



General Assembly

January Session, 2001

Raised Bill No. 6652

LCO No. 3577

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING REVISIONS TO THE CHILD PROTECTION LAWS.

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

1 Section 1. Subsection (f) of section 17a-28 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (f) The commissioner or [his] the commissioner's designee shall,
4 upon request, promptly provide copies of records, without the consent
5 of a person, to (1) a law enforcement agency, (2) the Chief State's
6 Attorney or [his] the Chief State's Attorney's designee or a state's
7 attorney for the judicial district in which the child resides or in which
8 the alleged abuse or neglect occurred or [his] the state's attorney's
9 designee, for purposes of investigating or prosecuting an allegation of
10 child abuse or neglect, (3) the attorney appointed to represent a child
11 in any court in litigation affecting the best interests of the child, (4) a
12 guardian ad litem appointed to represent a child in any court in
13 litigation affecting the best interests of the child, (5) the Department of
14 Public Health, which licenses any person to care for children for the
15 purposes of determining suitability of such person for licensure, (6)
16 any state agency which licenses such person to educate or care for

17 children pursuant to section 10-145b or 17a-101j, (7) the Governor,
18 when requested in writing, in the course of [his] the Governor's official
19 functions or the Legislative Program Review and Investigations
20 Committee, the committee of the General Assembly on judiciary and
21 the committee of the General Assembly having cognizance of matters
22 involving children when requested in the course of such committees'
23 official functions in writing, and upon a majority vote of said
24 committee, provided no names or other identifying information shall
25 be disclosed unless it is essential to the legislative or gubernatorial
26 purpose, [and] (8) a local or regional board of education, provided the
27 records are limited to educational records created or obtained by the
28 state or Connecticut-Unified School District #2, established pursuant to
29 section 17a-37, and (9) a party in a custody proceeding under section
30 17a-112, as amended by this act, or section 46b-129, as amended by this
31 act, in the Superior Court where such records concern a child who is
32 the subject of the proceeding or the parent of such child. A disclosure
33 under this section shall be made of any part of a record, whether or not
34 created by the department, provided no confidential record of the
35 Superior Court shall be disclosed other than the petition and any
36 affidavits filed therewith in the superior court for juvenile matters,
37 except upon an order of a judge of the Superior Court for good cause
38 shown. The commissioner shall also disclose the name of any
39 individual who cooperates with an investigation of a report of child
40 abuse or neglect to such law enforcement agency or state's attorney for
41 purposes of investigating or prosecuting an allegation of child abuse or
42 neglect. The commissioner or [his] the commissioner's designee shall,
43 upon request, promptly provide copies of records, without the consent
44 of the person, to (A) the Department of Public Health for the purpose
45 of determining the suitability of a person to care for children in a
46 facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82 to
47 19a-87, inclusive, and 19a-87b, and (B) the Department of Social
48 Services for determining the suitability of a person for any payment
49 from the department for providing child care.

50 Sec. 2. Subsection (a) of section 46b-124 of the general statutes is

51 repealed and the following is substituted in lieu thereof:

52 (a) All records of cases of juvenile matters, as defined in section 46b-
53 121, except delinquency proceedings, or any part thereof, and all
54 records of appeals from probate brought to the superior court for
55 juvenile matters pursuant to subsection (b) of section 45a-186,
56 including studies and reports by probation officers, social agencies and
57 clinics, shall be confidential and for the use of the court in juvenile
58 matters, and open to inspection or disclosure to any third party,
59 including bona fide researchers commissioned by a state agency, only
60 upon order of the Superior Court, except that (1) the records
61 concerning any matter transferred from a court of probate pursuant to
62 section 45a-623 or subsection (g) of section 45a-715 or any appeal from
63 probate to the superior court for juvenile matters pursuant to
64 subsection (b) of section 45a-186 shall be available to the court of
65 probate from which such matter was transferred or from which such
66 appeal was taken, (2) such records shall be available to (A) the attorney
67 representing the child or youth including the Division of Public
68 Defender Services in any proceeding in which such records are
69 relevant, (B) the parents or guardian of the child or youth until such
70 time as the child or youth reaches the age of majority or becomes
71 emancipated, (C) an adult adopted person in accordance with the
72 provisions of sections 45a-736, 45a-737 and 45a-743 to 45a-757,
73 inclusive, (D) employees of the Division of Criminal Justice who in the
74 performance of their duties require access to such records, (E)
75 employees of the judicial branch who in the performance of their
76 duties require access to such records, (F) another court under the
77 provisions of subsection (d) of section 46b-115j, (G) the subject of the
78 record, upon submission of satisfactory proof of the subject's identity,
79 pursuant to guidelines prescribed by the Office of the Chief Court
80 Administrator and provided the subject has reached the age of
81 majority or has been emancipated, [and] (H) the Department of
82 Children and Families, and (I) an individual responsible for
83 diagnosing or treating a child who is the subject of a record of child
84 abuse or neglect or diagnosing or treating the parent of such child for a

