



# House of Representatives

General Assembly

**File No. 571**

January Session, 2007

Substitute House Bill No. 7238

*House of Representatives, April 24, 2007*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***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:

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 Section 46b-62 of the general statutes is repealed and the  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

3 In any proceeding seeking relief under the provisions of this chapter  
4 and sections 17b-743, 17b-744, 45a-257, 46b-1, 46b-6, 46b-212 to 46b-  
5 213v, inclusive, 47-14g, 51-348a and 52-362, the court may order either  
6 spouse or, if such proceeding concerns the custody, care, education,  
7 visitation or support of a minor child, either parent to pay the  
8 reasonable attorney's fees of the other in accordance with their  
9 respective financial abilities and the criteria set forth in section 46b-82.  
10 If, in any proceeding under this chapter and said sections, the court  
11 appoints an attorney for a minor child, the court may order the father,  
12 mother or an intervening party, individually or in any combination, to  
13 pay the reasonable fees of the attorney or may order the payment of  
14 the attorney's fees in whole or in part from the estate of the child. If the

15 child is receiving or has received state aid or care, the [reasonable]  
16 compensation of the attorney shall be established [by, and paid from  
17 funds appropriated to, the Judicial Department] and paid by the  
18 Commission on Child Protection.

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 Section 46b-123c of the general statutes is repealed and the  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

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

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

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

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

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

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

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

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

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

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

68 (a) The Chief Child Protection Attorney appointed under section  
69 46b-123c, as amended by this act, shall: [, on or before July 1, 2006:]

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

78 superior court for juvenile matters, other than legal services for  
79 children in delinquency matters. To carry out the requirements of this  
80 section, the Chief Child Protection Attorney may contract with (i)  
81 appropriate not-for-profit legal services agencies, and (ii) individual  
82 lawyers for the delivery of legal services to represent children and  
83 indigent legal parties in such proceedings;

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

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

106 (b) Any contract entered into pursuant to subdivision (1) of  
107 subsection (a) of this section may include terms encouraging or  
108 requiring the use of a multidisciplinary agency model of legal  
109 representation.

110 Sec. 4. Section 46b-123e of the general statutes is repealed and the

111 following is substituted in lieu thereof (*Effective July 1, 2007*):

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

132 (b) The judicial authority before whom a juvenile matter described  
133 in subparagraph (B) of subdivision (1) of subsection (a) of section 46b-  
134 123d, as amended by this act, is pending shall notify the Chief Child  
135 Protection Attorney who shall assign an attorney to represent the child  
136 or youth. The judicial authority shall determine eligibility for counsel  
137 for the parents or guardian of the child or youth if such parents or  
138 guardian is unable to afford counsel. Upon a finding that such parents  
139 or guardian is unable to afford counsel, the judicial authority shall  
140 notify the Chief Child Protection Attorney of such finding, and the  
141 Chief Child Protection Attorney shall assign an attorney to provide  
142 representation.

143 (c) For the purposes of determining eligibility for appointment of

144 counsel pursuant to subsection (a) or (b) of this section, the judicial  
145 authority shall cause the parents or guardian of a child or youth to  
146 complete a written statement under oath or affirmation setting forth  
147 the parents' or guardian's liabilities and assets, income and sources  
148 thereof, and such other information as the Commission on Child  
149 Protection shall designate and require on forms adopted by said  
150 commission.

