



# House of Representatives

General Assembly

**File No. 198**

January Session, 2009

Substitute House Bill No. 5421

*House of Representatives, March 25, 2009*

The Committee on Human Services reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF THE DEPARTMENT OF CHILDREN AND FAMILIES.***

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

1 Section 1. (NEW) (*Effective October 1, 2009*) If the Department of  
2 Correction enters into a contract with a person or entity to operate a  
3 residential facility for persons under the supervision, care or custody  
4 of said department in a facility, institution or home previously  
5 operated by a person or entity licensed by the Commissioner of  
6 Children and Families pursuant to section 17a-145 of the general  
7 statutes to care for or board a child, the Commissioner of Correction  
8 shall notify the chief executive officer of the municipality in which  
9 such facility, institution or home is located.

10 Sec. 2. Subsection (b) of section 17a-28 of the general statutes is  
11 repealed and the following is substituted in lieu thereof (*Effective*  
12 *October 1, 2009*):

13 (b) Notwithstanding the provisions of section 1-210, 1-211 or 1-213,

14 records maintained by the department shall be confidential and shall  
15 not be disclosed, unless the department receives written consent from  
16 the person or as provided in this section. [Such records of any person  
17 may only be disclosed, in whole or in part, to any individual, agency,  
18 corporation or organization with the consent of the person or as  
19 provided in this section.] Any unauthorized disclosure shall be  
20 punishable by a fine of not more than one thousand dollars or  
21 imprisonment for not more than one year, or both. Any employee of  
22 the department who in the ordinary course of such person's  
23 employment has reasonable cause to suspect or believe that another  
24 employee has engaged in the unauthorized disclosure of records shall  
25 report in writing such unauthorized disclosure of records to the  
26 commissioner. The report shall include the name of the person  
27 disclosing the information and the nature of the information disclosed  
28 and to whom it was disclosed, if known.

29 Sec. 3. Subdivision (1) of subsection (b) of section 4-61dd of the  
30 general statutes is repealed and the following is substituted in lieu  
31 thereof (*Effective October 1, 2009*):

32 (b) (1) No state officer or employee, as defined in section 4-141, no  
33 quasi-public agency officer or employee, no officer or employee of a  
34 large state contractor and no appointing authority shall take or  
35 threaten to take any personnel action against any state or quasi-public  
36 agency employee or any employee of a large state contractor in  
37 retaliation for such employee's or contractor's disclosure of  
38 information to (A) an employee of the Auditors of Public Accounts or  
39 the Attorney General under the provisions of subsection (a) of this  
40 section; (B) an employee of the state agency or quasi-public agency  
41 where such state officer or employee is employed; (C) an employee of  
42 a state agency pursuant to a mandated reporter statute or pursuant to  
43 subsection (b) of section 17a-28, as amended by this act; or (D) in the  
44 case of a large state contractor, an employee of the contracting state  
45 agency concerning information involving the large state contract.

46 Sec. 4. Section 46b-129 of the general statutes is repealed and the

47 following is substituted in lieu thereof (*Effective from passage*):

48 (a) Any selectman, town manager, or town, city or borough welfare  
49 department, any probation officer, or the Commissioner of Social  
50 Services, the Commissioner of Children and Families or any child-  
51 caring institution or agency approved by the Commissioner of  
52 Children and Families, a child or such child's representative or  
53 attorney or a foster parent of a child, having information that a child or  
54 youth is neglected, uncared-for or dependent, may file with the  
55 Superior Court that has venue over such matter a verified petition  
56 plainly stating such facts as bring the child or youth within the  
57 jurisdiction of the court as neglected, uncared-for or dependent, within  
58 the meaning of section 46b-120, the name, date of birth, sex and  
59 residence of the child or youth, the name and residence of such child's  
60 parents or guardian, and praying for appropriate action by the court in  
61 conformity with the provisions of this chapter. Upon the filing of such  
62 a petition, except as otherwise provided in subsection (k) of section  
63 17a-112, the court shall cause a summons to be issued requiring the  
64 parent or parents or the guardian of the child or youth to appear in  
65 court at the time and place named, which summons shall be served not  
66 less than fourteen days before the date of the hearing in the manner  
67 prescribed by section 46b-128, and the court shall further give notice to  
68 the petitioner and to the Commissioner of Children and Families of the  
69 time and place when the petition is to be heard not less than fourteen  
70 days prior to the hearing in question.

71 (b) If it appears from the specific allegations of the petition and  
72 other verified affirmations of fact accompanying the petition and  
73 application, or subsequent thereto, that there is reasonable cause to  
74 believe that (1) the child or youth is suffering from serious physical  
75 illness or serious physical injury or is in immediate physical danger  
76 from the child's or youth's surroundings, and (2) that as a result of said  
77 conditions, the child's or youth's safety is endangered and immediate  
78 removal from such surroundings is necessary to ensure the child's or  
79 youth's safety, the court shall either (A) issue an order to the parents or  
80 other person having responsibility for the care of the child or youth to

81 [appear] show cause at such time as the court may designate to  
82 determine whether the court should vest [in some suitable agency or  
83 person] the child's or youth's temporary care and custody in a person  
84 related to the child or youth by blood or marriage or in some other  
85 person or suitable agency pending disposition of the petition, or (B)  
86 issue an order ex parte vesting [in some suitable agency or person] the  
87 child's or youth's temporary care and custody in a person related to the  
88 child or youth by blood or marriage or in some other person or  
89 suitable agency. A preliminary hearing on any ex parte custody order  
90 or order to appear issued by the court shall be held not later than ten  
91 days after the issuance of such order. The service of such orders may  
92 be made by any officer authorized by law to serve process, or by any  
93 probation officer appointed in accordance with section 46b-123,  
94 investigator from the Department of Administrative Services, state or  
95 local police officer or indifferent person. Such orders shall include a  
96 conspicuous notice to the respondent written in clear and simple  
97 language containing at least the following information: (i) That the  
98 order contains allegations that conditions in the home have  
99 endangered the safety and welfare of the child or youth; (ii) that a  
100 hearing will be held on the date on the form; (iii) that the hearing is the  
101 opportunity to present the parents' position concerning the alleged  
102 facts; (iv) that an attorney will be appointed for parents who cannot  
103 afford an attorney; (v) that such parents may apply for a court-  
104 appointed attorney by going in person to the court address on the form  
105 and are advised to go as soon as possible in order for the attorney to  
106 prepare for the hearing; (vi) that such parents, or a person having  
107 responsibility for the care and custody of the child or youth, may  
108 request the Commissioner of Children and Families to investigate  
109 placing the child or youth with a person related to the child or youth  
110 by blood or marriage who might serve as a licensed foster parent,  
111 certified relative caregiver or temporary custodian for such child or  
112 youth. The commissioner, where practicable, shall investigate such  
113 relative or relatives prior to the preliminary hearing and provide a  
114 report to the court at such hearing as to such relative's suitability; and  
115 [(vi)] (vii) if such parents have any questions concerning the case or

