File No. 639

(Reprint of File No. 549)

Substitute House Bill No. 5379
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 29, 1998

AN ACT CONCERNING RIGHTS OF FOSTER PARENTS.

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

1 Section 46b-129 of the general statutes, as
2 amended by section 19 of public act 97-319, is
3 repealed and the following is substituted in lieu
4 thereof:
5 (a) Any selectman, town manager, or town,
6 city, or borough welfare department, any probation
7 officer, the Connecticut Humane Society, or the
8 Commissioner of Social Services, the Commissioner
9 of Children and Families or any child-caring
10 institution or agency approved by the Commissioner
11 of Children and Families, a child or his
12 representative or attorney or a foster parent of a
13 child, having information that a child or youth is
14 neglected, uncared-for or dependent, may file with
15 the Superior Court which has venue over such
16 matter a verified petition plainly stating such
17 facts as bring the child or youth within the
18 jurisdiction of the court as neglected,
19 uncared-for, or dependent, within the meaning of
20 section 46b-120, the name, date of birth, sex, and
21 residence of the child or youth, the name and
22 residence of his parents or guardian, and praying

23 for appropriate action by the court in conformity
24 with the provisions of this chapter. Upon the
25 filing of such a petition, except as otherwise
26 provided in subsection (e) of section 17a-112, the
27 court shall cause a summons to be issued requiring
28 the parent or parents or the guardian of the child
29 or youth to appear in court at the time and place
30 named, which summons shall be served not less than
31 fourteen days before the date of the hearing in
32 the manner prescribed by section 46b-128, and said
33 court shall further give notice to the petitioner
34 and to the Commissioner of Children and Families
35 of the time and place when the petition is to be
36 heard not less than fourteen days next preceding
37 the hearing in question.
38 (b) If it appears from the allegations of the
39 petition and other verified affirmations of fact
40 accompanying the petition, or subsequent thereto,
41 that there is reasonable cause to find that the
42 child's or youth's condition or the circumstances
43 surrounding his care require that his custody be
44 immediately assumed to safeguard his welfare, the
45 court shall either (1) issue an order to the
46 parents or other person having responsibility for
47 the care of the child or youth to show cause at
48 such time as the court may designate why the court
49 shall not vest in some suitable agency or person
50 the child's or youth's temporary care and custody
51 pending a hearing on the petition, or (2) vest in
52 some suitable agency or person the child's or
53 youth's temporary care and custody pending a
54 hearing upon the petition which shall be held
55 within ten days from the issuance of such order on
56 the need for such temporary care and custody. The
57 service of such orders may be made by any officer
58 authorized by law to serve process, or by any
59 probation officer appointed in accordance with
60 section 46b-123, investigator from the Department
61 of Administrative Services, state police officer
62 or indifferent person. The expense for any
63 temporary care and custody shall be paid by the
64 town in which such child or youth is at the time
65 residing, and such town shall be reimbursed
66 therefor by the town found liable for his support,
67 except that where a state agency has filed a
68 petition pursuant to the provisions of subsection
69 (a) of this section, the agency shall pay such
70 expense. If the court, pursuant to this

71 subsection, vests in a suitable agency or person
72 the child's or youth's temporary care or custody,
73 the court shall provide to the commissioner and
74 the parent of the child or youth specific steps
75 which the parent may take to facilitate the return
76 of the child or youth to the custody of such
77 parent. If the court, after a show cause hearing
78 pursuant to this section, maintains the custody of
79 the child or youth in the parent, the court may
80 provide to the commissioner and the parent
81 specific steps which the parent may take to
82 maintain custody of the child or youth.
83 (c) When a petition is filed in said court
84 for the commitment of a child or youth, the
85 Commissioner of Children and Families shall make a
86 thorough investigation of the case and shall cause
87 to be made a thorough physical and mental
88 examination of the child or youth if requested by
89 the court. The court after hearing on the petition
90 and upon a finding that the physical or mental
91 ability of a parent or guardian to care for the
92 child or youth before the court is at issue may
93 order a thorough physical or mental examination,
94 or both, of the parent or guardian whose
95 competency is in question. The expenses incurred
96 in making such physical and mental examinations
97 shall be paid as costs of commitment are paid.
98 (d) Upon finding and adjudging that any child
99 or youth is uncared-for, neglected or dependent,
100 the court may commit him to the Commissioner of
101 Children and Families for a maximum period of
102 twelve months, unless such period is extended in
103 accordance with the provisions of subsection (e)
104 of this section, provided such commitment or any
105 extension thereof may be revoked or parental
106 rights terminated at any time by the court, or the
107 court may vest such child's or youth's care and
108 personal custody in any private or public agency
109 which is permitted by law to care for neglected,
110 uncared-for or dependent children or youth or with
111 any person found to be suitable and worthy of such
112 responsibility by the court. The court shall order
113 specific steps which the parent must take to
114 facilitate the return of the child or youth to the
115 custody of such parent. The commissioner shall be
116 the guardian of such child or youth for the
117 duration of the commitment, provided the child or
118 youth has not reached the age of eighteen years