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

158 Sec. 5. Subsection (d) of section 46b-129 of the general statutes is  
159 repealed and the following is substituted in lieu thereof (*Effective July*  
160 *1, 2007*):

161 (d) The preliminary hearing on the order of temporary custody or  
162 order to appear or the first hearing on a petition filed pursuant to  
163 subsection (a) of this section shall be held in order for the court to: (1)  
164 Advise the parent or guardian of the allegations contained in all  
165 petitions and applications that are the subject of the hearing and the  
166 parent's or guardian's right to counsel pursuant to subsection (b) of  
167 section 46b-135, as amended by this act; (2) assure that an attorney,  
168 and where appropriate, a separate guardian ad litem has been  
169 appointed to represent the child or youth in accordance with  
170 subsection (b) of section 46b-123e, as amended by this act, and sections  
171 46b-129a and 46b-136, as amended by this act; (3) upon request,  
172 appoint an attorney to represent the respondent when the respondent  
173 is unable to afford representation, [as determined by the court] in  
174 accordance with subsection (b) of section 46b-123e, as amended by this  
175 act; (4) advise the parent or guardian of the right to a hearing on the  
176 petitions and applications, to be held not later than ten days after the

177 date of the preliminary hearing if the hearing is pursuant to an order of  
178 temporary custody or an order to show cause; (5) accept a plea  
179 regarding the truth of such allegations; (6) make any interim orders,  
180 including visitation, that the court determines are in the best interests  
181 of the child or youth. The court, after a hearing pursuant to this  
182 subsection, shall order specific steps the commissioner and the parent  
183 or guardian shall take for the parent or guardian to regain or to retain  
184 custody of the child or youth; (7) take steps to determine the identity of  
185 the father of the child or youth, including ordering genetic testing, if  
186 necessary, and order service of the petition and notice of the hearing  
187 date, if any, to be made upon him; (8) if the person named as the father  
188 appears, and admits that he is the father, provide him and the mother  
189 with the notices that comply with section 17b-27 and provide them  
190 with the opportunity to sign a paternity acknowledgment and  
191 affirmation on forms that comply with section 17b-27. Such documents  
192 shall be executed and filed in accordance with chapter 815y and a copy  
193 delivered to the clerk of the superior court for juvenile matters; and (9)  
194 in the event that the person named as a father appears and denies that  
195 he is the father of the child or youth, advise him that he may have no  
196 further standing in any proceeding concerning the child, and either  
197 order genetic testing to determine paternity or direct him to execute a  
198 written denial of paternity on a form promulgated by the Office of the  
199 Chief Court Administrator. Upon execution of such a form by the  
200 putative father, the court may remove him from the case and afford  
201 him no further standing in the case or in any subsequent proceeding  
202 regarding the child or youth until such time as paternity is established  
203 by formal acknowledgment or adjudication in a court of competent  
204 jurisdiction.

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

207 (a) At the commencement of any proceeding concerning the alleged  
208 delinquency of a child, [the parent or parents or guardian and] the  
209 child shall have the right to counsel and be so informed by the judge,  
210 and that if [they] the child and the parent or parents or guardian of the

211 child are unable to afford counsel, [that] counsel will be provided for  
212 [them] the child. Such counsel and [such parent or parents or guardian  
213 or] the child shall have the rights of confrontation and cross-  
214 examination. If a parent fails to comply with a court order entered in  
215 the best interests of the alleged or adjudicated delinquent child and is  
216 facing potential imprisonment for contempt of court, such parent, if  
217 unable to afford counsel, shall be entitled to have counsel provided for  
218 such parent pursuant to this subsection.

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

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

228 In any proceeding [on] in a juvenile matter, the judge before whom  
229 such proceeding is pending shall, even in the absence of a request to  
230 do so, provide an attorney to represent the child or youth, [his] the  
231 child's or youth's parent or parents [,] or guardian, or other person  
232 having control of the child or youth, if such judge determines that the  
233 interests of justice so require, and in any proceeding in which the  
234 custody of a child is at issue, such judge shall provide an attorney to  
235 represent the child and may authorize such attorney or appoint  
236 another attorney to represent such child or youth, parent, guardian or  
237 other person on an appeal from a decision in such proceeding. Where,  
238 under the provisions of this section, the court so appoints counsel for  
239 any such party who is found able to pay, in whole or in part, the cost  
240 thereof, [it] the court shall assess as costs against such parents,  
241 guardian [,] or custodian, including any agency vested with the legal  
242 custody of the child or youth, the expense so incurred and paid [for by  
243 the court] by the Commission on Child Protection in providing such

