



General Assembly

January Session, 2015

Raised Bill No. 1007

LCO No. 4283



Referred to Committee on COMMITTEE ON CHILDREN

Introduced by:
(KID)

AN ACT CONCERNING PERMANENCY PLACEMENTS.

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

1 Section 1. Subsection (k) of section 46b-129 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2015*):

4 (k) (1) (A) Nine months after placement of the child or youth in the
5 care and custody of the commissioner pursuant to a voluntary
6 placement agreement, or removal of a child or youth pursuant to
7 section 17a-101g or an order issued by a court of competent
8 jurisdiction, whichever is earlier, the commissioner shall file a motion
9 for review of a permanency plan if the child or youth has not reached
10 his or her eighteenth birthday. Nine months after a permanency plan
11 has been approved by the court pursuant to this subsection or
12 subdivision (5) of subsection (j) of this section, the commissioner shall
13 file a motion for review of the permanency plan. Any party seeking to
14 oppose the commissioner's permanency plan, including a relative of a
15 child or youth by blood or marriage who has intervened pursuant to
16 subsection (d) of this section and is licensed as a foster parent for such

17 child or youth or is vested with such child's or youth's temporary
18 custody by order of the court, shall file a motion in opposition not later
19 than thirty days after the filing of the commissioner's motion for
20 review of the permanency plan, which motion shall include the reason
21 therefor. A permanency hearing on any motion for review of the
22 permanency plan shall be held not later than ninety days after the
23 filing of such motion. The court shall hold evidentiary hearings in
24 connection with any contested motion for review of the permanency
25 plan and credible hearsay evidence regarding any party's compliance
26 with specific steps ordered by the court shall be admissible at such
27 evidentiary hearings. The commissioner shall have the burden of
28 proving that the proposed permanency plan is in the best interests of
29 the child or youth. After the initial permanency hearing, subsequent
30 permanency hearings shall be held not less frequently than every
31 twelve months while the child or youth remains in the custody of the
32 Commissioner of Children and Families or, if the youth is over
33 eighteen years of age, while the youth remains in voluntary placement
34 with the department. The court shall provide notice to the child or
35 youth, the parent or guardian of such child or youth, and any
36 intervenor of the time and place of the court hearing on any such
37 motion not less than fourteen days prior to such hearing.

38 (B) (i) If a child is at least twelve years of age, the child's
39 permanency plan, and any revision to such plan, shall be developed in
40 consultation with the child. In developing or revising such plan, the
41 child may consult up to two individuals participating in the
42 department's case plan regarding such child, neither of whom shall be
43 the foster parent or caseworker of such child. One individual so
44 selected by such child may be designated as the child's advisor for
45 purposes of developing or revising the permanency plan.

46 (ii) If a child is at least twelve years of age, the commissioner shall
47 make a reasonable effort to schedule any administrative case review
48 regarding such child's commitment at a time and location that allows
49 the parent or guardian, foster parent and child to attend.

50 (iii) If a child is at least twelve years of age, such child shall identify
51 not more than three adults with whom such child has a significant
52 relationship and who may serve as permanency resource. The identity
53 of such adults shall be recorded in the case plan of such child.

54 (iv) The commissioner shall submit an annual report, in accordance
55 with the provisions of section 11-4a, to the joint standing committees of
56 the General Assembly having cognizance of matters relating to
57 children and judiciary, on the number of case plans in which children
58 have identified adults with whom they have a significant relationship
59 and who may serve as permanency resource.

60 (2) At a permanency hearing held in accordance with the provisions
61 of subdivision (1) of this subsection, the court shall approve a
62 permanency plan that is in the best interests of the child or youth and
63 takes into consideration the child's or youth's need for permanency.
64 The child's or youth's health and safety shall be of paramount concern
65 in formulating such plan. Such permanency plan may include the goal
66 of (A) revocation of commitment and reunification of the child or
67 youth with the parent or guardian, with or without protective
68 supervision; (B) transfer of guardianship or permanent legal
69 guardianship; (C) long-term foster care with a relative licensed as a
70 foster parent; (D) filing of termination of parental rights and adoption;
71 or (E) in the case of a youth, another planned permanent living
72 arrangement ordered by the court, provided the Commissioner of
73 Children and Families has documented a compelling reason why it
74 would not be in the best interests of the [child or] youth for the
75 permanency plan to include the goals in subparagraphs (A) to (D),
76 inclusive, of this subdivision. Such other planned permanent living
77 arrangement shall, whenever possible, include an adult who has
78 significant relationship with the youth, and who is willing to be a
79 permanency resource, and may include, but not be limited to,
80 placement of a child or youth in an independent living program or
81 long term foster care with an identified foster parent.

