



Senate

General Assembly

File No. 31

February Session, 2016

Senate Bill No. 184

Senate, March 10, 2016

The Committee on Children reported through SEN. BARTOLOMEO of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING CHILDREN IN NEED OF SPECIAL SERVICES.

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

1 Section 1. Section 46b-120 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 The terms used in this chapter shall, in its interpretation and in the
4 interpretation of other statutes, be defined as follows:

5 (1) "Child" means any person under eighteen years of age who has
6 not been legally emancipated, except that (A) for purposes of
7 delinquency matters and proceedings, "child" means any person who
8 (i) is at least seven years of age at the time of the alleged commission of
9 a delinquent act and who is (I) under eighteen years of age and has not
10 been legally emancipated, or (II) eighteen years of age or older and
11 committed a delinquent act prior to attaining eighteen years of age, or
12 (ii) is subsequent to attaining eighteen years of age, (I) violates any
13 order of the Superior Court or any condition of probation ordered by
14 the Superior Court with respect to a delinquency proceeding, or (II)

15 wilfully fails to appear in response to a summons under section 46b-
16 133 or at any other court hearing in a delinquency proceeding of which
17 the child had notice, and (B) for purposes of family with service needs
18 matters and proceedings, child means a person who is at least seven
19 years of age and is under eighteen years of age;

20 (2) "Youth" means any person sixteen or seventeen years of age who
21 has not been legally emancipated;

22 (3) A child may be found "mentally deficient" who, by reason of a
23 deficiency of intelligence that has existed from birth or from early age,
24 requires, or will require, for such child's protection or for the
25 protection of others, special care, supervision and control;

26 (4) (A) A child may be convicted as "delinquent" who has, while
27 under sixteen years of age, (i) violated any federal or state law, except
28 section 53a-172, 53a-173, 53a-222, 53a-222a, 53a-223 or 53a-223a, or
29 violated a municipal or local ordinance, except an ordinance regulating
30 behavior of a child in a family with service needs, (ii) wilfully failed to
31 appear in response to a summons under section 46b-133 or at any other
32 court hearing in a delinquency proceeding of which the child had
33 notice, (iii) violated any order of the Superior Court in a delinquency
34 proceeding, except as provided in section 46b-148, or (iv) violated
35 conditions of probation in a delinquency proceeding as ordered by the
36 court;

37 (B) A child may be convicted as "delinquent" who has (i) while
38 sixteen or seventeen years of age, violated any federal or state law,
39 other than (I) an infraction, except an infraction under subsection (d) of
40 section 21a-267, (II) a violation, except a violation under subsection (a)
41 of section 21a-279a, (III) a motor vehicle offense or violation under title
42 14, (IV) a violation of a municipal or local ordinance, or (V) a violation
43 of section 51-164r, 53a-172, 53a-173, 53a-222, 53a-222a, 53a-223 or 53a-
44 223a, (ii) while sixteen years of age or older, wilfully failed to appear in
45 response to a summons under section 46b-133 or at any other court
46 hearing in a delinquency proceeding of which the child had notice, (iii)
47 while sixteen years of age or older, violated any order of the Superior

48 Court in a delinquency proceeding, except as provided in section 46b-
49 148, or (iv) while sixteen years of age or older, violated conditions of
50 probation in a delinquency proceeding as ordered by the court;

51 (5) "Family with service needs" means a family that includes a child
52 who is at least seven years of age and is under eighteen years of age
53 who (A) has without just cause run away from the parental home or
54 other properly authorized and lawful place of abode, (B) is beyond the
55 control of the child's or youth's parent, parents, guardian or other
56 custodian, (C) has engaged in indecent or immoral conduct, (D) is a
57 truant or habitual truant or who, while in school, has been
58 continuously and overtly defiant of school rules and regulations, or (E)
59 is thirteen years of age or older and has engaged in sexual intercourse
60 with another person and such other person is thirteen years of age or
61 older and not more than two years older or younger than such child or
62 youth;

63 (6) A child or youth may be found "neglected" who, for reasons
64 other than being impoverished, (A) has been abandoned, (B) is being
65 denied proper care and attention, physically, educationally,
66 emotionally or morally, or (C) is being permitted to live under
67 conditions, circumstances or associations injurious to the well-being of
68 the child or youth;

69 (7) A child or youth may be found "abused" who (A) has been
70 inflicted with physical injury or injuries other than by accidental
71 means, (B) has injuries that are at variance with the history given of
72 them, or (C) is in a condition that is the result of maltreatment,
73 including, but not limited to, malnutrition, sexual molestation or
74 exploitation, deprivation of necessities, emotional maltreatment or
75 cruel punishment;

76 (8) A child or youth may be found "uncared for" (A) who is
77 homeless, [(B) whose home cannot provide the specialized care that
78 the physical, emotional or mental condition of the child or youth
79 requires, or (C)] or (B) who has been identified as a victim of
80 trafficking, as defined in section 46a-170. For the purposes of this

81 section, the treatment of any child or youth by an accredited Christian
82 Science practitioner, in lieu of treatment by a licensed practitioner of
83 the healing arts, shall not of itself constitute neglect or maltreatment;

84 (9) A child or youth may be found "in need of special services"
85 whose home cannot provide the specialized care that the physical,
86 emotional or mental condition of the child or youth requires;

