



**Substitute House Bill No. 5421**

**Public Act No. 09-185**

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

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

Section 1. Subsection (b) of section 17a-28 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(b) Notwithstanding the provisions of section 1-210, 1-211 or 1-213, records maintained by the department shall be confidential and shall not be disclosed, unless the department receives written consent from the person or as provided in this section. [Such records of any person may only be disclosed, in whole or in part, to any individual, agency, corporation or organization with the consent of the person or as provided in this section.] Any unauthorized disclosure shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. Any employee of the department who in the ordinary course of such person's employment has reasonable cause to suspect or believe that another employee has engaged in the unauthorized disclosure of records shall report in writing such unauthorized disclosure of records to the commissioner. The report shall include the name of the person

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disclosing the information and the nature of the information disclosed and to whom it was disclosed, if known.

Sec. 2. Subdivision (1) of subsection (b) of section 4-61dd of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(b) (1) No state officer or employee, as defined in section 4-141, no quasi-public agency officer or employee, no officer or employee of a large state contractor and no appointing authority shall take or threaten to take any personnel action against any state or quasi-public agency employee or any employee of a large state contractor in retaliation for such employee's or contractor's disclosure of information to (A) an employee of the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of this section; (B) an employee of the state agency or quasi-public agency where such state officer or employee is employed; (C) an employee of a state agency pursuant to a mandated reporter statute or pursuant to subsection (b) of section 17a-28, as amended by this act; or (D) in the case of a large state contractor, an employee of the contracting state agency concerning information involving the large state contract.

Sec. 3. Section 46b-129 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any selectman, town manager, or town, city or borough welfare department, any probation officer, or the Commissioner of Social Services, the Commissioner of Children and Families or any child-caring institution or agency approved by the Commissioner of Children and Families, a child or such child's representative or attorney or a foster parent of a child, having information that a child or youth is neglected, uncared-for or dependent, may file with the Superior Court that has venue over such matter a verified petition plainly stating such facts as bring the child or youth within the

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jurisdiction of the court as neglected, uncared-for or dependent, within the meaning of section 46b-120, the name, date of birth, sex and residence of the child or youth, the name and residence of such child's parents or guardian, and praying for appropriate action by the court in conformity with the provisions of this chapter. Upon the filing of such a petition, except as otherwise provided in subsection (k) of section 17a-112, the court shall cause a summons to be issued requiring the parent or parents or the guardian of the child or youth to appear in court at the time and place named, which summons shall be served not less than fourteen days before the date of the hearing in the manner prescribed by section 46b-128, and the court shall further give notice to the petitioner and to the Commissioner of Children and Families of the time and place when the petition is to be heard not less than fourteen days prior to the hearing in question.

(b) If it appears from the specific allegations of the petition and other verified affirmations of fact accompanying the petition and application, or subsequent thereto, that there is reasonable cause to believe that (1) the child or youth is suffering from serious physical illness or serious physical injury or is in immediate physical danger from the child's or youth's surroundings, and (2) that as a result of said conditions, the child's or youth's safety is endangered and immediate removal from such surroundings is necessary to ensure the child's or youth's safety, the court shall either (A) issue an order to the parents or other person having responsibility for the care of the child or youth to appear at such time as the court may designate to determine whether the court should vest [in some suitable agency or person] the child's or youth's temporary care and custody in a person related to the child or youth by blood or marriage or in some other person or suitable agency pending disposition of the petition, or (B) issue an order ex parte vesting [in some suitable agency or person] the child's or youth's temporary care and custody in a person related to the child or youth by blood or marriage or in some other person or suitable agency. A

