



General Assembly

Amendment

February Session, 2012

LCO No. 5549

SB0037905549SD0

Offered by:

SEN. COLEMAN, 2nd Dist.

SEN. HARP, 10th Dist.

REP. WALKER, 93rd Dist.

REP. FOX, 146th 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7 repealed and the following is substituted in lieu thereof (*Effective*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28 12 of public act 11-157 and section 3 of public act 11-240, is repealed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, within available appropriations, by
77 (1) a clinical team constituted under policies and procedures

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

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

112 such child or youth or is not able to assist in his or her own defense,
113 the members of the team or the examining physician must determine
114 and address in their report: (1) Whether there is a substantial
115 probability that the child or youth will attain or regain competency
116 within ninety days of an intervention being ordered by the court; and
117 (2) the nature and type of intervention, in the least restrictive setting
118 possible, recommended to attain or regain competency. On receipt of
119 the written report, the clerk of the court shall cause copies of such
120 written report to be delivered to counsel for the state and counsel for
121 the child or youth at least forty-eight hours prior to the hearing held
122 under subsection (f) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

245 intervention to attain or regain competency is not appropriate based
246 on the criteria set forth in subdivision (2) of subsection (g) of this
247 section, the court shall: (A) Dismiss the petition if it is a delinquency or
248 family with service needs petition; (B) vest temporary custody of the
249 child or youth in the Commissioner of Children and Families and
250 notify the Office of the Chief Public Defender, which shall assign an
251 attorney to serve as guardian ad litem for the child or youth and
252 investigate whether a petition should be filed under section 46b-129 of
253 the general statutes, as amended by this act; or (C) order that the
254 Department of Children and Families or some other person, agency,
255 mental health facility or treatment program, or such child's or youth's
256 probation officer, conduct or obtain an appropriate assessment and,
257 where appropriate, propose a plan for services that can appropriately
258 address the child's or youth's needs in the least restrictive setting
259 available and appropriate. Any plan for services may include a plan
260 for interagency collaboration for the provision of appropriate services
261 after the child or youth attains the age of eighteen.

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

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

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

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

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

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

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

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

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

309 (5) [accept] Accept a plea regarding the truth of [such] the
310 allegations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

736 the disposition of the body of the minor;

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

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

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

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

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

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

- 767 voluntarily consented to the appointment of a permanent guardian;
- 768 (2) Adoption of the minor is not possible or appropriate;
- 769 (3) (A) If the minor is at least twelve years of age, such minor
770 consents to the proposed appointment of a permanent guardian, or (B)
771 if the minor is under twelve years of age, the proposed permanent
772 guardian is a relative or already serving as the permanent guardian of
773 at least one of the minor's siblings;
- 774 (4) The minor has resided with the proposed permanent guardian
775 for at least one year; and
- 776 (5) The proposed permanent guardian is suitable and worthy and
777 committed to remaining the permanent guardian and assuming the
778 rights and responsibilities for the minor until the minor reaches the age
779 of majority.
- 780 (b) If a permanent guardian appointed under this section becomes
781 unable or unwilling to serve as permanent guardian, the court may
782 appoint a successor guardian or permanent guardian in accordance
783 with this section and sections 45a-616 and 45a-617 of the general
784 statutes, as amended by this act, or may reinstate a parent of the minor
785 who was previously removed as guardian of the person of the minor if
786 the court finds that the factors that resulted in the removal of the
787 parent as guardian have been resolved satisfactorily, and that it is in
788 the best interests of the child to reinstate the parent as guardian.
- 789 Sec. 11. Section 45a-611 of the general statutes is repealed and the
790 following is substituted in lieu thereof (*Effective October 1, 2012*):
- 791 (a) [Any] Except as provided in subsection (d) of this section, any
792 parent who has been removed as the guardian of the person of a minor
793 may apply to the court of probate which removed him or her for
794 reinstatement as the guardian of the person of the minor, if in his or
795 her opinion the factors which resulted in removal have been resolved
796 satisfactorily.