116 appointment of counsel, any such parent is advised to go to the court  
117 or call the clerk's office at the court as soon as possible. Upon  
118 application for appointed counsel, the court shall promptly determine  
119 eligibility and, if the respondent is eligible, promptly appoint counsel.  
120 The expense for any temporary care and custody shall be paid by the  
121 town in which such child or youth is at the time residing, and such  
122 town shall be reimbursed for such expense by the town found liable  
123 for the child's or youth's support, except that where a state agency has  
124 filed a petition pursuant to the provisions of subsection (a) of this  
125 section, the agency shall pay such expense. The agency shall give  
126 primary consideration to placing the child or youth in the town where  
127 such child or youth resides. The agency shall file in writing with the  
128 clerk of the court the reasons for placing the child or youth in a  
129 particular placement outside the town where the child or youth  
130 resides. Upon issuance of an ex parte order, the court shall provide to  
131 the commissioner and the parent or guardian specific steps necessary  
132 for each to take to address the ex parte order for the parent or guardian  
133 to retain or regain custody of the child or youth. Upon the issuance of  
134 such order, or not later than sixty days after the issuance of such order,  
135 the court shall make a determination whether the Department of  
136 Children and Families made reasonable efforts to keep the child or  
137 youth with his or her parents or guardian prior to the issuance of such  
138 order and, if such efforts were not made, whether such reasonable  
139 efforts were not possible, taking into consideration the child's or  
140 youth's best interests, including the child's or youth's health and safety.

141 [(c) In any proceeding under this section, any grandparent of the  
142 child may make a motion to intervene and the court shall grant such  
143 motion except for good cause shown. Upon the granting of such  
144 motion, such grandparent may appear by counsel or in person.]

145 [(d)] (c) The preliminary hearing on the order of temporary custody  
146 or order to appear or the first hearing on a petition filed pursuant to  
147 subsection (a) of this section shall be held in order for the court to: (1)  
148 Advise the parent or guardian of the allegations contained in all  
149 petitions and applications that are the subject of the hearing and the

150 parent's or guardian's right to counsel pursuant to subsection (b) of  
151 section 46b-135; (2) assure that an attorney, and where appropriate, a  
152 separate guardian ad litem has been appointed to represent the child  
153 or youth in accordance with subsection (b) of section 46b-123e and  
154 sections 46b-129a and 46b-136; (3) upon request, appoint an attorney to  
155 represent the respondent when the respondent is unable to afford  
156 representation, in accordance with subsection (b) of section 46b-123e;  
157 (4) advise the parent or guardian of the right to a hearing on the  
158 petitions and applications, to be held not later than ten days after the  
159 date of the preliminary hearing if the hearing is pursuant to an order of  
160 temporary custody or an order to show cause; (5) accept a plea  
161 regarding the truth of such allegations; (6) make any interim orders,  
162 including visitation, that the court determines are in the best interests  
163 of the child or youth. The court, after a hearing pursuant to this  
164 subsection, shall order specific steps the commissioner and the parent  
165 or guardian shall take for the parent or guardian to regain or to retain  
166 custody of the child or youth; (7) take steps to determine the identity of  
167 the father of the child or youth, including ordering genetic testing, if  
168 necessary, and order service of the petition and notice of the hearing  
169 date, if any, to be made upon him; (8) if the person named as the father  
170 appears, and admits that he is the father, provide him and the mother  
171 with the notices that comply with section 17b-27 and provide them  
172 with the opportunity to sign a paternity acknowledgment and  
173 affirmation on forms that comply with section 17b-27. Such documents  
174 shall be executed and filed in accordance with chapter 815y and a copy  
175 delivered to the clerk of the superior court for juvenile matters; [and]  
176 (9) in the event that the person named as a father appears and denies  
177 that he is the father of the child or youth, advise him that he may have  
178 no further standing in any proceeding concerning the child, and either  
179 order genetic testing to determine paternity or direct him to execute a  
180 written denial of paternity on a form promulgated by the Office of the  
181 Chief Court Administrator. Upon execution of such a form by the  
182 putative father, the court may remove him from the case and afford  
183 him no further standing in the case or in any subsequent proceeding  
184 regarding the child or youth until such time as paternity is established

185 by formal acknowledgment or adjudication in a court of competent  
186 jurisdiction; (10) identify any person or persons related to the child or  
187 youth by blood or marriage residing in this state who might serve as  
188 licensed foster parents, certified relative caregivers or temporary  
189 custodians and order the Commissioner of Children and Families to  
190 investigate and determine, not later than thirty days after the  
191 preliminary hearing, the appropriateness of placement of the child or  
192 youth with such relative or relatives; and (11) in accordance with the  
193 provisions of the Interstate Compact on the Placement of Children  
194 pursuant to section 17a-175, identify any person or persons related to  
195 the child or youth by blood or marriage residing out of state who  
196 might serve as licensed foster parents, certified relative caregivers or  
197 temporary custodians, and order the Commissioner of Children and  
198 Families to investigate and determine, within a reasonable time, the  
199 appropriateness of placement of the child or youth with such relative  
200 or relatives.

201 (d) (1) (A) If not later than thirty days after the preliminary hearing,  
202 or within a reasonable time when a relative resides out of state, the  
203 Commissioner of Children and Families determines that there is not a  
204 suitable person related to the child or youth by blood or marriage who  
205 can be licensed as a foster parent or certified as a relative caregiver or  
206 serve as a temporary custodian, and the court has not granted  
207 temporary custody to a person related to the child or youth by blood  
208 or marriage, any person related to the child or youth by blood or  
209 marriage may file, not later than ninety days after the date of the  
210 preliminary hearing, a motion to intervene for the limited purpose of  
211 moving for temporary custody of such child or youth. If a motion to  
212 intervene is timely filed, the court shall grant such motion except for  
213 good cause shown.

214 (B) Any person related to a child or youth may file a motion to  
215 intervene for purposes of seeking temporary custody of a child or  
216 youth more than ninety days after the date of the preliminary hearing.  
217 The granting of such motion shall be solely in the court's discretion,  
218 except that such motion shall be granted absent good cause shown

219 whenever the child's or youth's most recent placement has disrupted  
220 or is about to disrupt.

221 (C) A relative shall appear in person, with or without counsel, and  
222 shall not be entitled to court appointed counsel or the assignment of  
223 counsel by the Chief Child Protection Attorney except as provided in  
224 section 46b-136.

