



Substitute Senate Bill No. 187

Public Act No. 16-124

**AN ACT CONCERNING TRANSFERS OF GUARDIANSHIP AND
SUBSTANTIATED ALLEGATIONS OF ABUSE OR NEGLECT BY A
GUARDIAN.**

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

Section 1. Section 17a-114 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) As used in this section, (1) "approval" or "approved" means that a person has been approved to provide foster care by a child-placing agency licensed pursuant to section 17a-149, (2) "licensed" means a person holds a license to provide foster care issued by the Department of Children and Families, (3) "fictive kin caregiver" means a person who is twenty-one years of age or older and who is unrelated to a child by birth, adoption or marriage but who has an emotionally significant relationship with such child amounting to a familial relationship, [and who is not approved or licensed to provide foster care by the Department of Children and Families,] and (4) "regular unsupervised access" means periodic interaction with a child in the home for purposes of unsupervised child care, medical or other services to the child.

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(b) (1) No child in the custody of the Commissioner of Children and Families shall be placed in foster care with any person, unless (A) such person is licensed for that purpose by the department or the Department of Developmental Services pursuant to the provisions of section 17a-227, or (B) such person's home is approved by a child placing agency licensed by the commissioner pursuant to section 17a-149, or (C) such person has received approval as provided in this section. Any person licensed by the department may be a prospective adoptive parent. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to establish the licensing procedures and standards.

(2) The commissioner shall require each applicant for licensure or approval pursuant to this section and any person sixteen years of age or older living in the household of such applicant to submit to state and national criminal history records checks prior to issuing a license or approval to such applicant to accept placement of a child for purposes of foster care or adoption. Such criminal history records checks shall be conducted in accordance with section 29-17a. The commissioner shall also check the state child abuse registry established pursuant to section 17a-101k for the name of such applicant and for the name of any person sixteen years of age or older living in the household of such applicant.

(3) The commissioner, at his or her discretion, may require any person sixteen years of age or older, who is not living in the household but who has regular unsupervised access to a child in the home of an applicant for licensure or approval, to submit to state and national criminal history records checks prior to issuing a license or approval to such applicant to accept placement of a child. Such criminal history records checks shall be conducted in accordance with section 29-17a. The commissioner may also check the state child abuse registry established pursuant to section 17a-101k for the name of any person

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sixteen years of age or older who is not living in the household but who has regular unsupervised access to a child.

(4) The commissioner shall require each individual licensed or approved pursuant to this section and any person sixteen years of age or older living in the household of such individual to submit to state and national criminal history records checks prior to renewing a license or approval for any individual providing foster care.

(5) The commissioner, at his or her discretion, may require any person sixteen years of age or older who is not living in the household but who has regular unsupervised access to a child in the home of any individual licensed or approved pursuant to this section to submit to state and national criminal history records checks prior to renewing a license or approval for such individual providing foster care.

(c) Notwithstanding the requirements of subsection (b) of this section, the commissioner may place a child with a relative or fictive kin caregiver who has not been issued a license or approval, when such placement is in the best interests of the child, provided a satisfactory home visit is conducted, a basic assessment of the family is completed and such relative or fictive kin caregiver attests that such relative or fictive kin caregiver and any adult living within the household has not been convicted of a crime or arrested for a felony against a person, for injury or risk of injury to or impairing the morals of a child, or for the possession, use or sale of a controlled substance. Any such relative or fictive kin caregiver who accepts placement of a child shall be subject to licensure by the commissioner, pursuant to regulations adopted by the commissioner in accordance with the provisions of chapter 54 to implement the provisions of this section or approval by a child-placing agency licensed pursuant to section 17a-149. The commissioner may grant a waiver from such regulations, including any standard regarding separate bedrooms or room-sharing arrangements, for a child placed with a relative or fictive kin caregiver,

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on a case-by-case basis, if such placement is otherwise in the best interests of such child, provided no procedure or standard that is safety-related may be so waived. The commissioner shall document, in writing, the reason for granting any waiver from such regulations.

