



Substitute House Bill No. 7238

Public Act No. 07-159

AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION AND THE CHIEF CHILD PROTECTION ATTORNEY.

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

Section 1. Section 46b-62 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

In any proceeding seeking relief under the provisions of this chapter and sections 17b-743, 17b-744, 45a-257, 46b-1, 46b-6, 46b-212 to 46b-213v, inclusive, 47-14g, 51-348a and 52-362, the court may order either spouse or, if such proceeding concerns the custody, care, education, visitation or support of a minor child, either parent to pay the reasonable attorney's fees of the other in accordance with their respective financial abilities and the criteria set forth in section 46b-82. If, in any proceeding under this chapter and said sections, the court appoints an attorney for a minor child, the court may order the father, mother or an intervening party, individually or in any combination, to pay the reasonable fees of the attorney or may order the payment of the attorney's fees in whole or in part from the estate of the child. If the child is receiving or has received state aid or care, the [reasonable] compensation of the attorney shall be established [by, and paid from funds appropriated to, the Judicial Department] and paid by the Commission on Child Protection.

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Sec. 2. Section 46b-123c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) There is established a Commission on Child Protection that shall consist of eleven members appointed as follows: (1) The Chief Justice of the Supreme Court shall appoint two judges of the Superior Court, or a judge of the Superior Court and a retired judge of the Superior Court; (2) the speaker of the House of Representatives, the president pro tempore of the Senate, the majority leader of the [Senate and] House of Representatives, the majority leader of the [House of Representatives, and] Senate, the minority leader of the House of Representatives and the minority leader of the Senate shall each appoint one member; and (3) the Governor shall appoint three members, one of whom shall serve as chairperson.

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

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

(d) The members of the commission shall serve without compensation but shall be reimbursed for actual expenses incurred while engaged in the duties of the commission. The members of the commission shall not be employed in any other position under this section or section 46b-123d, as amended by this act.

(e) The commission may adopt such rules as it deems necessary for

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the conduct of its internal affairs.

(f) The commission shall be responsible for carrying out the purposes of this section and section 46b-123d, as amended by this act, and shall appoint a Chief Child Protection Attorney, who shall serve at the pleasure of the commission and whose compensation shall be fixed by the commission.

(g) The commission shall be within the Division of Public Defender Services for administrative purposes only.

(h) The commission may accept funds from the federal government, other state agencies and private organizations.

(i) The commission may establish such requirements for the submission of billing statements, receipts and other documentation by not-for-profit legal services agencies, individual attorneys and private law firms as the commission deems necessary in furnishing compensation to such agencies, attorneys and law firms for providing legal services and serving as guardians ad litem pursuant to subdivision (1) of subsection (a) of section 46b-123d, as amended by this act.

Sec. 3. Section 46b-123d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) The Chief Child Protection Attorney appointed under section 46b-123c, as amended by this act, shall: [, on or before July 1, 2006:]

(1) Establish a system [for the provision of: (A) Legal] to provide (A) legal services and guardians ad litem to children, youths and indigent respondents in family relations matters in which the state has been ordered to pay the cost of such legal services and guardians ad litem, provided legal services shall be provided to indigent respondents pursuant to this subparagraph only in paternity proceedings and

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contempt proceedings, and (B) legal services and guardians ad litem to children, youths and indigent legal parties in proceedings before the superior court for juvenile matters, other than legal services for children in delinquency matters. To carry out the requirements of this section, the Chief Child Protection Attorney may contract with (i) appropriate not-for-profit legal services agencies, and (ii) individual lawyers for the delivery of legal services to represent children and indigent legal parties in such proceedings;

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

(3) [Provide initial and in-service training for guardians ad litem provided pursuant to this section and for attorneys providing legal services pursuant to this section, and establish] Establish training, practice and caseload standards for the representation of [: (A) Indigent respondents in family matters, and (B) children and indigent legal parties in juvenile matters, other than representation of children in delinquency matters] children, youths, indigent respondents and indigent legal parties pursuant to subdivision (1) of this subsection. Such standards shall apply to [any] each attorney who represents children, [or] youths, indigent respondents or indigent legal parties [in such matters] pursuant to this section and shall be designed to ensure a high quality of legal representation. The training standards for attorneys required by this subdivision shall be designed to ensure proficiency in the procedural and substantive law related to such matters and to establish a minimum level of proficiency in relevant subject areas, including, but not limited to, family violence, child development, behavioral health, educational disabilities and cultural competence.

(b) Any contract entered into pursuant to subdivision (1) of

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subsection (a) of this section may include terms encouraging or requiring the use of a multidisciplinary agency model of legal representation.

Sec. 4. Section 46b-123e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) The judicial authority before whom a [juvenile or] family relations matter described in subparagraph (A) of subdivision (1) of subsection (a) of section 46b-123d, as amended by this act, is pending shall determine eligibility for counsel for a child or youth and the parents or guardian of a child or youth if they are unable to afford counsel. Upon a finding that a party is unable to afford counsel, the judicial authority shall appoint [the Chief Child Protection Attorney] an attorney to provide representation from a list of qualified attorneys provided by the Chief Child Protection Attorney. [For purposes of determining eligibility for appointment of counsel, the judicial authority shall cause the parent or guardian of a child or youth to complete a written statement under oath or affirmation setting forth the parent or guardian's liabilities and assets, income and sources thereof, and such other information which the Commission on Child Protection shall designate and require on forms adopted by the Commission on Child Protection. Upon the appointment of the Chief Child Protection Attorney pursuant to this subsection, the Chief Child Protection Attorney shall assign the matter to an attorney under contract with the Chief Child Protection Attorney to provide such representation.]

