



General Assembly

February Session, 2010

Raised Bill No. 5429

LCO No. 1879

01879_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

AN ACT CONCERNING THE BURDEN OF PROOF IN JUVENILE MATTERS.

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

1 Section 1. Subsection (b) of section 17a-101g of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2010*):

4 (b) The investigation shall include a home visit at which the child
5 and any siblings are observed, if appropriate, a determination of the
6 nature, extent and cause or causes of the reported abuse or neglect, a
7 determination of the person or persons suspected to be responsible for
8 such abuse or neglect, the name, age and condition of other children
9 residing in the same household and an evaluation of the parents and
10 the home. The report of such investigation shall be in writing. The
11 investigation shall also include, but not be limited to, a review of
12 criminal conviction information concerning the person or persons
13 alleged to be responsible for such abuse or neglect and previous
14 allegations of abuse or neglect relating to the child or other children
15 residing in the household or relating to family violence. After an
16 investigation into a report of abuse or neglect has been completed, the

17 commissioner shall determine, based upon a standard of [reasonable
18 cause] beyond a reasonable doubt, whether a child has been abused or
19 neglected, as defined in section 46b-120. If the commissioner
20 determines that abuse or neglect has occurred, the commissioner shall
21 also determine whether: (1) There is an identifiable person responsible
22 for such abuse or neglect; and (2) such identifiable person poses a risk
23 to the health, safety or well-being of children and should be
24 recommended by the commissioner for placement on the child abuse
25 and neglect registry established pursuant to section 17a-101k, as
26 amended by this act. If the commissioner has made the determinations
27 in subdivisions (1) and (2) of this subsection, the commissioner shall
28 issue notice of a recommended finding to the person suspected to be
29 responsible for such abuse or neglect in accordance with section 17a-
30 101k, as amended by this act.

31 Sec. 2. Subsection (d) of section 17a-101k of the general statutes is
32 repealed and the following is substituted in lieu thereof (*Effective*
33 *October 1, 2010*):

34 (d) (1) The hearing procedure shall be conducted in accordance with
35 the procedures for contested cases pursuant to sections 4-177 to 4-181a,
36 inclusive.

37 (2) At the hearing, the individual may be represented by legal
38 counsel. The burden of proof shall be on the commissioner to prove
39 that the finding is supported [by a fair preponderance of the evidence]
40 beyond a reasonable doubt by evidence submitted at the hearing.

41 (3) Not later than thirty days after the conclusion of the hearing, the
42 hearing officer shall issue a written decision to either reverse or uphold
43 the finding. The decision shall contain findings of fact and a conclusion
44 of law on each issue raised at the hearing.

45 Sec. 3. Subsections (f) and (g) of section 45a-717 of the general
46 statutes are repealed and the following is substituted in lieu thereof
47 (*Effective October 1, 2010*):

48 (f) At the adjourned hearing or at the initial hearing where no
49 investigation and report has been requested, the court may approve a
50 petition for termination of parental rights based on consent filed
51 pursuant to this section terminating the parental rights and may
52 appoint a guardian of the person of the child, or if the petitioner
53 requests, the court may appoint a statutory parent, if it finds, upon
54 [clear and convincing] evidence that establishes, beyond a reasonable
55 doubt, that (1) the termination is in the best interest of the child, and
56 (2) such parent has voluntarily and knowingly consented to
57 termination of the parent's parental rights with respect to such child. If
58 the court denies a petition for termination of parental rights based on
59 consent, it may refer the matter to an agency to assess the needs of the
60 child, the care the child is receiving and the plan of the parent for the
61 child. Consent for the termination of the parental right of one parent
62 does not diminish the parental rights of the other parent of the child
63 nor does it relieve the other parent of the duty to support the child.

64 (g) At the adjourned hearing or at the initial hearing where no
65 investigation and report has been requested, the court may approve a
66 petition terminating the parental rights and may appoint a guardian of
67 the person of the child, or, if the petitioner requests, the court may
68 appoint a statutory parent, if it finds, upon [clear and convincing]
69 evidence that establishes, beyond a reasonable doubt, that (1) the
70 termination is in the best interest of the child, and (2) (A) the child has
71 been abandoned by the parent in the sense that the parent has failed to
72 maintain a reasonable degree of interest, concern or responsibility as to
73 the welfare of the child; (B) the child has been denied, by reason of an
74 act or acts of parental commission or omission, including, but not
75 limited to sexual molestation and exploitation, severe physical abuse
76 or a pattern of abuse, the care, guidance or control necessary for the
77 child's physical, educational, moral or emotional well-being.
78 Nonaccidental or inadequately explained serious physical injury to a
79 child shall constitute prima facie evidence of acts of parental
80 commission or omission sufficient for the termination of parental
81 rights; (C) there is no ongoing parent-child relationship which is