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

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

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

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

819 (a) Any guardian, [or] coguardians or permanent guardian of the
820 person of a minor appointed under section 45a-616 or section 10 of this
821 act, or appointed by a court of comparable jurisdiction in another state,
822 may be removed by the court of probate which made the appointment,
823 and another guardian, [or] coguardian or permanent guardian
824 appointed, in the same manner as that provided in sections 45a-603 to
825 45a-622, inclusive, for removal of a parent as guardian.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

998 Sec. 17. Section 53a-71 of the 2012 supplement to the general statutes
999 is repealed and the following is substituted in lieu thereof (*Effective*
1000 *October 1, 2012*):

1001 (a) A person is guilty of sexual assault in the second degree when
1002 such person engages in sexual intercourse with another person and: (1)
1003 Such other person is thirteen years of age or older but under sixteen
1004 years of age and the actor is more than three years older than such
1005 other person; or (2) such other person is [mentally defective] impaired
1006 because of mental disability or disease to the extent that such other
1007 person is unable to consent to such sexual intercourse; or (3) such other
1008 person is physically helpless; or (4) such other person is less than
1009 eighteen years old and the actor is such person's guardian or otherwise
1010 responsible for the general supervision of such person's welfare; or (5)
1011 such other person is in custody of law or detained in a hospital or
1012 other institution and the actor has supervisory or disciplinary
1013 authority over such other person; or (6) the actor is a psychotherapist
1014 and such other person is (A) a patient of the actor and the sexual
1015 intercourse occurs during the psychotherapy session, (B) a patient or
1016 former patient of the actor and such patient or former patient is
1017 emotionally dependent upon the actor, or (C) a patient or former
1018 patient of the actor and the sexual intercourse occurs by means of
1019 therapeutic deception; or (7) the actor accomplishes the sexual
1020 intercourse by means of false representation that the sexual intercourse
1021 is for a bona fide medical purpose by a health care professional; or (8)
1022 the actor is a school employee and such other person is a student
1023 enrolled in a school in which the actor works or a school under the
1024 jurisdiction of the local or regional board of education which employs
1025 the actor; or (9) the actor is a coach in an athletic activity or a person
1026 who provides intensive, ongoing instruction and such other person is a
1027 recipient of coaching or instruction from the actor and (A) is a

1028 secondary school student and receives such coaching or instruction in
1029 a secondary school setting, or (B) is under eighteen years of age; or (10)
1030 the actor is twenty years of age or older and stands in a position of
1031 power, authority or supervision over such other person by virtue of
1032 the actor's professional, legal, occupational or volunteer status and
1033 such other person's participation in a program or activity, and such
1034 other person is under eighteen years of age; or (11) such other person
1035 is placed or receiving services under the direction of the Commissioner
1036 of Developmental Services in any public or private facility or program
1037 and the actor has supervisory or disciplinary authority over such other
1038 person; or (12) such other person does not consent and the ability of
1039 such other person to communicate lack of consent to such sexual
1040 intercourse is substantially impaired because of mental or physical
1041 disability or disease and the actor knows or has reasonable cause to
1042 know that the ability of such other person to communicate lack of
1043 consent to such sexual intercourse is so impaired.

1044 (b) Sexual assault in the second degree is a class C felony or, if the
1045 victim of the offense is under sixteen years of age, a class B felony, and
1046 any person found guilty under this section shall be sentenced to a term
1047 of imprisonment of which nine months of the sentence imposed may
1048 not be suspended or reduced by the court.

