

House of Representatives, April 8, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CHILD PROTECTION.

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

1 Section 1. Section 17a-1 of the general
2 statutes, as amended by section 1 of public act
3 97-272, is repealed and the following is
4 substituted in lieu thereof:

5 As used in sections 17a-1 to 17a-26,
6 inclusive, AS AMENDED, 17a-28 to 17a-49,
7 inclusive, AS AMENDED, and section 2 of [this act]
8 PUBLIC ACT 97-272:

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

11 (2) "Council" means the State Advisory
12 Council on Children and Families;

13 (3) "Department" means the Department of
14 Children and Families;

15 (4) "Child" means any person under sixteen
16 years of age;

17 (5) "Youth" means any person sixteen to
18 eighteen years of age;

19 (6) "Delinquent child" shall have the meaning
20 ascribed thereto in section 46b-120, AS AMENDED;

21 (7) "Child or youth with mental illness"
22 means a child or youth who is suffering from one
23 or more mental disorders as defined in the most

24 recent edition of the American Psychiatric
25 Association's "Diagnostic and Statistical Manual
26 of Mental Disorders";

27 (8) "Child or youth with emotional
28 disturbance" means a child or youth who has a
29 clinically significant emotional or behavioral
30 disorder, as determined by a trained mental health
31 professional, that disrupts the academic or
32 developmental progress, family or interpersonal
33 relationships of such child or youth or is
34 associated with present distress or disability or
35 a risk of suffering death, pain or disability;

36 (9) "Individual system of care plan" means a
37 written plan developed by the Commissioner of
38 Children and Families for a child or youth who is
39 mentally ill or emotionally disturbed or at
40 placement risk which shall be developed when such
41 child or youth needs services from at least two
42 public agencies and which shall be designed to
43 meet the needs of the child or youth and his
44 family;

45 (10) "Family" means a child or youth who is
46 mentally ill or emotionally disturbed or at
47 placement risk together with (A) one or more
48 biological or adoptive parents, except for a
49 biological parent whose parental rights have been
50 terminated, (B) one or more persons to whom legal
51 custody or guardianship has been given, or (C) one
52 or more adult family members who have a primary
53 responsibility for providing continuous care to
54 such child or youth;

55 (11) "Child or youth at placement risk" means
56 a mentally ill or emotionally disturbed child or
57 youth who is at risk of placement out of his home
58 or is in placement out of his home for the primary
59 purpose of receiving mental health treatment;
60 [and]

61 (12) "Parent" means a biological or adoptive
62 parent, except a biological parent whose parental
63 rights have been terminated; AND

64 (13) "GUARDIAN" MEANS A PERSON WHO HAS A
65 JUDICIALLY CREATED RELATIONSHIP BETWEEN A CHILD
66 AND SUCH PERSON WHICH IS INTENDED TO BE PERMANENT
67 AND SELF-SUSTAINING AS EVIDENCED BY THE TRANSFER
68 TO SUCH PERSON OF THE FOLLOWING PARENTAL RIGHTS
69 WITH RESPECT TO THE CHILD: (A) THE OBLIGATION OF
70 CARE AND CONTROL; (B) THE AUTHORITY TO MAKE MAJOR
71 DECISIONS AFFECTING THE CHILD'S WELFARE,

72 INCLUDING, BUT NOT LIMITED TO, CONSENT
73 DETERMINATIONS REGARDING MARRIAGE, ENLISTMENT IN
74 THE ARMED FORCES AND MAJOR MEDICAL, PSYCHIATRIC OR
75 SURGICAL TREATMENT; (C) THE OBLIGATION OF
76 PROTECTION OF THE CHILD; (D) THE OBLIGATION TO
77 PROVIDE ACCESS TO EDUCATION; AND (E) CUSTODY OF
78 THE CHILD.

79 Sec. 2. Section 17a-15 of the general
80 statutes is repealed and the following is
81 substituted in lieu thereof:

82 (a) The commissioner [, or his designee,]
83 shall prepare and maintain a written plan for
84 care, [and] treatment AND PERMANENT PLACEMENT of
85 every child and youth under his supervision, which
86 shall include but not be limited to a diagnosis of
87 the problems of each child or youth, [together
88 with] the proposed plan of treatment SERVICES and
89 TEMPORARY placement AND A GOAL FOR PERMANENT
90 PLACEMENT OF THE CHILD OR YOUTH, WHICH MAY INCLUDE
91 REUNIFICATION WITH THE PARENT, LONG-TERM FOSTER
92 CARE, INDEPENDENT LIVING, TRANSFER OF GUARDIANSHIP
93 OR ADOPTION. THE CHILD'S OR YOUTH'S HEALTH AND
94 SAFETY SHALL BE THE PARAMOUNT CONCERN IN
95 FORMULATING THE PLAN.

96 (b) The commissioner [or his designee] shall
97 at least every six months, review the [treatment
98 plan and placement] PLAN of each child and youth
99 under his supervision for the purpose of
100 determining whether [the treatment] SUCH plan [and
101 placement] is appropriate AND MAKE ANY APPROPRIATE
102 MODIFICATIONS TO SUCH PLAN.

103 (c) Any child or youth or his parent or
104 guardian aggrieved by any provision of a
105 [treatment] plan prepared under subsection (a) of
106 this section, or by the commissioner's decision
107 upon review under subsection (b) of this section,
108 or any child or youth or his parent or guardian
109 aggrieved by a refusal of any other service from
110 the commissioner to which he is entitled, shall be
111 provided a hearing within thirty days following a
112 written request for the same directed to the
113 commissioner.

114 (d) Any hearing held pursuant to a request
115 made under subsection (c) of this section shall be
116 conducted as a contested case in accordance with
117 chapter 54 provided: (1) A final decision shall be
118 rendered within fifteen days following the close
119 of evidence and filing of briefs; and (2) any

120 appeal of a decision pursuant to section 4-183
121 shall be to the district of the superior court for
122 juvenile matters, where the child is located, as
123 established in section 46b-142.

124 Sec. 3. Section 17a-101a of the general
125 statutes, as amended by section 9 of public act
126 97-319, is repealed and the following is
127 substituted in lieu thereof:

128 Any mandated reporter, as defined in section
129 17a-101, who in his professional capacity has
130 reasonable cause to suspect or believe that any
131 child under the age of eighteen years [has been]
132 IS AT IMMINENT RISK OF BEING abused, as defined in
133 section 46b-120, as amended by section 18 of [this
134 act] PUBLIC ACT 97-319, or has had nonaccidental
135 physical injury, or injury which is at variance
136 with the history given of such injury, inflicted
137 upon him by a person responsible for such child's
138 health, welfare or care or by a person given
139 access to such child by such responsible person,
140 or has been neglected, as defined in section
141 46b-120, shall report or cause a report to be made
142 in accordance with the provisions of sections
143 17a-101b to 17a-101d, inclusive. Any person
144 required to report under the provisions of this
145 section who fails to make such report shall be
146 fined not more than five hundred dollars.

147 Sec. 4. Section 17a-151 of the general
148 statutes is repealed and the following is
149 substituted in lieu thereof:

150 (a) The Commissioner of Children and Families
151 shall investigate the conditions stated in each
152 application made to him under the provisions of
153 section 17a-145 [and the] AND REQUEST A CRIMINAL
154 RECORDS CHECK FOR ANY PERSON APPLYING UNDER SAID
155 SECTION. THE commissioner shall investigate the
156 conditions in each application under the
157 provisions of section 17a-149 and, if the
158 commissioner finds such conditions suitable for
159 the proper care of children, or for the placing
160 out of children, under such standards for the
161 promotion of the health, safety, morality and
162 well-being of such children as he prescribes,
163 shall issue such license as is required as
164 promptly as possible, without expense to the
165 licensee. If after his investigation the
166 commissioner finds that the applicant,
167 notwithstanding good faith efforts, is not able to

168 fully comply with all the requirements he
169 prescribes, but compliance can be achieved with
170 minimal efforts, the commissioner may issue a
171 provisional license for a period not to exceed
172 sixty days. The provisional license may be renewed
173 for additional sixty-day periods, but in no event
174 shall the total of such periods be for longer than
175 one year. Before issuing any license, the
176 commissioner shall give to the selectmen of the
177 town wherein such licensee proposes to carry on
178 the licensed activity ten days' notice in writing
179 that the issuance of such license is proposed, but
180 such notice shall not be required in case of
181 intention to issue such license to any corporation
182 incorporated for the purpose of caring for or
183 placing such children. Each license so issued
184 shall specify whether it is granted for
185 child-caring or child-placing purposes, shall
186 state the number of children who may be cared for,
187 shall be in force twenty-four months from date of
188 issue, and shall be renewed for the ensuing
189 twenty-four months, if conditions continue to be
190 satisfactory to the commissioner. The commissioner
191 shall also provide such periodical inspections and
192 review as shall safeguard the well-being, health
193 and morality of all children cared for or placed
194 under a license issued by him hereunder and shall
195 visit and consult with each such child and with
196 the licensee as often as he deems necessary but at
197 intervals of not more than ninety days. Each
198 licensee under the provisions of this section
199 shall file annually with the commissioner a report
200 containing such information concerning its
201 functions, services and operation, including
202 financial data, as the commissioner requires. Any
203 license issued under this section may be revoked,
204 suspended or limited by the commissioner for
205 cause, after notice given to the person or entity
206 concerned and after opportunity for a hearing
207 thereon. Any party whose application is denied or
208 whose license is revoked, suspended or limited by
209 the commissioner may appeal from such adverse
210 decision in accordance with the provisions of
211 section 4-183. Appeals under this section shall be
212 privileged in respect to the order of trial
213 assignment.

214 (b) THE CRIMINAL RECORDS CHECK REQUIRED
215 PURSUANT TO SUBSECTION (a) OF THIS SECTION SHALL

216 BE REQUESTED FROM THE STATE POLICE BUREAU OF
217 IDENTIFICATION AND SHALL BE APPLICABLE TO THE
218 PERSONS IDENTIFIED ON THE APPLICATION MADE
219 PURSUANT TO SECTION 17a-145. THE COMMISSIONER OF
220 CHILDREN AND FAMILIES SHALL ARRANGE FOR
221 FINGERPRINTING OF SUCH PERSONS. THE FINGERPRINTS
222 OF SUCH PERSONS SHALL BE FORWARDED TO THE STATE
223 POLICE BUREAU OF IDENTIFICATION WHICH SHALL
224 CONDUCT A STATE CRIMINAL HISTORY RECORDS CHECK AND
225 SUBMIT THE FINGERPRINTS TO THE FEDERAL BUREAU OF
226 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY
227 RECORDS CHECK.

228 [(b)] (c) The commissioner shall adopt
229 regulations, in accordance with chapter 54, to
230 establish a staggered schedule for the renewal of
231 licenses issued pursuant to sections 17a-145 and
232 17a-149.

233 Sec. 5. Section 46b-129 of the general
234 statutes, as amended by section 19 of public act
235 97-319, is repealed and the following is
236 substituted in lieu thereof:

237 (a) Any selectman, town manager, or town,
238 city, or borough welfare department, any probation
239 officer, [the Connecticut Humane Society,] or the
240 Commissioner of Social Services, the Commissioner
241 of Children and Families or any child-caring
242 institution or agency approved by the Commissioner
243 of Children and Families, a child or his
244 representative or attorney or a foster parent of a
245 child, having information that a child or youth is
246 neglected, uncared-for or dependent, may file with
247 the Superior Court which has venue over such
248 matter a verified petition plainly stating such
249 facts as bring the child or youth within the
250 jurisdiction of the court as neglected,
251 uncared-for, or dependent, within the meaning of
252 section 46b-120, the name, date of birth, sex, and
253 residence of the child or youth, the name and
254 residence of his parents or guardian, and praying
255 for appropriate action by the court in conformity
256 with the provisions of this chapter. Upon the
257 filing of such a petition, except as otherwise
258 provided in subsection [(e)] (d) of section
259 17a-112, AS AMENDED BY THIS ACT, the court shall
260 cause a summons to be issued requiring the parent
261 or parents or the guardian of the child or youth
262 to appear in court at the time and place named,
263 which summons shall be served not less than

264 fourteen days before the date of the hearing in
265 the manner prescribed by section 46b-128, and said
266 court shall further give notice to the petitioner
267 and to the Commissioner of Children and Families
268 of the time and place when the petition is to be
269 heard not less than fourteen days [next preceding]
270 PRIOR TO the hearing in question.

