was the beneficiary and I spent that money. If there are no assets to then go after, then the beneficiary is not further liable and the posthumously conceived child is pretty much out of luck and again, that's consistent with current law as we understand it today.

Madam Speaker, that is the gist of the bill in a summation form. I'm happy to answer any questions to the extent we can on the probate side. I know Representative Godfrey is available on the medical side.

Again, it's a new concept. It's an exciting concept. I hope our colleagues will take all this in and support it and Connecticut will now be in the lead of those states that are taking a step forward in the future because as we all know, the future is now and so we want to make sure we're ready.

So thank you, Madam Speaker, for the opportunity just to explain the bill a little bit and again, I stand ready if there's any questions that need to be addressed.

DEPUTY SPEAKER MILLER:

Thank you, sir. Will you remark further on the Amendment before us? Will you remark further on the

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Amendment before us? Representative Kiner of the  
59th. Representative Alberts of the 50th.

REP. ALBERTS (50th):

Thank you, Madam Speaker, and I do thank the  
proponent for bringing this bill forward. I think he  
made some great points in his introductory remarks  
about the types of scenarios where this might come to  
bear.

I do have one question for him, though, through  
you, Madam Speaker, if I may.

DEPUTY SPEAKER MILLER:

Please frame your question, sir.

REP. ALBERTS (50th):

Thank you, and I apologize because I've just been  
going through this over the last 30 minutes  
apparently. Is there any requirement as part of this  
Amendment that's before us that would necessitate that  
the sperm or egg that's in question be placed in the  
surviving spouse or the surviving spouse would be the  
recipient of that?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey, will you respond, sir?

REP. GODFREY (110th):

Thank you, Madam Speaker, and just before I do respond I just want to state clearly on the record, for purposes of legislative intent, if any court is looking at this debate that both Representative Smith's remarks and explanations should be counted with equal weight in making the determination of legislative intent, and specifically to your question, the contracts that we have seen, and it's just the University of Connecticut's, we didn't have access to private fertility clinics, include language that covers that kind of situation.

It does have to say, it does say, and we would want it to continue to say, yes, the surviving spouse, well, they don't have a property right. They have a contract right. They don't exactly have a possessory right because obviously the frozen material is in the giant refrigerator at the fertility clinic, but they are the only one who can allow anyone, including themselves, to use the material.

And that writing has to say somewhere that the deceased spouse says it's okay for the surviving spouse to use this to conceive a child under the rubrics of this particular law. That's our intent.

Thank you, Madam Speaker.

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DEPUTY SPEAKER MILLER:

Representative Alberts, you still have the Floor,  
sir.

REP. ALBERTS (50th):

Thank you, Madam Speaker, and this is murky  
territory that we're delving into and I appreciate  
that.

Would it be possible for the language that the  
spouse who passes away to say that the material could  
be used by either the surviving spouse or someone  
else?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

The use of the material, thank you, Madam  
Speaker, the use of the material by someone else is  
already covered under existing surrogacy laws, so we  
didn't have to delve into that. We only needed, and  
in some cases, it spells out where there are  
inheritance rights and where there's not inheritance  
rights, we're using a surrogate.

Usually it's a surrogate mother. The child has no inheritance rights from the surrogate mother, only from the biological father in that particular case.

So those kinds of situations are covered under current law. What's not covered under current law is where a married couple has decided to use the fertility clinic to use this but one of them dies.

There are, there is nothing currently on the statutes to cover that and we're trying to kind of fill in the gap.

DEPUTY SPEAKER MILLER:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker. I do thank the proponent's explanation. I do thank the education and it does seem to be worthy of support at this time. Thank you.

DEPUTY SPEAKER MILLER:

Thank you, sir. Representative Rebimbas of the 70th.

REP, REBIMBAS (70th):

Thank you, Madam Speaker. Through you, Madam Speaker, just some questions to the proponent of the bill for clarification.

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DEPUTY SPEAKER MILLER:

Please frame your questions, madam.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. Based on the testimony that was provided regarding the bill, I just want to make sure that we have a clear understanding for those wills that are already out there that have already been drafted, and how this bill may affect those last will and testaments that are already out there with the appropriate beneficiaries that was aware at that time.

So through you, Madam Speaker to the proponent of the bill, post October 1, 2013 when this bill is passed, is to take effect, as I read through it, if a last will and testament is silent specifically as to any child that may be conceived after the decedent passes away, based on the bill before us, will that conceived child after the decedent passes away, have an equal share under the inheritance rights that this bill creates?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

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Thank you, Madam Speaker. If the will is truly silent, yes, then this new statutory language will kick in. The care that the Court's going to have to go to is, go through is, looking at the will, and they're very good at this. This is what they do every day, and determining that what provisions, if any, are in the will for surviving children and interpret it to include or exclude, if the will says so, the posthumously conceived child.

But if the will is truly silent, then this new statute would kick in and cover the situation.

DEPUTY SPEAKER MILLER:

Representative Rebimbas, you still have the Floor, madam.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And through you, Madam Speaker, just maybe to further understand why that process was taken because essentially then what this bill does is for anyone that already has a last will and testament and then decides to proceed if a woman, to preserve eggs or a man, to preserve their sperm, now they have to actively redo a last will and testament so it's clear as to what the intent is for any child born after the death of the decedent,

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because again, there are those case scenarios that I would assume if the egg and sperm are being preserved, maybe the intent of some couples is that that child will be conceived during the life of both parents.

But with this type of legislation the way it's written, for those parents whose intent was that that child would be conceived during the life of the two parents and there's a last will and testament already drafted indicating that let's say that any child of theirs is to inherit in equal shares, now the decision has to be made to have to go out and redo a last will and testament so it's clear that if the intent of that parent is not to have a child who's been conceived after the decedent's death, they actually have to go out and redo a will.

So just for, maybe there's something I'm missing, if there was reason for that, because I would assume that it would have been easier maybe, or another option would have been for those wills that are already written, unless somebody takes the active action of redoing a will to say, I am making the decision that any child after my death should have the same inheritance rights, then they're making that known decision.

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My concern are those people that fall in the gray area that the true intent was that this child was only to be conceived during the life of both parents, now by default, if they don't actively go out and change their will, any child conceived after the decedent's death will nonetheless have the same inheritance rights.

So just if there was a reason for the process that's before us now, because my concern is this does actively force people to have to redo their wills if that is inconsistent with their intent at the time that we know that they did their wills. Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. Representative Rebimbas and I are both attorneys so of course the answer to any legal question is well, it depends, and that's the case here.

Again, we're really going into new ground with our statutes, but we're trying accommodate science that's way ahead of a lot of legal thinking, and we were just, we spent months just wrestling with

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questions like that, and we made the policy decision, well, there's nothing in here that impedes any will, any last testament. A will or last testament could make provisions for a posthumously conceived child.

As a protection, though, we also added the requirement that there be a writing. It doesn't necessarily have to be in the last will and testament. It can be a separate, these contracts that are executed by both spouses during their lifetime with the fertility clinic, which is storing the human gametes, which is freezing them, so there is that ancillary writing that a Probate Court, we're actually required them to take a look at where a claim is made for the inheritance rights of the child.

So it's not like we don't know what the intention of the parents are and we do provide for a one-year window for the decision to be made by the surviving spouse.

We're hoping that covers all of the different permutations and combinations that we could think of, without interfering with existing contracts, existing last will and testaments. I admit it's a very, we're walking a tightrope to a degree because we simply don't have access to documents, to contracts. We

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don't know how many people, how many couples are out there that have done this. That's all protected, because it's personal medical records and this just was the best effort we could make to try and accommodate all of the possibilities that are there.

Prudently, as an attorney, if I had clients who I was involved in drafting their last will and testament, arranging for their execution and I also know that the clients may have stored their gametes in such a way, I would prudently do my due diligence and contact them and say, hey, we've got this new issue. There's this new statute. What do you want to do?

And of course, we're going to know rather quickly how well this new statute is working, regardless of our laws. It still takes only nine months to gestate a child, so any first claimants under this law will happen in a very short time. We'll know about it probably during the next Session. If we need to fix it, we can fix it. I'm hoping we don't, but, and we're doing just a lot of stuff on faith, I will admit that.

But we have to start somewhere, and I think this is the best effort over the last almost six months,

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five months now that we have been able to collaborate on and come up with. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Rebibbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker, and I'd like to thank the Representative for his response in that regard. And certainly, as it's already been stated, this is new ground, new law, and hopefully as it moves forward it's certainly one that we can identify any strengths and weaknesses and hopefully then improve this if necessary in that regard.

Just for clarification, through you, Madam Speaker, if this legislation were to pass, does the Representative foresee that the Probate Court would have, within their authority, to provide some type of guidance or policies that they may put out to go along with the legislation in regard to different requests, or I can't say requirements because I guess that would be in law.

One of the things that during this dialogue that struck me is that some of these points may already be addressed in these contracts when the two knowing parties contract to again, preserve their sperm or

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egg, but the reality of it is, we don't have access to all the contracts at all the facilities, that it almost seems to be prudent that if this piece of legislation before us is going to be one that everyone would have actual knowledge as to the issues and implications, that maybe there should be some type of guidance even in this bill, regarding the language that would be necessary, and Heaven forbid I say mandatory, in order for it to be in compliance as to the understanding of when these people enter into those contracts.

My concern is, we hope that a lot of this is being addressed in those contracts, but if it failed to be addressed in these contracts and it's not really clear in the bill that's before us as to what the rights and responsibilities of the person who is left with then the possession of these items, it's a little difficult to tell what may or may not occur in that regard.

Again, I absolutely understand that this is new law and as it moves forward, we'll be able to identify those factors. But through you, Madam Speaker, would the Representative foresee that the Probate Court might be able to establish some type of policies or

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guidelines that could then potentially either guide these facilities in the interpretation of the implications that this new legislation may have on their current contract, and maybe they then, will and again, I don't know if those contracts are renewable or not. I don't have actual knowledge of that, but maybe they would then reach out to those people that made those contracts so that they can make sure that their wishes are truly being addressed.

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. I have the highest confidence, and we've had these discussions with the Probate Administrator and a few probate judges and a few people who work, who, lawyers who do a lot of probate work and we have checked in with the Connecticut Bar Association's Probate Committee, and I would expect and foresee that should we pass this, the word will get out rather quickly, both through the Probate Administration, through the Probate Courts, through the Bar Journals, through legal journals, through continuing education.

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I foresee in the not too distant future that as lawyers are drafting up wills, that are dealing with maybe some of the contractual agreements that they'll be check off boxes and questions asked because I'm confident that our brothers and sisters in the Bar will do that due diligence, will be prudent and will both looking forward, make sure that they're dealing with these issues.

And as I said before to your previous question, I'm sure that those who are aware of existing wills and contracts will do their best to make sure that the couples will, the couples' intent is realized.

So there's a big system out there. It works. Sometimes it doesn't, but it works more often than not and I would expect that just the knowledge of this being a new statute will get out there quickly and that the Bar will appropriately respond. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Rebimbas, you still have the Floor, madam.

REP. REBIMBAS (70th):

Thank you, Madam Speaker, and I'd like to thank the Representative for his responses, and I, too, am

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then confident that if the Probate Court is certainly willing, that they would be able to put out some type of handbook as they have been certainly very leading in that regard, regarding their very helpful materials even on their website.

I think they were even far beyond even the Judiciary Department at one time in providing an easy to follow policy books and handbooks. So I hope in light of the fact that this is new legislation that may have impact on existing last will and testaments, and/or again, the renegotiation of contracts or determining the real intentions of those persons who enter into those types of contracts, that it's important so that we have some type of guidance from the Probate Court, not only for the attorneys who are practicing in this area, but certainly then for judges and their interpretation of the law when in fact maybe some of these issues are not addressed in those contracts and they may come before those judges.

So once again, thank you, Madam Speaker and thank the Representative for his responses.

DEPUTY SPEAKER MILLER:

Thank you, madam. Representative Walko of the 150th.

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REP. WALKO (150th):

Good afternoon, Madam Speaker.

DEPUTY SPEAKER MILLER:

Good afternoon, sir.

REP. WALKO (150th):

Through you, Madam Speaker, a few questions for the proponent of this bill.

DEPUTY SPEAKER MILLER:

Please frame your question, sir.

