



# House of Representatives

General Assembly

**File No. 465**

February Session, 2000

Substitute House Bill No. 5707

*House of Representatives, April 6, 2000*

The Committee on Judiciary reported through REP. LAWLOR of the 99<sup>th</sup> Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***An Act Concerning The Adoption Of Children From The Foster Care System.***

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

1 Section 1. Section 17a-112 of the general statutes, as amended by  
2 section 4 of public act 99-166, is repealed and the following is  
3 substituted in lieu thereof:

4 (a) In respect to any child in the custody of the Commissioner of  
5 Children and Families in accordance with section 46b-129, either the  
6 commissioner, or the attorney who represented such child in a  
7 pending or prior proceeding, or an attorney appointed by the Superior  
8 Court on its own motion, or an attorney retained by such child after  
9 attaining the age of fourteen, may petition the court for the termination  
10 of parental rights with reference to such child. The petition shall be in  
11 the form and contain the information set forth in subsection (b) of  
12 section 45a-715, and be subject to the provisions of subsection (c) of  
13 said section. If a petition indicates that either or both parents consent

14 to the termination of their parental rights, or if at any time following  
15 the filing of a petition and before the entry of a decree, a parent  
16 consents to the termination of the parent's parental rights, each  
17 consenting parent shall acknowledge such consent on a form  
18 promulgated by the Office of the Chief Court Administrator  
19 evidencing that the parent has voluntarily and knowingly consented to  
20 the termination of such parental rights. No consent to termination by a  
21 mother shall be executed within forty-eight hours immediately after  
22 the birth of such mother's child. A parent who is a minor shall have the  
23 right to consent to termination of parental rights and such consent  
24 shall not be voidable by reason of such minority. A guardian ad litem  
25 shall be appointed by the court to assure that such minor parent is  
26 giving an informed and voluntary consent.

27 (b) Either or both birth parents, the Department of Children and  
28 Families and an intended adoptive parent may enter into a cooperative  
29 postadoption agreement regarding communication or contact between  
30 either or both birth parents and the adopted child. Such an agreement  
31 may be entered into if: (1) The child is in the custody of the  
32 Department of Children and Families; (2) an order terminating  
33 parental rights has not yet been entered; and (3) either or both birth  
34 parents agree to a voluntary termination of parental rights, including  
35 an agreement in a case which began as an involuntary termination of  
36 parental rights. Such agreement shall be in addition to those under  
37 common law. Counsel for the child and any guardian ad litem for the  
38 child may be heard on the proposed cooperative postadoption  
39 agreement. There shall be no presumption of communication or  
40 contact between the birth parents and an intended adoptive parent in  
41 the absence of a cooperative postadoption agreement.

42 (c) If the Superior Court determines that the child's best interests  
43 will be served by postadoption communication or contact with either  
44 or both birth parents, the court shall so order, stating the nature and  
45 frequency of the communication or contact. A court may grant

46 postadoption communication or contact privileges if: (1) Each intended  
47 adoptive parent consents to the granting of communication or contact  
48 privileges; (2) the intended adoptive parent and either or both birth  
49 parents execute a cooperative agreement and file the agreement with  
50 the court; (3) consent to postadoption communication or contact is  
51 obtained from the child, if the child is at least twelve years of age; and  
52 (4) the cooperative postadoption agreement is approved by the court.

53 (d) A cooperative postadoption agreement shall contain the  
54 following: (1) An acknowledgement by either or both birth parents that  
55 the termination of parental rights and the adoption is irrevocable, even  
56 if the adoptive parents do not abide by the cooperative postadoption  
57 agreement; and (2) an acknowledgement by the adoptive parents that  
58 the agreement grants either or both birth parents the right to seek to  
59 enforce the cooperative postadoption agreement.

60 (e) The terms of a cooperative postadoption agreement may include  
61 the following: (1) Provision for communication between the child and  
62 either or both birth parents; (2) provision for future contact between  
63 either or both birth parents and the child or an adoptive parent; and (3)  
64 maintenance of medical history of either or both birth parents who is a  
65 party to the agreement.

66 (f) The order approving a cooperative postadoption agreement shall  
67 be made part of the final order terminating parental rights. The finality  
68 of the termination of parental rights and of the adoption shall not be  
69 affected by implementation of the provisions of the postadoption  
70 agreement. Such an agreement shall not affect the ability of the  
71 adoptive parents and the child to change their residence within or  
72 outside this state.

73 (g) A disagreement between the parties or litigation brought to  
74 enforce or modify the agreement shall not affect the validity of the  
75 termination of parental rights or the adoption and shall not serve as a  
76 basis for orders affecting the custody of the child. The court shall not

77 act on a petition to change or enforce the agreement unless the  
78 petitioner had participated, or attempted to participate, in good faith  
79 in mediation or other appropriate dispute resolution proceedings to  
80 resolve the dispute.

81 (h) An adoptive parent, guardian ad litem for the child or the court,  
82 on its own motion, may, at any time, petition for review of any order  
83 entered pursuant to subsection (c) of this section, if the petitioner  
84 alleges that such action would be in the best interests of the child. The  
85 court may modify or terminate such orders as the court deems to be in  
86 the best interest of the adopted child.

87 [(b)] (i) The Superior Court upon hearing and notice, as provided in  
88 sections 45a-716 and 45a-717, may grant a petition for termination of  
89 parental rights based on consent filed pursuant to this section if it finds  
90 that (1) upon clear and convincing evidence, the termination is in the  
91 best interest of the child, and (2) such parent has voluntarily and  
92 knowingly consented to termination of the parent's parental rights  
93 with respect to such child. If the court denies a petition for termination  
94 of parental rights based on consent, it may refer the matter to an  
95 agency to assess the needs of the child, the care the child is receiving  
96 and the plan of the parent for the child. Consent for the termination of  
97 the parental rights of one parent does not diminish the parental rights  
98 of the other parent of the child, nor does it relieve the other parent of  
99 the duty to support the child.

100 [(c)] (j) The Superior Court, upon hearing and notice as provided in  
101 sections 45a-716 and 45a-717, may grant a petition filed pursuant to  
102 this section if it finds by clear and convincing evidence (1) that the  
103 Department of Children and Families has made reasonable efforts to  
104 locate the parent and to reunify the child with the parent, unless the  
105 court finds in this proceeding that the parent is unable or unwilling to  
106 benefit from reunification efforts provided such finding is not required  
107 if the court has determined at a hearing pursuant to subsection (b) of

108 section 17a-110 or section 17a-111b that such efforts are not  
109 appropriate, (2) that termination is in the best interest of the child, and  
110 (3) that: (A) The child has been abandoned by the parent in the sense  
111 that the parent has failed to maintain a reasonable degree of interest,  
112 concern or responsibility as to the welfare of the child; (B) the parent of  
113 a child who [(1)] (i) has been found by the Superior Court to have been  
114 neglected or uncared for in a prior proceeding, or [(2)] (ii) is found to  
115 be neglected or uncared for and has been in the custody of the  
116 commissioner for at least fifteen months and such parent has been  
117 provided specific steps to take to facilitate the return of the child to the  
118 parent pursuant to section 46b-129 and has failed to achieve such  
119 degree of personal rehabilitation as would encourage the belief that  
120 within a reasonable time, considering the age and needs of the child,  
121 such parent could assume a responsible position in the life of the child;  
122 (C) the child has been denied, by reason of an act or acts of parental  
123 commission or omission including, but not limited to, sexual  
124 molestation or exploitation, severe physical abuse or a pattern of  
125 abuse, the care, guidance or control necessary for [such] the child's  
126 physical, educational, moral or emotional well-being. Nonaccidental or  
127 inadequately explained serious physical injury to a child shall  
128 constitute prima facie evidence of acts of parental commission or  
129 omission sufficient for the termination of parental rights; (D) there is  
130 no ongoing parent-child relationship, which means the relationship  
131 that ordinarily develops as a result of a parent having met on a day to  
132 day basis the physical, emotional, moral and educational needs of the  
133 child and to allow further time for the establishment or  
134 reestablishment of such parent-child relationship would be  
135 detrimental to the best interest of the child; (E) the parent of a child  
136 under the age of seven years who is neglected or uncared for, has  
137 failed, is unable or is unwilling to achieve such degree of personal  
138 rehabilitation as would encourage the belief that within a reasonable  
139 period of time, considering the age and needs of the child, such parent  
140 could assume a responsible position in the life of the child and such

