



General Assembly

February Session, 2010

Raised Bill No. 5432

LCO No. 1802

01802_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES.

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

1 Section 1. Subsection (b) of section 17b-745 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2010*):

4 (b) (1) Except as provided in sections 46b-212 to 46b-213v, inclusive,
5 any court or family support magistrate, called upon to enforce a
6 support order, shall insure that such order is reasonable in light of the
7 obligor's ability to pay. Except as provided in sections 46b-212 to 46b-
8 213v, inclusive, any support order entered pursuant to this section, or
9 any support order from another jurisdiction subject to enforcement by
10 the state of Connecticut, may be modified by motion of the party
11 seeking such modification, including Support Enforcement Services in
12 TANF support cases as defined in subdivision (14) of subsection (b) of
13 section 46b-231, upon a showing of a substantial change in the
14 circumstances of either party or upon a showing that the final order for
15 child support substantially deviates from the child support guidelines
16 established pursuant to section 46b-215a, unless there was a specific

17 finding on the record that the application of the guidelines would be
18 inequitable or inappropriate, provided the court or family support
19 magistrate finds that the obligor or the obligee and any other
20 interested party have received actual notice of the pendency of such
21 motion and of the time and place of the hearing on such motion. The
22 Department of Children and Families shall have standing to bring a
23 motion for modification of a support order pursuant to this section on
24 behalf of an obligee who is the parent of a child or youth who is a
25 member of a family with service needs, as defined in section 46b-120,
26 when the Department of Children and Families determines that such
27 order impedes the goals of the department's service plan. In ruling on
28 a motion for modification of a support order involving a family with
29 service needs, the magistrate may deviate from the child support
30 guidelines established pursuant to section 46b-215a.

31 (2) There shall be a rebuttable presumption that any deviation of
32 less than fifteen per cent from the child support guidelines is not
33 substantial and any deviation of fifteen per cent or more from the
34 guidelines is substantial. Modification may be made of such support
35 order without regard to whether the order was issued before, on or
36 after May 9, 1991. In any hearing to modify any support order from
37 another jurisdiction the court or the family support magistrate shall
38 conduct the proceedings in accordance with the procedure set forth in
39 sections 46b-213o to 46b-213q, inclusive. No such support orders may
40 be subject to retroactive modification except that the court or family
41 support magistrate may order modification with respect to any period
42 during which there is a pending motion for a modification of an
43 existing support order from the date of service of notice of such
44 pending motion upon the opposing party pursuant to section 52-50.

45 Sec. 2. Subsection (b) of section 46b-86 of the general statutes is
46 repealed and the following is substituted in lieu thereof (*Effective*
47 *October 1, 2010*):

48 (a) Unless and to the extent that the decree precludes modification,

49 the court may order either party to maintain life insurance for the
50 other party or a minor child of the parties or any final order for the
51 periodic payment of permanent alimony or support or an order for
52 alimony or support pendente lite may at any time thereafter be
53 continued, set aside, altered or modified by said court upon a showing
54 of a substantial change in the circumstances of either party or upon a
55 showing that the final order for child support substantially deviates
56 from the child support guidelines established pursuant to section 46b-
57 215a, unless there was a specific finding on the record that the
58 application of the guidelines would be inequitable or inappropriate.
59 The Department of Children and Families shall have standing to bring
60 a motion for modification of a support order pursuant to this section
61 on behalf of an obligee who is the parent of a child or youth who is a
62 member of a family with service needs, as defined in section 46b-120,
63 when the Department of Children and Families determines that such
64 order impedes the goals of the department's service plan. In ruling on
65 a motion for modification of a support order involving a family with
66 service needs, the magistrate may deviate from the child support
67 guidelines established pursuant to section 46b-215a. There shall be a
68 rebuttable presumption that any deviation of less than fifteen per cent
69 from the child support guidelines is not substantial and any deviation
70 of fifteen per cent or more from the guidelines is substantial.
71 Modification may be made of such support order without regard to
72 whether the order was issued before, on or after May 9, 1991. In
73 determining whether to modify a child support order based on a
74 substantial deviation from such child support guidelines the court
75 shall consider the division of real and personal property between the
76 parties set forth in the final decree and the benefits accruing to the
77 child as the result of such division. After the date of judgment,
78 modification of any child support order issued before or after July 1,
79 1990, may be made upon a showing of such substantial change of
80 circumstances, whether or not such change of circumstances was
81 contemplated at the time of dissolution. By written agreement,
82 stipulation or by decision of the court, those items or circumstances

