



General Assembly

**Amendment**

February Session, 2012

LCO No. 5023

**\*SB0037905023SD0\***

Offered by:

SEN. COLEMAN, 2<sup>nd</sup> Dist.

SEN. HARP, 10<sup>th</sup> Dist.

REP. WALKER, 93<sup>rd</sup> Dist.

REP. FOX, 146<sup>th</sup> Dist.

To: Senate Bill No. 379

File No. 471

Cal. No. 328

**"AN ACT CONCERNING EXPENDITURES OF THE JUDICIAL DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE AND THE PUBLIC DEFENDER SERVICES COMMISSION."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Subdivision (1) of section 46b-120 of the 2012 supplement  
4 to the general statutes, as amended by section 82 of public act 09-7 of  
5 the September special session, sections 9 and 10 of public act 11-71,  
6 section 12 of public act 11-157 and section 3 of public act 11-240, is  
7 repealed and the following is substituted in lieu thereof (*Effective*  
8 *October 1, 2012*):

9 (1) "Child" means any person under eighteen years of age who has  
10 not been legally emancipated, except that (A) for purposes of  
11 delinquency matters and proceedings, "child" means any person [(i)]

12 who (i) is at least seven years of age at the time of the alleged  
13 commission of a delinquent act and who is (I) under eighteen years of  
14 age [who] and has not been legally emancipated, or [(ii)] (II) eighteen  
15 years of age or older [who,] and committed a delinquent act prior to  
16 attaining eighteen years of age, [has committed a delinquent act or,] or  
17 (ii) is subsequent to attaining eighteen years of age, (I) violates any  
18 order of the Superior Court or any condition of probation ordered by  
19 the Superior Court with respect to a delinquency proceeding, or (II)  
20 wilfully fails to appear in response to a summons under section 46b-  
21 133 or at any other court hearing in a delinquency proceeding of which  
22 the child had notice, and (B) for purposes of family with service needs  
23 matters and proceedings, child means a person who is at least seven  
24 years of age and is under eighteen years of age;

25 Sec. 2. Subdivision (5) of section 46b-120 of the 2012 supplement to  
26 the general statutes, as amended by section 82 of public act 09-7 of the  
27 September special session, sections 9 and 10 of public act 11-71, section  
28 12 of public act 11-157 and section 3 of public act 11-240, is repealed  
29 and the following is substituted in lieu thereof (*Effective October 1,*  
30 *2012*):

31 (5) "Family with service needs" means a family that includes a child  
32 who is at least seven years of age and is under eighteen years of age  
33 who (A) has without just cause run away from the parental home or  
34 other properly authorized and lawful place of abode, (B) is beyond the  
35 control of the child's or youth's parent, parents, guardian or other  
36 custodian, (C) has engaged in indecent or immoral conduct, (D) is a  
37 truant or habitual truant or who, while in school, has been  
38 continuously and overtly defiant of school rules and regulations, or (E)  
39 is thirteen years of age or older and has engaged in sexual intercourse  
40 with another person and such other person is thirteen years of age or  
41 older and not more than two years older or younger than such child or  
42 youth;

43 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) In any juvenile matter, as  
44 defined in section 46b-121 of the general statutes, in which a child or

45 youth is alleged to have committed a delinquent act or an act or  
46 omission for which a petition may be filed under section 46b-149 of the  
47 general statutes, the child or youth shall not be tried, convicted,  
48 adjudicated or subject to any disposition pursuant to section 46b-140 of  
49 the general statutes, as amended by this act, or 46b-149 of the general  
50 statutes while the child or youth is not competent. For the purposes of  
51 this section, a transfer to the regular criminal docket of the Superior  
52 Court pursuant to section 46b-127 of the general statutes, as amended  
53 by this act, shall not be considered a disposition. A child or youth is  
54 not competent if the child or youth is unable to understand the  
55 proceedings against him or her or to assist in his or her own defense.

56 (b) If, at any time during a proceeding on a juvenile matter, it  
57 appears that the child or youth is not competent, counsel for the child  
58 or youth, the prosecutorial official, or the court, on its own motion,  
59 may request an examination to determine the child's or youth's  
60 competency. Whenever a request for a competency examination is  
61 under consideration by the court, the child or youth shall be  
62 represented by counsel in accordance with the provisions of sections  
63 46b-135 and 46b-136 of the general statutes.

64 (c) A child or youth alleged to have committed an offense is  
65 presumed to be competent. The age of the child or youth is not a per se  
66 determinant of incompetency. The burden of going forward with the  
67 evidence and proving that the child or youth is not competent by a  
68 preponderance of the evidence shall be on the party raising the issue of  
69 competency, except that if the court raises the issue of competency, the  
70 burden of going forward with the evidence shall be on the state. The  
71 court may call its own witnesses and conduct its own inquiry.

72 (d) If the court finds that the request for a competency examination  
73 is justified and that there is probable cause to believe that the child or  
74 youth has committed the alleged offense, the court shall order a  
75 competency examination of the child or youth. Competency  
76 examinations shall be conducted by (1) a clinical team constituted  
77 under policies and procedures established by the Chief Court

78 Administrator, or (2) if agreed to by all parties, a physician specializing  
79 in psychiatry who has experience in conducting forensic interviews  
80 and in child and adult psychiatry. Any clinical team constituted under  
81 this section shall consist of three persons: A clinical psychologist with  
82 experience in child and adolescent psychology, and two of the  
83 following three types of professionals: (A) A clinical social worker  
84 licensed pursuant to chapter 383b of the general statutes, (B) a child  
85 and adolescent psychiatric nurse clinical specialist holding a master's  
86 degree in nursing, or (C) a physician specializing in psychiatry. At  
87 least one member of the clinical team shall have experience in  
88 conducting forensic interviews and at least one member of the clinical  
89 team shall have experience in child and adolescent psychology. The  
90 court may authorize a physician, a clinical psychologist, a child and  
91 adolescent psychiatric nurse specialist or a clinical social worker  
92 licensed pursuant to chapter 383b of the general statutes, selected by  
93 the child or youth, to observe the examination, at the expense of the  
94 child or youth or, if the child or youth is represented by counsel  
95 appointed through the Public Defender Services Commission, the  
96 Office of the Chief Public Defender. In addition, counsel for the child  
97 or youth, his or her designated representative and, if the child or youth  
98 is represented by a public defender, a social worker from the Division  
99 of Public Defender Services, may observe the examination.

100 (e) The examination shall be completed not later than fifteen  
101 business days after the date it was ordered, unless the time for  
102 completion is extended by the court for good cause shown. The  
103 members of the clinical team or the examining physician shall prepare  
104 and sign, without notarization, a written report and file such report  
105 with the court not later than twenty-one business days after the date of  
106 the order. The report shall address the child's or youth's ability to  
107 understand the proceedings against such child or youth and such  
108 child's or youth's ability to assist in his or her own defense. If the  
109 opinion of the clinical team or the examining physician set forth in  
110 such report is that the child cannot understand the proceedings against  
111 such child or youth or is not able to assist in his or her own defense,

112 the members of the team or the examining physician must determine  
113 and address in their report: (1) Whether there is a substantial  
114 probability that the child or youth will attain or regain competency  
115 within ninety days of an intervention being ordered by the court; and  
116 (2) the nature and type of intervention, in the least restrictive setting  
117 possible, recommended to attain or regain competency. On receipt of  
118 the written report, the clerk of the court shall cause copies of such  
119 written report to be delivered to counsel for the state and counsel for  
120 the child or youth at least forty-eight hours prior to the hearing held  
121 under subsection (f) of this section.

122 (f) The court shall hold a hearing as to the competency of the child  
123 or youth not later than ten business days after the court receives the  
124 written report of the clinical team or the examining physician pursuant  
125 to subsection (e) of this section. A child or youth may waive such  
126 evidentiary hearing only if the clinical team or examining physician  
127 has determined without qualification that the child or youth is  
128 competent. Any evidence regarding the child's or youth's competency,  
129 including, but not limited to, the written report, may be introduced in  
130 evidence at the hearing by either the child or youth or the state. If the  
131 written report is introduced as evidence, at least one member of the  
132 clinical team or the examining physician shall be present to testify as to  
133 the determinations in the report, unless the clinical team's or the  
134 examining physician's presence is waived by the child or youth and  
135 the state. Any member of the clinical team shall be considered  
136 competent to testify as to the clinical team's determinations.

137 (g) (1) If the court, after the competency hearing, finds by a  
138 preponderance of the evidence that the child or youth is competent,  
139 the court shall continue with the prosecution of the juvenile matter. (2)  
140 If the court, after the competency hearing, finds that the child or youth  
141 is not competent, the court shall determine: (A) Whether there is a  
142 substantial probability that the child or youth will attain or regain  
143 competency within ninety days of an intervention being ordered by  
144 the court; and (B) whether the recommended intervention to attain or  
145 regain competency is appropriate. In making its determination on an

146 appropriate intervention, the court may consider: (i) The nature and  
147 circumstances of the alleged offense; (ii) the length of time the clinical  
148 team or examining physician estimates it will take for the child or  
149 youth to attain or regain competency; (iii) whether the child or youth  
150 poses a substantial risk to reoffend; and (iv) whether the child or youth  
151 is able to receive community-based services or treatment that would  
152 prevent the child or youth from reoffending.

153 (h) If the court finds that there is not a substantial probability that  
154 the child or youth will attain or regain competency within ninety days  
155 or that the recommended intervention to attain or regain competency  
156 is not appropriate, the court may issue an order in accordance with  
157 subsection (k) of this section.

158 (i) (1) If the court finds that there is a substantial probability that the  
159 child or youth will attain or regain competency within ninety days if  
160 provided an appropriate intervention, the court shall schedule a  
161 hearing on the implementation of such intervention within five  
162 business days.

163 (2) An intervention implemented for the purpose of restoring  
164 competency shall comply with the following conditions: (A) The  
165 period of intervention shall not exceed ninety days, unless extended  
166 for an additional ninety days in accordance with the criteria set forth in  
167 subsection (j) of this section; and (B) the intervention services shall be  
168 provided by the Department of Children and Families or, if the child's  
169 or youth's parent or guardian agrees to pay for such services, by any  
170 appropriate person, agency, mental health facility or treatment  
171 program that agrees to provide appropriate intervention services in the  
172 least restrictive setting available to the child or youth and comply with  
173 the requirements of this section.

