



Senate

General Assembly

File No. 250

February Session, 2010

Substitute Senate Bill No. 294

Senate, April 1, 2010

The Committee on Human Services reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DOCUMENTATION OF REASONABLE EFFORTS TO REUNITE A PARENT WITH A CHILD AND TO LOCATE RELATIVES.

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

1 Section 1. Section 17a-15a of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 The Department of Children and Families shall include the
5 following information in each document of the department entitled
6 study in support of permanency plan and status report for
7 permanency planning team, except when otherwise directed by the
8 Juvenile Court: (1) A description of any problems or offenses that
9 necessitated the placement of the child with the department; (2) a
10 description of the type and an analysis of the effectiveness of the care,
11 treatment and supervision that the department has provided for the
12 child and all efforts by the department to achieve the permanency
13 plan; (3) for each child in substitute care, the current visitation

14 schedule between the child and his parents and siblings; (4) a
15 description of every effort taken by the department to (A) keep a child
16 with the parent prior to a removal order, (B) reunite the child with a
17 parent, or [to] (C) find a permanent placement for the child, including,
18 where applicable, efforts to locate relative caregivers and every effort
19 to assist each parent in remedying factors that contributed to the
20 removal of the child from the home; (5) a proposed timetable for
21 reunification of the child and a parent, a permanent placement if
22 continued substitute care is recommended or a justification of why
23 extended substitute care is necessary; and (6) whether the child has
24 been visited no less frequently than every three months by a state or
25 private agency if the child has been placed in foster care outside this
26 state.

27 Sec. 2. Section 17a-112 of the general statutes is repealed and the
28 following is substituted in lieu thereof (*Effective October 1, 2010*):

29 (a) In respect to any child in the custody of the Commissioner of
30 Children and Families in accordance with section 46b-129, either the
31 commissioner, or the attorney who represented such child in a
32 pending or prior proceeding, or an attorney appointed by the Superior
33 Court on its own motion, or an attorney retained by such child after
34 attaining the age of fourteen, may petition the court for the termination
35 of parental rights with reference to such child. The petition shall be in
36 the form and contain the information set forth in subsection (b) of
37 section 45a-715, and be subject to the provisions of subsection (c) of
38 said section. If a petition indicates that either or both parents consent
39 to the termination of their parental rights, or if at any time following
40 the filing of a petition and before the entry of a decree, a parent
41 consents to the termination of the parent's parental rights, each
42 consenting parent shall acknowledge such consent on a form
43 promulgated by the Office of the Chief Court Administrator
44 evidencing that the parent has voluntarily and knowingly consented to
45 the termination of such parental rights. No consent to termination by a
46 mother shall be executed within forty-eight hours immediately after
47 the birth of such mother's child. A parent who is a minor shall have the

48 right to consent to termination of parental rights and such consent
49 shall not be voidable by reason of such minority. A guardian ad litem
50 shall be appointed by the court to assure that such minor parent is
51 giving an informed and voluntary consent.

52 (b) Either or both birth parents and an intended adoptive parent
53 may enter into a cooperative postadoption agreement regarding
54 communication or contact between either or both birth parents and the
55 adopted child. Such an agreement may be entered into if: (1) The child
56 is in the custody of the Department of Children and Families; (2) an
57 order terminating parental rights has not yet been entered; and (3)
58 either or both birth parents agree to a voluntary termination of
59 parental rights, including an agreement in a case which began as an
60 involuntary termination of parental rights. The postadoption
61 agreement shall be applicable only to a birth parent who is a party to
62 the agreement. Such agreement shall be in addition to those under
63 common law. Counsel for the child and any guardian ad litem for the
64 child may be heard on the proposed cooperative postadoption
65 agreement. There shall be no presumption of communication or
66 contact between the birth parents and an intended adoptive parent in
67 the absence of a cooperative postadoption agreement.

68 (c) If the Superior Court determines that the child's best interests
69 will be served by postadoption communication or contact with either
70 or both birth parents, the court shall so order, stating the nature and
71 frequency of the communication or contact. A court may grant
72 postadoption communication or contact privileges if: (1) Each intended
73 adoptive parent consents to the granting of communication or contact
74 privileges; (2) the intended adoptive parent and either or both birth
75 parents execute a cooperative agreement and file the agreement with
76 the court; (3) consent to postadoption communication or contact is
77 obtained from the child, if the child is at least twelve years of age; and
78 (4) the cooperative postadoption agreement is approved by the court.