1049 Sec. 18. Section 53a-73a of the 2012 supplement to the general
1050 statutes is repealed and the following is substituted in lieu thereof
1051 (*Effective October 1, 2012*):

1052 (a) A person is guilty of sexual assault in the fourth degree when: (1)
1053 Such person intentionally subjects another person to sexual contact
1054 who is (A) under thirteen years of age and the actor is more than two
1055 years older than such other person, or (B) thirteen years of age or older
1056 but under fifteen years of age and the actor is more than three years
1057 older than such other person, or (C) [mentally defective or] mentally
1058 incapacitated or impaired because of mental disability or disease to the
1059 extent that such other person is unable to consent to such sexual
1060 contact, or (D) physically helpless, or (E) less than eighteen years old

1061 and the actor is such other person's guardian or otherwise responsible
1062 for the general supervision of such other person's welfare, or (F) in
1063 custody of law or detained in a hospital or other institution and the
1064 actor has supervisory or disciplinary authority over such other person,
1065 or (G) such other person does not consent and the ability of such other
1066 person to communicate lack of consent to such sexual contact is
1067 substantially impaired because of mental or physical disability or
1068 disease and the actor knows or has reasonable cause to know that the
1069 ability of such other person to communicate lack of consent to such
1070 sexual contact is so impaired; or (2) such person subjects another
1071 person to sexual contact without such other person's consent; or (3)
1072 such person engages in sexual contact with an animal or dead body; or
1073 (4) such person is a psychotherapist and subjects another person to
1074 sexual contact who is (A) a patient of the actor and the sexual contact
1075 occurs during the psychotherapy session, or (B) a patient or former
1076 patient of the actor and such patient or former patient is emotionally
1077 dependent upon the actor, or (C) a patient or former patient of the
1078 actor and the sexual contact occurs by means of therapeutic deception;
1079 or (5) such person subjects another person to sexual contact and
1080 accomplishes the sexual contact by means of false representation that
1081 the sexual contact is for a bona fide medical purpose by a health care
1082 professional; or (6) such person is a school employee and subjects
1083 another person to sexual contact who is a student enrolled in a school
1084 in which the actor works or a school under the jurisdiction of the local
1085 or regional board of education which employs the actor; or (7) such
1086 person is a coach in an athletic activity or a person who provides
1087 intensive, ongoing instruction and subjects another person to sexual
1088 contact who is a recipient of coaching or instruction from the actor and
1089 (A) is a secondary school student and receives such coaching or
1090 instruction in a secondary school setting, or (B) is under eighteen years
1091 of age; or (8) such person subjects another person to sexual contact and
1092 (A) the actor is twenty years of age or older and stands in a position of
1093 power, authority or supervision over such other person by virtue of
1094 the actor's professional, legal, occupational or volunteer status and
1095 such other person's participation in a program or activity, and (B) such

1096 other person is under eighteen years of age; or (9) such person subjects
1097 another person to sexual contact who is placed or receiving services
1098 under the direction of the Commissioner of Developmental Services in
1099 any public or private facility or program and the actor has supervisory
1100 or disciplinary authority over such other person.

1101 (b) Sexual assault in the fourth degree is a class A misdemeanor or,
1102 if the victim of the offense is under sixteen years of age, a class D
1103 felony.

1104 Sec. 19. Section 53a-65 of the general statutes is repealed and the
1105 following is substituted in lieu thereof (*Effective October 1, 2012*):

1106 As used in this part, except section 53a-70b, the following terms
1107 have the following meanings:

1108 (1) "Actor" means a person accused of sexual assault.

1109 (2) "Sexual intercourse" means vaginal intercourse, anal intercourse,
1110 fellatio or cunnilingus between persons regardless of sex. Its meaning
1111 is limited to persons not married to each other. Penetration, however
1112 slight, is sufficient to complete vaginal intercourse, anal intercourse or
1113 fellatio and does not require emission of semen. Penetration may be
1114 committed by an object manipulated by the actor into the genital or
1115 anal opening of the victim's body.

1116 (3) "Sexual contact" means any contact with the intimate parts of a
1117 person not married to the actor for the purpose of sexual gratification
1118 of the actor or for the purpose of degrading or humiliating such person
1119 or any contact of the intimate parts of the actor with a person not
1120 married to the actor for the purpose of sexual gratification of the actor
1121 or for the purpose of degrading or humiliating such person.

