



General Assembly

Substitute Bill No. 936

January Session, 2003

**AN ACT CONCERNING INTERSTATE PLACEMENT OF CHILDREN
AND VISITATION FOR CHILDREN IN THE CARE AND CUSTODY OF
THE COMMISSIONER OF CHILDREN AND FAMILIES.**

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

1 Section 1. Section 17a-112 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) In respect to any child in the custody of the Commissioner of
4 Children and Families in accordance with section 46b-129, either the
5 commissioner, or the attorney who represented such child in a
6 pending or prior proceeding, or an attorney appointed by the Superior
7 Court on its own motion, or an attorney retained by such child after
8 attaining the age of fourteen, may petition the court for the termination
9 of parental rights with reference to such child. The petition shall be in
10 the form and contain the information set forth in subsection (b) of
11 section 45a-715, and be subject to the provisions of subsection (c) of
12 said section. If a petition indicates that either or both parents consent
13 to the termination of their parental rights, or if at any time following
14 the filing of a petition and before the entry of a decree, a parent
15 consents to the termination of the parent's parental rights, each
16 consenting parent shall acknowledge such consent on a form
17 promulgated by the Office of the Chief Court Administrator
18 evidencing that the parent has voluntarily and knowingly consented to
19 the termination of such parental rights. No consent to termination by a

20 mother shall be executed within forty-eight hours immediately after
21 the birth of such mother's child. A parent who is a minor shall have the
22 right to consent to termination of parental rights and such consent
23 shall not be voidable by reason of such minority. A guardian ad litem
24 shall be appointed by the court to assure that such minor parent is
25 giving an informed and voluntary consent.

26 (b) Either or both birth parents and an intended adoptive parent
27 may enter into a cooperative postadoption agreement regarding
28 communication or contact between either or both birth parents and the
29 adopted child. Such an agreement may be entered into if: (1) The child
30 is in the custody of the Department of Children and Families; (2) an
31 order terminating parental rights has not yet been entered; and (3)
32 either or both birth parents agree to a voluntary termination of
33 parental rights, including an agreement in a case which began as an
34 involuntary termination of parental rights. The postadoption
35 agreement shall be applicable only to a birth parent who is a party to
36 the agreement. 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 acknowledgment 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 acknowledgment 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 are
65 parties 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 and allocate any cost for such mediation or dispute
81 resolution proceedings.

82 (h) An adoptive parent, guardian ad litem for the child or the court,
83 on its own motion, may, at any time, petition for review of any order
84 entered pursuant to subsection (c) of this section, if the petitioner

85 alleges that such action would be in the best interests of the child. The
86 court may modify or terminate such orders as the court deems to be in
87 the best interest of the adopted child.

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

101 (j) The Superior Court, upon hearing and notice as provided in
102 sections 45a-716 and 45a-717, may grant a petition filed pursuant to
103 this section if it finds by clear and convincing evidence (1) that the
104 Department of Children and Families has made reasonable efforts to
105 locate the parent and to reunify the child with the parent, unless the
106 court finds in this proceeding that the parent is unable or unwilling to
107 benefit from reunification efforts provided such finding is not required
108 if the court has determined at a hearing pursuant to subsection (b) of
109 section 17a-110 or section 17a-111b that such efforts are not
110 appropriate, (2) that termination is in the best interest of the child, and
111 (3) that: (A) The child has been abandoned by the parent in the sense
112 that the parent has failed to maintain a reasonable degree of interest,
113 concern or responsibility as to the welfare of the child; (B) the child (i)
114 has been found by the Superior Court or the Probate Court to have
115 been neglected or uncared for in a prior proceeding, or (ii) is found to
116 be neglected or uncared for and has been in the custody of the
117 commissioner for at least fifteen months and the parent of such child
118 has been provided specific steps to take to facilitate the return of the

119 child to the parent pursuant to section 46b-129 and has failed to
120 achieve such degree of personal rehabilitation as would encourage the
121 belief that within a reasonable time, considering the age and needs of
122 the child, such parent could assume a responsible position in the life of
123 the child; (C) the child has been denied, by reason of an act or acts of
124 parental commission or omission including, but not limited to, sexual
125 molestation or exploitation, severe physical abuse or a pattern of
126 abuse, the care, guidance or control necessary for the child's physical,
127 educational, moral or emotional well-being. Nonaccidental or
128 inadequately explained serious physical injury to a child shall
129 constitute prima facie evidence of acts of parental commission or
130 omission sufficient for the termination of parental rights; (D) there is
131 no ongoing parent-child relationship, which means the relationship
132 that ordinarily develops as a result of a parent having met on a day to
133 day basis the physical, emotional, moral and educational needs of the
134 child and to allow further time for the establishment or
135 reestablishment of such parent-child relationship would be
136 detrimental to the best interest of the child; (E) the parent of a child
137 under the age of seven years who is neglected or uncared for, has
138 failed, is unable or is unwilling to achieve such degree of personal
139 rehabilitation as would encourage the belief that within a reasonable
140 period of time, considering the age and needs of the child, such parent
141 could assume a responsible position in the life of the child and such
142 parent's parental rights of another child were previously terminated
143 pursuant to a petition filed by the Commissioner of Children and
144 Families; (F) the parent has killed through deliberate, nonaccidental act
145 another child of the parent or has requested, commanded, importuned,
146 attempted, conspired or solicited such killing or has committed an
147 assault, through deliberate, nonaccidental act that resulted in serious
148 bodily injury of another child of the parent; or (G) the parent was
149 convicted as an adult or a delinquent by a court of competent
150 jurisdiction of a sexual assault resulting in the conception of the child,
151 except a conviction for a violation of section 53a-71 or 53a-73a,
152 provided the court may terminate such parent's parental rights to such
153 child at any time after such conviction.