83 that were contemplated and are not to be changed may be specified in
84 the written agreement, stipulation or decision of the court. This section
85 shall not apply to assignments under section 46b-81 or to any
86 assignment of the estate or a portion thereof of one party to the other
87 party under prior law. No order for periodic payment of permanent
88 alimony or support may be subject to retroactive modification, except
89 that the court may order modification with respect to any period
90 during which there is a pending motion for modification of an alimony
91 or support order from the date of service of notice of such pending
92 motion upon the opposing party pursuant to section 52-50.

93 Sec. 3. Subsection (a) of section 46b-171 of the general statutes is
94 repealed and the following is substituted in lieu thereof (*Effective*
95 *October 1, 2010*):

96 (a) (1) (A) If the defendant is found to be the father of the child, the
97 court or family support magistrate shall order the defendant to stand
98 charged with the support and maintenance of such child, with the
99 assistance of the mother if such mother is financially able, as the court
100 or family support magistrate finds, in accordance with the provisions
101 of subsection (b) of section 17b-179, or section 17a-90, 17b-81, 17b-223,
102 17b-745, as amended by this act, 46b-129, as amended by this act, 46b-
103 130 or 46b-215, to be reasonably commensurate with the financial
104 ability of the defendant, and to pay a certain sum periodically until the
105 child attains the age of eighteen years or as otherwise provided in this
106 subsection. If such child is unmarried and a full-time high school
107 student, such support shall continue according to the parents'
108 respective abilities, if such child is in need of support, until such child
109 completes the twelfth grade or attains the age of nineteen, whichever
110 occurs first.

111 (B) The court or family support magistrate shall order the defendant
112 to pay such sum to the complainant, or, if a town or the state has paid
113 such expense, to the town or the state, as the case may be, and shall
114 grant execution for the same and costs of suit taxed as in other civil

115 actions, together with a reasonable attorney's fee, and may require the
116 defendant to become bound with sufficient surety to perform such
117 orders for support and maintenance. In IV-D support cases, the IV-D
118 agency or a support enforcement agency under cooperative agreement
119 with the IV-D agency may, upon notice to the obligor and obligee,
120 redirect payments for the support of any child receiving child support
121 enforcement services either to the state of Connecticut or to the present
122 custodial party, as their interests may appear, provided neither the
123 obligor nor the obligee objects in writing within ten business days
124 from the mailing date of such notice. Any such notice shall be sent by
125 first class mail to the most recent address of such obligor and obligee,
126 as recorded in the state case registry pursuant to section 46b-218, and a
127 copy of such notice shall be filed with the court or family support
128 magistrate if both the obligor and obligee fail to object to the redirected
129 payments within ten business days from the mailing date of such
130 notice. All payments made shall be distributed as required by Title IV-
131 D of the Social Security Act.

132 (2) In addition, the court or family support magistrate shall include
133 in each support order in a IV-D support case a provision for the health
134 care coverage of the child. Such provision may include an order for
135 either parent or both parents to provide such coverage under any or all
136 of subparagraphs (A), (B) or (C) of this subdivision.

137 (A) The provision for health care coverage may include an order for
138 either parent to name any child as a beneficiary of any medical or
139 dental insurance or benefit plan carried by such parent or available to
140 such parent at a reasonable cost as described in subparagraph (D) of
141 this subdivision. If such order requires the parent to maintain
142 insurance available through an employer, the order shall be enforced
143 using a National Medical Support Notice as provided in section 46b-
144 88.