82 defined as the relationship that ordinarily develops as a result of a
83 parent having met on a continuing, day-to-day basis the physical,
84 emotional, moral and educational needs of the child and to allow
85 further time for the establishment or reestablishment of the parent-
86 child relationship would be detrimental to the best interests of the
87 child; (D) the parent of a child who (i) has been found by the Superior
88 Court or the Probate Court to have been neglected or uncared for in a
89 prior proceeding, or (ii) is found to be neglected or uncared for and has
90 been in the custody of the commissioner for at least fifteen months and
91 such parent has been provided specific steps to take to facilitate the
92 return of the child to the parent pursuant to section 46b-129, as
93 amended by this act, and has failed to achieve such degree of personal
94 rehabilitation as would encourage the belief that within a reasonable
95 time, considering the age and needs of the child, such parent could
96 assume a responsible position in the life of the child; (E) the parent of a
97 child, under the age of seven years who is neglected or uncared for,
98 has failed, is unable or is unwilling to achieve such degree of personal
99 rehabilitation as would encourage the belief that within a reasonable
100 amount of time, considering the age and needs of the child, such
101 parent could assume a responsible position in the life of the child and
102 such parent's parental rights of another child were previously
103 terminated pursuant to a petition filed by the Commissioner of
104 Children and Families; (F) the parent has killed through deliberate,
105 nonaccidental act another child of the parent or has requested,
106 commanded, importuned, attempted, conspired or solicited such
107 killing or has committed an assault, through deliberate, nonaccidental
108 act that resulted in serious bodily injury of another child of the parent;
109 or (G) the parent was convicted as an adult or a delinquent by a court
110 of competent jurisdiction of sexual assault resulting in the conception
111 of a child except for a violation of section 53a-71 or 53a-73a provided
112 the court may terminate such parent's parental rights to such child at
113 any time after such conviction.

114 Sec. 4. Section 46b-129 of the 2010 supplement to the general statutes
115 is repealed and the following is substituted in lieu thereof (*Effective*

116 *October 1, 2010):*

117 (a) Any selectman, town manager, or town, city or borough welfare
118 department, any probation officer, or the Commissioner of Social
119 Services, the Commissioner of Children and Families or any child-
120 caring institution or agency approved by the Commissioner of
121 Children and Families, a child or such child's representative or
122 attorney or a foster parent of a child, having information that a child or
123 youth is neglected, uncared-for or dependent, may file with the
124 Superior Court that has venue over such matter a verified petition
125 plainly stating such facts as bring the child or youth within the
126 jurisdiction of the court as neglected, uncared-for or dependent, within
127 the meaning of section 46b-120, the name, date of birth, sex and
128 residence of the child or youth, the name and residence of such child's
129 parents or guardian, and praying for appropriate action by the court in
130 conformity with the provisions of this chapter. Upon the filing of such
131 a petition, except as otherwise provided in subsection (k) of section
132 17a-112, the court shall cause a summons to be issued requiring the
133 parent or parents or the guardian of the child or youth to appear in
134 court at the time and place named, which summons shall be served not
135 less than fourteen days before the date of the hearing in the manner
136 prescribed by section 46b-128, and the court shall further give notice to
137 the petitioner and to the Commissioner of Children and Families of the
138 time and place when the petition is to be heard not less than fourteen
139 days prior to the hearing in question.

140 (b) If it appears from the specific allegations of the petition and
141 other verified affirmations of fact accompanying the petition and
142 application, or subsequent thereto, that [there is reasonable cause to
143 believe] the allegations and affirmations of fact establish, beyond a
144 reasonable doubt, that (1) the child or youth is suffering from serious
145 physical illness or serious physical injury or is in immediate physical
146 danger from the child's or youth's surroundings, and (2) that as a
147 result of said conditions, the child's or youth's safety is endangered
148 and immediate removal from such surroundings is necessary to ensure