1122 [(4) "Mentally defective" means that a person suffers from a mental
1123 disease or defect which renders such person incapable of appraising
1124 the nature of such person's conduct.]

1125 [(5)] (4) "Mentally incapacitated" means that a person is rendered

1126 temporarily incapable of appraising or controlling such person's
1127 conduct owing to the influence of a drug or intoxicating substance
1128 administered to such person without such person's consent, or owing
1129 to any other act committed upon such person without such person's
1130 consent.

1131 [(6)] (5) "Physically helpless" means that a person is unconscious or
1132 for any other reason is physically unable to communicate
1133 unwillingness to an act.

1134 [(7)] (6) "Use of force" means: (A) Use of a dangerous instrument; or
1135 (B) use of actual physical force or violence or superior physical
1136 strength against the victim.

1137 [(8)] (7) "Intimate parts" means the genital area or any substance
1138 emitted therefrom, groin, anus or any substance emitted therefrom,
1139 inner thighs, buttocks or breasts.

1140 [(9)] (8) "Psychotherapist" means a physician, psychologist, nurse,
1141 substance abuse counselor, social worker, clergyman, marital and
1142 family therapist, mental health service provider, hypnotist or other
1143 person, whether or not licensed or certified by the state, who performs
1144 or purports to perform psychotherapy.

1145 [(10)] (9) "Psychotherapy" means the professional treatment,
1146 assessment or counseling of a mental or emotional illness, symptom or
1147 condition.

1148 [(11)] (10) "Emotionally dependent" means that the nature of the
1149 patient's or former patient's emotional condition and the nature of the
1150 treatment provided by the psychotherapist are such that the
1151 psychotherapist knows or has reason to know that the patient or
1152 former patient is unable to withhold consent to sexual contact by or
1153 sexual intercourse with the psychotherapist.

1154 [(12)] (11) "Therapeutic deception" means a representation by a
1155 psychotherapist that sexual contact by or sexual intercourse with the

1156 psychotherapist is consistent with or part of the patient's treatment.

1157 [(13)] (12) "School employee" means: (A) A teacher, substitute
1158 teacher, school administrator, school superintendent, guidance
1159 counselor, psychologist, social worker, nurse, physician, school
1160 paraprofessional or coach employed by a local or regional board of
1161 education or a private elementary, middle or high school or working in
1162 a public or private elementary, middle or high school; or (B) any other
1163 person who, in the performance of his or her duties, has regular
1164 contact with students and who provides services to or on behalf of
1165 students enrolled in (i) a public elementary, middle or high school,
1166 pursuant to a contract with the local or regional board of education, or
1167 (ii) a private elementary, middle or high school, pursuant to a contract
1168 with the supervisory agent of such private school.

1169 Sec. 20. Section 53a-67 of the general statutes is repealed and the
1170 following is substituted in lieu thereof (*Effective October 1, 2012*):

1171 (a) In any prosecution for an offense under this part based on the
1172 victim's being [mentally defective,] mentally incapacitated or
1173 physically helpless, or such person's being impaired because of mental
1174 disability or disease, it shall be an affirmative defense that the actor, at
1175 the time such actor engaged in the conduct constituting the offense,
1176 did not know of such condition of the victim.

1177 (b) In any prosecution for an offense under this part, except an
1178 offense under section 53a-70, 53a-70a, 53a-70b, 53a-71, as amended by
1179 this act, 53a-72a or 53a-72b, it shall be an affirmative defense that the
1180 defendant and the alleged victim were, at the time of the alleged
1181 offense, living together by mutual consent in a relationship of
1182 cohabitation, regardless of the legal status of their relationship.

1183 Sec. 21. Section 54-130a of the general statutes is repealed and the
1184 following is substituted in lieu thereof (*Effective October 1, 2012*):

1185 (a) Jurisdiction over the granting of, and the authority to grant,
1186 commutations of punishment or releases, conditioned or absolute, in

1187 the case of any person convicted of any offense against the state and
1188 commutations from the penalty of death shall be vested in the Board of
1189 Pardons and Paroles.

