



# House of Representatives

General Assembly

**File No. 481**

February Session, 2008

Substitute House Bill No. 5908

*House of Representatives, April 4, 2008*

The Committee on Human Services reported through REP. VILLANO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF THE DEPARTMENT OF CHILDREN AND FAMILIES.***

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

1 Section 1. (NEW) (*Effective October 1, 2008*) No state agency shall  
2 license or enter into a contract with a person or entity to operate a  
3 residential facility for persons under the supervision, care or custody  
4 of such agency in a facility, institution or home previously operated by  
5 a person or entity licensed by the Commissioner of Children and  
6 Families pursuant to section 17a-145 of the 2008 supplement to the  
7 general statutes to care for or board a child unless the department head  
8 of such state agency notifies the chief executive officer of the  
9 municipality in which such facility, institution or home is located and  
10 the legislative body of such municipality approves such change in  
11 operation.

12 Sec. 2. (NEW) (*Effective October 1, 2008*) Any contract entered into by  
13 the Department of Children and Families with a person or entity for  
14 the operation of a residential facility licensed pursuant to section 17a-

15 145 of the 2008 supplement to the general statutes shall contain  
16 provisions requiring such person or entity to comply with any state  
17 statute, regulation and local ordinance concerning the safety of  
18 residents and noise levels.

19 Sec. 3. Subsection (b) of section 17a-28 of the 2008 supplement to the  
20 general statutes is repealed and the following is substituted in lieu  
21 thereof (*Effective October 1, 2008*):

22 (b) Notwithstanding the provisions of section 1-210 of the 2008  
23 supplement to the general statutes, 1-211 or 1-213, records maintained  
24 by the department shall be confidential and [shall not be disclosed.  
25 Such records of any person] may only be disclosed, in whole or in part,  
26 to any individual, agency, corporation or organization with the  
27 consent of the person or as provided in this section. Any unauthorized  
28 disclosure shall be punishable by a fine of not more than one thousand  
29 dollars or imprisonment for not more than one year, or both. Any  
30 employee of the department who in the ordinary course of such  
31 person's employment has reasonable cause to suspect or believe that  
32 another employee has engaged in the unauthorized disclosure of  
33 records shall transmit all facts and information concerning such  
34 unauthorized disclosure to the commissioner.

35 Sec. 4. Subdivision (1) of subsection (b) of section 4-61dd of the  
36 general statutes is repealed and the following is substituted in lieu  
37 thereof (*Effective October 1, 2008*):

38 (b) (1) No state officer or employee, as defined in section 4-141, no  
39 quasi-public agency officer or employee, no officer or employee of a  
40 large state contractor and no appointing authority shall take or  
41 threaten to take any personnel action against any state or quasi-public  
42 agency employee or any employee of a large state contractor in  
43 retaliation for such employee's or contractor's disclosure of  
44 information to (A) an employee of the Auditors of Public Accounts or  
45 the Attorney General under the provisions of subsection (a) of this  
46 section; (B) an employee of the state agency or quasi-public agency  
47 where such state officer or employee is employed; (C) an employee of

48 a state agency pursuant to a mandated reporter statute or pursuant to  
49 subsection (b) of section 17a-28 of the 2008 supplement to the general  
50 statutes, as amended by this act; or (D) in the case of a large state  
51 contractor, an employee of the contracting state agency concerning  
52 information involving the large state contract.

53 Sec. 5. Section 46b-129 of the 2008 supplement to the general statutes  
54 is repealed and the following is substituted in lieu thereof (*Effective*  
55 *October 1, 2008*):

56 (a) Any selectman, town manager, or town, city or borough welfare  
57 department, any probation officer, or the Commissioner of Social  
58 Services, the Commissioner of Children and Families or any child-  
59 caring institution or agency approved by the Commissioner of  
60 Children and Families, a child or such child's representative or  
61 attorney or a foster parent of a child, having information that a child or  
62 youth is neglected, uncared-for or dependent, may file with the  
63 Superior Court that has venue over such matter a verified petition  
64 plainly stating such facts as bring the child or youth within the  
65 jurisdiction of the court as neglected, uncared-for or dependent, within  
66 the meaning of section 46b-120 of the 2008 supplement to the general  
67 statutes, the name, date of birth, sex and residence of the child or  
68 youth, the name and residence of such child's parents or guardian, and  
69 praying for appropriate action by the court in conformity with the  
70 provisions of this chapter. Upon the filing of such a petition, except as  
71 otherwise provided in subsection (k) of section 17a-112, the court shall  
72 cause a summons to be issued requiring the parent or parents or the  
73 guardian of the child or youth to appear in court at the time and place  
74 named, which summons shall be served not less than fourteen days  
75 before the date of the hearing in the manner prescribed by section 46b-  
76 128, and the court shall further give notice to the petitioner and to the  
77 Commissioner of Children and Families of the time and place when  
78 the petition is to be heard not less than fourteen days prior to the  
79 hearing in question.