225 (2) Upon the granting of intervenor status to such relative of the  
226 child or youth, the court shall issue an order directing the  
227 Commissioner of Children and Families to conduct a home study of  
228 such relative and to file a written report with the court not later than  
229 forty days after such order, unless such relative resides out of state, in  
230 which case the home study shall be ordered and requested in  
231 accordance with the provisions of the Interstate Compact on the  
232 Placement of Children, pursuant to section 17a-175. The court may also  
233 request such relative to release such relative's medical records,  
234 including any psychiatric or psychological records. If such relative  
235 refuses to release such records, the court, when necessary, may order  
236 such relative to submit to a physical or mental examination. The  
237 expenses incurred for such physical or mental examination shall be  
238 paid as costs of commitment are paid. Upon receipt of the home study,  
239 the court shall schedule a hearing on such relative's motion for  
240 temporary custody not later than fifteen days after the receipt of the  
241 home study. If the Commissioner of Children and Families, the child's  
242 or youth's attorney or guardian ad litem, or the parent or guardian  
243 objects to the vesting of temporary custody in such relative, the agency  
244 or person objecting at such hearing shall be required to prove by a fair  
245 preponderance of the evidence that granting temporary custody of the  
246 child or youth to such relative would not be in the best interests of  
247 such child or youth.

248 (3) If the court grants such relative temporary custody during the  
249 period of such temporary custody, such relative shall be subject to  
250 orders of the court, including, but not limited to, providing for the care  
251 and supervision of such child or youth and cooperating with the

252 Commissioner of Children and Families in the implementation of  
253 treatment and permanency plans and services for such child or youth.  
254 The court may, on motion of any party or the court's own motion, after  
255 notice and a hearing, terminate such relative's intervenor status if such  
256 relative's participation in the case is no longer warranted or necessary.

257 (4) Any person related to a child or youth may file a motion to  
258 intervene for purposes of seeking guardianship or permanent custody  
259 of a child or youth more than ninety days after the date of the  
260 preliminary hearing. The granting of such motion to intervene shall be  
261 solely in the court's discretion, except that such motion shall be  
262 granted absent good cause shown whenever the child's or youth's most  
263 recent placement has disrupted or is about to disrupt. The court may,  
264 in the court's discretion, order the Commissioner of Children and  
265 Families to conduct a home study of such relative granted intervenor  
266 status pursuant to this subdivision.

267 (e) If any parent or guardian fails, after service of such order, to  
268 appear at the preliminary hearing, the court may enter or sustain an  
269 order of temporary custody.

270 (f) Upon request, or upon its own motion, the court shall schedule a  
271 hearing on the order for temporary custody or the order to show cause  
272 to be held not later than ten days after the date of the preliminary  
273 hearing. Such hearing shall be held on consecutive days except for  
274 compelling circumstances or at the request of the parent or guardian.

275 (g) At a contested hearing on the order for temporary custody or  
276 order to appear, credible hearsay evidence regarding statements of the  
277 child or youth made to a mandated reporter or to a parent may be  
278 offered by the parties and admitted by the court upon a finding that  
279 the statement is reliable and trustworthy and that admission of such  
280 statement is reasonably necessary. A signed statement executed by a  
281 mandated reporter under oath may be admitted by the court without  
282 the need for the mandated reporter to appear and testify unless called  
283 by a respondent or the child, provided the statement: (1) Was provided  
284 at the preliminary hearing and promptly upon request to any counsel

285 appearing after the preliminary hearing; (2) reasonably describes the  
286 qualifications of the reporter and the nature of his contact with the  
287 child; and (3) contains only the direct observations of the reporter, and  
288 statements made to the reporter that would be admissible if the  
289 reporter were to testify to them in court and any opinions reasonably  
290 based thereupon. If a respondent or the child gives notice at the  
291 preliminary hearing that he intends to cross-examine the reporter, the  
292 person filing the petition shall make the reporter available for such  
293 examination at the contested hearing.

294 (h) If any parent or guardian fails, after due notice of the hearing  
295 scheduled pursuant to subsection (g) of this section and without good  
296 cause, to appear at the scheduled date for a contested hearing on the  
297 order of temporary custody or order to appear, the court may enter or  
298 sustain an order of temporary custody.

299 (i) When a petition is filed in said court for the commitment of a  
300 child or youth, the Commissioner of Children and Families shall make  
301 a thorough investigation of the case and shall cause to be made a  
302 thorough physical and mental examination of the child or youth if  
303 requested by the court. The court after hearing may also order a  
304 thorough physical or mental examination, or both, of a parent or  
305 guardian whose competency or ability to care for a child or youth  
306 before the court is at issue. The expenses incurred in making such  
307 physical and mental examinations shall be paid as costs of  
308 commitment are paid.

309 (j) Upon finding and adjudging that any child or youth is uncared-  
310 for, neglected or dependent, the court may commit such child or youth  
311 to the Commissioner of Children and Families. Such commitment shall  
312 remain in effect until further order of the court, except that such  
313 commitment may be revoked or parental rights terminated at any time  
314 by the court, or the court may vest such child's or youth's care and  
315 personal custody in any private or public agency that is permitted by  
316 law to care for neglected, uncared-for or dependent children or youths  
317 or with any other person or persons found to be suitable and worthy of

318 such responsibility by the court, including, but not limited to, any  
319 relative of such child or youth by blood or marriage. If the court  
320 determines that the commitment should be revoked and the child's or  
321 youth's personal custody should vest in someone other than the  
322 respondent parent, parents or guardian, or if parental rights are  
323 terminated at any time, there shall be a rebuttable presumption that an  
324 award of custody or guardianship upon revocation to, or adoption  
325 upon termination of parental rights by, any relative who is licensed as  
326 a foster parent or certified as a relative caregiver for such child or  
327 youth, or who is, pursuant to an order of the court, the temporary  
328 custodian of the child or youth at the time of the revocation or  
329 termination, shall be in the best interests of the child or youth and that  
330 such relative is a suitable and worthy person to assume custody and  
331 guardianship upon revocation or to adopt such child or youth upon  
332 termination of parental rights. The presumption may be rebutted by a  
333 preponderance of the evidence that an award of custody or  
334 guardianship to, or an adoption by, such relative would not be in the  
335 child's or youth's best interests and such relative is not a suitable and  
336 worthy person. The court shall order specific steps that the parent  
337 must take to facilitate the return of the child or youth to the custody of  
338 such parent. The commissioner shall be the guardian of such child or  
339 youth for the duration of the commitment, provided the child or youth  
340 has not reached the age of eighteen years or, in the case of a child or  
341 youth in full-time attendance in a secondary school, a technical school,  
342 a college or a state-accredited job training program, provided such  
343 child or youth has not reached the age of twenty-one years, by consent  
344 of such youth, or until another guardian has been legally appointed,  
345 and in like manner, upon such vesting of the care of such child or  
346 youth, such other public or private agency or individual shall be the  
347 guardian of such child or youth until such child or youth has reached  
348 the age of eighteen years or, in the case of a child or youth in full-time  
349 attendance in a secondary school, a technical school, a college or a  
350 state-accredited job training program, until such child or youth has  
351 reached the age of twenty-one years or until another guardian has  
352 been legally appointed. The commissioner may place any child or

