



General Assembly

February Session, 2008

Raised Bill No. 5908

LCO No. 2856

02856_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

**AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF THE
DEPARTMENT OF CHILDREN AND FAMILIES.**

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

1 Section 1. (NEW) (*Effective October 1, 2008*) No state agency shall
2 license or enter into a contract with a person or entity to operate a
3 residential facility for persons under the supervision, care or custody
4 of such agency in a facility, institution or home previously operated by
5 a person or entity licensed by the Commissioner of Children and
6 Families pursuant to section 17a-145 of the 2008 supplement to the
7 general statutes to care for or board a child unless the department head
8 of such state agency notifies the chief executive officer of the
9 municipality in which such facility, institution or home is located and
10 the legislative body of such municipality approves such change in
11 operation.

12 Sec. 2. (NEW) (*Effective October 1, 2008*) Any contract entered into by
13 the Department of Children and Families with a person or entity for
14 the operation of a residential facility licensed pursuant to section 17a-
15 145 of the 2008 supplement to the general statutes shall contain
16 provisions requiring such person or entity to comply with any state

17 statute, regulation and local ordinance concerning the safety of
18 residents and noise levels.

19 Sec. 3. Subsection (a) of section 17a-28 of the 2008 supplement to the
20 general statutes is repealed and the following is substituted in lieu
21 thereof (*Effective October 1, 2008*):

22 (a) As used in this section:

23 (1) "Person" means (A) any individual named in a record,
24 maintained by the department, who (i) is presently or at any prior time
25 was a ward of or committed to the commissioner for any reason; (ii)
26 otherwise received services, voluntarily or involuntarily, from the
27 department; or (iii) is presently or was at any prior time the subject of
28 an investigation by the department; (B) the parent of a person, as
29 defined in subparagraph (A) of this subdivision, if such person is a
30 minor; or (C) the authorized representative of a person, as defined in
31 subparagraph (A) of this subdivision, if such person is deceased;

32 (2) "Attorney" means the licensed attorney authorized to assert the
33 confidentiality of or right of access to records of a person;

34 (3) "Authorized representative" means a parent, guardian,
35 conservator or other individual authorized to assert the confidentiality
36 of or right of access to records of a person;

37 (4) "Consent" means permission given in writing by a person, his
38 attorney or his authorized representative to disclose specified
39 information, within a limited time period, regarding the person to
40 specifically identified individuals;

41 (5) "Records" means information created or obtained in connection
42 with the department's child protection activities, [or activities related
43 to a child while in the care or custody of the department,] including
44 information in the registry of reports to be maintained by the
45 commissioner pursuant to section 17a-101k, provided records which
46 are not created by the department are not subject to disclosure, except

47 as provided pursuant to subsection (f), (l) or (n) of this section;

48 (6) "Disclose" means (A) to provide an oral summary of records
49 maintained by the department to an individual, agency, corporation or
50 organization or (B) to allow an individual, agency, corporation or
51 organization to review or obtain copies of such records in whole, part
52 or summary form;

53 (7) "Near fatality" means an act, as certified by a physician, that
54 places a child in serious or critical condition.

55 Sec. 4. Subsection (b) of section 17a-28 of the 2008 supplement to the
56 general statutes is repealed and the following is substituted in lieu
57 thereof (*Effective October 1, 2008*):

58 (b) Notwithstanding the provisions of section 1-210 of the 2008
59 supplement to the general statutes, 1-211 or 1-213, records maintained
60 by the department shall be confidential and [shall not be disclosed.
61 Such records of any person] may only be disclosed, in whole or in part,
62 to any individual, agency, corporation or organization with the
63 consent of the person or as provided in this section. Any unauthorized
64 disclosure shall be punishable by a fine of not more than one thousand
65 dollars or imprisonment for not more than one year, or both. Any
66 employee of the department who in the ordinary course of such
67 person's employment has reasonable cause to suspect or believe that
68 another employee has engaged in the unauthorized disclosure of
69 records shall transmit all facts and information concerning such
70 unauthorized disclosure to the commissioner.

71 Sec. 5. Subdivision (1) of subsection (b) of section 4-61dd of the
72 general statutes is repealed and the following is substituted in lieu
73 thereof (*Effective October 1, 2008*):

74 (b) (1) No state officer or employee, as defined in section 4-141, no
75 quasi-public agency officer or employee, no officer or employee of a
76 large state contractor and no appointing authority shall take or

77 threaten to take any personnel action against any state or quasi-public
78 agency employee or any employee of a large state contractor in
79 retaliation for such employee's or contractor's disclosure of
80 information to (A) an employee of the Auditors of Public Accounts or
81 the Attorney General under the provisions of subsection (a) of this
82 section; (B) an employee of the state agency or quasi-public agency
83 where such state officer or employee is employed; (C) an employee of
84 a state agency pursuant to a mandated reporter statute or pursuant to
85 subsection (b) of section 17a-28 of the 2008 supplement to the general
86 statutes, as amended by this act; or (D) in the case of a large state
87 contractor, an employee of the contracting state agency concerning
88 information involving the large state contract.