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preliminary hearing on any ex parte custody order or order to appear issued by the court shall be held not later than ten days after the issuance of such order. The service of such orders may be made by any officer authorized by law to serve process, or by any probation officer appointed in accordance with section 46b-123, investigator from the Department of Administrative Services, state or local police officer or indifferent person. Such orders shall include a conspicuous notice to the respondent written in clear and simple language containing at least the following information: (i) That the order contains allegations that conditions in the home have endangered the safety and welfare of the child or youth; (ii) that a hearing will be held on the date on the form; (iii) that the hearing is the opportunity to present the parents' position concerning the alleged facts; (iv) that an attorney will be appointed for parents who cannot afford an attorney; (v) that such parents may apply for a court-appointed attorney by going in person to the court address on the form and are advised to go as soon as possible in order for the attorney to prepare for the hearing; (vi) that such parents, or a person having responsibility for the care and custody of the child or youth, may request the Commissioner of Children and Families to investigate placing the child or youth with a person related to the child or youth by blood or marriage who might serve as a licensed foster parent or temporary custodian for such child or youth. The commissioner, where practicable, shall investigate such relative or relatives prior to the preliminary hearing and provide a report to the court at such hearing as to such relative's suitability; and ~~[(vi)]~~ (vii) if such parents have any questions concerning the case or appointment of counsel, any such parent is advised to go to the court or call the clerk's office at the court as soon as possible. Upon application for appointed counsel, the court shall promptly determine eligibility and, if the respondent is eligible, promptly appoint counsel. The expense for any temporary care and custody shall be paid by the town in which such child or youth is at the time residing, and such town shall be reimbursed for such expense by the town found liable for the child's or

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youth's support, except that where a state agency has filed a petition pursuant to the provisions of subsection (a) of this section, the agency shall pay such expense. The agency shall give primary consideration to placing the child or youth in the town where such child or youth resides. The agency shall file in writing with the clerk of the court the reasons for placing the child or youth in a particular placement outside the town where the child or youth resides. Upon issuance of an ex parte order, the court shall provide to the commissioner and the parent or guardian specific steps necessary for each to take to address the ex parte order for the parent or guardian to retain or regain custody of the child or youth. Upon the issuance of such order, or not later than sixty days after the issuance of such order, the court shall make a determination whether the Department of Children and Families made reasonable efforts to keep the child or youth with his or her parents or guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the child's or youth's best interests, including the child's or youth's health and safety.

[(c) In any proceeding under this section, any grandparent of the child may make a motion to intervene and the court shall grant such motion except for good cause shown. Upon the granting of such motion, such grandparent may appear by counsel or in person.]

[(d)] (c) The preliminary hearing on the order of temporary custody or order to appear or the first hearing on a petition filed pursuant to subsection (a) of this section shall be held in order for the court to: (1) Advise the parent or guardian of the allegations contained in all petitions and applications that are the subject of the hearing and the parent's or guardian's right to counsel pursuant to subsection (b) of section 46b-135; (2) assure that an attorney, and where appropriate, a separate guardian ad litem has been appointed to represent the child or youth in accordance with subsection (b) of section 46b-123e and

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sections 46b-129a and 46b-136; (3) upon request, appoint an attorney to represent the respondent when the respondent is unable to afford representation, in accordance with subsection (b) of section 46b-123e; (4) advise the parent or guardian of the right to a hearing on the petitions and applications, to be held not later than ten days after the date of the preliminary hearing if the hearing is pursuant to an order of temporary custody or an order to show cause; (5) accept a plea regarding the truth of such allegations; (6) make any interim orders, including visitation, that the court determines are in the best interests of the child or youth. The court, after a hearing pursuant to this subsection, shall order specific steps the commissioner and the parent or guardian shall take for the parent or guardian to regain or to retain custody of the child or youth; (7) take steps to determine the identity of the father of the child or youth, including ordering genetic testing, if necessary, and order service of the petition and notice of the hearing date, if any, to be made upon him; (8) if the person named as the father appears, and admits that he is the father, provide him and the mother with the notices that comply with section 17b-27 and provide them with the opportunity to sign a paternity acknowledgment and affirmation on forms that comply with section 17b-27. Such documents shall be executed and filed in accordance with chapter 815y and a copy delivered to the clerk of the superior court for juvenile matters; [and] (9) in the event that the person named as a father appears and denies that he is the father of the child or youth, advise him that he may have no further standing in any proceeding concerning the child, and either order genetic testing to determine paternity or direct him to execute a written denial of paternity on a form promulgated by the Office of the Chief Court Administrator. Upon execution of such a form by the putative father, the court may remove him from the case and afford him no further standing in the case or in any subsequent proceeding regarding the child or youth until such time as paternity is established by formal acknowledgment or adjudication in a court of competent jurisdiction; (10) identify any person or persons related to the child or

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youth by blood or marriage residing in this state who might serve as licensed foster parents or temporary custodians and order the Commissioner of Children and Families to investigate and determine, not later than thirty days after the preliminary hearing, the appropriateness of placement of the child or youth with such relative or relatives; and (11) in accordance with the provisions of the Interstate Compact on the Placement of Children pursuant to section 17a-175, identify any person or persons related to the child or youth by blood or marriage residing out of state who might serve as licensed foster parents or temporary custodians, and order the Commissioner of Children and Families to investigate and determine, within a reasonable time, the appropriateness of placement of the child or youth with such relative or relatives.