174 (3) Prior to the hearing, the court shall notify the Commissioner of  
175 Children and Families, the commissioner's designee or the appropriate  
176 person, agency, mental health facility or treatment program that has  
177 agreed to provide appropriate intervention services to the child or

178 youth that an intervention to attain or regain competency will be  
179 ordered. The commissioner, the commissioner's designee or the  
180 appropriate person, agency, mental health facility or treatment  
181 program shall be provided with a copy of the report of the clinical  
182 team or examining physician and shall report to the court on a  
183 proposed implementation of the intervention prior to the hearing.

184 (4) At the hearing, the court shall review the written report and  
185 order an appropriate intervention for a period not to exceed ninety  
186 days in the least restrictive setting available to restore competency. In  
187 making its determination, the court shall use the criteria set forth in  
188 subdivision (2) of subsection (g) of this section. Upon ordering an  
189 intervention, the court shall set a date for a hearing, to be held at least  
190 ten business days after the completion of the intervention period, for  
191 the purpose of reassessing the child's or youth's competency.

192 (j) (1) At least ten business days prior to the date of any scheduled  
193 hearing on the issue of the reassessment of the child's or youth's  
194 competency, the Commissioner of Children and Families, the  
195 commissioner's designee or other person, agency, mental health facility  
196 or treatment program providing intervention services to restore a child  
197 or youth to competency shall report on the progress of such  
198 intervention services to the clinical team or examining physician.

199 (2) Upon receipt of the report on the progress of such intervention,  
200 the child or youth shall be reassessed by the original clinical team or  
201 examining physician, except that if the original team or examining  
202 physician is unavailable, the court may appoint a new clinical team  
203 that, where possible, shall include at least one member of the original  
204 team, or a new examining physician. The new clinical team or  
205 examining physician shall have the same qualifications as the original  
206 team or examining physician, as provided in subsection (d) of this  
207 section, and shall have access to clinical information available from the  
208 provider of the intervention services. Not less than two business days  
209 prior to the date of any scheduled hearing on the reassessment of the  
210 child's or youth's competency, the clinical team or examining physician

211 shall submit a report to the court that includes: (A) The clinical  
212 findings of the provider of the intervention services and the facts upon  
213 which the findings are made; (B) the clinical team's or the examining  
214 physician's opinion on whether the child or youth has attained or  
215 regained competency or is making progress toward attaining or  
216 regaining competency within the period covered by the intervention  
217 order; and (C) any other information concerning the child or youth  
218 requested by the court, including, but not limited to, the method of  
219 intervention or the type, dosage and effect of any medication the child  
220 or youth is receiving.

221 (3) Within two business days of the filing of a reassessment report,  
222 the court shall hold a hearing to determine if the child or youth has  
223 attained or regained competency within the period covered by the  
224 intervention order. If the court finds that the child or youth has  
225 attained or regained competency, the court shall continue with the  
226 prosecution of the juvenile matter. If the court finds that the child or  
227 youth has not attained or regained competency within the period  
228 covered by the intervention order, the court shall determine whether  
229 further efforts to attain or regain competency are appropriate. The  
230 court shall make its determination of whether further efforts to attain  
231 or regain competency are appropriate in accordance with the criteria  
232 set forth in subdivision (2) of subsection (g) of this section. If the court  
233 finds that further intervention to attain or regain competency is  
234 appropriate, the court shall order a new period for restoration of  
235 competency not to exceed ninety days. If the court finds that further  
236 intervention to attain or regain competency is not appropriate or the  
237 child or youth has not attained or regained competency after an  
238 additional intervention of ninety days, the court shall issue an order in  
239 accordance with subsection (k) of this section.

240 (k) (1) If the court determines after the period covered by the  
241 intervention order that the child or youth has not attained or regained  
242 competency and that there is not a substantial probability that the  
243 child or youth will attain or regain competency, or that further  
244 intervention to attain or regain competency is not appropriate based

245 on the criteria set forth in subdivision (2) of subsection (g) of this  
246 section, the court shall: (A) Dismiss the petition if it is a delinquency or  
247 family with service needs petition; (B) vest temporary custody of the  
248 child or youth in the Commissioner of Children and Families and  
249 notify the Office of the Chief Public Defender, which shall assign an  
250 attorney to serve as guardian ad litem for the child or youth and  
251 investigate whether a petition should be filed under section 46b-129 of  
252 the general statutes, as amended by this act; or (C) order that the  
253 Department of Children and Families or some other person, agency,  
254 mental health facility or treatment program, or such child's or youth's  
255 probation officer, conduct or obtain an appropriate assessment and,  
256 where appropriate, propose a plan for services that can appropriately  
257 address the child's or youth's needs in the least restrictive setting  
258 available and appropriate. Any plan for services may include a plan  
259 for interagency collaboration for the provision of appropriate services  
260 after the child or youth attains the age of eighteen.

261 (2) Not later than ten business days after the issuance of an order  
262 pursuant to subparagraph (B) or (C) of subdivision (1) of this  
263 subsection, the court shall hold a hearing to review the order of  
264 temporary custody or any recommendations of the Department of  
265 Children and Families, such probation officer or such attorney or  
266 guardian ad litem for the child or youth.

267 (3) If the child or youth is adjudicated neglected, uncared-for or  
268 abused subsequent to such a petition being filed, or if a plan for  
269 services pursuant to subparagraph (C) of subdivision (1) of this  
270 subsection has been approved by the court and implemented, the court  
271 may dismiss the delinquency or family with service needs petition, or,  
272 in the discretion of the court, order that the prosecution of the case be  
273 suspended for a period not to exceed eighteen months. During the  
274 period of suspension, the court may order the Department of Children  
275 and Families to provide periodic reports to the court to ensure that  
276 appropriate services are being provided to the child or youth. If during  
277 the period of suspension, the child or youth or the parent or guardian  
278 of the child or youth does not comply with the requirements set forth

279 in the plan for services, the court may hold a hearing to determine  
280 whether the court should follow the procedure under subparagraph  
281 (B) of subdivision (1) of this subsection for instituting a petition  
282 alleging that a child is neglected, uncared for or abused. Whenever the  
283 court finds that the need for the suspension of prosecution is no longer  
284 necessary, but not later than the expiration of such period of  
285 suspension, the delinquency or family with service needs petition shall  
286 be dismissed.

287 Sec. 4. Subsection (c) of section 46b-129 of the 2012 supplement to  
288 the general statutes is repealed and the following is substituted in lieu  
289 thereof (*Effective October 1, 2012*):

290 (c) The preliminary hearing on the order of temporary custody or  
291 order to appear or the first hearing on a petition filed pursuant to  
292 subsection (a) of this section shall be held in order for the court to:

293 (1) Advise the parent or guardian of the allegations contained in all  
294 petitions and applications that are the subject of the hearing and the  
295 parent's or guardian's right to counsel pursuant to subsection (b) of  
296 section 46b-135;

297 (2) [assure] Ensure that an attorney, and where appropriate, a  
298 separate guardian ad litem has been appointed to represent the child  
299 or youth in accordance with subsection (b) of section 51-296a and  
300 sections 46b-129a, as amended by this act, and 46b-136;

301 (3) [upon] Upon request, appoint an attorney to represent the  
302 respondent when the respondent is unable to afford representation, in  
303 accordance with subsection (b) of section 51-296a;

304 (4) [advise] Advise the parent or guardian of the right to a hearing  
305 on the petitions and applications, to be held not later than ten days  
306 after the date of the preliminary hearing if the hearing is pursuant to  
307 an order of temporary custody or an order to show cause;

308 (5) [accept] Accept a plea regarding the truth of [such] the

309 allegations;

310 (6) [make] Make any interim orders, including visitation orders, that  
311 the court determines are in the best interests of the child or youth. The  
312 court, after a hearing pursuant to this subsection, shall order specific  
313 steps the commissioner and the parent or guardian shall take for the  
314 parent or guardian to regain or to retain custody of the child or youth;

315 (7) [take] Take steps to determine the identity of the father of the  
316 child or youth, including, if necessary, inquiring of the mother of the  
317 child or youth, under oath, as to the identity and address of any person  
318 who might be the father of the child or youth and ordering genetic  
319 testing, and order service of the petition and notice of the hearing date,  
320 if any, to be made upon him;

321 (8) [if] If the person named as the father appears [,] and admits that  
322 he is the father, provide him and the mother with the notices that  
323 comply with section 17b-27 and provide them with the opportunity to  
324 sign a paternity acknowledgment and affirmation on forms that  
325 comply with section 17b-27. Such documents shall be executed and  
326 filed in accordance with chapter 815y and a copy delivered to the clerk  
327 of the superior court for juvenile matters. The clerk of the superior  
328 court for juvenile matters shall send a certified copy of the paternity  
329 acknowledgment and affirmation to the Department of Public Health  
330 for filing in the paternity registry maintained under section 19a-42a,  
331 and shall maintain a certified copy of the paternity acknowledgment  
332 and affirmation in the court file;

333 (9) [in the event that] If the person named as a father appears and  
334 denies that he is the father of the child or youth, [advise him that he  
335 may have no further standing in any proceeding concerning the child,  
336 and either] order genetic testing to determine paternity in accordance  
337 with section 46b-168. [or direct him to execute a written denial of  
338 paternity on a form promulgated by the Office of the Chief Court  
339 Administrator. Upon execution of such a form by the putative father,]  
340 If the results of the genetic tests indicate a ninety-nine per cent or

341 greater probability that the person named as father is the father of the  
342 child or youth, such results shall constitute a rebuttable presumption  
343 that the person named as father is the father of the child or youth,  
344 provided the court finds evidence that sexual intercourse occurred  
345 between the mother and the person named as father during the period  
346 of time in which the child was conceived. If the court finds such  
347 rebuttable presumption, the court may issue judgment adjudicating  
348 paternity after providing the father an opportunity for a hearing. The  
349 clerk of the court shall send a certified copy of any judgment  
350 adjudicating paternity to the Department of Public Health for filing in  
351 the paternity registry maintained under section 19a-42a. If the results  
352 of the genetic tests indicate that the person named as father is not the  
353 biological father of the child or youth, the court shall enter a judgment  
354 that he is not the father and the court [may] shall remove him from the  
355 case and afford him no further standing in the case or in any  
356 subsequent proceeding regarding the child or youth; [until such time  
357 as paternity is established by formal acknowledgment or adjudication  
358 in a court of competent jurisdiction;]

359 (10) [identify] Identify any person or persons related to the child or  
360 youth by blood or marriage residing in this state who might serve as  
361 licensed foster parents or temporary custodians and order the  
362 Commissioner of Children and Families to investigate and report to  
363 the court, not later than thirty days after the preliminary hearing, the  
364 appropriateness of [placement of] placing the child or youth with such  
365 relative or relatives; and

366 (11) [in] In accordance with the provisions of the Interstate Compact  
367 on the Placement of Children pursuant to section 17a-175, identify any  
368 person or persons related to the child or youth by blood or marriage  
369 residing out of state who might serve as licensed foster parents or  
370 temporary custodians, and order the Commissioner of Children and  
371 Families to investigate and determine, within a reasonable time, the  
372 appropriateness of [placement of] placing the child or youth with such  
373 relative or relatives.