149 the child's or youth's safety, the court shall either (A) issue an order to
150 the parents or other person having responsibility for the care of the
151 child or youth to appear at such time as the court may designate to
152 determine whether the court should vest the child's or youth's
153 temporary care and custody in a person related to the child or youth
154 by blood or marriage or in some other person or suitable agency
155 pending disposition of the petition, or (B) issue an order ex parte
156 vesting the child's or youth's temporary care and custody in a person
157 related to the child or youth by blood or marriage or in some other
158 person or suitable agency. A preliminary hearing on any ex parte
159 custody order or order to appear issued by the court shall be held not
160 later than ten days after the issuance of such order. The service of such
161 orders may be made by any officer authorized by law to serve process,
162 or by any probation officer appointed in accordance with section 46b-
163 123, investigator from the Department of Administrative Services, state
164 or local police officer or indifferent person. Such orders shall include a
165 conspicuous notice to the respondent written in clear and simple
166 language containing at least the following information: (i) That the
167 order contains allegations that conditions in the home have
168 endangered the safety and welfare of the child or youth; (ii) that a
169 hearing will be held on the date on the form; (iii) that the hearing is the
170 opportunity to present the parents' position concerning the alleged
171 facts; (iv) that an attorney will be appointed for parents who cannot
172 afford an attorney; (v) that such parents may apply for a court-
173 appointed attorney by going in person to the court address on the form
174 and are advised to go as soon as possible in order for the attorney to
175 prepare for the hearing; (vi) that such parents, or a person having
176 responsibility for the care and custody of the child or youth, may
177 request the Commissioner of Children and Families to investigate
178 placing the child or youth with a person related to the child or youth
179 by blood or marriage who might serve as a licensed foster parent or
180 temporary custodian for such child or youth. The commissioner, where
181 practicable, shall investigate such relative or relatives prior to the
182 preliminary hearing and provide a report to the court at such hearing

183 as to such relative's suitability; and (vii) if such parents have any
184 questions concerning the case or appointment of counsel, any such
185 parent is advised to go to the court or call the clerk's office at the court
186 as soon as possible. Upon application for appointed counsel, the court
187 shall promptly determine eligibility and, if the respondent is eligible,
188 promptly appoint counsel. The expense for any temporary care and
189 custody shall be paid by the town in which such child or youth is at
190 the time residing, and such town shall be reimbursed for such expense
191 by the town found liable for the child's or youth's support, except that
192 where a state agency has filed a petition pursuant to the provisions of
193 subsection (a) of this section, the agency shall pay such expense. The
194 agency shall give primary consideration to placing the child or youth
195 in the town where such child or youth resides. The agency shall file in
196 writing with the clerk of the court the reasons for placing the child or
197 youth in a particular placement outside the town where the child or
198 youth resides. Upon issuance of an ex parte order, the court shall
199 provide to the commissioner and the parent or guardian specific steps
200 necessary for each to take to address the ex parte order for the parent
201 or guardian to retain or regain custody of the child or youth. Upon the
202 issuance of such order, or not later than sixty days after the issuance of
203 such order, the court shall make a determination whether the
204 Department of Children and Families made reasonable efforts to keep
205 the child or youth with his or her parents or guardian prior to the
206 issuance of such order and, if such efforts were not made, whether
207 such reasonable efforts were not possible, taking into consideration the
208 child's or youth's best interests, including the child's or youth's health
209 and safety.

210 (c) The preliminary hearing on the order of temporary custody or
211 order to appear or the first hearing on a petition filed pursuant to
212 subsection (a) of this section shall be held in order for the court to: (1)
213 Advise the parent or guardian of the allegations contained in all
214 petitions and applications that are the subject of the hearing and the
215 parent's or guardian's right to counsel pursuant to subsection (b) of
216 section 46b-135; (2) assure that an attorney, and where appropriate, a