(b) The judicial authority before whom a juvenile matter described in subparagraph (B) of subdivision (1) of subsection (a) of section 46b-123d, as amended by this act, is pending shall notify the Chief Child Protection Attorney who shall assign an attorney to represent the child or youth. The judicial authority shall determine eligibility for counsel for the parents or guardian of the child or youth if such parents or

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guardian is unable to afford counsel. Upon a finding that such parents or guardian is unable to afford counsel, the judicial authority shall notify the Chief Child Protection Attorney of such finding, and the Chief Child Protection Attorney shall assign an attorney to provide representation.

(c) For the purposes of determining eligibility for appointment of counsel pursuant to subsection (a) or (b) of this section, the judicial authority shall cause the parents or guardian of a child or youth to complete a written statement under oath or affirmation setting forth the parents' or guardian's liabilities and assets, income and sources thereof, and such other information as the Commission on Child Protection shall designate and require on forms adopted by said commission.

~~[(b)]~~ (d) The payment of any attorney who was appointed prior to July 1, 2006, to represent a child or indigent parent in any case described in subdivision (1) of subsection (a) of section 46b-123d, as amended by this act, who continues to represent such child or parent after July 1, 2006, shall be processed through the Commission on Child Protection and paid at the rate that was in effect at the time of such appointment.

Sec. 5. Subsection (d) of section 46b-129 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(d) The preliminary hearing on the order of temporary custody or order to appear or the first hearing on a petition filed pursuant to subsection (a) of this section shall be held in order for the court to: (1) Advise the parent or guardian of the allegations contained in all petitions and applications that are the subject of the hearing and the parent's or guardian's right to counsel pursuant to subsection (b) of section 46b-135, as amended by this act; (2) assure that an attorney,

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and where appropriate, a separate guardian ad litem has been appointed to represent the child or youth in accordance with subsection (b) of section 46b-123e, as amended by this act, and sections 46b-129a and 46b-136, as amended by this act; (3) upon request, appoint an attorney to represent the respondent when the respondent is unable to afford representation, [as determined by the court] in accordance with subsection (b) of section 46b-123e, as amended by this act; (4) advise the parent or guardian of the right to a hearing on the petitions and applications, to be held not later than ten days after the date of the preliminary hearing if the hearing is pursuant to an order of temporary custody or an order to show cause; (5) accept a plea regarding the truth of such allegations; (6) make any interim orders, including visitation, that the court determines are in the best interests of the child or youth. The court, after a hearing pursuant to this subsection, shall order specific steps the commissioner and the parent or guardian shall take for the parent or guardian to regain or to retain custody of the child or youth; (7) take steps to determine the identity of the father of the child or youth, including ordering genetic testing, if necessary, and order service of the petition and notice of the hearing date, if any, to be made upon him; (8) if the person named as the father appears, and admits that he is the father, provide him and the mother with the notices that comply with section 17b-27 and provide them with the opportunity to sign a paternity acknowledgment and affirmation on forms that comply with section 17b-27. Such documents shall be executed and filed in accordance with chapter 815y and a copy delivered to the clerk of the superior court for juvenile matters; and (9) in the event that the person named as a father appears and denies that he is the father of the child or youth, advise him that he may have no further standing in any proceeding concerning the child, and either order genetic testing to determine paternity or direct him to execute a written denial of paternity on a form promulgated by the Office of the Chief Court Administrator. Upon execution of such a form by the putative father, the court may remove him from the case and afford

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him no further standing in the case or in any subsequent proceeding regarding the child or youth until such time as paternity is established by formal acknowledgment or adjudication in a court of competent jurisdiction.

Sec. 6. Section 46b-135 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) At the commencement of any proceeding concerning the alleged delinquency of a child, [the parent or parents or guardian and] the child shall have the right to counsel and be so informed by the judge, and that if [they] the child and the parent or parents or guardian of the child are unable to afford counsel, [that] counsel will be provided for [them] the child. Such counsel and [such parent or parents or guardian or] the child shall have the rights of confrontation and cross-examination. If a parent fails to comply with a court order entered in the best interests of the alleged or adjudicated delinquent child and is facing potential imprisonment for contempt of court, such parent, if unable to afford counsel, shall be entitled to have counsel provided for such parent pursuant to this subsection.

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

Sec. 7. Section 46b-136 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

In any proceeding [on] in a juvenile matter, the judge before whom such proceeding is pending shall, even in the absence of a request to

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do so, provide an attorney to represent the child or youth, [his] the child's or youth's parent or parents [,] or guardian, or other person having control of the child or youth, if such judge determines that the interests of justice so require, and in any proceeding in which the custody of a child is at issue, such judge shall provide an attorney to represent the child and may authorize such attorney or appoint another attorney to represent such child or youth, parent, guardian or other person on an appeal from a decision in such proceeding. Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, [it] the court shall assess as costs against such parents, guardian [,] or custodian, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid [for by the court] by the Commission on Child Protection in providing such counsel, to the extent of their financial ability to do so. The Commission on Child Protection shall establish the rate at which counsel provided pursuant to this section shall be compensated.

Approved June 25, 2007