



General Assembly

Substitute Bill No. 6442

January Session, 2011

* _____HB06442JUD__041511_____*

**AN ACT CONCERNING THE APPOINTMENT OF COUNSEL AND
GUARDIANS AD LITEM IN CHILD PROTECTION MATTERS, AND THE
APPOINTMENT OF PERMANENT LEGAL GUARDIANS.**

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

1 Section 1. Section 46b-129a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2011*):

3 In proceedings in the Superior Court under section 46b-129, as
4 amended by this act:

5 (1) The court may order the child, the parents, the guardian, or other
6 persons accused by a competent witness [with] of abusing the child, to
7 be examined by one or more competent physicians, psychiatrists or
8 psychologists appointed by the court;

9 (2) [a] (A) A child shall be represented by counsel knowledgeable
10 about representing such children who shall be [appointed by the court]
11 assigned to represent the child [and to act as guardian ad litem for the
12 child.] by the Chief Child Protection Attorney, or appointed by the
13 court if there is an immediate need for the appointment of counsel
14 during a court proceeding. The court shall give the parties prior notice
15 of such assignment or appointment. Counsel for the child shall act
16 solely as attorney for the child.

17 (B) If a child requiring assignment of counsel in a proceeding under

18 section 46b-129, as amended by this act, is represented by an attorney
19 for a minor child in an ongoing probate or family matter proceeding,
20 the court may appoint the attorney to represent the child in the
21 proceeding under section 46b-129, as amended by this act, provided (i)
22 such counsel is knowledgeable about representing such children, and
23 (ii) the court notifies the Chief Child Protection Attorney of the
24 appointment. Any child who is subject to an ongoing probate or family
25 matters proceeding who has been appointed a guardian ad litem in
26 such proceeding shall be assigned a separate guardian ad litem in a
27 proceeding under section 46b-129, as amended by this act, if it is
28 deemed necessary pursuant to subparagraph (D) of this subdivision.

29 (C) The primary role of any counsel for the child [including the
30 counsel who also serves as guardian ad litem,] shall be to advocate for
31 the child in accordance with the Rules of Professional Conduct. [When
32 a conflict arises between the child's wishes or position and that which
33 counsel for the child believes is in the best interest of the child, the
34 court shall appoint another person as guardian ad litem for the child.]

35 (D) If the court, based on evidence before it, or counsel for the child,
36 determines that the child cannot adequately act in his or her own best
37 interests and the child's wishes, as determined by counsel, if followed,
38 could lead to substantial physical, financial or other harm to the child
39 unless protective action is taken, counsel may request and the court
40 may order that a separate guardian ad litem be assigned for the child,
41 in which case the court shall either appoint a guardian ad litem to
42 serve on a voluntary basis or notify the Chief Child Protection
43 Attorney who shall assign a separate guardian ad litem for the child.
44 The guardian ad litem shall [speak on behalf] perform an independent
45 investigation of the case and may present at any hearing information
46 pertinent to the court's determination of the best [interest] interests of
47 the child. [and] The guardian ad litem shall be subject to cross
48 examination upon the request of opposing counsel. The guardian ad
49 litem is not required to be an attorney-at-law but shall be
50 knowledgeable about the needs and protection of children and
51 relevant court procedures. [In the event that] If a separate guardian ad

52 litem is [appointed] assigned, the person previously serving as [both]
53 counsel [and guardian ad litem] for the child shall continue to serve as
54 counsel for the child and a different person shall be [appointed]
55 assigned as guardian ad litem, unless the court for good cause also
56 [appoints] determines that a different person should serve as counsel
57 for the child, in which case the court shall notify the Chief Child
58 Protection Attorney who shall assign a different person as counsel for
59 the child. No person who has served as both counsel and guardian ad
60 litem for a child shall thereafter serve solely as the child's guardian ad
61 litem.

62 (E) The counsel and guardian ad litem's fees, if any, shall be paid by
63 the Chief Child Protection Attorney unless the parents or guardian, or
64 the estate of the child, [or, if such persons] are [unable] able to pay, [by
65 the court] in which case the court shall assess the rate the parent or
66 guardian is able to pay and the Chief Child Protection Attorney may
67 seek reimbursement for the costs of representation from the parents,
68 guardian or estate of the child;

69 (3) [the] The privilege against the disclosure of communications
70 between husband and wife shall be inapplicable and either may testify
71 as to any relevant matter; and

72 (4) [evidence] Evidence that the child has been abused or has
73 sustained a nonaccidental injury shall constitute prima facie evidence
74 that shall be sufficient to support an adjudication that such child is
75 uncared for or neglected.

