

Section 46b-148 of the general statutes is repealed and the following is substituted in lieu thereof:

- (a) Notwithstanding any provision of this chapter: (1) No child [whose family] who has been adjudicated as a child from a family with service needs in accordance with section 46b-149 may be processed or held in a juvenile detention center as a delinquent child, or be convicted as delinquent, solely for the violation of a valid order which regulates future conduct of the child that was issued by the court following such an adjudication; and (2) no such child who is found to be in violation of any such order may be punished for such violation by [commitment] placement in any juvenile detention center.
- (b) In entering any order that directs or authorizes placement or commitment of a child [whose family] who has been adjudicated as a child from a family with service needs in accordance with section 46b-149, the court shall make a determination that there is no less restrictive alternative appropriate to the needs of such child and the community.

COMMENT: In a family with service needs (FWSN) case, the child is the respondent and the court only adjudicates the child as an individual, not the family. Adjudicating the family is illogical in many FWSN matters, as the allegations and grounds pertain to the conduct of the child, not the family, and in some cases, mainly those alleging the child is beyond control, the parent is the complainant. The word "placement" is substituted for commitment in subsection (a) to avoid confusion with an actual commitment to the department of children and families.

Section 46b-149 of the general statutes is repealed and the following is substituted in lieu thereof

- (a) Any selectman, town manager, police officer or welfare department of any town, city or borough, any probation officer or superintendent of schools, the Commissioner of Children and Families, any child-caring institution or agency approved or licensed by the Commissioner of Children and Families, any youth service bureau, a parent or foster parent of a child, or a child or the child's representative or attorney, who believes that the acts or omissions of a child are such that the child's family is a family with service needs, may file a written

complaint setting forth those facts with the clerk of the Superior Court which has venue over the matter.

(b) The court shall refer a complaint filed under subsection (a) of this section to a probation officer, who shall promptly determine whether it appears that the alleged facts, if true, would be sufficient to meet the definition of a family with service needs, provided a complaint alleging that a child is a truant or habitual truant shall not be determined to be insufficient to meet the definition of a family with service needs solely because it was filed during the months of April, May or June. If such probation officer so determines, the probation officer shall, after an initial assessment, promptly refer the child and the child's family to a suitable community-based program or other service provider, or to a family support center as provided in section 31 of this act, for voluntary services. If the child and the child's family are referred to a community-based program or other service provider and the person in charge of such program or provider determines that the child and the child's family can no longer benefit from its services, such person shall inform the probation officer, who shall, after an appropriate assessment, either refer the child and the child's family to a family support center for additional services or determine whether or not to file a petition with the court under subsection (c) of this section. If the child and the child's family are referred to a family support center and the person in charge of the family support center determines that the child and the child's family can no longer benefit from its services, such person shall inform the probation officer, who may file a petition with the court in the manner prescribed in subsection (c) of this section. The probation officer shall inform the complainant in writing of the probation officer's action under this subsection. If it appears that the allegations are not true, or that the child's family does not meet the definition of a family with service needs, the probation officer shall inform the complainant in writing of such finding.

(c) A petition alleging that a child is from [family constitutes] a family with service needs shall be verified and filed with the Superior Court which has venue over the matter. The petition shall set forth plainly: (1) The facts which bring the child within the jurisdiction of the court; 2) the name, date of birth, sex and residence of the child; (3) the name and residence of the child's parent or parents, guardian or other person having control of the child; and (4) a prayer for appropriate action by the court in conformity with the provisions of this section.

(d) When a petition is filed under subsection (c) of this section, the court may issue a summons to the child and the child's parents, guardian or other person having control of the child to appear in court at a specified time and place. The summons shall be signed by a judge or by the clerk or assistant clerk of the court, and a copy of the petition shall be attached to it. Whenever it appears to the

judge that orders addressed to an adult, as set forth in section 46b-121, are necessary for the welfare of such child, a similar summons shall be issued and served upon such adult if he or she is not already in court. Service of summons shall be made in accordance with section 46b-128. The court may punish for contempt, as provided in section 46b-121, any parent, guardian or other person so summoned who fails to appear in court at the time and place so specified. If a petition is filed under subsection (c) of this section alleging that a [family] child is from a family with service needs because a child is a truant or habitual truant, the court may not dismiss such petition solely because it was filed during the months of April, May or June.