REP. WALKO (150th):

Thank you. So I just want to start on a little bit of a macro basis wondering the scope or the intent of the bill viz-a-viz what problems arose that drew the interest. I read through the case law that was in the description of the bill, but how systemic of a problem is this that it's now before us as a bill? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey, will you respond, sir?

REP. GODFREY (110TH);

Yes, Madam Speaker. We don't know. We don't have access as I've said, to medical records. We know that there are nine or so fertility clinics. We know that the University of Connecticut does this and has

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the contracts. They have been nice enough to share them with us, so we know that the practice is happening in Connecticut now.

We don't have any clue as to the number, as to all of the contracts, as to a lot of those kinds of questions. We're shining a light in a new dark room and there's still shadows.

This is but a first step, a big first step because we're establishing these inheritance rights for posthumously conceived children for the first time.

I don't have a crystal ball. I can't predict what the outcome is going to be on a case-by-case basis and I expect that we will have to revisit this if those kinds of issues come up, but we really have no way of knowing today.

DEPUTY SPEAKER MILLER:

Representative Walko, you still have the Floor, sir.

REP. WALKO (150th):

Thank you, Madam Speaker. So do we have any data that indicates whether other states have addressed this issue and if so, what their level of experience

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is or is ours more on the forefront of this type of  
legislation?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. There is, as the OLR  
Research Report I referred to, I'll put on my glasses,  
2012-R-0319. It's available on line.

We do know that as of July 23rd of 2012 there  
were seven other states that provided intestacy  
succession rights to posthumously conceived children,  
California, Colorado, Iowa, Louisiana, North Dakota,  
Texas and Virginia, which is an interesting mix in its  
own stance.

And actually we copied a lot of some of our  
ideas. We rescoped them off of the California laws,  
but we don't know what the outcomes have been.

So again, this is so new to the law, although it  
clearly isn't new to science, that there aren't a lot,  
there's not a lot of forensic evidence at this point.  
We're just hoping to be as preventative as possible if  
one of these cases does arrive in Connecticut.

Thank you, Madam Speaker.

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DEPUTY SPEAKER MILLER:

Representative Walko, you still have the Floor,  
sir.

REP. WALKO (150th):

Thank you, Madam Speaker. Looking at the actual language of the bill, talking about the, if you will, the contract between the spouse and the decedent, do you envision a form ever being prescribed by the Probate Court that would help maybe eliminate any ambiguity as to whether or not what's needed in the "contract" between the two parties? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. I'm not a proponent of there being a statutory form for everything, particularly in this case, where we know there are contracts out there. We've only seen UConn's set. We don't know what the other fertility clinics' contracts are like particularly. We didn't want to cut anybody off inadvertently because we provided, we included a provision that would validate contracts that we didn't intend to validate.

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So certainly, if and when these cases do arise, courts are going to have to rule. There will be records coming out of that and it is an issue that may possibly need to be revisited in the future. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Walko.

REP. WALKO (150th):

Thank you. Relative to whether or not it's a form or not a form, the notion that a will needs to be before witnesses and there's certain formalities to a will, a last will and testament, what was the rationale behind not having those same formalities apply to the contract between the spouse and the decedent? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. We did agonize over this for some period of time and if I fail to acknowledge that both Representative Gerry Fox and Representative Rebimbas were very helpful and both myself and Representative Smith did consult with other

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lawyers within our respective caucuses on a number of these issues.

And we just felt very strongly. We didn't want to inadvertently invalidate any existing contract. This is a new statutory provision, and we didn't have the knowledge, that we know UConn does provide for witnesses, we didn't have the knowledge that that was required by everyone else.

And so we want to take this first giant step but it's not the entire journey. There's going to have to be more as time goes by and we get this information. We do not have any data right now to be able to make reasonable decisions about. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Walko.

REP. WALKO (150th):

Thank you, Madam Speaker. Through you, relative to, if you could walk me through the process by which if a spouse failed to provide the court within the 30 days of the fact that there was either an egg or sperm out there and that then subsequently was conceived within the one year.

Could you walk me through the process by which that child then would have a cause of action relative to this bill? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. As I said at the beginning, I know jack about probate process, so the short answer is no, I couldn't.

But Representative Smith could, and if you would redirect it back to him I'm sure that he can come up with the answer. He does practice probate law, and we spent a lot of time, he and I talking about exactly these kinds of issues, but I will bow to his expertise, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker. I'd be happy if I may address the question.

We put a 30-day time frame on which the spouse should submit the written document to the Probate Court, but we also put some language in the bill that if there is a failure to do that, then the

posthumously conceived child would not lose their inheritance rights.

In actuality, under the bill as drafted, there's a couple of different time frames. We have the 30-day period that it's supposed to be submitted to the Probate Court.

There's also a 150-day period in which any claimant, whether it's the spouse, guardian ad litem, or someone else who has knowledge of this contract can submit the claim to the Probate Court.

But even if they miss that 150-day period, any time before distribution occurs, someone can go to the Probate Court and say listen, I just learned that there is this contract. There is a potential of an inheritance right for the posthumously conceived child. They can then file that with the Probate Court and really there's no harm done because the distribution has not yet occurred. The fiduciary or the executor, whoever it may be, can still make the distribution per the will and make sure that that child, assuming that the claim is proven by clear and convincing evidence, you know, can inherit under the will.

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So hopefully that addresses your question, but if not, I'll try a little bit more. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Walko, you still have the Floor, sir.

REP. WALKO (150th):

Thank you, Madam Speaker. Through you to the Representative, the proponent of I guess the Amendment, or one of. So I guess I'm concerned about the scenario whereby a child is conceived within the time frame prescribed by this bill, is too young obviously to know or to appreciate that and becomes 18 and learns of this legislation and is told of that.

A distribution has occurred several years earlier, presumably, what recourse would that individual at that point, that young adult have relative to this legislation?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker. And the law currently actually provides for that. Right now if there was a

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distribution made, the beneficiary could still be exposed to liability if in fact it was proven that there was a legitimate claim whether it was not a posthumously conceived child because we haven't crafted that law, but there is some other language for artificially inseminated conceptions where there was a child born.

So it's based on a pro rate share. The question ultimately is, I'm sure you know will become, has the statute of limitations expired. You have someone who's now potentially 16, 17, 18, has the statute expired? Did the child have a guardian appointed at any point in time where the child could have been protected, could have filed an appeal within the 30-day distribution period.

So I suspect that would be covered under the statute of limitations sections of our current law. It's not addressed in this particular language, but would fall back on our existing law. Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Walko, you still have the Floor, sir.

REP. WALKO (150th):

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Thank you, Madam Speaker, and I thank the good Representative for his responses.

To the proponent of the bill, a question whether or not as a result of entering into a contract, going back to the actual contract between the spouse and the decedent, is there any restriction on an expiration of the ability to use either the egg or the sperm in this particular instance? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker, yes. A year after the decedent's death. That's in this bill. So the surviving spouse has one year from the decedent's death in order to conceive a child who would have these inheritance rights. After that point, clearly, unless it's the court that hasn't made a determination and is extending the case, no.

So that was one of the issues we had to wrestle with because of the possibility of the material being stored for decades. There still has to, there's still the public policy that the estate has to be settled and the distribution has to be made, and it just can't wait forever, so we included that, the one year in

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utero provision to accommodate that. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Walko.

REP. WALKO (150th):

Thank you, Madam Speaker, and I apologize to the good Representative. My question was in articulate. My question really is, can the two parties agree to a shorter period of time from date of death?

So for instance, that the property must be used within a six-month period of time to be applicable under this legislation? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Yes, Madam Speaker. Not a longer, but they could agree to a shorter. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Walko.

REP. WALKO (150th):

Thank you, Madam Speaker. I appreciate the responses that I've been provided. Those were the concerns and questions, obviously in this new area and

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I thank the good Representative for the time spent not only today but previously in bringing this forward.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you. Will you remark further on the Amendment before us? Will you remark further on the Amendment before us? Representative Buck-Taylor of the 67th.

REP. BUCK-TAYLOR (67th):

Thank you, Madam Speaker. Good afternoon.

DEPUTY SPEAKER MILLER:

Good afternoon to you, madam.

REP. BUCK-TAYLOR (67th):

I had some concerns when this bill came before Judiciary. I continue to have some concerns. I would like to ask some questions, through you, to the proponent of the bill.

DEPUTY SPEAKER MILLER:

Please frame your questions, madam.

REP. BUCK-TAYLOR (67th):

Representative Godfrey, is there any restriction on the use of the genetic material provided in this bill?

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Representative Godfrey, will you respond, sir?

REP. GODFREY (110th):

Yes, Madam Speaker. Only in the sense as how it deals with the inheritance rights of the posthumously conceived child.

Any person, whether they're married or not, can make decisions and they do in these contracts as to what use the genetic material could be put, could be used for. In some cases it's surrogacy. In some cases it's, they're donating to science, for whatever reason.

But as far as this bill is concerned, we're only talking about a contract, a written agreement between spouses for the use of the genetic material to conceive a child after the death of one of those spouses.

That's all we're covering here today.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Buck-Taylor, you still have the Floor, madam.

REP. BUCK-TAYLOR (67th):

Thank you for your response. If I may, another question, Madam Speaker?

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DEPUTY SPEAKER MILLER:

You still have the Floor, madam.

REP. BUCK-TAYLOR (67th):

So is it conceivable that someone could take this genetic material and have it fertilized by someone other than the genetic material of the surviving spouse?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Well, not legally, no, Madam Speaker. The contracts provide as much as is humanly possible for all the different distributions of the material, including its destruction, so no third party can intervene without the express consent of the parties to the contract to use the material, period, under current law and we're not making any changes to that here today.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Buck-Taylor.

REP. BUCK-TAYLOR (67th):

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Madam Speaker, if I may, through you, what I am asking is whether or not the surviving spouse, let's say the surviving spouse is the woman, whether or not she has the, if there are any restrictions in here, which prevent her from taking that sperm and having it fertilize another egg that was not part of the marital couple?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. No, not in the bill before us because the bill is about the child's inheritance rights. It's not about the disposition of the genetic material.

Under current law, that is controlled by the contract, which is enforceable in a Superior Court and I'm trying to recall this from memory, now, so don't quote me.

Those kinds of provisions I recall seeing in the contract. What happens if one of us dies, and the surviving spouse can make the decisions and it's often spelled out. You can do this. You can do that. You can donate it to science. You can use it for

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surrogacy. You can destroy it or not, and those are enforceable contracts.

But no one could, but the only person who would have that decision-making power is the surviving spouse, and only if the surviving spouse wants to use the genetic material to conceive a posthumously born child, does this particular bill affect that relationship or that contract at all. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Buck-Taylor, you still have the Floor, madam.

REP. BUCK-TAYLOR (67th):

Thank you, Madam Speaker. Through you again to Representative Godfrey. so there's nothing in this bill that prevents the surviving spouse from creating a child, which if it had been conceived during the marriage, would have been an illegitimate child. Is that correct?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

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Thank you, Madam Speaker. That is correct.

We're dealing from the child's point of view in this bill, not in the parents, and under current law there is no provision, except for the contractual ones about the use of the genetic material, although there is in the Probate statutes, much discussion about artificial insemination and about surrogacy, and we're not changing any of that.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Buck-Taylor.

REP. BUCK-TAYLOR (67th):

Through you, Madam Speaker to Representative Godfrey. If we had two people who were living together and were not married, so they were not in a spouse relationship and they entered into this similar contract as far as this genetic material is concerned.

Is it accurate to say that this bill does not provide for that child to have any inheritance rights, even if they were conceived during the same time frame as provided under this bill? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

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REP. GODFREY (110th):

Thank you, Madam Speaker, precisely. We're only dealing with the inheritance rights of a child of a married couple. We've had, we discussed a lot of the other scenarios. We could not come up with any way of dealing with them statutorily. We thought we'd take this first big step.

In the future if the Legislature wants to deal with some of these kinds of questions, God speed, but we're not dealing with those today. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Buck-Taylor.

REP. BUCK-TAYLOR (67th):

Through you, Madam Speaker, what I am hearing is that if we have a couple who decide not to get married and they want to provide for the same protections as what's being provided under this proposed bill, that child born and conceived within that year and born within nine months later, is not given the same rights as a child that is given in the spousal relationship.

And as a matter of fact, Madam Speaker, it is given less rights than a child that is born illegitimately during the time that both of the

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parents would have been alive in that they are considered heirs of the estate at that point, even though they may not be beneficiaries under the will.