1190 (b) The board shall have authority to grant pardons, conditioned [,
1191 provisional] or absolute, or certificates of relief from barriers for any
1192 offense against the state at any time after the imposition and before or
1193 after the service of any sentence.

1194 (c) The board may accept an application for a pardon three years
1195 after an applicant's conviction of a misdemeanor or violation and five
1196 years after an applicant's conviction of a felony, except that the board,
1197 upon a finding of extraordinary circumstances, may accept an
1198 application for a pardon prior to such dates.

1199 (d) Whenever the board grants an absolute pardon to any person,
1200 the board shall cause notification of such pardon to be made in writing
1201 to the clerk of the court in which such person was convicted, or the
1202 Office of the Chief Court Administrator if such person was convicted
1203 in the Court of Common Pleas, the Circuit Court, a municipal court, or
1204 a trial justice court.

1205 (e) Whenever the board grants a [provisional pardon] certificate of
1206 relief from barriers to any person, the board shall cause notification of
1207 such [pardon] certificate to be made in writing to the clerk of the court
1208 in which such person was convicted. The granting of a [provisional
1209 pardon] certificate does not entitle such person to erasure of the record
1210 of the conviction of the offense or relieve such person from disclosing
1211 the existence of such conviction as may be required.

1212 (f) In the case of any person convicted of a violation for which a
1213 sentence to a term of imprisonment may be imposed, the board shall
1214 have authority to grant a pardon, conditioned [, provisional] or
1215 absolute, or a certificate of relief from barriers in the same manner as in
1216 the case of any person convicted of an offense against the state.

1217 Sec. 22. Section 54-130e of the general statutes is repealed and the

1218 following is substituted in lieu thereof (*Effective October 1, 2012*):

1219 (a) For the purposes of this section and sections 31-51i, as amended
1220 by this act, 46a-80, as amended by this act, and 54-130a, as amended by
1221 this act:

1222 (1) "Barrier" means a denial of employment or a license based on an
1223 eligible offender's conviction of a crime without due consideration of
1224 whether the nature of the crime bears a direct relationship to such
1225 employment or license;

1226 (2) "Direct relationship" means that the nature of criminal conduct
1227 for which a person was convicted has a direct bearing on the person's
1228 fitness or ability to perform one or more of the duties or
1229 responsibilities necessarily related to the applicable employment or
1230 license;

1231 [(2)] (3) "Eligible offender" means a person who has been convicted
1232 of a crime or crimes in this state or another jurisdiction and who is a
1233 resident of this state and is applying or petitioning for a [provisional
1234 pardon] certificate of relief from barriers or is under the jurisdiction of
1235 the Board of Pardons and Paroles;

1236 [(3)] (4) "Employment" means any remunerative work, occupation
1237 or vocation or any form of vocational training, but does not include
1238 employment with a law enforcement agency;

1239 [(4)] (5) "Forfeiture" means a disqualification or ineligibility for
1240 employment or a license by reason of law based on an eligible
1241 offender's conviction of a crime;

1242 [(5)] (6) "License" means any license, permit, certificate or
1243 registration that is required to be issued by the state or any of its
1244 agencies to pursue, practice or engage in an occupation, trade,
1245 vocation, profession or business; and

1246 [(6) "Provisional pardon"] (7) "Certificate of relief from barriers"
1247 means a form of relief from barriers or forfeitures to employment or

1248 the issuance of licenses granted to an eligible offender by the Board of
1249 Pardons and Paroles or the Superior Court pursuant to [subsections (b)
1250 to (i), inclusive, of] this section.