89 Sec. 6. Section 46b-129 of the 2008 supplement to the general statutes
90 is repealed and the following is substituted in lieu thereof (*Effective*
91 *October 1, 2008*):

92 (a) Any selectman, town manager, or town, city or borough welfare
93 department, any probation officer, or the Commissioner of Social
94 Services, the Commissioner of Children and Families or any child-
95 caring institution or agency approved by the Commissioner of
96 Children and Families, a child or such child's representative or
97 attorney or a foster parent of a child, having information that a child or
98 youth is neglected, uncared-for or dependent, may file with the
99 Superior Court that has venue over such matter a verified petition
100 plainly stating such facts as bring the child or youth within the
101 jurisdiction of the court as neglected, uncared-for or dependent, within
102 the meaning of section 46b-120 of the 2008 supplement to the general
103 statutes, the name, date of birth, sex and residence of the child or
104 youth, the name and residence of such child's parents or guardian, and
105 praying for appropriate action by the court in conformity with the
106 provisions of this chapter. Upon the filing of such a petition, except as
107 otherwise provided in subsection (k) of section 17a-112, the court shall
108 cause a summons to be issued requiring the parent or parents or the
109 guardian of the child or youth to appear in court at the time and place

110 named, which summons shall be served not less than fourteen days
111 before the date of the hearing in the manner prescribed by section 46b-
112 128, and the court shall further give notice to the petitioner and to the
113 Commissioner of Children and Families of the time and place when
114 the petition is to be heard not less than fourteen days prior to the
115 hearing in question.

116 (b) If it appears from the specific allegations of the petition and
117 other verified affirmations of fact accompanying the petition and
118 application, or subsequent thereto, that there is reasonable cause to
119 believe that (1) the child or youth is suffering from serious physical
120 illness or serious physical injury or is in immediate physical danger
121 from the child's or youth's surroundings, and (2) that as a result of said
122 conditions, the child's or youth's safety is endangered and immediate
123 removal from such surroundings is necessary to ensure the child's or
124 youth's safety, the court shall either (A) issue an order to the parents or
125 other person having responsibility for the care of the child or youth to
126 appear at such time as the court may designate to determine whether
127 the court should vest in some suitable agency or person the child's or
128 youth's temporary care and custody pending disposition of the
129 petition, or (B) issue an order ex parte vesting [in some suitable agency
130 or person] the child's or youth's temporary care and custody with a
131 grandparent or other blood relative, in some suitable agency or with
132 some other person found to be suitable and worthy of such
133 responsibility by the court. A preliminary hearing on any ex parte
134 custody order or order to appear issued by the court shall be held not
135 later than ten days after the issuance of such order. The service of such
136 orders may be made by any officer authorized by law to serve process,
137 or by any probation officer appointed in accordance with section 46b-
138 123, investigator from the Department of Administrative Services, state
139 or local police officer or indifferent person. Such orders shall include a
140 conspicuous notice to the respondent written in clear and simple
141 language containing at least the following information: (i) That the
142 order contains allegations that conditions in the home have
143 endangered the safety and welfare of the child or youth; (ii) that a

144 hearing will be held on the date on the form; (iii) that the hearing is the
145 opportunity to present the parents' position concerning the alleged
146 facts; (iv) that an attorney will be appointed for parents who cannot
147 afford an attorney; (v) that such parents may apply for a court-
148 appointed attorney by going in person to the court address on the form
149 and are advised to go as soon as possible in order for the attorney to
150 prepare for the hearing; and (vi) if such parents have any questions
151 concerning the case or appointment of counsel, any such parent is
152 advised to go to the court or call the clerk's office at the court as soon
153 as possible. Upon application for appointed counsel, the court shall
154 promptly determine eligibility and, if the respondent is eligible,
155 promptly appoint counsel. The expense for any temporary care and
156 custody shall be paid by the town in which such child or youth is at
157 the time residing, and such town shall be reimbursed for such expense
158 by the town found liable for the child's or youth's support, except that
159 where a state agency has filed a petition pursuant to the provisions of
160 subsection (a) of this section, the agency shall pay such expense. The
161 agency shall give primary consideration to placing the child or youth
162 in the town where such child or youth resides. The agency shall file in
163 writing with the clerk of the court the reasons for placing the child or
164 youth in a particular placement outside the town where the child or
165 youth resides. Upon issuance of an ex parte order, the court shall
166 provide to the commissioner and the parent or guardian specific steps
167 necessary for each to take to address the ex parte order for the parent
168 or guardian to retain or regain custody of the child or youth. Upon the
169 issuance of such order, or not later than sixty days after the issuance of
170 such order, the court shall make a determination whether the
171 Department of Children and Families made reasonable efforts to keep
172 the child or youth with his or her parents or guardian prior to the
173 issuance of such order and, if such efforts were not made, whether
174 such reasonable efforts were not possible, taking into consideration the
175 child's or youth's best interests, including the child's or youth's health
176 and safety.

