Legislative History for Connecticut Act

Public Act: 01-142

Bill Number: 6652

Senate Pages: 3193, 3223-3225 4

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Committee: Judiciary: 1114, 1115-1119, 1243-1244, 1246-1250 13

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2001

VOL. 44
PART 11
3168-3508

536 is PR.

537, H.B. 6652 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

538 is Go.

Page 10, Calendar 539 is to be passed temporarily.

540 is Go.

541 is PR.

542, H.B. 5400 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

543 is Go.

544 is to be passed temporarily.

545, H.B. 6657 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

546, H.B. 6786 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

547, H.B. 6867 I move to the Consent Calendar.

THE CHAIR:

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar/ Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the First Consent Calendar begins on Calendar Page 1, Calendar 570, H.J. 135.

Calendar Page 7, Calendar 514, H.B. 6565.

Calendar Page 8, Calendar 529, Substitute for H.B. 6630.

Calendar Page 9, Calendar 534, Substitute for H.B. 6430.

Calendar 535, Substitute for H.B. 6941.

Calendar 537, Substitute for H.B. 6652.

Calendar 538, Substitute for H.B. 5449.

Calendar Page 10, Calendar 540, H.B. 6778.

Calendar 542, Substitute for H.B. 5400.

Calendar 543, Substitute for H.B. 5062.

Calendar Page 11, Calendar 545, Substitute for H.B. 6657.

Calendar 546, Substitute for H.B. 6786.

Calendar 547, Substitute for H.B. 6867.

Calendar Page 20, Calendar 356, Substitute for S.B.

1366.

Calendar Page 23, Calendar 212, S.B. 774.

Calendar Page 24, Calendar 390, Substitute for S.B. 1420.

Madam President, that completes the First Consent Calendar.

THE CHAIR:

Thank you, Sir. Would you once again announce a roll call on the Consent Calendar. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 2.

Total number voting 35; necessary for adoption, 18. Those voting "yea", 35; those voting "nay", 0. Those

absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. If the Clerk could return to the item that was recently passed, Page 22, Calendar 68 and continue with the Call of the Calendar.

THE CLERK:

Calendar Page 22, Disagreeing Actions, Calendar 68, Files 24 and 841, Substitute for S.B. 1048 An Act Concerning Costs of Incarceration as amended by Senate Amendment Schedules "A" and "B". Favorable Report of the Committees on Judiciary and Government Administration and Elections. The House rejected Senate Amendment Schedule "B".

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Thank you, Madam President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

The question is on passage. Senator Coleman, just a moment. (GAVEL) Members and guests please take your

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Let me try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRITZ:

Those opposed. The ayes have it, the amendment is passed.

Representative Newton, for what purpose do you rise?

REP. NEWTON: (124TH)

With this passage of this amendment, I move that this item be referred to Legislative Management.

DEPUTY SPEAKER FRITZ:

Hearing no objection, so ordered.

Will the Clerk please call Calendar number 401.

CLERK:

On page 34, Calendar 401, Substitute for H.B. 6652, AN ACT CONCERNING REVISIONS TO THE CHILD PROTECTION LAWS.

Favorable Report of the Committee on Education.

DEPUTY SPEAKER FRITZ:

Representative Gail Hamm.

REP. HAMM: (34TH)

Thank you, Madam Speaker. I move acceptance of the joint committee's favorable report and passage of the

bill.

DEPUTY SPEAKER FRITZ:

The question is on acceptance and passage. Please proceed, Madam.

REP. HAMM: (34TH)

This bill makes numerous changes in our child protection laws here in Connecticut. I will just briefly tell you what they are and then we'll have an amendment to go further.

The underlying bill will allow the Department of Children and Families to provide confidential records to parties in a custody action, should the issue of abuse or neglect be in dispute.

It requires an appeal process if someone has been identified as being responsible for having committed a child abuse.

And it requires an improved burden of proof to clear and convincing evidence, as well as providing for evidentiary hearings at the time that efforts are made to reunify or not.