79 (d) A cooperative postadoption agreement shall contain the
80 following: (1) An acknowledgment by either or both birth parents that

81 the termination of parental rights and the adoption is irrevocable, even
82 if the adoptive parents do not abide by the cooperative postadoption
83 agreement; and (2) an acknowledgment by the adoptive parents that
84 the agreement grants either or both birth parents the right to seek to
85 enforce the cooperative postadoption agreement.

86 (e) The terms of a cooperative postadoption agreement may include
87 the following: (1) Provision for communication between the child and
88 either or both birth parents; (2) provision for future contact between
89 either or both birth parents and the child or an adoptive parent; and (3)
90 maintenance of medical history of either or both birth parents who are
91 parties to the agreement.

92 (f) The order approving a cooperative postadoption agreement shall
93 be made part of the final order terminating parental rights. The finality
94 of the termination of parental rights and of the adoption shall not be
95 affected by implementation of the provisions of the postadoption
96 agreement. Such an agreement shall not affect the ability of the
97 adoptive parents and the child to change their residence within or
98 outside this state.

99 (g) A disagreement between the parties or litigation brought to
100 enforce or modify the agreement shall not affect the validity of the
101 termination of parental rights or the adoption and shall not serve as a
102 basis for orders affecting the custody of the child. The court shall not
103 act on a petition to change or enforce the agreement unless the
104 petitioner had participated, or attempted to participate, in good faith
105 in mediation or other appropriate dispute resolution proceedings to
106 resolve the dispute and allocate any cost for such mediation or dispute
107 resolution proceedings.

108 (h) An adoptive parent, guardian ad litem for the child or the court,
109 on its own motion, may, at any time, petition for review of any order
110 entered pursuant to subsection (c) of this section, if the petitioner
111 alleges that such action would be in the best interests of the child. The
112 court may modify or terminate such orders as the court deems to be in
113 the best interest of the adopted child.

114 (i) The Superior Court upon hearing and notice, as provided in
115 sections 45a-716 and 45a-717, may grant a petition for termination of
116 parental rights based on consent filed pursuant to this section if it finds
117 that (1) upon clear and convincing evidence, the termination is in the
118 best interest of the child, and (2) such parent has voluntarily and
119 knowingly consented to termination of the parent's parental rights
120 with respect to such child. If the court denies a petition for termination
121 of parental rights based on consent, it may refer the matter to an
122 agency to assess the needs of the child, the care the child is receiving
123 and the plan of the parent for the child. Consent for the termination of
124 the parental rights of one parent does not diminish the parental rights
125 of the other parent of the child, nor does it relieve the other parent of
126 the duty to support the child.

127 (j) The Superior Court, upon notice and hearing as provided in
128 sections 45a-716 and 45a-717, may grant a petition filed pursuant to
129 this section if it finds by clear and convincing evidence that (1) the
130 Department of Children and Families has made reasonable efforts to
131 locate the parent and to reunify the child with the parent in accordance
132 with subsection (a) of section 17a-111b, unless the court [finds in this
133 proceeding] determines that the Department of Children and Families
134 has submitted documentation sufficient for the court to find that the
135 parent is unable or unwilling to benefit from reunification efforts,
136 except that such finding is not required if the court has determined at a
137 hearing pursuant to section 17a-111b, or determines at trial on the
138 petition, that such efforts are not required, (2) termination is in the best
139 interest of the child, and (3) (A) the child has been abandoned by the
140 parent in the sense that the parent has failed to maintain a reasonable
141 degree of interest, concern or responsibility as to the welfare of the
142 child; (B) the child (i) has been found by the Superior Court or the
143 Probate Court to have been neglected or uncared for in a prior
144 proceeding, or (ii) is found to be neglected or uncared for and has been
145 in the custody of the commissioner for at least fifteen months and the
146 parent of such child has been provided specific steps to take to
147 facilitate the return of the child to the parent pursuant to section
148 46b-129 and has failed to achieve such degree of personal

