House of Representatives

General Assembly

File No. 429

January Session, 2017

Substitute House Bill No. 7121

House of Representatives, April 5, 2017

The Committee on Human Services reported through REP. ABERCROMBIE of the 83rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE STATE'S SAFE HAVEN LAWS.

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

Section 1. Section 17a-59 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Not more than twenty-four hours after taking physical custody of the infant the employee designated pursuant to section 17a-57 shall notify **[**, in accordance with the provisions of sections 17a-101a to 17a-101d, inclusive,**]** the Department of Children and Families of such custody in accordance with subsection (b) of section 17a-60, as amended by this act.

(b) The Commissioner of Children and Families shall assume the care and control of the infant immediately upon receipt of notice under subsection (a) of this section. Any infant in the care and control of the commissioner under the provisions of this section shall be considered

to be in the custody of the department and the department shall take any action authorized under state law to achieve safety and permanency for the infant, including institution of legal proceedings for guardianship or termination of parental rights. In order to achieve safety and permanency for the infant, the department shall identify a prospective adoptive parent for the infant not later than one business day after receiving such notice from a designated employee, provided a prospective adoptive parent is available. The department shall provide notification of [such] legal proceedings to any parent of an infant when the identity of the parent is known to the department.

(c) Except as otherwise provided by statute, unless ordered to do so by a court of competent jurisdiction, the department shall not disclose any information concerning the parentage of an infant in the care and control of the commissioner under the provisions of this section to a prospective adoptive parent or foster parent.

Sec. 2. Section 17a-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) If a person claiming to be a parent or lawful agent of an infant surrendered to a designated employee under section 17a-58 submits a request to the Commissioner of Children and Families for reunification with the infant, the commissioner may identify, contact and investigate such [person] parent or lawful agent to determine if such reunification is appropriate or if the parental rights of the parent should be terminated. If, not more than thirty days after the date of surrender of the infant, the commissioner receives a request for reunification with the infant from a person claiming to be a parent or lawful agent of the infant, the commissioner may require that such person and the infant submit to genetic tests, which shall mean deoxyribonucleic acid tests, to be performed by a hospital, accredited laboratory, qualified physician or other qualified person designated by the commissioner to determine parentage. The person requesting reunification shall be responsible for the cost of any genetic test performed pursuant to this section, except the Department of Children and Families shall pay such

cost for any person who is determined by the commissioner to be indigent. Absent receiving a request for reunification with an infant pursuant to this section, the commissioner may not subject the infant to genetic testing to determine parentage or other family relationship unless ordered to do so by a court of competent jurisdiction.

(b) **[**Information concerning a parent or agent, or an infant surrendered to a designated employee, shall not be disclosed by the designated employee, if so requested by the parent or agent, except that notwithstanding any provision of the general statutes, such employee**]** No employee of a hospital that operates an emergency room that takes physical custody of an infant pursuant to section 17a-58, except an employee who has reasonable cause to suspect that an infant has been abused or neglected, as defined in section 46b-120, shall disclose information concerning (1) the facts and circumstances under which the emergency room took physical custody of the infant, (2) a parent or lawful agent, or (3) the infant, unless required to disclose such information pursuant to sections 17a-101a to 17a-101d, inclusive. Notwithstanding the provisions of this subsection, a designated employee of the emergency room shall **[**(1)**]** provide (A) to the Commissioner of Children and Families all medical history information provided by the parent, and **[**(2) provide**]** (B) to the Commissioner of Public Health **[**,**]** the name and date of birth of the infant if the infant's birth has been registered in the state vital records system prior to the surrender of the infant, for the sole purpose of sealing the infant's original birth record. The infant's name and date of birth shall not be disclosed on the report of a foundling child described in section 7-59. Nothing in this subsection shall limit hospital personnel from entering medically relevant information into the infant's medical record or limit any discussion or disclosure that the hospital personnel may have with anyone to the extent that such discussion or disclosure pertains to the medical care and medical treatment of the infant.