85 purpose relating to the individual's responsibilities. Any record or any
86 part thereof forwarded by said court or any of its employees to any
87 persons, governmental and private agencies, and institutions, shall not
88 be disclosed, directly or indirectly, to any third party not specified in
89 subsection (c) of this section save upon order of said court or except in
90 the report required under section 54-76d or 54-91a.

91 Sec. 3. Subsection (a) of section 17a-101k of the general statutes is
92 repealed and the following is substituted in lieu thereof:

93 (a) The Commissioner of Children and Families shall maintain a
94 registry of the reports received pursuant to sections 17a-101a to 17a-
95 101d, inclusive, and 17a-103, and shall adopt regulations to [permit]
96 implement the provisions of this section, including the use of the
97 registry on a twenty-four-hour daily basis to prevent or discover abuse
98 of children and the establishment of a hearing process for any appeal
99 by a person of a commissioner's determination that such person is
100 responsible for the abuse or neglect of a child pursuant to subsection
101 (b) of section 17a-101g. The information contained in the reports and
102 any other information relative to child abuse, wherever located, shall
103 be confidential subject to such statutes and regulations governing their
104 use and access as shall conform to the requirements of federal law or
105 regulations. Any violation of this section or the regulations adopted by
106 the commissioner under this section shall be punishable by a fine of
107 not more than one thousand dollars or imprisonment for not more
108 than one year.

109 Sec. 4. Subsection (a) of section 17a-111b of the general statutes is
110 repealed and the following is substituted in lieu thereof:

111 (a) The Commissioner of Children and Families may, at any time,
112 petition the court for a determination on whether reasonable efforts to
113 reunify the parent with the child are appropriate. The court shall hold
114 a hearing on the petition within thirty days of the filing of the petition.
115 The court may determine that such efforts are not appropriate if the
116 court finds upon clear and convincing evidence that: (1) The parent has

117 subjected the child to the following aggravated circumstances: (A) The
118 child has been abandoned as defined in subsection (j) of section 17a-
119 112, as amended by this act; or (B) the parent has inflicted sexual
120 molestation or exploitation or severe physical abuse on the child or
121 engaged in a pattern of abuse of the child; (2) the parent has killed,
122 through deliberate, nonaccidental act, a child of the parent or a sibling
123 of the child, or has required, commanded, importuned, attempted,
124 conspired or solicited to commit the killing of the child, another child
125 of the parent or sibling of the child, or has committed an assault,
126 through deliberate, nonaccidental act, that resulted in serious bodily
127 injury of the child, another child of the parent or a sibling of the child;
128 (3) the parental rights of the parent to a sibling have been involuntarily
129 terminated within three years of the filing of a petition pursuant to this
130 section, provided the commissioner has made reasonable efforts to
131 reunify the parent with the child during a period of at least ninety
132 days; [or] (4) the parent was convicted by a court of competent
133 jurisdiction of sexual assault, except a conviction of a violation of
134 section 53a-71 or 53a-73a resulting in the conception of the child, or (5)
135 the child was placed in the care and control of the commissioner
136 pursuant to the provisions of sections 17a-57 to 17a-61, inclusive, and
137 sections 53-21 and 53-23.

