



House of Representatives

General Assembly

File No. 345

February Session, 2016

Substitute House Bill No. 5366

House of Representatives, March 31, 2016

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING COURT OPERATIONS.

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

1 Section 1. Subsection (k) of section 17a-112 of the 2016 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage*):

4 (k) Except in the case where termination of parental rights is based
5 on consent, in determining whether to terminate parental rights under
6 this section, the court shall consider and shall make written findings
7 regarding: (1) The timeliness, nature and extent of services offered,
8 provided and made available to the parent and the child by an agency
9 to facilitate the reunion of the child with the parent; (2) whether the
10 Department of Children and Families has made reasonable efforts to
11 reunite the family pursuant to the federal [Adoption Assistance and
12 Child Welfare Act of 1980, as amended] Adoption and Safe Families
13 Act of 1997, as amended from time to time; (3) the terms of any
14 applicable court order entered into and agreed upon by any individual
15 or agency and the parent, and the extent to which all parties have

16 fulfilled their obligations under such order; (4) the feelings and
17 emotional ties of the child with respect to the child's parents, any
18 guardian of such child's person and any person who has exercised
19 physical care, custody or control of the child for at least one year and
20 with whom the child has developed significant emotional ties; (5) the
21 age of the child; (6) the efforts the parent has made to adjust such
22 parent's circumstances, conduct, or conditions to make it in the best
23 interest of the child to return such child home in the foreseeable future,
24 including, but not limited to, (A) the extent to which the parent has
25 maintained contact with the child as part of an effort to reunite the
26 child with the parent, provided the court may give weight to incidental
27 visitations, communications or contributions, and (B) the maintenance
28 of regular contact or communication with the guardian or other
29 custodian of the child; and (7) the extent to which a parent has been
30 prevented from maintaining a meaningful relationship with the child
31 by the unreasonable act or conduct of the other parent of the child, or
32 the unreasonable act of any other person or by the economic
33 circumstances of the parent.

34 Sec. 2. Subsection (o) of section 17a-112 of the 2016 supplement to
35 the general statutes is repealed and the following is substituted in lieu
36 thereof (*Effective from passage*):

37 (o) In the case where termination of parental rights is granted, the
38 guardian of the person or statutory parent shall report to the court not
39 later than thirty days after the date judgment is entered on a case plan,
40 as defined by the federal [Adoption Assistance and Child Welfare Act
41 of 1980] Adoption and Safe Families Act of 1997, as amended from
42 time to time, for the child which shall include measurable objectives
43 and time schedules. At least every three months thereafter, such
44 guardian or statutory parent shall make a report to the court on the
45 progress made on implementation of the plan. The court may convene
46 a hearing upon the filing of a report and shall convene and conduct a
47 permanency hearing pursuant to subsection (k) of section 46b-129 for
48 the purpose of reviewing the permanency plan for the child [no] not
49 more than twelve months from the date judgment is entered or from

50 the date of the last permanency hearing held pursuant to subsection
51 (k) of section 46b-129, whichever is earlier, and at least once a year
52 thereafter while the child remains in the custody of the Commissioner
53 of Children and Families. For children where the commissioner has
54 determined that adoption is appropriate, the report on the
55 implementation of the plan shall include a description of the
56 reasonable efforts the department is taking to promote and expedite
57 the adoptive placement and to finalize the adoption of the child,
58 including documentation of child specific recruitment efforts. At such
59 hearing, the court shall determine whether the department has made
60 reasonable efforts to achieve the permanency plan. If the court
61 determines that the department has not made reasonable efforts to
62 place a child in an adoptive placement or that reasonable efforts have
63 not resulted in the placement of the child, the court may order the
64 Department of Children and Families, within available appropriations,
65 to contract with a child-placing agency to arrange for the adoption of
66 the child. The department, as statutory parent, shall continue to
67 provide care and services for the child while a child-placing agency is
68 arranging for the adoption of the child.