87 [(9)] (10) "Delinquent act" means (A) the violation by a child under
88 the age of sixteen of any federal or state law, except the violation of
89 section 53a-172, 53a-173, 53a-222, 53a-222a, 53a-223 or 53a-223a, or the
90 violation of a municipal or local ordinance, except an ordinance
91 regulating behavior of a child in a family with service needs, (B) the
92 violation by a child sixteen or seventeen years of age of any federal or
93 state law, other than (i) an infraction, except an infraction under
94 subsection (d) of section 21a-267, (ii) a violation, except a violation
95 under subsection (a) of section 21a-279a, (iii) a motor vehicle offense or
96 violation under title 14, (iv) the violation of a municipal or local
97 ordinance, or (v) the violation of section 51-164r, 53a-172, 53a-173, 53a-
98 222, 53a-222a, 53a-223 or 53a-223a, (C) the wilful failure of a child,
99 including a child who has attained the age of eighteen, to appear in
100 response to a summons under section 46b-133 or at any other court
101 hearing in a delinquency proceeding of which the child has notice, (D)
102 the violation of any order of the Superior Court in a delinquency
103 proceeding by a child, including a child who has attained the age of
104 eighteen, except as provided in section 46b-148, or (E) the violation of
105 conditions of probation in a delinquency proceeding by a child,
106 including a child who has attained the age of eighteen, as ordered by
107 the court;

108 [(10)] (11) "Serious juvenile offense" means (A) the violation of,
109 including attempt or conspiracy to violate, section 21a-277, 21a-278, 29-
110 33, 29-34, 29-35, subdivision (2) or (3) of subsection (a) of section 53-21,
111 53-80a, 53-202b, 53-202c, 53-390 to 53-392, inclusive, 53a-54a to 53a-57,
112 inclusive, 53a-59 to 53a-60c, inclusive, 53a-64aa, 53a-64bb, 53a-70 to
113 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a, inclusive, 53a-95,

114 53a-100aa, 53a-101, 53a-102a, 53a-103a or 53a-111 to 53a-113, inclusive,
115 subdivision (1) of subsection (a) of section 53a-122, subdivision (3) of
116 subsection (a) of section 53a-123, section 53a-134, 53a-135, 53a-136a or
117 53a-167c, subsection (a) of section 53a-174, or section 53a-196a, 53a-211,
118 53a-212, 53a-216 or 53a-217b, or (B) running away, without just cause,
119 from any secure placement other than home while referred as a
120 delinquent child to the Court Support Services Division or committed
121 as a delinquent child to the Commissioner of Children and Families for
122 a serious juvenile offense;

123 [(11)] (12) "Serious juvenile offender" means any child convicted as
124 delinquent for the commission of a serious juvenile offense;

125 [(12)] (13) "Serious juvenile repeat offender" means any child
126 charged with the commission of any felony if such child has
127 previously been convicted as delinquent or otherwise convicted at any
128 age for two violations of any provision of title 21a, 29, 53 or 53a that is
129 designated as a felony;

130 [(13)] (14) "Alcohol-dependent" means a psychoactive substance
131 dependence on alcohol as that condition is defined in the most recent
132 edition of the American Psychiatric Association's "Diagnostic and
133 Statistical Manual of Mental Disorders"; and

134 [(14)] (15) "Drug-dependent" means a psychoactive substance
135 dependence on drugs as that condition is defined in the most recent
136 edition of the American Psychiatric Association's "Diagnostic and
137 Statistical Manual of Mental Disorders". No child shall be classified as
138 drug-dependent who is dependent (A) upon a morphine-type
139 substance as an incident to current medical treatment of a
140 demonstrable physical disorder other than drug dependence, or (B)
141 upon amphetamine-type, ataractic, barbiturate-type, hallucinogenic or
142 other stimulant and depressant substances as an incident to current
143 medical treatment of a demonstrable physical or psychological
144 disorder, or both, other than drug dependence.

145 Sec. 2. Subsection (a) of section 46b-121 of the general statutes is

146 repealed and the following is substituted in lieu thereof (*Effective*
147 *October 1, 2016*):

148 (a) (1) Juvenile matters in the civil session include all proceedings
149 concerning [uncared-for] uncared for, in need of special services,
150 neglected or abused children and youths within this state, termination
151 of parental rights of children committed to a state agency, adoption
152 proceedings pursuant to section 46b-129b, matters concerning families
153 with service needs, contested matters involving termination of
154 parental rights or removal of guardian transferred from the Probate
155 Court and the emancipation of minors, but does not include matters of
156 guardianship and adoption or matters affecting property rights of any
157 child or youth over which the Probate Court has jurisdiction, except
158 that appeals from probate concerning adoption, termination of
159 parental rights and removal of a parent as guardian shall be included.

160 (2) Juvenile matters in the criminal session include all proceedings
161 concerning delinquent children within this state and persons eighteen
162 years of age and older who are under the supervision of a juvenile
163 probation officer while on probation or a suspended commitment to
164 the Department of Children and Families, for purposes of enforcing
165 any court orders entered as part of such probation or suspended
166 commitment.

167 Sec. 3. Subsection (c) of section 46b-122 of the general statutes is
168 repealed and the following is substituted in lieu thereof (*Effective*
169 *October 1, 2016*):

170 (c) Any judge hearing a juvenile matter, in which a child is alleged
171 to be uncared for, in need of special services, neglected, abused or
172 dependent or in which a child is the subject of a petition for
173 termination of parental rights, may permit any person whom the court
174 finds has a legitimate interest in the hearing or the work of the court to
175 attend such hearing. Such person may include a party, foster parent,
176 relative related to the child by blood or marriage, service provider or
177 any person or representative of any agency, entity or association,
178 including a representative of the news media. The court may, for the

179 child's safety and protection and for good cause shown, prohibit any
180 person or representative of any agency, entity or association, including
181 a representative of the news media, who is present in court from
182 further disclosing any information that would identify the child, the
183 custodian or caretaker of the child or the members of the child's family
184 involved in the hearing.