353 youth so committed to the commissioner in a suitable foster home or in  
354 the home of a person related by blood or marriage to such child or  
355 youth or in a licensed child-caring institution or in the care and  
356 custody of any accredited, licensed or approved child-caring agency,  
357 within or without the state, provided a child shall not be placed  
358 outside the state except for good cause and unless the parents or  
359 guardian of such child are notified in advance of such placement and  
360 given an opportunity to be heard, or in a receiving home maintained  
361 and operated by the Commissioner of Children and Families. In  
362 placing such child or youth, the commissioner shall, if possible, select a  
363 home, agency, institution or person of like religious faith to that of a  
364 parent of such child or youth, if such faith is known or may be  
365 ascertained by reasonable inquiry, provided such home conforms to  
366 the standards of said commissioner and the commissioner shall, when  
367 placing siblings, if possible, place such children together. As an  
368 alternative to commitment, the court may place the child or youth in  
369 the custody of the parent or guardian with protective supervision by  
370 the Commissioner of Children and Families subject to conditions  
371 established by the court. Upon the issuance of an order committing the  
372 child or youth to the Commissioner of Children and Families, or not  
373 later than sixty days after the issuance of such order, the court shall  
374 determine whether the Department of Children and Families made  
375 reasonable efforts to keep the child or youth with his or her parents or  
376 guardian prior to the issuance of such order and, if such efforts were  
377 not made, whether such reasonable efforts were not possible, taking  
378 into consideration the child's or youth's best interests, including the  
379 child's or youth's health and safety.

380 (k) (1) Nine months after placement of the child or youth in the care  
381 and custody of the commissioner pursuant to a voluntary placement  
382 agreement, or removal of a child or youth pursuant to section 17a-101g  
383 or an order issued by a court of competent jurisdiction, whichever is  
384 earlier, the commissioner shall file a motion for review of a  
385 permanency plan. Nine months after a permanency plan has been  
386 approved by the court pursuant to this subsection, the commissioner  
387 shall file a motion for review of the permanency plan. Any party

388 seeking to oppose the commissioner's permanency plan, including a  
389 relative of a child or youth by blood or marriage who has intervened  
390 pursuant to subsection (d) of this section and is licensed as a foster  
391 parent or certified as a relative caregiver for such child or youth or is  
392 vested with such child's or youth's temporary custody by order of the  
393 court, shall file a motion in opposition not later than thirty days after  
394 the filing of the commissioner's motion for review of the permanency  
395 plan, which motion shall include the reason therefor. A permanency  
396 hearing on any motion for review of the permanency plan shall be held  
397 not later than ninety days after the filing of such motion. The court  
398 shall hold evidentiary hearings in connection with any contested  
399 motion for review of the permanency plan. The commissioner shall  
400 have the burden of proving that the proposed permanency plan is in  
401 the best interests of the child or youth. After the initial permanency  
402 hearing, subsequent permanency hearings shall be held not less  
403 frequently than every twelve months while the child or youth remains  
404 in the custody of the Commissioner of Children and Families. The  
405 court shall provide notice to the child or youth, and the parent or  
406 guardian of such child or youth of the time and place of the court  
407 hearing on any such motion not less than fourteen days prior to such  
408 hearing.

409 (2) At a permanency hearing held in accordance with the provisions  
410 of subdivision (1) of this subsection, the court shall approve a  
411 permanency plan that is in the best interests of the child or youth and  
412 takes into consideration the child's or youth's need for permanency.  
413 The child's or youth's health and safety shall be of paramount concern  
414 in formulating such plan. Such permanency plan may include the goal  
415 of (A) revocation of commitment and reunification of the child or  
416 youth with the parent or guardian, with or without protective  
417 supervision; (B) transfer of guardianship; (C) long-term foster care  
418 with a relative licensed as a foster parent or certified as a relative  
419 caregiver; (D) adoption and filing of termination of parental rights; or  
420 (E) such other planned permanent living arrangement ordered by the  
421 court, provided the Commissioner of Children and Families has  
422 documented a compelling reason why it would not be in the best

423 interest of the child or youth for the permanency plan to include the  
424 goals in subparagraphs (A) to (D), inclusive, of this subdivision. Such  
425 other planned permanent living arrangement may include, but not be  
426 limited to, placement of a child or youth in an independent living  
427 program or long term foster care with an identified foster parent.

428 (3) At a permanency hearing held in accordance with the provisions  
429 of subdivision (1) of this subsection, the court shall review the status of  
430 the child, the progress being made to implement the permanency plan,  
431 determine a timetable for attaining the permanency plan, determine  
432 the services to be provided to the parent if the court approves a  
433 permanency plan of reunification and the timetable for such services,  
434 and determine whether the commissioner has made reasonable efforts  
435 to achieve the permanency plan. The court may revoke commitment if  
436 a cause for commitment no longer exists and it is in the best interests of  
437 the child or youth.

438 (4) If the court approves the permanency plan of adoption: (A) The  
439 Commissioner of Children and Families shall file a petition for  
440 termination of parental rights not later than sixty days after such  
441 approval if such petition has not previously been filed; (B) the  
442 commissioner may conduct a thorough adoption assessment and  
443 child-specific recruitment; and (C) the court may order that the child  
444 be photo-listed within thirty days if the court determines that such  
445 photo-listing is in the best interest of the child. As used in this  
446 subdivision, "thorough adoption assessment" means conducting and  
447 documenting face-to-face interviews with the child, foster care  
448 providers and other significant parties and "child specific recruitment"  
449 means recruiting an adoptive placement targeted to meet the  
450 individual needs of the specific child, including, but not limited to, use  
451 of the media, use of photo-listing services and any other in-state or  
452 out-of-state resources that may be used to meet the specific needs of  
453 the child, unless there are extenuating circumstances that indicate that  
454 such efforts are not in the best interest of the child.

455 (l) The Commissioner of Children and Families shall pay directly to

456 the person or persons furnishing goods or services determined by said  
457 commissioner to be necessary for the care and maintenance of such  
458 child or youth the reasonable expense thereof, payment to be made at  
459 intervals determined by said commissioner; and the Comptroller shall  
460 draw his or her order on the Treasurer, from time to time, for such part  
461 of the appropriation for care of committed children or youths as may  
462 be needed in order to enable the commissioner to make such  
463 payments. The commissioner shall include in the department's annual  
464 budget a sum estimated to be sufficient to carry out the provisions of  
465 this section. Notwithstanding that any such child or youth has income  
466 or estate, the commissioner may pay the cost of care and maintenance  
467 of such child or youth. The commissioner may bill to and collect from  
468 the person in charge of the estate of any child or youth aided under  
469 this chapter, or the payee of such child's or youth's income, the total  
470 amount expended for care of such child or youth or such portion  
471 thereof as any such estate or payee is able to reimburse, provided the  
472 commissioner shall not collect from such estate or payee any  
473 reimbursement for the cost of care or other expenditures made on  
474 behalf of such child or youth from (1) the proceeds of any cause of  
475 action received by such child or youth; (2) any lottery proceeds due to  
476 such child or youth; (3) any inheritance due to such child or youth; (4)  
477 any payment due to such child or youth from a trust other than a trust  
478 created pursuant to 42 USC 1396p, as amended from time to time; or  
479 (5) the decedent estate of such child or youth.