374 Sec. 5. Subparagraph (C) of subdivision (2) of section 46b-129a of the  
375 2012 supplement to the general statutes is repealed and the following  
376 is substituted in lieu thereof (*Effective from passage*):

377 (C) The primary role of any counsel for the child shall be to  
378 advocate for the child in accordance with the Rules of Professional  
379 Conduct, except that if the child is incapable of expressing the child's  
380 wishes to the child's counsel because of age or other incapacity, the  
381 counsel for the child shall advocate for the best interests of the child.

382 Sec. 6. Subsection (b) of section 46b-140 of the 2012 supplement to  
383 the general statutes is repealed and the following is substituted in lieu  
384 thereof (*Effective from passage*):

385 (b) Upon conviction of a child as delinquent, the court: (1) May (A)  
386 [place the child in the care of any institution or agency which is  
387 permitted by law to care for children; (B)] order the child to participate  
388 in an alternative incarceration program; [(C)] (B) order the child to  
389 participate in a program at a wilderness school [program] facility  
390 operated by the Department of Children and Families; [(D)] (C) order  
391 the child to participate in a youth service bureau program; [(E)] (D)  
392 place the child on probation; [(F)] (E) order the child or the parents or  
393 guardian of the child, or both, to make restitution to the victim of the  
394 offense in accordance with subsection (d) of this section; [(G)] (F) order  
395 the child to participate in a program of community service in  
396 accordance with subsection (e) of this section; or [(H)] (G) withhold or  
397 suspend execution of any judgment; and (2) shall impose the penalty  
398 established in subsection (b) of section 30-89 [,] for any violation of said  
399 subsection (b).

400 Sec. 7. Subdivision (4) of subsection (d) of section 46b-129 of the  
401 2012 supplement to the general statutes is repealed and the following  
402 is substituted in lieu thereof (*Effective October 1, 2012*):

403 (4) Any person related to a child or youth may file a motion to  
404 intervene for purposes of seeking [permanent] guardianship of a child  
405 or youth more than ninety days after the date of the preliminary

406 hearing. The granting of such motion to intervene shall be solely in the  
407 court's discretion, except that such motion shall be granted absent  
408 good cause shown whenever the child's or youth's most recent  
409 placement has been disrupted or is about to be disrupted. The court  
410 may, in the court's discretion, order the Commissioner of Children and  
411 Families to conduct an assessment of such relative granted intervenor  
412 status pursuant to this subdivision.

413 Sec. 8. Subsections (j) to (r), inclusive, of section 46b-129 of the 2012  
414 supplement to the general statutes are repealed and the following is  
415 substituted in lieu thereof (*Effective October 1, 2012*):

416 (j) (1) For the purposes of this subsection and subsection (k) of this  
417 section, "permanent legal guardianship" means a permanent  
418 guardianship, as defined in section 45a-604, as amended by this act.

419 [(j)] (2) Upon finding and adjudging that any child or youth is  
420 uncared-for, neglected or abused the court may (A) commit such child  
421 or youth to the Commissioner of Children and Families, [ Such] and  
422 such commitment shall remain in effect until further order of the court,  
423 except that such commitment may be revoked or parental rights  
424 terminated at any time by the court; [ or the court may] (B) vest such  
425 child's or youth's legal guardianship in any private or public agency  
426 that is permitted by law to care for neglected, uncared-for or abused  
427 children or youths or with any other person or persons found to be  
428 suitable and worthy of such responsibility by the court, including, but  
429 not limited to, any relative of such child or youth by blood or  
430 marriage; (C) vest such child's or youth's permanent legal  
431 guardianship in any person or persons found to be suitable and  
432 worthy of such responsibility by the court, including, but not limited  
433 to, any relative of such child or youth by blood or marriage in  
434 accordance with the requirements set forth in subdivision (5) of this  
435 subsection; or (D) place the child or youth in the custody of the parent  
436 or guardian with protective supervision by the Commissioner of  
437 Children and Families subject to conditions established by the court.

438       (3) If the court determines that the commitment should be revoked  
439 and the child's or youth's legal guardianship or permanent legal  
440 guardianship should vest in someone other than the respondent  
441 parent, parents or former guardian, or if parental rights are terminated  
442 at any time, there shall be a rebuttable presumption that an award of  
443 legal guardianship or permanent legal guardianship upon revocation  
444 to, or adoption upon termination of parental rights by, any relative  
445 who is licensed as a foster parent for such child or youth, or who is,  
446 pursuant to an order of the court, the temporary custodian of the child  
447 or youth at the time of the revocation or termination, shall be in the  
448 best interests of the child or youth and that such relative is a suitable  
449 and worthy person to assume legal guardianship or permanent legal  
450 guardianship upon revocation or to adopt such child or youth upon  
451 termination of parental rights. The presumption may be rebutted by a  
452 preponderance of the evidence that an award of legal guardianship or  
453 permanent legal guardianship to, or an adoption by, such relative  
454 would not be in the child's or youth's best interests and such relative is  
455 not a suitable and worthy person. The court shall order specific steps  
456 that the parent must take to facilitate the return of the child or youth to  
457 the custody of such parent.

458       (4) The commissioner shall be the guardian of such child or youth  
459 for the duration of the commitment, provided the child or youth has  
460 not reached the age of eighteen years or, in the case of a child or youth  
461 in full-time attendance in a secondary school, a technical school, a  
462 college or a state-accredited job training program, provided such child  
463 or youth has not reached the age of twenty-one years, by consent of  
464 such child or youth, or until another guardian has been legally  
465 appointed, and in like manner, upon such vesting of the care of such  
466 child or youth, such other public or private agency or individual shall  
467 be the guardian of such child or youth until such child or youth has  
468 reached the age of eighteen years or, in the case of a child or youth in  
469 full-time attendance in a secondary school, a technical school, a college  
470 or a state-accredited job training program, until such child or youth  
471 has reached the age of twenty-one years or until another guardian has

472 been legally appointed. The commissioner may place any child or  
473 youth so committed to the commissioner in a suitable foster home or in  
474 the home of a person related by blood or marriage to such child or  
475 youth or in a licensed child-caring institution or in the care and  
476 custody of any accredited, licensed or approved child-caring agency,  
477 within or without the state, provided a child shall not be placed  
478 outside the state except for good cause and unless the parents or  
479 guardian of such child are notified in advance of such placement and  
480 given an opportunity to be heard, or in a receiving home maintained  
481 and operated by the Commissioner of Children and Families. In  
482 placing such child or youth, the commissioner shall, if possible, select a  
483 home, agency, institution or person of like religious faith to that of a  
484 parent of such child or youth, if such faith is known or may be  
485 ascertained by reasonable inquiry, provided such home conforms to  
486 the standards of said commissioner and the commissioner shall, when  
487 placing siblings, if possible, place such children together. [As an  
488 alternative to commitment, the court may place the child or youth in  
489 the custody of the parent or guardian with protective supervision by  
490 the Commissioner of Children and Families subject to conditions  
491 established by the court.] Upon the issuance of an order committing  
492 the child or youth to the Commissioner of Children and Families, or  
493 not later than sixty days after the issuance of such order, the court shall  
494 determine whether the Department of Children and Families made  
495 reasonable efforts to keep the child or youth with his or her parents or  
496 guardian prior to the issuance of such order and, if such efforts were  
497 not made, whether such reasonable efforts were not possible, taking  
498 into consideration the child's or youth's best interests, including the  
499 child's or youth's health and safety.

500 (5) Prior to issuing an order for permanent legal guardianship, the  
501 court shall provide notice to each parent that the parent may not file a  
502 motion to terminate the permanent legal guardianship, or the court  
503 shall indicate on the record why such notice could not be provided,  
504 and the court shall find by clear and convincing evidence that the  
505 permanent legal guardianship is in the best interests of the child or

506 youth and that the following have been proven by clear and  
507 convincing evidence:

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

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

513 (C) (i) If the child or youth is as least twelve years of age, such child  
514 or youth consents to the proposed permanent legal guardianship, or  
515 (ii) if the child is under twelve years of age, the proposed permanent  
516 legal guardian is: (I) A relative, or (II) already serving as the  
517 permanent legal guardian of at least one of the child's siblings, if any;

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

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

524 (6) An order of permanent legal guardianship may be reopened and  
525 modified and the permanent legal guardian removed upon the filing  
526 of a motion with the court, provided it is proven by a fair  
527 preponderance of the evidence that the permanent legal guardian is no  
528 longer suitable and worthy. A parent may not file a motion to  
529 terminate a permanent legal guardianship. If, after a hearing, the court  
530 terminates a permanent legal guardianship, the court, in appointing a  
531 successor legal guardian or permanent legal guardian for the child or  
532 youth shall do so in accordance with this subsection.

533 (k) (1) Nine months after placement of the child or youth in the care  
534 and custody of the commissioner pursuant to a voluntary placement  
535 agreement, or removal of a child or youth pursuant to section 17a-101g

536 or an order issued by a court of competent jurisdiction, whichever is  
537 earlier, the commissioner shall file a motion for review of a  
538 permanency plan. Nine months after a permanency plan has been  
539 approved by the court pursuant to this subsection, the commissioner  
540 shall file a motion for review of the permanency plan. Any party  
541 seeking to oppose the commissioner's permanency plan, including a  
542 relative of a child or youth by blood or marriage who has intervened  
543 pursuant to subsection (d) of this section and is licensed as a foster  
544 parent for such child or youth or is vested with such child's or youth's  
545 temporary custody by order of the court, shall file a motion in  
546 opposition not later than thirty days after the filing of the  
547 commissioner's motion for review of the permanency plan, which  
548 motion shall include the reason therefor. A permanency hearing on  
549 any motion for review of the permanency plan shall be held not later  
550 than ninety days after the filing of such motion. The court shall hold  
551 evidentiary hearings in connection with any contested motion for  
552 review of the permanency plan and credible hearsay evidence  
553 regarding any party's compliance with specific steps ordered by the  
554 court shall be admissible at such evidentiary hearings. The  
555 commissioner shall have the burden of proving that the proposed  
556 permanency plan is in the best interests of the child or youth. After the  
557 initial permanency hearing, subsequent permanency hearings shall be  
558 held not less frequently than every twelve months while the child or  
559 youth remains in the custody of the Commissioner of Children and  
560 Families. The court shall provide notice to the child or youth, the  
561 parent or guardian of such child or youth, and any intervenor of the  
562 time and place of the court hearing on any such motion not less than  
563 fourteen days prior to such hearing.