69 Sec. 3. Subsections (a) and (b) of section 46b-15 of the general
70 statutes are repealed and the following is substituted in lieu thereof
71 (*Effective October 1, 2016*):

72 (a) Any family or household member, as defined in section 46b-38a,
73 who has been subjected to a continuous threat of present physical pain
74 or physical injury, stalking or a pattern of threatening, including, but
75 not limited to, a pattern of threatening, as described in section 53a-62,
76 by another family or household member may make an application to
77 the Superior Court for relief under this section. If the applicant is
78 under eighteen years of age, the application shall be made on the
79 applicant's behalf by a parent or guardian or a responsible adult as
80 next friend.

81 (b) The application form shall allow the applicant, at the applicant's
82 option, to indicate whether the respondent holds a permit to carry a

83 pistol or revolver or possesses one or more firearms or ammunition.
84 The application shall be accompanied by an affidavit made under oath
85 which includes a brief statement of the conditions from which relief is
86 sought. Such affidavit shall be made personally by the applicant,
87 except that if the applicant is under eighteen years of age, or otherwise
88 incompetent, such affidavit may be made on the applicant's behalf by a
89 parent, guardian or a responsible adult as next friend who has
90 personal knowledge of the conditions from which relief is sought.
91 Upon receipt of the application the court shall order that a hearing on
92 the application be held not later than fourteen days from the date of
93 the order. The court, in its discretion, may make such orders as it
94 deems appropriate for the protection of the applicant and such
95 dependent children or other persons as the court sees fit. In making
96 such orders ex parte, the court, in its discretion, may consider relevant
97 court records if the records are available to the public from a clerk of
98 the Superior Court or on the Judicial Branch's Internet web site. In
99 addition, at the time of the hearing, the court, in its discretion, may
100 also consider a report prepared by the family services unit of the
101 Judicial Branch that may include, as available: Any existing or prior
102 orders of protection obtained from the protection order registry;
103 information on any pending or past criminal case in which the
104 respondent was charged with or convicted of a violent crime; any
105 outstanding arrest warrant for the respondent; and the respondent's
106 level of risk based on a risk assessment tool utilized by the Court
107 Support Services Division. The report may also include information
108 pertaining to any pending or disposed family matters case involving
109 the applicant and respondent. Any report provided by the Court
110 Support Services Division to the court shall also be provided to the
111 applicant and respondent. Such orders may include temporary child
112 custody or visitation rights, and such relief may include, but is not
113 limited to, an order enjoining the respondent from (1) imposing any
114 restraint upon the person or liberty of the applicant; (2) threatening,
115 harassing, assaulting, molesting, sexually assaulting or attacking the
116 applicant; or (3) entering the family dwelling or the dwelling of the
117 applicant. Such order may include provisions necessary to protect any

118 animal owned or kept by the applicant including, but not limited to, an
119 order enjoining the respondent from injuring or threatening to injure
120 such animal. If an applicant alleges an immediate and present physical
121 danger to the applicant, the court may issue an ex parte order granting
122 such relief as it deems appropriate. If a postponement of a hearing on
123 the application is requested by either party and granted, the ex parte
124 order shall not be continued except upon agreement of the parties or
125 by order of the court for good cause shown. If a hearing on the
126 application is scheduled or an ex parte order is granted and the court is
127 closed on the scheduled hearing date, the hearing shall be held on the
128 next day the court is open and any such ex parte order shall remain in
129 effect until the date of such hearing. If the applicant is under eighteen
130 years of age, a parent, guardian or responsible adult who brings the
131 application as next friend of the applicant may not speak on the
132 applicant's behalf at such hearing unless there is good cause shown as
133 to why the applicant is unable to speak on his or her own behalf. If a
134 respondent is under eighteen years of age and appears for such
135 hearing without a parent or guardian, the court may appoint a
136 responsible adult as next friend. As used in this subsection "violent
137 crime" includes: (A) An incident resulting in physical harm, bodily
138 injury or assault; (B) an act of threatened violence that constitutes fear
139 of imminent physical harm, bodily injury or assault, including, but not
140 limited to, stalking or a pattern of threatening; (C) verbal abuse or
141 argument if there is a present danger and likelihood that physical
142 violence will occur; and (D) cruelty to animals as set forth in section
143 53-247.