The Clerk, Madam Speaker, is in possession of an amendment, LCO Number 7812. If it could be called and I be allowed to summarize.

DEPUTY SPEAKER FRITZ:

Will the Clerk please call LCO number 7812,

designated House "A".

CLERK:

LCO 7812, House "A" offered by Representative Lawlor.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

Thank you, Madam Speaker. The amendment makes numerous changes to conform our state law to the federal adoption of Safe Families Act of 1977 - 1997, excuse me, Madam Speaker. And it also adds what had been several child protection bills all under one.

For those of you who are frantically on the other side of the aisle trying to put it altogether, it's H.B. 6891 and H.B. 7017, all having been combined into one bill, H.B. 6652 and I move adoption of the amendment, Madam Speaker.

DEPUTY SPEAKER FRITZ:

The question is on adoption. Please proceed, Madam.

REP. HAMM: (34TH)

The amendment that you have before you eliminated the part of H.B. 6891 which had the fiscal note. So now I'm happy to tell you that this language has concurred and checked by all four of the agencies that effect child protection. It's actually the Attorney General's

bill. DCF has signed off and so has - who am I missing?

I move adoption.

DEPUTY SPEAKER FRITZ:

Will you remark further on the amendment? Will you remark further on the amendment?

Representative Shea.

REP. SHEA: (112TH)

Thank you very much, Madam Speaker. Just a question, through you, to the proponent of the amendment, please.

DEPUTY SPEAKER FRITZ:

Please proceed.

REP. SHEA: (112TH)

My question is concerning the photo listing. It says that the court may order photo listing of a youngster prior to their final approval, the approval of a permanency plan for adoption, but this is prior to that approval.

And my question is, if this listing doesn't take place, when does it? Or does it ever take place? I guess I'm not quite certain how this fits into the photo listing process.

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

As I understand the photo list part of the bill, DCF is required, under federal law, to actually do concurrent permanency planning. So they're actually attempting to find a permanent adoptive home prior to the time the parental rights are actually terminated.

This change will allow them to list the child as permanently proceeding to be adopted, even if it has happened yet in order to find a home to be available by the time the termination occurs.

DEPUTY SPEAKER FRITZ:

Representative Shea.

REP. SHEA: (112TH)

Thank you very much. Through you, Madam Speaker. The wording says the court "may" order that a child be photo listed. If the court determines that it's in the best interest of the child, I wonder if you might tell me what those circumstances would be.

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

Thank you, Madam Speaker. I guess the best way to respond is that the test, the legal test of best interest of the child is a pretty subjective test. And

the judge would weigh all of the factors as to whether or not the likelihood of termination would occur pretty quickly so that the child wouldn't be waiting in foster care for a very long time and what the chances are of the parent rehabilitating, things like that, in order to determine whether it's in the best interest to list that 30 day period prior to the termination.

DEPUTY SPEAKER FRITZ:

Representative Shea.

REP. SHEA: (112TH)

Thank you, Madam Speaker. I guess my concern is the potential proceeding for adoption prior to that being a legal possibility and the potential injury to both parties who might be taking part in this potential adoption.

And I guess, through you, Madam Speaker, have we addressed that problem?

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

Through you, Madam Speaker. I share your concern, Representative Shea. It is, however, the way that it is currently done in our State. Children are placed in legal risk homes which are pre-adoptive homes prior to terminations. And the photo listing will do and

accomplish the same thing. It's really an effort to find homes so that they can be found about the same time or concurrently, if you would, with the actual termination.

DEPUTY SPEAKER FRITZ:

Representative Shea.

REP. SHEA: (112TH)

Thank you, Madam Speaker. And through you, just one more question.

Are all youngsters, who are available for adoption, photo listed under normal procedure?

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

My understanding is the answer is no. That's a judicial determination as to whether or not the child should be photo listed, bearing in mind whether or not the home is going to be available around the period of time that the termination will happen.

DEPUTY SPEAKER FRITZ:

Representative Shea.

REP. SHEA: (112TH)

Thank you. And through you, just one more question.