(d) (1) (A) If not later than thirty days after the preliminary hearing, or within a reasonable time when a relative resides out of state, the Commissioner of Children and Families determines that there is not a suitable person related to the child or youth by blood or marriage who can be licensed as a foster parent or serve as a temporary custodian, and the court has not granted temporary custody to a person related to the child or youth by blood or marriage, any person related to the child or youth by blood or marriage may file, not later than ninety days after the date of the preliminary hearing, a motion to intervene for the limited purpose of moving for temporary custody of such child or youth. If a motion to intervene is timely filed, the court shall grant such motion except for good cause shown.

(B) Any person related to a child or youth may file a motion to intervene for purposes of seeking temporary custody of a child or youth more than ninety days after the date of the preliminary hearing. The granting of such motion shall be solely in the court's discretion, except that such motion shall be granted absent good cause shown whenever the child's or youth's most recent placement has disrupted

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or is about to disrupt.

(C) A relative shall appear in person, with or without counsel, and shall not be entitled to court appointed counsel or the assignment of counsel by the Chief Child Protection Attorney except as provided in section 46b-136.

(2) Upon the granting of intervenor status to such relative of the child or youth, the court shall issue an order directing the Commissioner of Children and Families to conduct an assessment of such relative and to file a written report with the court not later than forty days after such order, unless such relative resides out of state, in which case the assessment shall be ordered and requested in accordance with the provisions of the Interstate Compact on the Placement of Children, pursuant to section 17a-175. The court may also request such relative to release such relative's medical records, including any psychiatric or psychological records and may order such relative to submit to a physical or mental examination. The expenses incurred for such physical or mental examination shall be paid as costs of commitment are paid. Upon receipt of the assessment, the court shall schedule a hearing on such relative's motion for temporary custody not later than fifteen days after the receipt of the assessment. If the Commissioner of Children and Families, the child's or youth's attorney or guardian ad litem, or the parent or guardian objects to the vesting of temporary custody in such relative, the agency or person objecting at such hearing shall be required to prove by a fair preponderance of the evidence that granting temporary custody of the child or youth to such relative would not be in the best interests of such child or youth.

(3) If the court grants such relative temporary custody during the period of such temporary custody, such relative shall be subject to orders of the court, including, but not limited to, providing for the care and supervision of such child or youth and cooperating with the

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Commissioner of Children and Families in the implementation of treatment and permanency plans and services for such child or youth. The court may, on motion of any party or the court's own motion, after notice and a hearing, terminate such relative's intervenor status if such relative's participation in the case is no longer warranted or necessary.

(4) Any person related to a child or youth may file a motion to intervene for purposes of seeking permanent guardianship of a child or youth more than ninety days after the date of the preliminary hearing. The granting of such motion to intervene shall be solely in the court's discretion, except that such motion shall be granted absent good cause shown whenever the child's or youth's most recent placement has disrupted or is about to disrupt. The court may, in the court's discretion, order the Commissioner of Children and Families to conduct an assessment of such relative granted intervenor status pursuant to this subdivision.

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

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

(g) At a contested hearing on the order for temporary custody or order to appear, credible hearsay evidence regarding statements of the child or youth made to a mandated reporter or to a parent may be offered by the parties and admitted by the court upon a finding that the statement is reliable and trustworthy and that admission of such statement is reasonably necessary. A signed statement executed by a

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mandated reporter under oath may be admitted by the court without the need for the mandated reporter to appear and testify unless called by a respondent or the child, provided the statement: (1) Was provided at the preliminary hearing and promptly upon request to any counsel appearing after the preliminary hearing; (2) reasonably describes the qualifications of the reporter and the nature of his contact with the child; and (3) contains only the direct observations of the reporter, and statements made to the reporter that would be admissible if the reporter were to testify to them in court and any opinions reasonably based thereupon. If a respondent or the child gives notice at the preliminary hearing that he intends to cross-examine the reporter, the person filing the petition shall make the reporter available for such examination at the contested hearing.