1251 (b) The Board of Pardons and Paroles, or the Superior Court
1252 pursuant to subsection (j) of this section, may issue a [provisional
1253 pardon] certificate of relief from barriers to relieve an eligible offender
1254 of barriers or forfeitures by reason of such person's conviction of the
1255 crime or crimes specified in such [provisional pardon] certificate. Such
1256 [provisional pardon] certificate may be limited to one or more
1257 enumerated barriers or forfeitures or may relieve the eligible offender
1258 of all barriers and forfeitures. Such certificate shall be labeled by the
1259 issuing board or court as a "Certificate of Employability" or a
1260 "Certificate of Suitability of Licensure", or both, as deemed appropriate
1261 by the issuing board or court. No [provisional pardon] certificate shall
1262 apply or be construed to apply to the right of such person to retain or
1263 be eligible for public office.

1264 (c) The Board of Pardons and Paroles may, in its discretion, issue a
1265 [provisional pardon] certificate of relief from barriers to an eligible
1266 offender upon verified application of such [person] eligible offender.
1267 The board may issue a [provisional pardon] certificate at any time after
1268 the sentencing of an eligible offender, including, but not limited to, any
1269 time prior to the eligible offender's date of release from the custody of
1270 the Commissioner of Correction, probation or parole. Such certificate
1271 may be issued by a pardon panel of the board or a parole release panel
1272 of the board.

1273 (d) The board shall not issue a [provisional pardon] certificate
1274 unless the board is satisfied that:

1275 (1) The person to whom the [provisional pardon] certificate is to be
1276 issued is an eligible offender;

1277 (2) The relief to be granted by the [provisional pardon] certificate
1278 may promote the public policy of rehabilitation of ex-offenders
1279 through employment; and

1280 (3) The relief to be granted by the [provisional pardon] certificate is
1281 consistent with the public interest in public safety, the safety of any
1282 victim of the offense and the protection of property.

1283 (e) In accordance with the provisions of subsection (d) of this
1284 section, the board may limit the applicability of the [provisional
1285 pardon] certificate to specified types of employment or [licenses]
1286 licensure for which the eligible offender is otherwise qualified.

1287 (f) The board may, for the purpose of determining whether such
1288 [provisional pardon] certificate should be issued, request its staff to
1289 conduct an investigation of the applicant and submit to the board a
1290 report of the investigation. Any written report submitted to the board
1291 pursuant to this subsection shall be confidential and shall not be
1292 disclosed except to the applicant and where required or permitted by
1293 any provision of the general statutes or upon specific authorization of
1294 the board.

1295 (g) If a [provisional pardon] certificate is issued by the board [while
1296 an eligible offender is on probation or parole, the provisional pardon]
1297 or the Superior Court pursuant to this section before an eligible
1298 offender has completed service of the offender's term of incarceration,
1299 probation or parole, or any combination thereof, the certificate shall be
1300 deemed to be temporary until the [person] eligible offender completes
1301 such [person's period of] eligible offender's term of incarceration,
1302 probation or parole. During the period that such [provisional pardon]
1303 certificate is temporary, the board or the court that issued the
1304 certificate may revoke such [provisional pardon] certificate for a
1305 violation of the conditions of such person's probation or parole. After
1306 the eligible offender completes such offender's term of incarceration,
1307 probation or parole, the temporary certificate shall become permanent.

1308 (h) The board may at any time issue a new [provisional pardon]
1309 certificate to enlarge the relief previously granted, and the provisions
1310 of subsections (b) to (f), inclusive, of this section shall apply to the
1311 issuance of any new [provisional pardon] certificate.

1312 (i) The application for a [provisional pardon] certificate, the report
1313 of an investigation conducted pursuant to subsection (f) of this section,
1314 the [provisional pardon] certificate and the revocation of a [provisional
1315 pardon] certificate shall be in such form and contain such information
1316 as the Board of Pardons and Paroles shall prescribe.

1317 (j) Upon receiving a petition from an eligible offender and a
1318 recommendation from the Court Support Services Division of the
1319 Judicial Department, the Superior Court may, in its discretion, issue a
1320 certificate of relief from barriers, in accordance with subsections (b)
1321 and (g) of this section, to an eligible offender who is serving a period of
1322 probation for a conviction that was entered in such court if the court
1323 (1) imposed a sentence that did not require incarceration immediately
1324 after sentencing, or (2) imposed a sentence of incarceration of less than
1325 two years. The court may issue the certificate at any time during such
1326 eligible offender's period of probation.