76 Sec. 2. Section 46b-129 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective October 1, 2011*):

78 (a) Any selectman, town manager, or town, city or borough welfare
79 department, any probation officer, or the Commissioner of Social
80 Services, the Commissioner of Children and Families or any child-
81 caring institution or agency approved by the Commissioner of
82 Children and Families, a child or such child's representative or
83 attorney or a foster parent of a child, having information that a child or

84 youth is neglected, uncared-for or dependent, may file with the
85 Superior Court that has venue over such matter a verified petition
86 plainly stating such facts as bring the child or youth within the
87 jurisdiction of the court as neglected, uncared-for or dependent, within
88 the meaning of section 46b-120, the name, date of birth, sex and
89 residence of the child or youth, the name and residence of such child's
90 parents or guardian, and praying for appropriate action by the court in
91 conformity with the provisions of this chapter. Upon the filing of such
92 a petition, except as otherwise provided in subsection (k) of section
93 17a-112, the court shall cause a summons to be issued requiring the
94 parent or parents or the guardian of the child or youth to appear in
95 court at the time and place named, which summons shall be served not
96 less than fourteen days before the date of the hearing in the manner
97 prescribed by section 46b-128, and the court shall further give notice to
98 the petitioner and to the Commissioner of Children and Families of the
99 time and place when the petition is to be heard not less than fourteen
100 days prior to the hearing in question.

101 (b) If it appears from the specific allegations of the petition and
102 other verified affirmations of fact accompanying the petition and
103 application, or subsequent thereto, that there is reasonable cause to
104 believe that (1) the child or youth is suffering from serious physical
105 illness or serious physical injury or is in immediate physical danger
106 from the child's or youth's surroundings, and (2) that as a result of said
107 conditions, the child's or youth's safety is endangered and immediate
108 removal from such surroundings is necessary to ensure the child's or
109 youth's safety, the court shall either (A) issue an order to the parents or
110 other person having responsibility for the care of the child or youth to
111 appear at such time as the court may designate to determine whether
112 the court should vest the child's or youth's temporary care and custody
113 in a person related to the child or youth by blood or marriage or in
114 some other person or suitable agency pending disposition of the
115 petition, or (B) issue an order ex parte vesting the child's or youth's
116 temporary care and custody in a person related to the child or youth
117 by blood or marriage or in some other person or suitable agency. A

118 preliminary hearing on any ex parte custody order or order to appear
119 issued by the court shall be held not later than ten days after the
120 issuance of such order. The service of such orders may be made by any
121 officer authorized by law to serve process, or by any probation officer
122 appointed in accordance with section 46b-123, investigator from the
123 Department of Administrative Services, state or local police officer or
124 indifferent person. Such orders shall include a conspicuous notice to
125 the respondent written in clear and simple language containing at least
126 the following information: (i) That the order contains allegations that
127 conditions in the home have endangered the safety and welfare of the
128 child or youth; (ii) that a hearing will be held on the date on the form;
129 (iii) that the hearing is the opportunity to present the parents' position
130 concerning the alleged facts; (iv) that an attorney will be appointed for
131 parents who cannot afford an attorney; (v) that such parents may
132 apply for a court-appointed attorney by going in person to the court
133 address on the form and are advised to go as soon as possible in order
134 for the attorney to prepare for the hearing; (vi) that such parents, or a
135 person having responsibility for the care and custody of the child or
136 youth, may request the Commissioner of Children and Families to
137 investigate placing the child or youth with a person related to the child
138 or youth by blood or marriage who might serve as a licensed foster
139 parent or temporary custodian for such child or youth. The
140 commissioner, where practicable, shall investigate such relative or
141 relatives prior to the preliminary hearing and provide a report to the
142 court at such hearing as to such relative's suitability; and (vii) if such
143 parents have any questions concerning the case or appointment of
144 counsel, any such parent is advised to go to the court or call the clerk's
145 office at the court as soon as possible. Upon application for appointed
146 counsel, the court shall promptly determine eligibility and, if the
147 respondent is eligible, promptly appoint counsel. The expense for any
148 temporary care and custody shall be paid by the town in which such
149 child or youth is at the time residing, and such town shall be
150 reimbursed for such expense by the town found liable for the child's or
151 youth's support, except that where a state agency has filed a petition
152 pursuant to the provisions of subsection (a) of this section, the agency