80 (b) If it appears from the specific allegations of the petition and

81 other verified affirmations of fact accompanying the petition and  
82 application, or subsequent thereto, that there is reasonable cause to  
83 believe that (1) the child or youth is suffering from serious physical  
84 illness or serious physical injury or is in immediate physical danger  
85 from the child's or youth's surroundings, and (2) that as a result of said  
86 conditions, the child's or youth's safety is endangered and immediate  
87 removal from such surroundings is necessary to ensure the child's or  
88 youth's safety, the court shall either (A) issue an order to the parents or  
89 other person having responsibility for the care of the child or youth to  
90 appear at such time as the court may designate to determine whether  
91 the court should vest in some suitable agency or person the child's or  
92 youth's temporary care and custody pending disposition of the  
93 petition, or (B) issue an order ex parte vesting [in some suitable agency  
94 or person] the child's or youth's temporary care and custody with a  
95 grandparent or other relative by blood or marriage, in some suitable  
96 agency or with some other person found to be suitable and worthy of  
97 such responsibility by the court. A preliminary hearing on any ex parte  
98 custody order or order to appear issued by the court shall be held not  
99 later than ten days after the issuance of such order. The service of such  
100 orders may be made by any officer authorized by law to serve process,  
101 or by any probation officer appointed in accordance with section 46b-  
102 123, investigator from the Department of Administrative Services, state  
103 or local police officer or indifferent person. Such orders shall include a  
104 conspicuous notice to the respondent written in clear and simple  
105 language containing at least the following information: (i) That the  
106 order contains allegations that conditions in the home have  
107 endangered the safety and welfare of the child or youth; (ii) that a  
108 hearing will be held on the date on the form; (iii) that the hearing is the  
109 opportunity to present the parents' position concerning the alleged  
110 facts; (iv) that an attorney will be appointed for parents who cannot  
111 afford an attorney; (v) that such parents may apply for a court-  
112 appointed attorney by going in person to the court address on the form  
113 and are advised to go as soon as possible in order for the attorney to  
114 prepare for the hearing; and (vi) if such parents have any questions  
115 concerning the case or appointment of counsel, any such parent is

116 advised to go to the court or call the clerk's office at the court as soon  
117 as possible. Upon application for appointed counsel, the court shall  
118 promptly determine eligibility and, if the respondent is eligible,  
119 promptly appoint counsel. The expense for any temporary care and  
120 custody shall be paid by the town in which such child or youth is at  
121 the time residing, and such town shall be reimbursed for such expense  
122 by the town found liable for the child's or youth's support, except that  
123 where a state agency has filed a petition pursuant to the provisions of  
124 subsection (a) of this section, the agency shall pay such expense. The  
125 agency shall give primary consideration to placing the child or youth  
126 in the town where such child or youth resides. The agency shall file in  
127 writing with the clerk of the court the reasons for placing the child or  
128 youth in a particular placement outside the town where the child or  
129 youth resides. Upon issuance of an ex parte order, the court shall  
130 provide to the commissioner and the parent or guardian specific steps  
131 necessary for each to take to address the ex parte order for the parent  
132 or guardian to retain or regain custody of the child or youth. Upon the  
133 issuance of such order, or not later than sixty days after the issuance of  
134 such order, the court shall make a determination whether the  
135 Department of Children and Families made reasonable efforts to keep  
136 the child or youth with his or her parents or guardian prior to the  
137 issuance of such order and, if such efforts were not made, whether  
138 such reasonable efforts were not possible, taking into consideration the  
139 child's or youth's best interests, including the child's or youth's health  
140 and safety.

141 (c) In any proceeding under this section, any grandparent or other  
142 relative by blood or marriage of the child or youth may make a motion  
143 to intervene and the court shall grant such motion except for good  
144 cause shown. Upon the granting of such motion, such grandparent or  
145 other relative by blood or marriage may appear by counsel or in  
146 person. In any proceeding in which a grandparent or other relative by  
147 blood or marriage intervenes under this section, there shall be a  
148 rebuttable presumption that placement with such grandparent or  
149 relative by blood or marriage is in the best interests of such child or  
150 youth. This presumption may be rebutted by clear and convincing

151 evidence that such placement is not in the best interests of such child  
152 or youth.

153 (d) The preliminary hearing on the order of temporary custody or  
154 order to appear or the first hearing on a petition filed pursuant to  
155 subsection (a) of this section shall be held in order for the court to: (1)  
156 Advise the parent or guardian of the allegations contained in all  
157 petitions and applications that are the subject of the hearing and the  
158 parent's or guardian's right to counsel pursuant to subsection (b) of  
159 section 46b-135 of the 2008 supplement to the general statutes; (2)  
160 assure that an attorney, and where appropriate, a separate guardian ad  
161 litem has been appointed to represent the child or youth in accordance  
162 with subsection (b) of section 46b-123e of the 2008 supplement to the  
163 general statutes and sections 46b-129a and 46b-136 of the 2008  
164 supplement to the general statutes; (3) upon request, appoint an  
165 attorney to represent the respondent when the respondent is unable to  
166 afford representation, in accordance with subsection (b) of section 46b-  
167 123e of the 2008 supplement to the general statutes; (4) advise the  
168 parent or guardian of the right to a hearing on the petitions and  
169 applications, to be held not later than ten days after the date of the  
170 preliminary hearing if the hearing is pursuant to an order of temporary  
171 custody or an order to show cause; (5) accept a plea regarding the truth  
172 of such allegations; (6) make any interim orders, including visitation,  
173 that the court determines are in the best interests of the child or youth.  
174 The court, after a hearing pursuant to this subsection, shall order  
175 specific steps the commissioner and the parent or guardian shall take  
176 for the parent or guardian to regain or to retain custody of the child or  
177 youth; (7) take steps to determine the identity of the father of the child  
178 or youth, including ordering genetic testing, if necessary, and order  
179 service of the petition and notice of the hearing date, if any, to be made  
180 upon him; (8) if the person named as the father appears, and admits  
181 that he is the father, provide him and the mother with the notices that  
182 comply with section 17b-27 and provide them with the opportunity to  
183 sign a paternity acknowledgment and affirmation on forms that  
184 comply with section 17b-27. Such documents shall be executed and  
185 filed in accordance with chapter 815y and a copy delivered to the clerk

186 of the superior court for juvenile matters; and (9) in the event that the  
187 person named as a father appears and denies that he is the father of the  
188 child or youth, advise him that he may have no further standing in any  
189 proceeding concerning the child, and either order genetic testing to  
190 determine paternity or direct him to execute a written denial of  
191 paternity on a form promulgated by the Office of the Chief Court  
192 Administrator. Upon execution of such a form by the putative father,  
193 the court may remove him from the case and afford him no further  
194 standing in the case or in any subsequent proceeding regarding the  
195 child or youth until such time as paternity is established by formal  
196 acknowledgment or adjudication in a court of competent jurisdiction.

