



General Assembly

January Session, 2007

Raised Bill No. 7174

LCO No. 4337

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Referred to Committee on Select Committee on Children

Introduced by:
(KID)

**AN ACT CONCERNING EDUCATION FOR CHILDREN FOR WHOM
THE DEPARTMENT OF CHILDREN AND FAMILIES IS THE
STATUTORY PARENT.**

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 Section 17a-112 of the general statutes is repealed and the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, 2007*):

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, as amended by this act, and be subject to the
12 provisions of subsection (c) of said section. If a petition indicates that
13 either or both parents consent to the termination of their parental
14 rights, or if at any time following the filing of a petition and before the
15 entry of a decree, a parent consents to the termination of the parent's

16 parental rights, each consenting parent shall acknowledge such
17 consent on a form promulgated by the Office of the Chief Court
18 Administrator evidencing that the parent has voluntarily and
19 knowingly consented to the termination of such parental rights. No
20 consent to termination by a mother shall be executed within forty-eight
21 hours immediately after the birth of such mother's child. A parent who
22 is a minor shall have the right to consent to termination of parental
23 rights and such consent shall not be voidable by reason of such
24 minority. A guardian ad litem shall be appointed by the court to assure
25 that such minor parent is 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 notice and hearing 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 that (1) the
104 Department of Children and Families has made reasonable efforts to
105 locate the parent and to reunify the child with the parent in accordance
106 with subsection (a) of section 17a-111b, unless the court finds in this
107 proceeding that the parent is unable or unwilling to benefit from
108 reunification efforts, except that such finding is not required if the
109 court has determined at a hearing pursuant to section 17a-111b, or
110 determines at trial on the petition, that such efforts are not required, (2)
111 termination is in the best interest of the child, and (3) (A) the child has
112 been abandoned by the parent in the sense that the parent has failed to

113 maintain a reasonable degree of interest, concern or responsibility as to
114 the welfare of the child; (B) the child (i) has been found by the Superior
115 Court or the Probate Court to have been neglected or uncared for in a
116 prior proceeding, or (ii) is found to be neglected or uncared for and has
117 been in the custody of the commissioner for at least fifteen months and
118 the parent of such child has been provided specific steps to take to
119 facilitate the return of the child to the parent pursuant to section
120 46b-129 and has failed to achieve such degree of personal
121 rehabilitation as would encourage the belief that within a reasonable
122 time, considering the age and needs of the child, such parent could
123 assume a responsible position in the life of the child; (C) the child has
124 been denied, by reason of an act or acts of parental commission or
125 omission including, but not limited to, sexual molestation or
126 exploitation, severe physical abuse or a pattern of abuse, the care,
127 guidance or control necessary for the child's physical, educational,
128 moral or emotional well-being, except that nonaccidental or
129 inadequately explained serious physical injury to a child shall
130 constitute prima facie evidence of acts of parental commission or
131 omission sufficient for the termination of parental rights; (D) there is
132 no ongoing parent-child relationship, which means the relationship
133 that ordinarily develops as a result of a parent having met on a day-to-
134 day basis the physical, emotional, moral and educational needs of the
135 child and to allow further time for the establishment or
136 reestablishment of such parent-child relationship would be
137 detrimental to the best interest of the child; (E) the parent of a child
138 under the age of seven years who is neglected or uncared for, has
139 failed, is unable or is unwilling to achieve such degree of personal
140 rehabilitation as would encourage the belief that within a reasonable
141 period of time, considering the age and needs of the child, such parent
142 could assume a responsible position in the life of the child and such
143 parent's parental rights of another child were previously terminated
144 pursuant to a petition filed by the Commissioner of Children and
145 Families; (F) the parent has killed through deliberate, nonaccidental act
146 another child of the parent or has requested, commanded, importuned,

147 attempted, conspired or solicited such killing or has committed an
148 assault, through deliberate, nonaccidental act that resulted in serious
149 bodily injury of another child of the parent; or (G) the parent was
150 convicted as an adult or a delinquent by a court of competent
151 jurisdiction of a sexual assault resulting in the conception of the child,
152 except a conviction for a violation of section 53a-71 or 53a-73a,
153 provided the court may terminate such parent's parental rights to such
154 child at any time after such conviction.

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

181 unreasonable act or conduct of the other parent of the child, or the
182 unreasonable act of any other person or by the economic circumstances
183 of the parent.

184 (l) Any petition brought by the Commissioner of Children and
185 Families to the Superior Court, pursuant to subsection (a) of section
186 46b-129, may be accompanied by or, upon motion by the petitioner,
187 consolidated with a petition for termination of parental rights filed in
188 accordance with this section with respect to such child. Notice of the
189 hearing on such petitions shall be given in accordance with sections
190 45a-716 and 45a-717. The Superior Court, after hearing, in accordance
191 with the provisions of subsection (i) or (j) of this section, may, in lieu of
192 granting the petition filed pursuant to section 46b-129, grant the
193 petition for termination of parental rights as provided in section
194 45a-717.