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

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

(j) Upon finding and adjudging that any child or youth is uncared-for, neglected or dependent, the court may commit such child or youth to the Commissioner of Children and Families. Such commitment shall

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remain in effect until further order of the court, except that such commitment may be revoked or parental rights terminated at any time by the court, or the court may vest such child's or youth's [care and personal custody] legal guardianship in any private or public agency that is permitted by law to care for neglected, uncared-for or dependent children or youths or with any other person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage. If the court determines that the commitment should be revoked and the child's or youth's legal guardianship should vest in someone other than the respondent parent, parents or former guardian, or if parental rights are terminated at any time, there shall be a rebuttable presumption that an award of legal guardianship upon revocation to, or adoption upon termination of parental rights by, any relative who is licensed as a foster parent for such child or youth, or who is, pursuant to an order of the court, the temporary custodian of the child or youth at the time of the revocation or termination, shall be in the best interests of the child or youth and that such relative is a suitable and worthy person to assume legal guardianship upon revocation or to adopt such child or youth upon termination of parental rights. The presumption may be rebutted by a preponderance of the evidence that an award of legal guardianship to, or an adoption by, such relative would not be in the child's or youth's best interests and such relative is not a suitable and worthy person. The court shall order specific steps that the parent must take to facilitate the return of the child or youth to the custody of such parent. The commissioner shall be the guardian of such child or youth for the duration of the commitment, provided the child or youth has not reached the age of eighteen years or, in the case of a child or youth in full-time attendance in a secondary school, a technical school, a college or a state-accredited job training program, provided such child or youth has not reached the age of twenty-one years, by consent of such youth, or until another guardian has been legally appointed, and in like manner, upon such

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vesting of the care of such child or youth, such other public or private agency or individual shall be the guardian of such child or youth until such child or youth has reached the age of eighteen years or, in the case of a child or youth in full-time attendance in a secondary school, a technical school, a college or a state-accredited job training program, until such child or youth has reached the age of twenty-one years or until another guardian has been legally appointed. The commissioner may place any child or youth so committed to the commissioner in a suitable foster home or in the home of a person related by blood or marriage to such child or youth or in a licensed child-caring institution or in the care and custody of any accredited, licensed or approved child-caring agency, within or without the state, provided a child shall not be placed outside the state except for good cause and unless the parents or guardian of such child are notified in advance of such placement and given an opportunity to be heard, or in a receiving home maintained and operated by the Commissioner of Children and Families. In placing such child or youth, the commissioner shall, if possible, select a home, agency, institution or person of like religious faith to that of a parent of such child or youth, if such faith is known or may be ascertained by reasonable inquiry, provided such home conforms to the standards of said commissioner and the commissioner shall, when placing siblings, if possible, place such children together. As an alternative to commitment, the court may place the child or youth in the custody of the parent or guardian with protective supervision by the Commissioner of Children and Families subject to conditions established by the court. Upon the issuance of an order committing the child or youth to the Commissioner of Children and Families, or not later than sixty days after the issuance of such order, the court shall determine whether the Department of Children and Families made reasonable efforts to keep the child or youth with his or her parents or guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the child's or youth's best interests,

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including the child's or youth's health and safety.

(k) (1) Nine months after placement of the child or youth in the care and custody of the commissioner pursuant to a voluntary placement agreement, or removal of a child or youth pursuant to section 17a-101g or an order issued by a court of competent jurisdiction, whichever is earlier, the commissioner shall file a motion for review of a permanency plan. Nine months after a permanency plan has been approved by the court pursuant to this subsection, the commissioner shall file a motion for review of the permanency plan. Any party seeking to oppose the commissioner's permanency plan, including a relative of a child or youth by blood or marriage who has intervened pursuant to subsection (d) of this section and is licensed as a foster parent for such child or youth or is vested with such child's or youth's temporary custody by order of the court, shall file a motion in opposition not later than thirty days after the filing of the commissioner's motion for review of the permanency plan, which motion shall include the reason therefor. A permanency hearing on any motion for review of the permanency plan shall be held not later than ninety days after the filing of such motion. The court shall hold evidentiary hearings in connection with any contested motion for review of the permanency plan. The commissioner shall have the burden of proving that the proposed permanency plan is in the best interests of the child or youth. After the initial permanency hearing, subsequent permanency hearings shall be held not less frequently than every twelve months while the child or youth remains in the custody of the Commissioner of Children and Families. The court shall provide notice to the child or youth, [and] the parent or guardian of such child or youth, and any intervenor of the time and place of the court hearing on any such motion not less than fourteen days prior to such hearing.