564 (2) At a permanency hearing held in accordance with the provisions  
565 of subdivision (1) of this subsection, the court shall approve a  
566 permanency plan that is in the best interests of the child or youth and  
567 takes into consideration the child's or youth's need for permanency.  
568 The child's or youth's health and safety shall be of paramount concern  
569 in formulating such plan. Such permanency plan may include the goal

570 of (A) revocation of commitment and reunification of the child or  
571 youth with the parent or guardian, with or without protective  
572 supervision; (B) transfer of guardianship or permanent legal  
573 guardianship; (C) long-term foster care with a relative licensed as a  
574 foster parent; (D) filing of termination of parental rights and adoption;  
575 or (E) another planned permanent living arrangement ordered by the  
576 court, provided the Commissioner of Children and Families has  
577 documented a compelling reason why it would not be in the best  
578 [interest] interests of the child or youth for the permanency plan to  
579 include the goals in subparagraphs (A) to (D), inclusive, of this  
580 subdivision. Such other planned permanent living arrangement may  
581 include, but not be limited to, placement of a child or youth in an  
582 independent living program or long term foster care with an identified  
583 foster parent.

584 (3) At a permanency hearing held in accordance with the provisions  
585 of subdivision (1) of this subsection, the court shall review the status of  
586 the child, the progress being made to implement the permanency plan,  
587 determine a timetable for attaining the permanency plan, determine  
588 the services to be provided to the parent if the court approves a  
589 permanency plan of reunification and the timetable for such services,  
590 and determine whether the commissioner has made reasonable efforts  
591 to achieve the permanency plan. The court may revoke commitment if  
592 a cause for commitment no longer exists and it is in the best interests of  
593 the child or youth.

594 (4) If the court approves the permanency plan of adoption: (A) The  
595 Commissioner of Children and Families shall file a petition for  
596 termination of parental rights not later than sixty days after such  
597 approval if such petition has not previously been filed; (B) the  
598 commissioner may conduct a thorough adoption assessment and  
599 child-specific recruitment; and (C) the court may order that the child  
600 be photo-listed within thirty days if the court determines that such  
601 photo-listing is in the best [interest] interests of the child. As used in  
602 this subdivision, "thorough adoption assessment" means conducting  
603 and documenting face-to-face interviews with the child, foster care

604 providers and other significant parties and "child specific recruitment"  
605 means recruiting an adoptive placement targeted to meet the  
606 individual needs of the specific child, including, but not limited to, use  
607 of the media, use of photo-listing services and any other in-state or  
608 out-of-state resources that may be used to meet the specific needs of  
609 the child, unless there are extenuating circumstances that indicate that  
610 such efforts are not in the best [interest] interests of the child.

611 (l) The Commissioner of Children and Families shall pay directly to  
612 the person or persons furnishing goods or services determined by said  
613 commissioner to be necessary for the care and maintenance of such  
614 child or youth the reasonable expense thereof, payment to be made at  
615 intervals determined by said commissioner; and the Comptroller shall  
616 draw his or her order on the Treasurer, from time to time, for such part  
617 of the appropriation for care of committed children or youths as may  
618 be needed in order to enable the commissioner to make such  
619 payments. The commissioner shall include in the department's annual  
620 budget a sum estimated to be sufficient to carry out the provisions of  
621 this section. Notwithstanding that any such child or youth has income  
622 or estate, the commissioner may pay the cost of care and maintenance  
623 of such child or youth. The commissioner may bill to and collect from  
624 the person in charge of the estate of any child or youth aided under  
625 this chapter, or the payee of such child's or youth's income, the total  
626 amount expended for care of such child or youth or such portion  
627 thereof as any such estate or payee is able to reimburse, provided the  
628 commissioner shall not collect from such estate or payee any  
629 reimbursement for the cost of care or other expenditures made on  
630 behalf of such child or youth from (1) the proceeds of any cause of  
631 action received by such child or youth; (2) any lottery proceeds due to  
632 such child or youth; (3) any inheritance due to such child or youth; (4)  
633 any payment due to such child or youth from a trust other than a trust  
634 created pursuant to 42 USC 1396p, as amended from time to time; or  
635 (5) the decedent estate of such child or youth.

636 (m) The commissioner, a parent or the child's attorney may file a  
637 motion to revoke a commitment, and, upon finding that cause for

638 commitment no longer exists, and that such revocation is in the best  
639 interests of such child or youth, the court may revoke the commitment  
640 of such child or youth. No such motion shall be filed more often than  
641 once every six months.

642 (n) If the court has ordered legal guardianship of a child or youth to  
643 be vested in a suitable and worthy person pursuant to subsection (j) of  
644 this section, the child's or youth's parent or former legal guardian may  
645 file a petition to reinstate guardianship of the child or youth in such  
646 parent or former legal guardian. Upon the filing of such a petition, the  
647 court may order the Commissioner of Children and Families to  
648 investigate the home conditions and needs of the child or youth and  
649 the home conditions of the person seeking reinstatement of  
650 guardianship, and to make a recommendation to the court. A party to  
651 a petition for reinstatement of guardianship shall not be entitled to  
652 court-appointed counsel or representation by Division of Public  
653 Defender Services assigned counsel, except as provided in section 46b-  
654 136. Upon finding that the cause for the removal of guardianship no  
655 longer exists, and that reinstatement is in the best interests of the child  
656 or youth, the court may reinstate the guardianship of the parent or the  
657 former legal guardian. No such petition may be filed more often than  
658 once every six months.

659 [(n)] (o) Upon service on the parent, guardian or other person  
660 having control of the child or youth of any order issued by the court  
661 pursuant to the provisions of subsections (b) and (j) of this section, the  
662 child or youth concerned shall be surrendered to the person serving  
663 the order who shall forthwith deliver the child or youth to the person,  
664 agency, department or institution awarded custody in the order. Upon  
665 refusal of the parent, guardian or other person having control of the  
666 child or youth to surrender the child or youth as provided in the order,  
667 the court may cause a warrant to be issued charging the parent,  
668 guardian or other person having control of the child or youth with  
669 contempt of court. If the person arrested is found in contempt of court,  
670 the court may order such person confined until the person complies  
671 with the order, but for not more than six months, or may fine such

672 person not more than five hundred dollars, or both.

673 ~~[(o)]~~ (p) A foster parent, prospective adoptive parent or relative  
674 caregiver shall receive notice and have the right to be heard for the  
675 purposes of this section in Superior Court in any proceeding  
676 concerning a foster child living with such foster parent, prospective  
677 adoptive parent or relative caregiver. A foster parent, prospective  
678 adoptive parent or relative caregiver who has cared for a child or  
679 youth shall have the right to be heard and comment on the best  
680 interests of such child or youth in any proceeding under this section  
681 which is brought not more than one year after the last day the foster  
682 parent, prospective adoptive parent or relative caregiver provided  
683 such care.

684 ~~[(p)]~~ (q) Upon motion of any sibling of any child committed to the  
685 Department of Children and Families pursuant to this section, such  
686 sibling shall have the right to be heard concerning visitation with, and  
687 placement of, any such child. In awarding any visitation or modifying  
688 any placement, the court shall be guided by the best interests of all  
689 siblings affected by such determination.

690 ~~[(q)]~~ (r) The provisions of section 17a-152, regarding placement of a  
691 child from another state, and section 17a-175, regarding the Interstate  
692 Compact on the Placement of Children, shall apply to placements  
693 pursuant to this section. In any proceeding under this section  
694 involving the placement of a child or youth in another state where the  
695 provisions of section 17a-175 are applicable, the court shall, before  
696 ordering or approving such placement, state for the record the court's  
697 finding concerning compliance with the provisions of section 17a-175.  
698 The court's statement shall include, but not be limited to: (1) A finding  
699 that the state has received notice in writing from the receiving state, in  
700 accordance with subsection (d) of Article III of section 17a-175,  
701 indicating that the proposed placement does not appear contrary to the  
702 interests of the child, (2) the court has reviewed such notice, (3)  
703 whether or not an interstate compact study or other home study has  
704 been completed by the receiving state, and (4) if such a study has been

705 completed, whether the conclusions reached by the receiving state as a  
706 result of such study support the placement.

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

712 Sec. 9. Section 45a-604 of the general statutes is repealed and the  
713 following is substituted in lieu thereof (*Effective October 1, 2012*):

714 As used in sections 45a-603 to 45a-622, inclusive, and section 10 of  
715 this act:

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

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

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

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

728 (5) "Guardianship" means guardianship of the person of a minor,  
729 and includes: (A) The obligation of care and control; (B) the authority  
730 to make major decisions affecting the minor's education and welfare,  
731 including, but not limited to, consent determinations regarding  
732 marriage, enlistment in the armed forces and major medical,  
733 psychiatric or surgical treatment; and (C) upon the death of the minor,  
734 the authority to make decisions concerning funeral arrangements and

735 the disposition of the body of the minor;

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

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

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

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

751 Sec. 10. (NEW) (*Effective October 1, 2012*) (a) In appointing a  
752 guardian of the person of a minor pursuant to section 45a-616 of the  
753 general statutes, or at any time following such appointment, the court  
754 of probate may establish a permanent guardianship if the court  
755 provides notice to each parent that the parent may not petition for  
756 reinstatement as guardian or petition to terminate the permanent  
757 guardianship, except as provided in subsection (b) of this section, or  
758 the court indicates on the record why such notice could not be  
759 provided, and the court finds by clear and convincing evidence that  
760 the establishment of a permanent guardianship is in the best interests  
761 of the minor and that the following have been proven by clear and  
762 convincing evidence:

763 (1) One of the grounds for termination of parental rights, as set forth  
764 in subparagraphs (A) to (G), inclusive, of subdivision (2) of subsection  
765 (g) of section 45a-717 of the general statutes exists, or the parents have

766 voluntarily consented to the appointment of a permanent guardian;

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

768 (3) (A) If the minor is at least twelve years of age, such minor  
769 consents to the proposed appointment of a permanent guardian, or (B)  
770 if the minor is under twelve years of age, the proposed permanent  
771 guardian is a relative or already serving as the permanent guardian of  
772 at least one of the minor's siblings;

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

775 (5) The proposed permanent guardian is suitable and worthy and  
776 committed to remaining the permanent guardian and assuming the  
777 rights and responsibilities for the minor until the minor reaches the age  
778 of majority.

