



# Senate

General Assembly

**File No. 54**

January Session, 2013

Substitute Senate Bill No. 833

*Senate, March 18, 2013*

The Committee on Children reported through SEN. BARTOLOMEO of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT ADDRESSING THE MEDICAL NEEDS OF CHILDREN.***

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

1 Section 1. Subsection (b) of section 46b-129 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2013*):

4 (b) If it appears from the specific allegations of the petition and  
5 other verified affirmations of fact accompanying the petition and  
6 application, or subsequent thereto, that there is reasonable cause to  
7 believe that (1) the child or youth is suffering from serious physical  
8 illness or serious physical injury or is in immediate physical danger  
9 from the child's or youth's surroundings, and (2) [that] as a result of  
10 said conditions, the child's or youth's safety is endangered and  
11 immediate removal from such surroundings is necessary to ensure the  
12 child's or youth's safety, the court shall either (A) issue an order to the  
13 parents or other person having responsibility for the care of the child  
14 or youth to appear at such time as the court may designate to

15 determine whether the court should vest the child's or youth's  
16 temporary care and custody in a person related to the child or youth  
17 by blood or marriage or in some other person or suitable agency  
18 pending disposition of the petition, or (B) issue an order ex parte  
19 vesting the child's or youth's temporary care and custody in a person  
20 related to the child or youth by blood or marriage or in some other  
21 person or suitable agency. A preliminary hearing on any ex parte  
22 custody order or order to appear issued by the court shall be held not  
23 later than ten days after the issuance of such order. The service of such  
24 orders may be made by any officer authorized by law to serve process,  
25 or by any probation officer appointed in accordance with section 46b-  
26 123, investigator from the Department of Administrative Services, state  
27 or local police officer or indifferent person. Such orders shall include a  
28 conspicuous notice to the respondent written in clear and simple  
29 language containing at least the following information: (i) That the  
30 order contains allegations that conditions in the home have  
31 endangered the safety and welfare of the child or youth; (ii) that a  
32 hearing will be held on the date on the form; (iii) that the hearing is the  
33 opportunity to present the parents' position concerning the alleged  
34 facts; (iv) that an attorney will be appointed for parents who cannot  
35 afford an attorney; (v) that such parents may apply for a court-  
36 appointed attorney by going in person to the court address on the form  
37 and are advised to go as soon as possible in order for the attorney to  
38 prepare for the hearing; (vi) that such parents, or a person having  
39 responsibility for the care and custody of the child or youth, may  
40 request the Commissioner of Children and Families to investigate  
41 placing the child or youth with a person related to the child or youth  
42 by blood or marriage who might serve as a licensed foster parent or  
43 temporary custodian for such child or youth. The commissioner, where  
44 practicable, shall investigate such relative or relatives prior to the  
45 preliminary hearing and provide a report to the court at such hearing  
46 as to such relative's suitability; and (vii) that if such parents have any  
47 questions concerning the case or appointment of counsel, any such  
48 parent is advised to go to the court or call the clerk's office at the court  
49 as soon as possible. Upon application for appointed counsel, the court

50 shall promptly determine eligibility and, if the respondent is eligible,  
 51 promptly appoint counsel. The expense for any temporary care and  
 52 custody shall be paid by the town in which such child or youth is at  
 53 the time residing, and such town shall be reimbursed for such expense  
 54 by the town found liable for the child's or youth's support, except that  
 55 where a state agency has filed a petition pursuant to the provisions of  
 56 subsection (a) of this section, the agency shall pay such expense. The  
 57 agency shall give primary consideration to placing the child or youth  
 58 in the town where such child or youth resides. The agency shall file in  
 59 writing with the clerk of the court the reasons for placing the child or  
 60 youth in a particular placement outside the town where the child or  
 61 youth resides. Upon issuance of an ex parte order, the court shall  
 62 provide to the commissioner and the parent or guardian specific steps  
 63 necessary for each to take to address the ex parte order for the parent  
 64 or guardian to retain or regain custody of the child or youth. Upon the  
 65 issuance of such order, or not later than sixty days after the issuance of  
 66 such order, the court shall make a determination whether the  
 67 Department of Children and Families made reasonable efforts to keep  
 68 the child or youth with his or her parents or guardian prior to the  
 69 issuance of such order and, if such efforts were not made, whether  
 70 such reasonable efforts were not possible, taking into consideration the  
 71 child's or youth's best interests, including the child's or youth's health  
 72 and safety. Any person or agency in which the temporary care and  
 73 custody of a child or youth is vested under this section shall have the  
 74 following rights and duties regarding the child or youth: (I) The  
 75 obligation of care and control; (II) the authority to make decisions  
 76 regarding emergency medical, psychological, psychiatric or surgical  
 77 treatment; and (III) such other rights and duties that the court having  
 78 jurisdiction may order.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	46b-129(b)

**KID***Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

There is no fiscal impact to the Department of Children and Families (DCF) associated with extending to DCF (and certain others) rights related to children and youth for whom DCF has been granted temporary care and custody. These rights, including the authority to make emergency medical decisions, do not affect DCF's caseload as its staff is already providing support for these individuals.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sSB 833*****AN ACT ADDRESSING THE MEDICAL NEEDS OF CHILDREN.*****SUMMARY:**

In child abuse and neglect cases, this bill extends to the Department of Children and Families (DCF) or any agency or person to whom DCF has granted temporary care and custody of a child or youth on the basis of a court order of temporary custody (OTC), the following rights regarding that child or youth:

1. the obligation of care and control;
2. the authority to make decisions regarding emergency medical, psychological, psychiatric, or surgical treatment; and
3. other rights and duties that the court orders.

By law, DCF must file an affidavit with the Superior Court requesting an OTC when it has reasonable cause to believe that the child (1) is in immediate physical danger or is suffering from serious physical illness or injury and (2) the conditions or circumstances surrounding the child's care require that custody be assumed immediately to protect the child.

Current law is silent on these rights and duties, although DCF policy grants the agency some of them.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND*****OTCs, 96-Hour Holds, and The Right to Make Certain Decisions***

By law, if (1) the DCF commissioner or her designee has probable cause to believe that a child or youth is at imminent risk of physical harm from the child's surroundings and (2) immediate removal of the

child is needed to ensure the child’s safety, the commissioner must authorize her staff or local law enforcement to remove the child or any other child similarly situated from the child’s surroundings, without the parent’s or guardian’s consent. The removal or “hold” period may not exceed 96 hours. The law requires DCF, during the 96-hour hold, to provide the child with all necessary care, including medical care, without the parent or other responsible party’s consent, provided reasonable attempts have been made to receive consent (CGS § 17a-101g).

Typically, the court issues an ex-parte order immediately without notice to, or opportunity to contest by, any person affected adversely by the order, granting DCF temporary custody of the child. DCF will try to place the child with a relative when this occurs. Such an order does not transfer legal guardianship of the child or affect parental rights except as to the child’s custody.

DCF policy authorizes the department to arrange for necessary medical and dental care of children once the court has issued an OTC, regardless of whether the parent or guardian has consented to it. But it requires DCF to make every effort to secure such consent before treatment is rendered (DCF Policy Manual, § 46-3-19).

**COMMITTEE ACTION**

Children Committee

Joint Favorable Substitute

Yea 12 Nay 0 (02/28/2013)