(d) Any individual who has been licensed or [received approval] approved to provide foster care and any relative or fictive kin caregiver shall apply a reasonable and prudent parent standard, as defined in subsection (a) of section 17a-114d, on behalf of the child.

Sec. 2. Section 17a-126 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) As used in this section, (1) "caregiver" means (A) a fictive kin caregiver, as defined in section 17a-114, as amended by this act, who is licensed or approved to provide foster care, and who is caring for a child, [or] (B) a relative caregiver, which means a person who is twenty-one years of age or older, related to a child by birth, adoption or marriage and is licensed or approved to provide foster care, or (C) a person who is a licensed or approved foster care provider pursuant to section 17a-114, as amended by this act, and is caring for a child [who is related to such person,] because the parent of the child has died or become otherwise unable to care for the child for reasons that make reunification with the parent and adoption not viable options within the foreseeable future, and (2) "commissioner" means the Commissioner of Children and Families.

(b) The commissioner shall establish a program of subsidized guardianship for the benefit of children who have been in foster care for not less than six consecutive months, for whom neither reunification with a parent nor adoption is an appropriate permanency option, and who have been living with [(1) caregivers, or (2) foster care providers who have been approved to provide foster care by a child-

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placing agency licensed pursuant to section 17a-149] a caregiver. A caregiver may request a guardianship subsidy from the commissioner.

(c) If a caregiver who is receiving a guardianship subsidy for a child is also caring for the child's sibling, the commissioner shall provide a guardianship subsidy to such caregiver in accordance with regulations adopted by the commissioner pursuant to subsection (e) of this section. For purposes of this subsection, "child's sibling" includes a stepbrother, stepsister, a half-brother or a half-sister.

(d) The commissioner shall provide the following subsidies under the subsidized guardianship program in accordance with this section and the regulations adopted pursuant to subsection (e) of this section: (1) A special-need subsidy, which shall be a lump sum payment for one-time expenses resulting from the assumption of care of the child and shall not exceed two thousand dollars; and (2) a medical subsidy comparable to the medical subsidy to children in the subsidized adoption program. The subsidized guardianship program shall also provide a monthly subsidy on behalf of the child payable to the caregiver that is based on the circumstances of the caregiver and the needs of the child and shall not exceed the foster care maintenance payment that would have been paid on behalf of the child if the child had remained in licensed foster care.

(e) The commissioner shall adopt regulations, in accordance with chapter 54, implementing the subsidized guardianship program established under this section. Such regulations shall include all federal requirements necessary to maximize federal reimbursement available to the state, including, but not limited to, (1) eligibility for the program, (2) the maximum age at which a child is no longer eligible for a guardianship subsidy, including the maximum age, for purposes of claiming federal reimbursement under Title IV-E of the Social Security Act, at which a child is no longer eligible for a guardianship subsidy, and (3) a procedure for determining the types and amounts of the

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subsidies.

(f) (1) At a minimum, the guardianship subsidy provided under this section shall continue until the child reaches the age of eighteen or the age of twenty-one if such child is in full-time attendance at a secondary school, technical school or college or is in a state accredited job training program or otherwise meets the criteria set forth in federal law.

(2) A guardianship subsidy may be provided for a child, subject to the commissioner's annual review, through his or her twenty-first birthday, provided: (A) The transfer of guardianship to a successor guardian, as provided in subsection (i) of this section, was finalized on or after October 1, 2013; (B) the child was sixteen years of age or older when such transfer was finalized; and (C) the child is (i) enrolled in a full-time approved secondary education program or an approved program leading to an equivalent credential, (ii) enrolled full time in an institution that provides postsecondary or vocational education, or (iii) participating full time in a program or activity approved by the commissioner that is designed to promote or remove barriers to employment. The commissioner, in his or her discretion, may waive the provision of full-time enrollment or participation based on compelling circumstances. To receive a guardianship subsidy pursuant to this subsection, the guardian shall, at the time of the annual review, submit to the commissioner a sworn statement that the child is still meeting the requirements of clause (i), (ii) or (iii) of subparagraph (C) of this subdivision, provided the commissioner, in his or her discretion, may waive such requirements based on compelling circumstances.