138 Sec. 5. Subsection (j) of section 17a-112 of the general statutes is
139 repealed and the following is substituted in lieu thereof:

140 (j) The Superior Court, upon hearing and notice as provided in
141 sections 45a-716 and 45a-717, as amended by this act, may grant a
142 petition filed pursuant to this section if it finds by clear and convincing
143 evidence (1) that the Department of Children and Families has made
144 reasonable efforts to locate the parent and to reunify the child with the
145 parent, unless the court finds in this proceeding that the parent is
146 unable or unwilling to benefit from reunification efforts provided such
147 finding is not required if the court has determined at a hearing
148 pursuant to subsection (b) of section 17a-110 or section 17a-111b, as
149 amended by this act, that such efforts are not appropriate, (2) that

150 termination is in the best interest of the child, and (3) that: (A) The
151 child has been abandoned by the parent in the sense that the parent
152 has failed to maintain a reasonable degree of interest, concern or
153 responsibility as to the welfare of the child; (B) the child (i) has been
154 found by the Superior Court or the Probate Court to have been
155 neglected or uncared for in a prior proceeding, or (ii) is found to be
156 neglected or uncared for and has been in the custody of the
157 commissioner for at least fifteen months and the parent of such child
158 has been provided specific steps to take to facilitate the return of the
159 child to the parent pursuant to section 46b-129, as amended by this act,
160 and has failed to achieve such degree of personal rehabilitation as
161 would encourage the belief that within a reasonable time, considering
162 the age and needs of the child, such parent could assume a responsible
163 position in the life of the child; (C) the child has been denied, by reason
164 of an act or acts of parental commission or omission including, but not
165 limited to, sexual molestation or exploitation, severe physical abuse or
166 a pattern of abuse, the care, guidance or control necessary for the
167 child's physical, educational, moral or emotional well-being.
168 Nonaccidental or inadequately explained serious physical injury to a
169 child shall constitute prima facie evidence of acts of parental
170 commission or omission sufficient for the termination of parental
171 rights; (D) there is no ongoing parent-child relationship, which means
172 the relationship that ordinarily develops as a result of a parent having
173 met on a day to day basis the physical, emotional, moral and
174 educational needs of the child and to allow further time for the
175 establishment or reestablishment of such parent-child relationship
176 would be detrimental to the best interest of the child; (E) the parent of
177 a child under the age of seven years who is neglected or uncared for,
178 has failed, is unable or is unwilling to achieve such degree of personal
179 rehabilitation as would encourage the belief that within a reasonable
180 period of time, considering the age and needs of the child, such parent
181 could assume a responsible position in the life of the child and such
182 parent's parental rights of another child were previously terminated
183 pursuant to a petition filed by the Commissioner of Children and

184 Families; (F) the parent has killed through deliberate, nonaccidental act
185 another child of the parent or sibling of the child or has requested,
186 commanded, importuned, attempted, conspired or solicited such
187 killing or has committed an assault, through deliberate, nonaccidental
188 act that resulted in serious bodily injury of another child of the parent
189 or sibling of the child; or (G) the parent was convicted as an adult or a
190 delinquent by a court of competent jurisdiction of a sexual assault
191 resulting in the conception of the child, except a conviction for a
192 violation of section 53a-71 or 53a-73a, provided the court may
193 terminate such parent's parental rights to such child at any time after
194 such conviction.

195 Sec. 6. Subsection (g) of section 45a-717 of the general statutes is
196 repealed and the following is substituted in lieu thereof:

197 (g) At the adjourned hearing or at the initial hearing where no
198 investigation and report has been requested, the court may approve a
199 petition terminating the parental rights and may appoint a guardian of
200 the person of the child, or, if the petitioner requests, the court may
201 appoint a statutory parent, if it finds, upon clear and convincing
202 evidence, that (1) the termination is in the best interest of the child, and
203 (2) (A) the child has been abandoned by the parent in the sense that the
204 parent has failed to maintain a reasonable degree of interest, concern
205 or responsibility as to the welfare of the child; (B) the child has been
206 denied, by reason of an act or acts of parental commission or omission,
207 including, but not limited to sexual molestation and exploitation,
208 severe physical abuse or a pattern of abuse, the care, guidance or
209 control necessary for the child's physical, educational, moral or
210 emotional well-being. Nonaccidental or inadequately explained
211 serious physical injury to a child shall constitute prima facie evidence
212 of acts of parental commission or omission sufficient for the
213 termination of parental rights; (C) there is no ongoing parent-child
214 relationship which is defined as the relationship that ordinarily
215 develops as a result of a parent having met on a continuing, day-to-
216 day basis the physical, emotional, moral and educational needs of the