153 shall pay such expense. The agency shall give primary consideration to
154 placing the child or youth in the town where such child or youth
155 resides. The agency shall file in writing with the clerk of the court the
156 reasons for placing the child or youth in a particular placement outside
157 the town where the child or youth resides. Upon issuance of an ex
158 parte order, the court shall provide to the commissioner and the parent
159 or guardian specific steps necessary for each to take to address the ex
160 parte order for the parent or guardian to retain or regain custody of the
161 child or youth. Upon the issuance of such order, or not later than sixty
162 days after the issuance of such order, the court shall make a
163 determination whether the Department of Children and Families made
164 reasonable efforts to keep the child or youth with his or her parents or
165 guardian prior to the issuance of such order and, if such efforts were
166 not made, whether such reasonable efforts were not possible, taking
167 into consideration the child's or youth's best interests, including the
168 child's or youth's health and safety.

169 (c) The preliminary hearing on the order of temporary custody or
170 order to appear or the first hearing on a petition filed pursuant to
171 subsection (a) of this section shall be held in order for the court to: (1)
172 Advise the parent or guardian of the allegations contained in all
173 petitions and applications that are the subject of the hearing and the
174 parent's or guardian's right to counsel pursuant to subsection (b) of
175 section 46b-135; (2) assure that an attorney, and where appropriate, a
176 separate guardian ad litem has been appointed to represent the child
177 or youth in accordance with subsection (b) of section 46b-123e and
178 sections 46b-129a, as amended by this act, and 46b-136; (3) upon
179 request, appoint an attorney to represent the respondent when the
180 respondent is unable to afford representation, in accordance with
181 subsection (b) of section 46b-123e; (4) advise the parent or guardian of
182 the right to a hearing on the petitions and applications, to be held not
183 later than ten days after the date of the preliminary hearing if the
184 hearing is pursuant to an order of temporary custody or an order to
185 show cause; (5) accept a plea regarding the truth of such allegations;
186 (6) make any interim orders, including visitation, that the court

187 determines are in the best interests of the child or youth. The court,
188 after a hearing pursuant to this subsection, shall order specific steps
189 the commissioner and the parent or guardian shall take for the parent
190 or guardian to regain or to retain custody of the child or youth; (7) take
191 steps to determine the identity of the father of the child or youth,
192 including, if necessary, inquiring of the mother of the child or youth,
193 under oath, as to the identity and address of any person who might be
194 the father of the child or youth and ordering genetic testing, and order
195 service of the petition and notice of the hearing date, if any, to be made
196 upon him; (8) if the person named as the father appears, and admits
197 that he is the father, provide him and the mother with the notices that
198 comply with section 17b-27 and provide them with the opportunity to
199 sign a paternity acknowledgment and affirmation on forms that
200 comply with section 17b-27. Such documents shall be executed and
201 filed in accordance with chapter 815y and a copy delivered to the clerk
202 of the superior court for juvenile matters; (9) in the event that the
203 person named as a father appears and denies that he is the father of the
204 child or youth, advise him that he may have no further standing in any
205 proceeding concerning the child, and either order genetic testing to
206 determine paternity or direct him to execute a written denial of
207 paternity on a form promulgated by the Office of the Chief Court
208 Administrator. Upon execution of such a form by the putative father,
209 the court may remove him from the case and afford him no further
210 standing in the case or in any subsequent proceeding regarding the
211 child or youth until such time as paternity is established by formal
212 acknowledgment or adjudication in a court of competent jurisdiction;
213 (10) identify any person or persons related to the child or youth by
214 blood or marriage residing in this state who might serve as licensed
215 foster parents or temporary custodians and order the Commissioner of
216 Children and Families to investigate and determine, not later than
217 thirty days after the preliminary hearing, the appropriateness of
218 placement of the child or youth with such relative or relatives; and (11)
219 in accordance with the provisions of the Interstate Compact on the
220 Placement of Children pursuant to section 17a-175, identify any person
221 or persons related to the child or youth by blood or marriage residing

222 out of state who might serve as licensed foster parents or temporary
223 custodians, and order the Commissioner of Children and Families to
224 investigate and determine, within a reasonable time, the
225 appropriateness of placement of the child or youth with such relative
226 or relatives.