144 Sec. 4. Subsections (a) and (b) of section 46b-16a of the general
145 statutes are repealed and the following is substituted in lieu thereof
146 (*Effective October 1, 2016*):

147 (a) Any person who has been the victim of sexual abuse, sexual
148 assault or stalking, as described in sections 53a-181c, 53a-181d and 53a-
149 181e, may make an application to the Superior Court for relief under
150 this section, provided such person has not obtained any other court
151 order of protection arising out of such abuse, assault or stalking and

152 does not qualify to seek relief under section 46b-15, as amended by this
153 act. If the applicant is under eighteen years of age, the application shall
154 be made on the applicant's behalf by a parent or guardian or a
155 responsible adult as next friend.

156 (b) The application shall be accompanied by an affidavit made by
157 the applicant under oath that includes a statement of the specific facts
158 that form the basis for relief. Such affidavit shall be made personally
159 by the applicant, except that if the applicant is under eighteen years of
160 age, or otherwise incompetent, such affidavit may be made on the
161 applicant's behalf by a parent, guardian or a responsible adult as next
162 friend who has personal knowledge of the conditions from which relief
163 is sought. Upon receipt of the application, if the allegations set forth in
164 the affidavit meet the requirements of subsection (a) of this section, the
165 court shall schedule a hearing not later than fourteen days from the
166 date of the application. If a postponement of a hearing on the
167 application is requested by either party, no ex parte order shall be
168 continued except upon agreement of the parties or by order of the
169 court for good cause shown. If the court is closed on the scheduled
170 hearing date, the hearing shall be held on the next day the court is
171 open and any ex parte order that was issued shall remain in effect until
172 the date of such hearing. If the applicant is under eighteen years of age,
173 a parent, guardian or responsible adult who brings the application as
174 next friend of the applicant may not speak on the applicant's behalf at
175 such hearing unless there is good cause shown as to why the applicant
176 is unable to speak on his or her own behalf. If a respondent is under
177 eighteen years of age and appears for such hearing without a parent or
178 guardian, the court may appoint a responsible adult as next friend. If
179 the court finds that there are reasonable grounds to believe that the
180 respondent has committed acts constituting grounds for issuance of an
181 order under this section and will continue to commit such acts or acts
182 designed to intimidate or retaliate against the applicant, the court, in
183 its discretion, may make such orders as it deems appropriate for the
184 protection of the applicant. If the court finds that there are reasonable
185 grounds to believe that an imminent danger exists to the applicant, the
186 court may issue an ex parte order granting such relief as it deems

187 appropriate. In making such orders, the court, in its discretion, may
188 consider relevant court records if the records are available to the public
189 from a clerk of the Superior Court or on the Judicial Branch's Internet
190 web site. Such orders may include, but are not limited to, an order
191 enjoining the respondent from: (1) Imposing any restraint upon the
192 person or liberty of the applicant; (2) threatening, harassing,
193 assaulting, molesting, sexually assaulting or attacking the applicant;
194 and (3) entering the dwelling of the applicant.

195 Sec. 5. Section 52-148d of the general statutes is repealed and the
196 following is substituted in lieu thereof (*Effective from passage*):

197 (a) All witnesses or parties giving depositions shall be cautioned to
198 speak the whole truth and be carefully examined, and shall subscribe
199 their depositions, and make oath before the authority taking the
200 depositions.

201 (b) The authority taking a deposition shall: (1) Attest the subscribing
202 of the deposition and oath of the person deposed, (2) certify whether
203 each adverse party or his agent was present and notified, (3) certify the
204 reason for taking the deposition, and (4) seal the deposition and direct
205 it to the court where it is to be used and deliver it, if requested, to the
206 party at whose request it was taken.

207 (c) The party on whose behalf the deposition of an adverse party is
208 taken shall be subject to having his deposition taken on behalf of such
209 adverse party. The party on whose behalf a deposition is taken shall [at
210 his expense provide a copy of the deposition to each adverse party]
211 bear the cost of the original transcript, and any permanent electronic
212 record including audio or videotape. Any party or the deponent may
213 obtain a copy of the deposition transcript and permanent electronic
214 record including audio or videotape at his or her own expense, except
215 that in proceedings before the Workers' Compensation Commission,
216 the party on whose behalf a deposition is taken shall, at such party's
217 expense, provide a copy of the deposition to each adverse party.