141 parent's parental rights of another child were previously terminated  
142 pursuant to a petition filed by the Commissioner of Children and  
143 Families; (F) the parent has killed through deliberate, nonaccidental act  
144 another child of the parent or has requested, commanded, importuned,  
145 attempted, conspired or solicited such killing or has committed an  
146 assault, through deliberate, nonaccidental act that resulted in serious  
147 bodily injury of another child of the parent; or (G) the parent was  
148 convicted as an adult or a delinquent by a court of competent  
149 jurisdiction of a sexual assault resulting in the conception of the child,  
150 except a conviction for a violation of section 53a-71 or 53a-73a,  
151 provided the court may terminate such parent's parental rights to such  
152 child at any time after such conviction.

153 [(d)] (k) Except in the case where termination is based on consent, in  
154 determining whether to terminate parental rights under this section,  
155 the court shall consider and shall make written findings regarding: (1)  
156 The timeliness, nature and extent of services offered, provided and  
157 made available to the parent and the child by an agency to facilitate the  
158 reunion of the child with the parent; (2) whether the Department of  
159 Children and Families has made reasonable efforts to reunite the  
160 family pursuant to the federal Adoption Assistance and Child Welfare  
161 Act of 1980, as amended; (3) the terms of any applicable court order  
162 entered into and agreed upon by any individual or agency and the  
163 parent, and the extent to which all parties have fulfilled their  
164 obligations under such order; (4) the feelings and emotional ties of the  
165 child with respect to the child's parents, any guardian of such child's  
166 person and any person who has exercised physical care, custody or  
167 control of the child for at least one year and with whom the child has  
168 developed significant emotional ties; (5) the age of the child; (6) the  
169 efforts the parent has made to adjust such parent's circumstances,  
170 conduct, or conditions to make it in the best interest of the child to  
171 return such child home in the foreseeable future, including, but not  
172 limited to, (A) the extent to which the parent has maintained contact  
173 with the child as part of an effort to reunite the child with the parent,

174 provided the court may give weight to incidental visitations,  
175 communications or contributions, and (B) the maintenance of regular  
176 contact or communication with the guardian or other custodian of the  
177 child; and (7) the extent to which a parent has been prevented from  
178 maintaining a meaningful relationship with the child by the  
179 unreasonable act or conduct of the other parent of the child, or the  
180 unreasonable act of any other person or by the economic circumstances  
181 of the parent.

182 [(e)] (l) Any petition brought by the Commissioner of Children and  
183 Families to the Superior Court, pursuant to subsection (a) of section  
184 46b-129, may be accompanied by or, upon motion by the petitioner,  
185 consolidated with a petition for termination of parental rights filed in  
186 accordance with this section with respect to such child. Notice of the  
187 hearing on such petitions shall be given in accordance with sections  
188 45a-716 and 45a-717. The Superior Court, after hearing, in accordance  
189 with the provisions of subsection [(b)] (i) or [(c)] (j) of this section, may,  
190 in lieu of granting the petition filed pursuant to section 46b-129, grant  
191 the petition for termination of parental rights as provided in section  
192 45a-717.

193 [(f)] (m) Nothing contained in this section and sections 17a-113,  
194 45a-187, 45a-606, 45a-607, 45a-707 to 45a-709, inclusive, 45a-715 to  
195 45a-718, inclusive, 45a-724, 45a-725, 45a-727, 45a-733, 45a-754 and  
196 52-231a shall negate the right of the Commissioner of Children and  
197 Families to subsequently petition the Superior Court for revocation of  
198 a commitment of a child as to whom parental rights have been  
199 terminated in accordance with the provisions of this section. The  
200 Superior Court may appoint a statutory parent at any time after it has  
201 terminated parental rights if the petitioner so requests.

202 [(g)] (n) If the parental rights of only one parent are terminated, the  
203 remaining parent shall be the sole parent and, unless otherwise  
204 provided by law, guardian of the person.

205 [(h)] (o) In the case where termination of parental rights is granted,  
206 the guardian of the person or statutory parent shall report to the court  
207 within [sixty] thirty days of the date judgment is entered on a case  
208 plan, as defined by the federal Adoption Assistance and Child Welfare  
209 Act of 1980, for the child which shall include measurable objectives  
210 and time schedules. At least every six months thereafter, such  
211 guardian or statutory parent shall make a report to the court on the  
212 progress made on implementation of the plan. The court shall convene  
213 a hearing for the purpose of reviewing the plan for the child no more  
214 than [twelve] six months from the date judgment is entered and at  
215 least once [a year] every six months thereafter until [such time as any  
216 proposed] the court determines that the adoption plan has become  
217 finalized. For children where adoption is appropriate, the report on the  
218 implementation of the plan shall include a description of the  
219 reasonable efforts the department is taking to promote and expedite  
220 the adoptive placement and to finalize the adoption of the child,  
221 including documentation of child specific recruitment efforts. If the  
222 court determines that the department has not made reasonable efforts  
223 to place a child in an adoptive placement or that reasonable efforts  
224 have not resulted in the placement of the child, the court may order the  
225 Department of Children and Families to contract with a child-placing  
226 agency to arrange for the adoption of the child. The department shall  
227 continue to provide such care and services for the child while a child-  
228 placing agency is arranging for the adoption of the child.

229 [(i)] (p) The provisions of this section shall be liberally construed in  
230 the best interests of any child for whom a petition under this section  
231 has been filed.

232 Sec. 2. Subsections (d) and (e) of section 46b-129 of the general  
233 statutes are repealed and the following is substituted in lieu thereof:

234 (d) The preliminary hearing on the order of temporary custody or  
235 order to appear or the first hearing on a petition filed pursuant to

236 subsection (a) of this section shall be held in order for the court to: (1)  
237 Advise the parent or guardian of the allegations contained in all  
238 petitions and applications that are the subject of the hearing; (2) assure  
239 that an attorney, and where appropriate, a separate guardian ad litem  
240 has been appointed to represent the child or youth in accordance with  
241 section 46b-129a and section 46b-136; (3) upon request, appoint an  
242 attorney to represent the respondent when [he] the respondent is  
243 unable to afford representation, as determined by the court; (4) advise  
244 the parent or guardian of the right to a hearing on the petitions and  
245 applications, to be held within ten days from the date of the  
246 preliminary hearing if the hearing is pursuant to an order of temporary  
247 custody or an order to show cause; (5) accept a plea regarding the truth  
248 of such allegations; (6) make any interim orders, including visitation,  
249 that the court determines are in the best interests of the child or youth.  
250 The court, after a hearing pursuant to this subsection, shall [provide to]  
251 order specific steps the commissioner and the parent or guardian  
252 [specific steps necessary for each to take] shall take for the parent or  
253 guardian to regain or to retain custody of the child or youth; (7) take  
254 steps to determine the identity of the father of the child or youth,  
255 including ordering genetic testing, if necessary, and order service of  
256 the petition and notice of the hearing date, if any, to be made upon  
257 him; (8) if the person named as the father appears, and admits that he  
258 is the father, provide him and the mother with the notices which  
259 comply with section 17b-27 and provide them with the opportunity to  
260 sign a paternity acknowledgment and affirmation on forms which  
261 comply with section 17b-27. These documents shall be executed and  
262 filed in accordance with chapter 815y and a copy delivered to the clerk  
263 of the superior court for juvenile matters; and (9) in the event that the  
264 person named as a father appears and denies that he is the father of the  
265 child or youth, advise him that he may have no further standing in any  
266 proceeding concerning the child, and either order genetic testing to  
267 determine paternity or direct him to execute a written denial of  
268 paternity on a form promulgated by the Office of the Chief Court

