



# House of Representatives

General Assembly

**File No. 423**

February Session, 2016

Substitute House Bill No. 5605

*House of Representatives, April 4, 2016*

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

## ***AN ACT CONCERNING THE TERMINATION OF PARENTAL RIGHTS.***

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

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2 the general statutes is repealed and the following is substituted in lieu  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

4 (j) The Superior Court, upon notice and hearing as provided in  
5 sections 45a-716 and 45a-717, as amended by this act, may grant a  
6 petition filed pursuant to this section if it finds by clear and convincing  
7 evidence that (1) the Department of Children and Families has made  
8 reasonable efforts to locate the parent and to reunify the child with the  
9 parent in accordance with subsection (a) of section 17a-111b, unless the  
10 court finds in this proceeding that the parent is unable or unwilling to  
11 benefit from reunification efforts, except that such finding is not  
12 required if the court has determined at a hearing pursuant to section  
13 17a-111b, or determines at trial on the petition, that such efforts are not  
14 required, (2) termination is in the best interest of the child, and (3) (A)  
15 the child has been abandoned by the parent in the sense that the parent  
16 has failed to maintain a reasonable degree of interest, concern or

17 responsibility as to the welfare of the child; (B) the child (i) has been  
18 found by the Superior Court or the Probate Court to have been  
19 neglected, abused or uncared for in a prior proceeding, or (ii) is found  
20 to be neglected, abused or uncared for and has been in the custody of  
21 the commissioner for at least fifteen months and the parent of such  
22 child has been provided specific steps to take to facilitate the return of  
23 the child to the parent pursuant to section 46b-129 and has failed to  
24 achieve such degree of personal rehabilitation as would encourage the  
25 belief that within a reasonable time, considering the age and needs of  
26 the child, such parent could assume a responsible position in the life of  
27 the child; (C) the child has been denied, by reason of an act or acts of  
28 parental commission or omission including, but not limited to, sexual  
29 molestation or exploitation, severe physical abuse or a pattern of  
30 abuse, the care, guidance or control necessary for the child's physical,  
31 educational, moral or emotional well-being, except that nonaccidental  
32 or inadequately explained serious physical injury to a child shall  
33 constitute prima facie evidence of acts of parental commission or  
34 omission sufficient for the termination of parental rights; (D) there is  
35 no ongoing parent-child relationship, which means the relationship  
36 that ordinarily develops as a result of a parent having met on a day-to-  
37 day basis the physical, emotional, moral and educational needs of the  
38 child and to allow further time for the establishment or  
39 reestablishment of such parent-child relationship would be  
40 detrimental to the best interest of the child; (E) the parent of a child  
41 under the age of seven years who is neglected, abused or uncared for,  
42 has failed, is unable or is unwilling to achieve such degree of personal  
43 rehabilitation as would encourage the belief that within a reasonable  
44 period of time, considering the age and needs of the child, such parent  
45 could assume a responsible position in the life of the child and such  
46 parent's parental rights of another child were previously terminated  
47 pursuant to a petition filed by the Commissioner of Children and  
48 Families; (F) the parent has killed through deliberate, nonaccidental act  
49 another child of the parent or has requested, commanded, importuned,  
50 attempted, conspired or solicited such killing or has committed an  
51 assault, through deliberate, nonaccidental act that resulted in serious

52 bodily injury of another child of the parent; or (G) the parent [was  
53 convicted as an adult or a delinquent by a court of competent  
54 jurisdiction of a sexual assault resulting in the conception of the child,  
55 except a conviction for a violation of section 53a-71 or 53a-73a,  
56 provided the court may terminate such parent's parental rights to such  
57 child at any time after such conviction] has committed a sexual assault  
58 resulting in the conception of the child.

59 Sec. 2. Subsection (g) of section 45a-717 of the 2016 supplement to  
60 the general statutes is repealed and the following is substituted in lieu  
61 thereof (*Effective October 1, 2016*):

