



General Assembly

February Session, 2010

**Raised Bill No. 138**

LCO No. 897

\*00897\_\_\_\_\_HS\_\*

Referred to Committee on Human Services

Introduced by:  
(HS)

**AN ACT CONCERNING MOTIONS FOR SUMMARY JUDGMENT IN JUVENILE COURT MATTERS.**

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

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) For purposes of this  
2 section "juvenile matters" means all proceedings concerning uncared-  
3 for, neglected or dependent children and youths within this state,  
4 termination of parental rights of children committed to a state agency,  
5 matters concerning families with service needs, contested matters  
6 involving termination of parental rights or removal of guardian  
7 transferred from the Probate Court and the emancipation of minors,  
8 but does not include matters of guardianship and adoption or matters  
9 affecting property rights of any child or youth over which the Probate  
10 Court has jurisdiction, except that appeals from probate concerning  
11 adoption, termination of parental rights and removal of a parent as  
12 guardian shall be included.

13 (b) In the superior court for juvenile matters, any party may file a  
14 motion for summary judgment at any time, except the party filing the  
15 motion must obtain the court's permission to file a motion after the  
16 case has been assigned for a hearing. On the same day that the party

17 files a motion for summary judgment, the party shall serve a copy of  
18 such motion on all parties or, if represented by an attorney, on the  
19 party's attorney.

20 (c) The motion may be supported by any appropriate documents,  
21 including, but not limited to, affidavits, certified transcripts of  
22 testimony under oath, disclosures and written admissions.

23 (d) A party opposing a motion for summary judgment may file an  
24 opposing memorandum and supporting documents not later than  
25 fifteen days after receiving a copy of the motion pursuant to subsection  
26 (b) of this section, unless the court grants the opposing party an  
27 extension of time for filing the opposing motion.

28 (e) The court shall hold a hearing on the motion for summary  
29 judgment and opposing memorandum, if any, at which time any party  
30 shall be permitted to testify and present evidence.

31 (f) The court shall grant the motion for summary judgment and  
32 render judgment in favor of the moving party if the pleadings,  
33 affidavits and any other proof submitted show that there is no genuine  
34 issue as to any material fact and that the moving party is entitled to  
35 judgment as a matter of law. In deciding a motion for summary  
36 judgment, the court shall view the evidence in the light most favorable  
37 to the nonmoving party.

38 (g) (1) Affidavits offered in support or opposition to a motion for  
39 summary judgment shall be made on personal knowledge, set forth  
40 facts that are admissible in evidence and show that the affiant is  
41 competent to testify to the matters stated in the affidavit.

42 (2) If the court finds that a party opposing a motion for summary  
43 judgment cannot, for reasons stated, present facts essential to justify  
44 opposition, the court may deny the motion for judgment or order a  
45 continuance of the matter to permit the party opposing a motion for  
46 summary judgment to obtain affidavits or other information.

47 (3) If the court finds that any affidavit in support or opposition to a  
48 motion for summary judgment is made in bad faith or solely for the  
49 purpose of delay, the court shall order the offending party to pay to  
50 the other party the reasonable expenses which the filing of the affidavit  
51 caused that party to incur, including attorney's fees. Any offending  
52 party or attorney may be adjudged guilty of contempt and any  
53 offending attorney may also be disciplined by the judicial authority.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section

**Statement of Purpose:**

To allow parties to file motions for summary judgment in juvenile court.

*[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.]*