



House of Representatives

General Assembly

File No. 126

January Session, 2015

House Bill No. 6896

House of Representatives, March 19, 2015

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE TRANSFER OF YOUTHS FROM THE COURT OF PROBATE TO THE SUPERIOR COURT.

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

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) When a contested
2 application (1) for the removal of one or both parents as guardians or
3 of any other guardian of the person of a child or youth, (2) for the
4 termination of parental rights, or (3) to commit a child or youth to a
5 hospital for the mentally ill, has been transferred from the Court of
6 Probate to the Superior Court, the clerk of the Superior Court shall
7 provide to the clerk of the Court of Probate from which such transfer
8 was made (A) a copy of any orders or decrees thereafter rendered,
9 including orders regarding reinstatement of a parent or guardian
10 pursuant to section 45a-611 of the general statutes and the right of
11 visitation pursuant to section 45a-612 of the general statutes, and (B) a
12 copy of any appeal of a Superior Court decision in the matter.

13 (b) The date of receipt by the Superior Court of a contested
14 application transferred from the Court of Probate pursuant to

15 subsection (a) of this section shall be the filing date for determining
16 initial hearing dates in the Superior Court. The date of receipt by the
17 Superior Court of any Court of Probate issued ex parte order of
18 temporary custody not heard by the Court of Probate shall be the
19 issuance date in the Superior Court.

20 (c) Any appearance filed for any party in the Court of Probate shall
21 continue in the Superior Court until (1) a motion to withdraw is filed
22 by counsel and granted by the Court of Probate or the Superior Court,
23 or (2) another counsel files an "in lieu of" appearance on behalf of the
24 party. If the party represented is indigent or is the child subject to the
25 proceedings, new counsel shall be assigned from the list of Public
26 Defender Services assigned counsel and shall be paid by the Public
27 Defender Services Commission. The juvenile matters court may
28 request that the Division of Public Defender Services contract with
29 probate counsel for representation if continued representation would
30 be in the best interest of the client. Counsel for indigent parties or
31 minor children appointed by Court of Probate administration who
32 remain on the case in Superior Court shall be paid by the Public
33 Defender Services Commission according to its policies at the rate of
34 pay established by the commission.

35 (d) (1) The clerk of the Superior Court shall notify appearing parties
36 in applications for removal of guardian by mail of the date of the initial
37 hearing that shall be held not more than thirty days from the date of
38 receipt of the transferred application. Not less than ten days prior to
39 the initial hearing, the clerk of the Superior Court shall cause a copy of
40 the transfer order and probate petition for removal of guardian and an
41 advisement of rights notice to be served on any nonappearing party or
42 any party not served within the last twelve months with an
43 accompanying order of notice and summons to appear at an initial
44 hearing.

45 (2) The clerk of the Superior Court shall notify appearing parties in
46 applications for termination of parental rights by mail of the date of
47 the initial hearing that shall be held not more than thirty days from the

48 date of receipt of the transferred application. Not less than ten days
 49 prior to the date of the initial hearing, the clerk of the Superior Court
 50 shall cause a copy of the transfer order and probate petition for
 51 termination of parental rights and an advisement of rights notice to be
 52 served on all parties, regardless of prior service, with an
 53 accompanying order of notice and summons to appear at an initial
 54 hearing.

55 (3) The clerk of the Superior Court shall notify appearing parties in
 56 applications to commit a child or youth to a hospital for the mentally
 57 ill by mail of the date of the initial hearing that shall be held not more
 58 than thirty days from the date of receipt of the transferred application.
 59 Not less than ten days prior to the date of the initial hearing, the clerk
 60 of the Superior Court shall cause a copy of the transfer order and
 61 probate petition to commit a child or youth to a hospital for the
 62 mentally ill and an advisement of rights notice to be served on all
 63 parties, regardless of prior service, with an accompanying order of
 64 notice and summons to appear at an initial hearing.

65 (e) The clerk of the Superior Court shall mail notice of the initial
 66 hearing date for all transferred petitions to all counsel of record and to
 67 the Commissioner of Children and Families or to any other agency that
 68 has been ordered by the Court of Probate to conduct an investigation
 69 pursuant to section 45a-619 of the general statutes. The commissioner
 70 or any other investigating agency shall be notified of the need to have
 71 a representative present at the initial hearing.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section

KID *Joint Favorable*

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.

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

The bill conforms statute with current practice regarding the transferring of cases from Probate Court to Superior Court and does not result in a fiscal impact.