779 (b) If a permanent guardian appointed under this section becomes  
780 unable or unwilling to serve as permanent guardian, the court may  
781 appoint a successor guardian or permanent guardian in accordance  
782 with this section and sections 45a-616 and 45a-617 of the general  
783 statutes, as amended by this act, or may reinstate a parent of the minor  
784 who was previously removed as guardian of the person of the minor if  
785 the court finds that the factors that resulted in the removal of the  
786 parent as guardian have been resolved satisfactorily, and that it is in  
787 the best interests of the child to reinstate the parent as guardian.

788 Sec. 11. Section 45a-611 of the general statutes is repealed and the  
789 following is substituted in lieu thereof (*Effective October 1, 2012*):

790 (a) [Any] Except as provided in subsection (d) of this section, any  
791 parent who has been removed as the guardian of the person of a minor  
792 may apply to the court of probate which removed him or her for  
793 reinstatement as the guardian of the person of the minor, if in his or  
794 her opinion the factors which resulted in removal have been resolved  
795 satisfactorily.

796 (b) In the case of a parent who seeks reinstatement, the court shall  
797 hold a hearing following notice to the guardian, to the parent or  
798 parents and to the minor, if over twelve years of age, as provided in  
799 section 45a-609. If the court determines that the factors which resulted  
800 in the removal of the parent have been resolved satisfactorily, the court  
801 may remove the guardian and reinstate the parent as guardian of the  
802 person of the minor, if it determines that it is in the best interests of the  
803 minor to do so. At the request of a parent, guardian, counsel or  
804 guardian ad litem representing one of the parties, filed within thirty  
805 days of the decree, the court shall make findings of fact to support its  
806 conclusions.

807 (c) The provisions of this section shall also apply to the  
808 reinstatement of any guardian of the person of a minor other than a  
809 parent.

810 (d) Notwithstanding the provisions of this section, and subject to the  
811 provisions of subsection (b) of section 10 of this act, a parent who has  
812 been removed as guardian of the person of a minor may not petition  
813 for reinstatement as guardian if a court has established a permanent  
814 guardianship for the person of the minor pursuant to section 10 of this  
815 act.

816 Sec. 12. Section 45a-613 of the general statutes is repealed and the  
817 following is substituted in lieu thereof (*Effective October 1, 2012*):

818 (a) Any guardian, [or] coguardians or permanent guardian of the  
819 person of a minor appointed under section 45a-616 or section 10 of this  
820 act, or appointed by a court of comparable jurisdiction in another state,  
821 may be removed by the court of probate which made the appointment,  
822 and another guardian, [or] coguardian or permanent guardian  
823 appointed, in the same manner as that provided in sections 45a-603 to  
824 45a-622, inclusive, for removal of a parent as guardian.

825 (b) Any removal of a guardian, coguardian or permanent guardian  
826 under subsection (a) of this section shall be preceded by notice to the  
827 guardian, [or] coguardians or permanent guardian, the parent or

828 parents and the minor if over twelve years of age, as provided by  
829 section 45a-609.

830 (c) If a new guardian, coguardian or permanent guardian is  
831 appointed, the court shall send a copy of that order to the parent or  
832 parents of the minor.

833 Sec. 13. Section 45a-614 of the general statutes is repealed and the  
834 following is substituted in lieu thereof (*Effective October 1, 2012*):

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

841 (b) A parent may not petition for the removal of a permanent  
842 guardian appointed pursuant to section 10 of this act.

843 Sec. 14. Section 45a-617 of the general statutes is repealed and the  
844 following is substituted in lieu thereof (*Effective October 1, 2012*):

845 When appointing a guardian, [or] coguardians or permanent  
846 guardian of the person of a minor, the court shall take into  
847 consideration the following factors: (1) The ability of the prospective  
848 guardian, [or] coguardians or permanent guardian to meet, on a  
849 continuing day to day basis, the physical, emotional, moral and  
850 educational needs of the minor; (2) the minor's wishes, if he or she is  
851 over the age of twelve or is of sufficient maturity and capable of  
852 forming an intelligent preference; (3) the existence or nonexistence of  
853 an established relationship between the minor and the prospective  
854 guardian, [or] coguardians or permanent guardian; and (4) the best  
855 interests of the child. There shall be a rebuttable presumption that  
856 appointment of a grandparent or other relative related by blood or  
857 marriage as a guardian, coguardian or permanent guardian is in the  
858 best interests of the minor child.

859 Sec. 15. Section 46b-127 of the 2012 supplement to the general  
860 statutes, as amended by section 84 of public act 09-7 of the September  
861 special session and section 18 of public act 11-157, is repealed and the  
862 following is substituted in lieu thereof (*Effective October 1, 2012*):

863 (a) (1) The court shall automatically transfer from the docket for  
864 juvenile matters to the regular criminal docket of the Superior Court  
865 the case of any child charged with the commission of a capital felony, a  
866 class A or B felony or a violation of section 53a-54d, provided such  
867 offense was committed after such child attained the age of fourteen  
868 years and counsel has been appointed for such child if such child is  
869 indigent. Such counsel may appear with the child but shall not be  
870 permitted to make any argument or file any motion in opposition to  
871 the transfer. The child shall be arraigned in the regular criminal docket  
872 of the Superior Court at the next court date following such transfer,  
873 provided any proceedings held prior to the finalization of such transfer  
874 shall be private and shall be conducted in such parts of the courthouse  
875 or the building [wherein] in which the court is located [as shall be] that  
876 are separate and apart from the other parts of the court which are then  
877 being [held] used for proceedings pertaining to adults charged with  
878 crimes. [The file of any case so transferred shall remain sealed until the  
879 end of the tenth working day following such arraignment unless the  
880 state's attorney has filed a motion pursuant to this subsection, in which  
881 case such file shall remain sealed until the court makes a decision on  
882 the motion.]

883 (2) A state's attorney may, [not later than ten working days] at any  
884 time after such arraignment, file a motion to transfer the case of any  
885 child charged with the commission of a class B felony or a violation of  
886 subdivision (2) of subsection (a) of section 53a-70 to the docket for  
887 juvenile matters for proceedings in accordance with the provisions of  
888 this chapter. [The court sitting for the regular criminal docket shall,  
889 after hearing and not later than ten working days after the filing of  
890 such motion, decide such motion.]

891 (b) (1) Upon motion of a prosecutorial official, [and order of the

892 court,] the superior court for juvenile matters shall conduct a hearing  
893 to determine whether the case of any child charged with the  
894 commission of a class C or D felony or an unclassified felony shall be  
895 transferred from the docket for juvenile matters to the regular criminal  
896 docket of the Superior Court. [, provided] The court shall not order  
897 that the case be transferred under this subdivision unless the court  
898 finds that (A) such offense was committed after such child attained the  
899 age of fourteen years, [and the court finds ex parte that] (B) there is  
900 probable cause to believe the child has committed the act for which  
901 [he] the child is charged, and (C) the best interests of the child and the  
902 public will not be served by maintaining the case in the superior court  
903 for juvenile matters. In making such findings, the court shall consider  
904 (i) any prior criminal or juvenile offenses committed by the child, (ii)  
905 the seriousness of such offenses, (iii) any evidence that the child has  
906 intellectual disability or mental illness, and (iv) the availability of  
907 services in the docket for juvenile matters that can serve the child's  
908 needs. Any motion under this subdivision shall be made, and any  
909 hearing under this subdivision shall be held, not later than thirty days  
910 after the child is arraigned in the superior court for juvenile matters.  
911 [The file of any case so transferred shall remain sealed until such time  
912 as the court sitting for the regular criminal docket accepts such  
913 transfer.]

914 (2) [The] If a case is transferred to the regular criminal docket  
915 pursuant to subdivision (1) of this subsection, the court sitting for the  
916 regular criminal docket may return [any such] the case to the docket  
917 for juvenile matters [not later than ten working days after the date of  
918 the transfer] at any time prior to a jury rendering a verdict or the entry  
919 of a guilty plea for good cause shown for proceedings in accordance  
920 with the provisions of this chapter. [The child shall be arraigned in the  
921 regular criminal docket of the Superior Court by the next court date  
922 following such transfer, provided any proceedings held prior to the  
923 finalization of such transfer shall be private and shall be conducted in  
924 such parts of the courthouse or the building wherein court is located as  
925 shall be separate and apart from the other parts of the court which are

926 then being held for proceedings pertaining to adults charged with  
927 crimes.]

928 (c) Upon the effectuation of the transfer, such child shall stand trial  
929 and be sentenced, if convicted, as if such child were eighteen years of  
930 age. Such child shall receive credit against any sentence imposed for  
931 time served in a juvenile facility prior to the effectuation of the  
932 transfer. A child who has been transferred may enter a guilty plea to a  
933 lesser offense if the court finds that such plea is made knowingly and  
934 voluntarily. Any child transferred to the regular criminal docket who  
935 pleads guilty to a lesser offense shall not resume such child's status as  
936 a juvenile regarding such offense. If the action is dismissed or nolle or  
937 if such child is found not guilty of the charge for which such child was  
938 transferred or of any lesser included offenses, the child shall resume  
939 such child's status as a juvenile until such child attains the age of  
940 eighteen years.

941 (d) Any child transferred to the regular criminal docket of the  
942 Superior Court who is detained shall be in the custody of the  
943 Commissioner of Correction upon the finalization of such transfer. A  
944 transfer shall be final (1) upon [the expiration of ten working days  
945 after] the arraignment [if no] on the criminal docket until a motion [has  
946 been] filed by the state's attorney pursuant to subsection (a) of this  
947 section [or, if such motion has been filed, upon the decision of] is  
948 granted by the court, [to deny such motion,] or (2) upon the [court  
949 accepting the transfer pursuant to subsection (b) of this section]  
950 arraignment on the regular criminal docket of a transfer ordered  
951 pursuant to subsection (b) of this section until the court sitting for the  
952 regular criminal docket orders the case returned to the juvenile court  
953 for good cause shown. Any child returned to the docket for juvenile  
954 matters who is detained shall be in the custody of the Judicial  
955 Department.