(c) Possession of a bracelet linking the parent or agent to an infant surrendered to a designated employee if parental rights have not been

terminated creates a presumption the parent or agent has standing to participate in a custody hearing for the infant under chapter 319a but does not create a presumption of maternity, paternity or custody.

Sec. 3. (NEW) (*Effective October 1, 2017*) (a) As used in this section, section 4 of this act and section 17a-59 of the general statutes, as amended by this act:

(1) "Commissioner" means the Commissioner of Children and Families;

(2) "Department" means the Department of Children and Families;

(3) "Foster parent" means a person who, pursuant to section 17a-114 of the general statutes, is (A) licensed by the department to care for one or more children in a private home, or (B) approved by a child-placing agency licensed by the department to care for one or more children in a private home;

(4) "Prospective adoptive parent" means a foster parent who is awaiting the placement of, or who has, a child or children placed in his or her home pursuant to section 17a-59 of the general statutes, as amended by this act, for purposes of adoption; and

(5) "Removal hearing" means an administrative proceeding conducted by the department in accordance with the provisions of chapter 54 of the general statutes to determine if the removal of a child from a prospective adoptive parent is in a child's best interest.

(b) The department, after taking custody of an infant pursuant to section 17a-59 of the general statutes, as amended by this act, and placing the infant in the care and control of a prospective adoptive parent for thirty or more consecutive days, shall not remove the infant from such parent unless: (1) The department is in possession of specific allegations and other verified affirmations of fact that demonstrate there is reasonable cause to believe that (A) the infant is suffering from serious physical illness or serious physical injury or is in immediate physical danger, and (B) immediate removal from such parent is

necessary to ensure the infant's safety, (2) the prospective adoptive parent consents to the removal of the infant from his or her care and control, or (3) a biological parent of the infant has been identified and a request for reunification of such parent and the infant has been granted pursuant to an order by a court of competent jurisdiction.

Sec. 4. (NEW) (*Effective October 1, 2017*) (a) A prospective adoptive parent who (1) has exercised continuous care and control of an infant in the custody of the commissioner pursuant to section 17a-59 of the general statutes, as amended by this act, for thirty or more consecutive days, and (2) is aggrieved by a decision of the department to remove such infant from the prospective adoptive parent's home may request that the department conduct a removal hearing. A prospective adoptive parent's request for a removal hearing shall be made in writing to the department not later than ten days after the date on which the prospective adoptive parent receives written notice of the department's decision to remove the infant. Upon receiving the request for a removal hearing, the department shall conduct such hearing not later than thirty business days after the date of receiving the request. Except as provided in subsection (b) of section 3 of this act, the infant shall remain with the prospective adoptive parent pending the outcome of the removal hearing.

(b) The commissioner shall adopt regulations in accordance with the provisions of chapter 54 of the general statutes to carry out the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2017*	17a-59
Sec. 2	*October 1, 2017*	17a-60
Sec. 3	*October 1, 2017*	New section
Sec. 4	*October 1, 2017*	New section

Statement of Legislative Commissioners:
In Section 3(a), "and section 4 of this act" was changed to ", section 4 of this act and section 17a-59 of the general statutes, as amended by this

act" and in Section 3(a)(4), ", as used in section 17a-59 of the general statutes, as amended by this act, this section and section 4 of this act," was deleted for statutory consistency.

HS *Joint Favorable Subst.*

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes various changes to the Department of Children and Families and the state's safe haven law, does not result in a fiscal impact to the state or municipalities.

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State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 7121

AN ACT CONCERNING REVISIONS TO THE STATE'S SAFE HAVEN LAWS.