(3) Annually, the subsidized guardian shall submit to the commissioner a sworn statement that the child is still living with and receiving support from the guardian. The parent of any child receiving assistance through the subsidized guardianship program shall remain liable for the support of the child as required by the general statutes.

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(g) A guardianship subsidy shall not be included in the calculation of household income in determining eligibility for benefits of the caregiver of the subsidized child or other persons living within the household of the caregiver.

(h) Payments for guardianship subsidies shall be made from moneys available from any source to the commissioner for child welfare purposes. The commissioner shall develop and implement a plan that: (1) Maximizes use of the subsidized guardianship program to decrease the number of children in the legal custody of the commissioner and to reduce the number of children who would otherwise be placed into nonrelative foster care when there is a caregiver willing to provide care; (2) maximizes federal reimbursement for the costs of the subsidized guardianship program, provided whatever federal maximization method is employed shall not result in the caregiver of a child being subject to work requirements as a condition of receipt of benefits for the child or the benefits restricted in time or scope other than as specified in subsection (c) of this section; and (3) ensures necessary transfers of funds between agencies and interagency coordination in program implementation. The commissioner shall seek all federal waivers and reimbursement as are necessary and appropriate to implement this plan.

(i) In the case of the death, severe disability or serious illness of a caregiver who is receiving a guardianship subsidy, the commissioner may transfer the guardianship subsidy to a successor guardian who meets the department's foster care safety requirements [if such successor guardian has been identified in the subsidy agreement, or an addendum thereto, and such successor guardian] and who is appointed as legal guardian by a court of competent jurisdiction. For purposes of maximizing federal reimbursement for the costs of the subsidized guardianship program, the commissioner shall request that the caregiver identify such successor guardian in the subsidy

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agreement and any addendum thereto.

(j) Nothing in this section shall prohibit the commissioner from continuing to pay guardianship subsidies to those relative caregivers who entered into written subsidy agreements with the Department of Children and Families prior to October 5, 2009.

(k) Not less than thirty days prior to the termination or reduction of a guardianship subsidy, the commissioner shall (1) provide written notice of such reduction or termination to the caregiver receiving such subsidy, and (2) provide such caregiver with a hearing before the Subsidy Review Board. If such an appeal is taken, the subsidy shall continue without modification until the final decision of the Subsidy Review Board.

Sec. 3. Subsection (j) of section 46b-129 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(j) (1) For the purposes of this subsection and subsection (k) of this section, (A) "permanent legal guardianship" means a permanent guardianship, as defined in section 45a-604, and (B) "caregiver" means (i) a fictive kin caregiver, as defined in section 17a-114, as amended by this act, who is caring for a child, (ii) a relative caregiver, as defined in section 17a-126, as amended by this act, or (iii) a person who is licensed or approved to provide foster care pursuant to section 17a-114, as amended by this act.

(2) Upon finding and adjudging that any child or youth is uncared for, neglected or abused the court may (A) commit such child or youth to the Commissioner of Children and Families, and such commitment shall remain in effect until further order of the court, except that such commitment may be revoked or parental rights terminated at any time by the court; (B) vest such child's or youth's legal guardianship in any

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private or public agency that is permitted by law to care for neglected, uncared for or abused children or youths or with any other person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage; (C) vest such child's or youth's permanent legal guardianship in any person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage in accordance with the requirements set forth in subdivision (5) of this subsection; or (D) place the child or youth in the custody of the parent or guardian with protective supervision by the Commissioner of Children and Families subject to conditions established by the court.