217 separate guardian ad litem has been appointed to represent the child
218 or youth in accordance with subsection (b) of section 46b-123e and
219 sections 46b-129a, as amended by this act, and 46b-136; (3) upon
220 request, appoint an attorney to represent the respondent when the
221 respondent is unable to afford representation, in accordance with
222 subsection (b) of section 46b-123e; (4) advise the parent or guardian of
223 the right to a hearing on the petitions and applications, to be held not
224 later than ten days after the date of the preliminary hearing if the
225 hearing is pursuant to an order of temporary custody or an order to
226 show cause; (5) accept a plea regarding the truth of such allegations;
227 (6) make any interim orders, including visitation, that the court
228 determines are in the best interests of the child or youth. The court,
229 after a hearing pursuant to this subsection, shall order specific steps
230 the commissioner and the parent or guardian shall take for the parent
231 or guardian to regain or to retain custody of the child or youth; (7) take
232 steps to determine the identity of the father of the child or youth,
233 including ordering genetic testing, if necessary, and order service of
234 the petition and notice of the hearing date, if any, to be made upon
235 him; (8) if the person named as the father appears, and admits that he
236 is the father, provide him and the mother with the notices that comply
237 with section 17b-27 and provide them with the opportunity to sign a
238 paternity acknowledgment and affirmation on forms that comply with
239 section 17b-27. Such documents shall be executed and filed in
240 accordance with chapter 815y and a copy delivered to the clerk of the
241 superior court for juvenile matters; (9) in the event that the person
242 named as a father appears and denies that he is the father of the child
243 or youth, advise him that he may have no further standing in any
244 proceeding concerning the child, and either order genetic testing to
245 determine paternity or direct him to execute a written denial of
246 paternity on a form promulgated by the Office of the Chief Court
247 Administrator. Upon execution of such a form by the putative father,
248 the court may remove him from the case and afford him no further
249 standing in the case or in any subsequent proceeding regarding the
250 child or youth until such time as paternity is established by formal

251 acknowledgment or adjudication in a court of competent jurisdiction;
252 (10) identify any person or persons related to the child or youth by
253 blood or marriage residing in this state who might serve as licensed
254 foster parents or temporary custodians and order the Commissioner of
255 Children and Families to investigate and determine, not later than
256 thirty days after the preliminary hearing, the appropriateness of
257 placement of the child or youth with such relative or relatives; and (11)
258 in accordance with the provisions of the Interstate Compact on the
259 Placement of Children pursuant to section 17a-175, identify any person
260 or persons related to the child or youth by blood or marriage residing
261 out of state who might serve as licensed foster parents or temporary
262 custodians, and order the Commissioner of Children and Families to
263 investigate and determine, within a reasonable time, the
264 appropriateness of placement of the child or youth with such relative
265 or relatives.

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

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

284 or is about to [disrupt] be disrupted.

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

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

311 (3) If the court grants such relative temporary custody during the
312 period of such temporary custody, such relative shall be subject to
313 orders of the court, including, but not limited to, providing for the care
314 and supervision of such child or youth and cooperating with the
315 Commissioner of Children and Families in the implementation of

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

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

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

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

338 (g) At a contested hearing on the order for temporary custody or
339 order to appear, credible hearsay evidence regarding statements of the
340 child or youth made to a mandated reporter or to a parent may be
341 offered by the parties and admitted by the court upon a finding that
342 the statement is reliable and trustworthy and that admission of such
343 statement is reasonably necessary. A signed statement executed by a
344 mandated reporter under oath may be admitted by the court without
345 the need for the mandated reporter to appear and testify unless called
346 by a respondent or the child, provided the statement: (1) Was provided
347 at the preliminary hearing and promptly upon request to any counsel

348 appearing after the preliminary hearing; (2) reasonably describes the
349 qualifications of the reporter and the nature of his contact with the
350 child; and (3) contains only the direct observations of the reporter, and
351 statements made to the reporter that would be admissible if the
352 reporter were to testify to them in court and any opinions reasonably
353 based thereupon. If a respondent or the child gives notice at the
354 preliminary hearing that he intends to cross-examine the reporter, the
355 person filing the petition shall make the reporter available for such
356 examination at the contested hearing.

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

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

372 (j) Upon finding and adjudging that [any] the petitioner has
373 established, beyond a reasonable doubt in an evidentiary proceeding
374 held under this section, that a child or youth is uncared-for, neglected
375 or dependent, the court may commit such child or youth to the
376 Commissioner of Children and Families. Such commitment shall
377 remain in effect until further order of the court, except that such
378 commitment may be revoked or parental rights terminated at any time
379 by the court, or the court may vest such child's or youth's legal