(2) At a permanency hearing held in accordance with the provisions of subdivision (1) of this subsection, the court shall approve a

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permanency plan that is in the best interests of the child or youth and takes into consideration the child's or youth's need for permanency. The child's or youth's health and safety shall be of paramount concern in formulating such plan. Such permanency plan may include the goal of (A) revocation of commitment and reunification of the child or youth with the parent or guardian, with or without protective supervision; (B) transfer of guardianship; (C) long-term foster care with a relative licensed as a foster parent; [or certified as a relative caregiver;] (D) filing of termination of parental rights and adoption; [and filing of termination of parental rights;] or (E) [such other] another planned permanent living arrangement ordered by the court, provided the Commissioner of Children and Families has documented a compelling reason why it would not be in the best interest of the child or youth for the permanency plan to include the goals in subparagraphs (A) to (D), inclusive, of this subdivision. Such other planned permanent living arrangement may include, but not be limited to, placement of a child or youth in an independent living program or long term foster care with an identified foster parent.

(3) At a permanency hearing held in accordance with the provisions of subdivision (1) of this subsection, the court shall review the status of the child, the progress being made to implement the permanency plan, determine a timetable for attaining the permanency plan, determine the services to be provided to the parent if the court approves a permanency plan of reunification and the timetable for such services, and determine whether the commissioner has made reasonable efforts to achieve the permanency plan. The court may revoke commitment if a cause for commitment no longer exists and it is in the best interests of the child or youth.

(4) If the court approves the permanency plan of adoption: (A) The Commissioner of Children and Families shall file a petition for termination of parental rights not later than sixty days after such

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approval if such petition has not previously been filed; (B) the commissioner may conduct a thorough adoption assessment and child-specific recruitment; and (C) the court may order that the child be photo-listed within thirty days if the court determines that such photo-listing is in the best interest of the child. As used in this subdivision, "thorough adoption assessment" means conducting and documenting face-to-face interviews with the child, foster care providers and other significant parties and "child specific recruitment" means recruiting an adoptive placement targeted to meet the individual needs of the specific child, including, but not limited to, use of the media, use of photo-listing services and any other in-state or out-of-state resources that may be used to meet the specific needs of the child, unless there are extenuating circumstances that indicate that such efforts are not in the best interest of the child.

(l) The Commissioner of Children and Families shall pay directly to the person or persons furnishing goods or services determined by said commissioner to be necessary for the care and maintenance of such child or youth the reasonable expense thereof, payment to be made at intervals determined by said commissioner; and the Comptroller shall draw his or her order on the Treasurer, from time to time, for such part of the appropriation for care of committed children or youths as may be needed in order to enable the commissioner to make such payments. The commissioner shall include in the department's annual budget a sum estimated to be sufficient to carry out the provisions of this section. Notwithstanding that any such child or youth has income or estate, the commissioner may pay the cost of care and maintenance of such child or youth. The commissioner may bill to and collect from the person in charge of the estate of any child or youth aided under this chapter, or the payee of such child's or youth's income, the total amount expended for care of such child or youth or such portion thereof as any such estate or payee is able to reimburse, provided the commissioner shall not collect from such estate or payee any

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reimbursement for the cost of care or other expenditures made on behalf of such child or youth from (1) the proceeds of any cause of action received by such child or youth; (2) any lottery proceeds due to such child or youth; (3) any inheritance due to such child or youth; (4) any payment due to such child or youth from a trust other than a trust created pursuant to 42 USC 1396p, as amended from time to time; or (5) the decedent estate of such child or youth.

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

(n) Upon service on the parent, guardian or other person having control of the child or youth of any order issued by the court pursuant to the provisions of subsections (b) and (j) of this section, the child or youth concerned shall be surrendered to the person serving the order who shall forthwith deliver the child or youth to the person, agency, department or institution awarded custody in the order. Upon refusal of the parent, guardian or other person having control of the child or youth to surrender the child or youth as provided in the order, the court may cause a warrant to be issued charging the parent, guardian or other person having control of the child or youth with contempt of court. If the person arrested is found in contempt of court, the court may order such person confined until the person complies with the order, but for not more than six months, or may fine such person not more than five hundred dollars, or both.