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

OLR Bill Analysis**HB 6896*****AN ACT CONCERNING THE TRANSFER OF YOUTHS FROM THE COURT OF PROBATE TO THE SUPERIOR COURT.*****SUMMARY:**

This bill codifies court rules for the appointment of counsel when certain cases involving children or youths are transferred from probate to Superior Court. It affects cases involving the (1) removal of one or both parents as guardians of a child or youth, (2) termination of parental rights, and (3) commitment of a child or youth to a hospital for the mentally ill. The bill extends these requirements to cases involving removal of a non-parent as guardian. It also codifies procedural court rules and extends certain rules to all of these cases.

Generally, the probate court can transfer certain cases to the Superior Court on the motion of a party or interested person or on its own motion.

EFFECTIVE DATE: October 1, 2015

APPOINTMENT OF COUNSEL

As under court rules, the bill requires attorneys to continue representing their clients in the matters described above when a case is transferred from Probate Court to Superior Court until (1) either court grants the attorney's motion to withdraw or (2) another attorney files an "in lieu of" (in place of) appearance on behalf of the client.

The Superior Court must assign an attorney from the Public Defender Services' list of assigned counsel for a (1) party who cannot afford counsel or (2) child subject to the court proceedings. The bill requires the Public Defender Services Commission to pay the attorney.

As under the rules, the bill requires the Public Defender Services Commission to pay probate court-appointed attorneys who continue their representation in Superior Court according to the commission's policies and pay schedule. The bill adds a provision allowing the Superior Court to request that the Division of Public Defender Services contract with probate counsel for these purposes.

OTHER PROCEDURAL MATTERS

Court Records and Filing Dates

The bill codifies the following court rules for cases involving removal of a parent as guardian, termination of parental rights, and commitment to a hospital for the mentally ill, and extends them to cases involving a non-parent as guardian:

1. the Superior Court clerk must give the clerk of the transferring Probate Court a copy of any orders or decrees rendered in Superior Court, including orders on visitation rights or reinstatement of a parent or guardian;
2. the Superior Court clerk must give the Probate Court clerk a copy of any appeal from a Superior Court decision;
3. the filing date for determining initial hearing dates in Superior Court is the date that the Superior Court receives from the probate court a contested application; and
4. The issuance date in Superior Court is the date that Superior Court receives an ex parte order of temporary custody that the probate court did not hear.

It requires, as do the court rules, the Superior Court clerk to notify appearing parties by mail that the initial hearing must occur no later than 30 days from the date of the transferred application, and extends the notice requirement to cases involving commitment to a hospital for the mentally ill and removal of a non-parent guardian.

Removal of Guardian. In the case of removal of guardianship, as

under court rules, the Superior Court clerk, at least 10 days before the initial hearing, must have a copy of the transfer order, probate petition, and an advisement of rights notice served on any party who has not entered an appearance in court or any party not served within the previous 12 months, with an accompanying order of notice and summons to appear at the initial hearing.

The bill extends these requirements to cases involving the removal of a non-parent as guardian.

Termination of Parental Rights In these cases, as under court rules, the Superior Court clerk, not less than 10 days before the initial hearing, must have a copy of the transfer order, probate petition, and advisement of rights notice served on all parties, regardless of prior service, with an accompanying order of notice and summons to appear at the initial hearing. The bill does not address a court rule that requires, in cases where the termination of parental rights is based on consent, an initial hearing be held no more than 20 days after the petition is filed. Presumably this court rule continues to apply.

Commitment Cases

In the case of a petition to commit a child or youth to a hospital for the mentally ill, the bill creates a new requirement that the Superior Court clerk, not less than 10 days before the initial hearing, to have a copy of the transfer order, probate petition, and advisement of rights notice served on all parties, regardless of prior service, with an accompanying order of notice and summons to appear at the initial hearing.

Notice to Counsel and Agency of Initial Hearing Date

As under court rules, the Superior Court clerk must mail notice of the initial hearing date for petitions for (1) removal of a parent as guardian, (2) termination of parental rights, and (3) commitment to a hospital for the mentally ill, to all counsel of record and the Department of Children and Families commissioner or any other agency the Probate Court has ordered to investigate a case of abuse

and neglect. The commissioner or other investigating agency must be notified of the need to have a representative at the initial hearing. The bill applies this requirement to petitions for removal of a non-parent guardian.

COMMITTEE ACTION

Committee on Children

Joint Favorable

Yea 13 Nay 0 (03/05/2015)