149 rehabilitation as would encourage the belief that within a reasonable
150 time, considering the age and needs of the child, such parent could
151 assume a responsible position in the life of the child; (C) the child has
152 been denied, by reason of an act or acts of parental commission or
153 omission including, but not limited to, sexual molestation or
154 exploitation, severe physical abuse or a pattern of abuse, the care,
155 guidance or control necessary for the child's physical, educational,
156 moral or emotional well-being, except that nonaccidental or
157 inadequately explained serious physical injury to a child shall
158 constitute prima facie evidence of acts of parental commission or
159 omission sufficient for the termination of parental rights; (D) there is
160 no ongoing parent-child relationship, which means the relationship
161 that ordinarily develops as a result of a parent having met on a day-to-
162 day basis the physical, emotional, moral and educational needs of the
163 child and to allow further time for the establishment or
164 reestablishment of such parent-child relationship would be
165 detrimental to the best interest of the child; (E) the parent of a child
166 under the age of seven years who is neglected or uncared for, has
167 failed, is unable or is unwilling to achieve such degree of personal
168 rehabilitation as would encourage the belief that within a reasonable
169 period of time, considering the age and needs of the child, such parent
170 could assume a responsible position in the life of the child and such
171 parent's parental rights of another child were previously terminated
172 pursuant to a petition filed by the Commissioner of Children and
173 Families; (F) the parent has killed through deliberate, nonaccidental act
174 another child of the parent or has requested, commanded, importuned,
175 attempted, conspired or solicited such killing or has committed an
176 assault, through deliberate, nonaccidental act that resulted in serious
177 bodily injury of another child of the parent; or (G) the parent was
178 convicted as an adult or a delinquent by a court of competent
179 jurisdiction of a sexual assault resulting in the conception of the child,
180 except a conviction for a violation of section 53a-71 or 53a-73a,
181 provided the court may terminate such parent's parental rights to such
182 child at any time after such conviction.

183 (k) Except in the case where termination is based on consent, in

184 determining whether to terminate parental rights under this section,
185 the court shall consider and shall make written findings regarding: (1)
186 The timeliness, nature and extent of services offered, provided and
187 made available to the parent and the child by an agency to facilitate the
188 reunion of the child with the parent; (2) whether the Department of
189 Children and Families has made reasonable efforts to reunite the
190 family pursuant to the federal Adoption Assistance and Child Welfare
191 Act of 1980, as amended; (3) the terms of any applicable court order
192 entered into and agreed upon by any individual or agency and the
193 parent, and the extent to which all parties have fulfilled their
194 obligations under such order; (4) the feelings and emotional ties of the
195 child with respect to the child's parents, any guardian of such child's
196 person and any person who has exercised physical care, custody or
197 control of the child for at least one year and with whom the child has
198 developed significant emotional ties; (5) the age of the child; (6) the
199 efforts the parent has made to adjust such parent's circumstances,
200 conduct, or conditions to make it in the best interest of the child to
201 return such child home in the foreseeable future, including, but not
202 limited to, (A) the extent to which the parent has maintained contact
203 with the child as part of an effort to reunite the child with the parent,
204 provided the court may give weight to incidental visitations,
205 communications or contributions, and (B) the maintenance of regular
206 contact or communication with the guardian or other custodian of the
207 child; and (7) the extent to which a parent has been prevented from
208 maintaining a meaningful relationship with the child by the
209 unreasonable act or conduct of the other parent of the child, or the
210 unreasonable act of any other person or by the economic circumstances
211 of the parent.

212 (l) Any petition brought by the Commissioner of Children and
213 Families to the Superior Court, pursuant to subsection (a) of section
214 46b-129, may be accompanied by or, upon motion by the petitioner,
215 consolidated with a petition for termination of parental rights filed in
216 accordance with this section with respect to such child. Notice of the
217 hearing on such petitions shall be given in accordance with sections
218 45a-716 and 45a-717. The Superior Court, after hearing, in accordance

219 with the provisions of subsection (i) or (j) of this section, may, in lieu of
220 granting the petition filed pursuant to section 46b-129, grant the
221 petition for termination of parental rights as provided in section
222 45a-717.

223 (m) Nothing contained in this section and sections 17a-113, 45a-187,
224 45a-606, 45a-607, 45a-707 to 45a-709, inclusive, 45a-715 to 45a-718,
225 inclusive, 45a-724, 45a-725, 45a-727, 45a-733, 45a-754 and 52-231a shall
226 negate the right of the Commissioner of Children and Families to
227 subsequently petition the Superior Court for revocation of a
228 commitment of a child as to whom parental rights have been
229 terminated in accordance with the provisions of this section. The
230 Superior Court may appoint a statutory parent at any time after it has
231 terminated parental rights if the petitioner so requests.

