



General Assembly

February Session, 2014

Raised Bill No. 494

LCO No. 3068



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

**AN ACT CONCERNING GUARDIANS AD LITEM AND ATTORNEYS
FOR MINOR CHILDREN IN FAMILY RELATIONS MATTERS.**

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

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) Except as provided in
2 subsection (b) of this section, prior to appointing counsel or a guardian
3 ad litem for any minor child in a family relations matter, as defined in
4 section 46b-1 of the general statutes, the court shall provide the parties
5 to the matter with written notification of five persons who the court
6 has determined eligible to serve as counsel or a guardian ad litem for
7 any child in such matter. Not later than two weeks after the date on
8 which the court provides such written notification to the parties, the
9 parties shall provide written notification to the court of the name of the
10 person who the parties have selected to serve as counsel or a guardian
11 ad litem for their matter. In the event that the parties (1) fail to timely
12 provide the court with the name of the person to serve as counsel or a
13 guardian ad litem for their matter, or (2) cannot agree on the name of
14 the person who shall serve as counsel or a guardian ad litem for their
15 matter, the court shall appoint counsel or a guardian ad litem for the
16 minor child by selecting one person from the five names provided to

17 the parties.

18 (b) The provisions of subsection (a) of this section shall not apply
19 when the parties have requested that counsel or a guardian ad litem be
20 appointed and present to the court a written agreement that contains
21 the name of the person who the parties have selected to serve as
22 counsel or a guardian ad litem for the minor child for their matter.

23 (c) Not later than twenty-one days following the date on which the
24 court enters an initial order appointing counsel or a guardian ad litem
25 for any minor child pursuant to this section, the court shall enter a
26 subsequent order that includes the following information: (1) The
27 specific nature of the work that is to be undertaken by such counsel or
28 guardian ad litem; (2) the date on which the appointment of such
29 counsel or guardian ad litem is to end, provided such end date may be
30 extended for good cause shown pursuant to an order of the court; (3)
31 the deadline for such counsel or guardian ad litem to report back to the
32 court concerning the work undertaken; (4) the fee schedule of such
33 counsel or guardian ad litem which shall minimally set forth (A) the
34 amount of the retainer, (B) the hourly rate to be charged, and (C) the
35 apportionment of the retainer and hourly fees between the parties; and
36 (5) a proposed schedule of periodic court review of the work
37 undertaken by such counsel or guardian ad litem and the fees charged
38 by such counsel or guardian ad litem. Periodic court review shall be
39 undertaken not less than every six months following the date of the
40 appointment of such counsel or guardian ad litem, unless such
41 periodic court review is waived by the parties and any such counsel or
42 guardian ad litem pursuant to a written agreement filed with the court.

43 Sec. 2. Section 46b-54 of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective October 1, 2014*):

45 (a) The court may appoint counsel for any minor child or children of
46 either or both parties at any time after the return day of a complaint
47 under section 46b-45, if the court deems it to be in the best interests of

48 the child or children. The court may appoint counsel on its own
49 motion, or at the request of either of the parties or of the legal guardian
50 of any child or at the request of any child who is of sufficient age and
51 capable of making an intelligent request.

52 (b) Counsel for the minor child or children may also be appointed
53 on the motion of the court or on the request of any person enumerated
54 in subsection (a) of this section in any case before the court when the
55 court finds that the custody, care, education, visitation or support of a
56 minor child is in actual controversy, provided the court may make any
57 order regarding a matter in controversy prior to the appointment of
58 counsel where it finds immediate action necessary in the best interests
59 of any child.

60 (c) If the court deems the appointment of counsel for any minor
61 child or children to be in the best interests of the child or children, such
62 appointment shall be made in accordance with the provisions of
63 section 1 of this act.

64 ~~[(c)]~~ (d) Counsel for the minor child or children shall be heard on all
65 matters pertaining to the interests of any child, including the custody,
66 care, support, education and visitation of the child, so long as the court
67 deems such representation to be in the best interests of the child.

68 Sec. 3. Section 46b-57 of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2014*):

70 In any controversy before the Superior Court as to the custody of
71 minor children, and on any complaint under this chapter or section
72 46b-1 or 51-348a, if there is any minor child of either or both parties,
73 the court, if it has jurisdiction under the provisions of chapter 815p,
74 may allow any interested third party or parties to intervene upon
75 motion. The court may award full or partial custody, care, education
76 and visitation rights of such child to any such third party upon such
77 conditions and limitations as it deems equitable. Before allowing any
78 such intervention, the court may appoint counsel for the child or

79 children pursuant to the provisions of section 46b-54, as amended by
80 this act, and section 1 of this act. In making any order under this
81 section, the court shall be guided by the best interests of the child,
82 giving consideration to the wishes of the child if the child is of
83 sufficient age and capable of forming an intelligent preference.