177 (c) In any proceeding under this section, any grandparent or other

178 blood relative of the child or youth may make a motion to intervene
179 and the court shall grant such motion except for good cause shown.
180 Upon the granting of such motion, such grandparent or other blood
181 relative may appear by counsel or in person. In any proceeding in
182 which a grandparent or other blood relative intervenes under this
183 section for the care and custody of a child or youth, there shall be a
184 rebuttable presumption that placement with such grandparent or
185 blood relative is in the best interests of such child or youth. This
186 presumption may be rebutted by clear and convincing evidence that
187 such placement is not in the best interests of such child or youth.

188 (d) The preliminary hearing on the order of temporary custody or
189 order to appear or the first hearing on a petition filed pursuant to
190 subsection (a) of this section shall be held in order for the court to: (1)
191 Advise the parent or guardian of the allegations contained in all
192 petitions and applications that are the subject of the hearing and the
193 parent's or guardian's right to counsel pursuant to subsection (b) of
194 section 46b-135 of the 2008 supplement to the general statutes; (2)
195 assure that an attorney, and where appropriate, a separate guardian ad
196 litem has been appointed to represent the child or youth in accordance
197 with subsection (b) of section 46b-123e of the 2008 supplement to the
198 general statutes and sections 46b-129a and 46b-136 of the 2008
199 supplement to the general statutes; (3) upon request, appoint an
200 attorney to represent the respondent when the respondent is unable to
201 afford representation, in accordance with subsection (b) of section 46b-
202 123e of the 2008 supplement to the general statutes; (4) advise the
203 parent or guardian of the right to a hearing on the petitions and
204 applications, to be held not later than ten days after the date of the
205 preliminary hearing if the hearing is pursuant to an order of temporary
206 custody or an order to show cause; (5) accept a plea regarding the truth
207 of such allegations; (6) make any interim orders, including visitation,
208 that the court determines are in the best interests of the child or youth.
209 The court, after a hearing pursuant to this subsection, shall order
210 specific steps the commissioner and the parent or guardian shall take
211 for the parent or guardian to regain or to retain custody of the child or

212 youth; (7) take steps to determine the identity of the father of the child
213 or youth, including ordering genetic testing, if necessary, and order
214 service of the petition and notice of the hearing date, if any, to be made
215 upon him; (8) if the person named as the father appears, and admits
216 that he is the father, provide him and the mother with the notices that
217 comply with section 17b-27 and provide them with the opportunity to
218 sign a paternity acknowledgment and affirmation on forms that
219 comply with section 17b-27. Such documents shall be executed and
220 filed in accordance with chapter 815y and a copy delivered to the clerk
221 of the superior court for juvenile matters; and (9) in the event that the
222 person named as a father appears and denies that he is the father of the
223 child or youth, advise him that he may have no further standing in any
224 proceeding concerning the child, and either order genetic testing to
225 determine paternity or direct him to execute a written denial of
226 paternity on a form promulgated by the Office of the Chief Court
227 Administrator. Upon execution of such a form by the putative father,
228 the court may remove him from the case and afford him no further
229 standing in the case or in any subsequent proceeding regarding the
230 child or youth until such time as paternity is established by formal
231 acknowledgment or adjudication in a court of competent jurisdiction.

232 (e) If any parent or guardian fails, after service of such order, to
233 appear at the preliminary hearing, the court may enter or sustain an
234 order of temporary custody.

235 (f) Upon request, or upon its own motion, the court shall schedule a
236 hearing on the order for temporary custody or the order to show cause
237 to be held not later than ten days after the date of the preliminary
238 hearing. Such hearing shall be held on consecutive days except for
239 compelling circumstances or at the request of the parent or guardian.

240 (g) At a contested hearing on the order for temporary custody or
241 order to appear, credible hearsay evidence regarding statements of the
242 child or youth made to a mandated reporter or to a parent may be
243 offered by the parties and admitted by the court upon a finding that

244 the statement is reliable and trustworthy and that admission of such
245 statement is reasonably necessary. A signed statement executed by a
246 mandated reporter under oath may be admitted by the court without
247 the need for the mandated reporter to appear and testify unless called
248 by a respondent or the child, provided the statement: (1) Was provided
249 at the preliminary hearing and promptly upon request to any counsel
250 appearing after the preliminary hearing; (2) reasonably describes the
251 qualifications of the reporter and the nature of his contact with the
252 child; and (3) contains only the direct observations of the reporter, and
253 statements made to the reporter that would be admissible if the
254 reporter were to testify to them in court and any opinions reasonably
255 based thereupon. If a respondent or the child gives notice at the
256 preliminary hearing that he intends to cross-examine the reporter, the
257 person filing the petition shall make the reporter available for such
258 examination at the contested hearing.