380 guardianship in any private or public agency that is permitted by law
381 to care for neglected, uncared-for or dependent children or youths or
382 with any other person or persons found to be suitable and worthy of
383 such responsibility by the court, including, but not limited to, any
384 relative of such child or youth by blood or marriage. If the court
385 determines that the commitment should be revoked and the child's or
386 youth's legal guardianship should vest in someone other than the
387 respondent parent, parents or former guardian, or if parental rights are
388 terminated at any time, there shall be a rebuttable presumption that an
389 award of legal guardianship upon revocation to, or adoption upon
390 termination of parental rights by, any relative who is licensed as a
391 foster parent for such child or youth, or who is, pursuant to an order of
392 the court, the temporary custodian of the child or youth at the time of
393 the revocation or termination, shall be in the best interests of the child
394 or youth and that such relative is a suitable and worthy person to
395 assume legal guardianship upon revocation or to adopt such child or
396 youth upon termination of parental rights. The presumption may be
397 rebutted by a preponderance of the evidence that an award of legal
398 guardianship to, or an adoption by, such relative would not be in the
399 child's or youth's best interests and such relative is not a suitable and
400 worthy person. The court shall order specific steps that the parent
401 must take to facilitate the return of the child or youth to the custody of
402 such parent. The commissioner shall be the guardian of such child or
403 youth for the duration of the commitment, provided the child or youth
404 has not reached the age of eighteen years or, in the case of a child or
405 youth in full-time attendance in a secondary school, a technical school,
406 a college or a state-accredited job training program, provided such
407 child or youth has not reached the age of twenty-one years, by consent
408 of such youth, or until another guardian has been legally appointed,
409 and in like manner, upon such vesting of the care of such child or
410 youth, such other public or private agency or individual shall be the
411 guardian of such child or youth until such child or youth has reached
412 the age of eighteen years or, in the case of a child or youth in full-time
413 attendance in a secondary school, a technical school, a college or a

414 state-accredited job training program, until such child or youth has
415 reached the age of twenty-one years or until another guardian has
416 been legally appointed. The commissioner may place any child or
417 youth so committed to the commissioner in a suitable foster home or in
418 the home of a person related by blood or marriage to such child or
419 youth or in a licensed child-caring institution or in the care and
420 custody of any accredited, licensed or approved child-caring agency,
421 within or without the state, provided a child shall not be placed
422 outside the state except for good cause and unless the parents or
423 guardian of such child are notified in advance of such placement and
424 given an opportunity to be heard, or in a receiving home maintained
425 and operated by the Commissioner of Children and Families. In
426 placing such child or youth, the commissioner shall, if possible, select a
427 home, agency, institution or person of like religious faith to that of a
428 parent of such child or youth, if such faith is known or may be
429 ascertained by reasonable inquiry, provided such home conforms to
430 the standards of said commissioner and the commissioner shall, when
431 placing siblings, if possible, place such children together. As an
432 alternative to commitment, the court may place the child or youth in
433 the custody of the parent or guardian with protective supervision by
434 the Commissioner of Children and Families subject to conditions
435 established by the court. Upon the issuance of an order committing the
436 child or youth to the Commissioner of Children and Families, or not
437 later than sixty days after the issuance of such order, the court shall
438 determine whether the Department of Children and Families made
439 reasonable efforts to keep the child or youth with his or her parents or
440 guardian prior to the issuance of such order and, if such efforts were
441 not made, whether such reasonable efforts were not possible, taking
442 into consideration the child's or youth's best interests, including the
443 child's or youth's health and safety.

444 (k) (1) Nine months after placement of the child or youth in the care
445 and custody of the commissioner pursuant to a voluntary placement
446 agreement, or removal of a child or youth pursuant to section 17a-
447 101g, as amended by this act, or an order issued by a court of

448 competent jurisdiction, whichever is earlier, the commissioner shall file
449 a motion for review of a permanency plan. Nine months after a
450 permanency plan has been approved by the court pursuant to this
451 subsection, the commissioner shall file a motion for review of the
452 permanency plan. Any party seeking to oppose the commissioner's
453 permanency plan, including a relative of a child or youth by blood or
454 marriage who has intervened pursuant to subsection (d) of this section
455 and is licensed as a foster parent for such child or youth or is vested
456 with such child's or youth's temporary custody by order of the court,
457 shall file a motion in opposition not later than thirty days after the
458 filing of the commissioner's motion for review of the permanency plan,
459 which motion shall include the reason therefor. A permanency hearing
460 on any motion for review of the permanency plan shall be held not
461 later than ninety days after the filing of such motion. The court shall
462 hold evidentiary hearings in connection with any contested motion for
463 review of the permanency plan. The commissioner shall have the
464 burden of proving that the proposed permanency plan is in the best
465 interests of the child or youth. After the initial permanency hearing,
466 subsequent permanency hearings shall be held not less frequently than
467 every twelve months while the child or youth remains in the custody
468 of the Commissioner of Children and Families. The court shall provide
469 notice to the child or youth, the parent or guardian of such child or
470 youth, and any intervenor of the time and place of the court hearing on
471 any such motion not less than fourteen days prior to such hearing.