185 Sec. 4. Subsection (k) of section 46b-128a of the general statutes is
186 repealed and the following is substituted in lieu thereof (*Effective*
187 *October 1, 2016*):

188 (k) (1) If the court determines after the period covered by the
189 intervention order that the child or youth has not attained or regained
190 competency and that there is not a substantial probability that the
191 child or youth will attain or regain competency, or that further
192 intervention to attain or regain competency is not appropriate based
193 on the criteria set forth in subdivision (2) of subsection (g) of this
194 section, the court shall: (A) Dismiss the petition if it is a delinquency or
195 family with service needs petition; (B) vest temporary custody of the
196 child or youth in the Commissioner of Children and Families and
197 notify the Office of the Chief Public Defender, which shall assign an
198 attorney to serve as guardian ad litem for the child or youth and
199 investigate whether a petition should be filed under section 46b-129, as
200 amended by this act; or (C) order that the Department of Children and
201 Families or some other person, agency, mental health facility or
202 treatment program, or such child's or youth's probation officer,
203 conduct or obtain an appropriate assessment and, where appropriate,
204 propose a plan for services that can appropriately address the child's
205 or youth's needs in the least restrictive setting available and
206 appropriate. Any plan for services may include a plan for interagency
207 collaboration for the provision of appropriate services after the child or
208 youth attains the age of eighteen.

209 (2) Not later than ten business days after the issuance of an order
210 pursuant to subparagraph (B) or (C) of subdivision (1) of this
211 subsection, the court shall hold a hearing to review the order of

212 temporary custody or any recommendations of the Department of
213 Children and Families, such probation officer or such attorney or
214 guardian ad litem for the child or youth.

215 (3) If the child or youth is adjudicated neglected, [uncared-for]
216 uncared for, in need of special services or abused subsequent to such a
217 petition being filed, or if a plan for services pursuant to subparagraph
218 (C) of subdivision (1) of this subsection has been approved by the court
219 and implemented, the court may dismiss the delinquency or family
220 with service needs petition, or, in the discretion of the court, order that
221 the prosecution of the case be suspended for a period not to exceed
222 eighteen months. During the period of suspension, the court may
223 order the Department of Children and Families to provide periodic
224 reports to the court to ensure that appropriate services are being
225 provided to the child or youth. If during the period of suspension, the
226 child or youth or the parent or guardian of the child or youth does not
227 comply with the requirements set forth in the plan for services, the
228 court may hold a hearing to determine whether the court should
229 follow the procedure under subparagraph (B) of subdivision (1) of this
230 subsection for instituting a petition alleging that a child is neglected,
231 uncared for, in need of special services or abused. Whenever the court
232 finds that the need for the suspension of prosecution is no longer
233 necessary, but not later than the expiration of such period of
234 suspension, the delinquency or family with service needs petition shall
235 be dismissed.

236 Sec. 5. Subsection (a) of section 46b-129 of the 2016 supplement to
237 the general statutes is repealed and the following is substituted in lieu
238 thereof (*Effective October 1, 2016*):

239 (a) Any selectman, town manager, or town, city or borough welfare
240 department, any probation officer, or the Commissioner of Social
241 Services, the Commissioner of Children and Families or any child-
242 caring institution or agency approved by the Commissioner of
243 Children and Families, a child or such child's representative or
244 attorney or a foster parent of a child, having information that a child or

245 youth is neglected, uncared for, in need of special services or abused
246 may file with the Superior Court that has venue over such matter a
247 verified petition plainly stating such facts as bring the child or youth
248 within the jurisdiction of the court as neglected, uncared for, in need of
249 special services or abused within the meaning of section 46b-120, as
250 amended by this act, the name, date of birth, sex and residence of the
251 child or youth, the name and residence of such child's parents or
252 guardian, and praying for appropriate action by the court in
253 conformity with the provisions of this chapter. Upon the filing of such
254 a petition, except as otherwise provided in subsection (k) of section
255 17a-112, as amended by this act, the court shall cause a summons to be
256 issued requiring the parent or parents or the guardian of the child or
257 youth to appear in court at the time and place named, which summons
258 shall be served not less than fourteen days before the date of the
259 hearing in the manner prescribed by section 46b-128, and the court
260 shall further give notice to the petitioner and to the Commissioner of
261 Children and Families of the time and place when the petition is to be
262 heard not less than fourteen days prior to the hearing in question.

263 Sec. 6. Subsection (j) of section 46b-129 of the 2016 supplement to the
264 general statutes is repealed and the following is substituted in lieu
265 thereof (*Effective October 1, 2016*):

266 (j) (1) For the purposes of this subsection and subsection (k) of this
267 section, "permanent legal guardianship" means a permanent
268 guardianship, as defined in section 45a-604.

269 (2) Upon finding and adjudging that any child or youth is uncared
270 for, in need of special services, neglected or abused the court may (A)
271 commit such child or youth to the Commissioner of Children and
272 Families, and such commitment shall remain in effect until further
273 order of the court, except that such commitment may be revoked or
274 parental rights terminated at any time by the court; (B) vest such
275 child's or youth's legal guardianship in any private or public agency
276 that is permitted by law to care for neglected, in need of special
277 services, uncared for or abused children or youths or with any other

278 person or persons found to be suitable and worthy of such
279 responsibility by the court, including, but not limited to, any relative of
280 such child or youth by blood or marriage; (C) vest such child's or
281 youth's permanent legal guardianship in any person or persons found
282 to be suitable and worthy of such responsibility by the court,
283 including, but not limited to, any relative of such child or youth by
284 blood or marriage in accordance with the requirements set forth in
285 subdivision (5) of this subsection; or (D) place the child or youth in the
286 custody of the parent or guardian with protective supervision by the
287 Commissioner of Children and Families subject to conditions
288 established by the court.