197 (e) If any parent or guardian fails, after service of such order, to  
198 appear at the preliminary hearing, the court may enter or sustain an  
199 order of temporary custody.

200 (f) Upon request, or upon its own motion, the court shall schedule a  
201 hearing on the order for temporary custody or the order to show cause  
202 to be held not later than ten days after the date of the preliminary  
203 hearing. Such hearing shall be held on consecutive days except for  
204 compelling circumstances or at the request of the parent or guardian.

205 (g) At a contested hearing on the order for temporary custody or  
206 order to appear, credible hearsay evidence regarding statements of the  
207 child or youth made to a mandated reporter or to a parent may be  
208 offered by the parties and admitted by the court upon a finding that  
209 the statement is reliable and trustworthy and that admission of such  
210 statement is reasonably necessary. A signed statement executed by a  
211 mandated reporter under oath may be admitted by the court without  
212 the need for the mandated reporter to appear and testify unless called  
213 by a respondent or the child, provided the statement: (1) Was provided  
214 at the preliminary hearing and promptly upon request to any counsel  
215 appearing after the preliminary hearing; (2) reasonably describes the  
216 qualifications of the reporter and the nature of his contact with the  
217 child; and (3) contains only the direct observations of the reporter, and  
218 statements made to the reporter that would be admissible if the

219 reporter were to testify to them in court and any opinions reasonably  
220 based thereupon. If a respondent or the child gives notice at the  
221 preliminary hearing that he intends to cross-examine the reporter, the  
222 person filing the petition shall make the reporter available for such  
223 examination at the contested hearing.

224 (h) If any parent or guardian fails, after due notice of the hearing  
225 scheduled pursuant to subsection (g) of this section and without good  
226 cause, to appear at the scheduled date for a contested hearing on the  
227 order of temporary custody or order to appear, the court may enter or  
228 sustain an order of temporary custody.

229 (i) When a petition is filed in said court for the commitment of a  
230 child or youth, the Commissioner of Children and Families shall make  
231 a thorough investigation of the case and shall cause to be made a  
232 thorough physical and mental examination of the child or youth if  
233 requested by the court. The court after hearing may also order a  
234 thorough physical or mental examination, or both, of a parent or  
235 guardian whose competency or ability to care for a child or youth  
236 before the court is at issue. The expenses incurred in making such  
237 physical and mental examinations shall be paid as costs of  
238 commitment are paid.

239 (j) Upon finding and adjudging that any child or youth is uncared-  
240 for, neglected or dependent, the court may commit such child or youth  
241 to the Commissioner of Children and Families. Such commitment shall  
242 remain in effect until further order of the court, except that such  
243 commitment may be revoked or parental rights terminated at any time  
244 by the court, or the court may vest such child's or youth's care and  
245 personal custody with a grandparent or other relative by blood or  
246 marriage of such child or youth, in any private or public agency that is  
247 permitted by law to care for neglected, uncared-for or dependent  
248 children or youths or with any other person or persons found to be  
249 suitable and worthy of such responsibility by the court. There shall be  
250 a rebuttable presumption that placement of such child or youth with a  
251 grandparent or other relative by blood or marriage is in the best

252 interests of such child or youth. The court shall order specific steps that  
253 the parent must take to facilitate the return of the child or youth to the  
254 custody of such parent. The commissioner shall be the guardian of  
255 such child or youth for the duration of the commitment, provided the  
256 child or youth has not reached the age of eighteen years or, in the case  
257 of a child or youth in full-time attendance in a secondary school, a  
258 technical school, a college or a state-accredited job training program,  
259 provided such child or youth has not reached the age of twenty-one  
260 years, by consent of such youth, or until another guardian has been  
261 legally appointed, and in like manner, upon such vesting of the care of  
262 such child or youth, such other public or private agency or individual  
263 shall be the guardian of such child or youth until such child or youth  
264 has reached the age of eighteen years or, in the case of a child or youth  
265 in full-time attendance in a secondary school, a technical school, a  
266 college or a state-accredited job training program, until such child or  
267 youth has reached the age of twenty-one years or until another  
268 guardian has been legally appointed. The commissioner may place any  
269 child or youth so committed to the commissioner in a suitable foster  
270 home or in the home of a person related by blood to such child or  
271 youth or in a licensed child-caring institution or in the care and  
272 custody of any accredited, licensed or approved child-caring agency,  
273 within or without the state, provided a child shall not be placed  
274 outside the state except for good cause and unless the parents or  
275 guardian of such child are notified in advance of such placement and  
276 given an opportunity to be heard, or in a receiving home maintained  
277 and operated by the Commissioner of Children and Families. In  
278 placing such child or youth, the commissioner shall, if possible, select a  
279 home, agency, institution or person of like religious faith to that of a  
280 parent of such child or youth, if such faith is known or may be  
281 ascertained by reasonable inquiry, provided such home conforms to  
282 the standards of said commissioner and the commissioner shall, when  
283 placing siblings, if possible, place such children together. As an  
284 alternative to commitment, the court may place the child or youth in  
285 the custody of the parent or guardian with protective supervision by  
286 the Commissioner of Children and Families subject to conditions

287 established by the court. Upon the issuance of an order committing the  
288 child or youth to the Commissioner of Children and Families, or not  
289 later than sixty days after the issuance of such order, the court shall  
290 determine whether the Department of Children and Families made  
291 reasonable efforts to keep the child or youth with his or her parents or  
292 guardian prior to the issuance of such order and, if such efforts were  
293 not made, whether such reasonable efforts were not possible, taking  
294 into consideration the child's or youth's best interests, including the  
295 child's or youth's health and safety.