227 (d) (1) (A) If not later than thirty days after the preliminary hearing,
228 or within a reasonable time when a relative resides out of state, the
229 Commissioner of Children and Families determines that there is not a
230 suitable person related to the child or youth by blood or marriage who
231 can be licensed as a foster parent or serve as a temporary custodian,
232 and the court has not granted temporary custody to a person related to
233 the child or youth by blood or marriage, any person related to the child
234 or youth by blood or marriage may file, not later than ninety days after
235 the date of the preliminary hearing, a motion to intervene for the
236 limited purpose of moving for temporary custody of such child or
237 youth. If a motion to intervene is timely filed, the court shall grant
238 such motion except for good cause shown.

239 (B) Any person related to a child or youth may file a motion to
240 intervene for purposes of seeking temporary custody of a child or
241 youth more than ninety days after the date of the preliminary hearing.
242 The granting of such motion shall be solely in the court's discretion,
243 except that such motion shall be granted absent good cause shown
244 whenever the child's or youth's most recent placement has been
245 disrupted or is about to be disrupted.

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

250 (2) Upon the granting of intervenor status to such relative of the
251 child or youth, the court shall issue an order directing the
252 Commissioner of Children and Families to conduct an assessment of
253 such relative and to file a written report with the court not later than

254 forty days after such order, unless such relative resides out of state, in
255 which case the assessment shall be ordered and requested in
256 accordance with the provisions of the Interstate Compact on the
257 Placement of Children, pursuant to section 17a-175. The court may also
258 request such relative to release such relative's medical records,
259 including any psychiatric or psychological records and may order such
260 relative to submit to a physical or mental examination. The expenses
261 incurred for such physical or mental examination shall be paid as costs
262 of commitment are paid. Upon receipt of the assessment, the court
263 shall schedule a hearing on such relative's motion for temporary
264 custody not later than fifteen days after the receipt of the assessment. If
265 the Commissioner of Children and Families, the child's or youth's
266 attorney or guardian ad litem, or the parent or guardian objects to the
267 vesting of temporary custody in such relative, the agency or person
268 objecting at such hearing shall be required to prove by a fair
269 preponderance of the evidence that granting temporary custody of the
270 child or youth to such relative would not be in the best interests of
271 such child or youth.

272 (3) If the court grants such relative temporary custody during the
273 period of such temporary custody, such relative shall be subject to
274 orders of the court, including, but not limited to, providing for the care
275 and supervision of such child or youth and cooperating with the
276 Commissioner of Children and Families in the implementation of
277 treatment and permanency plans and services for such child or youth.
278 The court may, on motion of any party or the court's own motion, after
279 notice and a hearing, terminate such relative's intervenor status if such
280 relative's participation in the case is no longer warranted or necessary.

281 (4) Any person related to a child or youth may file a motion to
282 intervene for purposes of seeking [permanent] guardianship of a child
283 or youth more than ninety days after the date of the preliminary
284 hearing. The granting of such motion to intervene shall be solely in the
285 court's discretion, except that such motion shall be granted absent
286 good cause shown whenever the child's or youth's most recent
287 placement has been disrupted or is about to be disrupted. The court

288 may, in the court's discretion, order the Commissioner of Children and
289 Families to conduct an assessment of such relative granted intervenor
290 status pursuant to this subdivision.

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

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

299 (g) At a contested hearing on the order for temporary custody or
300 order to appear, credible hearsay evidence regarding statements of the
301 child or youth made to a mandated reporter or to a parent may be
302 offered by the parties and admitted by the court upon a finding that
303 the statement is reliable and trustworthy and that admission of such
304 statement is reasonably necessary. A signed statement executed by a
305 mandated reporter under oath may be admitted by the court without
306 the need for the mandated reporter to appear and testify unless called
307 by a respondent or the child, provided the statement: (1) Was provided
308 at the preliminary hearing and promptly upon request to any counsel
309 appearing after the preliminary hearing; (2) reasonably describes the
310 qualifications of the reporter and the nature of his contact with the
311 child; and (3) contains only the direct observations of the reporter, and
312 statements made to the reporter that would be admissible if the
313 reporter were to testify to them in court and any opinions reasonably
314 based thereupon. If a respondent or the child gives notice at the
315 preliminary hearing that he intends to cross-examine the reporter, the
316 person filing the petition shall make the reporter available for such
317 examination at the contested hearing.