289 (3) If the court determines that the commitment should be revoked
290 and the child's or youth's legal guardianship or permanent legal
291 guardianship should vest in someone other than the respondent
292 parent, parents or former guardian, or if parental rights are terminated
293 at any time, there shall be a rebuttable presumption that an award of
294 legal guardianship or permanent legal guardianship upon revocation
295 to, or adoption upon termination of parental rights by, any relative
296 who is licensed as a foster parent for such child or youth, or who is,
297 pursuant to an order of the court, the temporary custodian of the child
298 or youth at the time of the revocation or termination, shall be in the
299 best interests of the child or youth and that such relative is a suitable
300 and worthy person to assume legal guardianship or permanent legal
301 guardianship upon revocation or to adopt such child or youth upon
302 termination of parental rights. The presumption may be rebutted by a
303 preponderance of the evidence that an award of legal guardianship or
304 permanent legal guardianship to, or an adoption by, such relative
305 would not be in the child's or youth's best interests and such relative is
306 not a suitable and worthy person. The court shall order specific steps
307 that the parent must take to facilitate the return of the child or youth to
308 the custody of such parent.

309 (4) The commissioner shall be the guardian of such child or youth
310 for the duration of the commitment, provided the child or youth has
311 not reached the age of eighteen years, or until another guardian has

312 been legally appointed, and in like manner, upon such vesting of the
313 care of such child or youth, such other public or private agency or
314 individual shall be the guardian of such child or youth until such child
315 or youth has reached the age of eighteen years or, in the case of a child
316 or youth in full-time attendance in a secondary school, a technical high
317 school, a college or a state-accredited job training program, until such
318 child or youth has reached the age of twenty-one years or until another
319 guardian has been legally appointed. The commissioner may place any
320 child or youth so committed to the commissioner in a suitable foster
321 home or in the home of a person related by blood or marriage to such
322 child or youth or in a licensed child-caring institution or in the care
323 and custody of any accredited, licensed or approved child-caring
324 agency, within or without the state, provided a child shall not be
325 placed outside the state except for good cause and unless the parents
326 or guardian of such child are notified in advance of such placement
327 and given an opportunity to be heard, or in a receiving home
328 maintained and operated by the Commissioner of Children and
329 Families. In placing such child or youth, the commissioner shall, if
330 possible, select a home, agency, institution or person of like religious
331 faith to that of a parent of such child or youth, if such faith is known or
332 may be ascertained by reasonable inquiry, provided such home
333 conforms to the standards of said commissioner and the commissioner
334 shall, when placing siblings, if possible, place such children together.
335 Upon the issuance of an order committing the child or youth to the
336 Commissioner of Children and Families, or not later than sixty days
337 after the issuance of such order, the court shall determine whether the
338 Department of Children and Families made reasonable efforts to keep
339 the child or youth with his or her parents or guardian prior to the
340 issuance of such order and, if such efforts were not made, whether
341 such reasonable efforts were not possible, taking into consideration the
342 child's or youth's best interests, including the child's or youth's health
343 and safety.

344 (5) A youth who is committed to the commissioner pursuant to this
345 subsection and has reached eighteen years of age may remain in the
346 care of the commissioner, by consent of the youth and provided the

347 youth has not reached the age of twenty-one years of age, if the youth
348 is (A) enrolled in a full-time approved secondary education program
349 or an approved program leading to an equivalent credential; (B)
350 enrolled full time in an institution which provides postsecondary or
351 vocational education; or (C) participating full time in a program or
352 activity approved by said commissioner that is designed to promote or
353 remove barriers to employment. The commissioner, in his or her
354 discretion, may waive the provision of full-time enrollment or
355 participation based on compelling circumstances. Not more than one
356 hundred twenty days after the youth's eighteenth birthday, the
357 department shall file a motion in the superior court for juvenile
358 matters that had jurisdiction over the youth's case prior to the youth's
359 eighteenth birthday for a determination as to whether continuation in
360 care is in the youth's best interest and, if so, whether there is an
361 appropriate permanency plan. The court, in its discretion, may hold a
362 hearing on said motion.

363 (6) Prior to issuing an order for permanent legal guardianship, the
364 court shall provide notice to each parent that the parent may not file a
365 motion to terminate the permanent legal guardianship, or the court
366 shall indicate on the record why such notice could not be provided,
367 and the court shall find by clear and convincing evidence that the
368 permanent legal guardianship is in the best interests of the child or
369 youth and that the following have been proven by clear and
370 convincing evidence:

371 (A) One of the statutory grounds for termination of parental rights
372 exists, as set forth in subsection (j) of section 17a-112, as amended by
373 this act, or the parents have voluntarily consented to the establishment
374 of the permanent legal guardianship;

375 (B) Adoption of the child or youth is not possible or appropriate;

376 (C) (i) If the child or youth is at least twelve years of age, such child
377 or youth consents to the proposed permanent legal guardianship, or
378 (ii) if the child is under twelve years of age, the proposed permanent
379 legal guardian is: (I) A relative, or (II) already serving as the

380 permanent legal guardian of at least one of the child's siblings, if any;

381 (D) The child or youth has resided with the proposed permanent
382 legal guardian for at least a year; and

383 (E) The proposed permanent legal guardian is (i) a suitable and
384 worthy person, and (ii) committed to remaining the permanent legal
385 guardian and assuming the right and responsibilities for the child or
386 youth until the child or youth attains the age of majority.

387 (7) An order of permanent legal guardianship may be reopened and
388 modified and the permanent legal guardian removed upon the filing
389 of a motion with the court, provided it is proven by a fair
390 preponderance of the evidence that the permanent legal guardian is no
391 longer suitable and worthy. A parent may not file a motion to
392 terminate a permanent legal guardianship. If, after a hearing, the court
393 terminates a permanent legal guardianship, the court, in appointing a
394 successor legal guardian or permanent legal guardian for the child or
395 youth shall do so in accordance with this subsection.