218 Sec. 6. Subsection (f) of section 52-259 of the 2016 supplement to the

219 general statutes is repealed and the following is substituted in lieu
220 thereof (*Effective October 1, 2016*):

221 (f) There shall be paid to the clerk of the Superior Court for
222 [receiving and filing an assessment of damages by appraisers of land
223 taken for public use or] the appointment of a commissioner of the
224 Superior Court, two dollars; for recording the commission and oath of
225 a notary public or certifying under seal to the official character of any
226 magistrate, ten dollars; for issuing a certificate that an attorney is in
227 good standing, ten dollars; for certifying under seal, two dollars; for
228 exemplifying, twenty dollars; for making all necessary records and
229 certificates of naturalization, the fees allowed under the provisions of
230 the United States statutes for such services; and for making copies, one
231 dollar per page. Any fee set forth in this subsection shall be payable in
232 accordance with subsection (m) of this section.

233 Sec. 7. Subsection (j) of section 45a-717 of the 2016 supplement to the
234 general statutes is repealed and the following is substituted in lieu
235 thereof (*Effective from passage*):

236 (j) In the case where termination of parental rights is granted, the
237 guardian of the person or statutory parent shall report to the court
238 within thirty days of the date judgment is entered on a case plan, as
239 defined by the federal [Adoption Assistance and Child Welfare Act of
240 1980] Adoption and Safe Families Act of 1997, as amended from time
241 to time, for the child. At least every three months thereafter, such
242 guardian or statutory parent shall make a report to the court on the
243 implementation of the plan. The court may convene a hearing upon
244 the filing of a report and shall convene a hearing for the purpose of
245 reviewing the plan no more than twelve months from the date
246 judgment is entered or from the date of the last permanency hearing
247 held pursuant to subsection (k) of section 46b-129 if the child or youth
248 is in the care and custody of the Commissioner of Children and
249 Families, whichever is earlier, and at least once a year thereafter until
250 such time as any proposed adoption plan has become finalized. If the
251 Commissioner of Children and Families is the statutory parent for the

252 child, at such a hearing the court shall determine whether the
 253 department has made reasonable efforts to achieve the permanency
 254 plan. In the case where termination of parental rights is granted, the
 255 guardian of the person or statutory parent shall obtain the approval of
 256 the court prior to placing the child or youth for adoption outside the
 257 state. Before ordering or approving such placement, the court shall
 258 make findings concerning compliance with the provisions of section
 259 17a-175. Such findings shall include, but not be limited to: (1) A finding
 260 that the state has received notice in writing from the receiving state, in
 261 accordance with subsection (d) of Article III of section 17a-175,
 262 indicating that the proposed placement does not appear contrary to the
 263 interests of the child, (2) the court has reviewed such notice, (3)
 264 whether or not an interstate compact study or other home study has
 265 been completed by the receiving state, and (4) if such a study has been
 266 completed, whether the conclusions reached by the receiving state as a
 267 result of such study support the placement.

268 Sec. 8. Subdivision (1) of subsection (o) of section 21 of public act 13-
 269 239 is amended to read as follows (*Effective from passage*):

270 (1) Alterations, renovations and improvements to buildings and
 271 grounds at state-owned and maintained facilities, not exceeding
 272 \$7,500,000, provided not more than \$4,500,000 shall be used for repairs,
 273 improvements and acquisitions for a juvenile court in Waterford;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17a-112(k)
Sec. 2	<i>from passage</i>	17a-112(o)
Sec. 3	<i>October 1, 2016</i>	46b-15(a) and (b)
Sec. 4	<i>October 1, 2016</i>	46b-16a(a) and (b)
Sec. 5	<i>from passage</i>	52-148d
Sec. 6	<i>October 1, 2016</i>	52-259(f)
Sec. 7	<i>from passage</i>	45a-717(j)
Sec. 8	<i>from passage</i>	PA 13-239, Sec. 21(o)(1)

JUD *Joint Favorable Subst.*

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:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Resources of the General Fund	GF - Revenue Loss	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows \$4.5 million of the \$7.5 million bond authorization given to the Judicial Department under PA 13-239 to be used for the purchase, repairs, and improvements for the Waterford juvenile facility.