318 (h) If any parent or guardian fails, after due notice of the hearing
319 scheduled pursuant to subsection (g) of this section and without good

320 cause, to appear at the scheduled date for a contested hearing on the
321 order of temporary custody or order to appear, the court may enter or
322 sustain an order of temporary custody.

323 (i) When a petition is filed in said court for the commitment of a
324 child or youth, the Commissioner of Children and Families shall make
325 a thorough investigation of the case and shall cause to be made a
326 thorough physical and mental examination of the child or youth if
327 requested by the court. The court after hearing may also order a
328 thorough physical or mental examination, or both, of a parent or
329 guardian whose competency or ability to care for a child or youth
330 before the court is at issue. The expenses incurred in making such
331 physical and mental examinations shall be paid as costs of
332 commitment are paid.

333 (j) (1) Upon finding and adjudging that any child or youth is
334 uncared-for, neglected or dependent, the court may (A) commit such
335 child or youth to the Commissioner of Children and Families, [Such]
336 and such commitment shall remain in effect until further order of the
337 court, except that such commitment may be revoked or parental rights
338 terminated at any time by the court; [or the court may] (B) vest such
339 child's or youth's legal guardianship in any private or public agency
340 that is permitted by law to care for neglected, uncared-for or
341 dependent children or youths or with any other person or persons
342 found to be suitable and worthy of such responsibility by the court,
343 including, but not limited to, any relative of such child or youth by
344 blood or marriage; (C) vest such child's or youth's permanent legal
345 guardianship with any person or persons found to be suitable and
346 worthy of such responsibility by the court, including, but not limited
347 to, any relative of such child or youth by blood or marriage in
348 accordance with the requirements set forth in subdivision (2) of this
349 subsection; or (D) place the child or youth in the custody of the parent
350 or guardian with protective supervision by the Commissioner of
351 Children and Families subject to conditions established by the court. If
352 the court determines that the commitment should be revoked and the
353 child's or youth's legal guardianship or permanent legal guardianship

354 should vest in someone other than the respondent parent, parents or
355 former guardian, or if parental rights are terminated at any time, there
356 shall be a rebuttable presumption that an award of legal guardianship
357 or permanent legal guardianship upon revocation to, or adoption upon
358 termination of parental rights by, any relative who is licensed as a
359 foster parent for such child or youth, or who is, pursuant to an order of
360 the court, the temporary custodian of the child or youth at the time of
361 the revocation or termination, shall be in the best interests of the child
362 or youth and that such relative is a suitable and worthy person to
363 assume legal guardianship or permanent legal guardianship upon
364 revocation or to adopt such child or youth upon termination of
365 parental rights. The presumption may be rebutted by a preponderance
366 of the evidence that an award of legal guardianship or permanent legal
367 guardianship to, or an adoption by, such relative would not be in the
368 child's or youth's best interests and such relative is not a suitable and
369 worthy person. The court shall order specific steps that the parent
370 must take to facilitate the return of the child or youth to the custody of
371 such parent. The commissioner shall be the guardian of such child or
372 youth for the duration of the commitment, provided the child or youth
373 has not reached the age of eighteen years or, in the case of a child or
374 youth in full-time attendance in a secondary school, a technical school,
375 a college or a state-accredited job training program, provided such
376 child or youth has not reached the age of twenty-one years, by consent
377 of such youth, or until another guardian has been legally appointed,
378 and in like manner, upon such vesting of the care of such child or
379 youth, such other public or private agency or individual shall be the
380 guardian of such child or youth until such child or youth has reached
381 the age of eighteen years or, in the case of a child or youth in full-time
382 attendance in a secondary school, a technical school, a college or a
383 state-accredited job training program, until such child or youth has
384 reached the age of twenty-one years or until another guardian has
385 been legally appointed. The commissioner may place any child or
386 youth so committed to the commissioner in a suitable foster home or in
387 the home of a person related by blood or marriage to such child or
388 youth or in a licensed child-caring institution or in the care and