269 Administrator. Upon execution of such a form by the putative father,  
270 the court may remove him from the case and afford him no further  
271 standing in the case or in any subsequent proceeding regarding the  
272 child or youth until such time as paternity is established by formal  
273 acknowledgment or adjudication in a court of competent jurisdiction.

274 (e) If any parent or guardian fails, after service of such order, to  
275 appear at the preliminary hearing the court may enter or sustain an  
276 order of temporary custody. [and enter a default.]

277 Sec. 3. Subsection (k) of section 46b-129 of the general statutes is  
278 repealed and the following is substituted in lieu thereof:

279 (k) (1) Ten months after the adjudication of neglect of the child or  
280 youth or twelve months after the vesting of temporary care and  
281 custody pursuant to subsection (b) of this section, whichever is earlier,  
282 the commissioner shall file a motion for review of a permanency plan  
283 and to extend or revoke the commitment. Ten months after a  
284 permanency plan has been approved by the court pursuant to this  
285 subsection, unless the court has approved placement in long-term  
286 foster care with an identified person or an independent living  
287 program, or the commissioner has filed a petition for termination of  
288 parental rights or motion to transfer guardianship, the commissioner  
289 shall file a motion for review of the permanency plan to extend or  
290 revoke the commitment. A hearing on any such motion shall be held  
291 within sixty days of the filing. The court shall provide notice to the  
292 child or youth, and his parent or guardian of the time and place of the  
293 court hearing on any such motion not less than fourteen days prior to  
294 such hearing.

295 (2) At such hearing, the court shall determine whether it is  
296 appropriate to continue to make reasonable efforts to reunify the child  
297 or youth with the parent. In making this determination, the court shall  
298 consider the best interests of the child, including the child's need for  
299 permanency. If the court finds that further efforts are not appropriate,

300 the commissioner has no duty to make further efforts to reunify the  
301 child or youth with the parent. If the court finds that further efforts are  
302 appropriate, such efforts shall ensure that the child or youth's health  
303 and safety are protected and such efforts shall be specified by the  
304 court, including the services to be provided to the parent, what steps  
305 the parent may take to address the problem that prevents the child or  
306 youth from safely reuniting with the parent and a time period, not  
307 longer than six months, for such steps to be accomplished.

308 (3) At such hearing, the court shall approve a permanency plan that  
309 is in the best interests of the child or youth and takes into  
310 consideration the child or youth's need for permanency. Such  
311 permanency plan may include (A) revocation of commitment and  
312 placement of the child or youth with the parent or guardian, with or  
313 without protective supervision; (B) placing the child or youth in an  
314 independent living program; (C) transfer of guardianship; (D)  
315 approval of long-term foster care with an identified foster parent; (E)  
316 filing of termination of parental rights; (F) if the permanency plan  
317 identifies adoption as an option, a thorough adoption assessment and  
318 child specific recruitment. As used in this subdivision, "thorough  
319 adoption assessment" means conducting and documenting face-to-face  
320 interviews with the child, foster care providers, and other significant  
321 parties and "child specific recruitment" means recruiting an adoptive  
322 placement targeted to meet the individual needs of the specific child,  
323 including, but not limited to, use of the media, use of photo-listing  
324 services and any other in-state or out-of-state resources that may be  
325 used to meet the specific needs of the child, unless there are  
326 extenuating circumstances that indicate that these efforts are not in the  
327 best interest of the child; or [(F)] (G) such other appropriate action  
328 ordered by the court. At the permanency plan hearing, the court shall  
329 review the status of the child, the progress being made to implement  
330 the permanency plan and determine a timetable for attaining the  
331 permanency prescribed by the plan. The court shall extend  
332 commitment if extension is in the best interests of the child or youth

333 for a period of twelve months. The court shall revoke commitment if a  
334 cause for commitment no longer exists and it is in the best interests of  
335 the child or youth.

336 [(4) Commitment shall be revoked by operation of law sixty days  
337 after a child or youth is removed from long-term foster care or an  
338 independent living program or sixty days after a termination petition  
339 is dismissed or a motion to transfer guardianship is denied, unless  
340 otherwise ordered by the court.]

341 Sec. 4. Section 45a-715 of the general statutes is amended by adding  
342 subsections (h) to (n), inclusive, as follows:

343 (NEW) (h) Either or both birth parents and an intended adoptive  
344 parent may enter into a cooperative postadoption agreement regarding  
345 communication or contact between either or both birth parents and the  
346 adopted child. Such an agreement may be entered into if: (1) The child  
347 is in the custody of the Department of Children and Families; (2) an  
348 order terminating parental rights has not yet been entered; and (3)  
349 either or both birth parents agree to a voluntary termination of  
350 parental rights, including an agreement in a case which began as an  
351 involuntary termination of parental rights. Such agreement shall be in  
352 addition to those under common law. Counsel for the child and any  
353 guardian ad litem for the child may be heard on the proposed  
354 cooperative postadoption agreement. There shall be no presumption of  
355 communication or contact between the birth parents and an intended  
356 adoptive parent in the absence of a cooperative postadoption  
357 agreement.

358 (NEW) (i) If the court of probate determines that the child's best  
359 interests will be served by postadoption communication or contact  
360 with either or both birth parents, the court shall so order, stating the  
361 nature and frequency of the communication or contact. A court may  
362 grant postadoption communication or contact privileges if: (1) Each  
363 intended adoptive parent consents to the granting of communication

364 or contact privileges; (2) the intended adoptive parent and either or  
365 both birth parents execute a cooperative agreement and file the  
366 agreement with the court; (3) consent to postadoption communication  
367 or contact is obtained from the child, if the child is at least twelve years  
368 of age; and (4) the cooperative postadoption agreement is approved by  
369 the court.

370 (NEW) (j) A cooperative postadoption agreement shall contain the  
371 following: (1) An acknowledgement by either or both birth parents that  
372 the termination of parental rights and the adoption is irrevocable, even  
373 if the adoptive parents do not abide by the cooperative postadoption  
374 agreement; and (2) an acknowledgement by the adoptive parents that  
375 the agreement grants either or both birth parents the right to seek to  
376 enforce the cooperative postadoption agreement.

377 (NEW) (k) The terms of a cooperative postadoption agreement may  
378 include the following: (1) Provision for communication between the  
379 child and either or both birth parents; (2) provision for future contact  
380 between either or both birth parents and the child or an adoptive  
381 parent; and (3) maintenance of medical history of either or both birth  
382 parents who are a party to the agreement.