472 (2) At a permanency hearing held in accordance with the provisions
473 of subdivision (1) of this subsection, the court shall approve a
474 permanency plan that is in the best interests of the child or youth and
475 takes into consideration the child's or youth's need for permanency.
476 The child's or youth's health and safety shall be of paramount concern
477 in formulating such plan. Such permanency plan may include the goal
478 of (A) revocation of commitment and reunification of the child or
479 youth with the parent or guardian, with or without protective
480 supervision; (B) transfer of guardianship; (C) long-term foster care
481 with a relative licensed as a foster parent; (D) filing of termination of

482 parental rights and adoption; or (E) another planned permanent living
483 arrangement ordered by the court, provided the Commissioner of
484 Children and Families has documented a compelling reason why it
485 would not be in the best interest of the child or youth for the
486 permanency plan to include the goals in subparagraphs (A) to (D),
487 inclusive, of this subdivision. Such other planned permanent living
488 arrangement may include, but not be limited to, placement of a child
489 or youth in an independent living program or long term foster care
490 with an identified foster parent.

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

501 (4) If the court approves the permanency plan of adoption: (A) The
502 Commissioner of Children and Families shall file a petition for
503 termination of parental rights not later than sixty days after such
504 approval if such petition has not previously been filed; (B) the
505 commissioner may conduct a thorough adoption assessment and
506 child-specific recruitment; and (C) the court may order that the child
507 be photo-listed [within] not later than thirty days after approval of the
508 permanency plan of adoption if the court determines that such photo-
509 listing is in the best interest of the child. As used in this subdivision,
510 "thorough adoption assessment" means conducting and documenting
511 face-to-face interviews with the child, foster care providers and other
512 significant parties and "child specific recruitment" means recruiting an
513 adoptive placement targeted to meet the individual needs of the
514 specific child, including, but not limited to, use of the media, use of

515 photo-listing services and any other in-state or out-of-state resources
516 that may be used to meet the specific needs of the child, unless there
517 are extenuating circumstances that indicate that such efforts are not in
518 the best interest of the child.

519 (l) The Commissioner of Children and Families shall pay directly to
520 the person or persons furnishing goods or services determined by said
521 commissioner to be necessary for the care and maintenance of such
522 child or youth the reasonable expense thereof, payment to be made at
523 intervals determined by said commissioner; and the Comptroller shall
524 draw his or her order on the Treasurer, from time to time, for such part
525 of the appropriation for care of committed children or youths as may
526 be needed in order to enable the commissioner to make such
527 payments. The commissioner shall include in the department's annual
528 budget a sum estimated to be sufficient to carry out the provisions of
529 this section. Notwithstanding that any such child or youth has income
530 or estate, the commissioner may pay the cost of care and maintenance
531 of such child or youth. The commissioner may bill to and collect from
532 the person in charge of the estate of any child or youth aided under
533 this chapter, or the payee of such child's or youth's income, the total
534 amount expended for care of such child or youth or such portion
535 thereof as any such estate or payee is able to reimburse, provided the
536 commissioner shall not collect from such estate or payee any
537 reimbursement for the cost of care or other expenditures made on
538 behalf of such child or youth from (1) the proceeds of any cause of
539 action received by such child or youth; (2) any lottery proceeds due to
540 such child or youth; (3) any inheritance due to such child or youth; (4)
541 any payment due to such child or youth from a trust other than a trust
542 created pursuant to 42 USC 1396p, as amended from time to time; or
543 (5) the decedent estate of such child or youth.

544 (m) The commissioner, a parent or the child's attorney may file a
545 motion to revoke a commitment, and, upon finding that cause for
546 commitment no longer exists, and that such revocation is in the best
547 interests of such child or youth, the court may revoke the commitment

548 of such child or youth. No such motion shall be filed more often than
549 once every six months.

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

564 (o) A foster parent, prospective adoptive parent or relative caregiver
565 shall receive notice and have the right to be heard for the purposes of
566 this section in Superior Court in any proceeding concerning a foster
567 child living with such foster parent, prospective adoptive parent or
568 relative caregiver. A foster parent, prospective adoptive parent or
569 relative caregiver who has cared for a child or youth shall have the
570 right to be heard and comment on the best interests of such child or
571 youth in any proceeding under this section which is brought not more
572 than one year after the last day the foster parent, prospective adoptive
573 parent or relative caregiver provided such care.

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

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

584 (r) In any proceeding under this section, the Department of Children
585 and Families shall provide notice to every attorney of record for each
586 party involved in the proceeding when the department seeks to
587 transfer a child or youth in its care, custody or control to an out-of-
588 state placement.