271 (b) If it appears from the allegations of the
272 petition and other verified affirmations of fact
273 accompanying the petition, or subsequent thereto,
274 that there is reasonable cause to find that the
275 child's or youth's condition or the circumstances
276 surrounding his care PLACE THE CHILD OR YOUTH AT
277 IMMINENT RISK OF PHYSICAL OR SERIOUS EMOTIONAL
278 HARM FROM HIS SURROUNDINGS AND require that his
279 custody be immediately assumed to safeguard his
280 welfare, the court shall either (1) issue an order
281 to the parents or other person having
282 responsibility for the care of the child or youth
283 to show cause at such time as the court may
284 designate why the court shall not vest in some
285 suitable agency or person the child's or youth's
286 temporary care and custody pending a hearing on
287 the petition, or (2) [vest] ISSUE AN ORDER EX
288 PARTE VESTING in some suitable agency or person
289 the child's or youth's temporary care and custody.
290 [pending a hearing upon the petition which] A
291 PRELIMINARY HEARING ON ANY EX PARTE CUSTODY ORDER
292 OR ORDER TO SHOW CAUSE ISSUED BY THE COURT shall
293 be held within ten days from the issuance of such
294 order. [on the need for such temporary care and
295 custody.] The service of such orders may be made
296 by any officer authorized by law to serve process,
297 or by any probation officer appointed in
298 accordance with section 46b-123, investigator from
299 the Department of Administrative Services, state
300 OR LOCAL police officer or indifferent person NOT
301 MORE THAN FORTY-EIGHT HOURS AFTER ISSUANCE. The
302 expense for any temporary care and custody shall
303 be paid by the town in which such child or youth
304 is at the time residing, and such town shall be
305 reimbursed therefor by the town found liable for
306 his support, except that where a state agency has
307 filed a petition pursuant to the provisions of
308 subsection (a) of this section, the agency shall
309 pay such expense. If the court, pursuant to this
310 subsection, vests in a suitable agency or person
311 the child's or youth's temporary care or custody,

312 the court shall provide to the commissioner and
313 the parent of the child or youth specific steps
314 which the parent may take to facilitate the return
315 of the child or youth to the custody of such
316 parent. If the court, after a [show cause] hearing
317 pursuant to this section, maintains the custody of
318 the child or youth in the parent, the court may
319 provide to the commissioner and the parent
320 specific steps which the parent may take to
321 maintain custody of the child or youth.

322 (c) THE PRELIMINARY HEARING ON THE ORDER OF
323 TEMPORARY CUSTODY OR ORDER TO SHOW CAUSE OR THE
324 FIRST HEARING ON A PETITION FILED PURSUANT TO
325 SUBSECTION (a) OF THIS SECTION SHALL BE HELD IN
326 ORDER FOR THE COURT TO: (1) ADVISE THE PARENT OR
327 GUARDIAN OF THE ALLEGATIONS CONTAINED IN ALL
328 PETITIONS AND APPLICATIONS THAT ARE THE SUBJECT OF
329 THE HEARING; (2) ACCEPT A PLEA REGARDING THE TRUTH
330 OF SUCH ALLEGATIONS; (3) ASSURE THAT AN ATTORNEY
331 HAS BEEN APPOINTED AS COUNSEL AND GUARDIAN AD
332 LITEM TO REPRESENT THE CHILD OR YOUTH IN
333 ACCORDANCE WITH SECTION 46b-129a, AS AMENDED BY
334 THIS ACT, AND SECTION 46b-136; (4) UPON REQUEST,
335 APPOINT AN ATTORNEY TO REPRESENT THE PARENT OR
336 GUARDIAN ALLEGED TO HAVE ABUSED OR NEGLECTED THE
337 CHILD OR YOUTH WHEN THEY ARE UNABLE TO AFFORD
338 REPRESENTATION, AS DETERMINED BY THE COURT; (5)
339 ADVISE THE PARENT OR GUARDIAN OF THE RIGHT TO A
340 HEARING ON THE PETITIONS AND APPLICATIONS, TO BE
341 HELD WITHIN TEN DAYS FROM THE DATE OF THE
342 PRELIMINARY HEARING IF THE HEARING IS PURSUANT TO
343 AN ORDER OF TEMPORARY CUSTODY OR AN ORDER TO SHOW
344 CAUSE; (6) MAKE ANY INTERIM ORDERS THAT THE COURT
345 DETERMINES ARE IN THE BEST INTERESTS OF THE CHILD
346 OR YOUTH, INCLUDING PROVIDING THE PARENT OR
347 GUARDIAN WITH EXPECTATIONS AS TO THE SPECIFIC
348 STEPS NECESSARY TO REGAIN OR TO RETAIN CUSTODY OF
349 THE CHILD OR YOUTH; (7) TAKE STEPS TO DETERMINE
350 THE IDENTITY OF THE FATHER OF THE CHILD OR YOUTH,
351 INCLUDING ORDERING GENETIC TESTING, IF NECESSARY,
352 AND ORDER SERVICE OF THE PETITION AND NOTICE OF
353 THE HEARING DATE, IF ANY, TO BE MADE UPON HIM; (8)
354 IF THE PERSON NAMED AS THE FATHER APPEARS, ADVISE
355 HIM OF HIS RIGHTS AND OBLIGATIONS UNDER STATE LAW
356 AND IF HE ADMITS THAT HE IS THE FATHER OF THE
357 CHILD OR YOUTH, DIRECT HIM TO EXECUTE AN
358 ACKNOWLEDGMENT OF PATERNITY AND DIRECT THE MOTHER
359 TO EXECUTE AN AFFIRMATION OF PATERNITY. THESE

360 DOCUMENTS SHALL BE EXECUTED IN DUPLICATE AND FILED
361 WITH THE CLERK'S OFFICE OF THE SUPERIOR COURT FOR
362 THE APPROPRIATE JUDICIAL DISTRICT RESPONSIBLE FOR
363 ACCEPTING AND RECORDING PATERNITY ACKNOWLEDGMENTS
364 IN ACCORDANCE WITH CHAPTER 815y AND THE SUPERIOR
365 COURT FOR JUVENILE MATTERS; AND (9) IN THE EVENT
366 THAT THE PERSON NAMED AS A FATHER APPEARS AND
367 DENIES THAT HE IS THE FATHER OF THE CHILD OR
368 YOUTH, ADVISE HIM OF THE IMPLICATIONS OF DENIAL,
369 AND EITHER ORDER GENETIC TESTING TO DETERMINE
370 PATERNITY OR DIRECT HIM TO EXECUTE A WRITTEN
371 DENIAL OF PATERNITY ON A FORM PROMULGATED BY THE
372 OFFICE OF THE CHIEF COURT ADMINISTRATOR. UPON
373 EXECUTION OF SUCH A FORM BY THE PUTATIVE FATHER,
374 THE COURT MAY REMOVE HIM FROM THE CASE AND AFFORD
375 HIM NO FURTHER STANDING IN THE CASE OR IN ANY
376 SUBSEQUENT PROCEEDING REGARDING THE CHILD OR YOUTH
377 UNTIL SUCH TIME AS PATERNITY IS ESTABLISHED BY
378 FORMAL ACKNOWLEDGMENT OR ADJUDICATION IN A COURT
379 OF COMPETENT JURISDICTION. THE COURT SHALL FURTHER
380 ORDER THAT THE DEPARTMENT HAS NO DUTY TO MAKE
381 REASONABLE EFFORTS TO REUNIFY THE CHILD OR YOUTH
382 WITH THAT PUTATIVE FATHER AND THE LACK OF SUCH
383 EFFORTS MAY NOT BE CITED FOR ANY PURPOSE BY THE
384 PUTATIVE FATHER IN ANY FUTURE PROCEEDING INVOLVING
385 THE CHILD OR YOUTH. EXECUTION OF A WRITTEN DENIAL
386 OF PATERNITY PURSUANT TO THIS SECTION SHALL HAVE
387 NO LEGAL EFFECT ON PATERNITY OR CHILD SUPPORT
388 PROCEEDINGS PURSUANT TO CHAPTER 815, 815y OR 816.

389 (d) IF ANY PARENT OR GUARDIAN FAILS, AFTER
390 DUE NOTICE, TO APPEAR AT THE PRELIMINARY HEARING
391 THE COURT MAY ENTER OR SUSTAIN AN ORDER OF
392 TEMPORARY CUSTODY AND ENTER A DEFAULT AND PROCEED
393 AT THAT TIME OR AT A HEARING TO BE HELD WITHIN TEN
394 DAYS TO RECEIVE PROOF AND ENTER JUDGMENT ON THE
395 NEGLECT OR UNCARED FOR PETITION. THE COURT MAY
396 ALSO FIND THAT THE DEPARTMENT OF CHILDREN AND
397 FAMILIES HAS NO DUTY TO REUNIFY THE CHILD OR YOUTH
398 WITH THE PARENT AND THE LACK OF SUCH EFFORTS MAY
399 NOT BE CITED FOR ANY PURPOSE IN FUTURE PROCEEDINGS
400 CONCERNING THE CHILD OR YOUTH.

401 (e) UPON REQUEST, THE COURT SHALL SCHEDULE A
402 HEARING ON THE ORDER FOR TEMPORARY CUSTODY OR THE
403 ORDER TO SHOW CAUSE TO BE HELD WITHIN TEN DAYS
404 FROM THE DATE OF THE PRELIMINARY HEARING. WHEN
405 APPROPRIATE, THE COURT MAY ALSO HEAR A PETITION
406 FILED PURSUANT TO SUBSECTION (a) AT THAT TIME.

407 (f) AT A CONTESTED HEARING ON THE ORDER FOR
408 TEMPORARY CUSTODY OR ORDER TO SHOW CAUSE CREDIBLE
409 HEARSAY EVIDENCE REGARDING STATEMENTS OF THE CHILD
410 OR YOUTH MAY BE OFFERED BY THE PARTIES AND
411 ADMITTED AT THE DISCRETION OF THE COURT. THE
412 PETITIONER MAY SUBMIT A SIGNED AFFIDAVIT EXECUTED
413 BY A MANDATED REPORTER WITHOUT THE NEED FOR THE
414 MANDATED REPORTER TO APPEAR AND TESTIFY UNLESS
415 CALLED BY A RESPONDENT, PROVIDED THE AFFIDAVITS
416 ARE SUBMITTED TO ALL PARTIES APPEARING AT THE
417 PRELIMINARY HEARING. THE AFFIDAVITS, WHILE NOT
418 CONCLUSIVE, SHALL CONSTITUTE PRIMA FACIE EVIDENCE
419 OF THE FACTS ALLEGED TO SUPPORT THE MAINTENANCE OF
420 AN ORDER OF TEMPORARY CUSTODY PENDING A TRIAL ON
421 THE MERITS OF THE PETITION OR PETITIONS.

422 (g) IF ANY PARENT OR GUARDIAN FAILS, AFTER
423 DUE NOTICE AND WITHOUT GOOD CAUSE, TO APPEAR AT
424 THE SCHEDULED DATE FOR A CONTESTED HEARING ON THE
425 ORDER OF TEMPORARY CUSTODY OR ORDER TO SHOW CAUSE,
426 THE COURT MAY ENTER OR SUSTAIN AN ORDER OF
427 TEMPORARY CUSTODY AND ENTER A DEFAULT AND PROCEED
428 ON THAT DATE OR A SUBSEQUENT DATE TO RECEIVE PROOF
429 AND ENTER JUDGMENT ON THE NEGLECT OR UNCARED FOR
430 PETITION. THE COURT MAY ALSO FIND THAT THE
431 DEPARTMENT OF CHILDREN AND FAMILIES HAS NO DUTY TO
432 REUNIFY THE CHILD OR YOUTH WITH THE PARENT AND
433 THAT THE DEPARTMENT OF CHILDREN AND FAMILIES HAS
434 NO DUTY TO MAKE REASONABLE EFFORTS TO REUNIFY THE
435 CHILD OR YOUTH WITH THE PARENT AND THE LACK OF
436 SUCH EFFORTS MAY NOT BE CITED FOR ANY PURPOSE IN
437 FUTURE PROCEEDINGS CONCERNING THE CHILD OR YOUTH.