84 Sec. 4. (NEW) (*Effective October 1, 2014*) Any party to an action
85 involving the custody, care, support, education and visitation of a
86 child shall have standing to file a motion that seeks removal of counsel
87 for the minor child or a guardian ad litem for the minor child. The
88 Judicial Branch shall establish a procedure to effectuate the hearing of
89 a motion seeking removal of such counsel or guardian ad litem. Prior
90 to hearing such motion, the court may refer the parties to mediation
91 with a family services officer employed by the Judicial Branch. If the
92 allegations set forth in the motion cannot be resolved through
93 mediation, a hearing shall be held on the motion and a decision on the
94 motion shall be made by the court. The presiding judge shall
95 determine the judge who is assigned to hear such motion.

96 Sec. 5. Section 46b-62 of the general statutes is repealed and the
97 following is substituted in lieu thereof (*Effective October 1, 2014*):

98 (a) In any proceeding seeking relief under the provisions of this
99 chapter and sections 17b-743, 17b-744, 45a-257, 46b-1, 46b-6, 46b-212 to
100 46b-213w, inclusive, 47-14g, 51-348a and 52-362, the court may order
101 either spouse or, if such proceeding concerns the custody, care,
102 education, visitation or support of a minor child, either parent to pay
103 the reasonable attorney's fees of the other in accordance with their
104 respective financial abilities and the criteria set forth in section 46b-82.
105 If, in any proceeding under this chapter and said sections, the court
106 appoints [an attorney] counsel or a guardian ad litem for a minor child,
107 the court may order the father, mother or an intervening party,
108 individually or in any combination, to pay the reasonable fees of [the
109 attorney] counsel or the guardian ad litem or may order the payment
110 of [the attorney's] counsel's or the guardian ad litem's fees in whole or

111 in part from the estate of the child. If the child is receiving or has
112 received state aid or care, the compensation of [the attorney] counsel
113 or the guardian ad litem for the minor child shall be established and
114 paid by the Public Defender Services Commission.

115 (b) If, in any proceeding under this chapter and sections 17b-743,
116 17b-744, 45a-257, 46b-1, 46b-6, 46b-212 to 46b-213w, inclusive, 47-14g,
117 51-348a and 52-362, the court appoints counsel or a guardian ad litem
118 for a minor child, the court may not order the father, mother or an
119 intervening party, individually or in any combination, to pay the
120 reasonable fees of counsel or the guardian ad litem for a minor child
121 from a college savings account, including any account established
122 pursuant to any qualified tuition program, as defined in Section 529(b)
123 of the Internal Revenue Code, that has been established for the benefit
124 of the minor child.

125 (c) In any proceeding under this chapter and sections 17b-743, 17b-
126 744, 45a-257, 46b-1, 46b-6, 46b-212 to 46b-213w, inclusive, 47-14g, 51-
127 348a and 52-362, in which the court appoints counsel or a guardian ad
128 litem for a minor child, the court may order that the fees owing to such
129 counsel or guardian ad litem be calculated on a sliding-scale basis after
130 giving due consideration to the income and assets of the parties to the
131 proceeding.

132 (d) The Judicial Branch shall develop and implement a methodology
133 for calculating, on a sliding-scale basis, the fees owing to counsel or a
134 guardian ad litem for a minor child appointed in any proceeding
135 under this chapter and sections 17b-743, 17b-744, 45a-257, 46b-1, 46b-6,
136 46b-212 to 46b-213w, inclusive, 47-14g, 51-348a and 52-362.

137 Sec. 6. (NEW) *(Effective July 1, 2014)* The Judicial Branch shall
138 develop a publication that informs parties to a family relations matter,
139 as defined in section 46b-1 of the general statutes, about the roles and
140 responsibilities of counsel for the minor child and the guardian ad
141 litem when such persons are appointed by the court to serve in a

142 family relations matter. Such publication shall be available to the
143 public in hard copy and be accessible electronically on the Internet web
144 site of the Judicial Branch.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	46b-54
Sec. 3	<i>October 1, 2014</i>	46b-57
Sec. 4	<i>October 1, 2014</i>	New section
Sec. 5	<i>October 1, 2014</i>	46b-62
Sec. 6	<i>July 1, 2014</i>	New section

Statement of Purpose:

To: (1) Provide greater clarity to court orders involving the appointment of counsel or a guardian ad litem for a minor child; (2) provide parties to a family relations matter with standing to remove counsel or the guardian ad litem for a minor child appointed in such matter; (3) enact new provisions concerning the payment of fees to counsel and the guardian ad litem for a minor child; and (4) require the Judicial Branch to develop a publication that informs parties to a family relations matter about the roles and responsibilities of counsel for the minor child and the guardian ad litem.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]