480 (m) The commissioner, a parent or the child's attorney may file a  
481 motion to revoke a commitment, and, upon finding that cause for  
482 commitment no longer exists, and that such revocation is in the best  
483 interests of such child or youth, the court may revoke the commitment  
484 of such child or youth. No such motion shall be filed more often than  
485 once every six months.

486 (n) Upon service on the parent, guardian or other person having  
487 control of the child or youth of any order issued by the court pursuant  
488 to the provisions of subsections (b) and (j) of this section, the child or  
489 youth concerned shall be surrendered to the person serving the order

490 who shall forthwith deliver the child or youth to the person, agency,  
491 department or institution awarded custody in the order. Upon refusal  
492 of the parent, guardian or other person having control of the child or  
493 youth to surrender the child or youth as provided in the order, the  
494 court may cause a warrant to be issued charging the parent, guardian  
495 or other person having control of the child or youth with contempt of  
496 court. If the person arrested is found in contempt of court, the court  
497 may order such person confined until the person complies with the  
498 order, but for not more than six months, or may fine such person not  
499 more than five hundred dollars, or both.

500 (o) A foster parent, prospective adoptive parent or relative caregiver  
501 shall receive notice and have the right to be heard for the purposes of  
502 this section in Superior Court in any proceeding concerning a foster  
503 child living with such foster parent, prospective adoptive parent or  
504 relative caregiver. A foster parent, prospective adoptive parent or  
505 relative caregiver who has cared for a child or youth shall have the  
506 right to be heard and comment on the best interests of such child or  
507 youth in any proceeding under this section which is brought not more  
508 than one year after the last day the foster parent, prospective adoptive  
509 parent or relative caregiver provided such care.

510 (p) Upon motion of any sibling of any child committed to the  
511 Department of Children and Families pursuant to this section, such  
512 sibling shall have the right to be heard concerning visitation with, and  
513 placement of, any such child. In awarding any visitation or modifying  
514 any placement, the court shall be guided by the best interests of all  
515 siblings affected by such determination.

516 (q) The provisions of section 17a-152, regarding placement of a child  
517 from another state, and section 17a-175, regarding the Interstate  
518 Compact on the Placement of Children, shall apply to placements  
519 pursuant to this section.

520 Sec. 5. Section 45a-607 of the general statutes is repealed and the  
521 following is substituted in lieu thereof (*Effective from passage*):

522 (a) (1) When application has been made for the removal of one or  
523 both parents as guardians or of any other guardian of the person of a  
524 minor child, or when an application has been made for the termination  
525 of the parental rights of any parties who may have parental rights with  
526 regard to any minor child, or when, in any proceeding the court has  
527 reasonable grounds to believe that any minor child has no guardian of  
528 his or her person, the court of probate in which the proceeding is  
529 pending may issue an order awarding temporary custody of the minor  
530 child to a person other than the parent or guardian, with or without  
531 the parent's or guardian's consent, but such order may only be issued  
532 in accordance with the provisions of this section. There shall be a  
533 rebuttable presumption that the awarding of temporary custody to a  
534 relative is in the best interests of such child or youth. This presumption  
535 may be rebutted by a preponderance of the evidence that such  
536 awarding of custody is not in the best interests of such child or youth.  
537 As used in this subsection and subsections (b) and (d) of this section,  
538 "relative" means a person related to the child by blood or marriage.

539 (2) In any proceeding under this section, any relative of the minor  
540 child may make a motion to intervene and the court shall grant such  
541 motion except for good cause shown. Upon the granting of such  
542 motion, such relative may appear by counsel or in person.

543 (b) In the case of a minor child in the custody of the parent or other  
544 guardian, no application for custody of such minor child may be  
545 granted ex parte, except in accordance with subdivision (2) of this  
546 subsection. In the case of a minor child in the custody of a person other  
547 than the parent or guardian, no application for custody may be  
548 granted ex parte, except in accordance with subdivisions (1) to (3),  
549 inclusive, of this subsection.

550 (1) An application for immediate temporary custody shall be  
551 accompanied by an affidavit made by the custodian of such minor  
552 child under penalty of false statement, stating the circumstances under  
553 which such custody was obtained, the length of time the affiant has  
554 had custody and specific facts which would justify the conclusion that

555 determination cannot await the hearing required by subsection (c) of  
556 this section. Upon such application, the court may grant immediate  
557 temporary custody to the affiant, a relative, or some other suitable  
558 person if the court finds that: (A) The minor child was not taken or  
559 kept from the parent, parents or guardian, and (B) there is a substantial  
560 likelihood that the minor child will be removed from the jurisdiction  
561 prior to a hearing under subsection (c) of this section, or (C) to return  
562 the minor child to the parent, parents or guardian would place the  
563 minor child in circumstances which would result in serious physical  
564 illness or injury, or the threat thereof, or imminent physical danger  
565 prior to a hearing under subsection (c) of this section.

566 (2) In the case of a minor child who is hospitalized as a result of  
567 serious physical illness or serious physical injury, an application for  
568 immediate temporary custody shall contain a certificate signed by two  
569 physicians licensed to practice medicine in this state stating that (A)  
570 the minor child is in need of immediate medical or surgical treatment,  
571 the delay of which would be life threatening, (B) the parent, parents or  
572 guardian of the minor child refuses or is unable to consent to such  
573 treatment, and (C) determination of the need for temporary custody  
574 cannot await notice of hearing. Upon such application, the court may  
575 grant immediate temporary custody to a relative or some other  
576 suitable person if it finds that (i) a minor child has suffered from  
577 serious physical illness or serious physical injury and is in need of  
578 immediate medical or surgical treatment, (ii) the parent, parents or  
579 guardian refuses to consent to such treatment, and (iii) to delay such  
580 treatment would be life threatening.