I guess I'm just concerned how many youngsters are actually photo listed and how, again, how this

particular situation fits in.

Through you, Madam Speaker. Do we have any percentage or number of potential listings through this photo listing of the total number of available youngsters for adoption?

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

I've just been informed that at any current time, there's around 200 children available for adoption and about 50 of those are photo listed, up to 100 at some points, but the average is 50.

DEPUTY SPEAKER FRITZ:

Representative Shea.

REP. SHEA: (112TH)

Thank you, Madam Speaker. And one more question. Is that photo listing determined by the court or perhaps you could tell me who does determine whether a youngster is photo listed under normal circumstances?

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

My understanding is that the current law presently

is that the Department makes that decision as to photo listing. The change in front of you will now allow judges, in addition to that, to act on their own to list children.

DEPUTY SPEAKER FRITZ:

Representative Shea.

REP. SHEA: (112TH)

Thank you very much. I thank the Representative for answers. That's what I was looking for, as to who made that determination in this case.

Thank you.

DEPUTY SPEAKER FRITZ:

Will you remark further on the amendment? Representative Powers.

REP. POWERS: (151ST)

Thank you, Madam Speaker. A few quick questions, through you, to the proponent of the amendment, please or the -- yes, the amendment.

DEPUTY SPEAKER FRITZ:

Representative Hamm, prepare yourself.

Representative Powers.

REP. POWERS: (151ST)

Thank you, Madam Speaker. On line 133, we're requiring the Commissioner of DCF to document a compelling reason.

Through you, Madam Speaker. Is that a term of art legally or if it's not, could you give us an example of what a "compelling reason" would be in this particular circumstance?

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

I'll do my best. A "compelling reason" is not a term of art. It's not a burden of proof. It's a judicial determination. It's evidentiary based. So there would be a hearing and witnesses and based upon that, the judge would make a decision about whether or not there's a reason that the Department wouldn't have to have a permanency plan.

But they would have to have more than one reason. They would have to have a compelling kind of reason in order to exempt them from the federal law for permanency plans.

DEPUTY SPEAKER FRITZ:

Representative Powers.

REP. POWERS: (151ST)

Thank you, Madam Speaker. Through you. Would this compelling reason include something like the wishes of the child to be with a particular individual or family?

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

I think, from my experience, certainly the wishes of the child are important. I don't know as they would rise to the level of compelling if there was no other evidence. It would also depend on the age of the child and those kinds of things, but certainly the wishes of the child would be very important.

DEPUTY SPEAKER FRITZ:

Representative Powers.

REP. POWERS: (151ST)

Thank you, Madam Speaker. Turning to Section 12, subsection (b), down on line 241, we have a relative who accepts placement of a child subject to licensure.

Through you, Madam Speaker. How involved is that procedure? Through you.

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

It is fairly - it's more difficult now than in the past. So it's becoming carefully scrutinized in order to have it occur. I will tell you, however, since you've addressed Section 12, that this part of the

amendment is a technical improvement. Apparently, from what I'm understanding from LCO, when we passed the adoption bill earlier - it's actually the Senate bill, - earlier in the session, this language was in there, but it was bracketed out. So that we passed both the House and the Senate as having this section deleted. So we had to add it into this section in order to make it effective.

So, your question would have been just as good on the Senate bill.

DEPUTY SPEAKER FRITZ:

Representative Powers.

REP. POWERS: (151ST)

Thank you, Madam Speaker. I'm glad somebody caught that. That would have not been very good.

Through you, Madam Speaker. So in terms of being subject to licensure, we're looking at something like criminal background check, home visits, references from neighbors. Through you, Madam Speaker, is that what we're looking at?

DEPUTY SPEAKER FRITZ:

Representative Hamm.

REP. HAMM: (34TH)

Yes. I think probably -- I'm sorry, Madam Speaker. Through you. All of the things you've mentioned and

probably also a DCF records check. They always check their own records, as well, to see if the prospective relative has any DCF history, as well.

But it would be finger printing and background check and recommendations.

DEPUTY SPEAKER FRITZ:

Representative Powers.