(e) When a petition is filed under subsection (c) of this section alleging that a [family constitutes] child is from a family with service needs because [it includes a] such child [who] has been habitually truant, the court shall order that the local or regional board of education for the town in which the child resides, or the private school in the case of a child enrolled in a private school, shall cause an educational evaluation of such child to be performed if no such evaluation has been performed within the preceding year. Any costs incurred for the performance of such evaluation shall be borne by such local or regional board of education or such private school.

(f) If it appears from the allegations of a petition or other sworn affirmations that there is: (1) A strong probability that the child may do something that is injurious to himself prior to court disposition; (2) a strong probability that the child will run away prior to the hearing; or (3) a need to hold the child for another jurisdiction, a judge may vest temporary custody of such child in some suitable person or agency. No nondelinquent juvenile runaway from another state may be held in a state-operated detention home in accordance with the provisions of sections 46b-151 to 46b-151g, inclusive, Interstate Compact on Juveniles. A hearing on temporary custody shall be held not later than ten days after the date on which a judge signs an order of temporary custody. Following such hearing, the judge may order that the child's temporary custody continue to be vested in some suitable person or agency. Any expenses of temporary custody shall be paid in the same manner as provided in subsection (b) of section 46b-129.

(g) If a petition is filed under subsection (c) of this section and it appears that the interests of the child or the family may be best served, prior to adjudication, by a referral to community-based or other services, the judge may permit the matter to be continued for a reasonable period of time not to exceed six months, which time period may be extended by an additional three months for cause. If it appears at the conclusion of the continuance that the matter has been satisfactorily resolved, the judge may dismiss the petition.

(h) If the court finds, based on clear and convincing evidence, that [the family of] a child is a child from a family with service needs, the court may, in addition to issuing any orders under section 46b-121: (1) Refer the child to the Department of Children and Families for any voluntary services provided by said department or, if the family is a family with service needs solely as a result of a finding that a child is a truant or habitual truant, to the authorities of the local or regional school district or private school for services provided by such school district or such school, which services may include summer school, or to community agencies providing child and family services; (2) order the child to remain in the child's own home or in the custody of a relative or any other suitable person (A) subject to the supervision of a probation officer, or (B) in the case of a family which is a family with service needs solely as a result of a finding that a child is a truant or habitual truant, subject to the supervision of a probation officer and the authorities of the local or regional school district or private school; (3) if the [family is] child is from a family with service needs as a result of the child engaging in sexual intercourse with another person and such other person is thirteen years of age or older and not more than two years older or younger than such child, (A) refer the child to a youth service bureau or other appropriate service agency for participation in a program such as a teen pregnancy program or a sexually transmitted disease program, and (B) require such child to perform community service such as service in a hospital, an AIDS prevention program or an obstetrical and gynecological program; or (4) upon a finding that there is no less restrictive alternative, commit the child to the care and custody of the Commissioner of Children and Families for an indefinite period not to exceed eighteen months. The child shall be entitled to representation by counsel and an evidentiary hearing. If the court issues any order which regulates future conduct of the child, parent or guardian, the child, parent or guardian, shall receive adequate and fair warning of the consequences of violation of the order at the time it is issued, and such warning shall be provided to the child, parent or guardian, to his or her attorney and to his or her legal guardian in writing and shall be reflected in the court record and proceedings.

(i) At any time during the period of supervision, after hearing and for good cause shown, the court may modify or enlarge the conditions, whether originally imposed by the court under this section or otherwise, and may extend the period of supervision as deemed appropriate by the court. The court shall cause a copy of any such orders to be delivered to the child and to such child's parent or guardian and probation officer.

(j)(1) The Commissioner of Children and Families may [petition the court] file a motion for an extension of a commitment under this section on the grounds that an extension would be in the best interest of the child. The court shall give notice to the child and the child's parent or guardian at least fourteen days prior to the

