



General Assembly

January Session, 2001

**Raised Bill No. 6589**

LCO No. 3222

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING JUVENILE MATTERS.**

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

1 Section 1. Section 46b-129a of the general statutes is repealed and  
2 the following is substituted in lieu thereof:

3 In proceedings in the Superior Court under section 46b-129: (1) The  
4 court may order the child, the parents, the guardian, or other persons  
5 accused by a competent witness with abusing the child, to be  
6 examined by one or more competent physicians, psychiatrists or  
7 psychologists appointed by the court; (2) a child shall be represented  
8 by counsel knowledgeable about representing such children who shall  
9 be appointed by the court to represent the child [whose fee shall be  
10 paid by the parents or guardian, or the estate of the child, or, if such  
11 persons are unable to pay, by the court. In all cases in which the court  
12 deems it appropriate, the court shall also appoint a person, other than  
13 the person appointed to represent the child, as guardian ad litem for  
14 such child to speak on behalf of the best interests of the child, which  
15 guardian ad litem is not required to be an attorney-at-law but shall be  
16 knowledgeable about the needs and protection of children and whose  
17 fee] and to act as guardian ad litem for the child, provided (A) the

18 primary role of any attorney for the child including the attorney who  
19 also serves as guardian ad litem, shall be to advocate for the child in  
20 accordance with the Rules of Professional Conduct, (B) a separate  
21 guardian ad litem shall be appointed to speak on behalf of the best  
22 interests of the child if it appears that there is a conflict of interest  
23 between the stated position or wishes of the child and the best interests  
24 of the child, and (C) in the event that a separate guardian ad litem is  
25 appointed, the person previously serving as both counsel and  
26 guardian ad litem for the child shall continue to serve as counsel for  
27 the child and a different person shall be appointed as guardian ad  
28 litem, unless the court for good cause also appoints a different person  
29 as counsel for the child. No person who has served as both counsel and  
30 guardian ad litem for a child shall thereafter serve solely as the child's  
31 guardian ad litem. The guardian ad litem is not required to be an  
32 attorney-at-law but shall be knowledgeable about the needs and  
33 protection of children. The attorney and guardian ad litem's fees, if  
34 any, shall be paid by the parents or guardian, or the estate of the child,  
35 or, if such persons are unable to pay, by the court; (3) the privilege  
36 against the disclosure of communications between husband and wife  
37 shall be inapplicable and either may be compelled to testify as to any  
38 relevant matter; and (4) evidence that the child has been abused or has  
39 sustained a nonaccidental injury shall constitute prima facie evidence  
40 that shall be sufficient to support an adjudication that such child is  
41 uncared for or neglected.

42 Sec. 2. Section 46b-135 of the general statutes is repealed and the  
43 following is substituted in lieu thereof:

44 (a) At the commencement of any proceeding concerning the alleged  
45 delinquency of a child, the parent or parents or guardian and the child  
46 shall have the right to counsel and be so informed by the judge, and  
47 that if they are unable to afford counsel that counsel will be provided  
48 for them. Such counsel and such parent or parents or guardian or child  
49 shall have the rights of confrontation and cross-examination.

50 (b) At the commencement of any proceeding on behalf of a  
51 neglected, uncared-for or dependent child or youth, the parent or  
52 parents or guardian of the child or youth shall have the right to  
53 counsel, and shall be so informed by the judge, and that if they are  
54 unable to afford counsel, counsel will be provided for them, and such  
55 counsel and such parent or guardian of the child or youth shall have  
56 the rights of confrontation and cross-examination.

57 (c) Counsel appointed to represent an indigent parent, parents or  
58 guardian pursuant to subsection (b) of this section shall only continue  
59 to represent such parent or guardian on appeal if a judge of the  
60 superior court, other than the original trial judge, finds that the appeal  
61 has merit.