145 (B) The provision for health care coverage may include an order for
146 either parent to: (i) Apply for and maintain coverage on behalf of the

147 child under the HUSKY Plan, Part B; or (ii) provide cash medical
148 support, as described in subparagraphs (E) and (F) of this subdivision.
149 An order under this subparagraph shall be made only if the cost to the
150 parent obligated to maintain coverage under the HUSKY Plan, Part B,
151 or provide cash medical support is reasonable, as described in
152 subparagraph (D) of this subdivision. An order under clause (i) of this
153 subparagraph shall be made only if insurance coverage as described in
154 subparagraph (A) of this subdivision is unavailable at reasonable cost
155 to either parent, or inaccessible to the child.

156 (C) An order for payment of the child's medical and dental
157 expenses, other than those described in clause (ii) of subparagraph (E)
158 of this subdivision, that are not covered by insurance or reimbursed in
159 any other manner shall be entered in accordance with the child
160 support guidelines established pursuant to section 46b-215a.

161 (D) Health care coverage shall be deemed reasonable in cost if: (i)
162 The parent obligated to maintain such coverage would qualify as a
163 low-income obligor under the child support guidelines established
164 pursuant to section 46b-215a, based solely on such parent's income,
165 and the cost does not exceed five per cent of such parent's net income;
166 or (ii) the parent obligated to maintain such coverage would not
167 qualify as a low-income obligor under such guidelines and the cost
168 does not exceed seven and one-half per cent of such parent's net
169 income. In either case, net income shall be determined in accordance
170 with the child support guidelines established pursuant to section 46b-
171 215a. If a parent obligated to maintain insurance must obtain coverage
172 for himself or herself to comply with the order to provide coverage for
173 the child, reasonable cost shall be determined based on the combined
174 cost of coverage for such parent and such child.

175 (E) Cash medical support means (i) an amount ordered to be paid
176 toward the cost of premiums for health insurance coverage provided
177 by a public entity, including the HUSKY Plan, Part A or Part B, except
178 as provided in subparagraph (F) of this subdivision, or by another

179 parent through employment or otherwise, or (ii) an amount ordered to
180 be paid, either directly to a medical provider or to the person obligated
181 to pay such provider, toward any ongoing extraordinary medical and
182 dental expenses of the child that are not covered by insurance or
183 reimbursed in any other manner, provided such expenses are
184 documented and identified specifically on the record. Cash medical
185 support, as described in clauses (i) and (ii) of this subparagraph, may
186 be ordered in lieu of an order under subparagraph (A) of this
187 subdivision to be effective until such time as health insurance that is
188 accessible to the child and reasonable in cost becomes available, or in
189 addition to an order under subparagraph (A) of this subdivision,
190 provided the total cost to the obligated parent of insurance and cash
191 medical support is reasonable, as described in subparagraph (D) of this
192 subdivision. An order for cash medical support shall be payable to the
193 state or the custodial party, as their interests may appear, provided an
194 order under clause (i) of this subparagraph shall be effective only as
195 long as health insurance coverage is maintained. Any unreimbursed
196 medical and dental expenses not covered by an order pursuant to
197 clause (ii) of this subparagraph are subject to an order for
198 unreimbursed medical and dental expenses pursuant to subparagraph
199 (C) of this subdivision.

200 (F) Cash medical support to offset the cost of any insurance payable
201 under the HUSKY Plan, Part A or Part B, shall not be ordered against a
202 noncustodial parent who is a low-income obligor, as defined in the
203 child support guidelines established pursuant to section 46b-215a, or
204 against a custodial parent of children covered under the HUSKY Plan,
205 Part A or Part B.

206 (3) The court or family support magistrate may also make and
207 enforce orders for the payment by any person named herein of past-
208 due support for which the defendant is liable in accordance with the
209 provisions of section 17b-81, 17b-223, subsection (b) of section 17b-179,
210 section 17a-90, 46b-129, as amended by this act, or 46b-130 and, in IV-D
211 cases, and order such person, provided such person is not

212 incapacitated, to participate in work activities which may include, but
213 shall not be limited to, job search, training, work experience and
214 participation in the job training and retraining program established by
215 the Labor Commissioner pursuant to section 31-3t. The defendant's
216 liability for past-due support under this subdivision shall be limited to
217 the three years next preceding the filing of the petition.

