



General Assembly

**Substitute Bill No. 325**

February Session, 2008

\* SB00325JUD\_\_032408\_\_ \*

**AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION.**

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

1 Section 1. Section 46b-123d of the 2008 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2008*):

4 (a) The Chief Child Protection Attorney appointed under section  
5 46b-123c of the 2008 supplement to the general statutes shall:

6 (1) Establish a system to provide (A) legal services and guardians ad  
7 litem to children, youths and indigent respondents in family relations  
8 matters in which the state has been ordered to pay the cost of such  
9 legal services and guardians ad litem, provided legal services shall be  
10 provided to indigent respondents pursuant to this subparagraph only  
11 in paternity proceedings and contempt proceedings, and (B) legal  
12 services and guardians ad litem to children, youths and indigent legal  
13 parties in proceedings before the superior court for juvenile matters,  
14 other than legal services for children in delinquency matters. To carry  
15 out the requirements of this section, the Chief Child Protection  
16 Attorney may contract with (i) appropriate not-for-profit legal services  
17 agencies, and (ii) law firms and individual lawyers for the delivery of  
18 legal services to represent children and indigent legal parties in such  
19 proceedings;

20 (2) Establish a system to ensure that attorneys providing legal  
21 services pursuant to this section are assigned to cases in a manner that  
22 will avoid conflicts of interest, as defined by the Rules of Professional  
23 Conduct; and

24 (3) Establish training, practice and caseload standards for the  
25 representation of children, youths, indigent respondents and indigent  
26 legal parties pursuant to subdivision (1) of this subsection. Such  
27 standards shall apply to each attorney who represents children,  
28 youths, indigent respondents or indigent legal parties pursuant to this  
29 section and shall be designed to ensure a high quality of legal  
30 representation. The training standards for attorneys required by this  
31 subdivision shall be designed to ensure proficiency in the procedural  
32 and substantive law related to such matters and to establish a  
33 minimum level of proficiency in relevant subject areas, including, but  
34 not limited to, family violence, child development, behavioral health,  
35 educational disabilities and cultural competence.

36 (b) Any contract entered into pursuant to subdivision (1) of  
37 subsection (a) of this section may include terms encouraging or  
38 requiring the use of a multidisciplinary agency model of legal  
39 representation.

40 Sec. 2. Section 46b-129a of the general statutes is repealed and the  
41 following is substituted in lieu thereof (*Effective October 1, 2008*):

42 In proceedings in the Superior Court under section 46b-129 of the  
43 2008 supplement to the general statutes: (1) The court may order the  
44 child, the parents, the guardian, or other persons accused by a  
45 competent witness with abusing the child, to be examined by one or  
46 more competent physicians, psychiatrists or psychologists appointed  
47 by the court; (2) a child shall be represented by counsel knowledgeable  
48 about representing such children who shall be appointed [by the court]  
49 to represent the child by the Chief Child Protection Attorney, or by the  
50 court if there is an immediate need for the appointment of counsel  
51 during a court proceeding. Counsel for a child under the age of seven

52 shall act as attorney and [to act as] guardian ad litem for the child.  
53 Counsel for a child age seven years or older shall act solely as attorney  
54 for the child. The primary role of any counsel for the child, including  
55 the counsel who also serves as guardian ad litem, shall be to advocate  
56 for the child in accordance with the Rules of Professional Conduct.  
57 [When a conflict arises between the child's wishes or position and that  
58 which counsel for the child believes is in the best interest of the child,  
59 the court shall appoint another person as guardian ad litem for the  
60 child.] If the court or counsel for the child determines that the child  
61 cannot adequately act in his or her own interest and the court  
62 determines that it requires a different person to assess and advocate  
63 for the child's best interests in order to reach an appropriate decision  
64 based on all relevant facts, the court shall notify the Chief Child  
65 Protection Attorney who shall appoint a separate guardian ad litem for  
66 the child. The guardian ad litem shall speak on behalf of the best  
67 [interest] interests of the child and is not required to be an attorney-at-  
68 law but shall be knowledgeable about the needs and protection of  
69 children. In the event that a separate guardian ad litem is appointed,  
70 the person previously serving as counsel or as both counsel and  
71 guardian ad litem for the child shall continue to serve as counsel for  
72 the child and a different person shall be appointed as guardian ad  
73 litem, unless the court for good cause also appoints a different person  
74 as counsel for the child. No person who has served as both counsel and  
75 guardian ad litem for a child shall thereafter serve solely as the child's  
76 guardian ad litem. The counsel and guardian ad litem's fees, if any,  
77 shall be paid by the parents or guardian, or the estate of the child, or, if  
78 such persons are unable to pay, by the [court] Chief Child Protection  
79 Attorney; (3) the privilege against the disclosure of communications  
80 between husband and wife shall be inapplicable and either may testify  
81 as to any relevant matter; and (4) evidence that the child has been  
82 abused or has sustained a nonaccidental injury shall constitute prima  
83 facie evidence that shall be sufficient to support an adjudication that  
84 such child is uncared for or neglected.

85 Sec. 3. Section 4-165 of the general statutes is repealed and the

86 following is substituted in lieu thereof (*Effective October 1, 2008*):

87 (a) No state officer or employee shall be personally liable for  
88 damage or injury, not wanton, reckless or malicious, caused in the  
89 discharge of his or her duties or within the scope of his or her  
90 employment. Any person having a complaint for such damage or  
91 injury shall present it as a claim against the state under the provisions  
92 of this chapter.

93 (b) For the purposes of this section, (1) "scope of employment"  
94 includes but is not limited to, (A) representation by an attorney  
95 appointed by the Public Defender Services Commission as a public  
96 defender, assistant public defender or deputy assistant public defender  
97 or an attorney appointed by the court as a special assistant public  
98 defender of an indigent accused or of a child on a petition of  
99 delinquency, (B) representation by such other attorneys, referred to in  
100 section 4-141, of state officers and employees in actions brought  
101 against such officers and employees in their official and individual  
102 capacities, (C) the discharge of duties as a trustee of the state  
103 employees retirement system, (D) the discharge of duties of a  
104 commissioner of the Superior Court hearing small claims matters or  
105 acting as a fact-finder, arbitrator or magistrate or acting in any other  
106 quasi-judicial position, (E) the discharge of duties of a person  
107 appointed to a committee established by law for the purpose of  
108 rendering services to the Judicial Department, including, but not  
109 limited to, the Legal Specialization Screening Committee, the State-  
110 Wide Grievance Committee, the Client Security Fund Committee, the  
111 advisory committee appointed pursuant to section 51-81d and the  
112 State Bar Examining Committee, [and] (F) military duty performed by  
113 the armed forces of the state while under state active duty, and (G)  
114 representation by an attorney appointed by the Commission on Child  
115 Protection, or by the court, as an attorney for an indigent respondent  
116 subject to a neglect petition, or as an attorney or guardian ad litem for  
117 a child subject to a petition related to neglect, delinquency or being a  
118 child from a family with service needs; provided the actions described  
119 in subparagraphs (A) to [(F)] (G), inclusive, of this subdivision arise

120 out of the discharge of the duties or within the scope of employment of  
121 such officers or employees, and (2) "state employee" includes a  
122 member or employee of the soil and water district boards established  
123 pursuant to section 22a-315.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	46b-123d
Sec. 2	<i>October 1, 2008</i>	46b-129a
Sec. 3	<i>October 1, 2008</i>	4-165

**JUD**      *Joint Favorable Subst.*