296 (k) (1) Nine months after placement of the child or youth in the care  
297 and custody of the commissioner pursuant to a voluntary placement  
298 agreement, or removal of a child or youth pursuant to section 17a-101g  
299 or an order issued by a court of competent jurisdiction, whichever is  
300 earlier, the commissioner shall file a motion for review of a  
301 permanency plan. Nine months after a permanency plan has been  
302 approved by the court pursuant to this subsection, the commissioner  
303 shall file a motion for review of the permanency plan. Any party  
304 seeking to oppose the commissioner's permanency plan shall file a  
305 motion in opposition not later than thirty days after the filing of the  
306 commissioner's motion for review of the permanency plan, which  
307 motion shall include the reason therefor. A permanency hearing on  
308 any motion for review of the permanency plan shall be held not later  
309 than ninety days after the filing of such motion. The court shall hold  
310 evidentiary hearings in connection with any contested motion for  
311 review of the permanency plan. The commissioner shall have the  
312 burden of proving that the proposed permanency plan is in the best  
313 interests of the child or youth. After the initial permanency hearing,  
314 subsequent permanency hearings shall be held not less frequently than  
315 every twelve months while the child or youth remains in the custody  
316 of the Commissioner of Children and Families. The court shall provide  
317 notice to the child or youth, and the parent or guardian of such child or  
318 youth of the time and place of the court hearing on any such motion  
319 not less than fourteen days prior to such hearing.

320 (2) At a permanency hearing held in accordance with the provisions

321 of subdivision (1) of this subsection, the court shall approve a  
322 permanency plan that is in the best interests of the child or youth and  
323 takes into consideration the child's or youth's need for permanency.  
324 The child's or youth's health and safety shall be of paramount concern  
325 in formulating such plan. Such permanency plan may include the goal  
326 of (A) revocation of commitment and reunification of the child or  
327 youth with the parent or guardian, with or without protective  
328 supervision; (B) transfer of guardianship; (C) long-term foster care  
329 with a grandparent or other relative licensed as a foster parent or  
330 certified as a relative caregiver; (D) adoption and filing of termination  
331 of parental rights; or (E) such other planned permanent living  
332 arrangement ordered by the court, provided the Commissioner of  
333 Children and Families has documented a compelling reason why it  
334 would not be in the best interest of the child or youth for the  
335 permanency plan to include the goals in subparagraphs (A) to (D),  
336 inclusive, of this subdivision. Such other planned permanent living  
337 arrangement may include, but not be limited to, placement of a child  
338 or youth in an independent living program or long term foster care  
339 with an identified foster parent.

340 (3) At a permanency hearing held in accordance with the provisions  
341 of subdivision (1) of this subsection, the court shall review the status of  
342 the child, the progress being made to implement the permanency plan,  
343 determine a timetable for attaining the permanency plan, determine  
344 the services to be provided to the parent if the court approves a  
345 permanency plan of reunification and the timetable for such services,  
346 and determine whether the commissioner has made reasonable efforts  
347 to achieve the permanency plan. The court may revoke commitment if  
348 a cause for commitment no longer exists and it is in the best interests of  
349 the child or youth.

350 (4) If the court approves the permanency plan of adoption: (A) The  
351 Commissioner of Children and Families shall file a petition for  
352 termination of parental rights not later than sixty days after such  
353 approval if such petition has not previously been filed; (B) the  
354 commissioner may conduct a thorough adoption assessment and

355 child-specific recruitment; and (C) the court may order that the child  
356 be photo-listed within thirty days if the court determines that such  
357 photo-listing is in the best interest of the child. As used in this  
358 subdivision, "thorough adoption assessment" means conducting and  
359 documenting face-to-face interviews with the child, foster care  
360 providers and other significant parties and "child specific recruitment"  
361 means recruiting an adoptive placement targeted to meet the  
362 individual needs of the specific child, including, but not limited to, use  
363 of the media, use of photo-listing services and any other in-state or  
364 out-of-state resources that may be used to meet the specific needs of  
365 the child, unless there are extenuating circumstances that indicate that  
366 such efforts are not in the best interest of the child.

367 (l) The Commissioner of Children and Families shall pay directly to  
368 the person or persons furnishing goods or services determined by said  
369 commissioner to be necessary for the care and maintenance of such  
370 child or youth the reasonable expense thereof, payment to be made at  
371 intervals determined by said commissioner; and the Comptroller shall  
372 draw his or her order on the Treasurer, from time to time, for such part  
373 of the appropriation for care of committed children or youths as may  
374 be needed in order to enable the commissioner to make such  
375 payments. The commissioner shall include in the department's annual  
376 budget a sum estimated to be sufficient to carry out the provisions of  
377 this section. Notwithstanding that any such child or youth has income  
378 or estate, the commissioner may pay the cost of care and maintenance  
379 of such child or youth. The commissioner may bill to and collect from  
380 the person in charge of the estate of any child or youth aided under  
381 this chapter, or the payee of such child's or youth's income, the total  
382 amount expended for care of such child or youth or such portion  
383 thereof as any such estate or payee is able to reimburse, provided the  
384 commissioner shall not collect from such estate or payee any  
385 reimbursement for the cost of care or other expenditures made on  
386 behalf of such child or youth from (1) the proceeds of any cause of  
387 action received by such child or youth; (2) any lottery proceeds due to  
388 such child or youth; (3) any inheritance due to such child or youth; (4)  
389 any payment due to such child or youth from a trust other than a trust

390 created pursuant to 42 USC 1396p, as amended from time to time; or  
391 (5) the decedent estate of such child or youth.