244 counsel, to the extent of their financial ability to do so. The  
245 Commission on Child Protection shall establish the rate at which  
246 counsel provided pursuant to this section shall be compensated.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	46b-62
Sec. 2	<i>July 1, 2007</i>	46b-123c
Sec. 3	<i>July 1, 2007</i>	46b-123d
Sec. 4	<i>July 1, 2007</i>	46b-123e
Sec. 5	<i>July 1, 2007</i>	46b-129(d)
Sec. 6	<i>July 1, 2007</i>	46b-135
Sec. 7	<i>July 1, 2007</i>	46b-136

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill makes various minor, technical and clarifying changes that have no fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis**

**sHB 7238**

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

**SUMMARY:**

This bill modifies a number of the laws governing the Commission on Child Protection and its executive director, the chief child protection attorney (CCPA). By law, the commission hires and supervises contract attorneys who provide legal representation for children and indigent families, primarily in abuse and neglect cases.

The changes generally (1) affect the commission and CCPA's responsibilities and (2) limit types of court proceedings in which counsel for indigent parents must be provided. The latter changes are generally consistent with current practice.

EFFECTIVE DATE: July 1, 2007

**COMMISSION ON CHILD PROTECTION**

The law requires courts to appoint attorneys to represent children, guardians, and parents in juvenile court proceedings and appeals when justice requires it. The bill requires the commission to set attorney compensation rates when the court appoints an attorney other than a public defender or CCPA contractor.

The bill permits the commission to establish billing procedures and documentation requirements for its contractors.

It also authorizes the commission to accept state, federal, and donated funds.

**CHIEF CHILD PROTECTION ATTORNEY**

**Contract Provisions**

The CCPA contracts with non-profit legal services agencies and private attorneys to obtain legal services for children and, in some circumstances, indigent parents and guardians. The bill allows its contracts to include provisions encouraging or requiring the use of a multidisciplinary model of legal representation. This model teams child protection attorneys with other professionals, including social workers and education specialists.

**Training and Practice Standards**

Current law requires the CCPA to provide initial and in-service training for attorneys and guardians ad litem (people the court appoints to represent a child's best interests). The bill eliminates this obligation. But the CCPA retains the obligation to establish training, practice, and caseload standards to ensure high quality representation.

**Appointing Attorneys in Family Relations and Juvenile Matters**

Currently, judges appoint the CCPA to represent children and indigent parties and she, in turn, assigns the matter to one of her contract attorneys. The bill, instead, directs (1) family court judges to make appointments from a list of qualified attorneys the CCPA provides and (2) juvenile court judges to notify the CCPA when it determines a person qualifies for representation and the CCPA to make the appointment.

**RESTRICTIONS ON COURT APPOINTMENT AUTHORITY****Family Relations Matters**

The bill restricts the court's current authority to direct the commission to provide legal services to indigent respondents in family relations matters, such as child custody and support disputes. The bill authorizes this only in paternity and contempt proceedings, which is generally consistent with current practice.

**Delinquency Matters**

The bill also expressly limits parents' and guardians' rights to court-appointed representation in delinquency matters. Under the bill, they

are entitled to representation only when the delinquency proceeding involves a claim that they violated an order the court issued in the best interests of their child which may result in their being sentenced to prison. This also reflects current practice.

**BACKGROUND**

***Juvenile Matters***

Juvenile matters are those involving:

1. child abuse and neglect;
2. status offenders, such as truants and runaways;
3. emancipating minors; and
4. delinquency.

***Related Bill***

sSB 1269, favorably reported by the Judiciary Committee, requires the commission to pay attorneys and guardians ad litem at least \$60 per hour and to set a lesser rate for services provided by other professionals, such as education specialists and social workers.

It also requires the CCPA to establish mandatory training programs.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (04/09/2007)