259 (h) If any parent or guardian fails, after due notice of the hearing
260 scheduled pursuant to subsection (g) of this section and without good
261 cause, to appear at the scheduled date for a contested hearing on the
262 order of temporary custody or order to appear, the court may enter or
263 sustain an order of temporary custody.

264 (i) When a petition is filed in said court for the commitment of a
265 child or youth, the Commissioner of Children and Families shall make
266 a thorough investigation of the case and shall cause to be made a
267 thorough physical and mental examination of the child or youth if
268 requested by the court. The court after hearing may also order a
269 thorough physical or mental examination, or both, of a parent or
270 guardian whose competency or ability to care for a child or youth
271 before the court is at issue. The expenses incurred in making such
272 physical and mental examinations shall be paid as costs of
273 commitment are paid.

274 (j) Upon finding and adjudging that any child or youth is uncared-
275 for, neglected or dependent, the court may commit such child or youth

276 to the Commissioner of Children and Families. Such commitment shall
277 remain in effect until further order of the court, except that such
278 commitment may be revoked or parental rights terminated at any time
279 by the court, or the court may vest such child's or youth's care and
280 personal custody with a grandparent or other blood relative of such
281 child or youth, in any private or public agency that is permitted by law
282 to care for neglected, uncared-for or dependent children or youths or
283 with any other person or persons found to be suitable and worthy of
284 such responsibility by the court. There shall be a rebuttable
285 presumption that placement of such child or youth with a grandparent
286 or other blood relative is in the best interests of such child or youth.
287 The court shall order specific steps that the parent must take to
288 facilitate the return of the child or youth to the custody of such parent.
289 The commissioner shall be the guardian of such child or youth for the
290 duration of the commitment, provided the child or youth has not
291 reached the age of eighteen years or, in the case of a child or youth in
292 full-time attendance in a secondary school, a technical school, a college
293 or a state-accredited job training program, provided such child or
294 youth has not reached the age of twenty-one years, by consent of such
295 youth, or until another guardian has been legally appointed, and in
296 like manner, upon such vesting of the care of such child or youth, such
297 other public or private agency or individual shall be the guardian of
298 such child or youth until such child or youth has reached the age of
299 eighteen years or, in the case of a child or youth in full-time attendance
300 in a secondary school, a technical school, a college or a state-accredited
301 job training program, until such child or youth has reached the age of
302 twenty-one years or until another guardian has been legally appointed.
303 The commissioner may place any child or youth so committed to the
304 commissioner in a suitable foster home or in the home of a person
305 related by blood to such child or youth or in a licensed child-caring
306 institution or in the care and custody of any accredited, licensed or
307 approved child-caring agency, within or without the state, provided a
308 child shall not be placed outside the state except for good cause and
309 unless the parents or guardian of such child are notified in advance of

310 such placement and given an opportunity to be heard, or in a receiving
311 home maintained and operated by the Commissioner of Children and
312 Families. In placing such child or youth, the commissioner shall, if
313 possible, select a home, agency, institution or person of like religious
314 faith to that of a parent of such child or youth, if such faith is known or
315 may be ascertained by reasonable inquiry, provided such home
316 conforms to the standards of said commissioner and the commissioner
317 shall, when placing siblings, if possible, place such children together.
318 As an alternative to commitment, the court may place the child or
319 youth in the custody of the parent or guardian with protective
320 supervision by the Commissioner of Children and Families subject to
321 conditions established by the court. Upon the issuance of an order
322 committing the child or youth to the Commissioner of Children and
323 Families, or not later than sixty days after the issuance of such order,
324 the court shall determine whether the Department of Children and
325 Families made reasonable efforts to keep the child or youth with his or
326 her parents or guardian prior to the issuance of such order and, if such
327 efforts were not made, whether such reasonable efforts were not
328 possible, taking into consideration the child's or youth's best interests,
329 including the child's or youth's health and safety.

