



General Assembly

Substitute Bill No. 7238

January Session, 2007

* _____ HB07238JUD__041007_____ *

**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 Section 46b-62 of the general statutes is repealed and the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 Section 46b-123c of the general statutes is repealed and the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.*