589 Sec. 5. Section 46b-129a of the general statutes is repealed and the
590 following is substituted in lieu thereof (*Effective October 1, 2010*):

591 In proceedings in the Superior Court under section 46b-129, as
592 amended by this act: (1) The court may order the child, the parents, the
593 guardian, or other persons accused by a competent witness with
594 abusing the child, to be examined by one or more competent
595 physicians, psychiatrists or psychologists appointed by the court; (2) a
596 child shall be represented by counsel knowledgeable about
597 representing such children who shall be appointed by the court to
598 represent the child and to act as guardian ad litem for the child. The
599 primary role of any counsel for the child including the counsel who
600 also serves as guardian ad litem, shall be to advocate for the child in
601 accordance with the Rules of Professional Conduct. When a conflict
602 arises between the child's wishes or position and that which counsel
603 for the child believes is in the best interest of the child, the court shall
604 appoint another person as guardian ad litem for the child. The
605 guardian ad litem shall speak on behalf of the best interest of the child
606 and is not required to be an attorney-at-law but shall be
607 knowledgeable about the needs and protection of children. In the
608 event that a separate guardian ad litem is appointed, the person
609 previously serving as both counsel and guardian ad litem for the child
610 shall continue to serve as counsel for the child and a different person
611 shall be appointed as guardian ad litem, unless the court for good

612 cause also appoints a different person as counsel for the child. No
613 person who has served as both counsel and guardian ad litem for a
614 child shall thereafter serve solely as the child's guardian ad litem. The
615 counsel and guardian ad litem's fees, if any, shall be paid by the
616 parents or guardian, or the estate of the child, or, if such persons are
617 unable to pay, by the court; (3) the privilege against the disclosure of
618 communications between husband and wife shall be inapplicable and
619 either may testify as to any relevant matter; and (4) evidence that
620 proves, beyond a reasonable doubt, that the child has been abused or
621 has sustained a nonaccidental injury shall constitute prima facie
622 evidence that shall be sufficient to support an adjudication that such
623 child is uncared for or neglected.

624 Sec. 6. Subsection (h) of section 46b-149 of the general statutes is
625 repealed and the following is substituted in lieu thereof (*Effective*
626 *October 1, 2010*):

627 (h) If the court finds, based on [clear and convincing] evidence that
628 establishes, beyond a reasonable doubt, that a child is from a family
629 with service needs, the court may, in addition to issuing any orders
630 under section 46b-121: (1) Refer the child to the Department of
631 Children and Families for any voluntary services provided by the
632 department or, if the child is from a family with service needs solely as
633 a result of a finding that the child is a truant or habitual truant, to the
634 authorities of the local or regional school district or private school for
635 services provided by such school district or such school, which
636 services may include summer school, or to community agencies
637 providing child and family services; (2) order the child to remain in the
638 child's own home or in the custody of a relative or any other suitable
639 person (A) subject to the supervision of a probation officer, or (B) in
640 the case of a child who is from a family with service needs solely as a
641 result of a finding that the child is a truant or habitual truant, subject to
642 the supervision of a probation officer and the authorities of the local or
643 regional school district or private school; (3) if the child is from a
644 family with service needs as a result of the child engaging in sexual

645 intercourse with another person and such other person is thirteen
646 years of age or older and not more than two years older or younger
647 than such child, (A) refer the child to a youth service bureau or other
648 appropriate service agency for participation in a program such as a
649 teen pregnancy program or a sexually transmitted disease program,
650 and (B) require such child to perform community service such as
651 service in a hospital, an AIDS prevention program or an obstetrical
652 and gynecological program; or (4) upon a finding that there is no less
653 restrictive alternative, commit the child to the care and custody of the
654 Commissioner of Children and Families for an indefinite period not to
655 exceed eighteen months. The child shall be entitled to representation
656 by counsel and an evidentiary hearing. If the court issues any order
657 which regulates future conduct of the child, parent or guardian, the
658 child, parent or guardian, shall receive adequate and fair warning of
659 the consequences of violation of the order at the time it is issued, and
660 such warning shall be provided to the child, parent or guardian, to his
661 or her attorney and to his or her legal guardian in writing and shall be
662 reflected in the court record and proceedings.