392 (m) The commissioner, a parent or the child's attorney may file a  
393 motion to revoke a commitment, and, upon finding that cause for  
394 commitment no longer exists, and that such revocation is in the best  
395 interests of such child or youth, the court may revoke the commitment  
396 of such child or youth. No such motion shall be filed more often than  
397 once every six months.

398 (n) Upon service on the parent, guardian or other person having  
399 control of the child or youth of any order issued by the court pursuant  
400 to the provisions of subsections (b) and (j) of this section, the child or  
401 youth concerned shall be surrendered to the person serving the order  
402 who shall forthwith deliver the child or youth to the person, agency,  
403 department or institution awarded custody in the order. Upon refusal  
404 of the parent, guardian or other person having control of the child or  
405 youth to surrender the child or youth as provided in the order, the  
406 court may cause a warrant to be issued charging the parent, guardian  
407 or other person having control of the child or youth with contempt of  
408 court. If the person arrested is found in contempt of court, the court  
409 may order such person confined until the person complies with the  
410 order, but for not more than six months, or may fine such person not  
411 more than five hundred dollars, or both.

412 (o) A foster parent, prospective adoptive parent or relative caregiver  
413 shall receive notice and have the right to be heard for the purposes of  
414 this section in Superior Court in any proceeding concerning a foster  
415 child living with such foster parent, prospective adoptive parent or  
416 relative caregiver. A foster parent, prospective adoptive parent or  
417 relative caregiver who has cared for a child or youth shall have the  
418 right to be heard and comment on the best interests of such child or  
419 youth in any proceeding under this section which is brought not more  
420 than one year after the last day the foster parent, prospective adoptive  
421 parent or relative caregiver provided such care.

422 (p) Upon motion of any sibling of any child committed to the

423 Department of Children and Families pursuant to this section, such  
424 sibling shall have the right to be heard concerning visitation with, and  
425 placement of, any such child. In awarding any visitation or modifying  
426 any placement, the court shall be guided by the best interests of all  
427 siblings affected by such determination.

428 (q) The provisions of section 17a-152, regarding placement of a child  
429 from another state, and section 17a-175, regarding the Interstate  
430 Compact on the Placement of Children, shall apply to placements  
431 pursuant to this section.

432 Sec. 6. Section 45a-607 of the 2008 supplement to the general statutes  
433 is repealed and the following is substituted in lieu thereof (*Effective*  
434 *October 1, 2008*):

435 (a) (1) When application has been made for the removal of one or  
436 both parents as guardians or of any other guardian of the person of a  
437 minor child, or when an application has been made for the termination  
438 of the parental rights of any parties who may have parental rights with  
439 regard to any minor child, or when, in any proceeding the court has  
440 reasonable grounds to believe that any minor child has no guardian of  
441 his or her person, the court of probate in which the proceeding is  
442 pending may issue an order awarding temporary custody of the minor  
443 child to a person other than the parent or guardian, with or without  
444 the parent's or guardian's consent, but such order may only be issued  
445 in accordance with the provisions of this section.

446 (2) In any proceeding under this section, any grandparent or other  
447 relative of the minor child may make a motion to intervene and the  
448 court shall grant such motion except for good cause shown. Upon the  
449 granting of such motion, such grandparent or other relative may  
450 appear by counsel or in person. In any proceeding in which a  
451 grandparent or other relative intervenes, there shall be a rebuttable  
452 presumption that placement with such grandparent or other relative is  
453 in the best interests of such child or youth. This presumption may be  
454 rebutted by clear and convincing evidence that such placement is not  
455 in the best interests of such child or youth. As used in this subdivision

456 and subsections (b) and (d) of this section, "relative" means a person  
457 related to the child by blood or marriage.

458 (b) In the case of a minor child in the custody of the parent or other  
459 guardian, no application for custody of such minor child may be  
460 granted ex parte, except in accordance with subdivision (2) of this  
461 subsection. In the case of a minor child in the custody of a person other  
462 than the parent or guardian, no application for custody may be  
463 granted ex parte, except in accordance with subdivisions (1) to (3),  
464 inclusive, of this subsection.

465 (1) An application for immediate temporary custody shall be  
466 accompanied by an affidavit made by the custodian of such minor  
467 child under penalty of false statement, stating the circumstances under  
468 which such custody was obtained, the length of time the affiant has  
469 had custody and specific facts which would justify the conclusion that  
470 determination cannot await the hearing required by subsection (c) of  
471 this section. Upon such application, the court may grant immediate  
472 temporary custody to the affiant, a grandparent or other relative, or  
473 some other suitable person if the court finds that: (A) The minor child  
474 was not taken or kept from the parent, parents or guardian, and (B)  
475 there is a substantial likelihood that the minor child will be removed  
476 from the jurisdiction prior to a hearing under subsection (c) of this  
477 section, or (C) to return the minor child to the parent, parents or  
478 guardian would place the minor child in circumstances which would  
479 result in serious physical illness or injury, or the threat thereof, or  
480 imminent physical danger prior to a hearing under subsection (c) of  
481 this section.