82 (3) If the permanency plan for the youth includes the goal of such
83 other planned permanent living arrangement pursuant to
84 subparagraph (E) of subdivision (2) of this subsection, the department
85 shall document for the court the manner and frequency of efforts made
86 by the department to return the youth home or to secure placement for
87 the youth with a fit and willing relative, legal guardian or adoptive
88 parent.

89 (4) If the permanency plan for the youth includes the goal of such
90 other planned permanent living arrangement pursuant to
91 subparagraph (E) of subdivision (2) of this subsection, the court shall
92 (A) ask the youth about his or her desired permanency outcome; (B)
93 make a judicial determination that, as of the date of hearing, such other
94 planned permanent living arrangement is the best permanency plan
95 for the youth; and (C) document the compelling reasons why it is not
96 in the best interest of the youth to return home or to be placed with a
97 fit and willing relative, legal guardian or adoptive parent.

98 ~~[(3)]~~ (5) At a permanency hearing held in accordance with the
99 provisions of subdivision (1) of this subsection, the court shall review
100 the status of the child or youth, the progress being made to implement
101 the permanency plan, determine a timetable for attaining the
102 permanency plan, determine the services to be provided to the parent
103 if the court approves a permanency plan of reunification and the
104 timetable for such services, and determine whether the commissioner
105 has made reasonable efforts to achieve the permanency plan. The court
106 may revoke commitment if a cause for commitment no longer exists
107 and it is in the best interests of the child or youth.

108 ~~[(4)]~~ (6) If the court approves the permanency plan of adoption: (A)
109 The Commissioner of Children and Families shall file a petition for
110 termination of parental rights not later than sixty days after such
111 approval if such petition has not previously been filed; (B) the
112 commissioner may conduct a thorough adoption assessment and
113 child-specific recruitment; and (C) the court may order that the child or

114 youth be photo-listed within thirty days if the court determines that
115 such photo-listing is in the best interests of the child or youth. As used
116 in this subdivision, "thorough adoption assessment" means conducting
117 and documenting face-to-face interviews with the child or youth,
118 foster care providers and other significant parties and "child specific
119 recruitment" means recruiting an adoptive placement targeted to meet
120 the individual needs of the specific child or youth, including, but not
121 limited to, use of the media, use of photo-listing services and any other
122 in-state or out-of-state resources that may be used to meet the specific
123 needs of the child or youth, unless there are extenuating circumstances
124 that indicate that such efforts are not in the best interests of the child or
125 youth.

126 Sec. 2. Section 17a-10a of the general statutes is repealed and the
127 following is substituted in lieu thereof (*Effective October 1, 2015*):

128 (a) The Commissioner of Children and Families shall ensure that a
129 child placed in the care and custody of the commissioner pursuant to
130 an order of temporary custody or an order of commitment is provided
131 visitation with such child's parents and siblings, unless otherwise
132 ordered by the court.

133 (b) The commissioner shall ensure that such child's visits with his or
134 her parents shall occur as frequently as reasonably possible, based
135 upon consideration of the best interests of the child, including the age
136 and developmental level of the child, and shall be sufficient in number
137 and duration to ensure continuation of the relationship.

138 (c) If such child has an existing relationship with a sibling and is
139 separated from such sibling as a result of intervention by the
140 commissioner including, but not limited to, placement in a foster home
141 or in the home of a relative, the commissioner shall, based upon
142 consideration of the best interests of the child, ensure that such child
143 has access to and visitation rights with such sibling throughout the
144 duration of such placement. In determining the number, frequency

145 and duration of sibling visits, the commissioner shall consider the best
146 interests of each sibling, given each child's age and developmental
147 level and the continuation of the sibling relationship. If the child and
148 his or her sibling both reside within the state and within fifty miles of
149 each other, the commissioner shall, within available appropriations,
150 ensure that such child's visits with his or her sibling occur, on average,
151 not less than once per week, unless the commissioner finds that the
152 frequency of such visitation is not in the best interests of each sibling.