218 (4) If the defendant fails to comply with any order made under this
219 section, the court or family support magistrate may commit the
220 defendant to a community correctional center, there to remain until the
221 defendant complies therewith; but, if it appears that the mother does
222 not apply the periodic allowance paid by the defendant toward the
223 support of such child, and that such child is chargeable, or likely to
224 become chargeable, to the town where it belongs, the court, on
225 application, may discontinue such allowance to the mother, and may
226 direct it to be paid to the selectmen of such town, for such support, and
227 may issue execution in their favor for the same. The provisions of
228 section 17b-743 shall apply to this section. The clerk of the court which
229 has rendered judgment for the payment of money for the maintenance
230 of any child under the provisions of this section shall, within
231 twenty-four hours after such judgment has been rendered, notify the
232 selectmen of the town where the child belongs.

233 (5) Any support order made under this section may at any time
234 thereafter be set aside, altered or modified by any court issuing such
235 order upon a showing of a substantial change in the circumstances of
236 the defendant or the mother of such child or upon a showing that such
237 order substantially deviates from the child support guidelines
238 established pursuant to section 46b-215a, unless there was a specific
239 finding on the record that the application of the guidelines would be
240 inequitable or inappropriate. The Department of Children and
241 Families shall have standing to bring a motion for modification of a
242 support order pursuant to this section on behalf of an obligee who is
243 the parent of a child or youth who is a member of a family with service
244 needs, as defined in section 46b-120, when the Department of Children

245 and Families determines that such order impedes the goals of the
246 department's service plan. In ruling on a motion for modification of a
247 support order involving a family with service needs, the magistrate
248 may deviate from the child support guidelines established pursuant to
249 section 46b-215a. There shall be a rebuttable presumption that any
250 deviation of less than fifteen per cent from the child support guidelines
251 is not substantial and any deviation of fifteen per cent or more from
252 the guidelines is substantial. Modification may be made of such
253 support order without regard to whether the order was issued before,
254 on or after May 9, 1991. No such support orders may be subject to
255 retroactive modification, except that the court may order modification
256 with respect to any period during which there is a pending motion for
257 a modification of an existing support order from the date of service of
258 the notice of such pending motion upon the opposing party pursuant
259 to section 52-50.

260 (6) Failure of the defendant to obey any order for support made
261 under this section may be punished as for contempt of court and the
262 costs of commitment of any person imprisoned therefor shall be paid
263 by the state as in criminal cases.

264 Sec. 4. Subsection (e) of section 46b-215 of the general statutes is
265 repealed and the following is substituted in lieu thereof (*Effective*
266 *October 1, 2010*):

267 (e) Any court or family support magistrate, called upon to enforce a
268 support order, shall insure that such order is reasonable in light of the
269 obligor's ability to pay. Any support order entered pursuant to this
270 section, or any support order from another jurisdiction subject to
271 enforcement by the state of Connecticut, may be modified by motion of
272 the party seeking such modification upon a showing of a substantial
273 change in the circumstances of either party or upon a showing that
274 such support order substantially deviates from the child support
275 guidelines established pursuant to section 46b-215a, unless there was a
276 specific finding on the record that the application of the guidelines

277 would be inequitable or inappropriate, provided the court or family
278 support magistrate finds that the obligor or the obligee and any other
279 interested party have received actual notice of the pendency of such
280 motion and of the time and place of the hearing on such motion. The
281 Department of Children and Families shall have standing to bring a
282 motion for modification of a support order pursuant to this section on
283 behalf of an obligee who is the parent of a child or youth who is a
284 member of a family with service needs, as defined in section 46b-120,
285 when the Department of Children and Families determines that such
286 order impedes the goals of the department's service plan. In ruling on
287 a motion for modification of a support order involving a family with
288 service needs, the magistrate may deviate from the child support
289 guidelines established pursuant to section 46b-215a. There shall be a
290 rebuttable presumption that any deviation of less than fifteen per cent
291 from the child support guidelines is not substantial and any deviation
292 of fifteen per cent or more from the guidelines is substantial.
293 Modification may be made of such support order without regard to
294 whether the order was issued before, on or after May 9, 1991. No such
295 support orders may be subject to retroactive modification, except that
296 the court or family support magistrate may order modification with
297 respect to any period during which there is a pending motion for a
298 modification of an existing support order from the date of service of
299 the notice of such pending motion upon the opposing party pursuant
300 to section 52-50. In any hearing to modify any support order from
301 another jurisdiction the court or the family support magistrate shall
302 conduct the proceedings in accordance with the procedure set forth in
303 sections 46b-213o to 46b-213q, inclusive.