REP. POWERS: (151ST)

Thank you, Madam Speaker. And I thank the lady for her answers and the clarification.

Thank you.

DEPUTY SPEAKER FRITZ:

Will you remark further on the amendment? Will you remark further on the amendment?

If not, let me try your minds.

All those in favor of the amendment, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRITZ:

Those opposed. The ayes have it. The amendment passes.

Will you remark further on the bill, as amended? Will you remark further on the bill, as amended?

If not, staff and guests, come to the Well of the

House and the machine will be opened.

CLERK:

The House of Representative is voting by roll call. Members, to the Chamber. The House is having a roll call vote. Members to the Chamber, please.

DEPUTY SPEAKER FRITZ:

Have all the members voted? Have all the members voted? Please check the board to make sure that your vote is accurately cast.

If so, the machine will be locked and the Clerk will take the tally.

The Clerk will announce the tally.

CLERK:

H.B. 6652, as amended by House Amendment Schedule "A"

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	0
Those absent and not Voting	2

DEPUTY SPEAKER FRITZ:

The bill, as amended is passed.

DEPUTY SPEAKER HYSLOP:

Clerk, please call Calendar 582.

CLERK:

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Now you have a corrections facility and you have individuals in there, some of which may have committed felonies and some of them didn't. Now there's a mass escape and there's a guard on the tower and he's trying to stop people from escaping. Now, he has to call back and say, "Can you give me the record on - I see prisoner such and such, can you tell me what he's wanted for" and I'll decide whether I can use deadly force or not.

I mean, it just seems to me that the reason for this is what's the point of having guard towers? What's the point of having armed guards trying to prevent escapes from correction facilities if you're now going to tell them, before they can use that deadly force, they have to first determine what the individual's in that facility for. That, to me, is totally impractical.

Now, I understand your concerns on some other areas in terms of escape, but certainly from a corrections facility it seems perfectly reasonable to give people the right to use deadly force to prevent those escapes. And I think most people in our society assume that they already have the right to do that.

DEBORAH DEL PRETE SULLIVAN: And I think the reason we haven't come out and said that we oppose this or support it, - I mean the fact is we're just trying to raise those issues to the committee.

REP. FARR: Okay.

SEN. COLEMAN: Further questions? If not, thank you, Deborah.

DEBORAH DEL PRETE SULLIVAN: Thank you.

SEN. COLEMAN: Next is Thomas Gilman.

DEPUTY CMRS. THOMAS GILMAN: Good afternoon, Senator Coleman, members of the Judiciary Committee. My name is Thomas Gilman. I'm Deputy Commissioner of the Department of Children and Families. HB 6591 HB 6652

Joining me this afternoon is Susan Hamilton, Director of DCF's legal division and we're here today to comment on two bills.

The first is H.B. 6591, AN ACT CONCERNING SUBSIDIZED GUARDIANSHIP. This bill, as well as five other bills heard yesterday in the Select Committee on Children, would expand the Subsidized Guardianship Program administered by the Department of Children and Families.

The bill would extend the Subsidized Guardianship benefit to a relative caregiver who has been appointed guardian by the Court because the parent of the child is unable to care for the child and the child, presumably, is at risk of foster care placement because the relative caregiver's income is less than 300% of the poverty level.

The intent of the existing Subsidized Guardianship Program, administered by DCF, is to avoid undue disruption in the life of a child who has already been placed with a relative by the Department by providing permanency for those youngsters, while ensuring initial oversight of the arrangement by DCF. Currently we are adding 30 children a month to our Subsidized Guardianship Program.

As proposed, all of the bills concerning subsidized guardianship appear to bring children under the jurisdiction of the Department solely to confer a financial benefit. While we recognize the dedication and caring that many relatives provide to nieces, nephews, and grandchildren, it is not our practice to remove children from their birth home solely for reasons of poverty or dependency.

So we do not see that this is a foster care diversion program. We do not believe the Department of Children and Families is the appropriate agency to administer this type of program and accordingly, DCF opposes raised H.B. 6591.