956 (e) The transfer of a child to a Department of Correction facility shall  
957 be limited to the provisions of subsection (d) of this section and said  
958 subsection shall not be construed to permit the transfer of or otherwise

959 reduce or eliminate any other population of juveniles in detention or  
960 confinement within the Judicial Department or the Department of  
961 Children and Families.

962 (f) Upon the motion of any party or upon the court's own motion,  
963 the case of any youth age sixteen or seventeen, except a case that has  
964 been transferred to the regular criminal docket of the Superior Court  
965 pursuant to subsection (a) or (b) of this section, which is pending on  
966 the youthful offender docket, regular criminal docket of the Superior  
967 Court or any docket for the presentment of defendants in motor  
968 vehicle matters, where the youth is charged with committing any  
969 offense or violation for which a term of imprisonment may be  
970 imposed, other than a violation of section 14-227a or 14-227g, may,  
971 before trial or before the entry of a guilty plea, be transferred to the  
972 docket for juvenile matters if (1) the youth is alleged to have  
973 committed such offense or violation on or after January 1, 2010, while  
974 sixteen years of age, or is alleged to have committed such offense or  
975 violation on or after July 1, 2012, while seventeen years of age, and (2)  
976 after a hearing considering the facts and circumstances of the case and  
977 the prior history of the youth, the court determines that the programs  
978 and services available pursuant to a proceeding in the superior court  
979 for juvenile matters would more appropriately address the needs of  
980 the youth and that the youth and the community would be better  
981 served by treating the youth as a delinquent. Upon ordering such  
982 transfer, the court shall vacate any pleas entered in the matter and  
983 advise the youth of the youth's rights, and the youth shall (A) enter  
984 pleas on the docket for juvenile matters in the jurisdiction where the  
985 youth resides, and (B) be subject to prosecution as a delinquent child.  
986 The decision of the court concerning the transfer of a youth's case from  
987 the youthful offender docket, regular criminal docket of the Superior  
988 Court or any docket for the presentment of defendants in motor  
989 vehicle matters shall not be a final judgment for purposes of appeal.

990 Sec. 16. Subsection (d) of section 46b-122 of the 2012 supplement to  
991 the general statutes is repealed and the following is substituted in lieu  
992 thereof (*Effective October 1, 2012*):

993 (d) Nothing in this section shall be construed to affect the  
994 confidentiality of records of cases of juvenile matters as set forth in  
995 section 46b-124 or the right of foster parents to be heard pursuant to  
996 subsection [(o)] (p) of section 46b-129, as amended by this act.

997 Sec. 17. Section 53a-71 of the 2012 supplement to the general statutes  
998 is repealed and the following is substituted in lieu thereof (*Effective*  
999 *October 1, 2012*):

1000 (a) A person is guilty of sexual assault in the second degree when  
1001 such person engages in sexual intercourse with another person and: (1)  
1002 Such other person is thirteen years of age or older but under sixteen  
1003 years of age and the actor is more than three years older than such  
1004 other person; or (2) such other person is [mentally defective] impaired  
1005 because of mental disability or disease to the extent that such other  
1006 person is unable to consent to such sexual intercourse; or (3) such other  
1007 person is physically helpless; or (4) such other person is less than  
1008 eighteen years old and the actor is such person's guardian or otherwise  
1009 responsible for the general supervision of such person's welfare; or (5)  
1010 such other person is in custody of law or detained in a hospital or  
1011 other institution and the actor has supervisory or disciplinary  
1012 authority over such other person; or (6) the actor is a psychotherapist  
1013 and such other person is (A) a patient of the actor and the sexual  
1014 intercourse occurs during the psychotherapy session, (B) a patient or  
1015 former patient of the actor and such patient or former patient is  
1016 emotionally dependent upon the actor, or (C) a patient or former  
1017 patient of the actor and the sexual intercourse occurs by means of  
1018 therapeutic deception; or (7) the actor accomplishes the sexual  
1019 intercourse by means of false representation that the sexual intercourse  
1020 is for a bona fide medical purpose by a health care professional; or (8)  
1021 the actor is a school employee and such other person is a student  
1022 enrolled in a school in which the actor works or a school under the  
1023 jurisdiction of the local or regional board of education which employs  
1024 the actor; or (9) the actor is a coach in an athletic activity or a person  
1025 who provides intensive, ongoing instruction and such other person is a  
1026 recipient of coaching or instruction from the actor and (A) is a

1027 secondary school student and receives such coaching or instruction in  
1028 a secondary school setting, or (B) is under eighteen years of age; or (10)  
1029 the actor is twenty years of age or older and stands in a position of  
1030 power, authority or supervision over such other person by virtue of  
1031 the actor's professional, legal, occupational or volunteer status and  
1032 such other person's participation in a program or activity, and such  
1033 other person is under eighteen years of age; or (11) such other person  
1034 is placed or receiving services under the direction of the Commissioner  
1035 of Developmental Services in any public or private facility or program  
1036 and the actor has supervisory or disciplinary authority over such other  
1037 person; or (12) the ability of such other person to communicate lack of  
1038 consent to such sexual intercourse is substantially impaired because of  
1039 mental or physical disability or disease and the actor knows or has  
1040 reasonable cause to know that the ability of such other person to  
1041 communicate lack of consent to such sexual intercourse is so impaired.

1042 (b) Sexual assault in the second degree is a class C felony or, if the  
1043 victim of the offense is under sixteen years of age, a class B felony, and  
1044 any person found guilty under this section shall be sentenced to a term  
1045 of imprisonment of which nine months of the sentence imposed may  
1046 not be suspended or reduced by the court.

1047 Sec. 18. Section 53a-73a of the 2012 supplement to the general  
1048 statutes is repealed and the following is substituted in lieu thereof  
1049 (*Effective October 1, 2012*):

1050 (a) A person is guilty of sexual assault in the fourth degree when: (1)  
1051 Such person intentionally subjects another person to sexual contact  
1052 who is (A) under thirteen years of age and the actor is more than two  
1053 years older than such other person, or (B) thirteen years of age or older  
1054 but under fifteen years of age and the actor is more than three years  
1055 older than such other person, or (C) [mentally defective or] mentally  
1056 incapacitated or impaired because of mental disability or disease to the  
1057 extent that such other person is unable to consent to such sexual  
1058 contact, or (D) physically helpless, or (E) less than eighteen years old  
1059 and the actor is such other person's guardian or otherwise responsible

1060 for the general supervision of such other person's welfare, or (F) in  
1061 custody of law or detained in a hospital or other institution and the  
1062 actor has supervisory or disciplinary authority over such other person,  
1063 or (G) the ability of such other person to communicate lack of consent  
1064 to such sexual contact is substantially impaired because of mental or  
1065 physical disability or disease and the actor knows or has reasonable  
1066 cause to know that the ability of such other person to communicate  
1067 lack of consent to such sexual contact is so impaired; or (2) such person  
1068 subjects another person to sexual contact without such other person's  
1069 consent; or (3) such person engages in sexual contact with an animal or  
1070 dead body; or (4) such person is a psychotherapist and subjects  
1071 another person to sexual contact who is (A) a patient of the actor and  
1072 the sexual contact occurs during the psychotherapy session, or (B) a  
1073 patient or former patient of the actor and such patient or former  
1074 patient is emotionally dependent upon the actor, or (C) a patient or  
1075 former patient of the actor and the sexual contact occurs by means of  
1076 therapeutic deception; or (5) such person subjects another person to  
1077 sexual contact and accomplishes the sexual contact by means of false  
1078 representation that the sexual contact is for a bona fide medical  
1079 purpose by a health care professional; or (6) such person is a school  
1080 employee and subjects another person to sexual contact who is a  
1081 student enrolled in a school in which the actor works or a school under  
1082 the jurisdiction of the local or regional board of education which  
1083 employs the actor; or (7) such person is a coach in an athletic activity or  
1084 a person who provides intensive, ongoing instruction and subjects  
1085 another person to sexual contact who is a recipient of coaching or  
1086 instruction from the actor and (A) is a secondary school student and  
1087 receives such coaching or instruction in a secondary school setting, or  
1088 (B) is under eighteen years of age; or (8) such person subjects another  
1089 person to sexual contact and (A) the actor is twenty years of age or  
1090 older and stands in a position of power, authority or supervision over  
1091 such other person by virtue of the actor's professional, legal,  
1092 occupational or volunteer status and such other person's participation  
1093 in a program or activity, and (B) such other person is under eighteen  
1094 years of age; or (9) such person subjects another person to sexual

1095 contact who is placed or receiving services under the direction of the  
1096 Commissioner of Developmental Services in any public or private  
1097 facility or program and the actor has supervisory or disciplinary  
1098 authority over such other person.

1099 (b) Sexual assault in the fourth degree is a class A misdemeanor or,  
1100 if the victim of the offense is under sixteen years of age, a class D  
1101 felony.

1102 Sec. 19. Section 53a-65 of the general statutes is repealed and the  
1103 following is substituted in lieu thereof (*Effective October 1, 2012*):

1104 As used in this part, except section 53a-70b, the following terms  
1105 have the following meanings:

1106 (1) "Actor" means a person accused of sexual assault.

1107 (2) "Sexual intercourse" means vaginal intercourse, anal intercourse,  
1108 fellatio or cunnilingus between persons regardless of sex. Its meaning  
1109 is limited to persons not married to each other. Penetration, however  
1110 slight, is sufficient to complete vaginal intercourse, anal intercourse or  
1111 fellatio and does not require emission of semen. Penetration may be  
1112 committed by an object manipulated by the actor into the genital or  
1113 anal opening of the victim's body.

1114 (3) "Sexual contact" means any contact with the intimate parts of a  
1115 person not married to the actor for the purpose of sexual gratification  
1116 of the actor or for the purpose of degrading or humiliating such person  
1117 or any contact of the intimate parts of the actor with a person not  
1118 married to the actor for the purpose of sexual gratification of the actor  
1119 or for the purpose of degrading or humiliating such person.

1120 [(4) "Mentally defective" means that a person suffers from a mental  
1121 disease or defect which renders such person incapable of appraising  
1122 the nature of such person's conduct.]

1123 [(5)] (4) "Mentally incapacitated" means that a person is rendered  
1124 temporarily incapable of appraising or controlling such person's

1125 conduct owing to the influence of a drug or intoxicating substance  
1126 administered to such person without such person's consent, or owing  
1127 to any other act committed upon such person without such person's  
1128 consent.

1129 [(6)] (5) "Physically helpless" means that a person is unconscious or  
1130 for any other reason is physically unable to communicate  
1131 unwillingness to an act.