581 (3) If an order of temporary custody is issued ex parte, notice of the  
582 hearing required by subsection (c) of this section shall be given  
583 promptly, and the hearing shall be held [within] not later than five  
584 business days [of] after the date of such ex parte order of temporary  
585 custody, provided the respondent shall be entitled to continuance  
586 upon request. Upon the issuance of an order granting temporary  
587 custody of the minor child to the Commissioner of Children and  
588 Families, or not later than sixty days after the issuance of such order,

589 the court shall make a determination whether the Department of  
590 Children and Families made reasonable efforts to keep the minor child  
591 with his or her parent, parents or guardian prior to the issuance of  
592 such order and, if such efforts were not made, whether such  
593 reasonable efforts were not possible, taking into consideration the  
594 minor child's best interests, including the minor child's health and  
595 safety. Upon issuance of an ex parte order of temporary custody, the  
596 court shall promptly notify the Commissioner of Children and  
597 Families, who shall cause an investigation to be made forthwith, in  
598 accordance with section 17a-101g, and shall present the commissioner's  
599 report to the court at the hearing on the application for temporary  
600 custody. The hearing on an ex parte order of temporary custody shall  
601 not be postponed, except with the consent of the respondent, or, if  
602 notice cannot be given as required by this section, a postponement  
603 may be ordered by the court for the purpose of a further order of  
604 notice.

605 (c) Except as provided in subsection (b) of this section, upon receipt  
606 of an application for temporary custody under this section, the court  
607 shall promptly set the time and place for a hearing to be held on such  
608 application. The court shall order notice of the hearing on temporary  
609 custody to be given, at least five days prior to the date of the hearing,  
610 to the Commissioner of Children and Families by first class mail and to  
611 both parents and to the minor child, if over twelve years of age, by  
612 personal service or service at the parent's usual place of abode or the  
613 minor's usual place of abode, as the case may be, in accordance with  
614 section 52-50, except that in lieu of personal service on, or service at the  
615 usual place of abode of, a parent or the father of a minor child born out  
616 of wedlock who is either an applicant or who signs under penalty of  
617 false statement a written waiver of such service on a form provided by  
618 the Probate Court Administrator, the court may order notice to be  
619 given by first class mail at least five days prior to the date of the  
620 hearing. If the whereabouts of the parents are unknown, or if such  
621 delivery cannot reasonably be effected, then notice shall be ordered to  
622 be given by publication. Such notice may be combined with the notice  
623 under section 45a-609 or with the notice required under section 45a-

624 716. If the parents are not residents of the state or are absent from the  
625 state, the court shall order notice to be given by first class mail at least  
626 five days prior to the date of the hearing. If the whereabouts of the  
627 parents are unknown, or if delivery cannot reasonably be effected, the  
628 court may order notice to be given by publication. Any notice by  
629 publication under this subsection shall be in a newspaper which has a  
630 circulation at the last-known place of residence of the parents. In either  
631 case, such notice shall be given at least five days prior to the date of the  
632 hearing, except in the case of notice of a hearing on immediate  
633 temporary custody under subsection (b) of this section. If the applicant  
634 alleges that the whereabouts of a respondent are unknown, such  
635 allegation shall be made under penalty of false statement and shall also  
636 state the last-known address of the respondent and the efforts which  
637 have been made by the applicant to obtain a current address. The  
638 applicant shall have the burden of ascertaining the names and  
639 addresses of all parties in interest and of proving to the satisfaction of  
640 the court that the applicant used all proper diligence to discover such  
641 names and addresses. Except in the case of newspaper notice, such  
642 notice shall include: (1) The time and place of the hearing, (2) a copy of  
643 the application for removal or application for termination of parental  
644 rights, (3) a copy of the motion for temporary custody, (4) any affidavit  
645 or verified petition filed with the motion for temporary custody, (5)  
646 any other documents filed by the applicant, (6) any other orders or  
647 notices made by the court of probate, and (7) any request for  
648 investigation by the Department of Children and Families or any other  
649 person or agency. Such notice shall also inform the respondent of the  
650 right to have an attorney represent the respondent and, if the  
651 respondent is unable to obtain or pay for an attorney, the respondent  
652 may request the court of probate to appoint an attorney to represent  
653 the respondent. Newspaper notice shall include such facts as the court  
654 may direct.

655 (d) If, after hearing, the court finds by a fair preponderance of the  
656 evidence (1) that the parent or other guardian has performed acts of  
657 omission or commission as set forth in section 45a-610, and (2) that,  
658 because of such acts, the minor child is suffering from serious physical

659 illness or serious physical injury, or the immediate threat thereof, or is  
660 in immediate physical danger, so as to require that temporary custody  
661 be granted, the court may order the custody of the minor child to be  
662 given to one of the following, taking into consideration the standards  
663 set forth in section 45a-617, as amended by this act, and subsection (a)  
664 of this section: (A) [The] A relative of such minor child; (B) the  
665 Commissioner of Children and Families; ~~[(B)]~~ (C) the board of  
666 managers of any child-caring institution or organization; ~~[(C)]~~ (D) any  
667 children's home or similar institution licensed or approved by the  
668 Commissioner of Children and Families; or ~~[(D)]~~ (E) any other person.  
669 The fact that an order of temporary custody may have been issued ex  
670 parte under subsection (b) of this section shall be of no weight in a  
671 hearing held under this subsection. The burden of proof shall remain  
672 upon the applicant to establish the applicant's case. The court may  
673 issue the order without taking into consideration the standards set  
674 forth in this section and section 45a-610 if the parent or other guardian  
675 consents to the temporary removal of the minor child, or the court  
676 finds that the minor child has no guardian of his or her person. Upon  
677 the issuance of an order giving custody of the minor child to the  
678 Commissioner of Children and Families, or not later than sixty days  
679 after the issuance of such order, the court shall make a determination  
680 whether the Department of Children and Families made reasonable  
681 efforts to keep the minor child with his or her parent, parents or  
682 guardian prior to the issuance of such order and, if such efforts were  
683 not made, whether such reasonable efforts were not possible, taking  
684 into consideration the minor child's best interests, including the minor  
685 child's health and safety.

686 (e) Such order for temporary custody shall be effective until  
687 disposition of the application for removal of parents or guardians as  
688 guardian or for termination of parental rights or until a guardian is  
689 appointed for a minor child who has no guardian, unless modified or  
690 terminated by the court of probate. Any respondent, temporary  
691 custodian or attorney for the minor child may petition the court of  
692 probate issuing such order at any time for modification or revocation  
693 thereof, and such court shall set a hearing upon receipt of such petition

694 in the same manner as subsection (c) of this section. If the court finds  
695 after such hearing that the conditions upon which it based its order for  
696 temporary custody no longer exist, and that the conditions set forth in  
697 subsection (b) of this section do not exist, then the order shall be  
698 revoked and the minor child shall be returned to the custody of the  
699 parent or guardian.

700 (f) A copy of any order issued under this section shall be mailed  
701 immediately to the last known address of the parent or other guardian  
702 from whose custody the minor child has been removed.

703 Sec. 6. Section 45a-617 of the general statutes is repealed and the  
704 following is substituted in lieu thereof (*Effective October 1, 2009*):

705 When appointing a guardian or coguardians of the person of a  
706 minor, the court shall take into consideration the following factors: (1)  
707 The ability of the prospective guardian or coguardians to meet, on a  
708 continuing day to day basis, the physical, emotional, moral and  
709 educational needs of the minor; (2) the minor's wishes, if he or she is  
710 over the age of twelve or is of sufficient maturity and capable of  
711 forming an intelligent preference; (3) the existence or nonexistence of  
712 an established relationship between the minor and the prospective  
713 guardian or coguardians; and (4) the best interests of the child. There  
714 shall be a rebuttable presumption that appointment of a grandparent  
715 or other relative related by blood or marriage as a guardian is in the  
716 best interests of the minor child.