438 [(c)] (h) When a petition is filed in said
439 court for the commitment of a child or youth, the
440 Commissioner of Children and Families shall make a
441 thorough investigation of the case and shall cause
442 to be made a thorough physical and mental
443 examination of the child or youth if requested by
444 the court. The court after hearing [on the
445 petition and upon a finding that the physical or
446 mental ability of a parent or guardian to care for
447 the child or youth before the court is at issue]
448 may ALSO order a thorough physical or mental
449 examination, or both, of [the] A parent or
450 guardian whose competency [is in question] OR
451 ABILITY TO CARE FOR A CHILD OR YOUTH BEFORE THE
452 COURT IS AT ISSUE. The expenses incurred in making
453 such physical and mental examinations shall be
454 paid as costs of commitment are paid.

455 [(d)] (i) Upon finding and adjudging that any
456 child or youth is uncared-for, neglected or
457 dependent, the court may commit him to the
458 Commissioner of Children and Families for a
459 maximum period of twelve months, unless such
460 period is extended in accordance with the
461 provisions of subsection [(e)] (j) of this
462 section, provided such commitment or any extension
463 thereof may be revoked or parental rights
464 terminated at any time by the court, or the court
465 may vest such child's or youth's care and personal
466 custody in any private or public agency which is
467 permitted by law to care for neglected,
468 uncared-for or dependent children or youth or with
469 any person OR PERSONS found to be suitable and
470 worthy of such responsibility by the court. The
471 court shall order specific steps which the parent
472 must take to facilitate the return of the child or
473 youth to the custody of such parent. The
474 commissioner shall be the guardian of such child
475 or youth for the duration of the commitment,
476 provided the child or youth has not reached the
477 age of eighteen years or, in the case of a child
478 or youth in full-time attendance in a secondary
479 school, a technical school, a college or a
480 state-accredited job training program, provided
481 such child or youth has not reached the age of
482 twenty-one, by consent of such youth, or until
483 another guardian has been legally appointed, and
484 in like manner, upon such vesting of his care,
485 such other public or private agency or individual
486 shall be the guardian of such child or youth until
487 he has reached the age of eighteen years or, in
488 the case of a child or youth in full-time
489 attendance in a secondary school, a technical
490 school, a college or a state-accredited job
491 training program, until such child or youth has
492 reached the age of twenty-one years or until
493 another guardian has been legally appointed. Said
494 commissioner may place any child or youth so
495 committed to him in a suitable foster home or in
496 the home of a person related by blood to such
497 child or youth or in a licensed child-caring
498 institution or in the care and custody of any
499 accredited, licensed or approved child-caring
500 agency, within or without the state, provided a
501 child shall not be placed outside the state except
502 for good cause and unless the parents of such

503 child are notified in advance of such placement
504 and given an opportunity to be heard, or in a
505 receiving home maintained and operated by the
506 Commissioner of Children and Families. In placing
507 such child or youth, said commissioner shall, if
508 possible, select a home, agency, institution or
509 person of like religious faith to that of a parent
510 of such child or youth, if such faith is known or
511 may be ascertained by reasonable inquiry, provided
512 such home conforms to the standards of said
513 commissioner and the commissioner shall, when
514 placing siblings, if possible, place such children
515 together. As an alternative to commitment, the
516 court may place the child in the custody of the
517 parent or guardian with protective supervision by
518 the Commissioner of Children and Families subject
519 to conditions established by the court.

520 [(e) Ninety days before the expiration of
521 each twelve-month commitment made in accordance
522 with the provisions of subsection (d) of this
523 section and each extension made pursuant to the
524 provisions of this subsection, the Commissioner of
525 Children and Families shall petition the court
526 either to (1) revoke such commitment, in
527 accordance with the provisions of subsection (g)
528 of this section, or (2) terminate parental rights
529 in accordance with the provisions of section
530 17a-112, or (3) extend the commitment beyond such
531 twelve-month period on the ground that an
532 extension is in the best interest of the child.
533 The court shall give notice to the parent, parents
534 or guardian and to the child or youth at least
535 fourteen days prior to the hearing on such
536 petition. Upon finding that an extension is in the
537 best interest of the child, the court may extend
538 the commitment for a period of twelve months. At
539 such hearing the court shall determine the
540 appropriateness of continued efforts to reunify
541 the child or youth with his family. If the court
542 finds that such efforts are not appropriate, the
543 Department of Children and Families shall within
544 sixty days of such finding either (A) file a
545 petition for the termination of parental rights,
546 (B) file a motion to revoke the commitment and
547 vest the custody and guardianship of the child on
548 a permanent or long-term basis in an appropriate
549 individual or couple or (C) file a written
550 permanency plan with the court for permanent or

551 long-term foster care, which plan shall include an
552 explanation of the reason that neither termination
553 of parental rights nor custody and guardianship is
554 appropriate for the child. The court shall
555 promptly convene a hearing for the purpose of
556 reviewing such written plan.]

557 (j) (1) TEN MONTHS AFTER THE ADJUDICATION OF
558 NEGLECT OF THE CHILD OR YOUTH OR TWELVE MONTHS
559 AFTER THE VESTING OF TEMPORARY CARE AND CUSTODY
560 PURSUANT TO SUBSECTION (b) OF THIS SECTION,
561 WHICHEVER IS EARLIER, UNLESS THE COURT HAS
562 APPROVED PLACEMENT IN LONG-TERM FOSTER CARE WITH
563 AN IDENTIFIED PERSON OR AN INDEPENDENT LIVING
564 PROGRAM, OR THE COMMISSIONER HAS FILED A PETITION
565 FOR TERMINATION OF PARENTAL RIGHTS, THE
566 COMMISSIONER SHALL FILE A MOTION FOR REVIEW OF A
567 PERMANENCY PLAN AND TO EXTEND OR REVOKE THE
568 COMMITMENT. TEN MONTHS AFTER A PERMANENCY PLAN HAS
569 BEEN APPROVED BY THE COURT PURSUANT TO THIS
570 SUBSECTION, UNLESS THE COURT HAS APPROVED
571 PLACEMENT IN LONG-TERM FOSTER CARE WITH AN
572 IDENTIFIED PERSON OR AN INDEPENDENT LIVING
573 PROGRAM, OR THE COMMISSIONER HAS FILED A PETITION
574 FOR TERMINATION OF PARENTAL RIGHTS OR MOTION TO
575 TRANSFER GUARDIANSHIP, THE COMMISSIONER SHALL FILE
576 A MOTION FOR REVIEW OF THE PERMANENCY PLAN TO
577 EXTEND OR REVOKE THE COMMITMENT. A HEARING ON ANY
578 SUCH MOTION SHALL BE HELD WITHIN SIXTY DAYS OF THE
579 FILING. THE COURT SHALL PROVIDE NOTICE TO THE
580 CHILD OR YOUTH, AND HIS PARENT OR GUARDIAN OF THE
581 TIME AND PLACE OF THE COURT HEARING ON ANY SUCH
582 MOTION NOT LESS THAN FOURTEEN DAYS PRIOR TO SUCH
583 HEARING.

584 (2) AT SUCH HEARING, THE COURT SHALL
585 DETERMINE WHETHER IT IS APPROPRIATE TO CONTINUE TO
586 MAKE REASONABLE EFFORTS TO REUNIFY THE CHILD OR
587 YOUTH WITH THE PARENT. IN MAKING THIS
588 DETERMINATION, THERE SHALL BE A REBUTTABLE
589 PRESUMPTION THAT FURTHER EFFORTS TO REUNIFY THE
590 CHILD OR YOUTH WITH THE PARENT ARE NOT APPROPRIATE
591 IF THE CHILD OR YOUTH HAS BEEN IN THE CUSTODY OF
592 THE COMMISSIONER FOR MORE THAN FIFTEEN CONSECUTIVE
593 MONTHS OR MORE THAN FIFTEEN MONTHS DURING THE
594 TWENTY-TWO MONTH PERIOD IMMEDIATELY PRECEDING SUCH
595 HEARING. THIS PRESUMPTION SHALL BE REBUTTED IF
596 SERVICES HAVE NOT BEEN OFFERED OR AVAILABLE DURING
597 SAID TIME PERIODS. IF THE COURT FINDS THAT FURTHER
598 EFFORTS ARE NOT APPROPRIATE, THE COMMISSIONER HAS

599 NO DUTY TO MAKE FURTHER EFFORTS TO REUNIFY THE
600 CHILD OR YOUTH WITH THE PARENT. IF THE COURT FINDS
601 THAT FURTHER EFFORTS ARE APPROPRIATE, SUCH EFFORTS
602 SHALL ENSURE THAT THE CHILD OR YOUTH'S HEALTH AND
603 SAFETY ARE PROTECTED AND SUCH EFFORTS SHALL BE
604 SPECIFIED BY THE COURT, INCLUDING THE SERVICES TO
605 BE PROVIDED TO THE PARENT, WHAT STEPS THE PARENT
606 MAY TAKE TO ADDRESS THE PROBLEM THAT PREVENTS THE
607 CHILD OR YOUTH FROM SAFELY REUNITING WITH THE
608 PARENT AND A TIME PERIOD, NOT LONGER THAN SIX
609 MONTHS, FOR SUCH STEPS TO BE ACCOMPLISHED.

610 (3) AT SUCH HEARING, THE COURT SHALL APPROVE
611 A PERMANENCY PLAN THAT IS IN THE BEST INTERESTS OF
612 THE CHILD OR YOUTH AND TAKES INTO CONSIDERATION
613 THE CHILD OR YOUTH'S NEED FOR PERMANENCY. SUCH
614 PERMANENCY PLAN MAY INCLUDE (A) REVOCATION OF
615 COMMITMENT AND PLACEMENT OF THE CHILD OR YOUTH
616 WITH THE PARENT OR GUARDIAN, WITH OR WITHOUT
617 PROTECTIVE SUPERVISION; (B) PLACING THE CHILD OR
618 YOUTH IN AN INDEPENDENT LIVING PROGRAM; (C)
619 TRANSFER OF GUARDIANSHIP; (D) APPROVAL OF
620 LONG-TERM FOSTER CARE WITH AN IDENTIFIED FOSTER
621 PARENT; (E) FILING OF TERMINATION OF PARENTAL
622 RIGHTS; OR (F) SUCH OTHER APPROPRIATE ACTION
623 ORDERED BY THE COURT. THE COURT SHALL EXTEND
624 COMMITMENT IF EXTENSION IS IN THE BEST INTERESTS
625 OF THE CHILD OR YOUTH FOR A PERIOD OF TWELVE
626 MONTHS UNLESS THE COURT HAS APPROVED PLACEMENT IN
627 LONG-TERM FOSTER CARE WITH AN IDENTIFIED PERSON OR
628 AN INDEPENDENT LIVING PROGRAM, OR THE COMMISSIONER
629 HAS FILED A PETITION FOR TERMINATION OF PARENTAL
630 RIGHTS. THE COURT SHALL REVOKE COMMITMENT IF A
631 CAUSE FOR COMMITMENT NO LONGER EXISTS AND IT IS IN
632 THE BEST INTERESTS OF THE CHILD OR YOUTH.

633 (4) COMMITMENT SHALL BE REVOKED BY OPERATION
634 OF LAW SIXTY DAYS AFTER A CHILD OR YOUTH IS
635 REMOVED FROM LONG-TERM FOSTER CARE OR AN
636 INDEPENDENT LIVING PROGRAM OR IF A COURT FAILS TO
637 GRANT THE PETITION FOR TERMINATION OF PARENTAL
638 RIGHTS OR MOTION TO TRANSFER GUARDIANSHIP, UNLESS
639 OTHERWISE ORDERED BY THE COURT.