1132 [(7)] (6) "Use of force" means: (A) Use of a dangerous instrument; or  
1133 (B) use of actual physical force or violence or superior physical  
1134 strength against the victim.

1135 [(8)] (7) "Intimate parts" means the genital area or any substance  
1136 emitted therefrom, groin, anus or any substance emitted therefrom,  
1137 inner thighs, buttocks or breasts.

1138 [(9)] (8) "Psychotherapist" means a physician, psychologist, nurse,  
1139 substance abuse counselor, social worker, clergyman, marital and  
1140 family therapist, mental health service provider, hypnotist or other  
1141 person, whether or not licensed or certified by the state, who performs  
1142 or purports to perform psychotherapy.

1143 [(10)] (9) "Psychotherapy" means the professional treatment,  
1144 assessment or counseling of a mental or emotional illness, symptom or  
1145 condition.

1146 [(11)] (10) "Emotionally dependent" means that the nature of the  
1147 patient's or former patient's emotional condition and the nature of the  
1148 treatment provided by the psychotherapist are such that the  
1149 psychotherapist knows or has reason to know that the patient or  
1150 former patient is unable to withhold consent to sexual contact by or  
1151 sexual intercourse with the psychotherapist.

1152 [(12)] (11) "Therapeutic deception" means a representation by a  
1153 psychotherapist that sexual contact by or sexual intercourse with the  
1154 psychotherapist is consistent with or part of the patient's treatment.

1155 [(13)] (12) "School employee" means: (A) A teacher, substitute  
1156 teacher, school administrator, school superintendent, guidance  
1157 counselor, psychologist, social worker, nurse, physician, school  
1158 paraprofessional or coach employed by a local or regional board of  
1159 education or a private elementary, middle or high school or working in  
1160 a public or private elementary, middle or high school; or (B) any other  
1161 person who, in the performance of his or her duties, has regular  
1162 contact with students and who provides services to or on behalf of  
1163 students enrolled in (i) a public elementary, middle or high school,  
1164 pursuant to a contract with the local or regional board of education, or  
1165 (ii) a private elementary, middle or high school, pursuant to a contract  
1166 with the supervisory agent of such private school.

1167 Sec. 20. Section 53a-67 of the general statutes is repealed and the  
1168 following is substituted in lieu thereof (*Effective October 1, 2012*):

1169 (a) In any prosecution for an offense under this part based on the  
1170 victim's being [mentally defective,] mentally incapacitated or  
1171 physically helpless, or such person's being impaired because of mental  
1172 disability or disease, it shall be an affirmative defense that the actor, at  
1173 the time such actor engaged in the conduct constituting the offense,  
1174 did not know of such condition of the victim.

1175 (b) In any prosecution for an offense under this part, except an  
1176 offense under section 53a-70, 53a-70a, 53a-70b, 53a-71, as amended by  
1177 this act, 53a-72a or 53a-72b, it shall be an affirmative defense that the  
1178 defendant and the alleged victim were, at the time of the alleged  
1179 offense, living together by mutual consent in a relationship of  
1180 cohabitation, regardless of the legal status of their relationship.

1181 Sec. 21. Section 54-130a of the general statutes is repealed and the  
1182 following is substituted in lieu thereof (*Effective October 1, 2012*):

1183 (a) Jurisdiction over the granting of, and the authority to grant,  
1184 commutations of punishment or releases, conditioned or absolute, in  
1185 the case of any person convicted of any offense against the state and  
1186 commutations from the penalty of death shall be vested in the Board of

1187 Pardons and Paroles.

1188 (b) The board shall have authority to grant pardons, conditioned [,  
1189 provisional] or absolute, or certificates of relief from barriers for any  
1190 offense against the state at any time after the imposition and before or  
1191 after the service of any sentence.

1192 (c) The board may accept an application for a pardon three years  
1193 after an applicant's conviction of a misdemeanor or violation and five  
1194 years after an applicant's conviction of a felony, except that the board,  
1195 upon a finding of extraordinary circumstances, may accept an  
1196 application for a pardon prior to such dates.

1197 (d) Whenever the board grants an absolute pardon to any person,  
1198 the board shall cause notification of such pardon to be made in writing  
1199 to the clerk of the court in which such person was convicted, or the  
1200 Office of the Chief Court Administrator if such person was convicted  
1201 in the Court of Common Pleas, the Circuit Court, a municipal court, or  
1202 a trial justice court.

1203 (e) Whenever the board grants a [provisional pardon] certificate of  
1204 relief from barriers to any person, the board shall cause notification of  
1205 such [pardon] certificate to be made in writing to the clerk of the court  
1206 in which such person was convicted. The granting of a [provisional  
1207 pardon] certificate does not entitle such person to erasure of the record  
1208 of the conviction of the offense or relieve such person from disclosing  
1209 the existence of such conviction as may be required.

1210 (f) In the case of any person convicted of a violation for which a  
1211 sentence to a term of imprisonment may be imposed, the board shall  
1212 have authority to grant a pardon, conditioned [, provisional] or  
1213 absolute, or a certificate of relief from barriers in the same manner as in  
1214 the case of any person convicted of an offense against the state.

1215 Sec. 22. Section 54-130e of the general statutes is repealed and the  
1216 following is substituted in lieu thereof (*Effective October 1, 2012*):

1217 (a) For the purposes of this section and sections 31-51i, as amended  
1218 by this act, 46a-80, as amended by this act, and 54-130a, as amended by  
1219 this act:

1220 (1) "Barrier" means a denial of employment or a license based on an  
1221 eligible offender's conviction of a crime without due consideration of  
1222 whether the nature of the crime bears a direct relationship to such  
1223 employment or license;

1224 (2) "Direct relationship" means that the nature of criminal conduct  
1225 for which a person was convicted has a direct bearing on the person's  
1226 fitness or ability to perform one or more of the duties or  
1227 responsibilities necessarily related to the applicable employment or  
1228 license;

1229 [(2)] (3) "Eligible offender" means a person who has been convicted  
1230 of a crime or crimes in this state or another jurisdiction and who is a  
1231 resident of this state and is applying or petitioning for a [provisional  
1232 pardon] certificate of relief from barriers or is under the jurisdiction of  
1233 the Board of Pardons and Paroles;

1234 [(3)] (4) "Employment" means any remunerative work, occupation  
1235 or vocation or any form of vocational training, but does not include  
1236 employment with a law enforcement agency;

1237 [(4)] (5) "Forfeiture" means a disqualification or ineligibility for  
1238 employment or a license by reason of law based on an eligible  
1239 offender's conviction of a crime;

1240 [(5)] (6) "License" means any license, permit, certificate or  
1241 registration that is required to be issued by the state or any of its  
1242 agencies to pursue, practice or engage in an occupation, trade,  
1243 vocation, profession or business; and

1244 [(6) "Provisional pardon"] (7) "Certificate of relief from barriers"  
1245 means a form of relief from barriers or forfeitures to employment or  
1246 the issuance of licenses granted to an eligible offender by the Board of

1247 Pardons and Paroles or the Superior Court pursuant to [subsections (b)  
1248 to (i), inclusive, of] this section.

1249 (b) The Board of Pardons and Paroles, or the Superior Court  
1250 pursuant to subsection (j) of this section, may issue a [provisional  
1251 pardon] certificate of relief from barriers to relieve an eligible offender  
1252 of barriers or forfeitures by reason of such person's conviction of the  
1253 crime or crimes specified in such [provisional pardon] certificate. Such  
1254 [provisional pardon] certificate may be limited to one or more  
1255 enumerated barriers or forfeitures or may relieve the eligible offender  
1256 of all barriers and forfeitures. Such certificate shall be labeled by the  
1257 issuing board or court as a "Certificate of Employability" or a  
1258 "Certificate of Suitability of Licensure", or both, as deemed appropriate  
1259 by the issuing board or court. No [provisional pardon] certificate shall  
1260 apply or be construed to apply to the right of such person to retain or  
1261 be eligible for public office.

1262 (c) The Board of Pardons and Paroles may, in its discretion, issue a  
1263 [provisional pardon] certificate of relief from barriers to an eligible  
1264 offender upon verified application of such [person] eligible offender.  
1265 The board may issue a [provisional pardon] certificate at any time after  
1266 the sentencing of an eligible offender, including, but not limited to, any  
1267 time prior to the eligible offender's date of release from the custody of  
1268 the Commissioner of Correction, probation or parole. Such certificate  
1269 may be issued by a pardon panel of the board or a parole release panel  
1270 of the board.

1271 (d) The board shall not issue a [provisional pardon] certificate  
1272 unless the board is satisfied that:

1273 (1) The person to whom the [provisional pardon] certificate is to be  
1274 issued is an eligible offender;

1275 (2) The relief to be granted by the [provisional pardon] certificate  
1276 may promote the public policy of rehabilitation of ex-offenders  
1277 through employment; and

1278 (3) The relief to be granted by the [provisional pardon] certificate is  
1279 consistent with the public interest in public safety, the safety of any  
1280 victim of the offense and the protection of property.

1281 (e) In accordance with the provisions of subsection (d) of this  
1282 section, the board may limit the applicability of the [provisional  
1283 pardon] certificate to specified types of employment or [licenses]  
1284 licensure for which the eligible offender is otherwise qualified.

1285 (f) The board may, for the purpose of determining whether such  
1286 [provisional pardon] certificate should be issued, request its staff to  
1287 conduct an investigation of the applicant and submit to the board a  
1288 report of the investigation. Any written report submitted to the board  
1289 pursuant to this subsection shall be confidential and shall not be  
1290 disclosed except to the applicant and where required or permitted by  
1291 any provision of the general statutes or upon specific authorization of  
1292 the board.

1293 (g) If a [provisional pardon] certificate is issued by the board [while  
1294 an eligible offender is on probation or parole, the provisional pardon]  
1295 or the Superior Court pursuant to this section before an eligible  
1296 offender has completed service of the offender's term of incarceration,  
1297 probation or parole, or any combination thereof, the certificate shall be  
1298 deemed to be temporary until the [person] eligible offender completes  
1299 such [person's period of] eligible offender's term of incarceration,  
1300 probation or parole. During the period that such [provisional pardon]  
1301 certificate is temporary, the board or the court that issued the  
1302 certificate may revoke such [provisional pardon] certificate for a  
1303 violation of the conditions of such person's probation or parole. After  
1304 the eligible offender completes such offender's term of incarceration,  
1305 probation or parole, the temporary certificate shall become permanent.