482 (2) In the case of a minor child who is hospitalized as a result of  
483 serious physical illness or serious physical injury, an application for  
484 immediate temporary custody shall contain a certificate signed by two  
485 physicians licensed to practice medicine in this state stating that (A)  
486 the minor child is in need of immediate medical or surgical treatment,  
487 the delay of which would be life threatening, (B) the parent, parents or  
488 guardian of the minor child refuses or is unable to consent to such

489 treatment, and (C) determination of the need for temporary custody  
490 cannot await notice of hearing. Upon such application, the court may  
491 grant immediate temporary custody to a grandparent or other relative  
492 or some other suitable person if it finds that (i) a minor child has  
493 suffered from serious physical illness or serious physical injury and is  
494 in need of immediate medical or surgical treatment, (ii) the parent,  
495 parents or guardian refuses to consent to such treatment, and (iii) to  
496 delay such treatment would be life threatening.

497 (3) If an order of temporary custody is issued ex parte, notice of the  
498 hearing required by subsection (c) of this section shall be given  
499 promptly, and the hearing shall be held [within] no later than five  
500 business days [of] after the date of such ex parte order of temporary  
501 custody, provided the respondent shall be entitled to continuance  
502 upon request. Upon the issuance of an order granting temporary  
503 custody of the minor child to the Commissioner of Children and  
504 Families, or not later than sixty days after the issuance of such order,  
505 the court shall make a determination whether the Department of  
506 Children and Families made reasonable efforts to keep the minor child  
507 with his or her parent, parents or guardian prior to the issuance of  
508 such order and, if such efforts were not made, whether such  
509 reasonable efforts were not possible, taking into consideration the  
510 minor child's best interests, including the minor child's health and  
511 safety. Upon issuance of an ex parte order of temporary custody, the  
512 court shall promptly notify the Commissioner of Children and  
513 Families, who shall cause an investigation to be made forthwith, in  
514 accordance with section 17a-101g, and shall present the commissioner's  
515 report to the court at the hearing on the application for temporary  
516 custody. The hearing on an ex parte order of temporary custody shall  
517 not be postponed, except with the consent of the respondent, or, if  
518 notice cannot be given as required by this section, a postponement  
519 may be ordered by the court for the purpose of a further order of  
520 notice.

521 (c) Except as provided in subsection (b) of this section, upon receipt  
522 of an application for temporary custody under this section, the court

523 shall promptly set the time and place for a hearing to be held on such  
524 application. The court shall order notice of the hearing on temporary  
525 custody to be given, at least five days prior to the date of the hearing,  
526 to the Commissioner of Children and Families by first class mail and to  
527 both parents and to the minor child, if over twelve years of age, by  
528 personal service or service at the parent's usual place of abode or the  
529 minor's usual place of abode, as the case may be, in accordance with  
530 section 52-50, except that in lieu of personal service on, or service at the  
531 usual place of abode of, a parent or the father of a minor child born out  
532 of wedlock who is either an applicant or who signs under penalty of  
533 false statement a written waiver of such service on a form provided by  
534 the Probate Court Administrator, the court may order notice to be  
535 given by first class mail at least five days prior to the date of the  
536 hearing. If the whereabouts of the parents are unknown, or if such  
537 delivery cannot reasonably be effected, then notice shall be ordered to  
538 be given by publication. Such notice may be combined with the notice  
539 under section 45a-609 of the 2008 supplement to the general statutes or  
540 with the notice required under section 45a-716 of the 2008 supplement  
541 to the general statutes. If the parents are not residents of the state or  
542 are absent from the state, the court shall order notice to be given by  
543 first class mail at least five days prior to the date of the hearing. If the  
544 whereabouts of the parents are unknown, or if delivery cannot  
545 reasonably be effected, the court may order notice to be given by  
546 publication. Any notice by publication under this subsection shall be in  
547 a newspaper which has a circulation at the last-known place of  
548 residence of the parents. In either case, such notice shall be given at  
549 least five days prior to the date of the hearing, except in the case of  
550 notice of a hearing on immediate temporary custody under subsection  
551 (b) of this section. If the applicant alleges that the whereabouts of a  
552 respondent are unknown, such allegation shall be made under penalty  
553 of false statement and shall also state the last-known address of the  
554 respondent and the efforts which have been made by the applicant to  
555 obtain a current address. The applicant shall have the burden of  
556 ascertaining the names and addresses of all parties in interest and of  
557 proving to the satisfaction of the court that the applicant used all

558 proper diligence to discover such names and addresses. Except in the  
559 case of newspaper notice, such notice shall include: (1) The time and  
560 place of the hearing, (2) a copy of the application for removal or  
561 application for termination of parental rights, (3) a copy of the motion  
562 for temporary custody, (4) any affidavit or verified petition filed with  
563 the motion for temporary custody, (5) any other documents filed by  
564 the applicant, (6) any other orders or notices made by the court of  
565 probate, and (7) any request for investigation by the Department of  
566 Children and Families or any other person or agency. Such notice shall  
567 also inform the respondent of the right to have an attorney represent  
568 the respondent and, if the respondent is unable to obtain or pay for an  
569 attorney, the respondent may request the court of probate to appoint  
570 an attorney to represent the respondent. Newspaper notice shall  
571 include such facts as the court may direct.