396 Sec. 7. Section 46b-129a of the general statutes is repealed and the
397 following is substituted in lieu thereof (*Effective October 1, 2016*):

398 In proceedings in the Superior Court under section 46b-129, as
399 amended by this act:

400 (1) The court may order the child, the parents, the guardian, or other
401 persons accused by a competent witness of abusing the child, to be
402 examined by one or more competent physicians, psychiatrists or
403 psychologists appointed by the court;

404 (2) (A) A child shall be represented by counsel knowledgeable about
405 representing such children who shall be assigned to represent the child
406 by the office of Chief Public Defender, or appointed by the court if
407 there is an immediate need for the appointment of counsel during a
408 court proceeding. The court shall give the parties prior notice of such
409 assignment or appointment. Counsel for the child shall act solely as
410 attorney for the child.

411 (B) If a child requiring assignment of counsel in a proceeding under
412 section 46b-129, as amended by this act, is represented by an attorney
413 for a minor child in an ongoing probate or family matter proceeding,
414 the court may appoint the attorney to represent the child in the
415 proceeding under section 46b-129, as amended by this act, provided (i)
416 such counsel is knowledgeable about representing such children, and
417 (ii) the court notifies the office of Chief Public Defender of the
418 appointment. Any child who is subject to an ongoing probate or family
419 matters proceeding who has been appointed a guardian ad litem in a
420 such proceeding shall be assigned a separate guardian ad litem in a
421 proceeding under section 46b-129, as amended by this act, if it is
422 deemed necessary pursuant to subparagraph (D) of this subdivision.

423 (C) The primary role of any counsel for the child shall be to
424 advocate for the child in accordance with the Rules of Professional
425 Conduct, except that if the child is incapable of expressing the child's
426 wishes to the child's counsel because of age or other incapacity, the
427 counsel for the child shall advocate for the best interests of the child.

428 (D) If the court, based on evidence before it, or counsel for the child,
429 determines that the child cannot adequately act in his or her own best
430 interests and the child's wishes, as determined by counsel, if followed,
431 could lead to substantial physical, financial or other harm to the child
432 unless protective action is taken, counsel may request and the court
433 may order that a separate guardian ad litem be assigned for the child,
434 in which case the court shall either appoint a guardian ad litem to
435 serve on a voluntary basis or notify the office of Chief Public Defender
436 who shall assign a separate guardian ad litem for the child. The
437 guardian ad litem shall perform an independent investigation of the
438 case and may present at any hearing information pertinent to the
439 court's determination of the best interests of the child. The guardian ad
440 litem shall be subject to cross-examination upon the request of
441 opposing counsel. The guardian ad litem is not required to be an
442 attorney-at-law but shall be knowledgeable about the needs and
443 protection of children and relevant court procedures. If a separate
444 guardian ad litem is assigned, the person previously serving as counsel

445 for the child shall continue to serve as counsel for the child and a
446 different person shall be assigned as guardian ad litem, unless the
447 court for good cause also determines that a different person should
448 serve as counsel for the child, in which case the court shall notify the
449 office of Chief Public Defender who shall assign a different person as
450 counsel for the child. No person who has served as both counsel and
451 guardian ad litem for a child shall thereafter serve solely as the child's
452 guardian ad litem.

453 (E) The counsel and guardian ad litem's fees, if any, shall be paid by
454 the office of Chief Public Defender unless the parents or guardian, or
455 the estate of the child, are able to pay, in which case the court shall
456 assess the rate the parent or guardian is able to pay and the office of
457 Chief Public Defender may seek reimbursement for the costs of
458 representation from the parents, guardian or estate of the child;

459 (3) The privilege against the disclosure of communications between
460 husband and wife shall be inapplicable and either may testify as to any
461 relevant matter; and

462 (4) Evidence that the child has been abused or has sustained a
463 nonaccidental injury shall constitute prima facie evidence that shall be
464 sufficient to support an adjudication that such child is uncared for, in
465 need of special services or neglected.

466 Sec. 8. Subsection (b) of section 46b-135 of the general statutes is
467 repealed and the following is substituted in lieu thereof (*Effective*
468 *October 1, 2016*):

469 (b) At the commencement of any proceeding on behalf of a
470 neglected, [uncared-for] uncared for, in need of special services or
471 abused child or youth, the parent or parents or guardian of the child or
472 youth shall have the right to counsel, and shall be so informed by the
473 judge, and that if they are unable to afford counsel, counsel will be
474 provided for them. Such parent or guardian of the child or youth shall
475 have the rights of confrontation and cross-examination.

476 Sec. 9. Subsection (d) of section 46b-137 of the general statutes is
477 repealed and the following is substituted in lieu thereof (*Effective*
478 *October 1, 2016*):

479 (d) Any confession, admission or statement, written or oral, made
480 by the parent or parents or guardian of the child or youth after the
481 filing of a petition alleging such child or youth to be neglected,
482 uncared for, in need of special services or abused shall be inadmissible
483 in any proceeding held upon such petition against the person making
484 such admission or statement unless such person shall have been
485 advised of the person's right to retain counsel, and that if the person is
486 unable to afford counsel, counsel will be appointed to represent the
487 person, that the person has a right to refuse to make any statement and
488 that any statements the person makes may be introduced in evidence
489 against the person, except that any statement made by the mother of
490 any child or youth, upon inquiry by the court and under oath if
491 necessary, as to the identity of any person who might be the father of
492 the child or youth shall not be inadmissible if the mother was not so
493 advised.