383 (NEW) (l) The order approving a cooperative postadoption  
384 agreement shall be made part of the final order terminating parental  
385 rights. The finality of the termination of parental rights and of the  
386 adoption shall not be affected by implementation of the provisions of  
387 the postadoption agreement, nor is the cooperative postadoption  
388 contingent upon the finalization of an adoption. Such an agreement  
389 shall not affect the ability of the adoptive parents and the child to  
390 change their residence within or outside this state.

391 (NEW) (m) A disagreement between the parties or litigation  
392 brought to enforce or modify the agreement shall not affect the validity  
393 of the termination of parental rights or the adoption and shall not  
394 serve as a basis for orders affecting the custody of the child. The court

395 shall not act on a petition to change or enforce the agreement unless  
396 the petitioner had participated, or attempted to participate, in good  
397 faith in mediation or other appropriate dispute resolution proceedings  
398 to resolve the dispute.

399 (NEW) (n) An adoptive parent may, at any time, petition for review  
400 of communication or contact ordered pursuant to subsection (i) of this  
401 section, if the adoptive parent believes that the best interests of the  
402 child are being compromised. The court may order the communication  
403 or contact be terminated, or order such conditions in regard to  
404 communication or contact as the court deems to be in the best interest  
405 of the adopted child.

406 Sec. 5. Section 45a-76 of the general statutes is repealed and the  
407 following is substituted in lieu thereof:

408 The Probate Court Administrator shall file with the Chief Court  
409 Administrator, on or before the first day of April of each year, a report  
410 of the business of the office of the Probate Court Administrator during  
411 the year ending on the previous thirty-first day of December, together  
412 with any information [which] that the Chief Court Administrator may  
413 request. The Probate Court Administrator shall file a copy of the report  
414 with the clerks of the Senate and the House of Representatives, the  
415 State Library and the Office of Legislative Research.

416 Sec. 6. On or before January 1, 2001, the Probate Court  
417 Administrator shall report to the joint standing committee of the  
418 General Assembly having cognizance of matters relating to the  
419 judiciary concerning the feasibility of reporting information  
420 concerning children adopted in the courts of probate during the  
421 reporting year including, but not limited to: (1) The total number of  
422 adoptions, both state-wide and in each probate court, in the following  
423 categories: Out-of-state, stepparent, relative, identified and  
424 nonidentified adoptions; and (2) the number of children adopted from  
425 foster care under the Department of Children and Families and, for

426 each such child, the court that ordered termination of parental rights,  
427 the probate court that issued the order of adoption, the number of days  
428 between the termination of the parental rights of the parents of the  
429 child and the adoption of the child, and the age, gender, racial and  
430 cultural classifications of the child and the adoptive family.

431 Sec. 7. Section 2 of public act 99-166 is repealed and the following is  
432 substituted in lieu thereof:

433 (a) In order to achieve early permanency for children, decrease  
434 children's length of stay in foster care and reduce the number of moves  
435 children experience in foster care, the Commissioner of Children and  
436 Families shall establish a program for concurrent permanency  
437 planning.

438 (b) Concurrent permanency planning involves a planning process to  
439 identify permanent placements and prospective adoptive parents so  
440 that when termination of parental rights are granted by the court  
441 pursuant to section 17a-112 of the general statutes, as amended by this  
442 act, or section 45a-717 of the general statutes, permanent placement or  
443 adoption proceedings may commence immediately.

444 (c) The commissioner shall establish guidelines and protocols for  
445 child-placing agencies involved in concurrent permanency planning,  
446 including criteria for conducting concurrent permanency planning  
447 based on relevant factors such as: (1) Age of the child and duration of  
448 out-of-home placement; (2) prognosis for successful reunification with  
449 parents; (3) availability of relatives and other concerned individuals to  
450 provide support or a permanent placement for the child; (4) special  
451 needs of the child; and (5) other factors affecting the child's best  
452 interests, goals of concurrent permanency planning, support services  
453 that are available for families, permanency options, and the  
454 consequences of not complying with case plans.

455 (d) Within six months of out-of-home placement, the Department of

456 Children and Families shall complete an assessment of the likelihood  
457 of the child's being reunited with either or both birth parents, based on  
458 progress made to date. The Department of Children and Families shall  
459 develop a concurrent permanency plan for families with poor  
460 prognosis for reunification within such time period. Such assessment  
461 and concurrent permanency plan shall be filed with the court.

462 (e) Concurrent permanency planning programs must include  
463 involvement of parents and full disclosure of their rights and  
464 responsibilities.

465 ~~[(d)]~~ (f) The commissioner shall provide ongoing technical  
466 assistance, support, and training for local child-placing agencies and  
467 other individuals and agencies involved in concurrent permanency  
468 planning.

469 Sec. 8. Section 17a-42 of the general statutes is repealed and the  
470 following is substituted in lieu thereof:

471 (a) There is established within the Department of Children and  
472 Families a photo-listing service which shall include, but need not be  
473 limited to, a book and an electronic format containing a photograph  
474 and description of each child to be photo-listed. Such book and its  
475 electronic format shall be distributed to all child care and child-placing  
476 agencies, as such terms are defined in section 45a-707, and to other  
477 organizations concerned with adoption. Such photo-listing service  
478 shall recruit adoptive families for children who are legally free for  
479 adoption under section 45a-725, and have remained in foster care or  
480 institutions for a period of [three months] thirty days or more, such  
481 [three months] thirty days to include any period of foster or  
482 institutional care immediately preceding the date on which such child  
483 was legally free for adoption. The Commissioner of Children and  
484 Families shall employ under his direction and control such persons as  
485 he deems necessary for the effective performance of such photo-listing  
486 service.

487        (b) Under sections 17a-112 and 45a-717, as amended by this act, the  
488 court may order that a child be photo-listed within thirty days of the  
489 termination of parental rights as a condition of granting an order of  
490 termination of parental rights.

491        [(b)] (c) Said commissioner shall adopt regulations, in accordance  
492 with the provisions of chapter 54, to implement and maintain a photo-  
493 listing service. [within said department.] Such regulations shall  
494 include, but not be limited to, procedures for registration of children  
495 with the photo-listing service and format and media selection for  
496 presenting photo-listed children to the public. The commissioner,  
497 within available appropriations, shall contract with a nonprofit agency  
498 to establish, maintain and distribute the photo-listing service book and  
499 its electronic format.

500        Sec. 9. Section 17a-43 of the general statutes is repealed and the  
501 following is substituted in lieu thereof:

502        (a) Each child legally free for adoption, for whom the photo-listing  
503 service may recruit an adoptive family under subsection (a) of section  
504 17a-42, shall, and any other such legally free child may, be registered  
505 with the photo-listing service within ten working days of becoming a  
506 child for whom such service may recruit an adoptive family. Each such  
507 registration shall include a recent photograph and written description  
508 of the child. Each such registration shall be reported to the court that  
509 ordered termination of parental rights.

510        (b) All changes in the status of a registered child shall be reported  
511 by the child care or child-placing agency to the photo-listing service  
512 within five working days after such change has occurred.

513        (c) Children remaining registered for a period in excess of twelve  
514 months shall have their photograph and written description updated  
515 within fifteen working days of the expiration of the twelfth month of  
516 their registration and every twelve months thereafter.

517 (d) A child's registration shall be withdrawn when the photo-listing  
518 service has been notified in writing that the child has been adopted,  
519 has reached his or her fourteenth birthday and will not consent to an  
520 adoption plan or has died.