572 (d) If, after hearing, the court finds by a fair preponderance of the  
573 evidence (1) that the parent or other guardian has performed acts of  
574 omission or commission as set forth in section 45a-610, and (2) that,  
575 because of such acts, the minor child is suffering from serious physical  
576 illness or serious physical injury, or the immediate threat thereof, or is  
577 in immediate physical danger, so as to require that temporary custody  
578 be granted, the court may order the custody of the minor child to be  
579 given to one of the following, taking into consideration the standards  
580 set forth in section 45a-617, as amended by this act, and subsection (a)  
581 of this section: (A) The grandparent or other relative of such minor  
582 child; (B) the Commissioner of Children and Families; [(B)] (C) the  
583 board of managers of any child-caring institution or organization; [(C)]  
584 (D) any children's home or similar institution licensed or approved by  
585 the Commissioner of Children and Families; or [(D)] (E) any other  
586 person. The fact that an order of temporary custody may have been  
587 issued ex parte under subsection (b) of this section shall be of no  
588 weight in a hearing held under this subsection. The burden of proof  
589 shall remain upon the applicant to establish the applicant's case. [The  
590 court may issue the order without taking into consideration the  
591 standards set forth in this section and section 45a-610 if the parent or  
592 other guardian consents to the temporary removal of the minor child,

593 or the court finds that the minor child has no guardian of his or her  
594 person.] Upon the issuance of an order giving custody of the minor  
595 child to the Commissioner of Children and Families, or not later than  
596 sixty days after the issuance of such order, the court shall make a  
597 determination whether the Department of Children and Families made  
598 reasonable efforts to keep the minor child with his or her parent,  
599 parents or guardian prior to the issuance of such order and, if such  
600 efforts were not made, whether such reasonable efforts were not  
601 possible, taking into consideration the minor child's best interests,  
602 including the minor child's health and safety.

603 (e) Such order for temporary custody shall be effective until  
604 disposition of the application for removal of parents or guardians as  
605 guardian or for termination of parental rights or until a guardian is  
606 appointed for a minor child who has no guardian, unless modified or  
607 terminated by the court of probate. Any respondent, temporary  
608 custodian or attorney for the minor child may petition the court of  
609 probate issuing such order at any time for modification or revocation  
610 thereof, and such court shall set a hearing upon receipt of such petition  
611 in the same manner as subsection (c) of this section. If the court finds  
612 after such hearing that the conditions upon which it based its order for  
613 temporary custody no longer exist, and that the conditions set forth in  
614 subsection (b) of this section do not exist, then the order shall be  
615 revoked and the minor child shall be returned to the custody of the  
616 parent or guardian.

617 (f) A copy of any order issued under this section shall be mailed  
618 immediately to the last known address of the parent or other guardian  
619 from whose custody the minor child has been removed.

620 Sec. 7. Section 45a-617 of the general statutes is repealed and the  
621 following is substituted in lieu thereof (*Effective October 1, 2008*):

622 When appointing a guardian or coguardians of the person of a  
623 minor, the court shall take into consideration the following factors: (1)  
624 The ability of the prospective guardian or coguardians to meet, on a  
625 continuing day to day basis, the physical, emotional, moral and

626 educational needs of the minor; (2) the minor's wishes, if he or she is  
 627 over the age of twelve or is of sufficient maturity and capable of  
 628 forming an intelligent preference; (3) the existence or nonexistence of  
 629 an established relationship between the minor and the prospective  
 630 guardian or coguardians; and (4) the best interests of the child. There  
 631 shall be a rebuttable presumption that appointment of a grandparent  
 632 or other relative related by blood or marriage as a guardian is in the  
 633 best interests of the minor child.

634 Sec. 8. Subsection (a) of section 17a-11 of the 2008 supplement to the  
 635 general statutes is repealed and the following is substituted in lieu  
 636 thereof (*Effective October 1, 2008*):

637 (a) The commissioner may, in the commissioner's discretion, admit  
 638 to the department on a voluntary basis any child or youth who, in the  
 639 commissioner's opinion, could benefit from any of the services offered  
 640 or administered by, or under contract with, or otherwise available to,  
 641 the department. Application for voluntary admission shall be made in  
 642 writing by the parent or guardian of a child under fourteen years of  
 643 age or by such person himself or herself if he or she is a child fourteen  
 644 years of age or older or a youth. The fact that a parent has applied for  
 645 services or received services for his or her child through voluntary  
 646 admission shall not be used against the parent (1) in any investigation  
 647 conducted by the department in accordance with section 17a-101g, (2)  
 648 when making placement decisions for the child, (3) when making  
 649 foster care licensing determinations in accordance with section 17a-  
 650 114, or (4) in any court proceeding related to the placement of a minor  
 651 relative of the parent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	New section
Sec. 3	<i>October 1, 2008</i>	17a-28(b)
Sec. 4	<i>October 1, 2008</i>	4-61dd(b)(1)
Sec. 5	<i>October 1, 2008</i>	46b-129

Sec. 6	<i>October 1, 2008</i>	45a-607
Sec. 7	<i>October 1, 2008</i>	45a-617
Sec. 8	<i>October 1, 2008</i>	17a-11(a)

**HS**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Various State Agencies	GF - Savings & Cost	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

Section 1 enables a municipality to delay or preclude a pending license or contract (to be entered into by a state agency) involving any residential facility previously operated by a person or entity licensed as a child-care facility by the Department of Children and Families (DCF). While no such change in operation is expected at this time, should it occur in the future, fiscal impacts might result to the extent that this may delay or preclude payments of state funds to a provider and/or result in the need for a state agency to incur different costs to secure an alternate site.

Provisions within Section 2, which specify provisions that must be included within certain DCF contracts, are not anticipated to result in a fiscal impact.

Section 3 requires DCF employees to report unauthorized disclosure of confidential records by co-workers to the commissioner. This will result in no fiscal impact.

Section 4 includes whistleblower protections for persons who report unauthorized disclosure of confidential DCF records pursuant to Section 3. Extending whistleblower protections to these employees is not anticipated to result in any additional costs to the Auditors of Public Accounts or the Office of the Attorney General.