330 (k) (1) Nine months after placement of the child or youth in the care
331 and custody of the commissioner pursuant to a voluntary placement
332 agreement, or removal of a child or youth pursuant to section 17a-101g
333 or an order issued by a court of competent jurisdiction, whichever is
334 earlier, the commissioner shall file a motion for review of a
335 permanency plan. Nine months after a permanency plan has been
336 approved by the court pursuant to this subsection, the commissioner
337 shall file a motion for review of the permanency plan. Any party
338 seeking to oppose the commissioner's permanency plan shall file a
339 motion in opposition not later than thirty days after the filing of the
340 commissioner's motion for review of the permanency plan, which
341 motion shall include the reason therefor. A permanency hearing on
342 any motion for review of the permanency plan shall be held not later
343 than ninety days after the filing of such motion. The court shall hold

344 evidentiary hearings in connection with any contested motion for
345 review of the permanency plan. The commissioner shall have the
346 burden of proving that the proposed permanency plan is in the best
347 interests of the child or youth. After the initial permanency hearing,
348 subsequent permanency hearings shall be held not less frequently than
349 every twelve months while the child or youth remains in the custody
350 of the Commissioner of Children and Families. The court shall provide
351 notice to the child or youth, and the parent or guardian of such child or
352 youth of the time and place of the court hearing on any such motion
353 not less than fourteen days prior to such hearing.

354 (2) At a permanency hearing held in accordance with the provisions
355 of subdivision (1) of this subsection, the court shall approve a
356 permanency plan that is in the best interests of the child or youth and
357 takes into consideration the child's or youth's need for permanency.
358 The child's or youth's health and safety shall be of paramount concern
359 in formulating such plan. Such permanency plan may include the goal
360 of (A) revocation of commitment and reunification of the child or
361 youth with the parent or guardian, with or without protective
362 supervision; (B) transfer of guardianship; (C) long-term foster care
363 with a grandparent or other relative licensed as a foster parent or
364 certified as a relative caregiver; (D) adoption and filing of termination
365 of parental rights; or (E) such other planned permanent living
366 arrangement ordered by the court, provided the Commissioner of
367 Children and Families has documented a compelling reason why it
368 would not be in the best interest of the child or youth for the
369 permanency plan to include the goals in subparagraphs (A) to (D),
370 inclusive, of this subdivision. Such other planned permanent living
371 arrangement may include, but not be limited to, placement of a child
372 or youth in an independent living program or long term foster care
373 with an identified foster parent.

374 (3) At a permanency hearing held in accordance with the provisions
375 of subdivision (1) of this subsection, the court shall review the status of
376 the child, the progress being made to implement the permanency plan,

377 determine a timetable for attaining the permanency plan, determine
378 the services to be provided to the parent if the court approves a
379 permanency plan of reunification and the timetable for such services,
380 and determine whether the commissioner has made reasonable efforts
381 to achieve the permanency plan. The court may revoke commitment if
382 a cause for commitment no longer exists and it is in the best interests of
383 the child or youth.

384 (4) If the court approves the permanency plan of adoption: (A) The
385 Commissioner of Children and Families shall file a petition for
386 termination of parental rights not later than sixty days after such
387 approval if such petition has not previously been filed; (B) the
388 commissioner may conduct a thorough adoption assessment and
389 child-specific recruitment; and (C) the court may order that the child
390 be photo-listed within thirty days if the court determines that such
391 photo-listing is in the best interest of the child. As used in this
392 subdivision, "thorough adoption assessment" means conducting and
393 documenting face-to-face interviews with the child, foster care
394 providers and other significant parties and "child specific recruitment"
395 means recruiting an adoptive placement targeted to meet the
396 individual needs of the specific child, including, but not limited to, use
397 of the media, use of photo-listing services and any other in-state or
398 out-of-state resources that may be used to meet the specific needs of
399 the child, unless there are extenuating circumstances that indicate that
400 such efforts are not in the best interest of the child.

401 (l) The Commissioner of Children and Families shall pay directly to
402 the person or persons furnishing goods or services determined by said
403 commissioner to be necessary for the care and maintenance of such
404 child or youth the reasonable expense thereof, payment to be made at
405 intervals determined by said commissioner; and the Comptroller shall
406 draw his or her order on the Treasurer, from time to time, for such part
407 of the appropriation for care of committed children or youths as may
408 be needed in order to enable the commissioner to make such
409 payments. The commissioner shall include in the department's annual

410 budget a sum estimated to be sufficient to carry out the provisions of
411 this section. Notwithstanding that any such child or youth has income
412 or estate, the commissioner may pay the cost of care and maintenance
413 of such child or youth. The commissioner may bill to and collect from
414 the person in charge of the estate of any child or youth aided under
415 this chapter, or the payee of such child's or youth's income, the total
416 amount expended for care of such child or youth or such portion
417 thereof as any such estate or payee is able to reimburse, provided the
418 commissioner shall not collect from such estate or payee any
419 reimbursement for the cost of care or other expenditures made on
420 behalf of such child or youth from (1) the proceeds of any cause of
421 action received by such child or youth; (2) any lottery proceeds due to
422 such child or youth; (3) any inheritance due to such child or youth; (4)
423 any payment due to such child or youth from a trust other than a trust
424 created pursuant to 42 USC 1396p, as amended from time to time; or
425 (5) the decedent estate of such child or youth.

