



General Assembly

February Session, 2016

***Raised Bill No. 5366***

LCO No. 1646



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

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2 to the general statutes is repealed and the following is substituted in  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

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

50 date of the last permanency hearing held pursuant to subsection (k) of  
51 section 46b-129, whichever is earlier, and at least once a year thereafter  
52 while the child remains in the custody of the Commissioner of  
53 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 Court Support Services Division that may include, as available: Any  
102 existing or prior orders of protection obtained from the protection  
103 order registry; information on any pending or past criminal case in  
104 which the respondent was charged with or convicted of a violent  
105 crime; any outstanding arrest warrant for the respondent and the  
106 respondent's level of risk based on a risk assessment tool utilized by  
107 the Court Support Services Division. The report may also include  
108 information pertaining to any pending or disposed family matters case  
109 involving the applicant and respondent. Any report provided by the  
110 Court Support Services Division to the court shall also be provided to  
111 the applicant and respondent. Such orders may include temporary  
112 child custody or visitation rights, and such relief may include, but is  
113 not limited to, an order enjoining the respondent from (1) imposing  
114 any restraint upon the person or liberty of the applicant; (2)  
115 threatening, harassing, assaulting, molesting, sexually assaulting or

116 attacking the applicant; or (3) entering the family dwelling or the  
117 dwelling of the applicant. Such order may include provisions  
118 necessary to protect any animal owned or kept by the applicant  
119 including, but not limited to, an order enjoining the respondent from  
120 injuring or threatening to injure such animal. If an applicant alleges an  
121 immediate and present physical danger to the applicant, the court may  
122 issue an ex parte order granting such relief as it deems appropriate. If a  
123 postponement of a hearing on the application is requested by either  
124 party and granted, the ex parte order shall not be continued except  
125 upon agreement of the parties or by order of the court for good cause  
126 shown. If a hearing on the application is scheduled or an ex parte order  
127 is granted and the court is closed on the scheduled hearing date, the  
128 hearing shall be held on the next day the court is open and any such ex  
129 parte order shall remain in effect until the date of such hearing. If the  
130 applicant is under eighteen years of age, a parent, guardian or  
131 responsible adult who brings the application as next friend of the  
132 applicant may not speak on the applicant's behalf at such hearing  
133 unless there is good cause shown as to why the applicant is unable to  
134 speak on his or her own behalf. If a respondent is under eighteen years  
135 of age and appears for such hearing without a parent or guardian, the  
136 court may appoint a responsible adult as next friend. As used in this  
137 subsection "violent crime" includes: (A) An incident resulting in  
138 physical harm, bodily injury or assault; (B) an act of threatened  
139 violence that constitutes fear of imminent physical harm, bodily injury  
140 or assault, including, but not limited to, stalking or a pattern of  
141 threatening; (C) verbal abuse or argument if there is a present danger  
142 and likelihood that physical violence will occur; and (D) cruelty to  
143 animals as set forth in section 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 51-195 of the general statutes is repealed and the  
196 following is substituted in lieu thereof (*Effective October 1, 2016*):

197 Any person sentenced on one or more counts of an information to a  
198 term of imprisonment for which the total sentence of all such counts  
199 amounts to confinement for three years or more, may, within thirty  
200 days from the date such sentence was imposed or if the offender  
201 received a suspended sentence with a maximum confinement of three  
202 years or more, within thirty days of revocation of such suspended  
203 sentence, except in (1) any case in which a different sentence could not  
204 have been imposed, [or in] (2) any case in which the sentence or  
205 commitment imposed resulted from the court's acceptance of a plea  
206 agreement or in any case in which the sentence imposed was for a  
207 lesser term than was proposed in a plea agreement, or (3) instances  
208 when the plea agreement provides that the term of imprisonment will  
209 not exceed an agreed upon maximum term, but provides that the  
210 person sentenced may request a term of imprisonment lower than the  
211 agreed upon maximum term, file with the clerk of the court for the  
212 judicial district in which the judgment was rendered an application for  
213 review of the sentence by the review division. Upon imposition of  
214 sentence or at the time of revocation of such suspended sentence, the

