



House of Representatives

General Assembly

File No. 650

January Session, 2011

Substitute House Bill No. 6312

House of Representatives, April 28, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE RIGHTS OF A PARENT OR GUARDIAN
IN AN INVESTIGATION BY THE DEPARTMENT OF CHILDREN AND
FAMILIES.***

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

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) Upon receiving a
2 complaint of abuse or neglect of a child, the Department of Children
3 and Families shall, at the time of any initial face-to-face contact with
4 the child's parent or guardian on or after October 1, 2011, provide the
5 parent or guardian with written notice, in plain language, that: (1) The
6 parent or guardian is not required to permit the representative of the
7 department to enter the residence without a warrant that authorizes
8 such representative to enter the residence; (2) the parent or guardian is
9 not required to speak with the representative of the department at that
10 time; (3) the parent or guardian is entitled to seek the representation of
11 an attorney and to have an attorney present when the parent or
12 guardian is questioned by a representative of the department; (4) any
13 statement made by the parent, guardian or other family member may
14 be used against the parent or guardian in an administrative or court

15 proceeding; (5) the representative of the department is not an attorney
 16 and cannot provide legal advice to the parent or guardian; (6) the
 17 parent or guardian is not required to sign any document presented by
 18 the representative of the department, including, but not limited to, a
 19 release of claims or a service agreement, and is entitled to have an
 20 attorney review such document before agreeing to sign the document;
 21 and (7) a failure of the parent or guardian to communicate with a
 22 representative of the department may have serious consequences,
 23 which may include the department's filing of a petition for the removal
 24 of the child from the home of the parent or guardian, and therefore it is
 25 in the parent's or guardian's best interest to either speak with the
 26 representative of the department or immediately seek the advice of a
 27 qualified attorney.

28 (b) The department shall make reasonable efforts to ensure that the
 29 notice provided to a parent or guardian pursuant to this section is
 30 written in a manner that will be understood by the parent or guardian,
 31 which reasonable efforts shall include, but not be limited to, ensuring
 32 that the notice is written in a language understood by the parent or
 33 guardian.

34 (c) The representative of the department shall request the parent or
 35 guardian to sign and date the notice described in subsection (a) of this
 36 section as evidence of having received the notice. If the parent or
 37 guardian refuses to sign and date the notice upon such request, the
 38 representative of the department shall specifically indicate on the
 39 notice that the parent or guardian was requested to sign and date the
 40 notice and refused to do so and the representative of the department
 41 shall sign the notice as witness to the parent's or guardian's refusal to
 42 sign the notice. The department shall provide the parent or guardian
 43 with a copy of the signed notice at the time of the department's initial
 44 face-to-face contact with the parent or guardian.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section

JUD *Joint Favorable Subst.*

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

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which requires the Department of Children and Families (DCF), at the time of initial contact in an investigation, to give a child's parent or guardian written notice of certain rights, and consequences of failing to communicate, does not result in a fiscal impact to DCF. Current agency practice is to provide a copy of their "A Parent's Right to Know" brochure at the beginning of every investigation. It is anticipated the additional information required under the bill will be incorporated into this brochure.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 6312*****AN ACT CONCERNING THE RIGHTS OF A PARENT OR GUARDIAN IN AN INVESTIGATION BY THE DEPARTMENT OF CHILDREN AND FAMILIES.*****SUMMARY:**

This bill requires the Department of Children and Families (DCF), when making an initial, in-person investigation of a complaint of child abuse or neglect, to give the child's parent or guardian written notice of his or her rights, as well as the implications for his or her failure to communicate with the department.

The DCF representative must (1) ask the parent or guardian to sign and date the notice as evidence of having received it and (2) immediately provide a copy of the signed notice to the parent or guardian. If the parent or guardian refuses to sign, the representative must (1) indicate on the notice that he or she was asked to sign and date it, but refused to do so and (2) sign it as witness to that fact.

EFFECTIVE DATE: October 1, 2011

NOTICE OF PARENTAL RIGHTS

DCF must make reasonable efforts to ensure that the notice is written in plain language and in a language and manner the parent or guardian understands. The notice must inform the parent or guardian that he or she is not required to:

1. permit the DCF representative to enter the residence without an authorizing warrant (generally, unless accompanied by a law enforcement officer with a warrant, a DCF employee would not have a warrant);
2. speak to the DCF representative at that time; or

3. sign any document presented by the DCF representative, including any release of claims or service agreement.

In addition, the notice must inform the parent or guardian that:

1. he or she is entitled to legal representation and to have an attorney present when questioned by DCF or asked to sign any DCF document;
2. any statement he or she or any other family member makes can be used against them in an administrative or court proceeding;
3. the DCF representative is not an attorney and cannot provide legal advice;
4. his or her failure to communicate with the DCF representative may have serious consequences, including the child's removal from the home; and
5. it is in his or her best interest to either speak with the DCF representative or consult a qualified attorney.

Though the notice references an authorizing warrant for entering a residence, unless accompanied by a law enforcement officer with a warrant, a DCF employee would not have one. However, if the DCF representative has probable cause to believe a child is at imminent risk of physical harm, the department may remove the child from a dangerous situation for a 96-hour period without a warrant (CGS § 17a-101g(e) and (f) and DCF Policy Manual § 34-10-4).

BACKGROUND

DCF Communication

In practice, a DCF employee provides a copy of the brochure "A Parent's Right to Know" at the start of an investigation of abuse and neglect. It includes some of the information that the bill requires, such as letting the parent know he or she does not have to speak with the DCF employee.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/12/2011)