426 (m) The commissioner, a parent or the child's attorney may file a
427 motion to revoke a commitment, and, upon finding that cause for
428 commitment no longer exists, and that such revocation is in the best
429 interests of such child or youth, the court may revoke the commitment
430 of such child or youth. No such motion shall be filed more often than
431 once every six months.

432 (n) Upon service on the parent, guardian or other person having
433 control of the child or youth of any order issued by the court pursuant
434 to the provisions of subsections (b) and (j) of this section, the child or
435 youth concerned shall be surrendered to the person serving the order
436 who shall forthwith deliver the child or youth to the person, agency,
437 department or institution awarded custody in the order. Upon refusal
438 of the parent, guardian or other person having control of the child or
439 youth to surrender the child or youth as provided in the order, the
440 court may cause a warrant to be issued charging the parent, guardian
441 or other person having control of the child or youth with contempt of
442 court. If the person arrested is found in contempt of court, the court

443 may order such person confined until the person complies with the
444 order, but for not more than six months, or may fine such person not
445 more than five hundred dollars, or both.

446 (o) A foster parent, prospective adoptive parent or relative caregiver
447 shall receive notice and have the right to be heard for the purposes of
448 this section in Superior Court in any proceeding concerning a foster
449 child living with such foster parent, prospective adoptive parent or
450 relative caregiver. A foster parent, prospective adoptive parent or
451 relative caregiver who has cared for a child or youth shall have the
452 right to be heard and comment on the best interests of such child or
453 youth in any proceeding under this section which is brought not more
454 than one year after the last day the foster parent, prospective adoptive
455 parent or relative caregiver provided such care.

456 (p) Upon motion of any sibling of any child committed to the
457 Department of Children and Families pursuant to this section, such
458 sibling shall have the right to be heard concerning visitation with, and
459 placement of, any such child. In awarding any visitation or modifying
460 any placement, the court shall be guided by the best interests of all
461 siblings affected by such determination.

462 (q) The provisions of section 17a-152, regarding placement of a child
463 from another state, and section 17a-175, regarding the Interstate
464 Compact on the Placement of Children, shall apply to placements
465 pursuant to this section.

466 Sec. 7. Section 45a-607 of the 2008 supplement to the general statutes
467 is repealed and the following is substituted in lieu thereof (*Effective*
468 *October 1, 2008*):

469 (a) (1) When application has been made for the removal of one or
470 both parents as guardians or of any other guardian of the person of a
471 minor child, or when an application has been made for the termination
472 of the parental rights of any parties who may have parental rights with
473 regard to any minor child, or when, in any proceeding the court has

474 reasonable grounds to believe that any minor child has no guardian of
475 his or her person, the court of probate in which the proceeding is
476 pending may issue an order awarding temporary custody of the minor
477 child to a person other than the parent or guardian, with or without
478 the parent's or guardian's consent, but such order may only be issued
479 in accordance with the provisions of this section.

480 (2) In any proceeding under this section, any grandparent or other
481 blood relative of the minor child may make a motion to intervene and
482 the court shall grant such motion except for good cause shown. Upon
483 the granting of such motion, such grandparent or other blood relative
484 may appear by counsel or in person. In any proceeding in which a
485 grandparent or other blood relative intervenes for the care and custody
486 of a minor child, there shall be a rebuttable presumption that
487 placement with such grandparent or other blood relative is in the best
488 interests of such child or youth. This presumption may be rebutted by
489 clear and convincing evidence that such placement is not in the best
490 interests of such child or youth.

491 (b) In the case of a minor child in the custody of the parent or other
492 guardian, no application for custody of such minor child may be
493 granted ex parte, except in accordance with subdivision (2) of this
494 subsection. In the case of a minor child in the custody of a person other
495 than the parent or guardian, no application for custody may be
496 granted ex parte, except in accordance with subdivisions (1) to (3),
497 inclusive, of this subsection.

498 (1) An application for immediate temporary custody shall be
499 accompanied by an affidavit made by the custodian of such minor
500 child under penalty of false statement, stating the circumstances under
501 which such custody was obtained, the length of time the affiant has
502 had custody and specific facts which would justify the conclusion that
503 determination cannot await the hearing required by subsection (c) of
504 this section. Upon such application, the court may grant immediate
505 temporary custody to the affiant, a grandparent or other blood relative,

506 or some other suitable person if the court finds that: (A) The minor
507 child was not taken or kept from the parent, parents or guardian, and
508 (B) there is a substantial likelihood that the minor child will be
509 removed from the jurisdiction prior to a hearing under subsection (c)
510 of this section, or (C) to return the minor child to the parent, parents or
511 guardian would place the minor child in circumstances which would
512 result in serious physical illness or injury, or the threat thereof, or
513 imminent physical danger prior to a hearing under subsection (c) of
514 this section.