304 Sec. 5. Subsection (j) of section 17a-112 of the general statutes is
305 repealed and the following is substituted in lieu thereof (*Effective*
306 *October 1, 2010*):

307 (j) The Superior Court, upon notice and hearing as provided in
308 sections 45a-716 and 45a-717, as amended by this act, may grant a
309 petition filed pursuant to this section if it finds by clear and convincing

310 evidence that (1) the Department of Children and Families has made
311 reasonable efforts to locate the parent and to reunify the child with the
312 parent in accordance with subsection (a) of section 17a-111b, unless the
313 court finds in this proceeding that the parent is unable or unwilling to
314 benefit from reunification efforts, except that such finding is not
315 required if the court has determined at a hearing pursuant to section
316 17a-111b, or determines at trial on the petition, that such efforts are not
317 required, (2) termination is in the best interest of the child, and (3) (A)
318 the child has been abandoned by the parent in the sense that the parent
319 has failed to maintain a reasonable degree of interest, concern or
320 responsibility as to the welfare of the child; (B) the child (i) has been
321 found by the Superior Court or the Probate Court to have been
322 neglected or uncared for in a prior proceeding, or (ii) is found to be
323 neglected or uncared for and has been in the custody of the
324 commissioner for at least fifteen months and the parent of such child
325 has been provided specific steps to take to facilitate the return of the
326 child to the parent pursuant to section 46b-129, as amended by this act,
327 and has failed to achieve such degree of personal rehabilitation as
328 would encourage the belief that within a reasonable time, considering
329 the age and needs of the child, such parent could assume a responsible
330 position in the life of the child; (C) the child has been denied, by reason
331 of an act or acts of parental commission or omission including, but not
332 limited to, sexual molestation or exploitation, severe physical abuse or
333 a pattern of abuse, the care, guidance or control necessary for the
334 child's physical, educational, moral or emotional well-being, except
335 that nonaccidental or inadequately explained serious physical injury to
336 a child shall constitute prima facie evidence of acts of parental
337 commission or omission sufficient for the termination of parental
338 rights; (D) there is no ongoing parent-child relationship, which means
339 the relationship that ordinarily develops as a result of a parent having
340 met on a day-to-day basis the physical, emotional, moral and
341 educational needs of the child and to allow further time for the
342 establishment or reestablishment of such parent-child relationship
343 would be detrimental to the best interest of the child; (E) the parent of

344 a child under the age of seven years who is neglected or uncared for,
345 has failed, is unable or is unwilling to achieve such degree of personal
346 rehabilitation as would encourage the belief that within a reasonable
347 period of time, considering the age and needs of the child, such parent
348 could assume a responsible position in the life of the child and such
349 parent's parental rights of another child were previously terminated
350 pursuant to a petition filed by the Commissioner of Children and
351 Families; (F) the parent has killed through deliberate, nonaccidental act
352 another child of the parent or has requested, commanded, importuned,
353 attempted, conspired or solicited such killing or has committed an
354 assault, through deliberate, nonaccidental act that resulted in serious
355 bodily injury of another child of the parent; or (G) the parent was
356 convicted as an adult or a delinquent by a court of competent
357 jurisdiction of a sexual assault resulting in the conception of the child,
358 except a conviction for a violation of section 53a-71 or 53a-73a,
359 provided the court may terminate such parent's parental rights to such
360 child at any time after such conviction. Notwithstanding the
361 provisions of this subsection, in any proceeding under this section,
362 there shall be a presumption that it is in the best interest of the child to
363 be in the custody of a parent who is a victim of family violence, as
364 defined in section 46b-38a, which may be rebutted by a preponderance
365 of the evidence that it would be detrimental to the child to permit such
366 parent to have custody.