119 or, in the case of a child or youth in full-time
120 attendance in a secondary school, a technical
121 school, a college or a state-accredited job
122 training program, provided such child or youth has
123 not reached the age of twenty-one, by consent of
124 such youth, or until another guardian has been
125 legally appointed, and in like manner, upon such
126 vesting of his care, such other public or private
127 agency or individual shall be the guardian of such
128 child or youth until he has reached the age of
129 eighteen years or, in the case of a child or youth
130 in full-time attendance in a secondary school, a
131 technical school, a college or a state-accredited
132 job training program, until such child or youth
133 has reached the age of twenty-one years or until
134 another guardian has been legally appointed. Said
135 commissioner may place any child or youth so
136 committed to him in a suitable foster home or in
137 the home of a person related by blood to such
138 child or youth or in a licensed child-caring
139 institution or in the care and custody of any
140 accredited, licensed or approved child-caring
141 agency, within or without the state, provided a
142 child shall not be placed outside the state except
143 for good cause and unless the parents of such
144 child are notified in advance of such placement
145 and given an opportunity to be heard, or in a
146 receiving home maintained and operated by the
147 Commissioner of Children and Families. In placing
148 such child or youth, said commissioner shall, if
149 possible, select a home, agency, institution or
150 person of like religious faith to that of a parent
151 of such child or youth, if such faith is known or
152 may be ascertained by reasonable inquiry, provided
153 such home conforms to the standards of said
154 commissioner and the commissioner shall, when
155 placing siblings, if possible, place such children
156 together. As an alternative to commitment, the
157 court may place the child in the custody of the
158 parent or guardian with protective supervision by
159 the Commissioner of Children and Families subject
160 to conditions established by the court.
161 (e) Ninety days before the expiration of each
162 twelve-month commitment made in accordance with
163 the provisions of subsection (d) of this section
164 and each extension made pursuant to the provisions
165 of this subsection, the Commissioner of Children
166 and Families shall petition the court either to

167 (1) revoke such commitment, in accordance with the
168 provisions of subsection (g) of this section, or
169 (2) terminate parental rights in accordance with
170 the provisions of section 17a-112, or (3) extend
171 the commitment beyond such twelve-month period on
172 the ground that an extension is in the best
173 interest of the child. The court shall give notice
174 to the parent, parents or guardian and to the
175 child or youth at least fourteen days prior to the
176 hearing on such petition. Upon finding that an
177 extension is in the best interest of the child,
178 the court may extend the commitment for a period
179 of twelve months. At such hearing the court shall
180 determine the appropriateness of continued efforts
181 to reunify the child or youth with his family. If
182 the court finds that such efforts are not
183 appropriate, the Department of Children and
184 Families shall within sixty days of such finding
185 either (A) file a petition for the termination of
186 parental rights, (B) file a motion to revoke the
187 commitment and vest the custody and guardianship
188 of the child on a permanent or long-term basis in
189 an appropriate individual or couple or (C) file a
190 written permanency plan with the court for
191 permanent or long-term foster care, which plan
192 shall include an explanation of the reason that
193 neither termination of parental rights nor custody
194 and guardianship is appropriate for the child. The
195 court shall promptly convene a hearing for the
196 purpose of reviewing such written plan.
197 (f) The Commissioner of Children and Families
198 shall pay directly to the person or persons
199 furnishing goods or services determined by said
200 commissioner to be necessary for the care and
201 maintenance of such child or youth the reasonable
202 expense thereof, payment to be made at intervals
203 determined by said commissioner; and the
204 Comptroller shall draw his order on the Treasurer,
205 from time to time, for such part of the
206 appropriation for care of committed children or
207 youth as may be needed in order to enable the
208 commissioner to make such payments. Said
209 commissioner shall include in his annual budget a
210 sum estimated to be sufficient to carry out the
211 provisions of this section. Notwithstanding that
212 any such child or youth has income or estate, the
213 commissioner may pay the cost of care and
214 maintenance of such child. or youth. The