515 (2) In the case of a minor child who is hospitalized as a result of
516 serious physical illness or serious physical injury, an application for
517 immediate temporary custody shall contain a certificate signed by two
518 physicians licensed to practice medicine in this state stating that (A)
519 the minor child is in need of immediate medical or surgical treatment,
520 the delay of which would be life threatening, (B) the parent, parents or
521 guardian of the minor child refuses or is unable to consent to such
522 treatment, and (C) determination of the need for temporary custody
523 cannot await notice of hearing. Upon such application, the court may
524 grant immediate temporary custody to a grandparent or other blood
525 relative or some other suitable person if it finds that (i) a minor child
526 has suffered from serious physical illness or serious physical injury
527 and is in need of immediate medical or surgical treatment, (ii) the
528 parent, parents or guardian refuses to consent to such treatment, and
529 (iii) to delay such treatment would be life threatening.

530 (3) If an order of temporary custody is issued ex parte, notice of the
531 hearing required by subsection (c) of this section shall be given
532 promptly, and the hearing shall be held within five business days of
533 the date of such ex parte order of temporary custody, provided the
534 respondent shall be entitled to continuance upon request. Upon the
535 issuance of an order granting temporary custody of the minor child to
536 the Commissioner of Children and Families, or not later than sixty
537 days after the issuance of such order, the court shall make a
538 determination whether the Department of Children and Families made

539 reasonable efforts to keep the minor child with his or her parent,
540 parents or guardian prior to the issuance of such order and, if such
541 efforts were not made, whether such reasonable efforts were not
542 possible, taking into consideration the minor child's best interests,
543 including the minor child's health and safety. Upon issuance of an ex
544 parte order of temporary custody, the court shall promptly notify the
545 Commissioner of Children and Families, who shall cause an
546 investigation to be made forthwith, in accordance with section 17a-
547 101g, and shall present the commissioner's report to the court at the
548 hearing on the application for temporary custody. The hearing on an
549 ex parte order of temporary custody shall not be postponed, except
550 with the consent of the respondent, or, if notice cannot be given as
551 required by this section, a postponement may be ordered by the court
552 for the purpose of a further order of notice.

553 (c) Except as provided in subsection (b) of this section, upon receipt
554 of an application for temporary custody under this section, the court
555 shall promptly set the time and place for a hearing to be held on such
556 application. The court shall order notice of the hearing on temporary
557 custody to be given, at least five days prior to the date of the hearing,
558 to the Commissioner of Children and Families by first class mail and to
559 both parents and to the minor child, if over twelve years of age, by
560 personal service or service at the parent's usual place of abode or the
561 minor's usual place of abode, as the case may be, in accordance with
562 section 52-50, except that in lieu of personal service on, or service at the
563 usual place of abode of, a parent or the father of a minor child born out
564 of wedlock who is either an applicant or who signs under penalty of
565 false statement a written waiver of such service on a form provided by
566 the Probate Court Administrator, the court may order notice to be
567 given by first class mail at least five days prior to the date of the
568 hearing. If the whereabouts of the parents are unknown, or if such
569 delivery cannot reasonably be effected, then notice shall be ordered to
570 be given by publication. Such notice may be combined with the notice
571 under section 45a-609 of the 2008 supplement to the general statutes or
572 with the notice required under section 45a-716 of the 2008 supplement

573 to the general statutes. If the parents are not residents of the state or
574 are absent from the state, the court shall order notice to be given by
575 first class mail at least five days prior to the date of the hearing. If the
576 whereabouts of the parents are unknown, or if delivery cannot
577 reasonably be effected, the court may order notice to be given by
578 publication. Any notice by publication under this subsection shall be in
579 a newspaper which has a circulation at the last-known place of
580 residence of the parents. In either case, such notice shall be given at
581 least five days prior to the date of the hearing, except in the case of
582 notice of a hearing on immediate temporary custody under subsection
583 (b) of this section. If the applicant alleges that the whereabouts of a
584 respondent are unknown, such allegation shall be made under penalty
585 of false statement and shall also state the last-known address of the
586 respondent and the efforts which have been made by the applicant to
587 obtain a current address. The applicant shall have the burden of
588 ascertaining the names and addresses of all parties in interest and of
589 proving to the satisfaction of the court that the applicant used all
590 proper diligence to discover such names and addresses. Except in the
591 case of newspaper notice, such notice shall include: (1) The time and
592 place of the hearing, (2) a copy of the application for removal or
593 application for termination of parental rights, (3) a copy of the motion
594 for temporary custody, (4) any affidavit or verified petition filed with
595 the motion for temporary custody, (5) any other documents filed by
596 the applicant, (6) any other orders or notices made by the court of
597 probate, and (7) any request for investigation by the Department of
598 Children and Families or any other person or agency. Such notice shall
599 also inform the respondent of the right to have an attorney represent
600 the respondent and, if the respondent is unable to obtain or pay for an
601 attorney, the respondent may request the court of probate to appoint
602 an attorney to represent the respondent. Newspaper notice shall
603 include such facts as the court may direct.