494 Sec. 10. Section 46b-150d of the general statutes is repealed and the
495 following is substituted in lieu thereof (*Effective October 1, 2016*):

496 An order that a minor is emancipated shall have the following
497 effects: (1) The minor may consent to medical, dental or psychiatric
498 care, without parental consent, knowledge or liability; (2) the minor
499 may enter into a binding contract; (3) the minor may sue and be sued
500 in such minor's own name; (4) the minor shall be entitled to such
501 minor's own earnings and shall be free of control by such minor's
502 parents or guardian; (5) the minor may establish such minor's own
503 residence; (6) the minor may buy and sell real and personal property;
504 (7) the minor may not thereafter be the subject of (A) a petition under
505 section 46b-129, as amended by this act, as an abused, neglected, [or]
506 uncared for or in need of special services child or youth, (B) a petition
507 under section 46b-128 or 46b-133 as a delinquent child for any act
508 committed before the date of the order, or (C) a petition under section

509 46b-149 alleging that the minor is a child from a family with service
510 needs; (8) the minor may enroll in any school or college, without
511 parental consent; (9) the minor shall be deemed to be over eighteen
512 years of age for purposes of securing an operator's license under
513 section 14-36 and a marriage license under subsection (b) of section
514 46b-30; (10) the minor shall be deemed to be over eighteen years of age
515 for purposes of registering a motor vehicle under section 14-12; (11) the
516 parents of the minor shall no longer be the guardians of the minor
517 under section 45a-606; (12) the parents of a minor shall be relieved of
518 any obligations respecting such minor's school attendance under
519 section 10-184; (13) the parents shall be relieved of all obligation to
520 support the minor; (14) the minor shall be emancipated for the
521 purposes of parental liability for such minor's acts under section 52-
522 572; (15) the minor may execute releases in such minor's own name
523 under section 14-118; (16) the minor may enlist in the armed forces of
524 the United States without parental consent; and (17) the minor may
525 access or obtain a certified copy of a birth certificate under section 7-51.

526 Sec. 11. Subsection (a) of section 46b-59 of the general statutes is
527 repealed and the following is substituted in lieu thereof (*Effective*
528 *October 1, 2016*):

529 (a) As used in this section:

530 (1) "Grandparent" means a grandparent or great-grandparent
531 related to a minor child by (A) blood, (B) marriage, or (C) adoption of
532 the minor child by a child of the grandparent; and

533 (2) "Real and significant harm" means that the minor child is
534 neglected, uncared for or in need of special services, as defined in
535 section 46b-120, as amended by this act. [or uncared for, as defined in
536 said section.]

537 Sec. 12. Subsection (a) of section 17a-3 of the general statutes is
538 repealed and the following is substituted in lieu thereof (*Effective*
539 *October 1, 2016*):

540 (a) The department shall plan, create, develop, operate or arrange
541 for, administer and evaluate a comprehensive and integrated
542 state-wide program of services, including preventive services, for
543 children and youths whose behavior does not conform to the law or to
544 acceptable community standards, or who are mentally ill, including
545 deaf and hearing impaired children and youths who are mentally ill,
546 emotionally disturbed, substance abusers, delinquent, abused,
547 neglected, [or] uncared for or in need of special services, as defined in
548 section 46b-120, as amended by this act, including all children and
549 youths who are or may be committed to it by any court, and all
550 children and youths voluntarily admitted to, or remaining voluntarily
551 under the supervision of, the commissioner for services of any kind.
552 Services shall not be denied to any such child or youth solely because
553 of other complicating or multiple disabilities. The department shall
554 work in cooperation with other child-serving agencies and
555 organizations to provide or arrange for preventive programs,
556 including, but not limited to, teenage pregnancy and youth suicide
557 prevention, for children and youths and their families. The program
558 shall provide services and placements that are clinically indicated and
559 appropriate to the needs of the child or youth, except that such services
560 and placements shall not commence or continue for a delinquent child
561 who has attained the age of twenty. In furtherance of this purpose, the
562 department shall: (1) Maintain the Connecticut Juvenile Training
563 School and other appropriate facilities exclusively for delinquents; (2)
564 develop a comprehensive program for prevention of problems of
565 children and youths and provide a flexible, innovative and effective
566 program for the placement, care and treatment of children and youths
567 committed by any court to the department, transferred to the
568 department by other departments, or voluntarily admitted to the
569 department; (3) provide appropriate services to families of children
570 and youths as needed to achieve the purposes of sections 17a-1 to
571 17a-26, inclusive, 17a-28 to 17a-49, inclusive, and 17a-51; (4) establish
572 incentive paid work programs for children and youths under the care
573 of the department and the rates to be paid such children and youths
574 for work done in such programs and may provide allowances to

575 children and youths in the custody of the department; (5) be
576 responsible to collect, interpret and publish statistics relating to
577 children and youths within the department; (6) conduct studies of any
578 program, service or facility developed, operated, contracted for or
579 supported by the department in order to evaluate its effectiveness; (7)
580 establish staff development and other training and educational
581 programs designed to improve the quality of departmental services
582 and programs, which shall include, but not be limited to, training in
583 the prevention, identification and effects of family violence, provided
584 no social worker trainee shall be assigned a case load prior to
585 completing training, and may establish educational or training
586 programs for children, youths, parents or other interested persons on
587 any matter related to the promotion of the well-being of children, or
588 the prevention of mental illness, emotional disturbance, delinquency
589 and other disabilities in children and youths; (8) develop and
590 implement aftercare and follow-up services appropriate to the needs of
591 any child or youth under the care of the department; (9) establish a
592 case audit unit to monitor each regional office's compliance with
593 regulations and procedures; (10) develop and maintain a database
594 listing available community service programs funded by the
595 department; (11) provide outreach and assistance to persons caring for
596 children whose parents are unable to do so by informing such persons
597 of programs and benefits for which they may be eligible; and (12)
598 collect data sufficient to identify the housing needs of children served
599 by the department and share such data with the Department of
600 Housing.