(o) A foster parent, prospective adoptive parent or relative caregiver shall receive notice and have the right to be heard for the purposes of this section in Superior Court in any proceeding concerning a foster child living with such foster parent, prospective adoptive parent or

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relative caregiver. A foster parent, prospective adoptive parent or relative caregiver who has cared for a child or youth shall have the right to be heard and comment on the best interests of such child or youth in any proceeding under this section which is brought not more than one year after the last day the foster parent, prospective adoptive parent or relative caregiver provided such care.

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

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

Sec. 4. Section 45a-607 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) When application has been made for the removal of one or both parents as guardians or of any other guardian of the person of a minor child, or when an application has been made for the termination of the parental rights of any parties who may have parental rights with regard to any minor child, or when, in any proceeding the court has reasonable grounds to believe that any minor child has no guardian of his or her person, the court of probate in which the proceeding is pending may issue an order awarding temporary custody of the minor child to a person other than the parent or guardian, with or without the parent's or guardian's consent, but such order may only be issued in accordance with the provisions of this section. There shall be a rebuttable presumption that the awarding of temporary custody to a

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relative is in the best interests of such child or youth. This presumption may be rebutted by a preponderance of the evidence that such awarding of custody is not in the best interests of such child or youth. As used in this subsection and subsections (b) and (d) of this section, "relative" means a person related to the child by blood or marriage.

(2) In any proceeding under this section, any relative of the minor child may make a motion to intervene and the court shall grant such motion except for good cause shown. Upon the granting of such motion, such relative may appear by counsel or in person.

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

(1) An application for immediate temporary custody shall be accompanied by an affidavit made by the custodian of such minor child under penalty of false statement, stating the circumstances under which such custody was obtained, the length of time the affiant has had custody and specific facts which would justify the conclusion that determination cannot await the hearing required by subsection (c) of this section. Upon such application, the court may grant immediate temporary custody to the affiant, a relative, or some other suitable person if the court finds that: (A) The minor child was not taken or kept from the parent, parents or guardian, and (B) there is a substantial likelihood that the minor child will be removed from the jurisdiction prior to a hearing under subsection (c) of this section, or (C) to return the minor child to the parent, parents or guardian would place the minor child in circumstances which would result in serious physical illness or injury, or the threat thereof, or imminent physical danger

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prior to a hearing under subsection (c) of this section.

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

(3) If an order of temporary custody is issued ex parte, notice of the hearing required by subsection (c) of this section shall be given promptly, and the hearing shall be held [within] not later than five business days [of] after the date of such ex parte order of temporary custody, provided the respondent shall be entitled to continuance upon request. Upon the issuance of an order granting temporary custody of the minor child to the Commissioner of Children and Families, or not later than sixty days after the issuance of such order, the court shall make a determination whether the Department of Children and Families made reasonable efforts to keep the minor child with his or her parent, parents or guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the minor child's best interests, including the minor child's health and safety. Upon issuance of an ex parte order of temporary custody, the

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court shall promptly notify the Commissioner of Children and Families, who shall cause an investigation to be made forthwith, in accordance with section 17a-101g, and shall present the commissioner's report to the court at the hearing on the application for temporary custody. The hearing on an ex parte order of temporary custody shall not be postponed, except with the consent of the respondent, or, if notice cannot be given as required by this section, a postponement may be ordered by the court for the purpose of a further order of notice.

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

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court may order notice to be given by publication. Any notice by publication under this subsection shall be in a newspaper which has a circulation at the last-known place of residence of the parents. In either case, such notice shall be given at least five days prior to the date of the hearing, except in the case of notice of a hearing on immediate temporary custody under subsection (b) of this section. If the applicant alleges that the whereabouts of a respondent are unknown, such allegation shall be made under penalty of false statement and shall also state the last-known address of the respondent and the efforts which have been made by the applicant to obtain a current address. The applicant shall have the burden of ascertaining the names and addresses of all parties in interest and of proving to the satisfaction of the court that the applicant used all proper diligence to discover such names and addresses. Except in the case of newspaper notice, such notice shall include: (1) The time and place of the hearing, (2) a copy of the application for removal or application for termination of parental rights, (3) a copy of the motion for temporary custody, (4) any affidavit or verified petition filed with the motion for temporary custody, (5) any other documents filed by the applicant, (6) any other orders or notices made by the court of probate, and (7) any request for investigation by the Department of Children and Families or any other person or agency. Such notice shall also inform the respondent of the right to have an attorney represent the respondent and, if the respondent is unable to obtain or pay for an attorney, the respondent may request the court of probate to appoint an attorney to represent the respondent. Newspaper notice shall include such facts as the court may direct.