215 clerk shall give written notice to the person sentenced of his right to  
216 make such a request. Such notice shall include a statement that review  
217 of the sentence may result in decrease or increase of the term within  
218 the limits fixed by law. A form for making such application shall  
219 accompany the notice. The clerk shall forthwith transmit such  
220 application to the review division and shall notify the judge who  
221 imposed the sentence. Such judge may transmit to the review division  
222 a statement of his reasons for imposing the sentence, and shall transmit  
223 such a statement within seven days if requested to do so by the review  
224 division. The filing of an application for review shall not stay the  
225 execution of the sentence.

226 Sec. 6. Section 52-148d of the general statutes is repealed and the  
227 following is substituted in lieu thereof (*Effective from passage*):

228 (a) All witnesses or parties giving depositions shall be cautioned to  
229 speak the whole truth and be carefully examined, and shall subscribe  
230 their depositions, and make oath before the authority taking the  
231 depositions.

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

238 (c) The party on whose behalf the deposition of an adverse party is  
239 taken shall be subject to having his deposition taken on behalf of such  
240 adverse party. The party on whose behalf a deposition is taken shall [at  
241 his expense provide a copy of the deposition to each adverse party]  
242 bear the cost of the original transcript, and any permanent electronic  
243 record including audio or videotape. Any party or the deponent may  
244 obtain a copy of the deposition transcript and permanent electronic  
245 record including audio or videotape at his or her own expense.

246       Sec. 7. Subsection (f) of section 52-259 of the 2016 supplement to the  
 247       general statutes is repealed and the following is substituted in lieu  
 248       thereof (*Effective October 1, 2016*):

249       (f) There shall be paid to the clerk of the Superior Court for  
 250       [receiving and filing an assessment of damages by appraisers of land  
 251       taken for public use or] the appointment of a commissioner of the  
 252       Superior Court, two dollars; for recording the commission and oath of  
 253       a notary public or certifying under seal to the official character of any  
 254       magistrate, ten dollars; for issuing a certificate that an attorney is in  
 255       good standing, ten dollars; for certifying under seal, two dollars; for  
 256       exemplifying, twenty dollars; for making all necessary records and  
 257       certificates of naturalization, the fees allowed under the provisions of  
 258       the United States statutes for such services; and for making copies, one  
 259       dollar per page. Any fee set forth in this subsection shall be payable in  
 260       accordance with subsection (m) of this section.

261       Sec. 8. Subdivision (1) of subsection (o) of section 21 of public act 13-  
 262       239 is amended to read as follows (*Effective from passage*):

263       (1) Alterations, renovations and improvements to buildings and  
 264       grounds at state-owned and maintained facilities, not exceeding  
 265       \$7,500,000, provided not more than \$4,500,000 shall be used for repairs,  
 266       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>October 1, 2016</i> | 51-195                   |
| Sec. 6  | <i>from passage</i>    | 52-148d                  |
| Sec. 7  | <i>October 1, 2016</i> | 52-259(f)                |
| Sec. 8  | <i>from passage</i>    | PA 13-239, Sec. 21(o)(1) |

**Statement of Purpose:**

To: (1) Conform internal statutory references to the appropriate governing federal act; (2) amend sections 46b-15 and 46b-16a of the general statutes to permit minors to apply for certain orders of protection; (3) exclude cap plea agreements from review by the Sentence Review Division; (4) specify that a party to a deposition or the deponent may obtain a copy of the deposition transcript and permanent electronic record of such deposition as his or her own expense; (5) delete the requirement that a two dollar fee be paid to a court clerk for receiving and filing an assessment of damages by appraisers of land taken for public use; and (6) amend the 2013 bond act to allow the Judicial Branch to purchase the Waterford Juvenile Facility.

*[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.]*