717 Sec. 7. Subsection (a) of section 17a-11 of the general statutes is  
718 repealed and the following is substituted in lieu thereof (*Effective*  
719 *October 1, 2009*):

720 (a) The commissioner may, in the commissioner's discretion, admit  
721 to the department on a voluntary basis any child or youth who, in the  
722 commissioner's opinion, could benefit from any of the services offered  
723 or administered by, or under contract with, or otherwise available to,  
724 the department. Application for voluntary admission shall be made in  
725 writing by the parent or guardian of a child under fourteen years of

726 age or by such person himself or herself if he or she is a child fourteen  
 727 years of age or older or a youth. The fact that a parent has applied for  
 728 services or received services for his or her child through voluntary  
 729 admission shall not be used against the parent (1) in any investigation  
 730 conducted by the department in accordance with section 17a-101g, (2)  
 731 when making placement decisions for the child, (3) when making  
 732 foster care licensing determinations in accordance with section 17a-  
 733 114, or (4) in any court proceeding related to the placement of a minor  
 734 relative of the parent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section
Sec. 2	October 1, 2009	17a-28(b)
Sec. 3	October 1, 2009	4-61dd(b)(1)
Sec. 4	from passage	46b-129
Sec. 5	from passage	45a-607
Sec. 6	October 1, 2009	45a-617
Sec. 7	October 1, 2009	17a-11(a)

**Statement of Legislative Commissioners:**

The word "or" was inserted after "person" in the first sentence of section 2(b) for clarity, accuracy and consistency within section 17a-28.

**HS**            *Joint Favorable Subst.-LCO*

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

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Children & Families, Dept.	GF - Cost	Potential Minimal	Potential Minimal
Probate Court	PCAF - See Below	See Below	See Below
Correction, Dept.; Auditors of Public Accounts; Office of the Attorney General; Judicial Dept.	GF - None	None	None

Note: GF=General Fund; PCAF=Probate Court Administration Fund

**Municipal Impact:** None

**Explanation**

Section 1 requires the Department of Correction (DOC) to notify the chief executive officer of the municipality of any residential facility contract entered into by the DOC in a facility, institution or home previously operated by a child caring facility licensed by the Department of Children and Families. This requirement results in no fiscal impact.

Section 2 requires DCF employees to report unauthorized disclosure of confidential records by co-workers to the commissioner. This will result in no fiscal impact.

Section 3 includes whistleblower protections for persons who report unauthorized disclosure of confidential DCF records pursuant to Section 2. Extending whistleblower protections to these employees is not anticipated to result in any additional costs to the Auditors of Public Accounts or the Office of the Attorney General.

Section 4 permits any person related to a child or youth to file a motion to intervene for purposes of seeking temporary custody. It

specifies that any such relative shall not be entitled to court-appointed counsel. These provisions could increase the complexity and length of certain court cases. However, it is anticipated that any such increase could be handled without requiring additional court staff or expenses.

The Department of Children and Families will experience a workload increase to the extent that it would be required to conduct home studies involving certain relatives and participate in additional court hearings. It would also incur costs when paying for physical or mental examinations ordered by the court in certain cases in which a relative granted intervenor status refuses to release his or her medical records. It is expected that these costs would be infrequent and minimal in magnitude.

Section 5 allows the relative of a minor child who is the subject of a termination of parental rights case to file an intervening motion in probate court. It is currently the practice of probate courts to accept such a motion by relatives and as such does not result in any fiscal impact to the Probate Court Administration Fund (PCAF).

Section 6 establishes a rebuttable presumption in probate court cases that awarding temporary custody to a relative is in the best interests of a child. This does not result in any fiscal impact to the PCAF.

Section 7, which makes changes concerning disregards of voluntary services applications, has no associated fiscal impact.

### ***The Out Years***

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

*Sources: File 481, LCO 5373 and fiscal note for LCO 5373 of the 2008 Session.*

**OLR Bill Analysis****sHB 5421*****AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF THE DEPARTMENT OF CHILDREN AND FAMILIES.*****SUMMARY:**

This bill requires courts to look for suitable caretaker relatives (related by blood or marriage) in the early stages of cases where children have been, or are at risk of being, removed from their homes due to allegations of abuse or neglect. It allows a parent who is the subject of the abuse or neglect charges to ask the Department of Children and Families (DCF) commissioner to investigate placing the child with relatives and, where practicable, requires the commissioner to report on a relative's suitability at the first court hearing in the case. It establishes court procedures for making placement decisions when a relative seeks custody and creates a rebuttable presumption that placing a child with a relative is in the child's best interests.

The bill also:

1. prohibits DCF and courts from taking into account a parent's application for, or receipt of, DCF voluntary behavioral health services for his or her child when making certain decisions about the person's suitability to care for a child;
2. requires DCF employees to notify the commissioner when they suspect a co-worker of illegally disclosing confidential information and specifies that they have whistleblower protections for such reports; and
3. directs the Department of Correction (DOC) commissioner to notify a town's chief executive officer when she contracts with an entity to house people under DOC supervision in a

residential facility previously licensed by DCF.

EFFECTIVE DATE: October 1, 2009, except the provisions concerning temporary relative placements are effective on passage.

#### **§ 4 — RELATIVES AS PREFERRED CAREGIVERS – ABUSE AND NEGLECT CASES IN SUPERIOR COURT**

##### ***Notice to Parents at Outset of Case***

By law, when DCF files an abuse or neglect petition and the court finds that there is reasonable cause to believe that removing a child from home is necessary, it must hold a preliminary hearing within 10 days and give the child's parents certain information in clear and simple language about the case and their legal rights before the hearing. The bill requires this information to include that they can request the DCF commissioner to investigate placing the child with a person who is related to the child by blood or marriage and who might serve as a licensed foster parent, certified relative caregiver, or temporary custodian. Where practicable, the DCF commissioner must investigate such a placement and provide the court a report on a relative's suitability at the preliminary hearing.

##### ***Identifying Relatives at Preliminary Hearings***

At the preliminary hearing, the bill allows the court to order DCF to investigate and determine, within 30 days after the hearing, the appropriateness of placing a child with his or her relatives living in Connecticut who might serve as licensed foster parents, certified relative caregivers, or temporary custodians. If out-of-state relatives are identified at the hearing, the bill requires DCF to complete its investigation and make a determination within a reasonable time, following the procedures in the Interstate Compact on the Placement of Children.

