



General Assembly

January Session, 2007

Raised Bill No. 7238

LCO No. 4526

04526_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**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 Section 46b-62 of the general statutes is repealed and the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 Section 46b-123c of the general statutes is repealed and the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) (1) The commission shall establish the compensation rate for
59 attorneys providing legal services and serving as guardians ad litem
60 pursuant to subparagraph (B) of subdivision (1) of subsection (a) of
61 section 46b-123d, as amended by this act, which rate shall not be less
62 than sixty dollars per hour.

63 (2) The commission shall establish the compensation rate for
64 nonattorney professionals employed by not-for-profit legal services
65 agencies, individual attorneys or private law firms under contract with
66 the Chief Child Protection Attorney pursuant to subsection (b) of
67 section 46b-123d, as amended by this act, who render professional
68 services related to representation provided by such agencies, attorneys
69 or law firms pursuant to subparagraph (B) of subdivision (1) of
70 subsection (a) of said section, which rate shall be less than sixty dollars
71 per hour. For the purposes of this subdivision, "nonattorney
72 professionals" includes, but is not limited to, paralegals, social
73 workers, education advocates and health practitioners.

74 (3) The commission may establish such requirements for the
75 submission of billing statements, receipts and other documentation by
76 not-for-profit legal services agencies, individual attorneys and private

77 law firms as the commission deems necessary in furnishing
78 compensation to such agencies, attorneys and law firms for providing
79 legal services and serving as guardians ad litem pursuant to
80 subdivision (1) of subsection (a) of section 46b-123d, as amended by
81 this act.

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 Section 46b-123d of the general statutes is repealed and the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

84 (a) The Chief Child Protection Attorney appointed under section
85 46b-123c, as amended by this act, shall: [, on or before July 1, 2006:]

86 (1) Establish a system [for the provision of: (A) Legal] to provide (A)
87 legal services and guardians ad litem to children, youths and indigent
88 respondents in family relations matters in which the state has been
89 ordered to pay the cost of such legal services and guardians ad litem,
90 provided, legal services shall be provided to indigent respondents
91 pursuant to this subparagraph only in paternity proceedings and
92 contempt proceedings, and (B) legal services and guardians ad litem to
93 children, youths and indigent legal parties in proceedings before the
94 superior court for juvenile matters, other than legal services for
95 children in delinquency matters; [. To carry out the requirements of
96 this section, the Chief Child Protection Attorney may contract with (i)
97 appropriate not-for-profit legal services agencies, and (ii) individual
98 lawyers for the delivery of legal services to represent children and
99 indigent legal parties in such proceedings;]

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

104 (3) [Provide] Establish a comprehensive program to provide
105 mandatory initial and in-service training for [guardians ad litem
106 provided pursuant to this section and for] attorneys providing legal
107 services and serving as guardians ad litem pursuant to this section,

108 and establish training, practice and caseload standards for the
109 representation of [:(A) Indigent respondents in family matters, and (B)
110 children and indigent legal parties in juvenile matters, other than
111 representation of children in delinquency matters] children, youths,
112 indigent respondents and indigent legal parties pursuant to
113 subdivision (1) of this subsection. Such standards shall apply to [any]
114 each attorney who represents children, [or] youths, indigent
115 respondents or indigent legal parties [in such matters] pursuant to this
116 section and shall be designed to ensure a high quality of legal
117 representation. The training for attorneys required by this subdivision
118 shall be designed to ensure proficiency in the procedural and
119 substantive law related to such matters and to establish a minimum
120 level of proficiency in relevant subject areas, including, but not limited
121 to, family violence, child development, behavioral health, educational
122 disabilities and cultural competence.

123 (b) The Chief Child Protection Attorney, with the approval of the
124 Commission on Child Protection, shall have exclusive authority to
125 select and contract with appropriate not-for-profit legal services
126 agencies, individual attorneys or private law firms for the delivery of
127 legal services to represent children, youths, indigent respondents and
128 indigent legal parties pursuant to this section. In making selections
129 pursuant to this subsection, the Chief Child Protection Attorney may
130 reject any such agency, attorney or law firm for any reason. The Chief
131 Child Protection Attorney, with the approval of the Commission on
132 Child Protection, may terminate for cause any contract for the delivery
133 of legal services entered into pursuant to this subsection and, with the
134 approval of the court, may terminate for cause the appointment of any
135 attorney providing legal services or serving as a guardian ad litem
136 pursuant to this section. Any contract entered into pursuant to this
137 subsection may include terms encouraging or requiring the use of a
138 multidisciplinary agency model of legal representation.

139 (c) The Chief Child Protection Attorney shall oversee and ensure the
140 accountability of attorneys providing legal services and serving as

141 guardians ad litem pursuant to this section, and shall investigate and
142 resolve any complaint regarding an attorney who has entered into a
143 contract pursuant to subsection (b) of this section.

144 (d) The Chief Child Protection Attorney may employ such staff as is
145 necessary to carry out his or her duties.

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

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

168 (b) The judicial authority before whom a juvenile matter described
169 in subparagraph (B) of subdivision (1) of subsection (a) of section 46b-
170 123d, as amended by this act, is pending shall notify the Chief Child
171 Protection Attorney who shall assign an attorney to represent the child
172 or youth. The judicial authority shall determine eligibility for counsel

173 for the parents or guardian of the child or youth if such parents or
174 guardian is unable to afford counsel. Upon a finding that such parents
175 or guardian is unable to afford counsel, the judicial authority shall
176 notify the Chief Child Protection Attorney of such finding, and the
177 Chief Child Protection Attorney shall assign an attorney to provide
178 representation.

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

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

194 Sec. 5. Section 46b-135 of the general statutes is repealed and the
195 following is substituted in lieu thereof (Effective July 1, 2007):

196 (a) At the commencement of any proceeding concerning the alleged
197 delinquency of a child, [the parent or parents or guardian and] the
198 child shall have the right to counsel and be so informed by the judge,
199 and that if [they] the child and the parent or parents or guardian of the
200 child are unable to afford counsel, [that] counsel will be provided for
201 [them] the child. Such counsel and [such parent or parents or guardian
202 or] the child shall have the rights of confrontation and cross-
203 examination.

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

211 Sec. 6. Section 46b-136 of the general statutes is repealed and the
 212 following is substituted in lieu thereof (*Effective July 1, 2007*):

213 In any proceeding [on] in a juvenile matter, the judge before whom
 214 such proceeding is pending shall, even in the absence of a request to
 215 do so, provide an attorney to represent the child or youth, [his] the
 216 child's or youth's parent or parents [,] or guardian, or other person
 217 having control of the child or youth, if such judge determines that the
 218 interests of justice so require, and in any proceeding in which the
 219 custody of a child is at issue, such judge shall provide an attorney to
 220 represent the child and may authorize such attorney or appoint
 221 another attorney to represent such child or youth, parent, guardian or
 222 other person on an appeal from a decision in such proceeding. Where,
 223 under the provisions of this section, the court so appoints counsel for
 224 any such party who is found able to pay, in whole or in part, the cost
 225 thereof, [it] the court shall assess as costs against such parents,
 226 guardian [,] or custodian, including any agency vested with the legal
 227 custody of the child or youth, the expense so incurred and paid [for by
 228 the court] by the Commission on Child Protection in providing such
 229 counsel, to the extent of their financial ability to do so.

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-135
Sec. 6	<i>July 1, 2007</i>	46b-136

Statement of Purpose:

To revise the powers, duties and responsibilities of the Commission on Child Protection and the Chief Child Protection Attorney.

[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.]