521 Sec. 10. Section 17a-44 of the general statutes is repealed and the  
522 following is substituted in lieu thereof:

523 (a) The photo-listing service shall semiannually check the status of  
524 photo-listed children for whom inquiries have been received. Periodic  
525 checks shall be made by such service to determine the progress toward  
526 adoption of such children and the status of those children registered  
527 but never photo-listed because of placement in an adoptive home prior  
528 to or at the time of registration.

529 (b) The commissioner shall refer appropriate children to regional  
530 and national adoption exchanges when an adoptive family has not  
531 been identified within one hundred eighty days of the termination of  
532 the parental rights. The commissioner shall establish criteria by which  
533 a determination may be made that a referral to regional or national  
534 exchanges is not necessary, and the commissioner shall monitor the  
535 status of those children not referred.

536 Sec. 11. Section 45a-726 of the general statutes, as amended by  
537 section 9 of public act 99-166, is repealed and the following is  
538 substituted in lieu thereof:

539 (a) If the Commissioner of Children and Families or a child-placing  
540 agency is appointed as statutory parent for any child free for adoption,  
541 the commissioner or such agency shall not refuse to place or delay  
542 placement of such child with any prospective adoptive parent solely  
543 on the basis of a difference in race, color or national origin.

544 (b) The Commissioner of Children and Families or the child-placing  
545 agency, in determining placement for each child, shall focus on the

546 particular needs of the child and the capacity of the prospective  
547 adoptive parent to meet such needs. Whenever possible, siblings  
548 should be placed with the same prospective adoptive parent unless it  
549 is determined not to be in the best interests of a sibling.

550 (c) The Commissioner of Children and Families shall not  
551 discriminate in preparing a home study or in placing a child with a  
552 prospective adoptive parent based on whether the prospective parent  
553 is or is not willing to become a foster parent pending an adoption  
554 placement.

555 Sec. 12. Section 2 of public act 99-252 is repealed and the following is  
556 substituted in lieu thereof:

557 The Department of Children and Families shall, within available  
558 appropriations, prepare an information handbook for any individual  
559 interested in adopting a child with special needs. The department and  
560 child-placing agencies shall give the handbook to such interested  
561 individual [at the time] no later than the beginning of the home study  
562 process. The handbook shall contain information concerning matters  
563 relating to adoption and adoption assistance including, but not limited  
564 to, nondiscrimination practices set forth in section 45a-726, as amended  
565 by this act, postplacement and postadoption services, adoption  
566 subsidies, deferred subsidy agreements, modification of rates and  
567 agreements, health care support, reimbursements, assistance if the  
568 family moves out of state and the right to records and information  
569 related to the history of the child, including information available  
570 under subsection (a) of section 45a-746. The handbook shall be  
571 developed and updated by the Commissioner of Children and  
572 Families with the advice and assistance of the Connecticut Association  
573 of Foster and Adoptive Families and at least two other licensed child-  
574 placing agencies in Connecticut designated by the commissioner.

575 Sec. 13. Section 45a-716 of the general statutes, as amended by  
576 section 31 of public act 99-84, is repealed and the following is

577 substituted in lieu thereof:

578 (a) Upon receipt of a petition for termination of parental rights, the  
579 Court of Probate or the Superior Court, on a case transferred to it from  
580 the Court of Probate in accordance with the provisions of subsection  
581 (g) of section 45a-715, shall set a time and place for hearing the  
582 petition. The time for hearing shall be not more than thirty days after  
583 the filing of the petition.

584 (b) The court shall cause notice of the hearing to be given to the  
585 following persons as applicable: (1) The parent or parents of the minor  
586 child, including any parent who has been removed as guardian on or  
587 after October 1, 1973, under section 45a-606; (2) the father of any minor  
588 child born out of wedlock, provided at the time of the filing of the  
589 petition (A) he has been adjudicated the father of such child by a court  
590 of competent jurisdiction, or (B) he has acknowledged in writing to be  
591 the father of such child, or (C) he has contributed regularly to the  
592 support of such child, or (D) his name appears on the birth certificate,  
593 or (E) he has filed a claim for paternity as provided under section  
594 46b-172a, or (F) he has been named in the petition as the father of the  
595 child by the mother; (3) the guardian or any other person whom the  
596 court shall deem appropriate; (4) the Commissioner of Children and  
597 Families. If the recipient of the notice is a person described in  
598 subdivision (1) or (2) of this subsection or is any other person whose  
599 parental rights are sought to be terminated in the petition, the notice  
600 shall contain a statement that the respondent has the right to be  
601 represented by counsel and that if the respondent is unable to pay for  
602 counsel, counsel will be appointed for the respondent. The reasonable  
603 compensation for such counsel shall be established by, and paid from  
604 funds appropriated to, the Judicial Department, however, in the case of  
605 a Probate Court matter, if funds have not been included in the budget  
606 of the Judicial Department for such purposes, such compensation shall  
607 be established by the Probate Court Administrator and paid from the  
608 Probate Court Administration Fund.

609 (c) Except as provided in subsection (d) of this section, notice of the  
610 hearing and a copy of the petition, certified by the petitioner, the  
611 petitioner's agent or attorney, or the court clerk, shall be served at least  
612 ten days before the date for the hearing by personal service or service  
613 at the person's usual place of abode on the persons enumerated in  
614 subsection (b) of this section who are within the state, and by certified  
615 mail, return receipt requested, on the Commissioner of Children and  
616 Families. If the address of any person entitled to personal service or  
617 service at the person's usual place of abode is unknown, or if personal  
618 service or service at the person's usual place of abode cannot be  
619 reasonably effected within the state or if any person enumerated in  
620 subsection (b) of this section is out of the state, a judge or clerk of the  
621 court shall order notice to be given by registered or certified mail,  
622 return receipt requested, or by publication at least ten days before the  
623 date of the hearing. Any publication shall be in a newspaper of general  
624 circulation in the place of the last-known address of the person to be  
625 notified, whether within or without this state, or if no such address is  
626 known, in the place where the termination petition has been filed.

627 (d) In any proceeding pending in the Court of Probate, in lieu of  
628 personal service on a parent or the father of a child born out of  
629 wedlock who is either a petitioner or who signs under penalty of false  
630 statement a written waiver of personal service on a form provided by  
631 the Probate Court Administrator, the court may order notice to be  
632 given by certified mail, return receipt requested, deliverable to  
633 addressee only and at least ten days prior to the date of the hearing. If  
634 such delivery cannot reasonably be effected, or if the whereabouts of  
635 the parents is unknown, then notice shall be ordered to be given by  
636 publication, as provided in subsection (c) of this section.