The bill also eliminates a land fee and results in a revenue loss of approximately \$500 annually.

The bill makes additional procedural changes to the Judicial Department which does not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5366

AN ACT CONCERNING COURT OPERATIONS.

SUMMARY:

This bill requires a parent, guardian, or responsible adult as a next friend to apply to court on behalf of someone under age 18 who seeks a restraining or civil protection order. The bill contains additional provisions about the actions of a parent, guardian, or responsible adult in these proceedings; allows the court to consider additional information in a report from the Judicial Branch's family services unit at a hearing on a restraining order; and provides that an ex parte civil protection order does not continue if a party requests a postponement of the hearing on the order unless the parties agree to it or the court orders it for good cause.

The bill also:

1. changes the requirements placed on a party on whose behalf a deposition is taken;
2. eliminates a \$2 fee for filing with the court an appraiser's assessment of land taken for public use (§ 6);
3. allows the Judicial Branch to use up to \$4.5 million to repair, improve, and acquire a juvenile court in Waterford out of the \$7.5 million in bond proceeds previously authorized to alter, renovate, and improve buildings and grounds of state-owned and -maintained branch facilities (§ 8); and
4. makes technical changes by updating references to federal law (§§ 1-2 & 7).

EFFECTIVE DATE: Upon passage, except the provisions on

restraining and protective orders and the eliminated fee are effective October 1, 2016.

§§ 3 & 4 — RESTRAINING AND CIVIL PROTECTION ORDERS

The bill requires a parent, guardian, or responsible adult as a next friend to apply to court on behalf of someone under age 18 who seeks a:

1. restraining order, which is available to a family or household member subjected to continuous threat of physical pain or physical injury, stalking, or pattern of threatening by another family or household member or
2. civil protection order, which is available to a victim of sexual abuse, sexual assault, or stalking who cannot obtain a restraining order.

The law requires an applicant for either type of order to submit to the court an affidavit under oath including a brief statement of the conditions from which relief is sought. The bill requires the applicant to make the affidavit, but a parent, guardian, or responsible adult as next friend who has personal knowledge of the conditions from which relief is sought may make the application for someone under age 18 or who is incompetent.

The bill prohibits a parent, guardian, or responsible adult who brought an application as next friend of someone under age 18 from speaking for the applicant at a hearing except for good cause showing why the applicant cannot speak on his or her own behalf.

The bill allows the court to appoint a responsible adult as next friend for a respondent (the subject of the order) who is under age 18 and appears at a hearing without a parent or guardian.

Restraining Orders

When issuing an ex parte order (an order issued before a hearing, when one of the parties is not present), the law allows the court to

consider relevant publicly available court records. At a hearing on the application, the bill allows the court to consider a report from the Judicial Branch's family services unit that may include:

1. existing or prior protection orders from the protection order registry;
2. outstanding arrest warrants for the respondent;
3. his or her risk level as determined by a risk assessment tool used by the branch's Court Support Services Division;
4. information about a pending or disposed family matters case involving the applicant and respondent; and
5. information on pending or past criminal cases in which the respondent was charged with or convicted of a violent crime (including an incident resulting in physical harm, bodily injury, or assault; threatened violence constituting fear of imminent physical harm, bodily injury, or assault including stalking or a pattern of threatening; verbal abuse or argument with a present danger and likelihood that physical violence will occur; or cruelty to animals).

The bill requires that both the applicant and respondent receive this report.

Civil Protection Orders

The law requires scheduling a hearing on an application for a civil protection order within 14 days. Under the bill, if either party requests a postponement, any ex parte order issued by the court does not continue unless the parties agree to it or the court orders it for good cause.

§ 5 — DEPOSITIONS

Under current statutes, the party on whose behalf a deposition is taken must pay to give a copy of the deposition to each adverse party. Court rules require the party on whose behalf a deposition is taken to

pay for the original transcript and any permanent electronic record such as an audio or videotape and any party or the deponent can obtain a copy at its own expense (Conn. Pract. Bk. § 13-30(f)). The bill conforms the statute to the court rule except it specifies that in Workers' Compensation Commission proceedings, the party on whose behalf a deposition is taken must pay to provide a copy to each adverse party.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 2 (03/11/2016)