The Department supports raised H.B. 6652, AN ACT CONCERNING REVISIONS TO THE CHILD PROTECTION LAWS which clarifies certain requirements regarding the disclosure of Department and Court records in cases

pending before the Superior Court for Juvenile Matters.

It makes technical amendments to certain provisions regarding termination of parental rights and reasonable efforts to reunify parents with children.

The bill contains a number of important provisions to improve a variety of legal issues concerning child protective cases in the courts and administrative processes.

We have enclosed in our written testimony, a section-by-section summary of the technical provisions of this bill which has been proposed by the Attorney General's Office in consultation with the Department of Children and Families.

We thank you for the opportunity to testify today and we'd be happy to answer any further questions that you might have.

SEN. COLEMAN: Representative Hamm.

REP. HAMM: Thank you, Mr. Chairman. Good afternoon.

DEPUTY CMRS. THOMAS GILMAN: Good afternoon.

REP. HAMM: Am I correctly reading that Section 2 of H.B. 6652 would authorize the disclosure of all confidential court records and allow them to be sent to a court ordered evaluator without releases simply because the parent is part of the criminal -- I mean the Child Protection Section?

SUSAN HAMILTON: Let me try to respond to your question, Representative Hamm.

I think that the purpose of that was to authorize the disclosure of confidential court records to court evaluators or anybody who was diagnosing or treating the child or the parent. And it has to be related to the responsibility that the evaluator has or that the service provider has with respect to treating or diagnosing the client.

So if the court record, the confidential court record is relevant to that purpose of conducting the evaluation, then the answer would be yes to that question.

REP. HAMM: And am I also correct that we have that now, only it has to be done by motion and that you're proposing that it be done by statute --

SUSAN HAMILTON: Yes.

REP. HAMM: -- so that it will be presumed that all of those records can go?

SUSAN HAMILTON: That's correct.

REP. HAMM: Without a hearing or without the judge deciding?

SUSAN HAMILTON: Yes.

REP. HAMM: I guess I don't understand how it would work.

SUSAN HAMILTON: I think it would statutorily authorize the release so long as the purpose of disclosing the information, the documents being released, related to the individual's responsibilities.

REP. HAMM: Don't you think that's a legal determination?

SUSAN HAMILTON: Uhm --

REP. HAMM: I mean, I guess that's the question is who would be releasing those documents if you're now taking the judge of the process to be able to make the decision as to whether or not they are related?

SUSAN HAMILTON: It's unclear from the language of this proposal as to who will be involved in determining that from the court's perspective. So I think that's a good question.

REP. HAMM: But that's important.

My other question relates to Section 8 and your

proposal to have the attorney appointed in both Probate and in Juvenile.

How would that work in light of our current panel in contract circumstance?

SUSAN HAMILTON: With respect to the Probate Court panel process?

REP. HAMM: Right. I mean, they're different.

SUSAN HAMILTON: Right.

REP. HAMM: So how would you be able --

SUSAN HAMILTON: I think that we would have to work with the Probate Court to ensure that there was uniformity with respect to the people on both the Juvenile Court panel or contract system as well as the Probate Court panel.

REP. HAMM: So it would only apply to attorneys who want to work in both places?

SUSAN HAMILTON: I think it would have to work -- right. We would want it to apply to the contract attorney who is assigned on the Juvenile Court. I don't know, necessarily that this would require that that person also be part of the Probate Court panel, but I think we would need to work with the Probate Court to work that out.

REP. HAMM: Share with me, specifically, what gave rise to this conflict. Are there cases where either in Juvenile or in Probate, the case is in both places and there are different attorneys and the problem is with that?

SUSAN HAMILTON: Well, I believe that one of the issues is just the importance of trying to maintain the same representative of the child in both forums. There are cases where there are two separate attorneys appointed and this, I think, would streamline that process and permit the attorney representing the child to have knowledge as to what's happening with that particular child in both court forums.

So it's really to address that issue.

REP. HAMM: Okay.

SEN. COLEMAN: Any further questions? If not, thank you.

DEPUTY CMRS. THOMAS GILMAN: Thank you.