hearing upon such [petition] motion. The court may, after hearing and upon finding that such extension is in the best interest of the child and that there is no suitable less restrictive alternative, continue the commitment for an additional indefinite period of not more than eighteen months. (2) The Commissioner of Children and Families may at any time [petition the court] file a motion to discharge a child committed under this section, and any child committed to the commissioner under this section, or the parent or guardian of such child, may at any time but not more often than once every six months [petition the court which committed the child] file a motion to revoke such commitment. The court shall notify the child, the child's parent or guardian and the commissioner of any [petition] motion filed under this subsection, and of the time when a hearing on such [petition] motion will be held. Any order of the court made under this subsection shall be deemed a final order for purposes of appeal, except that no bond shall be required and no costs shall be taxed on such appeal. (3) Not later than twelve months after a child is committed to the Commissioner of the Department of Children and Families in accordance with subdivision (4) of subsection (h) of this section or Section 32 of Public Act 07-4, the court shall hold a permanency hearing in accordance with subsection (k) of this section. After the initial permanency hearing, subsequent permanency hearings shall be held not less frequently than every twelve months while the child remains committed to the Commissioner of the Department of Children and Families.

(k) At least sixty days prior to each permanency hearing required pursuant to subsection (j) of this section, the Commissioner of the Department of Children and Families shall file a permanency plan with the court. At each permanency hearing, the court shall review and approve a permanency plan that is in the best interests of the child and takes into consideration the child's need for permanency. Such permanency plan may include the goal of: (1) Revocation of commitment and placement of the child with the parent or guardian, (2) transfer of guardianship, (3) permanent placement with a relative, (4) adoption, or (5) such other planned permanent living arrangement ordered by the court, provided the Commissioner of the Department of Children and Families has documented a compelling reason why it would not be in the best interest of the child for the permanency plan to include the goals in subdivisions (1) through (4), inclusive, of this subsection. Such other planned permanent living arrangement may include, but not be limited to, placement of the child in an independent living program. At any such permanency hearing, the court shall also determine whether the Commissioner of the Department of Children and Families has made reasonable efforts to achieve the permanency plan.

COMMENT:

It is suggested that under subsection (b), one might want to consider giving the probation officer the option to bypass the mandated diversion process in cases where the child, despite the child's and the family's recent referral to diversion programs, is again the subject of a complaint.

New subsection (i) is proposed because it has been the practice to modify and extend FWSN supervision in the same manner afforded to the court with respect to probation orders. See Sec. 46b-140a. The court should be afforded such flexibility, particularly after an alleged violation has taken place, to ensure appropriate services and sufficient time to measure their effectiveness.

Amendments to subsections (j) and (k) are recommended because extensions and revocations of commitments for both child protection matters (General Statutes §46b-129(k)) and delinquency (General Statutes §46b-141(b)) cases are now done by motion. The addition of language contemplating permanency plans for committed FWSN children and motions to revoke or extend is recommended for consistency and patterns the permanency planning provisions of the child protection and delinquency statutes cited above. The Federal Adoption and Safe Families Act (1997) requires that status offenders, including Connecticut's FWSNs have permanency plan reviews and hearings. The first permanency hearing must be 12 months from the date the child enters care, either from the date temporary custody is granted or commitment ordered to the Department of Children and Families. (See 45 CFR Sec. 1356.21(h)).

Sec. 31. (NEW) (Effective October 1, 2007) (a) For the purposes of this section, "family support center" means a community-based service center for children and families against whom a complaint has been filed with the Superior Court under section 46b-149 of the general statutes, as amended by this act, that provides multiple services, or access to such services, for the purpose of preventing such children and families from having further involvement with the court as families with service needs.

(b) The Court Support Services Division shall contract with one or more private providers, or with one or more youth service bureaus, or both, to develop a network of family support centers. Each family support center shall provide, or ensure access to, appropriate services that shall include, but not be limited to, screening and assessment, crisis intervention, family mediation, educational evaluations and advocacy, mental health treatment and services, including gender specific trauma treatment and services, resiliency skills building, access to positive social activities, short-term respite care and access to services available to children in the juvenile justice system. The Court Support Services Division

shall conduct an independent evaluation of each family support center to measure the quality of the services delivered and the outcomes for the children and families served by such center.