215 commissioner may bill to and collect from the
216 person in charge of the estate of any child or
217 youth aided under this chapter, including his
218 decedent estate, or the payee of such child's or
219 youth's income, the total amount expended for care
220 of such child or youth or such portion thereof as
221 any such estate or payee is able to reimburse.
222 (g) Any court by which a child or youth has
223 been committed pursuant to the provisions of this
224 section may, upon the application of the attorney
225 who represented such child in a prior or pending
226 commitment proceeding, an attorney appointed by
227 the Superior Court on its own motion or an
228 attorney retained by such child after attaining
229 the age of fourteen, a parent, including any
230 person who acknowledges before said court
231 paternity of a child or youth born out of wedlock,
232 or other relative of such child or youth, the
233 selectman or any original petitioner, or a
234 licensed child-caring agency or institution
235 approved by the commissioner, or said
236 commissioner, and while such child or youth is
237 under the guardianship of said commissioner, upon
238 hearing, after reasonable notice to said
239 commissioner, and, if said commissioner made the
240 application, after reasonable notice to such
241 parent, relative, original petitioner, selectman
242 or child-caring agency or institution, upon
243 finding that cause for commitment no longer
244 exists, revoke such commitment, and thereupon such
245 guardianship and all control of said commissioner
246 over such child or youth shall terminate. The
247 court may further revoke the commitment of any
248 child or youth upon application by the
249 commissioner or by the child or youth concerned
250 and after reasonable notice to the parties
251 affected upon a finding that such revocation will
252 be for the best interest and welfare of such child
253 or youth. No hearing shall be held for such
254 reopening and termination of commitment or
255 transfer of commitment more often than once in six
256 months, except upon the application of said
257 commissioner.
258 (h) Upon service on the parent, guardian or
259 other person having control of the child or youth
260 of any order issued by the court pursuant to the
261 provisions of subsections (b) and (d) of this
262 section, the child or youth concerned shall be

263 surrendered to the person serving the order who
264 shall forthwith deliver the child or youth to the
265 person, agency, department or institution awarded
266 custody in such order. Upon refusal of the parent,
267 guardian or other person having control of the
268 child or youth to surrender the child or youth as
269 provided in the order, the court may cause a
270 warrant to be issued charging the parent, guardian
271 or other person having control of the child or
272 youth with contempt of court. If the person
273 arrested is found in contempt of court, the court
274 may order such person confined until he purges
275 himself of contempt, but for not more than six
276 months, or may fine such person not more than five
277 hundred dollars, or both.
278 (i) A foster parent shall have standing for
279 the purposes of this section in Superior Court in
280 matters concerning the placement or revocation of
281 commitment of a foster child living with such
282 parent. A foster parent shall receive notice of
283 any application to revoke commitment or any
284 hearing on such application. A FOSTER PARENT WHO
285 HAS CARED FOR A CHILD OR YOUTH FOR NOT LESS THAN
286 SIX MONTHS SHALL HAVE STANDING TO COMMENT ON THE
287 BEST INTERESTS OF SUCH CHILD OR YOUTH IN ANY
288 MATTER UNDER THIS SECTION WHICH IS BROUGHT NOT
289 MORE THAN ONE YEAR AFTER THE LAST DAY THE FOSTER
290 PARENT PROVIDED SUCH CARE.

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"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."

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FISCAL IMPACT STATEMENT - BILL NUMBER sHB 5379

STATE IMPACT	None, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Department of Children and Families, Office of the Attorney General

EXPLANATION OF ESTIMATES:

It is anticipated that no fiscal impact will result for either the Department of Children and Families or the Office of the Attorney General as the bill does not appear to mandate notification of foster parents who have cared for a child for at least six months when court action affecting the child is to occur.

House "A" specifies that foster parents who have cared for a child for at least six months shall have standing to comment in court proceedings brought not more than one year after the last day the foster parent provided the care. No fiscal impact is associated with this change.

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OLR AMENDED BILL ANALYSIS

sHB 5379 (as amended by House "A")*

AN ACT CONCERNING RIGHTS OF FOSTER PARENTS

SUMMARY: This bill gives current and former foster parents who have cared for a child for six months or more standing for the limited purpose of commenting on

the child's best interests in a variety of Superior Court hearings that are brought within one year after the foster parent last cared for the child. It applies, among other things, to hearings on orders of temporary custody and show-cause motions following the emergency removal of a child from his home, neglect petitions seeking commitment to the Department of Children and Families, petitions to extend or revoke a commitment or terminate parental rights, and permanency planning. Current law gives foster parents with whom a child is living legal standing (which allows them to bring or join an action) in matters concerning the child's placement or revocation of his commitment, regardless of how long the child has lived with them, and requires them to receive notice of revocation applications and hearings.

*House Amendment "A" requires the actions to be brought within one year after the foster parent last cared for the child.

EFFECTIVE DATE: October 1, 1998

BACKGROUND

Legislative History

The House referred the bill to the Judiciary Committee on April 21; the committee reported it back on April 22 without change.

Related Bill

sHB 5745 (File 425), favorably reported by the Judiciary, Human Services, and Appropriations committees, establishes a two-hearing process following the temporary removal of a child from his home. The first hearing is to ensure that the court takes a number of practical steps to assure that parents and the child are represented and that parents understand the allegations against them. The second, which must be held within 10 days of the first, is to decide if the temporary custody order should be extended. sHB 5379 would give long-term foster parents standing to comment at both of these hearings.

COMMITTEE ACTION

Children's Committee

Joint Favorable Substitute Change of Reference
Yea 11 Nay 0

Human Services Committee

Joint Favorable Change of Reference
Yea 11 Nay 3

Appropriations Committee

Joint Favorable Substitute
Yea 50 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 40 Nay 0