



General Assembly

January Session, 2005

Raised Bill No. 1188

LCO No. 3914

03914_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT ADOPTING A PROTECTIVE PARENT REFORM ACT.

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

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) This section shall be
2 known and may be cited as the "Protective Parent Reform Act".

3 (b) In any proceeding under chapter 815j of the general statutes
4 involving child custody and visitation:

5 (1) If a parent makes a good faith allegation, based on a reasonable
6 belief supported by facts, that his or her child is the victim of abuse,
7 neglect or family violence perpetrated or allowed by the other parent,
8 and if the parent making such allegation acts lawfully and in good
9 faith in accordance with such belief to protect the child or seek
10 treatment for the child, such parent shall not be deprived of custody of
11 or visitation or contact with the child based solely on such belief or the
12 reasonable actions taken in accordance with such belief.

13 (2) If an allegation that a child is the victim of abuse, neglect or
14 family violence perpetrated or allowed by a parent is supported by a
15 preponderance of the evidence, the court shall consider such evidence

16 in determining custody and visitation that is in the best interests of the
17 child and shall not award custody of the child to the parent who
18 presents a substantial risk of harm to the child.

19 (c) In any proceeding under chapter 815j of the general statutes
20 involving child custody and visitation:

21 (1) No ex parte communications shall be made between the court
22 and any guardian ad litem for the child, counsel for the child, custody
23 evaluator, mental health professional, conciliator, mediator, screener or
24 other professional participating in the proceeding.

25 (2) The role of any guardian ad litem or counsel for the child shall be
26 limited to advocating for the wishes of the child and participating in
27 the proceeding by presenting evidence and argument in the same
28 manner as counsel for the parent. The guardian ad litem or counsel for
29 the child may not substitute his or her own opinion and judgment for
30 the wishes of the child or offer any evidence which would be excluded
31 under applicable law if offered by any other party. In no case shall the
32 guardian ad litem or counsel for the child be deemed a quasi-judicial
33 officer or be granted any fact-finding role. Nothing in this subdivision
34 shall be construed to require the appointment of a guardian ad litem or
35 counsel for the child in a proceeding involving child custody and
36 visitation.

37 (3) The parents shall be provided full and timely access to all
38 custody and mental health evaluations and reports that are to be
39 considered in the proceeding, including all underlying data for such
40 evaluations and reports, and shall be afforded the opportunity to
41 depose prior to trial and to cross examine at trial each mental health
42 professional or custody evaluator who will testify in the proceeding.

43 (4) No expert opinion or evidence attempting to discredit a parent's
44 motivation for asserting that his or her child is the victim of abuse,
45 neglect or family violence perpetrated or allowed by the other parent,
46 or attempting to discredit a child's report of such abuse, neglect or

47 family violence, shall be admissible, unless such expert opinion or
48 evidence is based on concepts and theories generally accepted by the
49 scientific community and supported by credible and admissible
50 evidence of facts which can be established independently of such
51 expert opinion or evidence.

52 (5) A parent shall not be deprived of custody of or visitation or
53 contact with his or her child based on the opinion of a mental health
54 professional that such parent is at risk of unlawfully fleeing with the
55 child, unless credible and admissible evidence independent of such
56 mental health professional's opinion establishes that such parent's plan
57 or intent is to flee.

58 (6) No court-sponsored conciliation, mediation, intake screening or
59 parenting education program may make any recommendation or
60 report to the court regarding custody of or visitation or contact with
61 the child unless all parties agree to the making of such
62 recommendation or report. Both parents of the child shall have the
63 right to contest such recommendation or report.

64 (7) Whenever abuse, neglect or family violence is an issue in the
65 proceeding, no mental health professional or custody evaluator who
66 lacks specialized training and experience in the type of abuse, neglect
67 or family violence that is relevant to the specific allegations made may
68 be appointed by the court to conduct any evaluation in the proceeding.

69 (8) Admissible evidence of abuse, neglect or family violence shall be
70 considered by the court.

71 (9) No valid protective or restraining order issued pursuant to
72 section 46b-15, 46b-15a or 46b-38c and entered in the automated
73 registry of protective orders maintained pursuant to section 51-5c of
74 the general statutes may be violated by the award of custody of or
75 visitation or contact with the child to a parent who is the perpetrator of
76 family violence.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	New section

Statement of Purpose:

To adopt a Protective Parent Reform Act in order to prevent courts in child custody and visitation cases from placing a child who is abused or neglected, or who lives in a home in which family violence exists, in the custody of the abusive, neglectful or violent parent and from limiting the protective parent's custody, visitation and contact rights.

[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.]