153 (d) The commissioner shall include in each child's plan of treatment
154 information relating to the factors considered in making visitation
155 determinations pursuant to this section. If the commissioner
156 determines that such visits are not in the best interests of the child, that
157 the occurrence of, on average, not less than one visit per week with his
158 or her sibling is not in the best interests of each sibling, or that the
159 number, frequency or duration of the visits requested by the child's
160 attorney or guardian ad litem is not in the best interests of the child,
161 the commissioner shall include the reasons for such determination in
162 the child's plan of treatment.

163 (e) On or before October first of each year, the commissioner shall
164 report, in accordance with the provisions of section 11-4a, to the joint
165 standing committee of the General Assembly having cognizance of
166 matters relating to children, data sufficient to demonstrate compliance
167 with subsections (a), (c) and (d) of this section. Such data shall include
168 the total annual number of children in out-of-home placements who
169 have siblings, the total number of child cases with documented sibling
170 visitation and the number of individual siblings involved in each case.

171 Sec. 3. Section 45a-715 of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2015*):

173 (a) Any of the following persons may petition the Court of Probate
174 to terminate parental rights of all persons who may have parental
175 rights regarding any minor child or for the termination of parental

176 rights of only one parent provided the application so states: (1) Either
177 or both parents, including a parent who is a minor; (2) the guardian of
178 the child; (3) the selectmen of any town having charge of any
179 foundling child; (4) a duly authorized officer of any child care facility
180 or child-placing agency or organization or any children's home or
181 similar institution approved by the Commissioner of Children and
182 Families; (5) a relative of the child if the parent or parents have
183 abandoned or deserted the child; (6) the Commissioner of Children
184 and Families, provided the custodial parent of such minor child has
185 consented to the termination of parental rights and the child has not
186 been committed to the commissioner, and no application for
187 commitment has been made; provided in any case hereunder where
188 the child with respect to whom the petition is brought has attained the
189 age of twelve, the child shall join in the petition.

190 (b) A petition for termination of parental rights shall be entitled "In
191 the interest of (Name of child), a person under the age of eighteen
192 years", and shall set forth with specificity: (1) The name, sex, date and
193 place of birth, and present address of the child; (2) the name and
194 address of the petitioner, and the nature of the relationship between
195 the petitioner and the child; (3) the names, dates of birth and addresses
196 of the parents of the child, if known, including the name of any
197 putative father named by the mother, and the tribe and reservation of
198 an American Indian parent; (4) if the parent of the child is a minor, the
199 names and addresses of the parents or guardian of the person of such
200 minor; (5) the names and addresses of: (A) The guardian of the person
201 of the child; (B) any guardians ad litem appointed in a prior
202 proceeding; (C) the tribe and reservation of an American Indian child;
203 and (D) the child-placing agency which placed the child in his current
204 placement; (6) the facts upon which termination is sought, the legal
205 grounds authorizing termination, the effects of a termination decree
206 and the basis for the jurisdiction of the court; (7) the name of the
207 persons or agencies which have agreed to accept custody or
208 guardianship of the child's person upon disposition.

209 (c) If the information required under subdivisions (2) and (6) of
210 subsection (b) of this section is not stated, the petition shall be
211 dismissed. If any other facts required under subdivision (1), (3), (4), (5)
212 or (7) of subsection (b) of this section are not known or cannot be
213 ascertained by the petitioner, he shall so state in the petition. If the
214 whereabouts of either parent or the putative father named under
215 subdivision (3) of subsection (b) of this section are unknown, the
216 petitioner shall diligently search for any such parent or putative father.
217 The petitioner shall file an affidavit with the petition indicating the
218 efforts used to locate the parent or putative father.