So we are taking a whole class of children and deciding that they don't deserve the same protections as these other children because their parents weren't married.

I think that this is one of the problems with this bill. I think that this bill should be expanded and I do not at this time have the ability to support this bill.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, madam. Will you remark further on the Amendment before us? Representative O'Dea of the 125th.

REP. O'DEA (125th):

Thank you, good afternoon, Mr. Speaker.

DEPUTY SPEAKER MILLER:

Good afternoon.

REP. O'DEA (125th):

Madam Speaker, excuse me. A number of questions to the proponent of the bill if I may?

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Please frame your question, sir.

REP. O'DEA (125th):

Forgive me, I don't practice in estate law, but what about the scenario where a father dies, but in his will he has two children and he gives say, 60 percent of what he has to one child and 40 percent to the other, and then the third after born child comes, how do they share in that?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey, will you respond, sir?

REP. GODFREY (110th):

Thank you, Madam Speaker. No idea. You got me there. I don't practice probate law either. I don't know how those distributions are made. Again, I would suggest that on these process questions you may wish to ask them of Representative Smith.

DEPUTY SPEAKER MILLER:

Representative O'Dea, would you like to refer your question to Representative Smith?

REP. O'DEA (125th):

Sure. The scenario I was thinking of frankly, came to me in thinking about the story of the prodigal son that many of us have heard in mass or church,

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where a younger child takes all of his inheritance and goes away and then the older son works with the father for his life and builds up the estate and then the prodigal son comes back and the father throws a party and the older son gets upset and the father basically says, look, he's my son, but you have all my property.

In this scenario that we have here, or potentially would have here, we've got a father who has a favorite son, so to speak and gives the majority of what he has to the older favorite son and only a small portion to the younger, less favored son.

If you've got an after born who he's never met, how do you break up the goods that have been given to the favorite son and the less favorite son versus the son he never met?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith, would you care to respond?

REP. SMITH (108th):

Thank you, Madam Speaker. You know, I've heard that story in church so many times and it always fascinated me and here we are today talking about the prodigal son so I'll have to pay attention a little bit more the next time I hear that sermon.

But I think the answer is this. It's on a pro rata share, so I suspect, and it ultimately will be decided by the Probate Court, but if it's a 60/40 split right now between the two children as proposed in this scenario raised by the good Representative, I suspect that the pro rata share would also be the same for the inheritance of the third child, and how that comes out mathematically, I'll leave that for the Probate Court to determine.

But the current law talks about a pro rata distribution for a posthumously conceived child and that scenario where there is already a definite 60/40 split or a 70/30 split, whatever it may be, I suspect that's what it would be as well.

That's probably the best answer I can give and I promise next time I go to church to pay attention more.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Representative O'Dea.

REP. O'DEA (125th):

All right, for the sake of legislative intent, let me make it a more modern proposition. Let's suppose that I start a law practice with my oldest son

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and my younger son wants his inheritance early and I give him money and he takes off and then the recession/depression that we hit a few years back, he loses it all, he comes back and I set him up as a paralegal in my law firm.

And in my will I say, listen, my oldest son who's now the managing partner, he'll get 90 percent of the firm and my younger son, I'll give him 10 per cent.

Just for the sake of legislative intent, how would we put in this after born son in that scenario where I'm giving away my law practice? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker, and again, I think we're talking about a pro rata share and I can only guess and estimate what the Probate Court would do.

But the law as it's drafted currently and the law that's proposed in this bill would be that that child would receive a pro rata share, and whether it's then the 90/10 and they extract from there, I'm not positive.

I've actually never dealt in that scenario where I've gotten to a distribution of a will that had a, and it's not uncommon I must say, where a parent can leave certainly more to one child than another, or completely leave a child out because of whatever reason.

So the scenario raised by the good Representative is not unique, but in terms of how the court would deal with it in determining what the pro rate share is, I'm going to have to leave that for the court to decide.

DEPUTY SPEAKER MILLER:

Representative O'Dea, you still have the Floor, sir.

REP. O'DEA (125th):

Thank you, Madam Speaker. Just, I guess the paragraph we're all looking at or would be looking at I perceive would be Lines 163 to 168 in Paragraph 1(e). Through you, Madam Speaker, would that be the paragraph we'd be looking at to try and interpret what the intention of the testator was at the time? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

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REP. SMITH (108th):

Madam Speaker, if the gentleman could repeat the question, please.

REP. O'DEA (125th):

Sure.

DEPUTY SPEAKER MILLER:

Representative O'Dea, would you repeat the question, please, sir.

REP. O'DEA (125th):

Yes. In Section 1, or Section 6, Paragraph 2 (e) as I understand it, Lines 163 to 168, is the paragraph that would apply to this scenario that we've been discussing in trying to divine the intention of the testator in making, I guess this would be a limited provision applying only to the testator's living children.

Would that be the paragraph or the lines that you believe would be applicable to that scenario?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Yes. Thank you, Madam Speaker, yes it would. And in fact, looking at this, it reminds me that this

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is existing law and so the scenarios that we just discussed over the last few minutes would also be handled in the same way as it's currently being handled.

So these are not unique situations. These are not new situations. They are addressed by the Probate Court now and would be addressed as you suggest in subsection (e) of Section 6. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative O'Dea.

REP. O'DEA (125th):

Thank you, Madam Speaker, if I may, just one, I think this will be my last follow up on that. But, so if you look at Lines 144 to 147, Section 6(2)(a), could it be argued in that scenario that the scenario I gave you about my law practice hypothetically, that my intent there would be that only those two sons would get the law practice and that the then after born child would be, his entitled share would be "limited to the devises and legacies made to the testator's then living children under the will"?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

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Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker, and I agree. I think it could be interpreted that way and again, if the will is clear as to what the testator's intent, we always look for that as the primary source of how the estate should be distributed. That exists now under current law and we seek to not change that at all in what we're doing here today.

So I think the good Representative has pointed out these very sections that currently apply would apply going forward and ultimately what we'd like to do is make sure that we comply with the testator's last will and testament because that's the very purpose of the document.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative O'Dea.

REP. O'DEA (125th):

And again, thank you, Madam Speaker. So then just to clarify for legislative intent, is it your understanding that if a testator has been clearly given, say a law practice or business to two sons in different percentages, could it then be argued and

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would it then be the scenario whereby those two sons or son and a daughter would share in that respective percentage and the after born would then only share in whatever's left that would be theirs to split in the estate? Through you, Madam Speaker. Does that make sense?

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

I understand it because he talks legalese and so do I, so thank you, Madam Speaker. I think that would be an accurate framing of the question that you know, we have a specific distribution to two children, percentage of the law practice to one a percentage of the law practice to the other, whatever is remaining could be based on a pro rata share. It may not be any share at all.

I think ultimately the probate judge would be in a position based on all the evidence, to determine the legislative, not the legislative intent, the testator's intent of how he or she wished to devise his or her assets.

So I think that's the way it would be done. That's the way it seems to be done as far as my

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knowledge of the probate administration and the probate judges and how they actually determine who gets what when the will is actually probated.

So hopefully that answers the question. Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative O'Dea.

REP. O'DEA (125th):

That does. Thank you, Madam Speaker, and I appreciate the comments of both proponents of the bill.

Thank you very much, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Representative Adinolfi of the 103rd.

REP. ADINOLFI (103rd):

Thank you, Madam Speaker. Nice to see you up there today. Through you, I have a question for the proponent of the bill.

DEPUTY SPEAKER MILLER:

Please frame your question, sir.

REP. ADINOLFI (103rd):

My question is, does this bill or Amendment, I should say, which will become the bill, how does that

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work out with two married females who each have a child? I have friends that are in that exact situation. I was wondering if this bill applies to them and how would it work when the seeds are frozen, and what happens after one passes on?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey, will you respond, sir?

REP. GODFREY (110th):

Yes, Madam Speaker. Clearly, this is dealing with conception. You do need a male and a female for that, whether you're married or not, and this is less about the relationship of the parents, but more about the inheritance rights of the child.

In that case where two females, for that matter two males, you would be not looking at this law. You would be looking at surrogacy laws. You would be looking at the artificial insemination laws, which have been on the books for a very, very long time.

So this wouldn't change the relationship or anybody's relationship. This is only about the inheritance rights of a child born of a male and female couple. All of the other permutations and combination are actually pretty much covered by

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existing probate law. This extends it to married couples in one sense and a rather stretched out sense. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Adinolfi.

REP. ADINOLFI (103rd)

Through you, Madam Speaker to the proponent of the bill, I'm very happy to hear that. Thank you.

DEPUTY SPEAKER MILLER:

Thank you, sir. Representative Aman of the 14th.

REP. AMAN (14th):

Thank you, Madam Speaker. The last many speakers have been up here have been attorneys and they've been very well, have the language straight and they understand the court system.

I'm standing up here as a non-attorney, trying to understand what is exactly happening here, and I do have a few questions, through you, Madam Speaker, to the proponent of the bill.

DEPUTY SPEAKER MILLER:

Please frame your question, sir.

REP. AMAN (14th):

Yes. In the languages of Line 70 and 71, it talks about some dates unless the instrument indicates

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intent to the contrary et cetera. Could the Chairman put that in layman's terms so someone who is not an attorney could understand what those dates mean and what has to happen before and after and the practical effect of that, and again, for reference, that would be the Lines 70 and 71.

DEPUTY SPEAKER MILLER:

Representative Smith, would you like to answer the question, sir.

REP. SMITH (108th):

I apologize, Madam Speaker, if the gentleman could rephrase the question. I did not hear it.

DEPUTY SPEAKER MILLER:

Representative Aman, would you repeat your question, sir?

REP. AMAN (14th):

Yes, Representative Smith, I started with saying that I am not an attorney and that most of the people both questioning you and your answers were in legal terms that a layman who is not familiar with the Probate Court system and the legal system has difficulty in understanding, so I have several questions that I'd like to have answered in a manner

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that a non-attorney could easily understand. Third grade language would be appreciated.

Looking at Line 70 and 71, it talks about instruments, whether or not executed before or after October 1, 2013, unless the instrument indicates the contrary et cetera, and my question was, what do those dates really mean? When do things have to be done and again in layman terms, what documents have to be submitted before and after that date and the practical result thereof?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker. Well, that section and the lines you're referring to are dealing with wills and trusts, which typically would set forth how your estate will be distributed upon your death.

So in this scenario that we're talking about, after conceived children, or posthumously conceived children, for those children, any wills drafted on or before, or after the effective date of this act, which is October 1st, then this law would apply.

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So let me try to make that a little bit clearer. So if you have, currently most wills are drafted, already include language, I hereby give my estate to my spouse. If she dies it goes to my three children equally.

And then there's language in the will that will say, including any after born children, because there's always the possibility that even though you weren't planning on it, you have a lovely new child on board.

So most wills that we see today, I would say 99 out of 100, I know pretty much every one I've drafted unless I'm told otherwise, will have that language in there.

This particular section that you're talking about says that unless there is another directive in the will itself that says, even though I have three children and I may have a posthumously conceived child, I'm not providing for that child posthumously conceived. I'm only going to provide for the three children under my will.

So if you look at the language of the will, then we'd have to comply with that. If the will is silent as to whether the posthumously conceived child will

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receive under the inheritance, this section would come into application and the posthumously conceived child would, as of October 1, 2013, be allowed to share.

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Aman, you still have the Floor, sir.

REP. AMAN (14th):

Yes, following up on that, if I am the normal client of your firm and my will has currently been drafted to cover what is currently in this legislation, would the will have to be redrafted to cover the circumstances that this is talking about, or would my current will stand, and I think that's very important to many, many people who have a will currently, to make sure that it meets all current standards.

So maybe in simple language is, at this point, would it be advisable or would people have to have their wills redrafted to meet these new dates and requirements?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

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REP. SMITH (108th):

And the answer is no. And again, I would say 99 out of 100, 999 out of 1,000, most wills will have language in there that already cover after born children, so it will already be covered.

And there's only a few people that we're talking about, so unless you have a sperm and an egg and a contract that you have set aside to deal with posthumously conceived children, your will as you have it drafted today is fine.

If you have such a document that provides for posthumously conceived children and your will doesn't provide for that child, but has language including any after born children, then that child still will be covered.

If the will is silent, I'm sorry, if the will is specific, I'm only going to distribute my assets to my three children that is listed in this will, then yes, you would want to take you will back to your lawyer and have that changed because if they did have a posthumously conceived child, that would affect their inheritance rights.