232 (n) If the parental rights of only one parent are terminated, the
233 remaining parent shall be the sole parent and, unless otherwise
234 provided by law, guardian of the person.

235 (o) In the case where termination of parental rights is granted, the
236 guardian of the person or statutory parent shall report to the court not
237 later than thirty days after the date judgment is entered on a case plan,
238 as defined by the federal Adoption Assistance and Child Welfare Act
239 of 1980, for the child which shall include measurable objectives and
240 time schedules. At least every three months thereafter, such guardian
241 or statutory parent shall make a report to the court on the progress
242 made on implementation of the plan. The court may convene a hearing
243 upon the filing of a report and shall convene and conduct a
244 permanency hearing pursuant to subsection (k) of section 46b-129 for
245 the purpose of reviewing the permanency plan for the child no more
246 than twelve months from the date judgment is entered or from the
247 date of the last permanency hearing held pursuant to subsection (k) of
248 section 46b-129, whichever is earlier, and at least once a year thereafter
249 while the child remains in the custody of the Commissioner of
250 Children and Families. For children where the commissioner has
251 determined that adoption is appropriate, the report on the

252 implementation of the plan shall include a description of the
 253 reasonable efforts the department is taking to promote and expedite
 254 the adoptive placement and to finalize the adoption of the child,
 255 including documentation of child specific recruitment efforts. At such
 256 hearing, the court shall determine whether the department has made
 257 reasonable efforts to achieve the permanency plan. If the court
 258 determines that the department has not made reasonable efforts to
 259 place a child in an adoptive placement or that reasonable efforts have
 260 not resulted in the placement of the child, the court may order the
 261 Department of Children and Families, within available appropriations,
 262 to contract with a child-placing agency to arrange for the adoption of
 263 the child. The department, as statutory parent, shall continue to
 264 provide care and services for the child while a child-placing agency is
 265 arranging for the adoption of the child.

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

270 (q) The provisions of this section shall be liberally construed in the
 271 best interests of any child for whom a petition under this section has
 272 been filed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	17a-15a
Sec. 2	October 1, 2010	17a-112

KID *Joint Favorable Subst. C/R* HS

HS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The Department of Children and Families will incur no fiscal impact to incorporate the additional required information in each permanency plan document.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 294*****AN ACT CONCERNING DOCUMENTATION OF REASONABLE EFFORTS TO REUNITE A PARENT WITH A CHILD AND TO LOCATE RELATIVES.*****SUMMARY:**

This bill requires the Department of Children and Families (DCF) to include along with other already required information as part of each child's permanency plan and status report:

1. information on all efforts to achieve the permanency plan,
2. a description of what was done to keep the child with the parent prior to a removal order, and
3. information on efforts to locate relative caregivers as part of finding a permanent placement plan for child.

The bill requires the court, before terminating parental rights, to find as one prerequisite that DCF has submitted enough documentation for the court to find the parent unwilling or unable to benefit from reunification.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Permanency Plan***

Existing law, unchanged by the bill, requires a permanency plan to include:

1. a description of any problems or offenses that necessitated the placement of the child with DCF;

2. a description of the type and an analysis of the effectiveness of the care, treatment, and supervision DCF has provided for the child;
3. the current visitation schedule between the child and his parents and siblings for any child in substitute care;
4. a description by the department of every effort by DCF to reunite the child with a parent or to find a permanent placement for the child and every effort to assist each parent in remedying factors that contributed to the removal of the child;
5. a proposed timetable for the reunification of the child and a parent, a permanent placement if substitute care is recommended, or a justification of why extended substitute care is necessary; and
6. whether the child has been visited at least every three months by a state or private agency if the child has been placed in foster care out-of-state.

Termination of Parental Rights

Termination of parental rights is the complete legal severing of the relationship between child and parent through court order. A termination of parental rights petition may be filed in the probate court for the district in which the petitioner or the child resides or, in the case of a minor under DCF's guardianship, in the probate court for the district in which the main or local office is located. Before a hearing on the merits in probate court, the probate court or any party except the petitioner may move to transfer the case to the Superior Court.

Superior Court termination of parent rights petitions may be filed by the DCF commissioner, the attorney who represented the child in a pending or prior proceeding, an attorney appointed by the Superior Court on its own motion, or an attorney appointed by the child after turning age 14.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Substitute Change of Reference

Yea 12 Nay 0 (03/09/2010)

Human Services Committee

Joint Favorable

Yea 13 Nay 6 (03/18/2010)