640 [(f)] (k) The Commissioner of Children and
641 Families shall pay directly to the person or
642 persons furnishing goods or services determined by
643 said commissioner to be necessary for the care and
644 maintenance of such child or youth the reasonable
645 expense thereof, payment to be made at intervals
646 determined by said commissioner; and the

647 Comptroller shall draw his order on the Treasurer,
648 from time to time, for such part of the
649 appropriation for care of committed children or
650 youth as may be needed in order to enable the
651 commissioner to make such payments. Said
652 commissioner shall include in his annual budget a
653 sum estimated to be sufficient to carry out the
654 provisions of this section. Notwithstanding that
655 any such child or youth has income or estate, the
656 commissioner may pay the cost of care and
657 maintenance of such child or youth. The
658 commissioner may bill to and collect from the
659 person in charge of the estate of any child or
660 youth aided under this chapter, including his
661 decedent estate, or the payee of such child's or
662 youth's income, the total amount expended for care
663 of such child or youth or such portion thereof as
664 any such estate or payee is able to reimburse.

665 [(g) Any court by which a child or youth has
666 been committed pursuant to the provisions of this
667 section may, upon the application of the attorney
668 who represented such child in a prior or pending
669 commitment proceeding, an attorney appointed by
670 the Superior Court on its own motion or an
671 attorney retained by such child after attaining
672 the age of fourteen, a parent, including any
673 person who acknowledges before said court
674 paternity of a child or youth born out of wedlock,
675 or other relative of such child or youth, the
676 selectman or any original petitioner, or a
677 licensed child-caring agency or institution
678 approved by the commissioner, or said
679 commissioner, and while such child or youth is
680 under the guardianship of said commissioner, upon
681 hearing, after reasonable notice to said
682 commissioner, and, if said commissioner made the
683 application, after reasonable notice to such
684 parent, relative, original petitioner, selectman
685 or child-caring agency or institution, upon
686 finding that cause for commitment no longer
687 exists, revoke such commitment, and thereupon such
688 guardianship and all control of said commissioner
689 over such child or youth shall terminate. The
690 court may further revoke the commitment of any
691 child or youth upon application by the
692 commissioner or by the child or youth concerned
693 and after reasonable notice to the parties
694 affected upon a finding that such revocation will

695 be for the best interest and welfare of such child
696 or youth. No hearing shall be held for such
697 reopening and termination of commitment or
698 transfer of commitment more often than once in six
699 months, except upon the application of said
700 commissioner.]

701 (1) THE COMMISSIONER, A PARENT OR THE CHILD'S
702 ATTORNEY MAY FILE A MOTION TO REVOKE A COMMITMENT,
703 AND, UPON FINDING THAT CAUSE FOR COMMITMENT NO
704 LONGER EXISTS, AND THAT SUCH REVOCATION IS IN THE
705 BEST INTEREST AND WELFARE OF SUCH CHILD OR YOUTH,
706 THE COURT MAY REVOKE THE COMMITMENT OF ANY CHILD
707 OR YOUTH. NO SUCH MOTION SHALL BE FILED MORE OFTEN
708 THAN ONCE EVERY SIX MONTHS.

709 [(h)] (m) Upon service on the parent,
710 guardian or other person having control of the
711 child or youth of any order issued by the court
712 pursuant to the provisions of subsections (b) and
713 [(d)] (i) of this section, the child or youth
714 concerned shall be surrendered to the person
715 serving the order who shall forthwith deliver the
716 child or youth to the person, agency, department
717 or institution awarded custody in such order. Upon
718 refusal of the parent, guardian or other person
719 having control of the child or youth to surrender
720 the child or youth as provided in the order, the
721 court may cause a warrant to be issued charging
722 the parent, guardian or other person having
723 control of the child or youth with contempt of
724 court. If the person arrested is found in contempt
725 of court, the court may order such person confined
726 until he purges himself of contempt, but for not
727 more than six months, or may fine such person not
728 more than five hundred dollars, or both.

729 [(i)] (n) A foster parent shall have standing
730 for the purposes of this section in Superior Court
731 in matters concerning the placement or revocation
732 of commitment of a foster child living with such
733 parent. A foster parent shall receive notice of
734 any [application] MOTION to revoke commitment or
735 any hearing on such [application] MOTION.

736 Sec. 6. (NEW) (a) The Commissioner of
737 Children and Families shall file a petition to
738 terminate parental rights pursuant to section
739 17a-112 of the general statutes, as amended by
740 this act, if (1) the child has been in the custody
741 of the commissioner for at least fifteen
742 consecutive months, or at least fifteen months

743 during the twenty-two months, immediately
744 preceding the filing of such petition; (2) the
745 child has been abandoned as defined in subsection
746 (c) of section 17a-112 of the general statutes, as
747 amended by this act; or (3) a court of competent
748 jurisdiction has found that (A) the parent has
749 killed, through deliberate, non-accidental act, a
750 sibling of the child or has requested, commanded,
751 importuned, attempted, conspired or solicited to
752 commit the killing of the child or a sibling of
753 the child; or (B) the parent has assaulted the
754 child or a sibling of a child, through deliberate,
755 nonaccidental act, and such assault resulted in
756 serious bodily injury to such child.

757 (b) Notwithstanding the provisions of
758 subsection (a) of this section, the commissioner
759 is not required to file a petition to terminate
760 parental rights in such cases if the commissioner
761 determines that: (1) The child has been placed
762 under the care of a relative of such child; (2)
763 there is a compelling reason to believe that
764 filing such petition is not in the best interests
765 of the child; or (3) the parent has not been
766 offered the services contained in the permanency
767 plan to reunify the parent with the child or such
768 services were not available, unless a court has
769 determined that efforts to reunify the parent with
770 the child are not required.

771 Sec. 7. (NEW) (a) The Commissioner of
772 Children and Families may, at any time, petition
773 the court for a determination on whether
774 reasonable efforts to reunify the parent with the
775 child are appropriate. The court shall determine
776 that such efforts are not appropriate if: (1) The
777 parent has subjected the child to the following
778 aggravated circumstances: (A) The child has been
779 abandoned as defined in subsection (c) of section
780 17a-112 of the general statutes, as amended by
781 this act; or (B) the parent has inflicted sexual
782 abuse or severe physical or emotional pain on the
783 child or engaged in a pattern of abuse of the
784 child; (2) the parent has killed, through
785 deliberate, nonaccidental act, a sibling of the
786 child, or has required, commanded, importuned,
787 attempted, conspired or solicited to commit the
788 killing of the child or sibling of the child, or
789 has committed an assault, through deliberate,
790 nonaccidental act, that resulted in serious bodily

791 injury of the child or a sibling of the child; (3)
792 the parental rights of the parent to a sibling
793 have been terminated pursuant to a petition filed
794 by the commissioner; or (4) the child was
795 conceived as a result of a sexual assault which
796 resulted in a conviction by a court of competent
797 jurisdiction.

798 (b) If the court determined that such efforts
799 are not appropriate, the court shall, at such
800 hearing or at a hearing held not later than thirty
801 days from such determination, approve a permanency
802 plan for such child which may include a
803 requirement that the commissioner file a petition
804 to terminate parental rights, long-term foster
805 care, independent living, transfer of
806 guardianship, or adoption. The child's health and
807 safety shall be of paramount concern in
808 formulating such plan.

809 Sec. 8. Section 17a-112 of the general
810 statutes is repealed and the following is
811 substituted in lieu thereof:

812 (a) In respect to any child in the custody of
813 the Commissioner of Children and Families in
814 accordance with section 46b-129, AS AMENDED BY
815 THIS ACT, either the commissioner, or the attorney
816 who represented such child in a pending or prior
817 proceeding, or an attorney appointed by the
818 Superior Court on its own motion, or an attorney
819 retained by such child after attaining the age of
820 fourteen, may petition the court for the
821 termination of parental rights with reference to
822 such child. The petition shall be in the form and
823 contain the information set forth in subsection
824 (b) of section 45a-715, and be subject to the
825 provisions of subsection (c) of said section. If a
826 petition indicates that either or both parents
827 consent to the termination of their parental
828 rights, or if at any time following the filing of
829 a petition and before the entry of a decree, a
830 parent consents to the termination of his parental
831 rights, each consenting parent shall acknowledge
832 such consent on a form promulgated by the Office
833 of the Chief Court Administrator evidencing that
834 the parent has voluntarily and knowingly consented
835 to the termination of his parental rights. No
836 consent to termination by a mother shall be
837 executed within forty-eight hours immediately
838 after the birth of her child. A parent who is a

839 minor shall have the right to consent to
840 termination of parental rights and such consent
841 shall not be voidable by reason of such minority.
842 A guardian ad litem shall be appointed by the
843 court to assure that such minor parent is giving
844 an informed and voluntary consent.

845 (b) The Superior Court upon hearing and
846 notice, as provided in sections 45a-716 and
847 45a-717, AS AMENDED BY THIS ACT, may grant a
848 petition for termination of parental rights based
849 on consent filed pursuant to this section if it
850 finds that (1) upon clear and convincing evidence,
851 the termination is in the best interest of the
852 child and (2) such parent has voluntarily and
853 knowingly consented to termination of his parental
854 rights with respect to such child. If the court
855 denies a petition for termination of parental
856 rights based on consent, it may refer the matter
857 to an agency to assess the needs of the child, the
858 care the child is receiving and the plan of the
859 parent for the child. Consent for the termination
860 of the parental rights of one parent does not
861 diminish the parental rights of the other parent
862 of the child, nor does it relieve the other parent
863 of the duty to support the child.

864 (c) The Superior Court, upon hearing and
865 notice as provided in sections 45a-716 and
866 45a-717, AS AMENDED BY THIS ACT, may grant a
867 petition filed pursuant to this section if it
868 finds by clear and convincing evidence (1) that
869 the Department of Children and Families has made
870 reasonable efforts to locate the parent and to
871 reunify the child with the parent, unless the
872 court finds in this proceeding that the parent is
873 unable or unwilling to benefit from reunification
874 efforts provided such finding is not required if
875 the court has determined at a hearing pursuant to
876 subsection (b) of section 17a-110 OR SECTION 7 OF
877 THIS ACT that such efforts are not appropriate,
878 (2) that termination is in the best interest of
879 the child, and (3) that: [over an extended period
880 of time, which except as provided in subsection
881 (d) of this section shall not be less than one
882 year, provided such time limit shall not apply to
883 subparagraph (e) of this subsection:] (A) The
884 child has been abandoned by the parent in the
885 sense that the parent has failed to maintain a
886 reasonable degree of interest, concern or

887 responsibility as to the welfare of the child; (B)
888 the parent of a child who [has been] IS found by
889 the Superior Court to have been neglected or
890 uncared for [in a prior proceeding] has failed to
891 achieve such degree of personal rehabilitation as
892 would encourage the belief that within a
893 reasonable time, considering the age and needs of
894 the child, such parent could assume a responsible
895 position in the life of the child; (C) the child
896 has been denied, by reason of an act or acts of
897 parental commission or omission INCLUDING, BUT NOT
898 LIMITED TO, SEXUAL ABUSE, SEVERE PHYSICAL OR
899 EMOTIONAL INJURY OR A PATTERN OF ABUSE, the care,
900 guidance or control necessary for his physical,
901 educational, moral or emotional well-being.
902 Nonaccidental or inadequately explained serious
903 physical injury to a child shall constitute prima
904 facie evidence of acts of parental commission or
905 omission sufficient for the termination of
906 parental rights; (D) There is no ongoing
907 parent-child relationship, which means the
908 relationship that ordinarily develops as a result
909 of a parent having met on a day to day basis the
910 physical, emotional, moral and educational needs
911 of the child and to allow further time for the
912 establishment or reestablishment of such
913 parent-child relationship would be detrimental to
914 the best interest of the child. A CASE IN WHICH A
915 PARENT HAS FAILED TO ESTABLISH A PARENT-CHILD
916 RELATIONSHIP AND HAS BEEN SENTENCED TO A PRISON
917 TERM WHICH WILL RESULT IN THE PARENT BEING UNABLE
918 TO MEET THE NEEDS OF THE CHILD FOR MORE THAN TWO
919 YEARS SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF NO
920 ONGOING PARENT-CHILD RELATIONSHIP SUFFICIENT FOR
921 TERMINATION OF PARENTAL RIGHTS; [or] (E) the
922 parent of a child under the age of seven years who
923 is neglected or uncared for, has failed, is unable
924 or is unwilling to achieve such degree of personal
925 rehabilitation as would encourage the belief that
926 within a reasonable period of time, considering
927 the age and needs of the child, such parent could
928 assume a responsible position in the life of the
929 child and such parent's parental rights of another
930 child were previously terminated pursuant to a
931 petition filed by the Commissioner of Children and
932 Families; (F) THE PARENT HAS KILLED THROUGH
933 DELIBERATE, NONACCIDENTAL ACT ANOTHER CHILD OF THE
934 PARENT OR HAS REQUESTED, COMMANDED, IMPORTUNED,

935 ATTEMPTED, CONSPIRED OR SOLICITED SUCH KILLING OR
936 HAS COMMITTED AN ASSAULT, THROUGH DELIBERATE,
937 NONACCIDENTAL ACT THAT RESULTED IN SERIOUS BODILY
938 INJURY OF ANOTHER CHILD OF THE PARENT; OR (G) THE
939 PARENT WAS CONVICTED BY A COURT OF COMPETENT
940 JURISDICTION OF A SEXUAL ASSAULT RESULTING IN THE
941 CONCEPTION OF THE CHILD.