SEN. COLEMAN: It seems that we've come to the end of our first hour. So let me begin to call from the public list. The first person on that list is Marshall Collins.

MARSHALL COLLINS: Good afternoon, Senator Coleman and committee members.

My name is Marshall Collins and I'm the counsel for Government Relations for the Connecticut Association of Not-for-profit Providers for the Aging.

With me today is Barbara Andrews who is the Acting President of that Association.

CANPFA represents the full continuum of non-profit providers of elder care (inaudible) day care centers, home care, hospice, skilled nursing facilities, elderly housing, assisted living, they're all rolled into that.

We're here today to testify on S.B. 1106. I've already pre-filed testimony and I won't read that. I'll respond to some of the comments that we heard today.

CANPFA clearly is troubled by this proposed statute and the existing "cruelty to persons" legislation. That 100 year old statute, we feel, doesn't work and the proposal that you have before you today makes it worse.

We certainly agree with the speakers, virtually all the speakers, Mr. Bailey, and Deborah Del Prete that this needs work. We've offered, as far back as October, to work on drafting a standard with the

TESTIMONY OF

DEPUTY COMMISSIONER THOMAS GILMAN

DEPARTMENT OF CHILDREN AND FAMILIES

BEFORE THE

JUDICIARY COMMITTEE

Wednesday, February 14, 2001

TESTIMONY OF
DEPUTY COMMISSIONER THOMAS GILMAN
DEPARTMENT OF CHILDREN AND FAMILIES
BEFORE THE
JUDICIARY COMMITTEE

Wednesday, February 14, 2001

H.B. No. 6591 (RAISED) AN ACT CONCERNING SUBSIDIZED GUARDIANSHIP.

H.B. No. 6652 (RAISED) AN ACT CONCERNING REVISIONS TO THE CHILD PROTECTION LAWS.

Good afternoon Senator Coleman, Representative Lawlor, and members of the Judiciary Committee. My name is Thomas Gilman, and I am a Deputy Commissioner in the Department of Children and Families. I am here to comment on two bills on your agenda today.

The Department of Children and Families opposes **House Bill 6591** - An Act Concerning Subsidized Guardianship. This bill would expand the Subsidized Guardianship Program administered by the Department to a relative caregiver who has been appointed guardian by the court because the parent of the child has died, is terminally ill, is mentally incapacitated, physically debilitated or otherwise unable to care for the child and the child, presumably, is at risk of foster placement because the relative caregiver's income is less than 300% of the federal poverty level.

This bill, as well as five other bills heard yesterday in the Select Committee on Children (**Proposed Senate Bill 159** - An Act Expanding the Subsidized Guardianship Program to Guardians of Children Who Are Orphaned or Whose Parent is Terminally Ill; **Proposed S.B. No. 442** - An Act Providing Financial Support For Certain Relative Caregivers; **Proposed H.B. No. 5004** - An Act Providing Financial Support for Grandparents Caring for Grandchildren; **Proposed H.B. No. 5071** - An Act Extending Subsidized Guardianship Benefits to Certain Relative Caregivers and Establishing a "Grandparents-as-Parents" Program; and, **Proposed H.B. No. 5236** - An Act Ensuring Financial Support for Grandparents Who Raise Grandchildren) all propose modifications to the subsidized guardianship program.

The intent of the existing subsidized guardianship program is to avoid undue disruption in the life of the child who has been placed with a

The Department supports **House Bill No.** 6652 - An Act Concerning Revisions to the Child Protection Laws, which **clarifies certain requirements regarding the disclosure of Department and court records** in cases pending before the Superior Court for Juvenile Matters and **makes technical amendments to certain provisions regarding termination of parental rights and reasonable efforts to reunify parents with children.**

More specifically, the Department supports the changes in **Section 1** of the bill, which would **permit the Commissioner to provide copies of child protection records to parties in abuse, neglect and termination of parental rights proceedings** in the Superior Court when the records pertain to the child who is the subject of the proceedings or his/her parent. Currently, a parent is entitled to the information in Department records concerning his or her child but does not have access to information concerning the other parent of the child. Therefore, Department records must be redacted prior to disclosure to the parent, which is time-consuming and unnecessary given that the information is generally disclosed during the court proceedings. This revision will help facilitate prompt disclosure of the information necessary for parties to represent their interests in these proceedings, which, in turn, will promote expeditious disposition of child protection cases.