219 (d) If a petition indicates that either or both parents consent to the
220 termination of their parental rights, or if at any time following the
221 filing of a petition and before the entry of a decree a parent consents to
222 the termination of his parental rights, each consenting parent shall
223 acknowledge such consent on a form promulgated by the Office of the
224 Chief Court Administrator evidencing to the satisfaction of the court
225 that the parent has voluntarily and knowingly consented to the
226 termination of his parental rights. No consent to termination by a
227 mother shall be executed within forty-eight hours immediately after
228 the birth of her child. A parent who is a minor shall have the right to
229 consent to termination of parental rights and such consent shall not be
230 voidable by reason of such minority. A guardian ad litem shall be
231 appointed by the court to assure that such minor parent is giving an
232 informed and voluntary consent.

233 (e) A petition under this section shall be filed in the court of probate
234 for the district in which the petitioner or the child resides or, in the
235 case of a minor who is under the guardianship of any child care facility
236 or child-placing agency, in the court of probate for the district in which
237 the main office or any local office of the agency is located. If the
238 petition is filed with respect to a child born out of wedlock, the petition
239 shall state whether there is a putative father to whom notice shall be
240 given under subdivision (2) of subsection (b) of section 45a-716.

241 (f) If any petitioner under subsection (a) is a minor or incompetent,
242 the guardian ad litem, appointed by the court in accordance with
243 section 45a-708, must approve the petition in writing, before action by
244 the court.

245 (g) Before a hearing on the merits in any case in which a petition for
246 termination of parental rights is contested in a court of probate, the
247 court of probate shall, on the motion of any legal party except the
248 petitioner, or may on its own motion or that of the petitioner, transfer
249 the case to the Superior Court in accordance with rules adopted by the
250 judges of the Supreme Court. In addition to the provisions of this
251 section, the probate court may, on the court's own motion or that of
252 any interested party, transfer any termination of parental rights case to
253 a regional children's probate court established pursuant to section 45a-
254 8a. If the case is transferred, the clerk of the Court of Probate shall
255 transmit to the clerk of the Superior Court or the regional children's
256 probate court to which the case was transferred, the original files and
257 papers in the case. The Superior Court or the regional children's
258 probate court to which the case was transferred, upon hearing after
259 notice as provided in sections 45a-716 and 45a-717, may grant the
260 petition as provided in section 45a-717.

261 (h) Either or both birth parents and an intended adoptive parent
262 may enter into a cooperative postadoption agreement regarding
263 communication or contact between either or both birth parents and the
264 adopted child. Such an agreement may be entered into if: (1) The child
265 is in the custody of the Department of Children and Families; (2) an
266 order terminating parental rights has not yet been entered; and (3)
267 either or both birth parents agree to a voluntary termination of
268 parental rights, including an agreement in a case which began as an
269 involuntary termination of parental rights. The postadoption
270 agreement shall be applicable only to a birth parent who is a party to
271 the agreement. Such agreement shall be in addition to those under
272 common law. Counsel for the child and any guardian ad litem for the
273 child may be heard on the proposed cooperative postadoption

274 agreement. There shall be no presumption of communication or
275 contact between the birth parents and an intended adoptive parent in
276 the absence of a cooperative postadoption agreement.

277 (i) If the Court of Probate determines that the child's best interests
278 will be served by postadoption communication or contact with either
279 or both birth parents, the court shall so order, stating the nature and
280 frequency of the communication or contact. A court may grant
281 postadoption communication or contact privileges if: (1) Each intended
282 adoptive parent consents to the granting of communication or contact
283 privileges; (2) the intended adoptive parent and either or both birth
284 parents execute a cooperative agreement and file the agreement with
285 the court; (3) consent to postadoption communication or contact is
286 obtained from the child, if the child is at least twelve years of age; and
287 (4) the cooperative postadoption agreement is approved by the court.

288 (j) A cooperative postadoption agreement shall contain the
289 following: (1) An acknowledgment by either or both birth parents that
290 the termination of parental rights and the adoption is irrevocable, even
291 if the adoptive parents do not abide by the cooperative postadoption
292 agreement; and (2) an acknowledgment by the adoptive parents that
293 the agreement grants either or both birth parents the right to seek to
294 enforce the cooperative postadoption agreement.