942 [(d) The court may waive the requirement that
943 one year expire prior to the termination of
944 parental rights if it finds: (1) From the totality
945 of the circumstances surrounding the child that
946 such a waiver is necessary to promote the best
947 interest of the child. Abandonment of a child
948 under the age of six months shall constitute prima
949 facie evidence that a waiver is necessary to
950 promote the best interest of the child, provided
951 (A) the parent has neither had nor initiated
952 contact with the child or the guardian or
953 caretaker of the child for at least sixty
954 consecutive days and (B) the whereabouts of the
955 parent are unknown, despite a diligent search for
956 the parent by the Department of Children and
957 Families. The department shall file an affidavit
958 indicating the efforts used to locate the parent;
959 or (2) the child is under seven years of age and
960 has been in the custody and care of the Department
961 of Children and Families for at least three months
962 pursuant to a commitment under subsection (d) of
963 section 46b-129, and the child will be at imminent
964 risk of abuse or neglect if returned to the
965 parent, provided (A) the parent has had parental
966 rights terminated with respect to a sibling of the
967 child or (B) a sibling of the child has suffered
968 nonaccidental or inadequately explained death as a
969 result of parental acts of omission or
970 commission.]

971 [(e)] (d) Except in the case where
972 termination is based on consent, in determining
973 whether to terminate parental rights under this
974 section, the court shall consider and shall make
975 written findings regarding: (1) The timeliness,
976 nature and extent of services offered, provided
977 and made available to the parent and the child by
978 an agency to facilitate the reunion of the child
979 with the parent; (2) whether the Department of
980 Children and Families has made reasonable efforts
981 to reunite the family pursuant to the federal
982 Adoption Assistance and Child Welfare Act of 1980,

983 as amended; (3) the terms of any applicable court
984 order entered into and agreed upon by any
985 individual or agency and the parent, and the
986 extent to which all parties have fulfilled their
987 obligations under such order; (4) the feelings and
988 emotional ties of the child with respect to his
989 parents, any guardian of his person and any person
990 who has exercised physical care, custody or
991 control of the child for at least one year and
992 with whom the child has developed significant
993 emotional ties; (5) the age of the child; (6) the
994 efforts the parent has made to adjust his
995 circumstances, conduct, or conditions to make it
996 in the best interest of the child to return him to
997 his home in the foreseeable future, including, but
998 not limited to, (A) the extent to which the parent
999 has maintained contact with the child as part of
1000 an effort to reunite the child with the parent,
1001 provided the court may give weight to incidental
1002 visitations, communications or contributions and
1003 (B) the maintenance of regular contact or
1004 communication with the guardian or other custodian
1005 of the child; and (7) the extent to which a parent
1006 has been prevented from maintaining a meaningful
1007 relationship with the child by the unreasonable
1008 act or conduct of the other parent of the child,
1009 or the unreasonable act of any other person or by
1010 the economic circumstances of the parent.

1011 [(f)] (e) Any petition brought by the
1012 Commissioner of Children and Families to the
1013 Superior Court, pursuant to subsection (a) of
1014 section 46b-129, AS AMENDED BY THIS ACT, may be
1015 accompanied by or, upon motion by the petitioner,
1016 consolidated with a petition for termination of
1017 parental rights filed in accordance with this
1018 section with respect to such child. Notice of the
1019 hearing on such petitions shall be given in
1020 accordance with sections 45a-716 and 45a-717, AS
1021 AMENDED BY THIS ACT. The Superior Court, after
1022 hearing, in accordance with the provisions of
1023 subsection (b) or (c) of this section, may, in
1024 lieu of granting the petition filed pursuant to
1025 section 46b-129, AS AMENDED BY THIS ACT, grant the
1026 petition for termination of parental rights as
1027 provided in section 45a-717, AS AMENDED BY THIS
1028 ACT.

1029 [(g)] (f) Nothing contained in this section
1030 and sections 17a-113, 45a-187, 45a-606, 45a-607,

1031 45a-707 to 45a-709, inclusive, 45a-715 to 45a-718,
1032 inclusive, 45a-724, 45a-725, 45a-727, 45a-733,
1033 45a-754 and 52-231a shall negate the right of the
1034 Commissioner of Children and Families to
1035 subsequently petition the Superior Court for
1036 revocation of a commitment of a child as to whom
1037 parental rights have been terminated in accordance
1038 with the provisions of this section. The Superior
1039 Court may appoint a statutory parent at any time
1040 after it has terminated parental rights if the
1041 petitioner so requests.

1042 [(h)] (g) If the parental rights of only one
1043 parent are terminated, the remaining parent shall
1044 be the sole parent and, unless otherwise provided
1045 by law, guardian of the person.

1046 [(i)] (h) In the case where termination of
1047 parental rights is granted, the guardian of the
1048 person or statutory parent shall report to the
1049 court within ninety days of the date judgment is
1050 entered on a case plan, as defined by the federal
1051 Adoption Assistance and Child Welfare Act of 1980,
1052 for the child. At least every six months
1053 thereafter, such guardian or statutory parent
1054 shall make a report to the court on the
1055 implementation of the plan. The court shall
1056 convene a hearing for the purpose of reviewing the
1057 plan for the child no more than fifteen months
1058 from the date judgment is entered and at least
1059 once a year thereafter until such time as any
1060 proposed adoption plan has become finalized.

1061 [(j)] (i) The provisions of this section
1062 shall be liberally construed in the best interests
1063 of any child for whom a petition under this
1064 section has been filed.

1065 Sec. 9. Section 45a-717 of the general
1066 statutes is repealed and the following is
1067 substituted in lieu thereof:

1068 (a) At the hearing held on any petition for
1069 the termination of parental rights filed in the
1070 Court of Probate under section 45a-715, or filed
1071 in the Superior Court under section 17a-112, AS
1072 AMENDED BY THIS ACT, or transferred to the
1073 Superior Court from the Court of Probate under
1074 section 45a-715, any party to whom notice was
1075 given shall have the right to appear and be heard
1076 with respect to the petition. If a parent who is
1077 consenting to the termination of such parent's
1078 parental rights appears at the hearing on the

1079 petition for termination of parental rights, the
1080 court shall explain to the parent the meaning and
1081 consequences of termination of parental rights.
1082 Nothing in this subsection shall be construed to
1083 require the appearance of a consenting parent at
1084 the hearing regarding the termination of such
1085 parent's parental rights except as otherwise
1086 provided by court order.

1087 (b) If a party appears without counsel, the
1088 court shall inform such party of the party's right
1089 to counsel and upon request, if he or she is
1090 unable to pay for counsel, shall appoint counsel
1091 to represent such party. No party may waive
1092 counsel unless the court has first explained the
1093 nature and meaning of a petition for the
1094 termination of parental rights. Unless the
1095 appointment of counsel is required under section
1096 46b-136, the court may appoint counsel to
1097 represent or appear on behalf of any child in a
1098 hearing held under this section to speak on behalf
1099 of the best interests of the child. If the
1100 respondent parent is unable to pay for such
1101 respondent's own counsel or if the child or the
1102 parent or guardian of the child is unable to pay
1103 for the child's counsel, in the case of a Superior
1104 Court matter, the reasonable compensation of
1105 counsel appointed for the respondent parent or the
1106 child shall be established by, and paid from funds
1107 appropriated to, the Judicial Department and, in
1108 the case of a Probate Court matter, the reasonable
1109 compensation of counsel appointed for the
1110 respondent parent or the child shall be
1111 established by, and paid from funds appropriated
1112 to, the Judicial Department, however, in the case
1113 of a Probate Court matter, if funds have not been
1114 included in the budget of the Judicial Department
1115 for such purposes, such compensation shall be
1116 established by the Probate Court Administrator and
1117 paid from the Probate Court Administration Fund.

1118 (c) The court shall, if a claim for paternity
1119 has been filed in accordance with section
1120 46b-172a, continue the hearing under the
1121 provisions of this section until the claim for
1122 paternity is adjudicated, provided the court may
1123 combine the hearing on the claim for paternity
1124 with the hearing on the termination of parental
1125 rights petition.

1126 (d) Upon finding at the hearing or at any
1127 time during the pendency of the petition that
1128 reasonable cause exists to warrant an examination,
1129 the court, on its own motion or on motion by any
1130 party, may order the child to be examined at a
1131 suitable place by a physician, psychiatrist or
1132 licensed clinical psychologist appointed by the
1133 court. The court may also order examination of a
1134 parent or custodian whose competency or ability to
1135 care for a child before the court is at issue. The
1136 expenses of any examination if ordered by the
1137 court on its own motion shall be paid for by the
1138 petitioner or, if ordered on motion by a party,
1139 shall be paid for by the party moving for such an
1140 examination unless such party or petitioner is
1141 unable to pay such expenses in which case, they
1142 shall be paid for by funds appropriated to the
1143 Judicial Department, however, in the case of a
1144 Probate Court matter, if funds have not been
1145 included in the budget of the Judicial Department
1146 for such purposes, such expenses shall be
1147 established by the Probate Court Administrator and
1148 paid from the Probate Court Administration Fund.
1149 The court may consider the results of the
1150 examinations in ruling on the merits of the
1151 petition.

1152 (e) (1) The court may, and in any contested
1153 case shall, request the Commissioner of Children
1154 and Families or any child-placing agency licensed
1155 by the commissioner to make an investigation and
1156 written report to it, within ninety days from the
1157 receipt of such request. The report shall indicate
1158 the physical, mental and emotional status of the
1159 child and shall contain such facts as may be
1160 relevant to the court's determination of whether
1161 the proposed termination of parental rights will
1162 be in the best interests of the child, including
1163 the physical, mental, social and financial
1164 condition of the biological parents, and any other
1165 factors which the commissioner or such
1166 child-placing agency finds relevant to the court's
1167 determination of whether the proposed termination
1168 will be in the best interests of the child. (2) If
1169 such a report has been requested, upon the
1170 expiration of such ninety-day period or upon
1171 receipt of the report, whichever is earlier, the
1172 court shall set a day for a hearing not more than
1173 thirty days thereafter. The court shall give

1174 reasonable notice of such adjourned hearing to all
1175 parties to the first hearing, including the child,
1176 if over fourteen years of age, and to such other
1177 persons as the court shall deem appropriate. (3)
1178 The report shall be admissible in evidence,
1179 subject to the right of any interested party to
1180 require that the person making it appear as a
1181 witness, if available, and subject himself to
1182 examination.

1183 (f) At the adjourned hearing or at the
1184 initial hearing where no investigation and report
1185 has been requested, the court may approve a
1186 petition for termination of parental rights based
1187 on consent filed pursuant to this section
1188 terminating the parental rights and may appoint a
1189 guardian of the person of the child, or if the
1190 petitioner requests, the court may appoint a
1191 statutory parent, if it finds, upon clear and
1192 convincing evidence that (1) the termination is in
1193 the best interest of the child and (2) such parent
1194 has voluntarily and knowingly consented to
1195 termination of the parent's parental rights with
1196 respect to such child. If the court denies a
1197 petition for termination of parental rights based
1198 on consent, it may refer the matter to an agency
1199 to assess the needs of the child, the care the
1200 child is receiving and the plan of the parent for
1201 the child. Consent for the termination of the
1202 parental right of one parent does not diminish the
1203 parental rights of the other parent of the child
1204 nor does it relieve the other parent of the duty
1205 to support the child.