389 custody of any accredited, licensed or approved child-caring agency,
390 within or without the state, provided a child shall not be placed
391 outside the state except for good cause and unless the parents or
392 guardian of such child are notified in advance of such placement and
393 given an opportunity to be heard, or in a receiving home maintained
394 and operated by the Commissioner of Children and Families. In
395 placing such child or youth, the commissioner shall, if possible, select a
396 home, agency, institution or person of like religious faith to that of a
397 parent of such child or youth, if such faith is known or may be
398 ascertained by reasonable inquiry, provided such home conforms to
399 the standards of said commissioner and the commissioner shall, when
400 placing siblings, if possible, place such children together. [As an
401 alternative to commitment, the court may place the child or youth in
402 the custody of the parent or guardian with protective supervision by
403 the Commissioner of Children and Families subject to conditions
404 established by the court.] Upon the issuance of an order committing
405 the child or youth to the Commissioner of Children and Families, or
406 not later than sixty days after the issuance of such order, the court shall
407 determine whether the Department of Children and Families made
408 reasonable efforts to keep the child or youth with his or her parents or
409 guardian prior to the issuance of such order and, if such efforts were
410 not made, whether such reasonable efforts were not possible, taking
411 into consideration the child's or youth's best interests, including the
412 child's or youth's health and safety. For the purposes of this section,
413 "permanent legal guardianship" means a legal guardianship, as
414 defined in section 45a-604, as amended by this act, which establishes a
415 permanent legal relationship between a child or youth and a person
416 who has been caring for such child or youth that is intended to endure
417 until the child or youth attains the age of majority without the
418 termination of the parental rights of the child's or youth's biological
419 parent or parents.

420 (2) Prior to issuing an order for permanent legal guardianship, the
421 court shall find by clear and convincing evidence that the permanent
422 legal guardianship is in the best interests of the child or youth, and the

423 following have been proven by clear and convincing evidence:

424 (A) One of the statutory grounds for termination of parental rights,
425 as set forth in subsection (j) of section 17a-112 exists, or the parents
426 have voluntarily consented to the establishment of the permanent legal
427 guardianship;

428 (B) Adoption of the child or youth is not possible or appropriate;

429 (C) (i) If the child or youth is as least twelve years of age, such child
430 or youth consents to the proposed permanent legal guardianship, or
431 (ii) if the child is under twelve years of age, the proposed permanent
432 legal guardian is: (I) a relative, or (II) already serving as the permanent
433 legal guardian of at least one of the child's or youth's siblings;

434 (D) The child or youth has resided with the proposed permanent
435 legal guardian for at least a year; and

436 (E) The proposed permanent legal guardian is (i) a suitable and
437 worthy person, and (ii) committed to remaining the permanent legal
438 guardian and assuming the right and responsibilities for the child or
439 youth until the child or youth attains the age of majority.

440 (3) A disposition of permanent legal guardianship may be reopened
441 and modified and the permanent legal guardian removed upon the
442 filing of a motion with the court, provided it is proven by a fair
443 preponderance of the evidence that the permanent legal guardian is no
444 longer suitable and worthy. A parent may not file a motion to
445 terminate a permanent legal guardianship. If, after a hearing, the court
446 terminates a permanent legal guardianship, the court, in appointing a
447 successor legal guardian or permanent legal guardian for the child or
448 youth shall do so in accordance with this subsection.

449 (k) (1) Nine months after placement of the child or youth in the care
450 and custody of the commissioner pursuant to a voluntary placement
451 agreement, or removal of a child or youth pursuant to section 17a-101g
452 or an order issued by a court of competent jurisdiction, whichever is

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

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

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

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

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

521 the child, unless there are extenuating circumstances that indicate that
522 such efforts are not in the best interest of the child.

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

548 (m) The commissioner, a parent or the child's attorney may file a
549 motion to revoke a commitment, and, upon finding that cause for
550 commitment no longer exists, and that such revocation is in the best
551 interests of such child or youth, the court may revoke the commitment
552 of such child or youth. No such motion shall be filed more often than
553 once every six months.

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

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

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

584 (q) The provisions of section 17a-152, regarding placement of a child
585 from another state, and section 17a-175, regarding the Interstate
586 Compact on the Placement of Children, shall apply to placements

587 pursuant to this section.

588 (r) The provisions of section 46b-59 shall apply to any request by a
589 person related to a child or youth by blood or marriage who is seeking
590 visitation rights to such child or youth subsequent to any order of
591 protective supervision, transfer of legal guardianship to a person or
592 agency other than the Department of Children and Families or transfer
593 of permanent legal guardianship by the Juvenile Court. All such
594 matters shall be heard by a judge assigned to hear dissolution of
595 marriage cases in the Family Division of the Superior Court.

