

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-228—sSB 833

Children Committee

Human Services Committee

AN ACT ADDRESSING THE MEDICAL NEEDS OF CHILDREN

SUMMARY: In child abuse and neglect cases, this act 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 requesting an OTC with the Superior Court 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 DCF assume immediate custody to protect the child.

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

The act also makes technical changes.

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.

OLR PUBLIC ACT SUMMARY

DCF policy authorizes the department to arrange for necessary medical and dental care for 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).

OLR Tracking: RC:JKL:PF:RO