367 Sec. 6. Subsection (a) of section 45a-607 of the 2010 supplement to
368 the general statutes is repealed and the following is substituted in lieu
369 thereof (*Effective October 1, 2010*):

370 (a) (1) When application has been made for the removal of one or
371 both parents as guardians or of any other guardian of the person of a
372 minor child, or when an application has been made for the termination
373 of the parental rights of any parties who may have parental rights with
374 regard to any minor child, or when, in any proceeding the court has
375 reasonable grounds to believe that any minor child has no guardian of
376 his or her person, the court of probate in which the proceeding is

377 pending may issue an order awarding temporary custody of the minor
378 child to a person other than the parent or guardian, with or without
379 the parent's or guardian's consent, but such order may only be issued
380 in accordance with the provisions of this section. There shall be a
381 rebuttable presumption that the awarding of temporary custody to a
382 relative is in the best interests of such child or youth. This presumption
383 may be rebutted by a preponderance of the evidence that such
384 awarding of custody is not in the best interests of such child or youth.
385 As used in this subsection and subsections (b) and (d) of this section,
386 "relative" means a person related to the child by blood or marriage.

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

391 (3) Notwithstanding the provisions of this subsection, in any
392 proceeding under this section, there shall be a presumption that it is in
393 the best interest of the child to be in the custody of a parent who is a
394 victim of family violence, as defined in section 46b-38a, which may be
395 rebutted by a preponderance of the evidence that it would be
396 detrimental to the child to permit such parent to have temporary
397 custody.

398 Sec. 7. Subsection (g) of section 45a-717 of the general statutes is
399 repealed and the following is substituted in lieu thereof (*Effective*
400 *October 1, 2010*):

401 (g) At the adjourned hearing or at the initial hearing where no
402 investigation and report has been requested, the court may approve a
403 petition terminating the parental rights and may appoint a guardian of
404 the person of the child, or, if the petitioner requests, the court may
405 appoint a statutory parent, if it finds, upon clear and convincing
406 evidence, that (1) the termination is in the best interest of the child, and
407 (2) (A) the child has been abandoned by the parent in the sense that the
408 parent has failed to maintain a reasonable degree of interest, concern

409 or responsibility as to the welfare of the child; (B) the child has been
410 denied, by reason of an act or acts of parental commission or omission,
411 including, but not limited to sexual molestation and exploitation,
412 severe physical abuse or a pattern of abuse, the care, guidance or
413 control necessary for the child's physical, educational, moral or
414 emotional well-being. Nonaccidental or inadequately explained
415 serious physical injury to a child shall constitute prima facie evidence
416 of acts of parental commission or omission sufficient for the
417 termination of parental rights; (C) there is no ongoing parent-child
418 relationship which is defined as the relationship that ordinarily
419 develops as a result of a parent having met on a continuing, day-to-
420 day basis the physical, emotional, moral and educational needs of the
421 child and to allow further time for the establishment or
422 reestablishment of the parent-child relationship would be detrimental
423 to the best interests of the child; (D) the parent of a child who (i) has
424 been found by the Superior Court or the Probate Court to have been
425 neglected or uncared for in a prior proceeding, or (ii) is found to be
426 neglected or uncared for and has been in the custody of the
427 commissioner for at least fifteen months and such parent has been
428 provided specific steps to take to facilitate the return of the child to the
429 parent pursuant to section 46b-129, as amended by this act, and has
430 failed to achieve such degree of personal rehabilitation as would
431 encourage the belief that within a reasonable time, considering the age
432 and needs of the child, such parent could assume a responsible
433 position in the life of the child; (E) the parent of a child, under the age
434 of seven years who is neglected or uncared for, has failed, is unable or
435 is unwilling to achieve such degree of personal rehabilitation as would
436 encourage the belief that within a reasonable amount of time,
437 considering the age and needs of the child, such parent could assume a
438 responsible position in the life of the child and such parent's parental
439 rights of another child were previously terminated pursuant to a
440 petition filed by the Commissioner of Children and Families; (F) the
441 parent has killed through deliberate, nonaccidental act another child of
442 the parent or has requested, commanded, importuned, attempted,