637 Sec. 14. Subsection (g) of section 45a-717 of the general statutes is  
638 repealed and the following is substituted in lieu thereof:

639 (g) At the adjourned hearing or at the initial hearing where no

640 investigation and report has been requested, the court may approve a  
641 petition terminating the parental rights and may appoint a guardian of  
642 the person of the child, or, if the petitioner requests, the court may  
643 appoint a statutory parent, if it finds, upon clear and convincing  
644 evidence, that (1) the termination is in the best interest of the child, and  
645 (2) (A) the child has been abandoned by the parent in the sense that the  
646 parent has failed to maintain a reasonable degree of interest, concern  
647 or responsibility as to the welfare of the child; (B) the child has been  
648 denied, by reason of an act or acts of parental commission or omission,  
649 including, but not limited to sexual molestation and exploitation,  
650 severe physical abuse or a pattern of abuse, the care, guidance or  
651 control necessary for the child's physical, educational, moral or  
652 emotional well-being. Nonaccidental or inadequately explained  
653 serious physical injury to a child shall constitute prima facie evidence  
654 of acts of parental commission or omission sufficient for the  
655 termination of parental rights; (C) there is no ongoing parent-child  
656 relationship which is defined as the relationship that ordinarily  
657 develops as a result of a parent having met on a continuing, day-to-  
658 day basis the physical, emotional, moral and educational needs of the  
659 child and to allow further time for the establishment or  
660 reestablishment of the parent-child relationship would be detrimental  
661 to the best interests of the child; (D) the parent of a child who [(1)] (i)  
662 has been found by the Superior Court to have been neglected or  
663 uncared for in a prior proceeding, or [(2)] (ii) is found to be neglected  
664 or uncared for and has been in the custody of the commissioner for at  
665 least fifteen months and such parent has been provided specific steps  
666 to take to facilitate the return of the child to the parent pursuant to  
667 section 46b-129 and has failed to achieve such degree of personal  
668 rehabilitation as would encourage the belief that within a reasonable  
669 time, considering the age and needs of the child, such parent could  
670 assume a responsible position in the life of the child; (E) the parent of a  
671 child, under the age of seven years who is neglected or uncared for,  
672 has failed, is unable or is unwilling to achieve such degree of personal

673 rehabilitation as would encourage the belief that within a reasonable  
674 amount of time, considering the age and needs of the child, such  
675 parent could assume a responsible position in the life of the child and  
676 such parent's parental rights of another child were previously  
677 terminated pursuant to a petition filed by the Commissioner of  
678 Children and Families; (F) the parent has killed through deliberate,  
679 nonaccidental act another child of the parent or has requested,  
680 commanded, importuned, attempted, conspired or solicited such  
681 killing or has committed an assault, through deliberate, nonaccidental  
682 act that resulted in serious bodily injury of another child of the parent;  
683 or (G) the parent was convicted as an adult or a delinquent by a court  
684 of competent jurisdiction of sexual assault resulting in the conception  
685 of a child except for a violation of section 53a-71 or 53a-73a [resulting  
686 in the conception of the child] provided the court may terminate such  
687 parent's parental rights to such child at any time after such conviction.

688 Sec. 15. Subsection (a) of section 17a-111a of the general statutes is  
689 repealed and the following is substituted in lieu thereof:

690 (a) The Commissioner of Children and Families shall file a petition  
691 to terminate parental rights pursuant to section 17a-112 if (1) the child  
692 has been in the custody of the commissioner for at least fifteen  
693 consecutive months, or at least fifteen months during the twenty-two  
694 months, immediately preceding the filing of such petition; (2) the child  
695 has been abandoned as defined in subsection [(c)] (j) of section 17a-112,  
696 as amended by this act; or (3) a court of competent jurisdiction has  
697 found that (A) the parent has killed, through deliberate, nonaccidental  
698 act, a sibling of the child or has requested, commanded, importuned,  
699 attempted, conspired or solicited to commit the killing of the child or a  
700 sibling of the child; or (B) the parent has assaulted the child or a sibling  
701 of a child, through deliberate, nonaccidental act, and such assault  
702 resulted in serious bodily injury to such child.

703 Sec. 16. Subsection (a) of section 17a-111b of the general statutes is

704 repealed and the following is substituted in lieu thereof:

705 (a) The Commissioner of Children and Families may, at any time,  
706 petition the court for a determination on whether reasonable efforts to  
707 reunify the parent with the child are appropriate. The court may  
708 determine that such efforts are not appropriate if: (1) The parent has  
709 subjected the child to the following aggravated circumstances: (A) The  
710 child has been abandoned as defined in subsection [(c)] (j) of section  
711 17a-112, as amended by this act; or (B) the parent has inflicted sexual  
712 molestation or exploitation or severe physical abuse on the child or  
713 engaged in a pattern of abuse of the child; (2) the parent has killed,  
714 through deliberate, nonaccidental act, a sibling of the child, or has  
715 required, commanded, importuned, attempted, conspired or solicited  
716 to commit the killing of the child or sibling of the child, or has  
717 committed an assault, through deliberate, nonaccidental act, that  
718 resulted in serious bodily injury of the child or a sibling of the child; (3)  
719 the parental rights of the parent to a sibling have been involuntarily  
720 terminated within three years of the filing of a petition pursuant to this  
721 section, provided the commissioner has made reasonable efforts to  
722 reunify the parent with the child during a period of at least ninety  
723 days; or (4) the parent was convicted by a court of competent  
724 jurisdiction of sexual assault, except a conviction of a violation of  
725 section 53a-71 or 53a-73a resulting in the conception of the child.

726 Sec. 17. Subsection (a) of section 46b-129 of the general statutes is  
727 repealed and the following is substituted in lieu thereof:

728 (a) Any selectman, town manager, or town, city, or borough welfare  
729 department, any probation officer, or the Commissioner of Social  
730 Services, the Commissioner of Children and Families or any child-  
731 caring institution or agency approved by the Commissioner of  
732 Children and Families, a child or his representative or attorney or a  
733 foster parent of a child, having information that a child or youth is  
734 neglected, uncared-for or dependent, may file with the Superior Court

735 which has venue over such matter a verified petition plainly stating  
736 such facts as bring the child or youth within the jurisdiction of the  
737 court as neglected, uncared-for, or dependent, within the meaning of  
738 section 46b-120, the name, date of birth, sex, and residence of the child  
739 or youth, the name and residence of his parents or guardian, and  
740 praying for appropriate action by the court in conformity with the  
741 provisions of this chapter. Upon the filing of such a petition, except as  
742 otherwise provided in subsection [(d)] (k) of section 17a-112, as  
743 amended by this act, the court shall cause a summons to be issued  
744 requiring the parent or parents or the guardian of the child or youth to  
745 appear in court at the time and place named, which summons shall be  
746 served not less than fourteen days before the date of the hearing in the  
747 manner prescribed by section 46b-128, and said court shall further give  
748 notice to the petitioner and to the Commissioner of Children and  
749 Families of the time and place when the petition is to be heard not less  
750 than fourteen days prior to the hearing in question.

751       Sec. 18. Section 52-212a of the general statutes is repealed and the  
752 following is substituted in lieu thereof:

753       Unless otherwise provided by law and except in such cases in which  
754 the court has continuing jurisdiction, a civil judgment or decree  
755 rendered in the Superior Court may not be opened or set aside unless a  
756 motion to open or set aside is filed within four months following the  
757 date on which it was rendered or passed. The continuing jurisdiction  
758 conferred on the court in preadoptive proceedings pursuant to  
759 subsection [(h)] (o) of section 17a-112, as amended by this act, does not  
760 confer continuing jurisdiction on the court for purposes of reopening a  
761 judgment terminating parental rights. The parties may waive the  
762 provisions of this section or otherwise submit to the jurisdiction of the  
763 court, provided the filing of an amended petition for termination of  
764 parental rights does not constitute a waiver of the provisions of this  
765 section or a submission to the jurisdiction of the court to reopen a  
766 judgment terminating parental rights.

**JUD** **Committee Vote:** Yea 40 Nay 0 JFS

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 House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Yes

**Affected Agencies:** Department of Children and Families, Judicial Department, Probate Court (Judicial Department), Department of Social Services

**Municipal Impact:** None

**Explanation**

**State Impact:**

**Introduction**

This bill makes various changes that will impact upon the programmatic and financial operation of state agencies involved with children who may be adopted after having been in out-of-home placement.