So hopefully that addressed your question. But for most people who have a will today, their will is

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still good. It will still be valid. There's no need to change it.

If you're in a situation where you have a contract and there is potential for a posthumously conceived child, then you may want to at least make sure that your will applies or has some language in there that covers that child.

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Aman.

REP. AMAN (14th):

Yes. The next question I have I will leave the Speaker to decide which way to direct it, or them to. There's been a lot of talk about a contract between the husband and wife regarding this, and in layman's terms if someone could explain to me what is likely to be in that contract and probably as importantly, what probably could not be put in that type of contract?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. It's not a contract between the husband and the wife. It's a contract

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between the husband and wife and the fertility clinic, because the fertility clinic has custody of the genetic material. It's in their refrigerator.

So the fertility clinic's lawyers have drafted contracts that all three parties sign as to the disposition of the material in just about any circumstance they could think of.

So the contract isn't between husband and wife. The contract is between the couple and the fertility clinic and it covers things like, who gets to, who has the say in the use of the material. Can it only be used between the two of them? Could it be used in some other scenario? What happens if there's a divorce? It's all accounted for.

What happens if there's a death? It's accounted for. So we're piggy-backing on this existing set of written documents and incorporating that into one of the requirements for the child that's conceived posthumously and born to have the inheritance rights from both the surviving spouse and the decedent spouse.

So again, it's not a contract between the husband the wife. It's a contract between the couple and the fertility clinic. Thank you, Madam Speaker.

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DEPUTY SPEAKER MILLER:

Representative Aman, you still have the Floor,  
sir.

REP. AMAN (14th):

Yes, following up. If there's a conflict then  
between the surviving spouse and the fertility clinic,  
how is that resolved? Obviously the deceased spouse  
isn't going to be part of the argument. He or she may  
be represented by an attorney, but at the point that  
there's a conflict and lack of agreement, how is that  
normally resolved?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. As any other contract  
dispute is resolved. You bring a case to the Superior  
Court. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Aman.

REP. AMAN (14th):

Yes. And that leads to another problem that I  
see again, as a non-attorney, I've seen the Superior  
Court handle very few things in less than a year and

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if I remember part of this document, things had to occur within a year, and the dispute that's going on, how was this then looked at by the Committee when they were writing the bill?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. We're not talking about a dispute under the contract. If the contract says the surviving spouse can use the material to conceive a child posthumously within the year, then that child has inheritance rights. We're not covering any other situation, any other combinations of situations.

There, both the contract and the law gives to the surviving spouse the exclusive right to make the determination whether to conceive a child herself, basically, and this doesn't in any way interfere with that, but it does ensure that the child has the right to inherit from the decedent spouse.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Aman.

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REP. AMAN (14th):

Yes. There were several questions regarding an allocation of funds in inheritance through the wills and things and I think my question is a little bit simpler in, under current law and under this law, does the will have the overriding distribution or would this have an impact to override the conditions that were put in the will?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. As I said before, the answer to almost any legal questions, well, it depends, and that's what the Court, we've established them to make that determination to resolve any dispute and that's what they would do.

But this creates the statutory inheritance rights of the child posthumously conceived and born after the death of one of the spouses. It doesn't affect, it adds to, but it doesn't change existing Court procedure, existing Court operations. It doesn't make any change to that.

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In some cases the will is dispositive. In other cases it may not be, but that's for the Court to determine. That's why we probate estates.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Aman, you still have the Floor, sir.

REP. AMAN (14th):

Yes. The unborn child that we're talking about, if it's a will that's very typical that leaves 100 percent of what person has to their spouse and there is nothing mentioned about children one way or the other, would this bill have any impact on that if the will again said 100 percent of my estate goes to my spouse?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. If the will makes, has made no provision for any child regardless of when they're conceived or born under current law, the child does have a claim because the will didn't foresee this particular action, and there's long been some

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inheritance rights, even under common law to children born of a couple.

We're making no changes to those and the courts as they would do now in the case of a posthumously born child or a child born after the execution of the will, would make the determination, the distribution of the estate as it does now, so we're not changing any of that.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Aman.

REP. AMAN (14th):

Yes. And another question on that. Since we are talking about unborn children, if you had the scenario that an estate was opened, it's a fairly simple estate, and an estate is closed and then the child was born after the estate was closed, would the estate be reopened or what would occur at that time?

In normal circumstances, obviously, the Court would know that the child existed and therefore taken into consideration. Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

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Thank you, Madam Speaker. Again, we're making no change to current law. In the case where children are posthumously born, regardless of when they're conceived and a distribution has been made of the estate, that child still can make a claim as the child can do under current law in Superior Court, up to I think his 18th birthday and a year, if I'm not mistaken, but again, don't quote me on that, but for a very long time.

It's happily not something that frequently happens, but there are provisions for it in existing probate law and practice. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Aman, you still have the Floor, sir.

REP. AMAN (14th):

Yes. I thank both proponents of the bill for their answers and for their ability to put it into layman's terms as to what this law does versus what changes there may be made in current law.

I thank both of them for spending an awful lot of time obviously working together and coming up with it and it's one of the few times I have seen a Chairman on the Democratic side and the Member of the

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Republican Party on this side of the aisle co-answer questions and be able to work together and I very much appreciate that type of cooperation. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Representative Noujaim of the 74th.

REP. NOUJAIM (74th):

Thank you, Madam Speaker, good afternoon to you.

DEPUTY SPEAKER MILLER:

Good afternoon to you, sir.

REP. NOUJAIM (74th):

And through you, Madam Speaker, good afternoon to Representative Godfrey as well.

Madam Speaker, I'm just sitting here and listening and I know, thank God we have so many attorneys who understand the law and I was just listening and quite honestly, learning from them talking to each other and asking each other questions.

And obviously, it's a good piece of legislation that we all want to implement. So as I'm sitting down and listening to it, I started thinking about some issues, you know, that I hear all the time and through you, and please to Representative Godfrey, excuse my

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ignorance if I ask those questions, but I think it's good to ask them, specifically since what came to my mind as I am looking at Lines 4 through 8 is police officer or military person, and you hear it many, many times where you know, they went to serve our country and they never came back and during the time of their departure, they had a child, you know, it was born.

And I saw something last week on TV also, which really would make you cry. It does not really apply 100 percent here, but there was a young pre-K young girl whose fireman father died on the line of duty and she was graduating from pre-K and all the firemen came to escort her for her graduation, which was really so beautiful, but these are the type of things that unfortunately happen, and they happen all the time.

So through you, just for explanation, I'd like to ask Representative Godfrey about the Probate Court system. I hear on the radio all the time an attorney who always, like he is doing an advertisement on the radio and it looks like they are doing an interview with him and they ask him about living wills, and they say to him, well, what does a living will do?

And then he will say what a living will will do to avoid the probate. So in this case to

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Representative Godfrey, if there is a living will in place and I am looking specifically at Lines 21 where it speaks about Probate Court, does it still have to go to Probate Court, for knowledge, for my knowledge?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey, will you respond, sir?

REP. GODFREY (110th):

Thank you, Madam Speaker. Good question because living wills, while they're called that, they're not wills. They're not wills. They're documentation that provides for health care when the person who has done the living will, has signed the living will, can't make the decisions for him or herself.

So it's a popular name, but it has nothing to do with wills. It has nothing to do with Probate courts. It has nothing to do with this bill. It's a completely separate section of the law that is more along the lines of powers of attorney than it is under probate.

So the short answer is, they have nothing to do with each other. Thank you, Madam Speaker.

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Representative Noujaim, you still have the Floor,  
sir.

REP. NOUJAIM (74th):

Thank you, Madam Speaker. I truly, truly  
appreciate Representative Godfrey's answer.

And just a further question, what's probably a  
word that everybody hears these days and quite  
honestly my attorney, my CPA was telling me about them  
is revocable trust and irrevocable trusts. Do they  
apply in these situations as well? Through you, Madam  
Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. This doesn't affect  
that at all. That's another separate section of law  
that are much more carefully constructed, different  
sections of the Bar Association, different practice of  
law. They're not the kind of things that Probate  
Courts routinely administer so again, while some of  
the language to a layman may sound the same, it just  
means something completely different in the practice  
of law, and no, this isn't intended to change any of  
the law on that.

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This is only about the inheritance rights of posthumously conceived and born children.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

You still have the Floor, sir.

REP. NOUJAIM (74th):

Thank you, Madam Speaker, and through you, Madam Speaker to Representative Godfrey, also it mentions in here a child asking the Court or petitioning the Court. How old would a child have to be in order for him or her to be able to petition the Court?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. An appeal from a distribution can occur under current law up until one year after the child's 18th birthday. Clearly, in those cases the child, him or herself isn't able of contracting, is a minor, in which case an attorney or a guardian ad litem would represent the child in the child's interest.

Again, this bill makes no changes to any of the existing law dealing with those circumstances. All

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we're doing is adding posthumously conceived and born children to the list of who is covered by inheritance rights, so we're not affecting any of those laws whatsoever.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Madam Speaker, and through you, Madam Speaker, I'd like to ask Representative Godfrey just to indulge me because I'm not an attorney and there are some things that kind of go over our head.

Lines 109 to 111, what do they mean in this piece of legislation? Through you, Madam Speaker, if I may?

DEPUTY SPEAKER MILLER:

I'm sorry, sir. The proponent of the bill did not hear your question. Can you please repeat it?

REP. NOUJAIM (74th):

Thank you. My question, through you to Representative Godfrey. In all honesty, as I said, I'm not an attorney so I'm looking at Lines 109 to 111, and the meaning of this sentence kind of went over my head. I don't understand it.

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I would like to ask Representative Godfrey if he could explain it to me and I would be very appreciative of that.

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. I'm going to, this is a set of the new law that requires that children are treated the same way if they're posthumously conceived as we do for other circumstances, and this procedural question I will have to call on Representative Smith to understand. I'm an attorney but I don't practice probate law, so the process part is kind of beyond my ken.

DEPUTY SPEAKER MILLER:

Representative Noujaim, would you direct your question to Representative Smith.

REP. NOUJAIM (74th):

Definitely, Madam Speaker, and first and foremost I would like to extend the gratitude to Representative Godfrey for his answers, and thank God my irrevocable trust is untouched and I will be fine, hopefully for the future, and quite honestly, that's why I started

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to think about those things. I started to get worried about my trusts. I said, I'd better ask some questions about it.

And through you, Madam Speaker, to Representative Smith if I may, in Lines 109 to Line 111, I could (inaudible) but I would like to understand the meaning of those three lines, that sentence.

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith, will you respond, sir?

REP. SMITH (108th):

I will. Thank you Madam Speaker. This section of the bill deals with a scenario where a distribution has already been made to the beneficiaries and lo and behold, one discovers that there's a posthumously conceived child who is then making a claim. It's filed in the Superior Court. It's directed by the language of the bill and the lines that you're referring to indicate that the beneficiaries would generally be liable for their pro rata share of this other child that now has inheritance rights under the bill.

However, in the scenario where the beneficiaries have expended their inheritance already, or they've

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moved out of state or they're not otherwise subject to the jurisdiction of our courts, then their rights really stop there. So there's no further rights to go after them if the money has been expended or they're not subject to the jurisdiction of our courts, and that's really what those lines are referring to.

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Noujaim, you still have the Floor, sir.

REP. NOUJAIM (74th):

Thank you, Madam Speaker. Through you, Madam Speaker, so this means in a manufacturing term, the person is out of luck. Through you, Madam Speaker, is that correct?

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

That would be the layman's terms. Yes, Madam Speaker. Thank you.

DEPUTY SPEAKER MILLER:

You still have the Floor, sir.

REP. NOUJAIM (74th):

Thank you, Madam Speaker, I appreciate that.

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REP. FLEISCHMANN (18th):

Representative Perillo of the 113th.

REP. PERILLO (113th):

Madam Speaker, thank you very much. If I could, a few questions, through you, to the proponent of the bill.

DEPUTY SPEAKER MILLER:

Please frame your question, sir.

REP. PERILLO (113th):

Thank you very much. This is something that the Representative from New Canaan started to discuss earlier, and it is in specific reference to Lines 163 to 168. If the gentleman needs time to refer to that section.

I'm wondering if, I just want to clarify, so the after born child would have a right to only those assets that are left to the other children. Is that correct?