1206 (g) At the adjourned hearing or at the initial
1207 hearing where no investigation and report has been
1208 requested, the court may approve a petition
1209 terminating the parental rights and may appoint a
1210 guardian of the person of the child, or, if the
1211 petitioner requests, the court may appoint a
1212 statutory parent, if it finds, upon clear and
1213 convincing evidence, that (1) the termination is
1214 in the best interest of the child, and (2) [over
1215 an extended period of time, except as provided in
1216 subsection (h) of this section, which shall not be
1217 less than one year provided such time limit shall
1218 not apply to subparagraph (E) of this subsection:
1219 (A) The] (A) THE child has been abandoned by the
1220 parent in the sense that the parent has failed to
1221 maintain a reasonable degree of interest, concern

1222 or responsibility as to the welfare of the child;
1223 (B) the child has been denied, by reason of an act
1224 or acts of parental commission or omission,
1225 INCLUDING, BUT NOT LIMITED TO SEXUAL ABUSE, SEVERE
1226 PHYSICAL OR EMOTIONAL INJURY OR A PATTERN OF
1227 ABUSE, the care, guidance or control necessary for
1228 the child's physical, educational, moral or
1229 emotional well-being. Nonaccidental or
1230 inadequately explained serious physical injury to
1231 a child shall constitute prima facie evidence of
1232 acts of parental commission or omission sufficient
1233 for the termination of parental rights; (C) there
1234 is no ongoing parent-child relationship which is
1235 defined as the relationship that ordinarily
1236 develops as a result of a parent having met on a
1237 continuing, day-to-day basis the physical,
1238 emotional, moral and educational needs of the
1239 child and to allow further time for the
1240 establishment or reestablishment of the
1241 parent-child relationship would be detrimental to
1242 the best interests of the child. A CASE IN WHICH A
1243 PARENT HAS FAILED TO ESTABLISH A PARENT-CHILD
1244 RELATIONSHIP AND HAS BEEN SENTENCED TO A PRISON
1245 TERM WHICH WILL RESULT IN THE PARENT BEING UNABLE
1246 TO MEET THE NEEDS OF THE CHILD FOR MORE THAN TWO
1247 YEARS SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF NO
1248 ONGOING PARENT-CHILD RELATIONSHIP SUFFICIENT FOR
1249 TERMINATION OF PARENTAL RIGHTS; (D) the parent of
1250 a child who [has been] IS found by the Superior
1251 Court to have been neglected or uncared for [in a
1252 prior proceeding] has failed to achieve such
1253 degree of personal rehabilitation as would
1254 encourage the belief that within a reasonable
1255 time, considering the age and needs of the child,
1256 such parent could assume a responsible position in
1257 the life of the child; [or] (E) the parent of a
1258 child, under the age of seven years who is
1259 neglected or uncared for, has failed, is unable or
1260 is unwilling to achieve such degree of personal
1261 rehabilitation as would encourage the belief that
1262 within a reasonable amount of time, considering
1263 the age and needs of the child, such parent could
1264 assume a responsible position in the life of the
1265 child and such parent's parental rights of another
1266 child were previously terminated pursuant to a
1267 petition filed by the Commissioner of Children and
1268 Families; (F) THE PARENT HAS KILLED THROUGH
1269 DELIBERATE, NONACCIDENTAL ACT ANOTHER CHILD OF THE

1270 PARENT OR HAS REQUESTED, COMMANDED, IMPORTUNED,
1271 ATTEMPTED, CONSPIRED OR SOLICITED SUCH KILLING OR
1272 HAS COMMITTED AN ASSAULT, THROUGH DELIBERATE,
1273 NONACCIDENTAL ACT THAT RESULTED IN SERIOUS BODILY
1274 INJURY OF ANOTHER CHILD OF THE PARENT; OR (G) THE
1275 PARENT WAS CONVICTED BY A COURT OF COMPETENT
1276 JURISDICTION OF SEXUAL ASSAULT RESULTING IN THE
1277 CONCEPTION OF THE CHILD.

1278 [(h) The court may waive the time requirement
1279 in subparagraph (A) of subsection (g) of this
1280 section if it finds from the totality of the
1281 circumstances surrounding the child that such a
1282 waiver is necessary to promote the best interest
1283 of the child. Abandonment of a child under the age
1284 of six months shall constitute prima facie
1285 evidence that a waiver is necessary to promote the
1286 best interest of the child, provided (A) the
1287 parent has neither had nor initiated contact with
1288 the child or the guardian or caretaker of the
1289 child for at least sixty consecutive days and (B)
1290 the whereabouts of the parent are unknown.]

1291 [(i)] (h) Except in the case where
1292 termination is based on consent, in determining
1293 whether to terminate parental rights under this
1294 section, the court shall consider and shall make
1295 written findings regarding: (1) The timeliness,
1296 nature and extent of services offered, provided
1297 and made available to the parent and the child by
1298 a child-placing agency to facilitate the reunion
1299 of the child with the parent; (2) the terms of any
1300 applicable court order entered into and agreed
1301 upon by any individual or child-placing agency and
1302 the parent, and the extent to which all parties
1303 have fulfilled their obligations under such order;
1304 (3) the feelings and emotional ties of the child
1305 with respect to the child's parents, any guardian
1306 of the child's person and any person who has
1307 exercised physical care, custody or control of the
1308 child for at least one year and with whom the
1309 child has developed significant emotional ties;
1310 (4) the age of the child; (5) the efforts the
1311 parent has made to adjust such parent's
1312 circumstances, conduct or conditions to make it in
1313 the best interest of the child to return the child
1314 to the parent's home in the foreseeable future,
1315 including, but not limited to, (A) the extent to
1316 which the parent has maintained contact with the
1317 child as part of an effort to reunite the child

1318 with the parent, provided the court may give
1319 weight to incidental visitations, communications
1320 or contributions and (B) the maintenance of
1321 regular contact or communication with the guardian
1322 or other custodian of the child; and (6) the
1323 extent to which a parent has been prevented from
1324 maintaining a meaningful relationship with the
1325 child by the unreasonable act or conduct of the
1326 other parent of the child, or the unreasonable act
1327 of any other person or by the economic
1328 circumstances of the parent.

1329 [(j)] (i) If the parental rights of only one
1330 parent are terminated, the remaining parent shall
1331 be sole parent and, unless otherwise provided by
1332 law, guardian of the person.

1333 [(k)] (j) In the case where termination of
1334 parental rights is granted, the guardian of the
1335 person or statutory parent shall report to the
1336 court within ninety days of the date judgment is
1337 entered on a case plan, as defined by the federal
1338 Adoption Assistance and Child Welfare Act of 1980,
1339 as amended from time to time, for the child. At
1340 least every six months thereafter, such guardian
1341 or statutory parent shall make a report to the
1342 court on the implementation of the plan. The court
1343 shall convene a hearing for the purpose of
1344 reviewing the plan no more than fifteen months
1345 from the date judgment is entered and at least
1346 once a year thereafter until such time as any
1347 proposed adoption plan has become finalized.

1348 Sec. 10. Section 46b-129a of the general
1349 statutes is repealed and the following is
1350 substituted in lieu thereof:

1351 In proceedings in the Superior Court under
1352 section 46b-129, AS AMENDED BY THIS ACT, OR
1353 SECTION 17a-112, AS AMENDED BY THIS ACT: (1) The
1354 court may order the child, the parents, the
1355 guardian, or other persons accused by a competent
1356 witness with abusing the child, to be examined by
1357 one or more competent physicians, psychiatrists or
1358 psychologists appointed by the court; (2) a child
1359 shall be represented by counsel KNOWLEDGEABLE
1360 ABOUT REPRESENTING SUCH CHILDREN WHO SHALL BE
1361 appointed by the court to represent the child.
1362 [whose fee shall be paid by the parents or
1363 guardian, or the estate of the child, or, if such
1364 persons are unable to pay, by the court. In all
1365 cases in which] SUCH COUNSEL SHALL ALSO BE

1366 APPOINTED GUARDIAN AD LITEM FOR SUCH CHILD UNLESS
1367 the court deems it appropriate [, the court shall
1368 also appoint a person, other than the person
1369 appointed to represent the child] TO APPOINT A
1370 PERSON, OTHER THAN SUCH COUNSEL, as guardian ad
1371 litem for such child to speak on behalf of the
1372 best interests of the child. [, which] SUCH
1373 SEPARATE guardian ad litem is not required to be
1374 an attorney-at-law but shall be knowledgeable
1375 about the needs and protection of children. [and
1376 whose fee, if any,] FEES FOR SUCH COUNSEL AND ANY
1377 GUARDIAN AD LITEM shall be paid by the parents or
1378 guardian, or the estate of the child, or, if such
1379 persons are unable to pay, by the court; (3) the
1380 privilege against the disclosure of communications
1381 between husband and wife shall be inapplicable and
1382 either may BE COMPELLED TO testify as to any
1383 relevant matter; and (4) evidence that the child
1384 has been abused or has sustained a nonaccidental
1385 injury shall constitute prima facie evidence that
1386 shall be sufficient to support an adjudication
1387 that such child is uncared for or neglected.

1388 Sec. 11. Section 17a-75 of the general
1389 statutes is repealed and the following is
1390 substituted in lieu thereof:

1391 For the purposes of sections 17a-75 to
1392 17a-83, inclusive, the following terms shall have
1393 the following meanings: "Business day" means
1394 Monday through Friday except when a legal holiday
1395 falls thereon; "child" means any person less than
1396 sixteen years of age; "court" means the Superior
1397 Court-Juvenile Matters or the Court of Probate,
1398 unless either court is specifically stated;
1399 "hospital for mental illness of children" means
1400 any hospital, which provides, in whole or in part,
1401 diagnostic or treatment services for mental
1402 disorders of children, but shall not include any
1403 correctional institution of this state; "mental
1404 disorder" means a mental or emotional condition
1405 which has substantial adverse effects on a child's
1406 ability to function so as to jeopardize his or her
1407 health, safety or welfare or that of others, and
1408 specifically excludes mental retardation; "parent"
1409 means parent or legal guardian, including any
1410 guardian appointed under the provisions of
1411 subsection [(d)] (i) of section 46b-129 or
1412 sections 45a-132, 45a-593 to 45a-597, inclusive,
1413 45a-603 to 45a-622, inclusive, 45a-629 to 45a-638,

1414 inclusive, 45a-707 to 45a-709, inclusive, 45a-715
1415 to 45a-718, inclusive, 45a-724 to 45a-737,
1416 inclusive, or 45a-743 to 45a-756, inclusive.

1417 Sec. 12. Section 17a-90 of the general
1418 statutes is repealed and the following is
1419 substituted in lieu thereof:

1420 (a) The Commissioner of Children and Families
1421 shall have general supervision over the welfare of
1422 children who require the care and protection of
1423 the state.

1424 (b) He shall furnish protective services or
1425 provide and pay, wholly or in part, for the care
1426 and protection of children other than those
1427 committed by the Superior Court whom he finds in
1428 need of such care and protection from the state,
1429 and such payments shall be made in accordance with
1430 the provisions of subsection [(f)] (k) of section
1431 46b-129 provided the Commissioner of
1432 Administrative Services shall be responsible for
1433 billing and collecting such sums as are determined
1434 to be owing and due from the parent of the
1435 noncommitted child in accordance with section
1436 4a-12 and subsection (b) of section 17b-223.

1437 (c) He shall issue such regulations as he may
1438 find necessary and proper to assure the adequate
1439 care, health and safety of children under his care
1440 and general supervision.

1441 (d) He may provide temporary emergency care
1442 for any child whom he deems to be in need thereof.

1443 (e) He may provide care for children in his
1444 guardianship through the resources of appropriate
1445 voluntary agencies.

1446 (f) Whenever requested to do so by the
1447 Superior Court, he shall provide protective
1448 supervision to children.

1449 (g) He may make reciprocal agreements with
1450 other states and with agencies outside the state
1451 in matters relating to the supervision of the
1452 welfare of children.