Should these changes result in expedited adoptions of children who might otherwise be maintained in foster care placements, the Department of Children and Families (DCF) will experience a savings when the child is not deemed to meet the statutory definition of a special needs child (Section 17a-116 CGS). This will result because monthly maintenance payments to foster parents on the child's behalf will cease at the time of adoption. Effective September 1, 1999, the average monthly foster care payment is approximately \$693 per month

(or \$8,318 annually). The Department of Social Services will experience a cost savings as the child's Medicaid eligibility would also cease. Any savings to both agencies would be partially offset by reduced federal financial participation.

However, the majority of adopted children who leave foster care are deemed to be special needs children. In these cases, the DCF provides a monthly subsidy slightly less than that paid to foster parents and Medicaid eligibility is continued until age eighteen. Thus, the state will experience a minimal per child savings for each child who may be adopted more rapidly as a result of the bill. As children in subsidized adoptive care are not carried on the agency's caseload for purposes of determining social work staffing levels under the Juan F. vs. Rowland Consent Decree, a workload reduction which might lead to administrative savings for the DCF may occur. The magnitude of any potential savings would be dependent upon how many additional children leave foster care and cannot be determined at this time.

### **Court Deadlines in Cases Involving Adoptable Children**

The bill changes from sixty to thirty days the time period in which the DCF must file a case plan with the Superior court following the termination of a child's parental rights. This will result in a workload increase to the department. Approximately 850 children annually have their parental rights terminated in juvenile court. The ability of the agency's existing staff to comply with the thirty-day time frame, as well as a six-month deadline for permanency planning hearings (see next paragraph), and maintain compliance with other children's protective services mandates is uncertain.

It also changes from twelve months to six months the frequency of mandated court hearings for the purpose of reviewing permanency plans. This will result in a cost to the Judicial Department relating to payments made to contracted attorneys who represent both parents and children at hearings concerning permanency plan reviews. It is

anticipated that an increase in attorney costs would range from \$50,000 - \$100,000 per year. No funding has been included within either the Senate or House versions of the Revised FY 01 Appropriations Act for this purpose.

The bill requires the DCF to report to the court on efforts it is taking to promote and expedite adoptive placement and finalization for those children for whom adoption is appropriate. It is anticipated that this can be accommodated within the agency's anticipated budgetary resources.

The DCF will be required to complete an assessment of the likelihood of reunification of a child with the child's birth parents within six months of out-of-home placement. A concurrent permanency plan for families with poor prognosis for reunification must also be developed within the same six-month period. The assessment and plan must be filed with the Superior Court. If data now collected via the agency's administrative care review (ACR) process, which is conducted every six months, is not deemed acceptable by the court, it is uncertain whether the agency will be able to comply with this mandate without redeploying resources from other mandated duties.

### **Child Specific Recruiting for Adoptive Families**

A potential cost will be incurred by the DCF to the extent that the bill allows the court to: (a) order a contract with a child-placing agency to arrange for the adoption of a child if it finds that the department has not made reasonable efforts to do so, and (b) include within an approved permanency plan a requirement for "child specific recruiting." The agency currently devotes approximately \$800,000 to contracted adoption recruitment efforts. Should the number of children for whom the court orders targeted recruitment and/or the scope of these services exceed that currently provided, a potential indeterminate cost will result.

The DCF will be required to refer “appropriate children” to regional and national adoption exchanges when an adoptive family has not been identified within 180 days of the termination of the child’s parental rights. The agency currently pays a nominal annual fee that allows it to participate in a national adoption exchange. It also has similar relationships with neighboring New England states. (It is uncertain whether there is a formal regional adoption exchange applicable to Connecticut.) Therefore, no fiscal impact is anticipated to result from adoption of this provision.

### **Use of Photo-Listing Service**

An indeterminate significant cost will be incurred by the DCF to contract with a nonprofit agency to operate a photo-listing service for adoptable children. While the bill states that this is to be done “within available appropriations,” no funding has been included within either the Senate or House versions of the Revised FY 01 Appropriations Act for this purpose. The agency currently operates its own photo-listing service with in-house staff and computer resources.

It is anticipated that the DCF will be able to report a child’s listing on the service to the court that ordered the termination of the child’s parental rights within its anticipated budgetary resources.

### **Other DCF Changes**

The DCF shall be prohibited from discriminating in the preparation of a home study or in the placement of a child with a prospective adoptive parent based on whether the prospective parent is willing to become a foster parent pending an adoption placement. This may facilitate the adoption of certain foster children.

The bill clarifies that the DCF must provide adoption information handbooks to interested parties at the beginning of the home study process. Further, these informational packets must include a statement

regarding the nondiscrimination practices discussed above. This can be accommodated within the agency's anticipated budgetary resources.

Allowing notice of court hearings in cases involving the potential termination of parental rights to be made at the person's usual place of abode instead of in person will result in no fiscal impact.

The bill clarifies existing law regarding the termination of parental rights of persons convicted of sexual assault by stating that the conviction may have occurred as an adult or a delinquent, in cases in which the assault resulted in the conception of the child. This may facilitate the termination of parental rights in certain cases and make a child available for adoption earlier.

It also eliminates a provision of current law that leads to the revocation of commitment of a child to the state sixty days after the child's removal from long-term foster care or independent living, or after the dismissal of a termination petition or denial of a motion to transfer guardianship. If this is interpreted to require court action to rescind commitments of certain DCF clients, a workload increase for the juvenile court may result.

### **Cooperative Postadoption Agreements**

The bill authorizes birth parents, intended adoptive parents and the Department of Children and Families to enter into cooperative postadoption agreements. It is anticipated that the participation of the Probate Courts and the DCF in ensuing legal proceedings can be accommodated within their respective anticipated budgetary resources.

An adoptive parent or guardian who wants to petition the court to change or enforce agreements regarding postadoption communication or contact must first show that he/she has tried in good faith to resolve

the dispute through mediation or other dispute resolution processes. It is estimated that about 250-300 children annually will become the subject of postadoption agreements. An indeterminate percentage of parties to these agreements may subsequently petition to have them modified. When this happens, it is unclear as to which entity should provide and pay for the cost of the required dispute mediation services. If the responsibility falls to staff within the juvenile courts, then this would result in a cost to the Judicial Department related to an indeterminate additional number of court staff that may be needed to handle the increase in workload.

### **Reporting by Probate Court**

The Probate Court Administrator will be required to file a copy of the court's annual report with the clerks of the House and Senate, the State Library and the Office of Legislative Research. The court will also be required, by January 1, 2001, to report to the Judiciary Committee on the feasibility of reporting adoption information. These responsibilities can be accommodated within the Probate Court's anticipated budgetary resources.

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**OLR Bill Analysis**

sHB 5707

**AN ACT CONCERNING THE ADOPTION OF CHILDREN FROM THE FOSTER CARE SYSTEM.**

**SUMMARY:**

This bill:

1. allows intended adoptive parents, birth parents of a child in foster care, and, in some cases, the Department of Children and Families (DCF) to enter a court-sanctioned agreement governing postadoption communication and contact with the child and among the parents;
2. speeds up the process for reviewing plans made for foster children who could be adopted and provides for more thorough assessment of adoption placement efforts;
3. requires DCF, if funds are available, to contract with a nonprofit agency to provide a photo-listing service of children available for adoption;
4. prohibits DCF from discriminating against prospective adoptive parents because they do not become foster parents;
5. requires the probate court administrator to study the feasibility of reporting more detailed adoption information; and
6. makes other minor changes in adoption laws.