(3) If the court determines that the commitment should be revoked and the child's or youth's legal guardianship or permanent legal guardianship should vest in someone other than the respondent parent, parents or former guardian, or if parental rights are terminated at any time, there shall be a rebuttable presumption that an award of legal guardianship or permanent legal guardianship upon revocation to, or adoption upon termination of parental rights by, any [relative who is licensed as a foster parent for such child or youth,] caregiver or person or who is, pursuant to an order of the court, the temporary custodian of the child or youth at the time of the revocation or termination, shall be in the best interests of the child or youth and that such [relative] caregiver is a suitable and worthy person to assume legal guardianship or permanent legal guardianship upon revocation or to adopt such child or youth upon termination of parental rights. The presumption may be rebutted by a preponderance of the evidence that an award of legal guardianship or permanent legal guardianship to, or an adoption by, such [relative] caregiver would not be in the child's or youth's best interests and such [relative] caregiver is not a suitable and worthy person. The court shall order specific steps that the parent must take to facilitate the return of the child or youth to the

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custody of such parent.

(4) The commissioner shall be the guardian of such child or youth for the duration of the commitment, provided the child or youth has not reached the age of eighteen years, or until another guardian has been legally appointed, and in like manner, upon such vesting of the care of such child or youth, such other public or private agency or individual shall be the guardian of such child or youth until such child or youth has reached the age of eighteen years or, in the case of a child or youth in full-time attendance in a secondary school, a technical high school, a college or a state-accredited job training program, until such child or youth has reached the age of twenty-one years or until another guardian has been legally appointed. The commissioner may place any child or youth so committed to the commissioner in a suitable foster home or in the home of a [person related by blood or marriage to such child or youth] fictive kin caregiver, relative caregiver, or in a licensed child-caring institution or in the care and custody of any accredited, licensed or approved child-caring agency, within or without the state, provided a child shall not be placed outside the state except for good cause and unless the parents or guardian of such child are notified in advance of such placement and given an opportunity to be heard, or in a receiving home maintained and operated by the Commissioner of Children and Families. In placing such child or youth, the commissioner shall, if possible, select a home, agency, institution or person of like religious faith to that of a parent of such child or youth, if such faith is known or may be ascertained by reasonable inquiry, provided such home conforms to the standards of said commissioner and the commissioner shall, when placing siblings, if possible, place such children together. Upon the issuance of an order committing the child or youth to the Commissioner of Children and Families, or not later than sixty days after the issuance of such order, the court shall determine whether the Department of Children and Families made reasonable efforts to keep the child or youth with his or her parents or

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guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the child's or youth's best interests, including the child's or youth's health and safety.

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

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

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

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

(C) (i) If the child or youth is at least twelve years of age, such child or youth consents to the proposed permanent legal guardianship, or (ii) if the child is under twelve years of age, the proposed permanent legal guardian is: (I) A relative, (II) a caregiver, or [(II)] (III) already serving as the permanent legal guardian of at least one of the child's siblings, if any;

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

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

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

Sec. 4. Section 17a-101j of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

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(a) After the investigation has been completed and the Commissioner of Children and Families has reasonable cause to believe that sexual abuse or serious physical abuse of a child has occurred, the commissioner shall notify the appropriate local law enforcement authority and the Chief State's Attorney or the Chief State's Attorney's designee or the state's attorney for the judicial district in which the child resides or in which the abuse or neglect occurred of such belief and shall provide a copy of the report required in sections 17a-101a to 17a-101c, inclusive, and 17a-103.

(b) Whenever a report has been made pursuant to sections 17a-101a to 17a-101c, inclusive, and 17a-103, alleging that abuse or neglect has occurred at an institution or facility that provides care for children and is subject to licensure by the state for the caring of children, and the Commissioner of Children and Families, after investigation, has reasonable cause to believe abuse or neglect has occurred, the commissioner shall forthwith notify the state agency responsible for such licensure of such institution or facility and provide records, whether or not created by the department, concerning such investigation.

(c) If, after the investigation is completed, the commissioner substantiates an allegation of abuse or neglect against an individual who has been appointed guardian of a child by the Probate Court, the commissioner shall notify the Probate Court of such substantiation.

[(c)] (d) If, after the investigation is completed, the commissioner determines that a parent or guardian inflicting abuse or neglecting a child is in need of treatment for substance abuse, the commissioner shall refer such person to appropriate treatment services.

[(d)] (e) For purposes of this section, "child" includes any victim described in subdivision (2) of subsection (a) of section 17a-101a.

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