



House of Representatives

File No. 826

General Assembly

January Session, 2011

(Reprint of File No. 650)

Substitute House Bill No. 6312
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 20, 2011

***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 of the parent or guardian; (2) the
8 parent or guardian is not required to speak with the representative of
9 the department at that time; (3) the parent or guardian is entitled to
10 seek the representation of an attorney and to have an attorney present
11 when the parent or guardian is questioned by a representative of the
12 department; (4) any statement made by the parent, guardian or other
13 family member may be used against the parent or guardian in an
14 administrative or court proceeding; (5) the representative of the
15 department is not an attorney and cannot provide legal advice to the

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

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

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

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.

House "A" alters a parent/guardian right included in the written notice to be provided by DCF and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6312 (as amended by House "A")******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 of 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.

*House Amendment "A" removes from the statement of a parent's or guardian's rights in the original file (File 650) a reference to a warrant authorizing a DCF representative's entry to a residence.

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;
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 states that a parent or guardian is not required to allow the DCF representative to enter, if the DCF representative has probable cause to believe a child is at imminent risk of physical harm, the law allows the department to remove the child from a dangerous situation for a 96-hour period (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)