EFFECTIVE DATE: October 1, 2000

**POSTADOPTION AGREEMENTS**

The bill permits either or both birth parents and an intended adoptive parent to agree to terms governing communication and contact between the birth parents and the child after adoption. (It is not clear whether one birth parent can execute an agreement governing the other birth parent's contact, communications, and medical records.) An agreement is made as part of a proceeding to terminate parental

rights (TPR) in either Superior or probate court; DCF is a party in Superior Court cases. The bill states that a court-ordered agreement is in addition to any made under common law. It also states that without an agreement there is no presumption of communication or contact between birth and intended adoptive parents.

### ***Conditions for Agreement***

An agreement can be made if (1) the child is in DCF custody, (2) a TPR order has not yet been entered, and (3) the birth parent or parents agree to terminate their rights voluntarily. They can do this even if they did not originally consent to termination.

### ***Terms of an Agreement***

An agreement may include provisions concerning (1) communication and contact between the child and either or both birth parents, (2) contact between the birth and adoptive parents, and (3) maintenance of the medical history of the birth parents who are party to the agreement. It does not have to contain all of these terms.

An agreement must contain (1) the birth parents' acknowledgement that the termination of their rights and the adoption is irrevocable, even if the adoptive parents do not abide by the agreement and (2) the adoptive parents' acknowledgement that the agreement entitles the birth parents to ask a court to enforce it.

### ***Granting and Implementing an Agreement***

The child's attorney (who represents the child) and his guardian ad litem (who represents the child's best interest) can comment on the proposed agreement. The court can enter the order granting the agreement if (1) it determines the agreement is in the child's best interest; (2) each intended adoptive parent consents to allowing communication and contact; (3) the child, if age 12 or older, consents; (4) all parents who are parties execute the agreement and file it with the court; and (5) the court approves.

The order granting the agreement becomes part of the final TPR order. The adoption or TPR can become final even if the agreement is not

implemented. The agreement does not affect the ability of the adoptive parents and child to move within or out of the state.

### ***Disagreements***

An adoptive parent, the child's guardian ad litem, or the court on its own (the latter two only in Superior Court cases) can ask for a review of the agreement order if they believe it is in the child's best interests. If an adoptive parent or guardian ad litem asks to modify or enforce the order, he must show that he has tried in good faith to resolve the dispute through mediation or another dispute resolution process. The court can modify or end the order as it determines in the child's best interests.

A disagreement between the birth and adoptive parents or litigation to enforce or modify the agreement does not affect the validity of the TPR or the adoption and cannot be the basis for orders affecting the child's custody.

## **ADOPTION PLANNING**

### ***Permanency Planning Before TPR***

By law, after a court commits an abused or neglected child to DCF, DCF must develop a plan for returning the child to his family or arranging for some other permanent placement, which can include adoption. The court periodically reviews these permanency plans to determine whether to continue, modify, or terminate them. The bill requires the court to review the child's status and the progress toward implementing the plan and to set a timetable for achieving the plan's goals.

The bill requires plans that identify adoption as an option to include a "thorough adoption assessment" and "child specific recruitment" methods. It defines the former term as face-to-face interviews with the child, foster parents, and other significant parties and documenting these. It defines the latter as recruiting efforts to meet a specific child's needs, including using the media and photo-listing services and other in- and out-of state resources, unless extenuating circumstances indicate they are not in the child's best interests.

A 1999 law required DCF to establish a concurrency planning program that permitted it, during the TPR process, both to try to reunify the family and identify prospective adoptive parents. The bill requires this concurrency planning program to involve the parents and fully disclose to them their rights and responsibilities.

The bill requires DCF, within six months of placing a child in foster care or some other out-of-home placement, to assess, based on progress to date, whether reunification with one or both birth parents is likely. If the assessment shows a poor prognosis for reunification during this six months, DCF must develop a concurrent plan for the child. It must file both the assessment and the plan with the court.

The bill eliminates the law that revokes a child's commitment to DCF 60 days after (1) he is removed from long-term foster care or an independent living program, (2) a TPR petition is dismissed, or (3) a motion to transfer guardianship is denied. The revocation occurs by operation of law unless a court orders otherwise.

### ***Planning and Review After TPR***

By law, when the Superior Court terminates parental rights and no parent remains with rights, the court appoints a statutory parent for the child, usually DCF. DCF must develop a plan for the child (typically an adoption plan since these children are available for adoption) and report periodically to the court on its status. The bill speeds up the reporting schedule. It requires (1) the plan's submission 30, rather than 60, days after the TPR judgment is entered and (2) court review of the plan's implementation every six, instead of every 12, months.

The bill requires reports for children where adoption is appropriate to describe DCF's reasonable efforts to expedite and finalize adoption, including child-specific recruitment.

If the court determines DCF has not made reasonable efforts or that its reasonable efforts have not resulted in an adoptive placement, the bill allows the court to order DCF to contract with a private agency it licenses to arrange for the adoption. The law already encourages DCF

to do this for any child free for adoption. If DCF is ordered to contract for adoption arrangements, it must continue to provide foster care and services for the child. DCF apparently remains the child's statutory parent and must continue to report to the court on the adoption plan's implementation.

### **PHOTO-LISTING AND ADOPTION EXCHANGE**

The bill requires DCF, within its available appropriations, to contract with a nonprofit agency to establish, maintain, and distribute the listing of photographs and descriptions of children available for adoption that the department is required to establish. It eliminates a requirement that DCF provide the service directly, but it retains a requirement for the commissioner to employ people under her control necessary for it to operate effectively.

It reduces, from three months to 30 days, the time an available child must be in foster or institutional care before his picture is listed. It allows a Superior or probate court judge, as part of a TPR order, to order the child to be photo-listed in less than 30 days and requires that whenever a child is registered for listing, it be reported to the court that ordered the TPR. Finally, it requires using computer-based formats for listing children.

When no adoptive family is found for a child within 180 days of his parents' rights being terminated, the bill requires DCF to refer him, if it is appropriate, to a national or regional adoption exchange. The commissioner must establish criteria for determining that a referral is not necessary and must monitor the status of children she does not refer.

### **DISCRIMINATION IN ADOPTION PLACEMENT**

The bill prohibits DCF from discriminating in preparing a home study of a prospective adoptive family or in placing a child with a family based on the parents' willingness to be foster parents while the adoption is pending. It requires the information DCF provides to prospective parents to contain a statement that DCF cannot refuse to place a child or delay his placement solely on the basis of differences in race, color, national origin, or on the willingness to be a foster parent.

And it requires DCF to give this information to prospective parents at the beginning of the home study process, rather than at any time during it.

### **PROBATE COURT REPORT**

The bill requires the probate court administrator to study the feasibility of reporting the following information about children adopted through probate courts:

1. the total number of out-of-state, stepparent, relative, identified, and nonidentified adoptions, statewide and in each probate district and
2. the number of children adopted from DCF foster care, including for each child (a) the court ordering the TPR; (b) the court ordering the adoption; (c) the time between the TPR and the adoption; and (d) the age, gender, race, and culture of the child and the adoptive parents.

He must report his findings to the Judiciary Committee by January 1, 2000.

It requires the probate court administrator to file his annual report with the House and Senate clerks, the State Library, and the Office of Legislative Research. He must already file it with the chief court administrator.

### **MINOR CHANGES**

Current law makes a parent's conviction for sexual assault resulting in the child's conception one of the grounds for terminating a parent's rights to that child. The bill makes it clear that this ground applies whether the conviction was in adult or juvenile court. It also allows a probate court to terminate a parent's rights at anytime after such a conviction. The Superior Court already possesses this authority.

The bill permits serving notice of a TPR hearing and providing a copy of the petition to a party's usual residence in addition to the current notice by personal service or, if the party is out-of-state, by certified mail.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40    Nay 0