
OLR Bill Analysis

sHB 5217 (as amended by House "A")*

AN ACT CONCERNING REVISIONS TO STATUTES CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES.

SUMMARY:

This bill permits the Department of Children and Families (DCF) to file adoption petitions in the Superior Court, instead of the probate court, when the prospective adoptive child's biological parents' rights have been terminated by that court. However, the law, unchanged by the bill, still requires these petitions to be filed in probate court, thus it is not clear whether the Superior Court adoptions would be legally binding (see COMMENT).

The bill sets up a parallel process for superior court adoption proceedings. It requires that all of the studies and other court documents filed in the termination proceedings be made available to the court and requires DCF to prepare a social study similar to what it currently prepares for the probate court. The study is admissible in evidence, and the person preparing it is subject to examination in court.

The bill requires the Superior Court to (1) set times and dates for hearings on these petitions and (2) provide notice to the parties to the agreement and certain others. It entitles the adoptive parent to access records and other information relating to the child's history, provided these records are disclosed in accordance with the confidentiality laws. The bill also eliminates a requirement relative to probate court adoptions.

The bill also makes several changes in other law governing DCF. It:

1. changes the appointing authority and composition of the State Advisory Council on Children and Families and increases the

- number of consecutive terms members may serve;
2. directs the DCF commissioner, instead of the council, to appoint certain members of the Children's Behavioral Health Advisory Committee;
 3. allows additional DCF records to be disclosed without the consent of the person who is the subject of the record, and places additional limits on how DCF records that are legally disclosable can be further disclosed;
 4. requires individuals who falsely report child abuse or neglect to be referred to the chief state's attorney for criminal investigation; and
 5. exempts DCF attorneys from having to pay certain court fees.

The bill also renames:

1. Riverview Hospital for Children and Youth (which is on the campus of Connecticut Valley Hospital in Middletown) the Albert J. Solnit Children's Center – South Campus and
2. Connecticut Children's Place in East Windsor the Albert J. Solnit Children's Center – North Campus (§ 6).

Finally, the bill makes technical changes.

*House Amendment "A" (1) adds the provisions concerning adoptions and (2) eliminates the underlying bill's repeal of a land conveyance in Middletown.

EFFECTIVE DATE: October 1, 2012, except that a technical change related to DCF regulations for reports of child abuse and neglect is effective upon passage.

SUPERIOR COURT AUTHORIZED TO FINALIZE ADOPTIONS (§§ 501 - 503)

The bill permits the DCF commissioner to file an adoption petition along with a written adoption agreement in the Superior Court when

(1) that court has granted a petition to terminate the parental rights, (2) the court has appointed DCF as statutory parent, and (3) the appeal or period to appeal the termination has expired. The petition must be filed in the same court that terminated the parental rights. Currently, these adoption agreements can be filed only in the probate court, and the law continues to require them to be filed in probate court (see COMMENT).

Studies

The bill requires all social studies, psychological reports, and court documents previously filed in the termination proceeding to be available to the court, subject to the rules of evidence, for the court's review and consideration in acting upon the adoption petition. The court must protect the biological relatives' confidentiality, to the extent possible, unless the information was previously disclosed. Any studies and reports filed with the petition or after must be available to the adoptive parents.

The bill requires DCF to prepare and submit with its petition a social study regarding the proposed adoption. This study must at least include enough information required in reports currently filed with the probate court in adoptions under its jurisdiction. This includes enough information about the child and the parties to the adoption agreement, including their physical and mental status, to enable the court to determine whether the adoption is in the child's best interest.

All studies and reports are admissible in evidence subject to the right of any interested party to require that the person making it appear as a witness, if available, and be subject to examination. Here again, the court must protect the biological relatives' confidentiality, to the extent possible, unless the information was previously disclosed.

Hearings and Court Actions

The bill requires the Superior Court, once it receives such petitions and social studies, to set a time and date for a hearing and give reasonable notice to (1) DCF and all other parties of the agreement; (2) the child, if he or she is over age 12; (3) the child's attorney; and (4) any

other parties that the court requires.

Before acting on the petition, the court can continue the matter for further investigation and report, issue orders of notice, or take other action. At the hearing, the court can deny the petition or, if it is satisfied that the adoption is in the child’s best interest, enter a decree approving the adoption.

Records

Under the bill, adoptive parents are entitled to receive copies of the records and other information relating to the child’s history, as maintained by the DCF commissioner. Such records must be edited, if required by law, to protect the biological parents’ identify and the identify of any other person whose identity is confidential.

The bill provides that records of cases of juvenile matters involving adoption proceedings, or any part of these records, are confidential and can only be disclosed in accordance with the law governing the availability and confidentiality of adoption records.

Elimination of Requirement that Probate Court Adoption Applications Be Signed (§ 504)

The bill eliminates (1) a requirement that probate court adoption applications be signed by one or more of the parties to the adoption agreement and (2) the authority these parties have to waive notice of the hearing on the agreement.

