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POLICY NO. JV-2009-22

AMENDS OR SUPERSEDES

SUBJECT – PA 09-185; RELATIVES; OTC; MOTION TO INTERVENE (MTI)

Date: August 14, 2009

- sent via email -

To: Deputy Chief Clerks for Juvenile Matters

From: Cynthia L. Cunningham, Esq. **CLC**
Chief Clerk for Juvenile Matters

Public Act 09-185
AAC Proceedings and Operations of the Department of
Children and Families (DCF) and the Disclosure of
Adoption Information
Section 3 - Effective From Passage (6/26/09)

INTRODUCTION

Enclosed please find a copy of the above referenced public act, relevant sections are highlighted below. Please be advised that section 3, effective from passage, impacts child protection cases in the juvenile matters courts.

LEGISLATIVE SUMMARY

Sections 1 & 2 (amend CGS §§17a-28(b) & 4-61dd(b)(1))-Effective 10/01/09

Any DCF employee who becomes aware that another employee has engaged in the unauthorized disclosure of records must report the disclosure to the Commissioner. The person reporting the violation of the confidentiality laws cannot be retaliated against for making this report by becoming the subject of personnel actions.

Section 3 (amends CGS§46b-129)-Effective From Passage

- Throughout this section, a relative is described as: “a person related to the child or youth by blood or marriage”.
- Subsection 3(b) - adopts the existing practice whereby the court may vest temporary custody, including by ex-parte order, in a relative.

- The current provision (CGS §46b-129(c)) allowing a grandparent to intervene in any proceeding, absent good cause shown, is repealed.
- Subsection 3(b)(2)(B)(vi) - requires the order of temporary custody (OTC) notice form (JD-JM-58A), served on the parents, to advise the parents that they may request DCF to investigate placing the child/youth with a relative who might serve as a licensed foster parent or temporary custodian.
- Where practicable, DCF shall investigate such relative or relatives prior to the OTC preliminary hearing and provide a report to the court as to such relative's suitability.
- Subsection 3(c) - requires that the court, at the OTC preliminary hearing, identify any relatives residing in Connecticut who might serve as licensed foster parents or temporary custodians, and to order DCF to investigate and determine the appropriateness of the relative placement not later than thirty (30) days after the preliminary hearing.
- Any identified out of state relatives shall be investigated in accordance with the Interstate Compact on the Placement of Children (CGS §17a-175) (ICPC). DCF must investigate and determine their appropriateness within a reasonable time.
- Subsection 3(d)(1)(A) - any relative may file a motion to intervene (MTI) not later than ninety (90) days after the preliminary hearing for the limited purpose of seeking temporary custody. The MTI shall be granted if filed timely, except for good cause shown, unless DCF has placed the child with another relative.
- Subsection 3(d)(1)(B) - any relative may file an MTI to seek temporary custody of the child more than ninety (90) days after the preliminary hearing. The granting of such motion shall be solely in the court's discretion unless the child's most recent placement has disrupted, then the motion shall be granted except for good cause shown.
- Subsection 3(d)(1)(C) - an intervening relative is not entitled to the assignment of counsel by the Chief Child Protection Attorney (CCPA) or to state paid representation, unless the court determines that the interests of justice require an appointment (CGS §46b-136).
- Subsection (3)(d)(2) - if intervenor status is granted to a relative, the court shall order DCF to assess the relative and file a written report with the court no later than forty (40) days after such order, unless such relative resides out of state, in which case the provisions of the ICPC apply (CGS §17a-175).
- The court may also request such relative to release medical records, including any psychiatric or psychological records, and may order the relative to submit to a physical/mental examination.

- Upon receipt of the assessment, the court shall schedule a hearing on the relative's motion for temporary custody not later than fifteen (15) days after receipt of the assessment.
- Subsection 3(d)(3) - subjects the relative who obtains temporary custody to orders of the court, including cooperating with DCF in the implementation of the treatment and permanency plans and services for the child. The court may, on motion, notice and hearing, terminate the relative's intervenor status if such relative's participation in the case is no longer warranted or necessary.
- Subsection 3(d)(4) - any relative may file an MTI for purposes of seeking permanent guardianship more than ninety (90) days after the preliminary hearing. The granting of such motion shall be solely in the court's discretion unless the child's most recent placement has disrupted, then the motion shall be granted except for good cause shown.
- Subsection 3(j) – there shall be a rebuttable presumption that any relative, who is the temporary custodian or legal guardian at the time of a revocation of commitment or termination of parental rights, is a suitable and worthy person to assume permanent guardianship or to adopt the child.
- Subsection 3(k)(1) - a relative who has intervened may file a motion to oppose a DCF permanency plan not later than thirty (30) days after the filing of DCF's motion to review permanency plan.
- Subsection 3(k)(2) – adopts permanency plan goal language reflecting the existing practice whereby a termination of parental rights petition is filed prior to an adoption.

Sections 4 & 5 (amends CGS§§45a-607 & 617)-Effective From Passage & 10/01/09

These sections include amendments to the Probate Court statutes with respect to the involvement of relatives in Probate cases.

Section 6 (amends CGS§17a-11)-Effective 10/01/09

A parent's application for, or receipt of, DCF voluntary services shall not be used against the parent in any DCF investigation, placement decision, foster care licensing determination or *court proceeding* related to the placement of a minor child with a relative.