443 conspired or solicited such killing or has committed an assault,
444 through deliberate, nonaccidental act that resulted in serious bodily
445 injury of another child of the parent; or (G) the parent was convicted as
446 an adult or a delinquent by a court of competent jurisdiction of sexual
447 assault resulting in the conception of a child except for a violation of
448 section 53a-71 or 53a-73a provided the court may terminate such
449 parent's parental rights to such child at any time after such conviction.
450 Notwithstanding the provisions of this subsection, there shall be a
451 presumption that it is in the best interest of the child to be in the
452 custody of a parent who is a victim of family violence, as defined in
453 section 46b-38a, which may be rebutted by a preponderance of the
454 evidence that it would be detrimental to the child to permit such
455 parent to have custody.

456 Sec. 8. Section 46b-56a of the general statutes is repealed and the
457 following is substituted in lieu thereof (*Effective October 1, 2010*):

458 (a) For the purposes of this section, "joint custody" means an order
459 awarding legal custody of the minor child to both parents, providing
460 for joint decision-making by the parents and providing that physical
461 custody shall be shared by the parents in such a way as to assure the
462 child of continuing contact with both parents. The court may award
463 joint legal custody without awarding joint physical custody where the
464 parents have agreed to merely joint legal custody.

465 (b) There shall be a presumption, affecting the burden of proof, that
466 joint custody is in the best interests of a minor child where the parents
467 have agreed to an award of joint custody or so agree in open court at a
468 hearing for the purpose of determining the custody of the minor child
469 or children of the marriage. If the court declines to enter an order
470 awarding joint custody pursuant to this subsection, the court shall
471 state in its decision the reasons for denial of an award of joint custody.

472 (c) If the court declines to enter an order awarding joint custody
473 pursuant to subsection (b) of this section, there shall be a presumption,
474 that it is in the best interest of the minor child to be in the custody of a

475 parent who is a victim of family violence, as defined in section 46b-38a,
476 which may be rebutted by a preponderance of the evidence that it
477 would be detrimental to the minor child to permit such parent to have
478 custody.

479 [(c)] (d) If only one parent seeks an order of joint custody upon a
480 motion duly made, the court may order both parties to submit to
481 conciliation at their own expense with the costs of such conciliation to
482 be borne by the parties as the court directs according to each party's
483 ability to pay.

484 [(d)] (e) In any proceeding before the Superior Court involving a
485 dispute between the parents of a minor child with respect to the
486 custody, care, education and upbringing of such child, the parents
487 shall file with the court, at such time and in such form as provided by
488 rule of court, a proposed parental responsibility plan that shall include,
489 at a minimum, the following: (1) A schedule of the physical residence
490 of the child during the year; (2) provisions allocating decision-making
491 authority to one or both parents regarding the child's health, education
492 and religious upbringing; (3) provisions for the resolution of future
493 disputes between the parents, including, where appropriate, the
494 involvement of a mental health professional or other parties to assist
495 the parents in reaching a developmentally appropriate resolution to
496 such disputes; (4) provisions for dealing with the parents' failure to
497 honor their responsibilities under the plan; (5) provisions for dealing
498 with the child's changing needs as the child grows and matures; and
499 (6) provisions for minimizing the child's exposure to harmful parental
500 conflict, encouraging the parents in appropriate circumstances to meet
501 their responsibilities through agreements, and protecting the best
502 interests of the child.

503 [(e)] (f) The objectives of a parental responsibility plan under this
504 section are to provide for the child's physical care and emotional
505 stability, to provide for the child's changing needs as the child grows
506 and to set forth the authority and responsibility of each parent with

507 respect to the child.

508 [(f)] (g) If both parents consent to a parental responsibility plan
509 under this section, such plan shall be approved by the court as the
510 custodial and access orders of the court pursuant to section 46b-56,
511 unless the court finds that such plan as submitted and agreed to is not
512 in the best interests of the child.

513 [(g)] (h) The court may modify any orders made under this section
514 in accordance with section 46b-56.

