



General Assembly

January Session, 2005

Raised Bill No. 6871

LCO No. 4117

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Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE QUALITY OF LEGAL REPRESENTATION
IN CHILD PROTECTION PROCEEDINGS.***

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

1 Section 1. (NEW) (*Effective January 1, 2006*) (a) There is established a
2 Commission on Child Protection that shall consist of seven members
3 appointed as follows: (1) The Chief Justice of the Supreme Court shall
4 appoint two judges of the Superior Court, or a judge of the Superior
5 Court and a retired judge of the Superior Court; (2) the speaker of the
6 House of Representatives, the president pro tempore of the Senate, the
7 minority leader of the House of Representatives and the minority
8 leader of the Senate shall each appoint one member; and (3) the
9 Governor shall appoint one member who shall serve as chairperson.

10 (b) Each member of the commission shall serve for a term of three
11 years and until the appointment and qualification of his or her
12 successor. No more than three of the members, other than the
13 chairperson, may be members of the same political party. Of the four
14 nonjudicial members, other than the chairperson, at least two shall not
15 be members of the bar of any state.

16 (c) If any vacancy occurs on the commission, the appointing
17 authority having the power to make the initial appointment under the
18 provisions of this section shall appoint a person for the unexpired term
19 in accordance with the provisions of this section.

20 (d) The members of the commission shall serve without
21 compensation but shall be reimbursed for actual expenses incurred
22 while engaged in the duties of the commission. The members of the
23 commission shall not be employed in any other position under this
24 section or section 2 of this act.

25 (e) The commission may adopt such rules as it deems necessary for
26 the conduct of its internal affairs.

27 (f) The commission shall be responsible for carrying out the
28 purposes of this section and section 2 of this act and shall appoint a
29 Chief Child Protection Attorney and an assistant to the Chief Child
30 Protection Attorney, both of whom shall serve at the pleasure of the
31 commission and whose compensation shall be fixed by the
32 commission.

33 (g) The commission shall be an autonomous body within the
34 Judicial Department for fiscal and budgetary purposes only.

35 (h) The Judicial Department shall ensure that adequate space is
36 available in the various courts for attorneys who represent children
37 and indigent parents pursuant to section 2 of this act to meet in private
38 with their clients.

39 Sec. 2. (NEW) (*Effective January 1, 2006*) The Chief Child Protection
40 Attorney appointed under section 1 of this act shall:

41 (1) Establish a system for the delivery of legal services to children
42 and indigent parents in proceedings before the superior court for
43 juvenile matters in which a child is alleged to be uncared-for,
44 neglected, dependent, abused or in a family with service needs, or is
45 the subject of a petition for termination of parental rights. To carry out

46 the requirements of this section, the Chief Child Protection Attorney
47 may (A) contract with appropriate not-for-profit legal services agencies
48 for the delivery of such services, and (B) maintain one or more lists of
49 trial lawyers who may be available to represent children and indigent
50 parents in such proceedings in the event that no appropriate not-for-
51 profit legal services agency is available or the contracted not-for-profit
52 legal services agency is unable to accept cases due to conflicts of
53 interest or caseload standards;

54 (2) Ensure that attorneys providing legal services pursuant to this
55 section are assigned to cases in a manner that will avoid conflicts of
56 interest, as defined by the Rules of Professional Conduct; and

57 (3) Provide initial and in-service training for attorneys providing
58 legal services pursuant to this section and establish training, practice
59 and caseload standards for the representation of children and indigent
60 parents in juvenile matters in which a child is alleged to be uncared-
61 for, neglected, dependent, abused or in a family with service needs, or
62 is the subject of a petition for termination of parental rights. Such
63 standards shall apply to any attorney who represents children or
64 indigent parents in such matters pursuant to this section and shall be
65 designed to ensure a high quality of legal representation. The training
66 for attorneys required by this subdivision shall be designed to ensure
67 proficiency in the procedural and substantive law related to such
68 matters and to establish a minimum level of proficiency in relevant
69 subject areas, including, but not limited to, family violence, child
70 development, behavioral health, educational disabilities and cultural
71 competence.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2006</i>	New section
Sec. 2	<i>January 1, 2006</i>	New section

Statement of Purpose:

To eliminate the conflict of interest inherent in the current method of appointing attorneys in certain juvenile matters by establishing a Commission on Child Protection that shall have responsibility for administering a system for the appointment of attorneys in cases in which a child is alleged to be uncared-for, neglected, abused, dependent or in a family with service needs, or is the subject of a petition for termination of parental rights, and to ensure a high quality of legal representation for children and indigent parents in such cases by requiring the commission to establish training, practice and caseload standards.

[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.]