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

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

207 (o) In the case where termination of parental rights is granted, the
208 guardian of the person or statutory parent shall report to the court not
209 later than thirty days after the date judgment is entered on a case plan,
210 as defined by the federal Adoption Assistance and Child Welfare Act
211 of 1980, for the child which shall include measurable objectives and
212 time schedules. At least every three months thereafter, such guardian

213 or statutory parent shall make a report to the court on the progress
214 made on implementation of the plan. The court may convene a hearing
215 upon the filing of a report and shall convene and conduct a
216 permanency hearing pursuant to subsection (k) of section 46b-129 for
217 the purpose of reviewing the permanency plan for the child no more
218 than twelve months from the date judgment is entered or from the
219 date of the last permanency hearing held pursuant to subsection (k) of
220 section 46b-129, whichever is earlier, and at least once a year thereafter
221 while the child remains in the custody of the Commissioner of
222 Children and Families. For children where the commissioner has
223 determined that adoption is appropriate, the report on the
224 implementation of the plan shall include a description of the
225 reasonable efforts the department is taking to promote and expedite
226 the adoptive placement and to finalize the adoption of the child,
227 including documentation of child specific recruitment efforts. At such
228 hearing, the court shall determine whether the department has made
229 reasonable efforts to achieve the permanency plan. If the court
230 determines that the department has not made reasonable efforts to
231 place a child in an adoptive placement or that reasonable efforts have
232 not resulted in the placement of the child, the court may order the
233 Department of Children and Families, within available appropriations,
234 to contract with a child-placing agency to arrange for the adoption of
235 the child. The department, as statutory parent, shall continue to
236 provide care and services for the child while a child-placing agency is
237 arranging for the adoption of the child.

238 (p) (1) In the case where termination of parental rights is granted
239 and the Department of Children and Families is appointed the
240 statutory parent for the child, the Superior Court shall designate an
241 educational decision maker for such child. Any person designated an
242 educational decision maker shall: (A) Be an adult, including, but not
243 limited to, the child's long-term foster parent or a relative, who has
244 knowledge of the child's educational needs; (B) not be an employee of
245 the Department of Education, a local or regional board of education, or
246 any other agency that is involved in the education or care of the child,

247 unless such person is the long-term foster parent or a relative of the
248 child; (C) have no financial or other conflict of interest that would
249 restrict or bias his or her ability to make educational decisions on
250 behalf of the child; and (D) be deemed a parent for purposes of notice
251 and access to the child's educational records.

252 (2) The educational decision maker shall: (A) Enroll the child in
253 school; (B) obtain and provide any documentation necessary for school
254 enrollment; (C) monitor the child's progress in school; (D) assess the
255 child's risk of failing in school and need for specialized services and
256 make appropriate referrals, including, but not limited to, special
257 education and related services; (E) maintain regular contact with the
258 child to ensure that the child is fully informed of his or her educational
259 needs and solicit the child's input concerning educational decisions
260 affecting the child; (F) ensure that the child is in the least restrictive
261 educational program and has access to the academic resources,
262 services and extracurricular and enrichment activities that are
263 available to all pupils; (G) work with the Department of Children and
264 Families and any other state agency that provides services to the child
265 to ensure that educational placement decisions are based on the best
266 interests of the child; and (H) make a report to the court every three
267 months on the educational progress of the child. The court may
268 convene a hearing upon the filing of such report and shall review such
269 report whenever a hearing is convened pursuant to subsection (o) of
270 this section.

271 (3) The appointment of an educational decision maker shall expire
272 upon the child's adoption, graduation from high school, eighteenth
273 birthday, appointment of a surrogate parent, in accordance with
274 section 10-94g, or further order of the court.

275 (4) The Department of Children and Families shall work
276 cooperatively with the educational decision maker to provide
277 information and documentation necessary to carry out the educational
278 decision maker's duties under subdivision (2) of this subsection.

279 [(p)] (q) The provisions of section 17a-152, regarding placement of a
280 child from another state, and the provisions of section 17a-175,
281 regarding the Interstate Compact on the Placement of Children, shall
282 apply to placements pursuant to this section.

283 [(q)] (r) The provisions of this section shall be liberally construed in
284 the best interests of any child for whom a petition under this section
285 has been filed.

286 Sec. 2. Subsection (b) of section 45a-715 of the general statutes is
287 repealed and the following is substituted in lieu thereof (*Effective*
288 *October 1, 2007*):

289 (b) A petition for termination of parental rights shall be entitled "In
290 the interest of (Name of child), a person under the age of eighteen
291 years", and shall set forth with specificity: (1) The name, sex, date and
292 place of birth, and present address of the child; (2) the name and
293 address of the petitioner, and the nature of the relationship between
294 the petitioner and the child; (3) the names, dates of birth and addresses
295 of the parents of the child, if known, including the name of any
296 putative father named by the mother, and the tribe and reservation of
297 an American Indian parent; (4) if the parent of the child is a minor, the
298 names and addresses of the parents or guardian of the person of such
299 minor; (5) the names and addresses of: (A) The guardian of the person
300 of the child; (B) any guardians ad litem appointed in a prior
301 proceeding; (C) the tribe and reservation of an American Indian child;
302 and (D) the child-placing agency which placed the child in his current
303 placement; (6) the facts upon which termination is sought, the legal
304 grounds authorizing termination, the effects of a termination decree
305 and the basis for the jurisdiction of the court; (7) the name of the
306 persons or agencies which have agreed to accept custody or
307 guardianship of the child's person upon disposition; and (8) the names
308 and addresses of persons who may serve as the child's educational
309 decision maker, pursuant to subsection (p) of section 17a-112, as
310 amended by this act, if the Department of Children and Families is

311 appointed the statutory parent upon termination of parental rights.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	17a-112
Sec. 2	<i>October 1, 2007</i>	45a-715(b)

Statement of Purpose:

To ensure that children for whom the Department of Children and Families is the statutory parent receive appropriate educational services through appointment of an independent educational decision maker.

[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.]