154 (k) Except in the case where termination is based on consent, in
155 determining whether to terminate parental rights under this section,
156 the court shall consider and shall make written findings regarding: (1)
157 The timeliness, nature and extent of services offered, provided and
158 made available to the parent and the child by an agency to facilitate the
159 reunion of the child with the parent; (2) whether the Department of
160 Children and Families has made reasonable efforts to reunite the
161 family pursuant to the federal Adoption Assistance and Child Welfare
162 Act of 1980, as amended; (3) the terms of any applicable court order
163 entered into and agreed upon by any individual or agency and the
164 parent, and the extent to which all parties have fulfilled their
165 obligations under such order; (4) the feelings and emotional ties of the
166 child with respect to the child's parents, any guardian of such child's
167 person and any person who has exercised physical care, custody or
168 control of the child for at least one year and with whom the child has
169 developed significant emotional ties; (5) the age of the child; (6) the
170 efforts the parent has made to adjust such parent's circumstances,
171 conduct, or conditions to make it in the best interest of the child to
172 return such child home in the foreseeable future, including, but not
173 limited to, (A) the extent to which the parent has maintained contact
174 with the child as part of an effort to reunite the child with the parent,
175 provided the court may give weight to incidental visitations,
176 communications or contributions, and (B) the maintenance of regular
177 contact or communication with the guardian or other custodian of the
178 child; and (7) the extent to which a parent has been prevented from
179 maintaining a meaningful relationship with the child by the
180 unreasonable act or conduct of the other parent of the child, or the
181 unreasonable act of any other person or by the economic circumstances
182 of the parent.

183 (l) Any petition brought by the Commissioner of Children and
184 Families to the Superior Court, pursuant to subsection (a) of section
185 46b-129, may be accompanied by or, upon motion by the petitioner,
186 consolidated with a petition for termination of parental rights filed in
187 accordance with this section with respect to such child. Notice of the

188 hearing on such petitions shall be given in accordance with sections
189 45a-716 and 45a-717. The Superior Court, after hearing, in accordance
190 with the provisions of subsection (i) or (j) of this section, may, in lieu of
191 granting the petition filed pursuant to section 46b-129, grant the
192 petition for termination of parental rights as provided in section
193 45a-717.

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

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

206 (o) In the case where termination of parental rights is granted, the
207 guardian of the person or statutory parent shall report to the court
208 within thirty days of the date judgment is entered on a case plan, as
209 defined by the federal Adoption Assistance and Child Welfare Act of
210 1980, for the child which shall include measurable objectives and time
211 schedules. At least every three months thereafter, such guardian or
212 statutory parent shall make a report to the court on the progress made
213 on implementation of the plan. The court may convene a hearing upon
214 the filing of a report and shall convene a hearing for the purpose of
215 reviewing the plan for the child no more than twelve months from the
216 date judgment is entered or from the date of the last permanency
217 hearing held pursuant to subsection (k) of section 46b-129, whichever
218 is earlier, and at least once a year thereafter until the court determines
219 that the adoption plan has become finalized. For children where the
220 commissioner has determined that adoption is appropriate, the report

221 on the implementation of the plan shall include a description of the
222 reasonable efforts the department is taking to promote and expedite
223 the adoptive placement and to finalize the adoption of the child,
224 including documentation of child specific recruitment efforts. At such
225 hearing, the court shall determine whether the department has made
226 reasonable efforts to achieve the permanency plan. If the court
227 determines that the department has not made reasonable efforts to
228 place a child in an adoptive placement or that reasonable efforts have
229 not resulted in the placement of the child, the court may order the
230 Department of Children and Families, within available appropriations,
231 to contract with a child-placing agency to arrange for the adoption of
232 the child. The department, as statutory parent, shall continue to
233 provide care and services for the child while a child-placing agency is
234 arranging for the adoption of the child.

235 (p) The provisions of section 17a-152, regarding placement of a child
236 from another state, and the provisions of section 17a-175, regarding the
237 Interstate Compact on the Placement of Children, shall apply to
238 placements pursuant to this section.

239 ~~[(p)]~~ (q) The provisions of this section shall be liberally construed in
240 the best interests of any child for whom a petition under this section
241 has been filed.