DEPUTY SPEAKER MILLER:

I'm sorry, sir. Will the House stand at ease, please.

(CHAMBER AT EASE.)

The House will come back to order.

Representative Perillo, would you please repeat your question directed to Representative Smith.

REP. PERILLO (113th):

Sure. The question was in relation to Lines 163 through 168. This is the way I read it, and I'm just wondering if it could be clarified.

As I see it, only those assets that are left to the children that are, that have been born would be available to the yet unborn child. Is that correct?

DEPUTY SPEAKER MILLER:

Representative Smith, would you care to respond, sir?

REP. SMITH (108th):

Sure, Madam Speaker, I'd be happy to. In looking at that section closely, when the intention of the testator is set out and it makes a specific limited provision for the living children at the time the will was executed, the posthumously conceived child would then share despite the language in the will under this section.

It would share as if the testator died intestate. So that's a lot of legalese there, so let me try to break it down for you.

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What would happen, and let's assume there's no spouse, so we'll keep it simple. There's two children that are living. The will provides for both children. Then we have a posthumously conceived child.

Under this language as I read it, the posthumously conceived child would then receive one-third as would the other two children. I think that's how my interpretation of that would be. Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo, you still have the Floor, sir.

REP. PERILLO (113th):

Thank you, Madam Speaker, and I think I understand that in the specific instance the Representative gave was and if there were no spouse and I guess we're assuming that 100 percent of the state were left to the children.

That is not precisely what I'm asking. I can envision a scenario where an individual has an estate and 40 percent of the estate is left to a charity of his or her choice and the remaining 60 percent is left to the children.

So would 100 percent of the estate be available to the yet unborn child, or would only be 60 percent that has been left to the children? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker. Now, this is one of the downsides of when you volunteer to help out, so I'm going to try to answer the question. I certainly practice probate law but I've never had the chance to get this far into the conversation.

But, based on my limited knowledge of probate, as I've explained here today, I think I will address the question as follows, but I could stand to be corrected.

I believe that the testator's intent in terms of the distribution to the charity would remain and I believe that the remaining 40 percent or 60 percent, whatever your scenario provided for then also would be distributed, based on if the testator died intestate so that the posthumously conceived child would then share equally with the other children.

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So my answer is, the provision of the will that goes to the charity remains. The other gets pro rata distribution. That's my estimate, and I'm getting a nod of yes, so I'm not bad. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker. So I'll take that to another step. So in this particular case let's stick with our 60/40, 40 being left to a charity and 60 percent being left to children.

I can envision a scenario where someone has three living children and has chosen only to give that remaining 60 percent to two.

Now, the language in Lines 163 to 168 references living children, does not reference living children who have been listed in the will. So am I to then assume that the one child who was living and who was not listed in the will is someone who would receive part of that estate? Are they now, is that child now in the mix, or would indeed the unborn child have rights to an estate that a previously born child does have? Through you, Madam Speaker.

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Representative Smith.

REP. SMITH (108th):

Madam Speaker, somehow I feel like I'm back in law school. The gentleman raises some very interesting questions, and just looking at the language, I think what's going to happen again, the language in here refers to the fact that the testator will be deemed to have died, and that is the person who drafted, who made the will, will be deemed to have died without having made a will.

So then it would be distributed according to the statutory shares that are set forth in our distribution statute. So in your scenario with the different children, it would be pro rata based on the children. If there was a spouse, the spouse would share, the children would share. If there was a spouse and parents and siblings, the distribution statute would take control in terms of who gets what because it is considered that the testator, the person who drafted the will died without a will under subsection e, if that's what you're referring to.

And I'm not sure if that answers your question, but we'll start there. Through you, Madam Speaker.

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Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker. I'm just going to follow up for my own clarification. I had thought this was in a situation where there was a will in place, or at least could include a situation where there was a will in place.

So am I wrong and this only refers to situations where there is not a will? Or could it also refer to situations where there is a will? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Again, we're dealing with existing law here and Section e is existing law. It's currently on the books and it deals with those situations where there is a will in place, but the way the statutes are currently drafted, is that it will, for those who are after born, the posthumously conceived now, it basically would throw that provision out of the will and then deal with the situation as if there was no will and then to a pro rata share based on the distribution statute.

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Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo, you still have the Floor,  
sir.

REP. PERILLO (113th):

Madam Speaker, thank you very much and I  
apologize. I know the Representative has the benefit  
of thinking back to when he was law school. I don't  
have that benefit. I did not go to law school. So in  
layman's terms could the gentleman just please repeat  
that so I very, very clearly understand it.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

I will try and do that. Thank you, Madam  
Speaker. So the way subsection e, which we're looking  
at Lines 163 to 168 of the bill is drafted, again,  
this is our statute as it exists today and then it  
would apply going forward.

But if the person who made a will had a limited  
provision, which applied only to his or her living  
children at the time when the will was executed, what  
the law does is, it says, you know what? We're going  
to set that will aside and for purposes of

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distribution we're going to treat it as if you did not have a will, and we'll look to the distribution statute and make a distribution based on what that says, as opposed to what your will says.

So in effect, it sets aside that provision of the will. When you're dealing again with only very limited situation going forward, posthumously conceived child, a limited time frame, after born children, but obviously they occur, so we're dealing with that now.

So when that situation occurs, the law says we're going to set the will aside and we're going to do a distribution based on what our statutes say and again, depending on who survives is how the distribution goes.

So if you have a spouse, she or he will share. If you have more children, they will share, et cetera and it goes down the line. I mean, the distribution statutes clearly set forth.

So that's about as, I guess as simple as I can try to make it. I can try again if I'm missing something, but through you, Madam Speaker.

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Representative Perillo, you still have the Floor,  
sir.

REP. PERILLO (113th):

Thank you, Madam Speaker, so as I understand that, an individual has a will. Went through the process, went to an attorney, obtained a will.

Should this situation occur, statute is now tossing aside that will, tossing aside those intentions, tossing aside those wishes and the government is now making the decision as to what's going to happen to that estate.

Is that correct?

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Thank you, and again, I guess the answer is yes, it is. But I would suggest to the good Representative that, as I indicated previously, most wills will have a provision in the will itself, in the document itself that will cover this, that will cover after born children.

So I leave my estate to my two children and any after born children, so that child is covered under my

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current will so this provision, we don't get to this provision.

In a scenario where it's not covered for after born children, then I guess we jump to subsection e. But to answer your question in a simple manner, I guess yes.

DEPUTY SPEAKER MILLER:

Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker, but I would imagine any will written today May 29th, any reference in that will to after born children, would I assume be in situations where perhaps a wife was pregnant at the time the will was executed and then the father subsequently passed away.

What we're doing here is a little bit different, so I guess my concern there is that while, perhaps, a husband and a wife, a father and a mother have signed a document stating that an egg and a sperm could be used for conception after one of their deaths, I don't know that in wills we've seen thus far anyone, any family member, or quite frankly, any attorney would have foreseen the instance that we're talking about today.

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So, I guess my question to the gentleman is, is he imagining that going forward, consideration for an unborn child, a yet to be conceived child, would be addressed in a will. Is that correct?

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Yes, I think, you know, a prudent lawyer will, if this bill becomes law and we start drafting new wills and we have knowledge of the fact that there is a contract that we described earlier where there is a possibility for a posthumously conceived child, then I think counsel should be given to both parties as to how to provide for that and what to do in that circumstance so that their wishes are covered.

Because ultimately, again, we're trying to strive to enforce and adhere to the testator's intent. So I think it will be covered. I think it will be addressed.

And I also just want to make clear for the Chamber that, you know, the current law is what it is. It's been in existence for over 25 years, actually longer than that in terms of the sections that we're talking about now, and the after born language that

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referred to in wills just doesn't deal with those situations where a woman suddenly becomes pregnant after the will is done.

I mean, I cannot tell you how many times that people will draft a will, they put it in their safe deposit box under the bed, wherever it may be, and years later they have a child.

Now, the very fact that they had a child does not invalidate the will and the language of the will that they did maybe ten years ago is still valid and probably has language in there that provides for this surprise child, so that he or she is covered under the will, so we don't get to this language that we're talking about.

But you know, the questions that have been raised today are great questions. I'm glad they've been asked. It's made me think a little bit on my fee here, so I encourage more and perhaps we can spend another couple of hours. So, through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you for that, sir. Representative Perillo, you still have the Floor, sir.

REP. PERILLO (113th):

Madam Speaker thank you very much. I'd like to shift gears ever slightly to again comments that were raised and questions that were raised by the Representative from New Canaan previously. The issue of pro rata allocation was brought up and I'd just like some clarity as to what that means and how that would work in practice. Obviously the definition of pro rata is proportional, but how would that come into a case, and I believe the Representative referred to a situation of the prodigal son where funds were distributed 60/40.

How would pro rata come into play in that case?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker, and again, let's assume for argument's sake that there are two children and one posthumously conceived, so we're dealing with three different children.

So as I understand how the pro rata distribution would be made and how it is currently made under our practice is that one third of the 60 percent and one-

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third of the 40 percent would go to that posthumously  
conceived child.

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker, and that does confirm  
what I thought and I appreciate that.

So in this case, one child has the right to 60  
percent of the assets, another child has the right to  
40 percent of the assets. One-third of 60 is 20 and  
one-third of 40 is actually 13.3, so in this case, the  
yet to be born child would be entitled to 33.3  
percent, or one full third of the estate.

The child to whom 40 percent was allocated would  
only have the right to only 27 percent of the estate.  
Is the intent of this legislation to give yet unborn  
children the right to more of the estate than children  
who have already been born?

DEPUTY SPEAKER MILLER:

Representative Smith. Representative Piscopo.

REP. PISCOPO (76th):

Yes, Madam Speaker, for a Point of Parliamentary  
Inquiry.

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DEPUTY SPEAKER MILLER:

Please proceed, sir.

REP. PISCOPO (76th):

Thank you, Madam Speaker. I'm under the understanding under our rules that only the proponent can answer those questions for legislative intent.

DEPUTY SPEAKER MILLER:

Will the Chamber please stand at ease.

(CHAMBER AT EASE.)

Representative Piscopo, a Member, I'm sorry, a Member is allowed to direct a question to any Member of the Chamber.

REP. PISCOPO (76th):

Thank you, Madam Speaker. In consultation on the dais with one of your Deputy Speakers who happens to be the proponent of this particular Amendment on the dais last week, he, I was instructed that only the proponent of the Amendment could answer a bill dealing with legislative intent.

DEPUTY SPEAKER MILLER:

Would the Chamber stand at ease.

(CHAMBER AT EASE.)

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The House is called back to order. The gentleman has raised a Parliamentary Inquiry. The gentleman has not raised a Point of Order.

The Parliamentary Inquiry relates to who questions can be direct to in debate. I will call the Members' attention to Mason's Section 114, which reads in part, if Members desire to ask a question of other Members, they may do so through the presiding officer.

The Chair wishes to emphasize that this section refers to other Members and not merely to the proponent. The Chair would observe that it has been a long-established custom of this Chamber to pose questions to the proponent of the Amendment, bill or other motion. This is because the proponent is expected to be the most knowledgeable about the measure and also is looked to for legislative intent.

Nevertheless, it is the custom of this Chamber as set forth in Section 114 to allow any Member to ask any other Member a question, even though that Member is not a proponent.

Representative Perillo, I believe you had the Floor, sir.

REP. PERILLO (113th):

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Thank you, Madam Speaker, if I may, through you,  
a question for Representative Godfrey.

DEPUTY SPEAKER MILLER:

Please proceed, sir.

REP. PERILLO (113th):

And thank you. I will repeat the question. The  
scenario that I gave led to a situation whereby two  
children who were left an estate at a ratio of 60/40  
were then joined by a child born after the death of  
one of the parents.

If you follow the pro rata that being  
proportional distribution, that would lead to a  
situation where the yet unborn child was left with the  
rights to one-third of the estate and one of the  
already living children was left with the rights to 27  
percent, so 6 percent less than the child that was yet  
unborn.

My question was, is the intent of the legislation  
to lead to such a situation where a yet unborn child  
is entitled to a greater share of an estate than a  
child that was already born?

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

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Thank you, Madam Speaker. The section he's referring to is current law. We make no changes to it. So however it would have worked out now, it will continue to work out.

All we are doing in this bill is adding the inheritance rights of posthumously conceived children to the list of children who are, who have inheritance rights and have long had those, so we're making no change to this part of the law whatsoever.