217 child and to allow further time for the establishment or
218 reestablishment of the parent-child relationship would be detrimental
219 to the best interests of the child; (D) the parent of a child who (i) has
220 been found by the Superior Court or the Probate Court to have been
221 neglected or uncared for in a prior proceeding, or (ii) is found to be
222 neglected or uncared for and has been in the custody of the
223 commissioner for at least fifteen months and such parent has been
224 provided specific steps to take to facilitate the return of the child to the
225 parent pursuant to section 46b-129, as amended by this act, and has
226 failed to achieve such degree of personal rehabilitation as would
227 encourage the belief that within a reasonable time, considering the age
228 and needs of the child, such parent could assume a responsible
229 position in the life of the child; (E) the parent of a child, under the age
230 of seven years who is neglected or uncared for, has failed, is unable or
231 is unwilling to achieve such degree of personal rehabilitation as would
232 encourage the belief that within a reasonable amount of time,
233 considering the age and needs of the child, such parent could assume a
234 responsible position in the life of the child and such parent's parental
235 rights of another child were previously terminated pursuant to a
236 petition filed by the Commissioner of Children and Families; (F) the
237 parent has killed through deliberate, nonaccidental act another child of
238 the parent or sibling of the child or has requested, commanded,
239 importuned, attempted, conspired or solicited such killing or has
240 committed an assault, through deliberate, nonaccidental act that
241 resulted in serious bodily injury of another child of the parent or
242 sibling of the child; or (G) the parent was convicted as an adult or a
243 delinquent by a court of competent jurisdiction of sexual assault
244 resulting in the conception of a child except for a violation of section
245 53a-71 or 53a-73a provided the court may terminate such parent's
246 parental rights to such child at any time after such conviction.

247 Sec. 7. Subdivision (2) of subsection (k) of section 46b-129 of the
248 general statutes is repealed and the following is substituted in lieu
249 thereof:

250 (2) At such hearing, the court shall determine whether it is
251 appropriate to continue to make reasonable efforts to reunify the child
252 or youth with the parent. In making this determination, the court shall
253 consider the best interests of the child, including the child's need for
254 permanency. If the court finds upon clear and convincing evidence
255 that further efforts are not appropriate, the commissioner has no duty
256 to make further efforts to reunify the child or youth with the parent. If
257 the court finds that further efforts are appropriate, such efforts shall
258 ensure that the child or youth's health and safety are protected and
259 such efforts shall be specified by the court, including the services to be
260 provided to the parent, what steps the parent may take to address the
261 problem that prevents the child or youth from safely reuniting with
262 the parent and a time period, not longer than six months, for such
263 steps to be accomplished.

264 Sec. 8. Section 17a-76 of the general statutes is repealed and the
265 following is substituted in lieu thereof:

266 (a) Application for commitment of a mentally ill child to a hospital
267 for mental illness shall be made to the court of probate in the district in
268 which such child resides, or when his or her place of residence is out of
269 state or unknown, the district in which he or she may be at the time of
270 filing the application, except in cases where it is otherwise expressly
271 provided by law. In any case in which the child is hospitalized under
272 sections 17a-75 to 17a-83, inclusive, and an application for the
273 commitment of such child is filed in accordance with the provisions of
274 sections 17a-75 to 17a-83, inclusive, the jurisdiction shall be vested in
275 the court of probate for the district in which the hospital where such
276 child is a patient is located. In the event that an application has
277 previously been filed in another court of probate with respect to the
278 same confinement, no further action shall be taken on such previous
279 application. Notwithstanding the provisions of section 45a-7, if the
280 child is confined to a hospital outside the district of the court of
281 probate in which the application for [his] the child's commitment was
282 made, the judge of probate from the district where the application was

283 filed shall have jurisdiction to hold the hearing on such commitment at
284 the hospital where such child is hospitalized. The court shall exercise
285 jurisdiction only upon written application alleging that such child
286 suffers from a mental disorder and is in need of treatment. Such
287 application may be made by any person, and shall include the name
288 and address of the hospital for mental illness to which the child's
289 commitment is being sought and shall include the name, address and
290 telephone number of any attorney appointed for the child by the
291 Superior Court pursuant to section 46b-129, as amended by this act.