596 ~~[(r)]~~ (s) In any proceeding under this section, the Department of
597 Children and Families shall provide notice to ~~[every]~~ each attorney of
598 record for each party involved in the proceeding when the department
599 seeks to transfer a child or youth in its care, custody or control to an
600 out-of-state placement.

601 Sec. 3. Section 45a-604 of the general statutes is repealed and the
602 following is substituted in lieu thereof (*Effective October 1, 2011*):

603 As used in sections 45a-603 to 45a-622, inclusive, and section 4 of
604 this act:

605 (1) "Mother" means a woman who can show proof by means of a
606 birth certificate or other sufficient evidence of having given birth to a
607 child and an adoptive mother as shown by a decree of a court of
608 competent jurisdiction or otherwise;

609 (2) "Father" means a man who is a father under the law of this state
610 including a man who, in accordance with section 46b-172, executes a
611 binding acknowledgment of paternity and a man determined to be a
612 father under chapter 815y;

613 (3) "Parent" means a mother as defined in subdivision (1) of this
614 section or a "father", as defined in subdivision (2) of this section;

615 (4) "Minor" or "minor child" means a person under the age of
616 eighteen;

617 (5) "Guardianship" means guardianship of the person of a minor,
618 and includes: (A) The obligation of care and control; (B) the authority
619 to make major decisions affecting the minor's education and welfare,
620 including, but not limited to, consent determinations regarding
621 marriage, enlistment in the armed forces and major medical,
622 psychiatric or surgical treatment; and (C) upon the death of the minor,
623 the authority to make decisions concerning funeral arrangements and
624 the disposition of the body of the minor;

625 (6) "Guardian" means [one] a person who has the authority and
626 obligations of "guardianship", as defined in subdivision (5) of this
627 section;

628 (7) "Termination of parental rights" means the complete severance
629 by court order of the legal relationship, with all its rights and
630 responsibilities, between the child and the child's parent or parents so
631 that the child is free for adoption, except that it shall not affect the right
632 of inheritance of the child or the religious affiliation of the child;

633 (8) "Permanent guardianship" means a guardianship, as defined in
634 subdivision (5) of this section, that is intended to endure until the
635 minor reaches the age of majority without termination of the parental
636 rights of the minor's parents; and

637 (9) "Permanent guardian" means a person who has the authority
638 and obligations of a permanent guardianship, as defined in
639 subdivision (8) of this section.

640 Sec. 4. (NEW) (*Effective October 1, 2011*) (a) In appointing a guardian
641 of the person of a minor pursuant to section 45a-616 of the general
642 statutes, or at any time following such appointment, the court of
643 probate may establish a permanent guardianship if the court finds by
644 clear and convincing evidence that the establishment of a permanent
645 guardianship is in the best interests of the minor and that the following
646 have been proven by clear and convincing evidence:

647 (1) One of the grounds for termination of parental rights, as set forth

648 in subparagraphs (A) to (G), inclusive, of subdivision (2) of subsection
649 (g) of section 45a-717 of the general statutes exists, or the parents have
650 voluntarily consented to the appointment of a permanent guardian;

651 (2) Adoption of the minor is not possible or appropriate;

652 (3) (A) If the minor is at least twelve years of age, such minor
653 consents to the proposed appointment of a permanent guardian, or (B)
654 if the minor is under twelve years of age, the proposed permanent
655 guardian is a relative or already serving as the permanent guardian of
656 at least one of the minor's siblings;

657 (4) The minor has resided with the proposed permanent guardian
658 for at least one year; and

659 (5) The proposed permanent guardian is suitable and worthy and
660 committed to remaining the permanent guardian and assuming the
661 rights and responsibilities for the minor until the minor reaches the age
662 of majority.

663 (b) If a permanent guardian appointed under this section becomes
664 unable or unwilling to serve as permanent guardian, the court may
665 appoint a successor guardian or permanent guardian in accordance
666 with this section and sections 45a-616 and 45a-617 of the general
667 statutes, as amended by this act, or may reinstate a parent of the minor
668 who was previously removed as guardian of the person of the minor if
669 the court finds that the factors that resulted in the removal of the
670 parent as guardian have been resolved satisfactorily, and that it is in
671 the best interest of the child to reinstate the parent as guardian.