##### ***Granting Temporary Custody to Relatives on Request***

***Intervening Relatives.*** When DCF determines that there is no suitable relative and the court has not granted temporary custody to a relative, the bill allows any relative to file a motion to intervene for the

limited purpose of seeking an award of temporary custody. The court must grant intervenor status when motions are filed not later than 90 days after the preliminary hearing date, unless it finds good cause for not doing so. The bill gives the court discretion to grant intervenor status when motions are filed after that period, except when the child's most recent placement has been disrupted or is about to be disrupted, in which case the motion must be granted unless there is good cause for not doing so.

The bill eliminates a provision in current law that requires courts to grant grandparents' motions to intervene unless they find good cause for not doing so. Instead, grandparents are subject to the provisions regarding relatives described above.

Under the bill, relatives who are granted intervenor status must appear personally in court, with or without an attorney. They are not entitled to free representation by attorneys appointed by the court or assigned by the chief child protection attorney unless a judge authorizes appointment of counsel to appeal the court's child custody decision.

***Investigating the Suitability of Intervening Relatives.*** When the court grants a relative intervenor status, the bill requires the judge to order the DCF commissioner to conduct a home study and file a written report with the court within 40 days of the order if the relative lives in-state; for out-of-state relatives, the order must be issued in accordance with the Interstate Compact on the Placement of Children.

The bill also permits the court to ask the intervening relative to release his or her medical records, including psychiatric or psychological treatment records. It may order anyone who refuses to release medical records to submit to a physical or mental examination, with the expenses paid in the same way as commitment costs.

The court must schedule a hearing on the relative's motion for temporary custody within 15 days after receiving the home study. At the hearing, anyone opposing the motion (DCF, the child's attorney or

guardian ad litem, or the parent or guardian) must prove by a fair preponderance of the evidence that granting the relative temporary custody would not be in the child's best interest.

Licensed or certified relatives who are granted temporary custody must comply with court orders, including those directing them to care for and supervise the child, and cooperate with DCF in implementing treatment and permanency plans and services for the child. They may object to DCF's proposed permanency or treatment plans for the child and are entitled to a court hearing to resolve the dispute. The issue may be raised by any party or the court.

The court may terminate a relative's intervenor status if, after a hearing, it determines that the relative's participation in the case is no longer warranted or necessary.

### ***Granting Guardianship or Permanent Custody to Relatives on Request***

The bill permits any relative to file a motion to intervene for purposes of seeking guardianship or permanent custody once 90 days have passed after the preliminary hearing. It gives the court discretion to grant intervenor status to the relative, but it must do so if the child's most recent placement has been disrupted or is about to be disrupted unless it finds good cause for not doing so. The bill also authorizes the court to order DCF to conduct a home study of the intervenor.

When a court determines that a child has been abused or neglected, the law authorizes it to commit the child to DCF or place the child in the custody of a suitable or worthy person. The bill specifies that the latter may include people related to the child by blood or marriage. When the court (1) determines that a DCF commitment should be revoked and that the child should be placed with someone other than the parent or (2) terminates parental rights, the bill establishes a rebuttable presumption that custody or guardianship or, in the case of termination of parental rights, a potential adoption, should be awarded to a relative who is a licensed foster parent or certified relative caregiver or is currently acting as the child's temporary

custodian pursuant to a court order. The presumption may be rebutted by a preponderance of evidence showing that (1) the award of custody or guardianship to, or adoption by, the relative would not be in the child's best interests and (2) the relative is not a suitable or worthy person.

#### **§§ 5 & 6 — RELATIVES AS PREFERRED CAREGIVERS — PROBATE COURT CASES**

The bill also authorizes relatives to file motions to intervene in probate court cases in which an application to remove one or both parents as guardians or to terminate parental rights has been filed. The court must grant these motions unless it finds good cause for not doing so. Intervening relatives may either personally appear in court or be represented by an attorney.

The bill establishes a presumption that awarding temporary custody to a relative is in the best interests of the child. The presumption may be rebutted by a preponderance of evidence showing that this is not the case. Finally, it establishes a rebuttable presumption favoring relatives in guardianship or co-guardianship proceedings.

#### **§ 2 — REPORTING BREACHES OF DCF RECORD CONFIDENTIALITY LAWS**

The bill requires DCF employees to report to the commissioner in writing when, in the ordinary course of employment they reasonably suspect a co-worker of illegally disclosing confidential department records. They must include the name of the person who disclosed the record; to whom it was disclosed; and the nature of the information involved, if known. The bill protects these people from retaliation. They are already protected under state whistleblower law (CGS § 4-61dd).

The bill also limits an exception from record confidentiality law disclosures by requiring that the subject of the record file written permission to disclose it. Current law does not require that consent be given in writing.

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**§ 7 — DISREGARD OF VOLUNTARY SERVICES APPLICATIONS**

DCF's Voluntary Services Program is for children with serious mental health conditions who could not otherwise gain access to treatment they need. The bill prohibits the fact that a parent applied for or received voluntary services for a child from being used against him or her:

1. in DCF child abuse or neglect investigations,
2. when placement decisions are being made about the child,
3. in foster care licensing decisions, or
4. in any court proceeding concerning the placement of a child who is related to the parent.

**BACKGROUND*****DCF Placement Policies***

DCF's non-binding policies state that the department must give preference to placement with relatives or extended family if the family:

1. can meet the needs of the child;
2. can meet licensing requirements (i.e., either are licensed foster parents or will become licensed if the child remains in their household for longer than 90 days); and
3. lives in the same community where the child had been living at the time of removal, unless it is in the best interests of the child to be placed with relatives in another community.

When DCF places a child with non-relatives, its policy states that the placement must be in a foster care setting that serves the child's best interests based on the child's individual needs (DCF Policy Manual § 41-19-2).

***Probate Court Placement Considerations***

By law, probate courts must consider the following when

appointing temporary guardians for children under these circumstances:

1. the prospective guardian’s ability to meet the child’s physical, emotional, moral, and educational needs on a continuing daily basis;
2. the child’s wishes if he or she is at least age 13 or of sufficient maturity and capable of forming an intelligent preference;
3. whether there is an existing relationship between the child and prospective guardian; and
4. the best interests of the child (CGS § 45a-617).

**Confidential DCF Records**

In general, DCF cannot disclose information it creates or obtains in connection with its child protection activities or other activities related to a child who is or was in its care or custody or a person it has investigated for child abuse or neglect without (1) obtaining permission from the person who is the subject of the record or an authorized representative or (2) legal authorization to do so without the person’s consent. Existing law specifies many entities and officials to whom DCF must disclose records that would otherwise be confidential, in most cases expressly limiting the uses recipients can make of the information. It also lists entities and people with whom DCF may share information when the commissioner or her designee determines this is in the best interests of the person who is the subject of the record.

Anyone who discloses any part of a confidential record is subject to imprisonment for up to one year, a fine of up to \$1,000, or both.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable  
Yea 18 Nay 0 (03/10/2009)