However it would have worked out now, it will continue to work out. We're making no changes.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo, you still have the Floor, sir.

REP. PERILLO (113th):

Thank you, Madam Speaker, and to the gentleman's point. We are, though, including an additional class of children, whereas the language as it exists right now refers to children who were conceived prior to the death of the parent.

What we are doing here today, as the gentleman knows, is adding additional class of individuals who were conceived after the death of a parent.

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So again, just to clarify, we are expecting that a father and/or mother would be in a situation whereby leaving a child that they had perhaps not conceived, no pun intended, would ever be alive, we're leaving that child with a greater percentage of the estate than a child that the decedent did know was alive.

So just to clarify. It doesn't have to be a long answer. Just to clarify.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. We're not changing the law in regard to the situation that Representative Perillo has outlined. We're just adding the posthumously conceived child to the list of already, of children conceived after the execution of a will or children who are born posthumously, so we're making no change.

It would continue to be resolved in the same way as it is now. We're making no change to that in existing language in this bill. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo.

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REP. PERILLO (113th):

Thank you, Madam Speaker and I thank the gentleman for his answer to the question. I think that does clarify what I was wondering about.

If I could ask another question, though, unfortunately we have to get into all the details of the what ifs. This is a situation that, you know, could take on many forms.

What would be the outcome if the child born after the deceased parent passes, there is nothing in the language here that would prohibit that surviving spouse to, you know, prohibit that surviving spouse from giving that child up to adoption.

What would happen if that surviving spouse chose to do that and chose to give that child up to adoption? Would they still fall within the parameters spelled in here?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

No. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo.

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REP. PERILLO (113th):

Thank you, Madam Speaker. And again, as an individual who is not as familiar with the statutes as the proponent of the bill, if he could just give me again, a brief scenario of why the answer is no. I'm not looking for anything terribly long, but I just want to clarify, through you.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker, because we're not changing any of the adoption laws. We're only changing the law as regarding the inheritance rights of a posthumously conceived child where the parents were a married couple and have a written document that sets forth the legitimacy actually, of the child.

So this doesn't touch on Representative Perillo's scenario in any way. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo, you still have the Floor, sir.

REP. PERILLO (113th):

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Thank you very much, Madam Speaker. And again, we get into the what ifs, so I would ask a question.

We've so far been speaking about a situation where one of the spouses passes, you know, obviously both have signed a document saying that there could be a conception after that death.

What would happen in a situation, and it's a horrible situation where both parents died and were killed in a car accident, what have you? What would be the scenario in that case? The sperm and the egg would still exist but neither of the parents is alive. What would be the relationship in this case? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

If both parents died, they can't have a child, so there are no inheritance rights to be dealt with whatsoever. What happens to the material is not contemplated within this law, this bill.

This bill is only about the inheritance rights of a child.

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In the scenario Representative Perillo has put out, there is no child, so the bill doesn't affect it whatsoever.

DEPUTY SPEAKER MILLER:

Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker, and I appreciate the answer.

I'm envisioning a scenario, you know again, the sperm and the egg exist in storage. The paperwork has been signed stating that the sperm and the egg can be utilized for the conception of a child.

Both parents die. Both parents have a will leaving everything they have to the living child. Do the sperm and the egg become assets that would be included in the estate and left to the child? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker, no. Human material is not, there is no property right in human material, so since it's not property, it can't be an asset.

Thank you, Madam Speaker.

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DEPUTY SPEAKER MILLER:

Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker. I understand that, but I would counter and again, this is just in my understanding of the law, limited as it may be, an individual can go to a sperm bank and sell their sperm. It is an asset. There is a transfer of consideration for that asset, so in that exchange the sperm functions as an asset, but in the exchange that the gentleman has just mentioned, he stated that that sperm is no longer an asset.

I'm wondering why in statute we treat the sperm differently in those two instances?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. The gentleman is wrong. It is never an asset because it's never property. And fertility clinics do provide consideration to donors of both eggs and sperm but they're not paying them for the material. They're paying them for their time.

If you, actually if you go onto the UConn website, it's explicitly set out there. There can be no ownership of a body. There can be no ownership of human parts. There can be custody, but there cannot be ownership.

So property law does not apply in there and the genetic material is never, ever an asset.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker, and I thank the gentleman for his answer in clearing up an issue about which I had a question.

If I could ask a little bit further about estates and what is left to an unborn child and divided toward the benefit of an unborn child.

You know, we've been speaking about wills. Would an insurance policy whereby two already born children are listed as the beneficiaries, would that also transfer to the yet unborn child? Would the unborn child be able to, in this particular case, obtain a third of the value of that policy? Through you, Madam Speaker.

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DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

We're making no change to the disposition of an insurance policy in this law, so however it works now, it will continue to work that way.

All this is about is the inheritance rights. We're adding to the list of people who have inheritance rights to an estate to children born within the lifetime of the parents, children who were posthumously born, and now to children who are posthumously conceived and born to have an interest in the, to have inheritance rights.

So there's no change in this bill to any of the scenarios that Representative Perillo has put forth.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Perillo, you still have the Floor, sir.

REP. PERILLO (113th):

Thank you, Madam Speaker and I appreciate that and I appreciate the gentleman's answer to the question.

This is obviously a situation where there are a number of questions, there are a number of variables and I think we do the State of Connecticut justice, and the residents of the state, by exploring all of those options and all of those potential scenarios.

So again, I appreciate the gentleman's time and his answers and his patience as I try to sort through some of those scenarios. Thank you very much, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Representative Candelora.

REP. CANDELORA (86th):

Thank you, Madam Speaker. Just a couple of questions to the proponent of the bill.

DEPUTY SPEAKER MILLER:

Please frame your question, sir.

REP. CANDELORA (86th):

Thank you, Madam Speaker. In listening to this debate I just had a couple of questions. Under Section 1 we're creating the contract that allows for these children to inherit and the effective date of it is October 1, 2013.

Would a married couple be able to enter into the contract prior to that date, and it would have force

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and effect, so if the person subsequently dies in November, 2013 or be effective, or does the contract that's executed need to be executed after October 1, 2013.

Through you Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey, would you care to respond, sir?

REP. GODFREY (110th):

Thank you, Madam Speaker. As I said a couple of times, we've bent over backwards and gone out of our way not to invalidate any existing contracts because they're out there. We don't know all of the details because of privacy rights to medical records, so we don't wish to invalidate them, so therefore yes, these contracts between married couples and a fertility clinic or whoever is the custodian of the material is, do remain in effect.

We're not made aware of any posthumously conceived children existing today. We did agonize over the effective date. We chose the regular effective date of October 1st because that's the date most of our laws go into effect anyway, particularly when they deal with court procedure and we're just

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hoping that none of these cases come forth in the next few months.

If it does, we're going to have to revisit this. I suspect we're beginning a journey with this and other related issues where science is so far ahead of the law we haven't had the opportunity to catch up yet.

We spent hours, Representative Smith and I, our comrades in the Senate, with Bill O'Shea over in LCO, with the Probate Administrator, with the Probate judges, with the Connecticut Bar Association just trying to hammer out these kind of questions, and this is our best available effort that we could put together under all of these circumstances and with all of these variables.

A little bit of arbitrariness, perhaps, but at some point we just had to make a decision and the Amendment in your hand is the result of that.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Candelora, you still have the Floor, sir.

REP. CANDELORA (86th):

Thank you, Madam Speaker and just in Lines 57 through 58 and 66 through 67, and this is under current law. If a parent wants to exclude a child from their will, they could certainly do so, and this language is still carried forward under this new bill.

And so, I'm envisioning that if an individual enters into a contract with their spouse, the child is born after the death of that individual, if in the will subsequent to the contract being signed, that individual decides that they want to expressly exclude any children that are born after their death, would they still have that ability under their will? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. Two points. There's no contract between spouses. We're not talking about a contract between spouses. It's a contract between the two spouses and the fertility clinic. That's the contract.

Within that contract, the disposition of the genetic material is expressly set out, what it can and can't be used for, and we are using that document as

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part of any court case that's brought under this to demonstrate that the intent of the married couple was to provide for the inheritance rights of the posthumously conceived children.

Now that said, of course, that can be amended and a subsequent will can change that, if it expressly says it should be changed. So we're not taking anything away from people who are making the wills. All we're doing is adding to those who have an inheritance, the list of those who have inheritance rights, children who are posthumously conceived and born. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Madam Speaker. I appreciate the answers to my questions. It's been an interesting debate and I think probably the result will end up being that we'll be making lawyers a lot more money in the State of Connecticut.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Representative LeGeyt of the 17th.

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REP.LEGEYT (17th):

Thank you, Madam Speaker. I rise to pose a couple of questions to the proponent of the bill, if I may.

DEPUTY SPEAKER MILLER:

Please frame your question, sir.

REP. LEGEYT (17th):

Thank you, Madam Speaker. Through you, in Lines 3 through 8, we're talking about framing the idea of a child who is conceived and born after the death, after the death of one of his or her parents.

And I'm wondering what happens in the circumstance where there's obstetrical malpractice during the birth and the child is born. It's a live birth, but there's obstetrical malpractice that occurs. I'm wondering who would make the claim and whether or not the child would need to be represented and/or if the estate has an involvement? Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey, will you care to respond, sir?

REP. GODFREY (110th):

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Thank you, Madam Speaker. The case would go to the Superior Court. It would be a medical malpractice case. There is no born child so there are no inheritance rights, so this bill doesn't deal with that scenario in the slightest.

All those does is add posthumously conceived and born children to the list of children who can inherit from their parents. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative LeGeyt, you still have the Floor, sir.

REP. LEGEYT (17th):

Thank you, and I appreciate the answer. I'm hoping the Representative understood that I meant that the birth occurred, it was a live birth and therefore we have a conceived and born child after the death of a parent, and I'm just wondering how that affects the process of a subsequent lawsuit for obstetrical malpractice and whether or not the estate is party to the claim and whether there would need to be representation for the child? Through you.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. Well, the estate wouldn't be a party. The child who was born, I didn't catch that part before, that makes a difference, would have a claim in the medical malpractice case and may have assets, that would matter, but they would be represented with a guardian ad litem in the malpractice case against the defendant in those cases.

This doesn't affect that case one way or the other.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Madam Speaker, and if the process proceeds and through that malpractice the child who is born live suffers a death, am I correct in expecting that a claim for wrongful death would be the result and that the estate would gain to benefit, or would the born child's estate benefit from the results of that court proceeding?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

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Thank you. The estate would not close. There wouldn't be a distribution until the malpractice case was concluded, and then if the child was awarded any, the child's estate was awarded any damages if the parent's estate was awarded any damages, then that would all be part of the continuing probate case, but the probate case would not be concluded until after the civil case was concluded.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative LeGeyt, you still have the Floor, sir.

REP. LEGEYT (17th):

Thank you very much, Madam Speaker and I appreciate that answer and the understanding that it brings.

My other question has to do with Line 67 with regard to, and I appreciate that Lines 54 through 62 and Lines 63 through 71 reference somewhat the same situation except for the effects of the birth. I'm not sure what AID in Line 59 is. If the proponent could share that with me.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

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REP. GODFREY (110th):

Thank you. Artificial Insemination Donor.  
That's existing law, kicked in about 1975. That's why  
that date is in that section. Back in 1975 the  
Legislature did make provisions for children born by  
artificial insemination donors. It was very discreet.  
It was very sensitive because in essence, especially  
where you were using an anonymous donor you needed to  
make sure there were no inheritance rights to the  
anonymous donor's estate.

So we copied that definitional section of what  
child and children and issue and all that good stuff  
means over and deliberately separately, to be used as  
the definitions where children born after the death of  
a decedent are involved.

So it's a little bit of parallel statutory  
construction. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, and I appreciate that reference. So  
therefore my question regarding Line 67 has to do with  
the language there that says, be deemed to include  
children born after the death of the decedent, and I'm

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wondering why it doesn't say be deemed to include children conceived and born after the death of the decedent.

It appears that the way it's referenced there it could also include children who were born, who were conceived prior to the death and is that the intent, that, is it the intent of Line 67 that it referred to children conceived and born after the death of the decedent?

Through you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker. It's any child born after the death of the decedent whether or not they were conceived before the decedent's death or after. It doesn't, for these definitional purposes, and this is just a definition section, just applies to children born after the decedent's death, so it really doesn't matter when they were conceived for the purposes of determining what a child is, what an heir is.