Sec. 32. (NEW) (*Effective October 1, 2007*) (a) When a child who [whose family] has been adjudicated [as] a child from a family with service needs in accordance with section 46b-149 of the general statutes, as amended by this act, violates any valid order which regulates future conduct of the child made by the court following such an adjudication, a probation officer, on receipt of a complaint setting forth facts alleging such a violation, or on the probation officer's own motion on the basis of his or her knowledge of such a violation, may file a petition with the court alleging that the child has violated a valid court order and setting forth the facts claimed to constitute such a violation. Service shall be made in accordance with subsection (d) of this section. The child shall be entitled to representation by counsel and an evidentiary hearing on the allegations contained in the petition. Upon a finding by the court, based on clear and convincing evidence, that the child has violated a valid court order, the court may (1) order the child to remain in such child's home or in the custody of a relative or any other suitable person, subject to the continued supervision of a probation officer or an existing commitment to the Commissioner of Children and Families; (2) upon a finding that there is no less restrictive alternative appropriate to the needs of the child and the community, enter an order that directs or authorizes a peace officer or other appropriate person to place the child in a staff-secure facility under the auspices of the Court Support Services Division for a period not to exceed forty-five days, with court review every fifteen days to consider whether continued placement is appropriate, at the end of which period the child shall be returned to the community and may be subject to the supervision of a probation officer, or (3) order that the child be committed to the care and custody of the Commissioner of Children and Families for a period not to exceed eighteen months and that the child cooperate in such care and custody.

Comment: A new petition requires proper service. The burden of proof for a finding that a child has violated a court order should be stated and be consistent with the adjudicatory burden of proof set forth in Sec. 46b-149(h) and to make it clear that a child who is ordered to remain in the community after a finding of violation of a valid court order remains subject to existing orders of supervision or commitment.

(b) When a child [whose family] who has been adjudicated as a child from a family with service needs in accordance with section 46b-149 of the general statutes, as amended by this act, is under an order of supervision or an order of commitment to the Commissioner of Children and Families and believed to be [at risk of immediate] in imminent risk of physical harm from the child's

surroundings or other circumstances, a probation officer, on receipt of a complaint setting forth facts alleging such risk, or on the probation officer's own motion on the basis of his or her knowledge of such risk, may file a petition with the court alleging that the child is [at risk of immediate] in imminent risk of physical harm and setting forth the facts claimed to constitute such risk. Service should be in accordance with subsection (d) of this section. If it appears from the specific allegations of the petition and other verified affirmations of fact accompanying the petition, or subsequent thereto, that there is probable cause to believe that (1) the child is in imminent risk of physical harm from the child's surroundings, (2) as a result of such condition, the child's safety is endangered and immediate removal from such surroundings is necessary to ensure the child's safety, and (3) there is no less restrictive alternative available, the court shall enter an order [directing the placement of] that directs or authorizes a peace officer or other appropriate person to place the child in a staff-secure facility under the auspices of the Court Support Services Division for a period not to exceed forty-five days, subject to subsection (c) of this section, with court review every fifteen days to consider whether continued placement is appropriate, at the end of which period, the child shall either be (A) returned to the community for appropriate services subject to the continued supervision of a probation officer or an existing commitment to the Commissioner of Children and Families; or (B) committed to the Department of Children and Families for a period not to exceed eighteen months if a hearing has been held and the court has found, based on clear and convincing evidence, that (1) the child is in imminent risk of physical harm from the child's surroundings, (2) as a result of such condition, the child's safety is endangered and removal from such surroundings is necessary to ensure the child's safety, and (3) there is no less restrictive alternative available. Any such child shall be entitled to the same procedural protections as are afforded to a delinquent child.

Comment: Service requirement for new petition should be specified, as well as to whom an order of placement is directed, consistent with Section 32(a). The filing of an imminent risk petition for a previously adjudicated child who is no longer under orders of supervision or commitment may not be appropriate, as the court's authority to act and/or jurisdiction to act may be problematic. Section (b) also is inconsistent in referring to a child "at risk of immediate physical harm" and then to a child "at imminent risk of physical harm."

Clarification that an immediate hearing should be held subsequent to placement in a staff-secure facility appears necessary here; hence, the addition of the reference to subsection (c). Subsection(A) needs the clarification that an adjudicated FWSN child, after being held for up to 45-days, upon return to the community for services, may be required to remain under a preexisting probation officer's supervision or an order of commitment. Most importantly, the existing subsection (B), unconstitutionally

provides for a commitment to DCF merely on the basis of a probable cause finding, without any notice, hearing or factual findings by clear and convincing evidence to justify this more restrictive, modified disposition.

(c) No child shall be held prior to a hearing on a petition under this section for more than twenty-four hours, excluding Saturdays, Sundays and holidays. For the purposes of this section, "staff-secure facility" means a residential facility (1) that does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein, (2) that may establish reasonable rules restricting entrance to and egress from the facility, and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

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