1453 Sec. 13. Subsection (b) of section 17a-110 of
1454 the general statutes is repealed and the following
1455 is substituted in lieu thereof:

1456 (b) At a hearing held in accordance with
1457 [subsection (e) of] section 46b-129, the court
1458 shall determine the appropriateness of continuing
1459 efforts to reunify a child with his family. If the
1460 court finds that such efforts are not appropriate,
1461 the Department of Children and Families shall

1462 within sixty days of such finding either (1) file
1463 a petition for the termination of parental rights,
1464 (2) file a motion to revoke the commitment and
1465 vest the custody and guardianship of the child on
1466 a permanent or long-term basis in an appropriate
1467 individual or couple, or (3) file a written
1468 permanency plan with the court for permanent or
1469 long-term foster care, which plan shall include an
1470 explanation of the reason that neither termination
1471 of parental rights nor custody and guardianship is
1472 appropriate for the child. The court shall
1473 promptly convene a hearing for the purpose of
1474 reviewing such written plan.

1475 Sec. 14. Section 46b-130 of the general
1476 statutes, as amended by section 106 of public act
1477 97-2 of the June 18 special session, is repealed
1478 and the following is substituted in lieu thereof:

1479 The parents of a minor child for whom care or
1480 support of any kind has been provided under the
1481 provisions of this chapter, shall be liable to
1482 reimburse the state for such care or support to
1483 the same extent, and under the same terms and
1484 conditions as are the parents of recipients of
1485 public assistance. Upon receipt of foster care
1486 maintenance payments under Title IV-E of the
1487 Social Security Act by a minor child, the right of
1488 support, present, past, and future from a parent
1489 of such child shall, by this section, be assigned
1490 to the Commissioner of Children and Families.
1491 Referral by the commissioner shall promptly be
1492 made to the Child Support Enforcement Unit of the
1493 Department of Social Services for pursuit of
1494 support for said minor child in accordance with
1495 the provisions of section 17b-179, AS AMENDED. Any
1496 child who reimburses the state under the
1497 provisions of subsection [(f)] (k) of section
1498 46b-129 for any care or support he received shall
1499 have a right of action to recover such payments
1500 from his parents.

1501 Sec. 15. Section 52-212a of the general
1502 statutes is repealed and the following is
1503 substituted in lieu thereof:

1504 Unless otherwise provided by law and except
1505 in such cases in which the court has continuing
1506 jurisdiction, a civil judgment or decree rendered
1507 in the Superior Court may not be opened or set
1508 aside unless a motion to open or set aside is
1509 filed within four months following the date on

1510 which it was rendered or passed. The continuing
1511 jurisdiction conferred on the court in preadoptive
1512 proceedings pursuant to subsection [(i)] (h) of
1513 section 17a-112 does not confer continuing
1514 jurisdiction on the court for purposes of
1515 reopening a judgment terminating parental rights.
1516 The parties may waive the provisions of this
1517 section or otherwise submit to the jurisdiction of
1518 the court, provided the filing of an amended
1519 petition for termination of parental rights does
1520 not constitute a waiver of the provisions of this
1521 section or a submission to the jurisdiction of the
1522 court to reopen a judgment terminating parental
1523 rights.

1524 Sec. 16. The Commissioner of Children and
1525 Families shall study the availability of permanent
1526 placement of every child or youth under the
1527 supervision of the department, including, but not
1528 limited to, long-term foster care, transfer of
1529 guardianship and adoption. The commissioner shall
1530 report her findings to the judiciary committee of
1531 the General Assembly not later than September 1,
1532 1998.

1533 JUD COMMITTEE VOTE: YEA 35 NAY 4 JFS

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5745

STATE IMPACT	Implements Provisions in the Budget, Significant Revenue Loss Avoidance (Federal Funds), Significant Revenue Gain (Federal Funds), Potential Savings, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Departments of Children and Families, Public Safety, Office of the Attorney General, Judicial Department, County Sheriffs

EXPLANATION OF ESTIMATES:

This bill contains statutory changes necessary to bring the State into compliance with P.L. 105-89, the Adoption and Safe Families Act of 1997. Passage is necessary to allow the State to continue to receive approximately \$75 million in annual Title IV-E (Foster Care and Adoption Assistance) reimbursement and approximately \$395,000 in federal Child Abuse Prevention and Treatment Act and related funding. It will also allow Connecticut to become eligible for a new federal adoption incentive grant, commencing in SFY 1998-99.

It should be noted that P.L. 105-84 requires provisions in this bill to be incorporated in State law no later than July 1, 1998. If this does not occur Connecticut will face the possibility of its State plan being out of compliance, and the federal funding discussed above may be placed in jeopardy. The bill currently has an effective date of October 1, 1998.

The federal Act: Shortens deadlines for permanency hearings; redefines reasonable efforts concerning family reunification; imposes new case plan and review requirements; requires State plans for foster care and adoption assistance to provide procedures for criminal records checks for prospective foster and adoptive parents; and, with certain exemptions requires states to file a petition for termination of parental rights (TPR) if a child has been in foster care for fifteen of the most recent twenty-two months.

As a result, it is anticipated that the number of TPR petitions filed in court will increase by 1,500. The federal law requires a minimum of one-third of these cases to be processed within the six months following the close of the legislative session; two-thirds to be completed within the next six months; and the final third to be completed by the end of the eighteen month time period following the close of the legislative session.

The impact of this expansion in caseload has been reflected within SHB 5021 (the Revised SFY 1998-99 Appropriations Act, as favorably reported by the Appropriations Committee) under the budgets of various state agencies. The sum of \$4,156,209 has been included as follows:

\$503,020 has been reflected under the budget of the Department of Children and Families to support the costs of eight additional attorney and/or support staff and associated other expenses. These positions will allow the DCF to undertake a variety of legal work required in the preparation of TPR petitions;

also included under the DCF's budget is \$96,000 to initiate payment for national criminal history records checks performed by the Federal Bureau of Investigations. These funds will be transferred to the State Police for payment of an FBI fee of \$24 per check for an estimated 4,000 current and prospective foster and adoptive parents;

\$1,047,692 has been included under the budget of the Office of the Attorney General to support the costs of eighteen additional staff and associated other expenses needed to prepare for and participate in court proceedings;

\$1,680,923 has been included under the budget of the Judicial Department to support the costs of sixteen additional staff (four judges, four court recording monitors, four court officers and four court services officers) and associated other expenses, equipment and facility enhancements required to conduct the hearings;

\$534,653 has been included under the budget of the Department of Public Safety to support the costs of 4 permanent full time positions and associated other expenses needed to establish an investigative unit to conduct enhanced background checks of potential foster and adoptive parents;

and \$293,921 has been included under the budget of the County Sheriffs to support the cost of having Special Deputy Sheriffs present at additional court hearings involving the four new judges.

An indeterminate savings to the State will result to the extent that expediting the termination of parental rights process results in the more rapid adoption of children currently in foster care. In cases in which a child is not considered to have special needs, the DCF will no longer be responsible for providing monthly foster care payments of \$7,460 - \$8,495 annually. (Per statute, children who have special needs are eligible for subsidized adoption payments equivalent to the prevailing foster care rates.)

The bill requires the appointment of an attorney as counsel and guardian ad litem to represent a child in commitment or termination of parental rights proceedings. This change is necessary to bring the State into compliance with requirements of the federal Child Abuse Prevention and Treatment Act (CAPTA). If not enacted, federal monies received under the CAPTA and the Child Justice Act will be jeopardized. Connecticut receives approximately \$273,000 annually under the CAPTA grant and approximately \$122,000 under the Children's Justice Act Grants to States program.

The State will become eligible for adoption incentive bonus payments. This grant-in-aid will reflect \$4,000 for every foster child adopted during fiscal year's commencing with FFY 1997-98 that exceeds a base number of foster child adoptions, with \$2,000 in additional funding for each special needs adoption that exceeds a

base number of special needs adoptions. (Base values are determined based on prior year's actual figures.) A State shall not expend an amount received via these adoption incentive payments except to provide to children or families any service (including post-adoption services) currently authorized under federal Child Welfare or Foster Care and Adoption law. It is anticipated that Connecticut will receive between \$200,000 - \$300,000 from the incentive payments, commencing in SFY 1998-99.

The DCF will be able to produce the report mandated in Section 16 of the bill and submit it by September 1, 1998 within its anticipated budgetary resources.

Other changes contained within the bill are technical in nature or remove obsolete statutory references and have no associated fiscal impact.

The agency budgets do not include fringe benefit costs as they are provided in separate accounts administered by the Comptroller. As the fringe benefit costs associated with this bill represent a relatively small amount compared to the total appropriated to the Comptroller for fringe benefits for all state employees, they have not been reflected in figures above.

* * * * *

OLR BILL ANALYSIS

sHB 5745

AN ACT CONCERNING CHILD PROTECTION

SUMMARY: This bill allows the Department of Children and Families (DCF) to ask the court if it must continue attempts to reunify an abused or neglected child with his parents and establishes specific criteria for when the court must say no. It requires DCF to petition the court for a termination of parental rights (TPR) in certain situations, such as when the child has been in the state's custody for 15 months, has been abandoned, has been severely assaulted, or had a sibling killed by the parents. The bill adds specific situations to the grounds for TPR under current law and also creates two new grounds to terminate those rights.

The bill establishes two types of hearings following the temporary removal of an abused child from his home. The first is to ensure that the court takes a number of practical steps to assure legal representation for the parents and children, that the parents understand the allegations, that any paternity issue is dealt with, and to make interim orders. This hearing must be held within 10 days of the child's removal. The second hearing, which must be held within 10 days of the first, is to decide if the temporary custody order should be extended.

The bill adjusts the timing and procedure for examining permanent placement plans and reviewing and extending commitments to DCF. It requires treatment plans to include permanency placement goals.

It requires DCF to obtain background criminal history checks for potential foster care and adoptive parents and requires mandated child abuse and neglect reporters to report cases where they believe a child is in imminent risk of being abused.

The bill defines guardianship and requires appointment of a guardian ad litem to represent the child's best interest in all neglect and TPR cases. It allows the court to compel a husband or wife to testify against each other in a neglect or TPR proceeding.

Finally, the bill requires the DCF commissioner to study permanency placements available to her and report to the Judiciary Committee.

EFFECTIVE DATE: October 1, 1998 (see COMMENT)

FURTHER EXPLANATION

Reasonable Efforts to Reunify

By law, when DCF assumes control of a child it must make reasonable efforts to reunify the family. The bill allows DCF to petition the court at any time for a determination about whether reunification efforts are appropriate.

It requires the court to find that reunification is not appropriate if the parent has subjected the child to the following aggravated circumstances:

1. the parent has abandoned the child (failed to maintain a reasonable degree of interest, concern, or responsibility) or
2. the parent has inflicted sexual abuse, severe physical or emotional pain, or a pattern of abuse on the child.

The court must also find further efforts inappropriate if (1) the parent's parental rights have been terminated pursuant to a DCF petition for one of the child's siblings; (2) the child was conceived as a result of a sexual assault that resulted in a court conviction; (3) the parent deliberately killed one of the child's siblings; (4) the parent assaulted the child or a sibling causing serious physical injury; or (5) the parent conspired, solicited, or attempted to kill the child or a sibling.

If the court determines that further efforts are not appropriate, it must approve a permanency plan for the child, either at that hearing or at one held no more than 30 days later. The plan may include (1) a requirement that DCF file for TPR, (2) long-term foster care, (3) independent living, (4) transfer of guardianship, or (5) adoption. The bill requires the child's health and safety to be the paramount concern in devising the plan.

TPR Filing Requirement

The bill requires DCF to file a TPR petition if:

1. the child has been in DCF custody for 15 consecutive months or 15 out of the 22 immediately preceding months;
2. the child has been abandoned as defined by the current grounds for TPR (see below);
3. a court has found that the parent deliberately killed one of the child's siblings; conspired, solicited, or attempted to kill the child or a sibling; or deliberately assaulted the child or a sibling causing serious bodily injury.

But the bill states that DCF does not have to file a TPR petition in these situations if the child has been

placed in a relative's care, compelling reasons exist to believe that TPR is not in the child's best interest, or the parents were not offered the reunification services in the permanency plan or the services were not available (unless a court has determined that reunification efforts are not necessary).