Sections 5 - 7 modify existing laws that allocate burdens of proof concerning placement of children involved in certain child welfare or probate proceedings. These modifications have no associated fiscal impact.

Section 8, which makes changes concerning disregards of voluntary services applications, has no associated fiscal impact.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis**

**sHB 5908**

***AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF  
THE DEPARTMENT OF CHILDREN AND FAMILIES.***

**SUMMARY:**

This bill:

1. creates a presumption that it is in the best interests of abused and neglected children to be placed with grandparents or other relatives when they are removed from their homes;
2. prohibits the Department of Children and Families (DCF) and courts from taking into account a parent's application for, or receipt of, voluntary behavioral health services for their child from the department when making certain decisions about that person's suitability to care for a child;
3. requires DCF employees to notify the commissioner when they suspect a co-worker of illegally disclosing confidential information and gives them whistleblower protections;
4. requires local approval before state agencies can license or contract with residential facilities formerly licensed by DCF; and
5. requires DCF residential facility contracts to include provisions requiring compliance with state statutes, regulations, and local ordinances concerning noise levels and resident safety.

It also authorizes adults who are related by blood or marriage to a child who is the subject of an abuse or neglect proceeding in Superior or probate courts to intervene as parties in the case. Judges must grant these motions unless good cause is shown for not doing so. The child's grandparents already have this right in temporary custody

proceedings brought in the Superior Court.

Finally, the bill eliminates a probate judge's authority to order temporary placements of children without making specific findings of parental abuse or neglect when (1) the parent consents to the child's temporary removal or (2) the minor has no guardian.

EFFECTIVE DATE: October 1, 2008

### **§§ 5-7 — RELATIVES AS PREFERRED CAREGIVERS**

The bill establishes a rebuttable presumption that placement with a grandparent or other relative is in the best interest of a child who a Superior or probate court judge has ordered to be temporarily placed with someone other than a parent because of allegations of abuse, neglect, or abandonment. Among other options, current law authorizes placement with any suitable person, including relatives (see BACKGROUND).

The presumption attaches to grandparents and other people related to the child by blood or marriage (1) who have been granted intervenor status in the case or (2) when the court has committed the child to DCF and termination of parental rights proceedings are or may be commenced. Under the bill, the presumption may be rebutted by clear and convincing evidence that the placement is not in the child's best interests.

### **§§ 3-4 — REPORTING BREACHES OF DCF CONFIDENTIALITY LAWS**

The bill requires DCF employees to notify the commissioner when, in the ordinary course of employment, they reasonably suspect a co-worker of illegally disclosing confidential department records. It prohibits DCF officers and employees from taking or threatening to take adverse personnel actions against them for making these reports. The law already provides these whistleblower protections to state employees who report suspected child abuse and neglect under mandated reporter laws.

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**§ 8 — DISREGARD OF VOLUNTARY SERVICES APPLICATIONS**

DCF's Voluntary Services Program is for children with serious mental health conditions who could not otherwise gain access to treatment they need. The bill prohibits the fact that a parent applied for or received voluntary services from being used against him or her:

1. in DCF child abuse or neglect investigations,
2. when placement decisions are being made about the child,
3. in foster care licensing decisions, or
4. in any court proceeding concerning the placement of a child who is related to the parent.

**§ 1 — CHANGING USE OF FORMER DCF-LICENSED FACILITIES**

The law requires residential facilities, such as group homes, temporary shelters, and residential treatment facilities that provide services to DCF-involved children to be licensed by the department. The bill prohibits other state agencies from licensing or contracting with residential facilities that were previously operated by people or entities holding DCF licenses unless the (1) agency notifies the chief executive officer of the town where the facility is located and (2) the town's legislative body approves the change.

Existing law, unchanged by the bill, requires DCF to notify towns when a DCF-licensed residential facility operator applies for a new license that will permit it to serve a different type of DCF population.

**BACKGROUND*****Probate Court Placement Considerations***

By law, probate courts must consider the following when appointing temporary guardians for children under these circumstances:

1. the prospective guardian's ability to meet the child's physical, emotional, moral, and educational needs on a continuing daily

basis,

2. the child’s wishes if he or she is at least 13 or is of sufficient maturity and capable of forming an intelligent preference,
3. whether there is an existing relationship between the child and prospective guardian, and
4. the best interests of the child (CGS § 45a-617).

***DCF Placement Policies***

DCF’s non-binding policies state that it must give preference to placement with relatives or extended family if the family:

1. can meet the needs of the child;
2. can meet licensing requirements (i.e., either are licensed foster parents or will become licensed if the child remains in their household for longer than 60 days); and
3. lives in the same community where the child had been living at the time of removal, unless it is in the best interests of the child to be placed with relatives in another community.

When DCF places a child with non-relatives, its policy states that the placement must be in a foster care setting that serves the child’s best interests based on the child’s individual needs (DCF Policy Manual §41-19-2).

***Confidential DCF Records***

In general, DCF cannot disclose information it creates or obtains in connection with its child protection activities or other activities related to a child while that child was in its care or custody or a person it has investigated for child abuse or neglect without (1) obtaining permission from the person who is the subject of the record or an authorized representative or (2) legal authorization to do so without the person’s consent. Existing law specifies many entities and officials to whom DCF must disclose records that would otherwise be

confidential, in most cases expressly limiting the uses recipients can make of the information. It also lists entities and people with whom DCF may share information when the commissioner or designee determines this is in the best interests of the person who is the subject of the record.

Anyone who discloses any part of a confidential record is subject to imprisonment for up to one year, a fine of up to \$1,000, or both.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/18/2008)