ADVISORY COUNCIL ON CHILDREN AND FAMILIES (§ 2)

By law, this council is composed of 19 members. The bill decreases the number of gubernatorial appointments and gives these appointments to DCF Regional Advisory Councils (which advise the DCF commissioner on service development and delivery in those areas). It also makes changes to the council’s composition, as shown in Table 1.

Table 1: State Advisory Council on Children and Families

<i>Composition</i>	<i>Current Law</i>	<i>The Bill</i>

Gubernatorial appointments	19	13
Representatives of young people, parents, and others interested in service delivery to children and youth	Balance of council after at least nine designated appointments	7
Child care professionals	At least 5	At least 2 (practically speaking, it cannot be more than two)
Parents, foster parents, or family members of children receiving DCF behavioral health, child welfare, or juvenile services	50% of council	4
Regional Advisory Council appointments		
Members representing the councils	0	6

The bill also increases from two to three the number of consecutive two-year terms council members may serve.

Under current law, no more than half of the council members can receive income from (1) the practice of, or (2) any public agency that delivers, mental health, substance abuse, child abuse prevention and treatment, or child welfare or juvenile services. Under the bill, this limitation does not apply between the October 1, 2012 and October 1, 2014.

CHILDREN'S BEHAVIORAL HEALTH ADVISORY COMMITTEE (§ 3)

The Children's Behavioral Health Advisory Committee promotes and enhances the provision of children's behavioral health services in the state. Its members include state agency heads and public members

appointed by the governor and legislative leaders. Currently, the State Advisory Council on Children and Families appoints 16 members. The bill directs the DCF commissioner to make these appointments instead.

The bill also requires the council to submit its (1) annual report on local systems of care and practice standards for state-funded behavioral health programs and (2) biennial (in odd-numbered years) recommendations concerning children's behavioral health to the DCF commissioner as well as the State Advisory Council on Children and Families.

DCF RECORDS (§§ 4 & 5)

Additional Disclosures

DCF records are generally confidential but can be disclosed with the consent of the person who is the subject of them and without consent under certain circumstances. Under current law, when records are legally disclosed, they cannot be further disclosed except (1) when the disclosure pertains to the licensure of a child care facility and is otherwise permitted by DCF law or (2) by a court order. The bill also allows further disclosure when the law otherwise provides for it.

Disclosures Allowed Without Consent

The law requires disclosure without the person's consent to the chief public defender (CPD) or her designee. The bill provides that such disclosures are allowed for purposes of competent representation by the attorneys with whom the CPD contracts to provide legal and guardian ad litem services to the records' subjects and for ensuring accurate payments for services these attorneys provide. (Currently, the office of the CPD is consolidating the operations of the former Commission on Child Protection, whose duties included hiring attorneys to represent families in these proceedings and which was eliminated per PA 11-51, into that agency.)

The bill also requires DCF to disclose this information to school superintendents for the purpose of determining a potential employee's suitability for a job in a public school. By law, applicants for public school positions must submit to both criminal history records and in

most cases, DCF child abuse registry checks. The bill also requires such disclosures to (1) public school superintendents, (2) the executive director or other head of a public or private institution for children providing care to children, or (3) a private school with respect to the laws governing alleged child abuse or neglect involving school personnel (see BACKGROUND).

Under current law, DCF can disclose information without consent to DMV for the purpose of conducting criminal history background checks (which include checks of the DCF abuse registry) for prospective school bus drivers. The information she may disclose includes that related to abuse or neglect investigations and information in the child abuse and neglect registry. The bill permits DCF to disclose information in the registry only, provided the disclosure is made in accordance with the law, which generally prohibits disclosure until an alleged perpetrator of abuse or neglect has exhausted appeals of a child abuse or neglect substantiation.

FALSE REPORTS OF ABUSE OR NEGLECT (§ 10)

By law, anyone who knowingly makes a false report of child abuse or neglect can be fined up to \$2,000, imprisoned for up to one year, or both. The bill requires that anyone who is alleged to have made such a false report be referred to the office of the chief state's attorney for purposes of a criminal investigation. Reports of child abuse and neglect typically go either to DCF's hotline or local police.

DCF EXEMPT FROM PAYING COPY FEES (§ 14)

The bill exempts DCF attorneys acting in their official capacity from having to pay a variety of court filing fees. Current law already exempts other enumerated state agencies' attorneys from paying these fees.

COMMENT

Ability of DCF to File Adoption Petitions in Superior Court

The bill permits DCF to file certain adoption petitions in the Superior Court. But the law (CGS § 45a-727(a)), unchanged by the bill, requires adoption petitions to be filed in the probate court.

BACKGROUND

PA 11-93

This act expanded the law governing the reporting and investigation of suspected child abuse and neglect, with particular focus on school employees who are the alleged perpetrators and the response of local or regional school districts and private schools and facilities.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Substitute Change of Reference
Yea 8 Nay 0 (03/08/2012)

Human Services Committee

Joint Favorable
Yea 16 Nay 0 (03/22/2012)

Government Administration and Elections Committee

Joint Favorable
Yea 11 Nay 0 (04/18/2012)

Judiciary Committee

Joint Favorable
Yea 39 Nay 1 (04/25/2012)