663 Sec. 7. Subsections (a) and (b) of section 46b-149f of the general
664 statutes are repealed and the following is substituted in lieu thereof
665 (*Effective October 1, 2010*):

666 (a) When a child who has been adjudicated as a child from a family
667 with service needs in accordance with section 46b-149, as amended by
668 this act, violates any valid order which regulates future conduct of the
669 child made by the court following such an adjudication, a probation
670 officer, on receipt of a complaint setting forth facts alleging such a
671 violation, or on the probation officer's own motion on the basis of his
672 or her knowledge of such a violation, may file a petition with the court
673 alleging that the child has violated a valid court order and setting forth
674 the facts claimed to constitute such a violation. Service shall be made
675 in the same manner as set forth for a summons in subsection (d) of
676 section 46b-149. The child shall be entitled to representation by counsel
677 and an evidentiary hearing on the allegations contained in the petition.

678 If the court finds, by [clear and convincing] evidence that establishes,
679 beyond a reasonable doubt, that the child has violated a valid court
680 order, the court may (1) order the child to remain in such child's home
681 or in the custody of a relative or any other suitable person, subject to
682 the supervision of a probation officer or an existing commitment to the
683 Commissioner of Children and Families, (2) upon a finding that there
684 is no less restrictive alternative appropriate to the needs of the child
685 and the community, enter an order that directs or authorizes a peace
686 officer or other appropriate person to place the child in a staff-secure
687 facility under the auspices of the Court Support Services Division for a
688 period not to exceed forty-five days, with court review every fifteen
689 days to consider whether continued placement is appropriate, at the
690 end of which period the child shall be returned to the community and
691 may be subject to the supervision of a probation officer, or (3) order
692 that the child be committed to the care and custody of the
693 Commissioner of Children and Families for a period not to exceed
694 eighteen months and that the child cooperate in such care and custody.

695 (b) When a child who has been adjudicated as a child from a family
696 with service needs in accordance with section 46b-149, as amended by
697 this act, is under an order of supervision or an order of commitment to
698 the Commissioner of Children and Families and believed to be in
699 imminent risk of physical harm from the child's surroundings or other
700 circumstances, a probation officer, on receipt of a complaint setting
701 forth facts alleging such risk, or on the probation officer's own motion
702 on the basis of his or her knowledge of such risk, may file a petition
703 with the court alleging that the child is in imminent risk of physical
704 harm and setting forth the facts claimed to constitute such risk. Service
705 shall be made in the same manner as set forth for a summons in
706 subsection (d) of section 46b-149. If it appears from the specific
707 allegations of the petition and other verified affirmations of fact
708 accompanying the petition, or subsequent thereto, that [there is
709 probable cause to believe] the allegations and affirmations of fact
710 establish, beyond a reasonable doubt, that (1) the child is in imminent
711 risk of physical harm from the child's surroundings, (2) as a result of

712 such condition, the child's safety is endangered and immediate
 713 removal from such surroundings is necessary to ensure the child's
 714 safety, and (3) there is no less restrictive alternative available, the court
 715 shall enter an order that directs or authorizes a peace officer or other
 716 appropriate person to place the child in a staff-secure facility under the
 717 auspices of the Court Support Services Division for a period not to
 718 exceed forty-five days, subject to subsection (c) of this section, with
 719 court review every fifteen days to consider whether continued
 720 placement is appropriate, at the end of which period the child shall
 721 either be (A) returned to the community for appropriate services,
 722 subject to the supervision of a probation officer or an existing
 723 commitment to the Commissioner of Children and Families, or (B)
 724 committed to the Department of Children and Families for a period
 725 not to exceed eighteen months if a hearing has been held and the court
 726 has found, based on clear and convincing evidence, that (i) the child is
 727 in imminent risk of physical harm from the child's surroundings, (ii) as
 728 a result of such condition, the child's safety is endangered and removal
 729 from such surroundings is necessary to ensure the child's safety, and
 730 (iii) there is no less restrictive alternative available. Any such child
 731 shall be entitled to the same procedural protections as are afforded to a
 732 delinquent child.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	17a-101g(b)
Sec. 2	<i>October 1, 2010</i>	17a-101k(d)
Sec. 3	<i>October 1, 2010</i>	45a-717(f) and (g)
Sec. 4	<i>October 1, 2010</i>	46b-129
Sec. 5	<i>October 1, 2010</i>	46b-129a
Sec. 6	<i>October 1, 2010</i>	46b-149(h)
Sec. 7	<i>October 1, 2010</i>	46b-149f(a) and (b)

Statement of Purpose:

To raise the burden of proof in juvenile cases.

[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.]