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COMMITTEE ON CHILDREN
MARCH 3, 2015

H.B. No. 6896 (RAISED) AN ACT CONCERNING THE TRANSFER OF YOUTHS FROM THE COURT OF PROBATE TO THE SUPERIOR COURT

The Office of Chief Public Defender strongly ***supports Raised House Bill 6896, An Act Concerning the Transfer of Youths from the Court of Probate to the Superior Court.*** This proposal codifies Section 35-19 of the Connecticut Practice Book which addresses the procedure for transferring cases from Probate Court to Superior Court for Juvenile Matters and requires that the Office of Chief Public Defender pay any probate attorney who wishes to remain on a case once it has been transferred to juvenile matters. This proposal provides that an attorney under contract with the Office of Chief Public Defender to provide representation in juvenile matters be appointed when a case is transferred to Superior Court. This will help ensure that all attorneys who represent children and families in juvenile matters child protection cases have the same level of screening and are all adequately trained to provide effective assistance of counsel.

Both the Probate Court and the Superior court for Juvenile Matters provide counsel for children and indigent parties in cases relating to guardianship. The Probate Court has a voluntary list, where attorneys sign up as willing to take appointments. Attorneys in Juvenile Matters child protection cases are managed by the Division of Public Defender Services. This is done mostly by individual lawyers and small firms who have contracts to act as Public Defender Assigned Counsel.

There is an extensive process by which a lawyer is awarded a public defender assigned counsel contract. The applicant must complete a lengthy application that

includes an inquiry into educational background and experience with juvenile and family issues. Counsel must provide three references from lawyers or judges who can vouch for their integrity and ability. The application also requires the lawyer to disclose any past disciplinary history, any criminal record and any history of substantiated neglect or abuse of a child. Once a contract for work in child protection cases is awarded, the attorney must attend 3 days of pre service training on child welfare law and policy, DCF practices and procedures, adolescent development and Connecticut court practices. They are then assigned a mentor who works with them for the first contract year. All public defender assigned counsel are required to attend continuing legal education programs and must provide yearly certification that they have completed 6 hours of relevant training.

None of the screening or training is required when a probate attorney transfers over with the file when it is moved to juvenile matters. The Practice Book section requires that the lawyer's appearance transfer with the file and requires that the Office of the Chief Public Defender pay the lawyer. These tend to be the most complicated cases, where the Department of Children and Families has seen fit to get involved with the child. The probate attorney may be fully competent to handle the matter but there is no way for the Office of Chief Public Defender to be sure. Reassigning these cases to attorneys who have completed our training and been thoroughly screened provides the best oversight and thus a better guarantee of effective representation.

Procedurally, when we are notified that a case has been transferred over from Probate Court, the Director of the Assigned Counsel Unit issues a one case contract to comply with state law and the lawyer continues on the case. This takes up a significant amount of staff time. Raised Bill 6896 would streamline this, since the assigned counsel already has a contract and a procedure for being assigned cases. Administrative costs would be controlled by eliminating single case contracts being drafted and issued.

This proposal allows the juvenile court judge to order that probate counsel continue in any matter if the best interest of the child would be served. This allows a lawyer from Probate Court with a significant relationship with a client to continue to represent them once the court found that to be appropriate. The Office of Chief Public Defender has worked with the Office of the Probate Court Administrator to make our training available to probate counsel when space allows and we hope that those with an interest in representing children will also apply for our contracts. The Office of Chief Public Defender is confident that our assigned counsel provides the best representation possible for parties in child welfare cases and we urge this committee