601 Sec. 13. Subsection (j) of section 17a-112 of the 2016 supplement to
602 the general statutes is repealed and the following is substituted in lieu
603 thereof (*Effective October 1, 2016*):

604 (j) The Superior Court, upon notice and hearing as provided in
605 sections 45a-716 and 45a-717, as amended by this act, may grant a
606 petition filed pursuant to this section if it finds by clear and convincing
607 evidence that (1) the Department of Children and Families has made
608 reasonable efforts to locate the parent and to reunify the child with the

609 parent in accordance with subsection (a) of section 17a-111b, unless the
610 court finds in this proceeding that the parent is unable or unwilling to
611 benefit from reunification efforts, except that such finding is not
612 required if the court has determined at a hearing pursuant to section
613 17a-111b, or determines at trial on the petition, that such efforts are not
614 required, (2) termination is in the best interest of the child, and (3) (A)
615 the child has been abandoned by the parent in the sense that the parent
616 has failed to maintain a reasonable degree of interest, concern or
617 responsibility as to the welfare of the child; (B) the child (i) has been
618 found by the Superior Court or the Probate Court to have been
619 neglected, abused, [or] uncared for or in need of special services, as
620 defined in section 46b-120, as amended by this act, in a prior
621 proceeding, or (ii) is found to be neglected, abused, [or] uncared for or
622 in need of special services and has been in the custody of the
623 commissioner for at least fifteen months and the parent of such child
624 has been provided specific steps to take to facilitate the return of the
625 child to the parent pursuant to section 46b-129, as amended by this act,
626 and has failed to achieve such degree of personal rehabilitation as
627 would encourage the belief that within a reasonable time, considering
628 the age and needs of the child, such parent could assume a responsible
629 position in the life of the child; (C) the child has been denied, by reason
630 of an act or acts of parental commission or omission including, but not
631 limited to, sexual molestation or exploitation, severe physical abuse or
632 a pattern of abuse, the care, guidance or control necessary for the
633 child's physical, educational, moral or emotional well-being, except
634 that nonaccidental or inadequately explained serious physical injury to
635 a child shall constitute prima facie evidence of acts of parental
636 commission or omission sufficient for the termination of parental
637 rights; (D) there is no ongoing parent-child relationship, which means
638 the relationship that ordinarily develops as a result of a parent having
639 met on a day-to-day basis the physical, emotional, moral and
640 educational needs of the child and to allow further time for the
641 establishment or reestablishment of such parent-child relationship
642 would be detrimental to the best interest of the child; (E) the parent of
643 a child under the age of seven years who is neglected, abused, [or]

644 uncared for or in need of special services, has failed, is unable or is
645 unwilling to achieve such degree of personal rehabilitation as would
646 encourage the belief that within a reasonable period of time,
647 considering the age and needs of the child, such parent could assume a
648 responsible position in the life of the child and such parent's parental
649 rights of another child were previously terminated pursuant to a
650 petition filed by the Commissioner of Children and Families; (F) the
651 parent has killed through deliberate, nonaccidental act another child of
652 the parent or has requested, commanded, importuned, attempted,
653 conspired or solicited such killing or has committed an assault,
654 through deliberate, nonaccidental act that resulted in serious bodily
655 injury of another child of the parent; or (G) the parent was convicted as
656 an adult or a delinquent by a court of competent jurisdiction of a
657 sexual assault resulting in the conception of the child, except a
658 conviction for a violation of section 53a-71 or 53a-73a, provided the
659 court may terminate such parent's parental rights to such child at any
660 time after such conviction.

661 Sec. 14. Section 31-306a of the general statutes is repealed and the
662 following is substituted in lieu thereof (*Effective October 1, 2016*):

663 Notwithstanding any contrary provision in section 31-306, any
664 compensation due on behalf of any presumptive dependent child
665 under the provisions of said section, which child has been committed
666 to the Commissioner of Social Services or the Commissioner of
667 Children and Families as neglected, [or] uncared for or in need of
668 special services, as defined in section 46b-120, as amended by this act,
669 shall be payable to the commissioner as legal guardian of the child less
670 fees approved under subsection (b) of section 31-327.

671 Sec. 15. Section 45a-610 of the general statutes is repealed and the
672 following is substituted in lieu thereof (*Effective October 1, 2016*):

673 If the Court of Probate finds that notice has been given or a waiver
674 has been filed, as provided in section 45a-609, it may remove a parent
675 as guardian, if the court finds by clear and convincing evidence one of
676 the following: (1) The parent consents to his or her removal as

677 guardian; or (2) the minor child has been abandoned by the parent in
678 the sense that the parent has failed to maintain a reasonable degree of
679 interest, concern or responsibility for the minor child's welfare; or (3)
680 the minor child has been denied the care, guidance or control
681 necessary for his or her physical, educational, moral or emotional well-
682 being, as a result of acts of parental commission or omission, whether
683 the acts are the result of the physical or mental incapability of the
684 parent or conditions attributable to parental habits, misconduct or
685 neglect, and the parental acts or deficiencies support the conclusion
686 that the parent cannot exercise, or should not in the best interests of the
687 minor child be permitted to exercise, parental rights and duties at the
688 time; or (4) the minor child has had physical injury or injuries inflicted
689 upon the minor child by a person responsible for such child's health,
690 welfare or care, or by a person given access to such child by such
691 responsible person, other than by accidental means, or has injuries
692 which are at variance with the history given of them or is in a
693 condition which is the result of maltreatment such as, but not limited
694 to, malnutrition, sexual molestation, deprivation of necessities,
695 emotional maltreatment or cruel punishment; or (5) the minor child
696 has been found to be neglected, [or] uncared for or in need of special
697 services, as defined in section 46b-120, as amended by this act. If, after
698 removal of a parent as guardian under this section, the minor child has
699 no guardian of his or her person, such a guardian may be appointed
700 under the provisions of section 45a-616. Upon the issuance of an order
701 appointing the Commissioner of Children and Families as guardian of
702 the minor child, or not later than sixty days after the issuance of such
703 order, the court shall make a determination whether the Department of
704 Children and Families made reasonable efforts to keep the minor child
705 with his or her parents prior to the issuance of such order and, if such
706 efforts were not made, whether such reasonable efforts were not
707 possible, taking into consideration the minor child's best interests,
708 including the minor child's health and safety.