SUMMARY

This bill makes various changes to the state's safe haven law, which requires hospitals to designate a place in their emergency rooms where a parent or a parent's legal agent can surrender an infant up to 30 days old without facing arrest for abandonment (CGS § 17a-57 *et seq.*). Among its changes, the bill:

1. requires the Department of Children and Families (DCF) to identify a prospective adoptive parent for a safe haven infant within one business day of receiving notice of the infant's surrender to the hospital if such a parent is available;

2. specifies circumstances in which the DCF commissioner may require DNA tests to determine the infant's parentage and otherwise requires the department to get a court order for such testing;

3. limits the circumstances in which DCF may remove a safe haven infant from a prospective adoptive parent's home if the infant has been in his or her care for at least 30 days and allows the prospective adoptive parent to request a hearing before the removal;

4. clarifies the information a hospital employee may disclose about a safe haven surrender if he or she believes the infant was abused or neglected; and

5. prohibits DCF from disclosing information about the parents of a safe haven infant to a prospective adoptive parent or foster

parent without a court order unless otherwise required by law.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017

DEFINITIONS

Under the bill, a:

1. prospective adoptive parent is a foster parent awaiting the placement of, or who has, a child or children placed in his or her home under the safe haven law for adoption purposes and

2. foster parent is a person licensed by DCF or approved by a DCF-licensed child-placing agency to care for one or more children in a private home.

SURRENDERS

Prospective Adoptive Parents (§ 1)

By law, designated emergency department employees must notify DCF within 24 hours of taking physical custody of an infant, and DCF in turn must immediately take care and control of the infant on receiving such notice. Under the bill, in order to achieve safety and permanency for the infant, DCF must identify a prospective adoptive parent within one business day of receiving the notice if such a parent is available.

Permissible DNA Testing (§ 2)

Under the bill, if a person claiming to be the infant's parent or lawful agent requests reunification within 30 days of the infant's surrender, the commissioner may require the requester and infant to submit to DNA tests to determine the infant's parentage. The tests must be performed by a hospital, accredited laboratory, qualified physician, or other qualified person the commissioner designates. The person seeking reunification must pay for the test, but DCF must pay for it if the commissioner determines that he or she is indigent.

The bill otherwise prohibits the commissioner from subjecting the infant to genetic testing to determine parentage or familial relationship without a court order.

REMOVALS (§§ 3 & 4)

The bill prohibits DCF from removing a safe haven infant from a prospective adoptive parent with whom the infant has been placed for at least 30 consecutive days unless:

1. the department possesses specific allegations and other verified affirmations of fact that demonstrate reasonable cause to believe that (a) the infant is suffering from serious physical illness or injury or is in immediate physical danger and (b) immediate removal is necessary for the infant's safety;

2. the prospective adoptive parent consents to the removal; or

3. the infant's biological parent has been identified and the court has granted that parent's request for reunification with the infant.

Under the bill, if DCF decides to remove a safe haven infant from a prospective adoptive parent's home after such a 30-day period, that parent may request that the department conduct a removal hearing. The prospective parent must make the request in writing within 10 days of receiving written notice of the department's decision to remove the infant. DCF must conduct the hearing within 30 days of receiving the request. The infant must remain in the prospective parent's care pending the hearing's outcome unless one of the above grounds for removal applies.

The hearing is an administrative proceeding conducted by DCF in accordance with the Uniform Administrative Procedure Act to determine if the removal of a child from a prospective adoptive parent is in the child's best interest. The bill requires the DCF commissioner to adopt regulations for such hearings.

INFORMATION DISCLOSURES (§ 2)

The bill generally prohibits any hospital employee from disclosing information about the infant, parent or lawful agent, or facts and circumstances under which the emergency room took custody of the infant. But the bill also specifies that hospital employees must disclose this information if they have reasonable cause to suspect the infant has been abused or neglected, in keeping with their responsibilities as mandated reporters of child abuse and neglect. Current law generally prohibits a hospital employee who takes custody of a safe haven infant from disclosing information about the parent, agent, or infant if the parent or agent requests the information not be disclosed.

Existing law, unchanged by the bill, requires hospital employees to disclose to (1) DCF all the medical information the parent provided and (2) the Department of Public Health the infant's name and birthdate for the department to seal the infant's birth record if he or she was registered in the state vital records system before the surrender.

The bill specifies that it does not limit (1) hospital personnel from entering medically relevant information in the infant's medical record or (2) any discussion or disclosure that the hospital personnel may have with anyone if it pertains to the infant's medical care and treatment.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute
Yea 19 Nay 0 (03/21/2017)