Similarly, **Section 2** permits the **disclosure of confidential court records to individuals who are diagnosing or treating a child or the parent** of a child who is the subject of an abuse or neglect record. This will allow the court to share necessary information with service providers to promote **accurate diagnoses and comprehensive, effective treatment** for the child and/or the child's parent.

Section 3 of the bill **provides specific statutory authority for the Commissioner to adopt regulations to establish a substantiation hearing process.** The Department is already conducting these substantiation hearings in accordance with agency policy, but formal regulations are needed. This hearing process, which is required by the federal Child Abuse Prevention and Treatment Act, provides a person who is substantiated by the Department as a perpetrator of neglect or abuse with an opportunity to challenge the validity of the substantiation.

Section 4 of the bill **specifies the requisite burden of proof (clear and convincing evidence) that the Department must meet when it is seeking a finding that reasonable efforts to reunify a child and parent are not appropriate** due to certain "aggravated circumstances" and makes **technical amendments to the list of "aggravated circumstances" to promote consistency between these circumstances and the grounds for termination of parental rights.**

The grounds for termination of parental rights are similarly amended in **Sections 5 and 6** of the bill. In addition to the technical amendments to the "aggravated circumstances," Section 4 also **authorizes the Department to seek a finding that reasonable efforts to reunify a child and parent are not appropriate when a parent has abandoned an infant at a hospital under PA 00-207 (the "Safe Haven Act").**

Similar to Section 4 of the bill, **Section 7** again clarifies the requisite burden of proof (clear and convincing evidence) that the Department must meet before the court can find that further efforts to reunify the parent and child are not appropriate. This **promotes consistency among the statutory sections that address "reasonable efforts to reunify" findings.**

Section 8 of the bill specifies that the **attorney appointed to represent a child in the Superior Court for Juvenile Matters also be appointed by the Probate Court to represent the child in any application for commitment of the child to a hospital for mental illness** unless there is good cause shown why a different attorney should be appointed. This **promotes continuity of representation for the child** and will facilitate a more integrated approach to representing the best interests of the child when there are proceedings pending in more than one court.

Lastly, **Section 9** of the bill **authorizes the Department to share records concerning an abuse substantiation against a licensed or certified staff member of a public or private institution or facility with the state agency that issued the license or certification**. This will ensure the proper disclosure of information to other state agencies so that **appropriate action may be taken in regards to the person's license or certification** as deemed necessary.

Thank you for the opportunity to testify today. I would be happy to answer any further questions you might have about these bills.

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TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE JUDICIARY COMMITTEE
FEBRUARY 14, 2001

I appreciate the opportunity to support House Bill 6652, An Act Concerning Revisions to the Child Protection Laws.

Each year, thousands of children enter the child protection system where the goal is to achieve a permanent home. In some case, the state is successful in helping parents safely and responsibly take care of their child; in other cases, the state will need to find another permanent home for the child, which may include an adoptive home. Each case presents its own unique set of issues and each child in foster care depends on the state to assure a permanent home is found quickly.

Over the past few years, Connecticut has made significant changes to the child protection process - mostly in response to federal requirements under the American Safe Families Act. As these changes have been implemented, it is clear that several minor changes in our statutes are necessary to clarify some inconsistencies in the law, and to make current procedures less complicated and time-consuming and more efficient and fair to all involved. House Bill 6652 addresses these issues.

First, the proposal would allow a party to a child custody proceeding in juvenile court to obtain child abuse records concerning the child who is the subject of the proceeding or the parent of the child. Current law limits DCF's ability to share information regarding one parent with another parent, even though this information would be relevant in the pending child protection case and indeed is often the subject of testimony presented at trial. Our proposal would allow sharing of these records in advance in pending cases and this would help expedite proceedings.