292 (b) Any application for commitment of any child under sections 17a-
293 75 to 17a-83, inclusive, shall be transferred from the court of probate
294 where it has been filed to the superior court of appropriate venue upon
295 motion of any legal party except the petitioner.

296 (c) The motion for such transfer shall be filed with the court of
297 probate prior to the beginning of any hearing on the merits. The
298 moving party shall send copies of such motion to all parties of record.
299 The court shall grant such motion the next business day after its receipt
300 by the court. Immediately upon granting the motion, the clerk of the
301 court shall transmit by certified mail the original file and papers to the
302 superior court having jurisdiction. All parties to the proceeding shall
303 be notified of the date on which the file and papers were transferred.

304 (d) The court of probate shall appoint an attorney for such child
305 from the panel of attorneys established by subsection (b) of section
306 17a-498, except that where a child has an attorney appointed by the
307 Superior Court pursuant to section 46b-129a, the Probate Court shall
308 appoint such attorney, except for good cause shown, on the next
309 business day after receipt of the application, and as soon as reasonably
310 possible shall appoint physicians as required under section 17a-77,
311 which appointments shall remain in full force and effect
312 notwithstanding the fact that the matter has been transferred to the
313 Superior Court.

314 (e) On any matter not transferred to the Superior Court in

315 accordance with this section, upon the motion of the child for whom
316 application has been made, or his or her counsel, or the judge of
317 probate having jurisdiction over such application, filed not later than
318 three days prior to any hearing scheduled on such application, the
319 Probate Court Administrator shall appoint a three-judge court from
320 among the several judges of probate to hear such application. Such
321 three-judge court shall consist of at least one judge who is an attorney
322 at law admitted to practice in this state. The judge of the court of
323 probate having jurisdiction over such application under the provisions
324 of this section shall be a member, provided such judge may disqualify
325 himself or herself in which case all three members of such court shall
326 be appointed by the Probate Court Administrator. Such three-judge
327 court when convened shall have all the powers and duties set forth
328 under sections 17a-75 to 17a-83, inclusive, and shall be subject to all of
329 the provisions of law as if it were a single-judge court. No such child
330 shall be involuntarily hospitalized without the vote of at least two of
331 the three judges convened under the provisions of this section. The
332 judges of such court shall designate a chief judge from among their
333 members. All records for any case before the three-judge court shall be
334 maintained in the court of probate having jurisdiction over the matter.

335 Sec. 9. Subsection (b) of section 17a-101i of the general statutes is
336 repealed and the following is substituted in lieu thereof:

337 (b) After an investigation has been completed and the
338 Commissioner of Children and Families, based upon the results of the
339 investigation, has reasonable cause to believe that a child has been
340 abused by a staff member of a public or private institution or facility
341 providing care for children or private school, the commissioner shall
342 notify the executive director of such institution, school or facility and
343 shall provide records, whether or not created by the department
344 concerning such investigation to such executive director. Such
345 institution, school or facility may suspend such staff person. Such
346 suspension shall be with pay and shall not result in diminution or
347 termination of benefits to such employee. Such suspension shall

348 remain in effect until the incident of abuse has been satisfactorily
349 resolved by the employer of the staff person. If such staff member has
350 a professional license or certification issued by the state, the
351 commissioner shall forthwith notify the state agency responsible for
352 such license or certification of the staff member and provide records,
353 whether or not created by the department, concerning such
354 investigation.

Statement of Purpose:

To address issues concerning implementation of provisions concerning child abuse and neglect.

[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.]