242 Sec. 2. Section 46b-129 of the general statutes is amended by adding
243 subsection (q) as follows (*Effective October 1, 2003*):

244 (NEW) (q) The provisions of section 17a-152, regarding placement
245 of a child from another state, and section 17a-175, regarding the
246 Interstate Compact on the Placement of Children, shall apply to
247 placements pursuant to this section.

248 Sec. 3. Section 17a-118 of the general statutes is repealed and the
249 following is substituted in lieu thereof (*Effective October 1, 2003*):

250 (a) There shall be a biennial review of the subsidy by the
251 Commissioner of Children and Families in accordance with a schedule

252 established by the commissioner or the commissioner's designee. The
253 adoptive parents shall, at the time of such review, submit a sworn
254 statement that the condition which caused the child to be certified as a
255 special needs child or a related condition continues to exist or has
256 reoccurred and that the adoptive parent or parents are still legally
257 responsible for the support of the child and that the child is receiving
258 support from the adoptive family. If the subsidy is to be terminated or
259 reduced by the Commissioner of Children and Families, notice of such
260 proposed reduction or termination shall be given, in writing, to the
261 adoptive parents and such adoptive parents shall, at least thirty days
262 prior to the imposition of said reduction or termination, be given a
263 hearing before the Adoption Subsidy Review Board. If such an appeal
264 is taken, the subsidy shall continue without modification until the final
265 decision of the Adoption Subsidy Review Board.

266 (b) A child who is a resident of the state of Connecticut when
267 eligibility for subsidy is certified, shall remain eligible and continue to
268 receive the subsidy regardless of the domicile or residence of the
269 adoptive parents at the time of application for adoption, placement,
270 legal decree of adoption or thereafter. If the Department of Children
271 and Families is responsible for such child's placement and care, the
272 department shall be responsible for entering into an adoption
273 assistance agreement and paying any subsidy granted under the
274 provisions of sections 17a-116 to 17a-120, inclusive. If a licensed child
275 placing agency, other than the Department of Children and Families,
276 or any public agency in another state is responsible for such child's
277 placement and care, the adoption assistance application shall be made
278 in the adoptive parents' state of residence and such state shall be
279 responsible for determining that such child meets Title IV-E adoption
280 assistance criteria and for providing adoption assistance permitted
281 under federal law.

282 Sec. 4. Section 54-76b of the general statutes is repealed and the
283 following is substituted in lieu thereof (*Effective October 1, 2003*):

284 For the purpose of sections 54-76b to 54-76n, inclusive, "youth"

285 means a minor who has reached the age of sixteen years but has not
286 reached the age of eighteen years or a child who has been transferred
287 to the regular criminal docket pursuant to section 46b-127; and
288 "youthful offender" means a youth who (1) is charged with the
289 commission of a crime which is not a class A felony or a violation of
290 subdivision (2) of subsection (a) of section 53-21, section 53a-70, 53a-
291 70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving
292 consensual sexual intercourse or sexual contact between the youth and
293 another person who is thirteen years of age or older but under sixteen
294 years of age, (2) has not previously been convicted of a felony or been
295 previously adjudged a serious juvenile offender or serious juvenile
296 repeat offender, as defined in section 46b-120, or a youthful offender,
297 or been afforded a pretrial program for accelerated rehabilitation
298 under section 54-56e, and (3) is adjudged a youthful offender pursuant
299 to the provisions of said sections. The Interstate Compact [on
300 Juveniles, except the provisions of article four thereof,] for Adult
301 Offender Supervision under section 54-133 shall apply to youthful
302 offenders. [to the same extent as to minors below sixteen years of age.]

303 Sec. 5. (NEW) (*Effective October 1, 2003*) (a) The Commissioner of
304 Children and Families shall ensure that a child placed in the care and
305 custody of the commissioner pursuant to an order of temporary
306 custody or an order of commitment is provided visitation with such
307 child's parents and siblings, unless otherwise ordered by the court.

308 (b) The commissioner shall ensure that such child's visits with his or
309 her parents shall occur as frequently as reasonably possible, based
310 upon consideration of the best interests of the child, including the age
311 and developmental level of the child, and shall be sufficient in number
312 and duration to ensure continuation of the relationship.

313 (c) If such child has an existing relationship with a sibling and is
314 separated from such sibling as a result of intervention by the
315 commissioner including, but not limited to, placement in a foster home
316 or in the home of a relative, the commissioner shall, based upon
317 consideration of the best interests of the child, ensure that such child

318 has access to and visitation rights with such sibling throughout the
319 duration of such placement. In determining the number, frequency
320 and duration of such visits, the commissioner shall consider the best
321 interests of each sibling, given each child's age and developmental
322 level and the continuation of the sibling relationship.

323 (d) The commissioner shall include in each child's plan of treatment
324 information relating to the factors considered in making visitation
325 determinations pursuant to this section. If the commissioner
326 determines that such visits are not in the best interests of the child or
327 that the number, frequency or duration of the visits requested by the
328 child's attorney or guardian ad litem is not in the best interests of the
329 child, the commissioner shall include the reasons for such
330 determination in the child's plan of treatment.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

JUD *Joint Favorable Subst.*