Second, the proposal would authorize a mental health professional who is treating a child or parent of the child to obtain juvenile court records concerning the child for purposes of diagnosis and treatment. In most instances, the juvenile court records will contain information about the child and the parent that could greatly assist in diagnosing and treating that individual.

Third, the proposal would allow the Department of Children and Families to promulgate regulations to implement the registry of child abuse/neglect report, especially with regard to the need for a hearing process should a person who is to be placed on the registry object to the placement. This hearing is constitutionally required, yet the legislative Regulations Review

Committee rejected the regulations establishing the hearing process because of lack of adequate statutory authority.

Fourth, the statutes currently allow for DCF to seek a court finding excusing DCF from providing reunification services to a parent, under certain limited circumstances. This proposal would require the court to hold a hearing on the petition within thirty days and clarifies that the court's finding must be by clear and convincing evidence. The proposal also clears up the current problem that some of the statutory grounds for this finding do not match up with grounds to terminate parental rights. Finally, the proposal would allow the court to excuse DCF from providing reunification services when the parent abandons the child under the Safe Havens law.

Fifth, under the current statutory scheme, the Probate Court must appoint an attorney to represent a mentally ill child who is being committed to an institution. The proposal requires that the Probate Judge is provided information as to whether the child has had an attorney appointed by the Superior Court in a child protection proceeding and creates a presumption that the same person will be appointed by the Probate Judge unless there is good cause for appointing another attorney.

Finally, current law provides that DCF notify the Commissioner of Education when there is reasonable cause to believe that a teacher has abused a child. However, the law does not provide for a similar requirement when the person is licensed in any other caregiver capacity by the state. This proposal would require a similar notification process by DCF to the licensing state agency.

I urge your favorable consideration of House Bill 6652.

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February 14, 2001

To: Senator Coleman, Representative Lawlor and Members of the Judiciary Committee
From: Beverley Brakeman Colbath – CT Sexual Assault Crisis Services, Inc.
Re: R.B. 6652 An Act Concerning Revisions to Child Protection Laws

My name is Beverley Brakeman Colbath and I represent the Connecticut Sexual Assault Crisis Services, Inc., a statewide membership organization of 11 community based rape crisis centers.

Section 1 (f) (9): We do not support a party in a custody proceeding getting copies of records without the consent of a person. The other individuals and agencies who may be provided with copies of records are officials with public policy responsibilities in such cases, whereas, a party in a custody proceeding does not have the same level of responsibility and therefore should not have access to such records. For example, if a non-offending mother of a child sexual abuse victim is a survivor of sexual abuse and this information is part of her record, it appears from this change that her records could then be given to the offending parent of the child, thereby disclosing her abuse history and potentially making her vulnerable and jeopardizing her safety.

Section 4 (a) (4): In reviewing this statute, we are concerned with subsection (4), which says that a court may determine that efforts to reunify a parent with a child are not appropriate if such parent was convicted of sexual assault, except if they were convicted of sexual assault 2 or 4 and a child was conceived. It is our understanding that this could be potentially harmful to some women who have been sexually assaulted and their offender was charged with sexual assault 2 in particular. For example, under sexual assault 2, it is illegal for a psychotherapist to have sex with a patient. We think it is possible that a psychotherapist has sex with a patient and a child is conceived, the psychotherapist is subsequently charged with sexual assault in the second degree and after the child is born the psychotherapist wants to be reunified with the child. Our read of this statute is that when a child is conceived from a sexual assault 2 or 4, the court does not consider this as "not appropriate". We recommend that this exception for a conviction of sexual assault 2 or 4 be removed.

Section6: Again, for the above stated reasons, we recommend that in subsection (2) (G), the exception for sexual assault 2 and 4 be removed. Our understanding of this is that a parents rights can be terminated if they are convicted only of sexual assault 1 or 3 and a child is conceived. In fact, a child can be conceived when sexual assault 2 is the charge and we think this should be a consideration in parental termination proceedings.