Grounds for TPR

Current Grounds. The law provides five grounds for an involuntary termination of parental rights:

1. the parents have abandoned the child (i.e., failed to maintain a reasonable degree of interest, concern, or responsibility for his welfare);
2. the child has previously been found neglected or uncared for and the parents have failed to rehabilitate themselves;
3. by acts of commission or omission, the parents have denied the child the care, guidance, or control necessary for his well-being (nonaccidental or inadequately explained serious physical injury is prima facie evidence of parental acts sufficient for termination);
4. there is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent meeting the child's needs on a day-to-day basis; and
5. the parent or parents of a neglected or uncared for child under age seven (a) have failed or are unable or unwilling to rehabilitate themselves within a reasonable time, considering the child's needs and age and (b) have had parental rights terminated previously for another child pursuant to a petition filed by the DCF commissioner.

New Grounds and Changes. The bill deletes both the existing requirement, which applies to most but not all of the TPR grounds, that the ground have existed for at least one year and the provision allowing a waiver of

the one-year requirement in certain circumstances.

The bill amends three of the existing grounds and adds two new ones. Regarding the second ground (failure to rehabilitate), the bill removes the requirement that the neglect finding have been made in a prior proceeding. By law, DCF can file a neglect and TPR petition at the same time.

Regarding the third ground (acts of commission or omission), the bill specifies that these include sexual abuse, severe physical or emotional injury, and a pattern of abuse.

For the fourth ground (no ongoing parent-child relationship), the bill makes it prima facie evidence that the ground has been met if the parent has failed to establish a parent-child relationship and been sentenced to prison for a term that makes him unable to meet the child's needs for more than two years.

The two new grounds added by the bill are (1) that the parent was convicted in court of a sexual assault that resulted in the child's conception and (2) that the parent deliberately killed or solicited, conspired, or attempted to kill another of his children or deliberately assaulted another of his children resulting in serious bodily injury.

The bill applies these changes to both Superior Court and the probate court TPR statutes.

Orders of Temporary Custody

By law, if the court acting on a petition from DCF has reasonable cause to find that a child's condition or circumstances require immediate assumption of his custody to safeguard his welfare, it can (1) issue a "show-cause" order to the child's parents or (2) "vest in some suitable agency or person the child's or youth's temporary care and custody pending a hearing on the petition," commonly called an order of temporary custody (OTC).

The bill specifies that the court can issue an OTC when it has reasonable cause to find that a child is at imminent risk of physical or serious emotional harm. The bill adds a local police officer to the officials

already authorized to serve a temporary custody or show cause order and requires that the orders be served within 48 hours of their issuance. Currently, no deadline exists.

The bill creates a two-hearing procedure for OTC and show-cause proceedings to take the place of the current single hearing. It also specifies that the initial OTC may be issued ex parte, without the parent's presence, which is already possible under Practice Book provisions.

Preliminary Hearing

The preliminary hearing on a show-cause or OTC order, which can also be the first hearing on a neglect petition, is to allow the court to take the following steps:

1. advise the parents or guardians of the allegations against them;
2. accept a plea regarding the allegations;
3. assure that an attorney has been appointed as counsel and guardian ad litem for the child (another section of the bill allows the court to appoint a separate person as guardian ad litem);
4. appoint an attorney for the parents if they want one and are unable to afford it;
5. advise the parents of their right to a hearing to be held within 10 days;
6. make any interim orders the court deems in the best interest of the child, including giving the parents specific steps necessary to regain or retain custody of the child; and
7. take steps to identify the father, including ordering genetic testing, and order service of the petition and notice of the hearing date on him.

If the person named as the father appears at the preliminary hearing, the court must advise him of his

rights and duties under state law. If he admits to paternity, it can direct him to execute an acknowledgment of paternity and direct the mother to execute an affirmation of paternity. If they do, the documents must be prepared in triplicate and filed with the court clerk in the appropriate Judicial District and Juvenile Court.

If the person named as the father denies paternity, the court must advise him of the implications of his denial and either order genetic testing or direct him to execute a written denial of paternity on a form provided by the chief court administrator. If he executes the denial, the court can remove him from the case, and he will not have standing in any proceeding regarding the child until he is determined to be the father. In this situation, the court must also order that DCF has no duty to make reasonable efforts to reunify the child and the putative father in any future proceedings. The bill specifies that execution of a written denial has no legal effect on paternity or child support proceedings.

If the parent, after notice, fails to appear at the preliminary hearing, the court can enter or sustain an OTC. It may enter a default and proceed then or at another hearing held within 10 days, to receive proof and enter a judgment on the neglect petition. The court can find that DCF has no duty to reunify the child with the parent and lack of such efforts cannot be cited in future proceedings involving the child.

Second Hearing

Upon request, the court must schedule a second hearing on the show-cause or OTC within 10 days of the preliminary hearing. The court can also hear the neglect petition at this time. At this hearing, credible hearsay evidence regarding the child's statements may be admitted at the court's discretion. The petitioner may submit signed affidavits executed by a mandated reporter, who need not appear in court unless the respondent calls him to testify. In such cases the affidavits must be given to all parties appearing at the preliminary hearing. The bill states that the affidavits are not conclusive, but are prima facie evidence of the alleged facts supporting the OTC pending a trial on the neglect petition.

If the parent fails, after notice and without good cause, to appear at the second hearing, the court can enter or sustain the OTC. It can enter a default and proceed then, or at a subsequent date, to receive evidence and enter judgment on the neglect petition. The court can find that DCF has no duty to reunify or make reasonable efforts to reunify, and that lack of such efforts cannot be cited in future proceedings.

The bill removes the requirement that the court make a specific finding that a parent's physical or mental ability to care for the child is at issue in a neglect proceeding, before it can order a physical or mental exam.

Review and Extension of Commitments

Under current law, 90 days before the end of each 12-month neglect commitment or extension, DCF must petition the court to (1) revoke the commitment, (2) file for TPR, or (3) extend the commitment. Under the bill, DCF must initiate the review procedure by filing a motion rather than a petition, which simplifies the procedure.

The bill changes the time frames for initiating this review. It requires DCF to file a motion for review of the permanency plan and to extend or revoke the commitment 10 months after a neglect adjudication or 12 months after the vesting of temporary care and custody under the OTC procedure, whichever is earlier, unless DCF has filed a TPR petition or the court has approved a placement in long-term foster care with an identified person or an independent living program. DCF must file the same review motion 10 months after the court has approved a permanency plan under the same conditions as above, unless it has filed a motion to transfer guardianship.

Review Hearing

Hearings on these motions must be held within 60 days of filing, and the court must give at least 14 days notice to the child and, as under current law, his parents. At the hearing the court must decide if it is appropriate to continue to make reasonable efforts to reunify the child and parent.

The bill makes it a rebuttable presumption that further efforts are not appropriate if the child has been in DCF custody for more than 15 consecutive months or more than 15 months in the prior 22-month period. The presumption is overcome if services were not offered or available during these time periods.

If the court finds that further reunification efforts are not appropriate, DCF does not have to make them. If it finds that such efforts are appropriate, the court must specify efforts to ensure protection of the child's health and safety. Specified services must include those to be given the parent, steps the parent may take to address the problems preventing reunification, and a time period, which cannot be longer than six months, for the steps to be accomplished.

At the hearing the court must approve a plan that takes into account the child's need for permanency and his best interest. The permanency plan can include:

1. revoking the commitment and placing the child with the parent, with or without protective supervision;
2. placing the child in an independent living program;
3. transferring guardianship;
4. approving long-term foster care with an identified foster parent;
5. filing for TPR; or
6. other appropriated court-ordered action.

If it is in the child's best interest, the court must extend the commitment for 12 months (unless action has been taken under 2, 4, or 5 above) or revoke it if its cause no longer exists. The bill specifies that commitment is revoked automatically, unless the court orders otherwise, (1) 60 days after a child is removed from long-term foster care or independent living or (2) if a court fails to terminate parental rights or transfer guardianship.

The bill deletes the authority of a child's relative other than the parent, a selectman, the original petitioner, or a licensed child-caring agency to file a motion (under current law, file an application) for revocation of commitment. It also deletes DCF's authority to request revocation of commitment more often than once every six months.

Care, Treatment, and Permanent Placement Plans

The bill requires the DCF commissioner to include permanent placement goals in treatment plans, which the bill renames care, treatment, and permanent placement plans. The child's health and safety must be the "paramount concern" when developing the plan. Permanent placement may include reunification with the parent, long-term foster care, independent living, transfer of guardianship, or adoption. As under current law, the commissioner must review this plan every six months, and the bill allows appropriate modifications to be made to it.

Criminal Records Check

The bill requires DCF to request a criminal records check on people applying for a child care facility license (foster care or adoptive home, group home, children's home, residential treatment facility, or temporary shelter).

The records check must be requested from the State Police Bureau of Identification and must apply to all people named in the license application. DCF must arrange for the person to be fingerprinted, and the prints must be sent to the State Police for the state check and the Federal Bureau of Investigation for the national check.

Imminent Risk of Abuse

The bill requires those individuals required by law to report child abuse (mandated reporters) to report when they have reasonable cause to suspect or believe that a child is at imminent risk of being abused. Currently, they need report only when a child has been abused. Mandated reporters continue to have to report children who have been neglected, which includes those who have been abused.

Guardianship Definition

The bill defines a guardian as a person with a judicially created relationship with a child intended to be permanent and self-sustaining. It includes the following parental rights: (1) custody of the child; (2) the obligation of care and control; (3) authority to make major decisions including such things as consent to marriage, armed forces enlistment, and medical and related treatment; and (4) the obligation to provide protection and access to education.

Because of where this definition is placed in the statutes, its legal effect is not clear. It only applies to one provision of the bill, that on care, treatment, and permanent placement plans. It does not apply to statutes relating to child abuse or neglect or termination of parental rights. It applies to various statutes concerning the duties and powers of DCF and the commissioner, the rights of children committed to DCF, access to records, and DCF's photo listing service.

Attorney and Guardian Ad Litem

The bill requires that the attorney appointed to represent a child in a neglect proceeding be knowledgeable about representing children. It requires appointment of a guardian ad litem in all cases, not just when the court deems it appropriate, to speak on behalf of the child's best interests. As under current law, the guardian ad litem need not be an attorney but must be knowledgeable about protecting children and their needs. Under the bill, the court must appoint the attorney to be the guardian ad litem, unless it decides otherwise. Under current law, if the court appoints a guardian ad litem, he must be a different person from the attorney.

Permanent Placement Study

The bill requires the DCF commissioner to study the availability of permanent placements for all children under her custody. This includes long-term foster care, transfer of guardianship, and adoption. She must report to the Judiciary Committee by September 1, 1998 (see COMMENT).

BACKGROUND**Federal Requirements**

The federal Adoption and Safe Family's Act of 1997 requires states to enact certain provisions in order to continue receiving federal foster care funds. These include provisions to:

1. make the child's health and safety the primary standard for judging a state's reasonable efforts to keep him in the home or reunify him with his parents;
2. absolve the state from making these reasonable efforts for parents who commit murder, manslaughter, or assault against their children or whose parental rights over other children have been terminated;
3. require initiation of the TPR proceedings when a child has been in foster care for 15 consecutive or 15 of the 22 most recent months;
4. require initiation of TPR proceedings when a parent is convicted of murdering, committing voluntary manslaughter, or aiding or abetting in such an action against one of his children or committing a felony assault resulting in serious bodily injury to the child or sibling;
5. provide that these TPR requirements do not apply (a) if a relative is caring for the child with the state's approval, (b) that the child's case plan provides a compelling reason why TPR is not in the child's best interest, or (c) the state has not provided the family with services necessary for the child's safe return home;
6. require that foster and preadoptive parents be given notice of TPR and other placement proceedings and an opportunity to be heard; and
7. require the court to review the placement of a foster child every 12 months and at the

hearing determine when the child will be returned to his parents or placed for adoption or with a relative or legal guardian.

COMMENT

Effective Date

The changes required by federal law must take effect by July 1, 1998. In addition, the DCF commissioner's study is due by September 1, 1998, but the bill takes effect October 1, 1998.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 35 Nay 4