515 Sec. 9. Subsection (b) of section 46b-129 of the 2010 supplement to
516 the general statutes is repealed and the following is substituted in lieu
517 thereof (*Effective October 1, 2010*):

518 (b) If it appears from the specific allegations of the petition and
519 other verified affirmations of fact accompanying the petition and
520 application, or subsequent thereto, that there is reasonable cause to
521 believe that (1) the child or youth is suffering from serious physical
522 illness or serious physical injury or is in immediate physical danger
523 from the child's or youth's surroundings, and (2) that as a result of said
524 conditions, the child's or youth's safety is endangered and immediate
525 removal from such surroundings is necessary to ensure the child's or
526 youth's safety, the court shall either (A) issue an order to the parents or
527 other person having responsibility for the care of the child or youth to
528 appear at such time as the court may designate to determine whether
529 the court should vest the child's or youth's temporary care and custody
530 in a person related to the child or youth by blood or marriage or in
531 some other person or suitable agency pending disposition of the
532 petition, or (B) issue an order ex parte vesting the child's or youth's
533 temporary care and custody in a person related to the child or youth
534 by blood or marriage or in some other person or suitable agency.
535 Notwithstanding the provisions of this subsection, in any proceeding
536 under this section, there shall be a presumption that it is in the best
537 interest of the child to be in the custody of a parent who is a victim of
538 family violence, as defined in section 46b-38a, which may be rebutted

539 by a preponderance of the evidence that it would be detrimental to the
540 child to permit such parent to have custody. A preliminary hearing on
541 any ex parte custody order or order to appear issued by the court shall
542 be held not later than ten days after the issuance of such order. The
543 service of such orders may be made by any officer authorized by law
544 to serve process, or by any probation officer appointed in accordance
545 with section 46b-123, investigator from the Department of
546 Administrative Services, state or local police officer or indifferent
547 person. Such orders shall include a conspicuous notice to the
548 respondent written in clear and simple language containing at least the
549 following information: (i) That the order contains allegations that
550 conditions in the home have endangered the safety and welfare of the
551 child or youth; (ii) that a hearing will be held on the date on the form;
552 (iii) that the hearing is the opportunity to present the parents' position
553 concerning the alleged facts; (iv) that an attorney will be appointed for
554 parents who cannot afford an attorney; (v) that such parents may
555 apply for a court-appointed attorney by going in person to the court
556 address on the form and are advised to go as soon as possible in order
557 for the attorney to prepare for the hearing; (vi) that such parents, or a
558 person having responsibility for the care and custody of the child or
559 youth, may request the Commissioner of Children and Families to
560 investigate placing the child or youth with a person related to the child
561 or youth by blood or marriage who might serve as a licensed foster
562 parent or temporary custodian for such child or youth. The
563 commissioner, where practicable, shall investigate such relative or
564 relatives prior to the preliminary hearing and provide a report to the
565 court at such hearing as to such relative's suitability; and (vii) if such
566 parents have any questions concerning the case or appointment of
567 counsel, any such parent is advised to go to the court or call the clerk's
568 office at the court as soon as possible. Upon application for appointed
569 counsel, the court shall promptly determine eligibility and, if the
570 respondent is eligible, promptly appoint counsel. The expense for any
571 temporary care and custody shall be paid by the town in which such
572 child or youth is at the time residing, and such town shall be

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	17b-745(b)
Sec. 2	<i>October 1, 2010</i>	46b-86(b)
Sec. 3	<i>October 1, 2010</i>	46b-171(a)
Sec. 4	<i>October 1, 2010</i>	46b-215(e)
Sec. 5	<i>October 1, 2010</i>	17a-112(j)
Sec. 6	<i>October 1, 2010</i>	45a-607(a)
Sec. 7	<i>October 1, 2010</i>	45a-717(g)
Sec. 8	<i>October 1, 2010</i>	46b-56a
Sec. 9	<i>October 1, 2010</i>	46b-129(b)

Statement of Purpose:

To allow the Department of Children and Families to request modification of a child support order on behalf of a child who is a member of a family with service needs and to establish a presumption

that it is in the best interest of a child to be in the custody of a parent who is a victim of domestic violence in proceedings involving the child's custody.

[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.]