1306 (h) The board may at any time issue a new [provisional pardon]  
1307 certificate to enlarge the relief previously granted, and the provisions  
1308 of subsections (b) to (f), inclusive, of this section shall apply to the  
1309 issuance of any new [provisional pardon] certificate.

1310 (i) The application for a [provisional pardon] certificate, the report  
1311 of an investigation conducted pursuant to subsection (f) of this section,  
1312 the [provisional pardon] certificate and the revocation of a [provisional  
1313 pardon] certificate shall be in such form and contain such information  
1314 as the Board of Pardons and Paroles shall prescribe.

1315 (j) The Superior Court may, in its discretion, issue a certificate of  
1316 relief from barriers, in accordance with subsections (b) and (g) of this  
1317 section, to an eligible offender for a judgment of conviction that was  
1318 entered in such court if the court (1) imposed a sentence that did not  
1319 require incarceration immediately after sentencing, or (2) imposed a  
1320 sentence of incarceration of less than two years. The court may issue  
1321 the certificate at the time of sentencing or at any time thereafter during  
1322 an offender's period of probation.

1323 (k) A certificate shall not be issued by the court unless the court  
1324 finds that:

1325 (1) The relief to be granted by the certificate may promote the public  
1326 policy of rehabilitation of ex-offenders through employment; and

1327 (2) The relief to be granted by the certificate is consistent with the  
1328 public interest in public safety, the safety of any victim of the offense  
1329 and the protection of property.

1330 (l) The court may, for the purpose of determining whether such  
1331 certificate should be issued, request the Court Support Services  
1332 Division of the Judicial Department to conduct an investigation of the  
1333 applicant and submit to the court a report of the investigation. In  
1334 conducting any such investigation, the division shall seek input from  
1335 any victim of the offense. Any written report submitted to the court  
1336 pursuant to this subsection shall be confidential and shall not be  
1337 disclosed except to the applicant and where required or permitted by  
1338 any provision of the general statutes or upon specific authorization of  
1339 the court.

1340 (m) Upon petition by an eligible offender, any court that has issued

1341 a certificate of relief from barriers may at any time enlarge the relief  
1342 previously granted, and the provisions of subsections (j) to (l),  
1343 inclusive, of this section shall apply to the issuance of any such new  
1344 certificate.

1345 (n) If the court issues a certificate under this section, the court shall  
1346 immediately file a copy of the certificate with the Board of Pardons  
1347 and Paroles.

1348 (o) If a temporary certificate issued under this section is revoked,  
1349 barriers and forfeitures thereby relieved shall be reinstated as of the  
1350 date the person to whom the certificate was issued receives written  
1351 notice of the revocation. Any such person shall surrender the certificate  
1352 to the issuing board or court upon receipt of the notice.

1353 (p) Not later than October 1, 2013, the board and any court that  
1354 received an application or petition for a certificate or that issued a  
1355 certificate during the prior year shall submit to the Office of Policy and  
1356 Management, in such form as the office may prescribe, data on the  
1357 number of applications or petitions received, the number of  
1358 applications or petitions denied, and the number of applications or  
1359 petitions granted. The board and any such court shall submit such  
1360 report every six months thereafter. Not later than January 1, 2014, the  
1361 Connecticut Sentencing Commission shall post such data on its  
1362 Internet web site and shall update such data every six months  
1363 thereafter.

1364 (q) The Connecticut Sentencing Commission, or its designee, shall  
1365 evaluate the effectiveness of such certificates at promoting the public  
1366 policy of rehabilitating ex-offenders consistent with the public interest  
1367 in public safety, the safety of crime victims and the protection of  
1368 property. Such evaluation shall continue for a period of three years  
1369 from October 1, 2012. The commission shall report to the joint standing  
1370 committee of the General Assembly having cognizance of matters  
1371 relating to the judiciary not later than January 15, 2014, January 15,  
1372 2015, and January 15, 2016, on the effectiveness of such certificates at

1373 promoting such public policy and public interest. Such report shall  
1374 include recommendations, if any, for amendments to the general  
1375 statutes governing such certificates in order to promote such public  
1376 policy and public interest.

1377 Sec. 23. Subsections (d) and (e) of section 31-51i of the general  
1378 statutes are repealed and the following is substituted in lieu thereof  
1379 (*Effective October 1, 2012*):

1380 (d) No employer or an employer's agent, representative or designee  
1381 shall deny employment to a prospective employee solely on the basis  
1382 that the prospective employee had a prior arrest, criminal charge or  
1383 conviction, the records of which have been erased pursuant to section  
1384 46b-146, 54-76o or 54-142a or that the prospective employee had a prior  
1385 conviction for which the prospective employee has received a  
1386 [provisional pardon] certificate of relief from barriers pursuant to  
1387 section 54-130a, as amended by this act.

1388 (e) No employer or an employer's agent, representative or designee  
1389 shall discharge, or cause to be discharged, or in any manner  
1390 discriminate against, any employee solely on the basis that the  
1391 employee had, prior to being employed by such employer, an arrest,  
1392 criminal charge or conviction, the records of which have been erased  
1393 pursuant to section 46b-146, 54-76o or 54-142a or that the employee  
1394 had, prior to being employed by such employer, a prior conviction for  
1395 which the employee has received a [provisional pardon] certificate of  
1396 relief from barriers pursuant to section 54-130a, as amended by this  
1397 act.

1398 Sec. 24. Subsection (c) of section 46a-80 of the general statutes is  
1399 repealed and the following is substituted in lieu thereof (*Effective*  
1400 *October 1, 2012*):

1401 (c) A person may be denied employment by the state or any of its  
1402 agencies, or a person may be denied a license, permit, certificate or  
1403 registration to pursue, practice or engage in an occupation, trade,  
1404 vocation, profession or business by reason of the prior conviction of a

1405 crime if after considering (1) the nature of the crime and its  
1406 relationship to the job for which the person has applied; (2)  
1407 information pertaining to the degree of rehabilitation of the convicted  
1408 person; and (3) the time elapsed since the conviction or release, the  
1409 state [.] or any of its agencies determines that the applicant is not  
1410 suitable for the position of employment sought or the specific  
1411 occupation, trade, vocation, profession or business for which the  
1412 license, permit, certificate or registration is sought. An applicant may  
1413 not be denied employment or a license, permit, certificate or  
1414 registration pursuant to this subsection by reason of the applicant's  
1415 prior conviction of a crime unless there is a direct relationship between  
1416 the conviction and the specific employment, license, permit, certificate  
1417 or registration sought by the applicant. In making a determination  
1418 under this subsection, the state or any of its agencies shall give  
1419 consideration to a certificate of relief from barriers issued under  
1420 section 54-130e, as amended by this act, and such certificate of relief  
1421 from barriers shall be deemed to demonstrate presumed eligibility that  
1422 such applicant is suitable for the employment, license, permit,  
1423 certificate or registration specified in the certificate of relief from  
1424 barriers.

1425 Sec. 25. Subdivision (2) of subsection (b) of section 19a-491c of the  
1426 2012 supplement to the general statutes is repealed and the following  
1427 is substituted in lieu thereof (*Effective October 1, 2012*):

1428 (2) The Department of Public Health shall develop a plan to  
1429 implement the criminal history and patient abuse background search  
1430 program, in accordance with this section. In developing such plan, the  
1431 department shall (A) consult with the Commissioners of Emergency  
1432 Services and Public Protection, Developmental Services, Mental Health  
1433 and Addiction Services, Social Services and Consumer Protection, or  
1434 their designees, the State Long-Term Care Ombudsman, or a designee,  
1435 the chairperson for the Board of Pardons and Paroles, or a designee, a  
1436 representative of each category of long-term care facility and  
1437 representatives from any other agency or organization the  
1438 Commissioner of Public Health deems appropriate, (B) evaluate factors

1439 including, but not limited to, the administrative and fiscal impact of  
 1440 components of the program on state agencies and long-term care  
 1441 facilities, background check procedures currently used by long-term  
 1442 care facilities, federal requirements pursuant to Section 6201 of the  
 1443 Patient Protection and Affordable Care Act, P.L. 111-148, as amended  
 1444 from time to time, and the effect of full and provisional pardons, and  
 1445 certificates of relief from barriers issued under section 54-130e, as  
 1446 amended by this act, on employment, and (C) outline (i) an integrated  
 1447 process with the Department of Public Safety to cross-check and  
 1448 periodically update criminal information collected in criminal  
 1449 databases, (ii) a process by which individuals with disqualifying  
 1450 offenses can apply for a waiver, and (iii) the structure of an Internet-  
 1451 based portal to streamline the criminal history and patient abuse  
 1452 background search program. The Department of Public Health shall  
 1453 submit such plan, including a recommendation as to whether  
 1454 homemaker-companion agencies should be included in the scope of  
 1455 the background search program, to the joint standing committees of  
 1456 the General Assembly having cognizance of matters relating to aging,  
 1457 appropriations and the budgets of state agencies, and public health, in  
 1458 accordance with the provisions of section 11-4a, not later than  
 1459 February 1, 2012."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	46b-120(1)
Sec. 2	<i>October 1, 2012</i>	46b-120(5)
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	46b-129(c)
Sec. 5	<i>from passage</i>	46b-129a(2)(C)
Sec. 6	<i>from passage</i>	46b-140(b)
Sec. 7	<i>October 1, 2012</i>	46b-129(d)(4)
Sec. 8	<i>October 1, 2012</i>	46b-129(j) to (r)
Sec. 9	<i>October 1, 2012</i>	45a-604
Sec. 10	<i>October 1, 2012</i>	New section
Sec. 11	<i>October 1, 2012</i>	45a-611
Sec. 12	<i>October 1, 2012</i>	45a-613

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Sec. 13	<i>October 1, 2012</i>	45a-614
Sec. 14	<i>October 1, 2012</i>	45a-617
Sec. 15	<i>October 1, 2012</i>	46b-127
Sec. 16	<i>October 1, 2012</i>	46b-122(d)
Sec. 17	<i>October 1, 2012</i>	53a-71
Sec. 18	<i>October 1, 2012</i>	53a-73a
Sec. 19	<i>October 1, 2012</i>	53a-65
Sec. 20	<i>October 1, 2012</i>	53a-67
Sec. 21	<i>October 1, 2012</i>	54-130a
Sec. 22	<i>October 1, 2012</i>	54-130e
Sec. 23	<i>October 1, 2012</i>	31-51i(d) and (e)
Sec. 24	<i>October 1, 2012</i>	46a-80(c)
Sec. 25	<i>October 1, 2012</i>	19a-491c(b)(2)