But then you go back to other sections of the law. Currently the law is on the books dealing posthumously born children but in those cases it

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depends, the assumption has long been and this actually goes back hundreds if not thousands of years, that the posthumously born children is indeed the heir of the estate in that case, of the father.

Modern science has changed when conception can take place, so this covers both of those situations.

Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Representative LeGeyt, you still have the Floor, sir.

REP. LEGEYT (17th):

Thank you, Madam Speaker. I appreciate those answers and the clarity they bring and I thank you for the courtesies.

DEPUTY SPEAKER MILLER:

Thank you, sir. Will you remark further? Will you remark further on the Amendment before us?

If not, let me try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER MILLER:

All those opposed, Nay. The Ayes have it and the Amendment is adopted.

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Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Madam Speaker, and I just want to extend some thanks. Clearly, as we have seen from the debate, this raised more questions than we had answers to. This raised more scenarios and possibilities than we could, and I appreciate the use of the word conceive of.

We had a lot of fun as we had the conversations about this, I will confess. But I do want to thank Representative Smith who has been just totally outstanding as we worked through the process part.

I want to give the same thanks to Senator Musto and to Senator Kelly who have reviewed this, offered criticisms and suggestions and solutions.

I want to thank Bill O'Shea over at LCO as he has waded through this whole process where he has, even over there, they hadn't contemplated the idea of posthumously conceived children. It is a new idea, and just working through it all with the cooperation of both Representative Gerry Fox and Representative Rebimbas, the Chair and Ranking Member of Judiciary,

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who were very helpful as we put together the working group on this.

But really, and most of all, I want to thank the Probate Court Administrator Paul Knierim. He has, he appreciated kind of the intellectual challenge as we began this. He grasped rapidly what this means to probate law in Connecticut and he, more than probably any other single person had more to do with what we see before us here today as anyone else. I want to thank him and his staff, Eddie Russo in particular for bird-dogging this thing through.

So I would encourage all of my colleagues to vote yes for House Bill 6694. Thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Will you remark further on the Amendment, the bill as amended? Representative Smith of the 108th.

REP. SMITH (108th):

Madam Speaker, I know we usually go first before Representative Godfrey, but I wasn't at my chair. So I just too, wanted to stand and thank Representative Godfrey and the Probate Court Administrator for the assistance. I was intrigued by the questions that were posed. It was nice to be peppered by my

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colleagues. It was an enjoyable afternoon, but I, too, ask my colleagues to support this bill.

I think we're stepping in the right direction in dealing with a situation that's here now and we're lucky we haven't had to deal with it in court yet.

So I thank everybody involved and thank the Chamber for their patience with the questions and answers and I look forward to this bill becoming law.

So thank you, Madam Speaker.

DEPUTY SPEAKER MILLER:

Thank you, sir. Will you remark further on the bill as amended? Will you remark further on the bill as amended?

If not, will staff and guests please come to the Well of the House. Will the Members please take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll.

The House of Representatives is voting by Roll.

Will Members please return to the Chamber immediately.

DEPUTY SPEAKER MILLER:

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Have all Members voted? Have all Members voted?  
Would the Members please check the board to determine  
if your vote is properly cast.

If all Members have voted, the machine will be  
locked and the Clerk will take a tally. The Clerk  
will please announce the tally.

THE CLERK:

Substitute House Bill 6694 as amended by House  
"A".

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	136
Those voting Nay	10
Those absent and not voting	4

DEPUTY SPEAKER MILLER:

The bill as amended is passed.

Will the Clerk please call Calendar Number 364.

THE CLERK:

On Page 45, Calendar Number 364, Favorable Report  
of the Joint Standing Committee on Judiciary,  
Substitute House Bill 6591 AN ACT REQUIRING THE  
EUTHANIZATIN OF ANY CAT OR DOG TO BE PERFORMED BY A  
LICENSED VETERINARIAN.

DEPUTY SPEAKER MILLER:

**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2013**

**VETO  
SESSION**

**VOL. 56  
PART 17  
5161 - 5482**

Madam President, two other items from the Calendar, Calendar page 13, Calendar 683, House Bill 6694, move to place the item on the Consent Calendar.

THE CHAIR:

Seeing no objections, sir, so ordered.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, Calendar page 21, Calendar 209, Senate Bill 1033, move to place on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, we might stand at ease for a moment. We are expecting another agenda from the House of Representatives.

THE CHAIR:

The Senate will stand at ease, sir.

(Chamber at ease.)

SENATOR LOONEY:

Madam President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Madam President, while we're waiting for Agenda Number 6, I believe the Clerk is in possession of Senate Agenda Number 5 for today's session.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, Madam President. Madam President, if the clerk would now list the items on the Consent Calendar and then if we might move immediately for a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

House Bill 6342, Senate Bill 430.

On page 9, Calendar 626, House Bill 6451.

On page 13, Calendar 683, House Bill 6694.

And on page 21, Calendar 209, Senate Bill 1033.

THE CHAIR:

At this point, I call for a roll call vote. The machine will be open for the last Consent Calendar of this session.

THE CLERK:

Immediate roll call has been ordered in the Senate.  
Senators please return to the chamber. Immediate roll call on Consent Calendar Number 3 has been ordered in the Senate.

THE CHAIR:

Senator Bartolomeo, would you like to join us in a vote. Thank you, ma'am.

Since all members have voted, all members have voted the machine shall be closed.

Mr. Clerk, will you call the tally.

THE CLERK:

Consent Calendar Number 3

Total Number Voting	35
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The Consent Calendar has passed.

At this time, I just want everybody to know that under Senate Resolution Number 33, I will appoint three members to inform the House of Representatives that the Senate is ready to meet in a joint convention.

Senator Bartolomeo, Senator Ayala and Senator Linares, take your time because they're not ready, but you're the three that are going to go when it's time to go.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, we have completed our work for the 2013 session with about 17 minutes to spare and thank everyone for their extraordinary work and dedication and commitment to institution of the General Assembly in the State of Connecticut and, Madam President, would move that the Senate stand adjourned sine die.

THE CHAIR:

Mozel Tov.

Ladies and gentlemen, congratulations.

Senator Williams.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 13  
4200 - 4477**

**2013**

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cip/jf/gbr JUDICIARY COMMITTEE

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10:00 A.M.

others thought about it. And, frankly, you know, I stood down on that one, so --

REP. FOX: Okay.

MOIRA BUCKLEY: -- I apologize if I can't give you anything constructive.

REP. FOX: That's fine. No, that's okay. Thank you. Other questions for Attorney Buckley? I don't see, okay. Thank you.

MOIRA BUCKLEY: Thank you.

REP. FOX: All right. I see. Paul Knierim.

PAUL KNIERIM: Good afternoon, Representative Fox, Senator Coleman, Representative Rebimbas, Members of the Committee. I'm Paul Knierim. I serve as probate court administrator.

We have submitted written testimony on three bills, and I'd like to just touch briefly on two of those this afternoon, the three being 6694 CONCERNING INHERITANCE RIGHTS OF CHILDREN BORN AFTER DEATH OF A MARRIED PARENT, 1162 CONCERNING UNIFORM ACTS AND POWERS OF ATTORNEY, and 6684 CONCERNING THE ESTABLISHMENT OF INTAKE REFERRAL AND INTERVENTION SYSTEM FOR MENTAL HEALTH SERVICES. It's the first two that I wanted to concentrate on with you.

6694 is a raised bill based on a bill that was introduced by Representative Godfrey. What it deals with is an area that I don't believe Connecticut law currently addresses, namely the inheritance rights of a child who is born and conceived after the death of the parent who is the donor of the genetic material that gave rise to the conception, that is, either the sperm or the eggs.

As I understand it, there are two common, I'll say, scenarios, not that it's frequent, but two common scenarios in which the circumstance arises. One is individual members of the military who, before a deployment, may undergo a medical procedure to preserve genetic material and similarly people who are anticipating undergoing a medical treatment that may, that has the possibility of rendering them infertile, and on the advice of doctor, they may preserve genetic material.

At present, looking at Connecticut statutes and case law, I see no answer to their question as to whether a child who is conceived after the death of a donor of genetic material would be considered a child for paternity or maternity purposes or more specifically for inheritance purposes.

Now, I see the issue as very specifically a public policy issue that seems to me exclusively in the province of the Legislature and not the probate courts. I am here on behalf of the system to testify that we think it would be useful to have an answer on this question, not to tell you what that answer ought to be but also to emphasize that the bill, as drafted, seeks to synchronize with estate settlement procedures for decedents' estates, which is a critical aspect, I think of a successful piece of legislation on this.

I would note also, just in practical terms, it is drafted, I think, in a manner that tries to be very specific in its applicability. A posthumously conceived child would be recognized for inheritance purposes only if three specific conditions are met.

And those are that the deceased parent had consented in writing before death to the use of

the genetic material for posthumous conception, that the procedure is done by a surviving spouse, so it is limited to a married-couples scenario, and thirdly, that the procedure would be performed within one year of the date of death of the deceased parents, spouse, I should say.

Again, I think it's very important to sync this up with the state settlement procedures. I would urge caution and study. This, I think, is a new subject for the Legislature to consider. As drafted, the bill would treat the claim of a child seeking to establish inheritance rights in the same manner as the claim of a creditor against a decedent's estate.

I'm not sure that's the perfect mechanism to handle it, because it's rather limiting in the time period in which a claim could be made and the manner in which the claim is presented to the court. There are other states who have dealt with this. There is a uniform act that is not of recent vintage but also seeks to cover this topic and that those obviously can be useful resources. They run the gamut, I should say.

This is a proposal to allow for the procedure within one year of the date of death. There are states that have a ten-month or one-year, three years. I believe the Uniform Parentage Act is actually open ended without a time limit on it. So there are a variety of ways of handling this.

Shifting to, for a moment, 1162 concerning two uniform acts and powers of attorney, it's one of those uniform acts that we as a probate court system wish to be heard on, and that's the transfer on death of real property

While it strikes me as logical that the person executing the power of attorney could specify the means of revocation, the use of that word exclusive means at least appears to suggest that it would override the authority of a probate court to terminate the power of attorney when a conservatorship is established.

Existing law provides that while a probate court uses conservatorship only as a last resort and not if there is an adequate power of attorney relationship already in place that's functioning, but if that last resort is used to appoint a conservator, the effect of the conservatorship is to terminate the power of attorney.

And we think that's a critical and useful tool for dealing with circumstances in which the attorney, in fact, is acting, maybe neglecting the duties or, worse, is acting improperly. So we would recommend against adoption of that. Thank you very much for the time and interest.

REP. FOX: Thank you, Judge Knierim. Representative Godfrey, did you have --

REP. GODFREY: Thank you, Mr. Chairman. Your Honor, nice to see you.

PAUL KNIERIM: Good afternoon.

REP. GODFREY: Thank you for your testimony on the inheritance rights of posthumously conceived children. We've talked about this for several months now, and I just want to focus on really that we do need a statute.

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This can't be kind of left to flounder around without some kind of policy determination by the General Assembly to decide, number one, whether or not there should be inheritance

rights for posthumously conceived children, and then, if so, how do you execute the, this, these inheritance laws through the probate system?

And my concern is pressing, because there is a U.S. Supreme Court case on the issue this, that pretty much leaves this determination to the states. But what flows from that is the eligibility for things like Social Security survivorship benefits. And more and more, this is a popular practice among men and women who are being deployed into places like Afghanistan.

So there would be a question of military survivorship benefits that would not accrue under the Supreme Court case unless state law says there are inheritance rights. Am I pretty accurate?

PAUL KNIERIM: Yes, I'd completely agree with your read on that. Provisions of federal law defer to state law on the topic, and so a Supreme Court case looking at this looked right at state law to decide whether under particular circumstances a child was eligible for Social Security benefits.

I think the same would prevail for, as you say, military benefits and other items that are closely related to inheritance but a little different from, such as beneficiary designations on 401Ks or individual retirement accounts, life insurance policies and so forth.

REP. GODFREY: And assuming we do agree that there are inheritance rights and we put that in statute, then we do have the question of what conditions, if any, actually need to be applied to this.

The bill has three, first, an authorization in writing, and we have, you and I working on this have found that there is actually requirements by those who are providing fertility services in this state that contracts actually have to be signed among the two married, the married spouses, because it is a property interest that they have which would also, from which also would flow the fact that this needs to be included in an inventory in a decedent's estate and that the writing then does exist.