Section 7 (amends CGS§17a-126(i))-Effective 07/01/09

DCF may transfer a guardianship subsidy from one relative to another, in the event of a qualified relative caregiver's death, severe disability or serious illness, if the relative is appointed as legal guardian by a court of competent jurisdiction.

Section 8 (amends CGS§17a-101(b))-Effective 07/01/09

Adds licensed foster parents to the list of mandated reporters.

Section 9 (NEW)-Effective 07/01/09

Requires DCF, immediately upon the removal of a child from the custody of the parent or guardian, to exercise due diligence to identify all adult grandparents and other adult relatives of the child, subject to exceptions due to family or domestic violence. Not later than thirty (30) days after the removal, DCF shall provide those identified with notice of the removal and options to participate in the care and placement of the child as foster parents or subsidized guardians.

Section 10 (amends CGS§45a-751b)-Effective 10/01/09

If parental rights have been terminated, information tending to identify a biological parent may be disclosed to an authorized applicant with the written consent of the biological parent, and if certain conditions are met.

PROCEDURAL CHANGES

Please refer to the [Motions](#), [Motion to Intervene \(MTI\)](#) and [Motion in Opposition to Permanency Plan \(MOPP\)](#) sections of the [Juvenile Matters Clerk's Manual Part I: Child Protection](#).

OTC Preliminary Hearing

- Upon receipt of a DCF relative suitability report prior to, or at, the OTC preliminary hearing, date stamp in original and all copies and distribute according to existing local court practice for status reports and studies.
- Record all findings and orders pertaining to relatives made at the OTC preliminary hearing, and all due dates and/or next case event dates, as directed by the judicial authority, on the memorandum of hearing/court action sheet.

Motion to Intervene (MTI)

- Encourage filers to use the Motion for Intervention in Juvenile Matters form, [JD-JM-141](#), but accept and process motions that are in compliance with [P.B. § 34a-1](#) requirements.
- Date stamp in all originals and copies of the motion upon receipt. Return a stamped copy to the filer upon request.
- Assign a hearing date within fifteen (15) days after filing of the motion.

- Enter the MTI into the CP System using [CP05](#) “Add” selecting “MTI – Motion to Intervene” as the motion type code.
- Request notices of hearing from [CP50](#).
- Provide notices to all parties of record prior to the scheduled hearing.
- Upon final determination of the motion in court on the record, record the disposition and the due date or next case event date as ordered by the judicial authority on the memorandum of hearing/court action sheet and on the motion in the order section.
- If the MTI is granted, record all orders including those pertaining to DCF relative assessment reports and related due dates, as ordered by the judicial authority, on the memorandum of hearing/court action sheet.
- Enter the disposition in [CP05](#) “Modify” selecting one of the following available disposition codes: GR – Granted; DN – Denied; WD – Withdrawn; OV – Overruled; ND – Noted; TP - Took Papers; MO - Marked off; MT – Moot.
- Enter the due date or next case event date in [CP07](#).
- Generate updated Face Sheet using CP Web Forms (<http://childprotection/>).
- Send notice of the ruling on the motion to those parties of record who are not present in court.
- Upon receipt of a DCF relative assessment report, date stamp in original and all copies, distribute according to existing local court practice, and schedule for hearing not later than fifteen (15) days after receipt of the report. Send notices of hearing to all parties of record.
- Upon receipt of a motion to terminate relative’s intervenor status, process pursuant to the [Motions](#) section of the child protection manual (see link above). Enter into the CP System using [CP05](#) “Add” selecting “MTERM” as the motion type code.

Motion in Opposition to Permanency Plan (MOPP)

- Upon receipt of a motion in opposition to a DCF permanency plan from an intervening relative, process pursuant to the [Motion in Opposition to Permanency Plan \(MOPP\)](#) section of the child protection manual (see link above).

Forms

The following forms are currently available on our intranet website at (<http://zeus/courtforms>), on the Judicial Branch internet website (<http://www.jud2.ct.gov/webforms/default.htm#JUVENILE>), and in hard copy in the Judicial Branch Warehouse:

- JD-JM-58A Notice of temporary Custody/Order to Appear
<http://spforms/CourtForms/Shared%20Documents/PDF/jm058a.pdf>
- JD-JM-58 Motion/Order of Temporary Custody/Order to Appear
<http://spforms/CourtForms/Shared%20Documents/PDF/jm058.pdf>

These forms have been provided to DCF, AAG and CCPA Central Offices, but you should also provide them to your DCF Area Office. Please discard all previous versions of these forms and review all OTC filings to ensure that the proper forms are being used.

The following forms are being revised and will soon be available:

- JD-JM-129 Permanency Plan Order and Review
<http://spforms/CourtForms/Shared%20Documents/PDF/jm129.pdf>
- JD-JM-141 Motion for Intervention in Juvenile Matters
<http://spforms/CourtForms/Shared%20Documents/PDF/jm141.pdf>

You will be notified when they have been finalized.

SUMMARY

These legislative changes impact child protection cases. Please share this important information with the Judges and all staff members, especially CSOs. If you have any questions, please call me at (860) 263-2734 X3059. Thank you.

Enclosures

c: Hon. Christine E. Keller, Chief Administrative Judge-Juvenile Matters
Joseph D. D'Alesio, Executive Director of Superior Court Operations
Nancy L. Kierstead, Director of Court Operations
Faith Arkin, Director of Judge Support Services
David M. Iaccarino, Deputy Director
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