62 Sec. 3. Section 46b-142 of the general statutes is repealed and the  
63 following is substituted in lieu thereof:

64 (a) The Chief Court Administrator, in consultation with the judges  
65 of the Superior Court, shall establish districts for the purpose of  
66 establishing venue in juvenile matters. All petitions concerning  
67 delinquent children shall be heard within the district where the  
68 delinquency is alleged to have occurred or where the child resides, in  
69 the discretion of the court. All other petitions shall be heard within the  
70 district where the child or youth resided at the time of the filing of the  
71 petition, but for the purposes of this section any child or youth born in  
72 any hospital or institution where the mother is confined at the time of  
73 birth shall be deemed to have residence in the district wherein his  
74 mother was living at the time of her admission to such hospital or  
75 institution.

76 (b) The Department of Children and Families, or any party at  
77 interest aggrieved by any final judgment or order of the court, may  
78 appeal to the Appellate Court in accordance with the provisions of  
79 section 52-263. The clerk in charge of such juvenile matters shall  
80 forthwith, after notice of any appeal, prepare and file with the clerk of  
81 the Appellate Court the certified copy of the record of the case from

82 which such appeal has been taken. The name of the child or youth  
83 involved in any such appeal shall not appear on the record of the  
84 appeal, and the records and papers of any juvenile case filed in the  
85 Appellate Court shall be open for inspection only to persons having a  
86 proper interest therein and upon order of the court.

87 (c) Pending such appeal, the Superior Court may cause the child or  
88 youth to be detained in some suitable place as the court may direct, or  
89 may release the child or youth in the care of a parent, probation officer  
90 or other suitable person, and may require the appellant to enter into a  
91 bond or recognizance to the state, with surety or security conditioned  
92 that the child or youth shall appear before the Appellate Court and  
93 abide by the order and judgment.

94 (d) Notwithstanding subsections (a), (b) and (c) of this section, the  
95 Department of Children and Families, or any party at interest  
96 aggrieved by a final judgment in a termination of parental rights  
97 proceeding, shall be entitled to an expedited hearing before the  
98 Appellate Court. A final decision of the Appellate Court shall be  
99 issued as soon as practicable after the date on which the certified copy  
100 of the record of the case is filed with the clerk of the Appellate Court.

101 Sec. 4. Section 46b-150 of the general statutes is repealed and the  
102 following is substituted in lieu thereof:

103 Any minor who has reached his sixteenth birthday and is residing  
104 in this state, or any parent or guardian of such minor, may petition the  
105 superior court for juvenile matters or the probate court for the district  
106 in which either the minor or his parents or guardian resides for a  
107 determination that the minor named in the petition be emancipated.  
108 The petition shall be verified and shall state plainly: (1) The facts which  
109 bring the minor within the jurisdiction of the court, (2) the name, date  
110 of birth, sex and residence of the minor, (3) the name and residence of  
111 his parent, parents or guardian, and (4) the name of the petitioner and  
112 his relationship to the minor. Upon the filing of the petition in the  
113 Superior Court, the court shall cause a summons to be issued to the

114 [minor and his] minor's parent, parents or guardian, in the manner  
115 provided in section 46b-128. Upon the filing of the petition in the  
116 Probate Court, the court shall assign a time, not later than thirty days  
117 thereafter, and a place for hearing such petition. The court shall cause a  
118 citation and notice to be served on the minor and his parent, if the  
119 parent is not the petitioner, at least seven days prior to the hearing  
120 date, by a state marshal, constable or indifferent person. The court  
121 shall direct notice by certified mail to the parent, if the parent is the  
122 petitioner. The court shall order such notice as it directs to the  
123 Commissioner of Children and Families, and other persons having an  
124 interest in the minor.

***Statement of Purpose:***

To clarify the role of the attorney for the child in child protection cases; to require that a judge of the superior court certify that an appeal of a final judgment has merit in order that the court provide counsel to the appealing party; to expedite appeals of termination of parental cases; and to eliminate the requirement that an emancipation petition be served on the petitioner.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*