1327 (k) A certificate shall not be issued by the court unless the court
1328 finds that:

1329 (1) The relief to be granted by the certificate may promote the public
1330 policy of rehabilitation of ex-offenders through employment; and

1331 (2) The relief to be granted by the certificate is consistent with the
1332 public interest in public safety, the safety of any victim of the offense
1333 and the protection of property.

1334 (l) The court may, for the purpose of determining whether such
1335 certificate should be issued, request the Court Support Services
1336 Division of the Judicial Department to conduct an investigation of the
1337 applicant and submit to the court a report of the investigation. In
1338 conducting any such investigation, the division shall seek input from
1339 any victim of the offense. Any written report submitted to the court
1340 pursuant to this subsection shall be confidential and shall not be
1341 disclosed except to the applicant and where required or permitted by
1342 any provision of the general statutes or upon specific authorization of
1343 the court.

1344 (m) Upon petition by an eligible offender, any court that has issued
1345 a certificate of relief from barriers may at any time enlarge the relief
1346 previously granted, and the provisions of subsections (j) to (l),
1347 inclusive, of this section shall apply to the issuance of any such new
1348 certificate.

1349 (n) If the court issues a certificate under this section, the court shall
1350 immediately file a copy of the certificate with the Board of Pardons
1351 and Paroles.

1352 (o) If a temporary certificate issued under this section is revoked,
1353 barriers and forfeitures thereby relieved shall be reinstated as of the
1354 date the person to whom the certificate was issued receives written
1355 notice of the revocation. Any such person shall surrender the certificate
1356 to the issuing board or court upon receipt of the notice.

1357 (p) Not later than October 1, 2013, the board and any court that
1358 received an application or petition for a certificate or that issued a
1359 certificate during the prior year shall submit to the Office of Policy and
1360 Management, in such form as the office may prescribe, data on the
1361 number of applications or petitions received, the number of
1362 applications or petitions denied, and the number of applications or
1363 petitions granted. The board and any such court shall submit such
1364 report every six months thereafter. Not later than January 1, 2014, the
1365 Connecticut Sentencing Commission shall post such data on its
1366 Internet web site and shall update such data every six months
1367 thereafter.

1368 (q) The Connecticut Sentencing Commission, or its designee, shall
1369 evaluate the effectiveness of such certificates at promoting the public
1370 policy of rehabilitating ex-offenders consistent with the public interest
1371 in public safety, the safety of crime victims and the protection of
1372 property. Such evaluation shall continue for a period of three years
1373 from October 1, 2012. The commission shall report to the joint standing
1374 committee of the General Assembly having cognizance of matters
1375 relating to the judiciary not later than January 15, 2014, January 15,

1376 2015, and January 15, 2016, on the effectiveness of such certificates at
1377 promoting such public policy and public interest. Such report shall
1378 include recommendations, if any, for amendments to the general
1379 statutes governing such certificates in order to promote such public
1380 policy and public interest.

1381 Sec. 23. Subsections (d) and (e) of section 31-51i of the general
1382 statutes are repealed and the following is substituted in lieu thereof
1383 (*Effective October 1, 2012*):

1384 (d) No employer or an employer's agent, representative or designee
1385 shall deny employment to a prospective employee solely on the basis
1386 that the prospective employee had a prior arrest, criminal charge or
1387 conviction, the records of which have been erased pursuant to section
1388 46b-146, 54-76o or 54-142a or that the prospective employee had a prior
1389 conviction for which the prospective employee has received a
1390 [provisional pardon] certificate of relief from barriers pursuant to
1391 section 54-130a, as amended by this act.