604 (d) If, after hearing, the court finds by a fair preponderance of the
605 evidence (1) that the parent or other guardian has performed acts of
606 omission or commission as set forth in section 45a-610, and (2) that,

607 because of such acts, the minor child is suffering from serious physical
608 illness or serious physical injury, or the immediate threat thereof, or is
609 in immediate physical danger, so as to require that temporary custody
610 be granted, the court may order the custody of the minor child to be
611 given to one of the following, taking into consideration the standards
612 set forth in section 45a-617, as amended by this act, and subsection (a)
613 of this section: (A) The grandparent or other blood relative of such
614 minor child; (B) the Commissioner of Children and Families; [(B)] (C)
615 the board of managers of any child-caring institution or organization;
616 [(C)] (D) any children's home or similar institution licensed or
617 approved by the Commissioner of Children and Families; or [(D)] (E)
618 any other person. The fact that an order of temporary custody may
619 have been issued ex parte under subsection (b) of this section shall be
620 of no weight in a hearing held under this subsection. The burden of
621 proof shall remain upon the applicant to establish the applicant's case.
622 [The court may issue the order without taking into consideration the
623 standards set forth in this section and section 45a-610 if the parent or
624 other guardian consents to the temporary removal of the minor child,
625 or the court finds that the minor child has no guardian of his or her
626 person.] Upon the issuance of an order giving custody of the minor
627 child to the Commissioner of Children and Families, or not later than
628 sixty days after the issuance of such order, the court shall make a
629 determination whether the Department of Children and Families made
630 reasonable efforts to keep the minor child with his or her parent,
631 parents or guardian prior to the issuance of such order and, if such
632 efforts were not made, whether such reasonable efforts were not
633 possible, taking into consideration the minor child's best interests,
634 including the minor child's health and safety.

635 (e) Such order for temporary custody shall be effective until
636 disposition of the application for removal of parents or guardians as
637 guardian or for termination of parental rights or until a guardian is
638 appointed for a minor child who has no guardian, unless modified or
639 terminated by the court of probate. Any respondent, temporary
640 custodian or attorney for the minor child may petition the court of

641 probate issuing such order at any time for modification or revocation
 642 thereof, and such court shall set a hearing upon receipt of such petition
 643 in the same manner as subsection (c) of this section. If the court finds
 644 after such hearing that the conditions upon which it based its order for
 645 temporary custody no longer exist, and that the conditions set forth in
 646 subsection (b) of this section do not exist, then the order shall be
 647 revoked and the minor child shall be returned to the custody of the
 648 parent or guardian.

649 (f) A copy of any order issued under this section shall be mailed
 650 immediately to the last known address of the parent or other guardian
 651 from whose custody the minor child has been removed.

652 Sec. 8. Section 45a-617 of the general statutes is repealed and the
 653 following is substituted in lieu thereof (*Effective October 1, 2008*):

654 When appointing a guardian or coguardians of the person of a
 655 minor, the court shall take into consideration the following factors: (1)
 656 The ability of the prospective guardian or coguardians to meet, on a
 657 continuing day to day basis, the physical, emotional, moral and
 658 educational needs of the minor; (2) the minor's wishes, if he or she is
 659 over the age of twelve or is of sufficient maturity and capable of
 660 forming an intelligent preference; (3) the existence or nonexistence of
 661 an established relationship between the minor and the prospective
 662 guardian or coguardians; and (4) the best interests of the child. There
 663 shall be a rebuttable presumption that appointment of a grandparent
 664 or other blood relative as a guardian is in the best interests of the
 665 minor child.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	New section
Sec. 3	<i>October 1, 2008</i>	17a-28(a)
Sec. 4	<i>October 1, 2008</i>	17a-28(b)
Sec. 5	<i>October 1, 2008</i>	4-61dd(b)(1)

Sec. 6	<i>October 1, 2008</i>	46b-129
Sec. 7	<i>October 1, 2008</i>	45a-607
Sec. 8	<i>October 1, 2008</i>	45a-617

Statement of Purpose:

To create a rebuttable presumption in favor of grandparents and other blood relatives in any proceeding prior to a termination of parental rights proceeding involving the care and custody of a child or youth, to protect the privacy of children under the department's care, to require notice to a municipality prior to a change in use of a facility previously operated by the department and to require contracts for the operation of residential facilities to contain certain provisions.

[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.]