62 (g) At the adjourned hearing or at the initial hearing where no  
63 investigation and report has been requested, the court may approve a  
64 petition terminating the parental rights and may appoint a guardian of  
65 the person of the child, or, if the petitioner requests, the court may  
66 appoint a statutory parent, if it finds, upon clear and convincing  
67 evidence, that (1) the termination is in the best interest of the child, and  
68 (2) (A) the child has been abandoned by the parent in the sense that the  
69 parent has failed to maintain a reasonable degree of interest, concern  
70 or responsibility as to the welfare of the child; (B) the child has been  
71 denied, by reason of an act or acts of parental commission or omission,  
72 including, but not limited to sexual molestation and exploitation,  
73 severe physical abuse or a pattern of abuse, the care, guidance or  
74 control necessary for the child's physical, educational, moral or  
75 emotional well-being. Nonaccidental or inadequately explained  
76 serious physical injury to a child shall constitute prima facie evidence  
77 of acts of parental commission or omission sufficient for the  
78 termination of parental rights; (C) there is no ongoing parent-child  
79 relationship which is defined as the relationship that ordinarily  
80 develops as a result of a parent having met on a continuing, day-to-  
81 day basis the physical, emotional, moral and educational needs of the  
82 child and to allow further time for the establishment or  
83 reestablishment of the parent-child relationship would be detrimental  
84 to the best interests of the child; (D) a child of the parent (i) was found  
85 by the Superior Court or the Probate Court to have been neglected,

86 abused or uncared for, as those terms are defined in section 46b-120, in  
 87 a prior proceeding, or (ii) is found to be neglected, abused or uncared  
 88 for and has been in the custody of the commissioner for at least fifteen  
 89 months and such parent has been provided specific steps to take to  
 90 facilitate the return of the child to the parent pursuant to section 46b-  
 91 129 and has failed to achieve such degree of personal rehabilitation as  
 92 would encourage the belief that within a reasonable time, considering  
 93 the age and needs of the child, such parent could assume a responsible  
 94 position in the life of the child; (E) a child of the parent, who is under  
 95 the age of seven years is found to be neglected, abused or uncared for,  
 96 and the parent has failed, is unable or is unwilling to achieve such  
 97 degree of personal rehabilitation as would encourage the belief that  
 98 within a reasonable amount of time, considering the age and needs of  
 99 the child, such parent could assume a responsible position in the life of  
 100 the child and such parent's parental rights of another child were  
 101 previously terminated pursuant to a petition filed by the  
 102 Commissioner of Children and Families; (F) the parent has killed  
 103 through deliberate, nonaccidental act another child of the parent or has  
 104 requested, commanded, importuned, attempted, conspired or solicited  
 105 such killing or has committed an assault, through deliberate,  
 106 nonaccidental act that resulted in serious bodily injury of another child  
 107 of the parent; or (G) the parent [was convicted as an adult or a  
 108 delinquent by a court of competent jurisdiction of sexual assault  
 109 resulting in the conception of a child except for a violation of section  
 110 53a-71 or 53a-73a provided the court may terminate such parent's  
 111 parental rights to such child at any time after such conviction] has  
 112 committed a sexual assault resulting in the conception of the child.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	17a-112(j)
Sec. 2	October 1, 2016	45a-717(g)

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 17 \$</b>	<b>FY 18 \$</b>
Federal Revenue	FF - Revenue Gain	Approx. \$126,000	Approx. \$126,000

Note: FF=Federal Funds

**Municipal Impact:** None

**Explanation**

The bill lowers the standard of proof for the termination of parental rights in cases of sexual assault. Doing so increases the federal funding received by Connecticut under the Violence Against Women Act by approximately \$126,000

**The Out Years**

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

Sources: Core-CT Financial Accounting System

**OLR Bill Analysis****sHB 5605*****AN ACT CONCERNING THE TERMINATION OF PARENTAL RIGHTS.*****SUMMARY:**

This bill reduces the standard of proof a judge must apply when determining whether to terminate parental rights in cases where the child was conceived as a result of a sexual assault. It no longer requires a finding of guilty in such cases.

Under current law, the Superior Court and probate court may terminate parental rights if the parent was convicted of a sexual assault that resulted in the conception of the child. The bill no longer requires a conviction but instead allows the court to terminate parental rights if it finds, upon clear and convincing evidence, that the parent committed a sexual assault that resulted in the conception of the child. The bill maintains existing law's requirement that the court also find, upon clear and convincing evidence, that terminating parental rights is in the child's best interest.

EFFECTIVE DATE: October 1, 2016

**BACKGROUND*****Related Federal Law***

The federal Rape Survivor Child Custody Act (PL 114-22, Title IV) increases funding to states that allow women to petition for the termination of parental rights based on clear and convincing evidence that a child was conceived through rape. The funding increase allowed under this law is up to 10% of the average of the total amount of funding provided to the state under the federal Violence Against Women Act for the three most recent awards to the state (42 U.S.C. § 14043h-4).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (03/16/2016)