It's not like we're, have to create a new set of forms for the probate courts, that it is limited to a surviving spouse, we're not talking about surrogacy, we're not talking about artificial insemination, we're not talking about any of these other occurrences where science seems to have been ahead of the statutes, and then putting some kind of statute of limitations, a time limit on, in which a conception could take place, which is so that there, so that the estate can be closed so that the property can be distributed without having to worry about sometime in the next 60 years that there'll be another potential heir, whether intestate or testate, the purpose for the year.

PAUL KNIERIM: The one-year provision, I think, links up well with the expectation that most decedents' estates are settled in the course of one year. And in fact when a probate court issues an order appointing an administrator or executor, I'll say that's boiler plate language that the fiduciary is charged with completing the administration in the course of one year.

I think that a topic that warrants thought on this is how we deal with a circumstance where through no fault of the child's the fact of the preserved genetic material and the conception

isn't disclosed to the court. And courts certainly have tools such as the appointment of a guardian ad litem to deal with that and not leave open the prospect that a claim may come years later. But I think that warrants a good deal of thought vis a vis Connecticut procedure to make sure that it's not an entirely open-ended issue.

REP. GODFREY: Thank you.

PAUL KNIERIM: Thank you.

REP. FOX: Representative Smith.

REP. SMITH: Thank you, Mr. Chairman. Just talking about the same bill, why are we limited to the, just the spouse, because I can see other scenarios where you're going to have, you know, a donation made, and it's going to be sitting there, and there's going to be a child born, and what happens in that scenario?

PAUL KNIERIM: Thank you, Representative. I think it's a great question, and I put that in the category of the public policy that's more your bailiwick than mine. In its defense though, as drafted, I would say it keeps the focus of the bill. It's not addressing all the various scenarios that might exist out there. Instead, it's addressing what I think is the most typical scenario. And it aligns with current Connecticut law.

We have our AID statute, Artificial Insemination with Donated genetic material, already on the books. That doesn't deal at all with posthumous conception, but it does deal with inheritance rights and paternity and maternity and so forth when a couple is using medical technology to conceive of a child. And that statute too is limited to married couples.

But I think the topic is fair game for discussion, by all means.

REP. SMITH: Well, certainly the public policy of the state has been and will continue to be to promote husband and wife and children through marriage, et cetera, and I certainly promote that as well, but as we all know, there are children who are born out of wedlock constantly, and those rights are out there.

And while this may be a good first step, the sooner we can get this out of the Committee and have it become a law, I suspect not before long we'll be dealing with that issue. So it's probably something the Committee would, should take a good look at and try to figure out some procedure for that when it does occur, because I think it will occur. But I appreciate the fact that it's more our burden than yours, so thanks for that.

PAUL KNIERIM: Mm-hmm, quite welcome.

REP. SMITH: The last question I had, just shifting gears on the power of attorney bill --

PAUL KNIERIM: Yes.

REP. SMITH: -- right now, I was just trying to make sure I understood your testimony. I was trying to look at the statute at the same time you were testifying. Once you appoint, or once the probate court appoints a conservator, does that now, under existing law, terminate the power of attorney?

PAUL KNIERIM: It does, right.

REP. SMITH: And then, so this proposed bill would seek to change that, is that what I understand?

PAUL KNIERIM: It doesn't do so explicitly, but my interpretation of the language in the amendment amending the short-form power of attorney bill is by enabling the principal to specify the exclusive means of revocation, it appears to me to at least raise the question and perhaps is the intent of the legislation to preclude that.

REP. SMITH: And that's a fair question, so I guess we could, if it's the Committee's wish to change that language, to make it clear that power or the appointment by the probate court would supersede any type of opportunity that may exist whether it was revoked or not. So I guess we could probably clear that up assuming that's the intent of the Committee.

PAUL KNIERIM: Certainly. I think a clause saying, except as provided in 45a-562, would take care of it that easily.

REP. SMITH: And I just remembered one other question about the third bill you testified about, which was the, I, when you're dealing with real property and the survivorship of real property. Right now, under current law, if I own a real, a piece of property and joint survivorship, upon my death it automatically goes to the survivor.

Do the creditors right now have a right against that piece of property that has gone to the survivor? Is there any type of right of the creditor to go after that asset?

PAUL KNIERIM: I don't believe so. I think there is a statute that addresses the issue with joint bank accounts. But to the best of my recollection, there isn't a statutory framework for creditors' rights as to survivorship real property.

REP. SMITH: I didn't think so either, but I was trying to, again, follow your language and look at the testimony. So I wasn't sure if we're trying to change that at all, in which I suspect we're not through the bill that's before us.

PAUL KNIERIM: Agreed, it doesn't appear -- if this proposal were to be adopted, I think the outcome would be similar to survivorship real estate except that there is some specific provision for the rights of creditors. The point I was trying to emphasize, and I think, again, it's one of these issues that's a public policy issue not so much for the probate courts but more for the General Assembly.

My role trying to point out the implications is that it would establish an avenue for disposition of property that is different from the framework that otherwise applies and in the past, at least for transfer on death for securities, the Legislature has sought to link it to the decedent's estate settlement process.

REP. SMITH: It's always fascinating to delve into these questions, so I thank you for your testimony.

PAUL KNIERIM: Yes, it is. Thank you.

SENATOR COLEMAN: Are there other Members with questions? Representative Wright.

REP. WRIGHT: Thank you, Mr. Chairman. Good afternoon, Judge.

PAUL KNIERIM: Good afternoon, Representative.

REP. WRIGHT: Thank you for your testimony and for raising your concerns about the sections 14 through 33 of Raised Bill 1162. But I

REP. FOX: Good afternoon, Judge.

PAUL KNIERIM: Good afternoon, Representative.

REP. FOX: Thank you for being here. Just a few quick questions on Raised Bill 6694. The bill, as proposed, particularly towards the end, if a child is conceived and born through this process, that child is permitted to have the same rights or inheritance percentage that the decedent's other children would have regardless of whether or not the child born through this process was included in the decedent's will.

And I'm just curious, because I know earlier in the statute there's the particular section where the decedent outlines the intentions and the wishes of the manner by which this process is to be, is to evolve.

And I'm curious to know if at the same point in that process if it would make sense or what your opinion would be for the decedent in drafting that resolution, which I presume would be submitted to the court, to also include language as to that child's inheritance rights, because ultimately what could happen is you could have a, you could have three beneficiaries whose interests are specifically included in a will and then ultimately a fourth beneficiary who's not included in the will.

I'm just, you'd be interpreting wishes of a decedent that are not specifically laid out in that individual's will. I didn't know if you had any thoughts as to that.

PAUL KNIERIM: Hmm. Thank you. I think the draft takes a logical approach to the issue in availing the existing statutory framework that deals with after-born children, that is to say,

children who are born or adopted after the will has been executed.

Now, in my experience, the typical will that is drafted when an individual or a couple have already some children but anticipate having additional children is going to be flexible in its terms. It's going to provide for all or a portion of the estate to go to children in equal shares and deal with the issue of predeceased children also.

So this really comes up that scenario where an individual may not have any children at all, in common experience I'm now saying, or had some specific provisions and really didn't anticipate ever having additional children.

The exiting statutory framework, I think, deals with it quite well in superimposing a state assumption, I'll call it that, that the person, had she or her known that he or she would have additional children, would have treated them equally unless there's explicit provision to the contrary, or there is some other provision perhaps outside the estate, life insurance policy or something else, that was the means by which the individual sought to provide for that child.

That seems to me a pretty well thought-through statute, and it functions as well with after-born or adopted as I think it would in this scenario. I suppose the only caution I would say about using the written consent for subsequent use of preserved genetic material is then we have a potential for conflict between the will --

REP. FOX: Right.

PAUL KNIERIM: -- which in our law generally we try to give primacy to the will over all else versus some other written document. So I think as a public policy matter, it probably makes more sense to push people in the direction of tending to their estate planning documents and if they haven't, having state law answer the question that might arise.

REP. FOX: Okay. And thank you. And just one more quick question. It's from a procedural perspective. On this bill, the -- and it sets up the 12-month timeframe -- would you anticipate the court, should this situation arise, and maybe obviously limited circumstances, would the court issue a ruling upon that 12-month, expiration of that 12-, because it will, practical effect is that it could hold up estate proceedings for potentially 12 months plus nine, nine and a half months, upwards potentially of two years.

Would the court file a, notify parties or the executor or someone along those lines, just, hey, 12-month period has come, it has gone, proceed as you would for this situation not presented?

PAUL KNIERIM: I think we'd want to do exactly what I hear you suggesting, which is have a rule of procedure by which a court, when disclosure has been made of preserved genetic material, and it's been indicated on the inventory that there was written consent to use, that at the 12-month mark or a subsequent point when distribution is occurring that the court would make a specific finding, probably in connection with approval of the fiduciary's final account --

REP. FOX: Right.

PAUL KNIERIM: -- and proposed distribution that either there was a child conceived by this mechanism or not.

REP. FOX: Mm-hmm.

PAUL KNIERIM: I think that would be very logical.

REP. FOX: Okay. Thank you.

PAUL KNIERIM: Thank you.

SENATOR COLEMAN: Senator McLachlan.

SENATOR MCLACHLAN: Thank you, Mr. Chairman. Thank you, Attorney Knierim, for your testimony. Your written testimony on Bill 6684 references Melissa's Project.

PAUL KNIERIM: Yes.

SENATOR MCLACHLAN: And I wonder if Melissa's Project, this is the limited resource program that's available just in certain communities in Connecticut, and --

PAUL KNIERIM: Correct.

SENATOR MCLACHLAN: Thank you. And so that has been expanded recently in the legislation from a couple of weeks ago. Is the probate court system in Connecticut able to handle those challenges in communities where that pilot program is not available? So here's a case scenario.

PAUL KNIERIM: Mm-hmm.

SENATOR MCLACHLAN: A single person, homeowner, mental health challenges to a great degree, and the financial picture is collapsing around them because of their inability to deal with their

abuser was going to be released. She had not informed us because she was not aware of the pending release and she was able to confirm that the story was correct. After ten years of living in Connecticut, the family had to abruptly uproot themselves within one week, flee to Puerto Rico to live. The family -- the family was broken up and the children were sent to live with different family members in Puerto Rico and across the United States. We attempted our best to coordinate services across states, but we were unable to put them in all in place since the children and their mother had been separated.

Two years later the family was not doing well, the mother had used the care coordination model and her acquired advocacy skills that she learned as part of No More Crumbs Coalition to access services for her family. But they were not able to get the trauma informed care they needed, and they desperately wanted to be together. The perpetrator had moved out of state and she wanted to come back to Connecticut. I am still at Clifford Beers Clinic, but now I have responsibilities as a family advocate. The family is working hard to move on with their lives.

Please pass Bill 6702 so that other families do not have to go through what William's family went through. If passed, the perpetrator would have to give up his weapons when a protective order is mandated and the parole officer would have to inform the court victim advocate which would have given us more time to put a care plan in place. Please do not let this happen to another family. Thank you for your time.

SENATOR COLEMAN: Thank you.

Are there questions for Ms. Serrecchia?

Seeing none, we appreciate your testimony.

PAOLA SERRECCHIA: Thank you.

SENATOR COLEMAN: David McGuire is next.

DAVID MCGUIRE: Senator Coleman and members of the Judiciary Committee, my name is David McGuire, I'm a Staff Attorney for the American Civil Liberties Union of Connecticut and I'm here to oppose Raised Bill 6698, AN ACT CONCERNING GRAND JURY REFORM.

Currently the grand jury system is reserved for circumstances and may only be employed for specific types of crime in Connecticut. This bill would remove necessary safeguards that protect innocent people's Fourth Amendment rights for the most powerful investigative tool available to prosecutors.

This bill would practically invite constitutional violations by making it significantly easier for prosecutors to convene a grand jury and will substantially increase the number of grand jury applications made and granted as well as result in overly broad and invasive investigations.

Currently applications for an investigation into the commission of crime require the applicant to reasonably believe that the investigation will lead to a probable cause that a crime has been committed. This standard is absolutely key. The bill -- this current bill would eviscerate the current well-settled standard by only requiring the applicant to assert that the, quote, interest of justice, close quote, require the use of an investigatory grand jury.