(d) If, after hearing, the court finds by a fair preponderance of the evidence (1) that the parent or other guardian has performed acts of omission or commission as set forth in section 45a-610, and (2) that, because of such acts, the minor child is suffering from serious physical illness or serious physical injury, or the immediate threat thereof, or is

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in immediate physical danger, so as to require that temporary custody be granted, the court may order the custody of the minor child to be given to one of the following, taking into consideration the standards set forth in section 45a-617, as amended by this act, and subsection (a) of this section: (A) [The] A relative of such minor child; (B) the Commissioner of Children and Families; ~~[(B)]~~ (C) the board of managers of any child-caring institution or organization; ~~[(C)]~~ (D) any children's home or similar institution licensed or approved by the Commissioner of Children and Families; or ~~[(D)]~~ (E) any other person. The fact that an order of temporary custody may have been issued ex parte under subsection (b) of this section shall be of no weight in a hearing held under this subsection. The burden of proof shall remain upon the applicant to establish the applicant's case. The court may issue the order without taking into consideration the standards set forth in this section and section 45a-610 if the parent or other guardian consents to the temporary removal of the minor child, or the court finds that the minor child has no guardian of his or her person. Upon the issuance of an order giving custody of the minor child to the Commissioner of Children and Families, or not later than sixty days after the issuance of such order, the court shall make a determination whether the Department of Children and Families made reasonable efforts to keep the minor child with his or her parent, parents or guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the minor child's best interests, including the minor child's health and safety.

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

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

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

Sec. 5. Section 45a-617 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

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

Sec. 6. Subsection (a) of section 17a-11 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The commissioner may, in the commissioner's discretion, admit

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to the department on a voluntary basis any child or youth who, in the commissioner's opinion, could benefit from any of the services offered or administered by, or under contract with, or otherwise available to, the department. Application for voluntary admission shall be made in writing by the parent or guardian of a child under fourteen years of age or by such person himself or herself if he or she is a child fourteen years of age or older or a youth. The fact that a parent has applied for services or received services for his or her child through voluntary admission shall not be used against the parent (1) in any investigation conducted by the department in accordance with section 17a-101g, (2) when making placement decisions for the child, (3) when making foster care licensing determinations in accordance with section 17a-114, or (4) in any court proceeding related to the placement of a minor relative of the parent.

Sec. 7. Section 17a-126 of the general statutes is amended by adding subsection (i) as follows (*Effective July 1, 2009*):

(NEW) (i) In the case of the death, severe disability or serious illness of a relative caregiver who is receiving a guardianship subsidy, the commissioner may transfer the guardianship subsidy to a new relative caregiver who meets the Department of Children and Families foster care safety requirements and is appointed as legal guardian by a court of competent jurisdiction.

Sec. 8. Subsection (b) of section 17a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(b) The following persons shall be mandated reporters: Any physician or surgeon licensed under the provisions of chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, licensed practical nurse, medical examiner, dentist, dental hygienist, psychologist, coach of intramural

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or interscholastic athletics, school teacher, school principal, school guidance counselor, school paraprofessional, school coach, social worker, police officer, juvenile or adult probation officer, juvenile or adult parole officer, member of the clergy, pharmacist, physical therapist, optometrist, chiropractor, podiatrist, mental health professional or physician assistant, any person who is a licensed or certified emergency medical services provider, any person who is a licensed or certified alcohol and drug counselor, any person who is a licensed marital and family therapist, any person who is a sexual assault counselor or a battered women's counselor as defined in section 52-146k, any person who is a licensed professional counselor, any person who is a licensed foster parent, any person paid to care for a child in any public or private facility, child day care center, group day care home or family day care home licensed by the state, any employee of the Department of Children and Families, any employee of the Department of Public Health who is responsible for the licensing of child day care centers, group day care homes, family day care homes or youth camps, the Child Advocate and any employee of the Office of Child Advocate.