709 Sec. 16. Subsection (g) of section 45a-717 of the 2016 supplement to
710 the general statutes is repealed and the following is substituted in lieu
711 thereof (*Effective October 1, 2016*):

712 (g) At the adjourned hearing or at the initial hearing where no
713 investigation and report has been requested, the court may approve a
714 petition terminating the parental rights and may appoint a guardian of
715 the person of the child, or, if the petitioner requests, the court may
716 appoint a statutory parent, if it finds, upon clear and convincing
717 evidence, that (1) the termination is in the best interest of the child, and
718 (2) (A) the child has been abandoned by the parent in the sense that the
719 parent has failed to maintain a reasonable degree of interest, concern
720 or responsibility as to the welfare of the child; (B) the child has been
721 denied, by reason of an act or acts of parental commission or omission,
722 including, but not limited to sexual molestation and exploitation,
723 severe physical abuse or a pattern of abuse, the care, guidance or
724 control necessary for the child's physical, educational, moral or
725 emotional well-being. Nonaccidental or inadequately explained
726 serious physical injury to a child shall constitute prima facie evidence
727 of acts of parental commission or omission sufficient for the
728 termination of parental rights; (C) there is no ongoing parent-child
729 relationship which is defined as the relationship that ordinarily
730 develops as a result of a parent having met on a continuing, day-to-
731 day basis the physical, emotional, moral and educational needs of the
732 child and to allow further time for the establishment or
733 reestablishment of the parent-child relationship would be detrimental
734 to the best interests of the child; (D) a child of the parent (i) was found
735 by the Superior Court or the Probate Court to have been neglected,
736 abused, [or] uncared for or in need of special services, as those terms
737 are defined in section 46b-120, as amended by this act, in a prior
738 proceeding, or (ii) is found to be neglected, abused, [or] uncared for or
739 in need of special services and has been in the custody of the
740 commissioner for at least fifteen months and such parent has been
741 provided specific steps to take to facilitate the return of the child to the
742 parent pursuant to section 46b-129, as amended by this act, and has
743 failed to achieve such degree of personal rehabilitation as would
744 encourage the belief that within a reasonable time, considering the age
745 and needs of the child, such parent could assume a responsible
746 position in the life of the child; (E) a child of the parent, who is under

747 the age of seven years is found to be neglected, abused, [or] uncared
 748 for or in need of special services, and the parent has failed, is unable or
 749 is unwilling to achieve such degree of personal rehabilitation as would
 750 encourage the belief that within a reasonable amount of time,
 751 considering the age and needs of the child, such parent could assume a
 752 responsible position in the life of the child and such parent's parental
 753 rights of another child were previously terminated pursuant to a
 754 petition filed by the Commissioner of Children and Families; (F) the
 755 parent has killed through deliberate, nonaccidental act another child of
 756 the parent or has requested, commanded, importuned, attempted,
 757 conspired or solicited such killing or has committed an assault,
 758 through deliberate, nonaccidental act that resulted in serious bodily
 759 injury of another child of the parent; or (G) the parent was convicted as
 760 an adult or a delinquent by a court of competent jurisdiction of sexual
 761 assault resulting in the conception of a child except for a violation of
 762 section 53a-71 or 53a-73a provided the court may terminate such
 763 parent's parental rights to such child at any time after such conviction.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	46b-120
Sec. 2	<i>October 1, 2016</i>	46b-121(a)
Sec. 3	<i>October 1, 2016</i>	46b-122(c)
Sec. 4	<i>October 1, 2016</i>	46b-128a(k)
Sec. 5	<i>October 1, 2016</i>	46b-129(a)
Sec. 6	<i>October 1, 2016</i>	46b-129(j)
Sec. 7	<i>October 1, 2016</i>	46b-129a
Sec. 8	<i>October 1, 2016</i>	46b-135(b)
Sec. 9	<i>October 1, 2016</i>	46b-137(d)
Sec. 10	<i>October 1, 2016</i>	46b-150d
Sec. 11	<i>October 1, 2016</i>	46b-59(a)
Sec. 12	<i>October 1, 2016</i>	17a-3(a)
Sec. 13	<i>October 1, 2016</i>	17a-112(j)
Sec. 14	<i>October 1, 2016</i>	31-306a
Sec. 15	<i>October 1, 2016</i>	45a-610
Sec. 16	<i>October 1, 2016</i>	45a-717(g)

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, which clarifies that children and youth that are in need of special services are not, by statutory definition, also uncared for, does not result in a fiscal impact to the state, or municipalities.

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

OLR Bill Analysis**SB 184*****AN ACT CONCERNING CHILDREN IN NEED OF SPECIAL SERVICES.*****SUMMARY:**

The Department of Children and Families (DCF) provides services to children and youths in various circumstances, including those the court finds are uncared for, abused, or neglected. Such a finding may also (1) serve as the basis for the court to commit a child or youth to DCF and (2) be a factor the court considers in a parental rights termination proceeding.

Currently, a child or youth may be found to be “uncared for” if (1) he or she is homeless or has been identified as a human trafficking victim or (2) his or her home cannot provide the specialized care that the child’s or youth’s physical, emotional, or mental condition requires.

This bill eliminates the latter category from the definition of “uncared for” and instead defines such children or youths as “in need of special services.”

The bill makes numerous conforming and technical changes to the laws that currently apply to children or youths found to be uncared for, so that such laws also apply to children or youths in need of special services, including laws governing juvenile court jurisdiction and procedure, as well as DCF services and commitment.

EFFECTIVE DATE: October 1, 2016

COMMITTEE ACTION

Committee on Children

Joint Favorable

Yea 11 Nay 0 (02/25/2016)