295 (k) The terms of a cooperative postadoption agreement may include
296 the following: (1) Provision for communication between the child and
297 either or both birth parents; (2) provision for future contact between
298 either or both birth parents and the child or an adoptive parent; and (3)
299 maintenance of medical history of either or both birth parents who are
300 a party to the agreement.

301 (l) The order approving a cooperative postadoption agreement shall
302 be made part of the final order terminating parental rights. The finality
303 of the termination of parental rights and of the adoption shall not be
304 affected by implementation of the provisions of the postadoption

305 agreement, nor is the cooperative postadoption contingent upon the
306 finalization of an adoption. Such an agreement shall not affect the
307 ability of the adoptive parents and the child to change their residence
308 within or outside this state.

309 (m) A disagreement between the parties or litigation brought to
310 enforce or modify the agreement shall not affect the validity of the
311 termination of parental rights or the adoption and shall not serve as a
312 basis for orders affecting the custody of the child. The court shall not
313 act on a petition to change or enforce the agreement unless the
314 petitioner had participated, or attempted to participate, in good faith
315 in mediation or other appropriate dispute resolution proceedings to
316 resolve the dispute and allocate any cost for such mediation or dispute
317 resolution proceedings.

318 (n) An adoptive parent, guardian ad litem for the child or the court
319 on its own motion may, at any time, petition for review of
320 communication or contact ordered pursuant to subsection (i) of this
321 section, if the adoptive parent believes that the best interests of the
322 child are being compromised. The court may order the communication
323 or contact be terminated, or order such conditions in regard to
324 communication or contact as the court deems to be in the best interest
325 of the adopted child.

326 (o) For any child who is (1) in the custody of the Commissioner of
327 Children and Families due to the termination of parental rights
328 pursuant to section 45a-717; and (2) the subject of a petition for
329 adoption under this chapter, the court shall consider the
330 appropriateness of postadoption communication or contact with a
331 sibling of such child, including, but not limited to, visitation, written
332 correspondence or telephone calls. If the court determines such
333 postadoption communication or contact is in the best interest of the
334 child, the court shall ensure that such child has access to and visitation
335 rights with such sibling throughout the duration of such adoption.

336 (p) The court shall consider the following factors in determining
337 whether postadoption communication or contact with a sibling is in
338 the best interest of the child: (1) The age of the child and his or her
339 sibling; (2) the extent of the existing relationship between the child and
340 his or her sibling; (3) the physical, emotional and psychological needs,
341 including any special needs, and stability of the child and his or her
342 sibling; (4) the child's opinion and the opinion of his or her sibling
343 regarding such postadoption communication or contact; (5) the
344 opinion of the adoptive parent regarding such postadoption
345 communication or contact; (6) opinions of experts, including any
346 individuals who may have provided services to the child or his or her
347 sibling; (7) the long-term plans for the child and his or her sibling; and
348 (8) any relevant logistical concerns.

349 (q) Any determination of the court pursuant to subdivision (o) of
350 this section shall be included in the final adoption order, but such
351 determination shall not affect the validity of the adoption. Nothing in
352 this subsection shall limit the authority of the court to enforce its
353 orders in any manner permitted by law.

354 (r) An adoptive parent may, at any time, petition the court to review
355 its determination regarding postadoption communication or contact
356 between a child and his or her sibling. Upon receiving such petition,
357 the court shall conduct a review of its determination using the factors
358 listed in subsection (p) of this section and may order the
359 communication or contact to be terminated or modified if the court
360 determines that such termination or modification is in the best interest
361 of the child. If any dispute arises pursuant to such review, the court
362 may order the parties to engage in mediation.

363 (s) The court shall not, pursuant to the review required under
364 subsection (r) of this section, increase communication or contact
365 between the adopted child and his or her sibling, birth parent or other
366 relative unless the court (1) receives consent from the adoptive parent;
367 and (2) inquires about and considers the opinion of the child regarding

368 such increase.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	46b-129(k)
Sec. 2	<i>October 1, 2015</i>	17a-10a
Sec. 3	<i>October 1, 2015</i>	45a-715

Statement of Purpose:

To allow children who are in the custody of the Department of Children and Families, or are the subject of a petition for adoption, to have an input into their permanency outcomes.

[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.]