672 Sec. 5. Section 45a-611 of the general statutes is repealed and the
673 following is substituted in lieu thereof (*Effective October 1, 2011*):

674 (a) [Any] Except as provided in subsection (d) of this section, any
675 parent who has been removed as the guardian of the person of a minor
676 may apply to the court of probate which removed him or her for
677 reinstatement as the guardian of the person of the minor, if in his or

678 her opinion the factors which resulted in removal have been resolved
679 satisfactorily.

680 (b) In the case of a parent who seeks reinstatement, the court shall
681 hold a hearing following notice to the guardian, to the parent or
682 parents and to the minor, if over twelve years of age, as provided in
683 section 45a-609. If the court determines that the factors which resulted
684 in the removal of the parent have been resolved satisfactorily, the court
685 may remove the guardian and reinstate the parent as guardian of the
686 person of the minor, if it determines that it is in the best interests of the
687 minor to do so. At the request of a parent, guardian, counsel or
688 guardian ad litem representing one of the parties, filed within thirty
689 days of the decree, the court shall make findings of fact to support its
690 conclusions.

691 (c) The provisions of this section shall also apply to the
692 reinstatement of any guardian of the person of a minor other than a
693 parent.

694 (d) Notwithstanding the provisions of this section, and subject to the
695 provisions of subsection (b) of section 4 of this act, a parent who has
696 been removed as guardian of the person of a minor may not petition
697 for reinstatement if a court has established a permanent guardianship
698 for the person of the minor under section 4 of this act.

699 Sec. 6. Section 45a-613 of the general statutes is repealed and the
700 following is substituted in lieu thereof (*Effective October 1, 2011*):

701 (a) Any guardian, [or] coguardians or permanent guardian of the
702 person of a minor appointed under section 45a-616 or section 4 of this
703 act, or appointed by a court of comparable jurisdiction in another state,
704 may be removed by the court of probate which made the appointment,
705 and another guardian, [or] coguardian or permanent guardian
706 appointed, in the same manner as that provided in sections 45a-603 to
707 45a-622, inclusive, for removal of a parent as guardian.

708 (b) Any removal of a guardian under subsection (a) of this section

709 shall be preceded by notice to the guardian, [or] coguardians or
710 permanent guardian, the parent or parents and the minor if over
711 twelve years of age, as provided by section 45a-609.

712 (c) If a new guardian is appointed, the court shall send a copy of
713 that order to the parent or parents of the minor.

714 Sec. 7. Section 45a-614 of the general statutes is repealed and the
715 following is substituted in lieu thereof (*Effective October 1, 2011*):

716 (a) [The] Except as provided in subsection (b) of this section, the
717 following persons may apply to the court of probate for the district in
718 which the minor resides for the removal as guardian of one or both
719 parents of the minor: (1) Any adult relative of the minor, including
720 those by blood or marriage; (2) the court on its own motion; or (3)
721 counsel for the minor.

722 (b) Notwithstanding the provisions of subsection (a) of this section,
723 a parent may not petition for the removal of a permanent guardian
724 appointed pursuant to section 4 of this act.

725 Sec. 8. Section 45a-617 of the general statutes is repealed and the
726 following is substituted in lieu thereof (*Effective October 1, 2011*):

727 When appointing a guardian, [or] coguardians or permanent
728 guardian of the person of a minor, the court shall take into
729 consideration the following factors: (1) The ability of the prospective
730 guardian, [or] coguardians or permanent guardian to meet, on a
731 continuing day to day basis, the physical, emotional, moral and
732 educational needs of the minor; (2) the minor's wishes, if he or she is
733 over the age of twelve or is of sufficient maturity and capable of
734 forming an intelligent preference; (3) the existence or nonexistence of
735 an established relationship between the minor and the prospective
736 guardian; [or] coguardians or permanent guardian; and (4) the best
737 interests of the child. There shall be a rebuttable presumption that
738 appointment of a grandparent or other relative related by blood or
739 marriage as a guardian is in the best interests of the minor child.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2011</i>	46b-129a
Sec. 2	<i>October 1, 2011</i>	46b-129
Sec. 3	<i>October 1, 2011</i>	45a-604
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>October 1, 2011</i>	45a-611
Sec. 6	<i>October 1, 2011</i>	45a-613
Sec. 7	<i>October 1, 2011</i>	45a-614
Sec. 8	<i>October 1, 2011</i>	45a-617

JUD *Joint Favorable Subst.*