Sec. 9. (NEW) (*Effective July 1, 2009*) Immediately upon the removal of a child from the custody of the child's parent or guardian pursuant to subsection (e) of section 17a-101g of the general statutes or section 46b-129 of the general statutes, as amended by this act, the Commissioner of Children and Families shall exercise due diligence to identify all adult grandparents and other adult relatives of the child, including any adult relatives suggested by the parents, subject to exceptions due to family or domestic violence. Not later than thirty days after the removal, the commissioner shall provide such grandparents and other relatives with notice that (1) the child has been or is being removed from the custody of the child's parent or guardian; (2) explains the options that the relative has under federal, state and local law to participate in the care and placement of the child,

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including any options that may be lost by failing to respond to the notice; (3) describes the requirements (A) to obtain a foster care license pursuant to section 17a-114 of the general statutes, and (B) for additional services and supports that are available for children placed in such a home; and (4) describes the subsidized guardianship program under section 17a-126 of the general statutes, as amended by this act, including (A) eligibility requirements, (B) the process for applying to the program, and (C) financial assistance available under the program.

Sec. 10. Section 45a-751b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) If parental rights were terminated on or after October 1, 1995, any information tending to identify the adult adopted or adoptable person, a biological parent, including a person claiming to be the father who was not a party to the proceedings for the termination of parental rights, or adult biological sibling shall not be disclosed unless written consent is obtained from the person whose identity is being requested.

(b) (1) If parental rights were terminated on or before September 30, 1995, [(1)] (A) any information tending to identify the biological parents, including a person claiming to be the father who was not a party to the proceedings for the termination of parental rights, shall not be disclosed unless written consent is obtained from each biological parent who was party to such proceedings, except as provided in subdivision (2) of this subsection, and [(2)] (B) identifying information shall not be disclosed to a biological parent, including a person claiming to be the father who was not a party to the proceedings for the termination of parental rights, without the written consent of each biological parent who was a party to such proceedings and the consent of the adult adopted or adoptable person whose identity is being requested.

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(2) On and after October 1, 2009, information tending to identify a biological parent who is subject to this subsection may be disclosed to an authorized applicant if the biological parent whose information is to be disclosed provides written consent, provided the child-placing agency or department attempts to determine the whereabouts of the other biological parent and obtain written consent from such other biological parent to permit disclosure of such information in the manner permitted under subdivision (1) of this subsection. If such other biological parent cannot be located or does not provide such written consent, information tending to identify the biological parent who has provided written consent may be disclosed to an authorized applicant, provided: (A) Information tending to identify the other biological parent shall not be disclosed without the written consent of the other biological parent, and (B) the biological parent whose information is to be disclosed signs an affidavit that such parent shall not disclose any information tending to identify the other biological parent without the written consent of the other biological parent.

(c) If the whereabouts of any person whose identity is being sought are unknown, the court shall appoint a guardian ad litem pursuant to subsection (c) of section 45a-753.

(d) When the authorized applicant requesting identifying information has contact with a biological sibling who is a minor, identifying information shall not be disclosed unless consent is obtained from the adoptive parents or guardian or guardian ad litem of the sibling.

(e) Any information tending to identify any adult relative other than a biological parent shall not be disclosed unless written consent is obtained from such adult relative. The consent of any biological parents common to the person making the request and the person to be identified shall be required unless (1) the parental rights of such parents have been terminated and not reinstated, guardianship has

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been removed and not reinstated or custody has been removed and not reinstated with respect to such adult relative or (2) the adoption was finalized on or after June 12, 1984. No consent shall be required if the person to be identified is deceased. If the person to be identified is deceased, the information that may be released shall be limited as provided in subsection (e) of section 45a-753.

(f) Any adult person for whom there is only removal of custody or removal of guardianship as specified in subsection (b) of section 45a-750 may apply in person or in writing to the child-placing agency, the department, the court of probate or the superior court which has the information. Such information shall be made available within sixty days of receipt of such request unless the child-placing agency, department or court notifies the person requesting the information that it cannot be made available within sixty days and states the reason for the delay. If the person making such request is a resident of this state and it appears that counseling is advisable with release of the information, the child-placing agency or department may request that the person appear for an interview. If the person making such request is not a resident of this state, and if it appears that counseling is advisable with release of the information, the child-placing agency, department or court may refer the person to an out-of-state agency or appropriate governmental agency or department, approved by the department or accredited by the Child Welfare League of America, the National Conference of Catholic Charities, the Family Services Association of America or the Council on Accreditation of Services of Families and Children. If an out-of-state referral is made, the information shall be released to the out-of-state child-placing agency or department for release to the applicant, provided such information shall not be released unless the out-of-state child-placing agency or department is satisfied as to the identity of the person.

Approved June 29, 2009