1392 (e) No employer or an employer's agent, representative or designee
1393 shall discharge, or cause to be discharged, or in any manner
1394 discriminate against, any employee solely on the basis that the
1395 employee had, prior to being employed by such employer, an arrest,
1396 criminal charge or conviction, the records of which have been erased
1397 pursuant to section 46b-146, 54-76o or 54-142a or that the employee
1398 had, prior to being employed by such employer, a prior conviction for
1399 which the employee has received a [provisional pardon] certificate of
1400 relief from barriers pursuant to section 54-130a, as amended by this
1401 act.

1402 Sec. 24. Subsection (c) of section 46a-80 of the general statutes is
1403 repealed and the following is substituted in lieu thereof (*Effective*
1404 *October 1, 2012*):

1405 (c) A person may be denied employment by the state or any of its
1406 agencies, or a person may be denied a license, permit, certificate or
1407 registration to pursue, practice or engage in an occupation, trade,

1408 vocation, profession or business by reason of the prior conviction of a
1409 crime if after considering (1) the nature of the crime and its
1410 relationship to the job for which the person has applied; (2)
1411 information pertaining to the degree of rehabilitation of the convicted
1412 person; and (3) the time elapsed since the conviction or release, the
1413 state [.] or any of its agencies determines that the applicant is not
1414 suitable for the position of employment sought or the specific
1415 occupation, trade, vocation, profession or business for which the
1416 license, permit, certificate or registration is sought. An applicant may
1417 not be denied employment or a license, permit, certificate or
1418 registration pursuant to this subsection by reason of the applicant's
1419 prior conviction of a crime unless there is a direct relationship between
1420 the conviction and the specific employment, license, permit, certificate
1421 or registration sought by the applicant. In making a determination
1422 under this subsection, the state or any of its agencies shall give
1423 consideration to a certificate of relief from barriers issued under
1424 section 54-130e, as amended by this act, and such certificate of relief
1425 from barriers shall be deemed to demonstrate presumed eligibility that
1426 such applicant is suitable for the employment, license, permit,
1427 certificate or registration specified in the certificate of relief from
1428 barriers.

1429 Sec. 25. Subdivision (2) of subsection (b) of section 19a-491c of the
1430 2012 supplement to the general statutes is repealed and the following
1431 is substituted in lieu thereof (*Effective October 1, 2012*):

1432 (2) The Department of Public Health shall develop a plan to
1433 implement the criminal history and patient abuse background search
1434 program, in accordance with this section. In developing such plan, the
1435 department shall (A) consult with the Commissioners of Emergency
1436 Services and Public Protection, Developmental Services, Mental Health
1437 and Addiction Services, Social Services and Consumer Protection, or
1438 their designees, the State Long-Term Care Ombudsman, or a designee,
1439 the chairperson for the Board of Pardons and Paroles, or a designee, a
1440 representative of each category of long-term care facility and
1441 representatives from any other agency or organization the

1442 Commissioner of Public Health deems appropriate, (B) evaluate factors
 1443 including, but not limited to, the administrative and fiscal impact of
 1444 components of the program on state agencies and long-term care
 1445 facilities, background check procedures currently used by long-term
 1446 care facilities, federal requirements pursuant to Section 6201 of the
 1447 Patient Protection and Affordable Care Act, P.L. 111-148, as amended
 1448 from time to time, and the effect of full and provisional pardons, and
 1449 certificates of relief from barriers issued under section 54-130e, as
 1450 amended by this act, on employment, and (C) outline (i) an integrated
 1451 process with the Department of Public Safety to cross-check and
 1452 periodically update criminal information collected in criminal
 1453 databases, (ii) a process by which individuals with disqualifying
 1454 offenses can apply for a waiver, and (iii) the structure of an Internet-
 1455 based portal to streamline the criminal history and patient abuse
 1456 background search program. The Department of Public Health shall
 1457 submit such plan, including a recommendation as to whether
 1458 homemaker-companion agencies should be included in the scope of
 1459 the background search program, to the joint standing committees of
 1460 the General Assembly having cognizance of matters relating to aging,
 1461 appropriations and the budgets of state agencies, and public health, in
 1462 accordance with the provisions of section 11-4a, not later than
 1463 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
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)