

Sec. 17a-112. (Formerly Sec. 17-43a). Termination of parental rights of child committed to commissioner. Cooperative postadoption agreements. Placement of child from another state. Interstate Compact on the Placement of Children. (a) In respect to any child in the custody of the Commissioner of Children and Families in accordance with section 46b-129, either the commissioner, or the attorney who represented such child in a pending or prior proceeding, or an attorney appointed by the Superior Court on its own motion, or an attorney retained by such child after attaining the age of fourteen, may petition the court for the termination of parental rights with reference to such child. The petition shall be in the form and contain the information set forth in subsection (b) of section 45a-715, and be subject to the provisions of subsection (c) of said section. If a petition indicates that either or both parents consent to the termination of their parental rights, or if at any time following the filing of a petition and before the entry of a decree, a parent consents to the termination of the parent's parental rights, each consenting parent shall acknowledge such consent on a form promulgated by the Office of the Chief Court Administrator evidencing that the parent has voluntarily and knowingly consented to the termination of such parental rights. No consent to termination by a mother shall be executed within forty-eight hours immediately after the birth of such mother's child. A parent who is a minor shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority. A guardian ad litem shall be appointed by the court to assure that such minor parent is giving an informed and voluntary consent.

(b) Either or both birth parents and an intended adoptive parent may enter into a cooperative postadoption agreement regarding communication or contact between either or both birth parents and the adopted child. Such an agreement may be entered into if: (1) The child is in the custody of the Department of Children and Families; (2) an order terminating parental rights has not yet been entered; and (3) either or both birth parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights. The postadoption agreement shall be applicable only to a birth parent who is a party to the agreement. Such agreement shall be in addition to those under common law. Counsel for the child and any guardian ad litem for the child may be heard on the proposed cooperative postadoption agreement. There shall be no presumption of communication or

contact between the birth parents and an intended adoptive parent in the absence of a cooperative postadoption agreement.

(c) If the Superior Court determines that the child's best interests will be served by postadoption communication or contact with either or both birth parents, the court shall so order, stating the nature and frequency of the communication or contact. A court may grant postadoption communication or contact privileges if: (1) Each intended adoptive parent consents to the granting of communication or contact privileges; (2) the intended adoptive parent and either or both birth parents execute a cooperative agreement and file the agreement with the court; (3) consent to postadoption communication or contact is obtained from the child, if the child is at least twelve years of age; and (4) the cooperative postadoption agreement is approved by the court.

(d) A cooperative postadoption agreement shall contain the following: (1) An acknowledgment by either or both birth parents that the termination of parental rights and the adoption is irrevocable, even if the adoptive parents do not abide by the cooperative postadoption agreement; and (2) an acknowledgment by the adoptive parents that the agreement grants either or both birth parents the right to seek to enforce the cooperative postadoption agreement.

(e) The terms of a cooperative postadoption agreement may include the following: (1) Provision for communication between the child and either or both birth parents; (2) provision for future contact between either or both birth parents and the child or an adoptive parent; and (3) maintenance of medical history of either or both birth parents who are parties to the agreement.

(f) The order approving a cooperative postadoption agreement shall be made part of the final order terminating parental rights. The finality of the termination of parental rights and of the adoption shall not be affected by implementation of the provisions of the postadoption agreement. Such an agreement shall not affect the ability of the adoptive parents and the child to change their residence within or outside this state.

(g) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption and shall not serve as a basis for orders affecting the custody of the child. The court shall not act on a petition to change or

enforce the agreement unless the petitioner had participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute and allocate any cost for such mediation or dispute resolution proceedings.

(h) An adoptive parent, guardian ad litem for the child or the court, on its own motion, may, at any time, petition for review of any order entered pursuant to subsection (c) of this section, if the petitioner alleges that such action would be in the best interests of the child. The court may modify or terminate such orders as the court deems to be in the best interest of the adopted child.

(i) The Superior Court upon hearing and notice, as provided in sections 45a-716 and 45a-717, may grant a petition for termination of parental rights based on consent filed pursuant to this section if it finds that (1) upon clear and convincing evidence, the termination is in the best interest of the child, and (2) such parent has voluntarily and knowingly consented to termination of the parent's parental rights with respect to such child. If the court denies a petition for termination of parental rights based on consent, it may refer the matter to an agency to assess the needs of the child, the care the child is receiving and the plan of the parent for the child. Consent for the termination of the parental rights of one parent does not diminish the parental rights of the other parent of the child, nor does it relieve the other parent of the duty to support the child.

(j) The Superior Court, upon notice and hearing as provided in sections 45a-716 and 45a-717, may grant a petition filed pursuant to this section if it finds by clear and convincing evidence that (1) the Department of Children and Families has made reasonable efforts to locate the parent and to reunify the child with the parent in accordance with subsection (a) of section 17a-111b, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts, except that such finding is not required if the court has determined at a hearing pursuant to section 17a-111b, or determines at trial on the petition, that such efforts are not required, (2) termination is in the best interest of the child, and (3) (A) the child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child; (B) the child (i) has been found by the Superior Court or the Probate Court to have been neglected, abused or uncared for

in a prior proceeding, or (ii) is found to be neglected, abused or uncared for and has been in the custody of the commissioner for at least fifteen months and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child; (C) the child has been denied, by reason of an act or acts of parental commission or omission including, but not limited to, sexual molestation or exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being, except that nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights; (D) there is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent having met on a day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of such parent-child relationship would be detrimental to the best interest of the child; (E) the parent of a child under the age of seven years who is neglected, abused or uncared for, has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable period of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families; (F) the parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent; or (G) the parent committed an act that constitutes sexual assault as described in section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or compelling a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force as described in section 53a-70b, if such act resulted in the conception of the child.

(k) Except in the case where termination of parental rights is based on consent, in determining whether to terminate

parental rights under this section, the court shall consider and shall make written findings regarding: (1) The timeliness, nature and extent of services offered, provided and made available to the parent and the child by an agency to facilitate the reunion of the child with the parent; (2) whether the Department of Children and Families has made reasonable efforts to reunite the family pursuant to the federal Adoption and Safe Families Act of 1997, as amended from time to time; (3) the terms of any applicable court order entered into and agreed upon by any individual or agency and the parent, and the extent to which all parties have fulfilled their obligations under such order; (4) the feelings and emotional ties of the child with respect to the child's parents, any guardian of such child's person and any person who has exercised physical care, custody or control of the child for at least one year and with whom the child has developed significant emotional ties; (5) the age of the child; (6) the efforts the parent has made to adjust such parent's circumstances, conduct, or conditions to make it in the best interest of the child to return such child home in the foreseeable future, including, but not limited to, (A) the extent to which the parent has maintained contact with the child as part of an effort to reunite the child with the parent, provided the court may give weight to incidental visitations, communications or contributions, and (B) the maintenance of regular contact or communication with the guardian or other custodian of the child; ~~and~~ (7) the extent to which a parent has been prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent of the child, or the unreasonable act of any other person or by the economic circumstances of the parent; and (8) if a parent is incarcerated, (A) whether the parent has maintained a meaningful role in the life of the child considering factors including but not limited to those enumerated in section 17a-111a, and (B) any delays or barriers the parent may have experienced in accessing visitation or other contact with the child.

(1) Any petition brought by the Commissioner of Children and Families to the Superior Court, pursuant to subsection (a) of section 46b-129, may be accompanied by or, upon motion by the petitioner, consolidated with a petition for termination of parental rights filed in accordance with this section with respect to such child. Notice of the hearing on such petitions shall be given in accordance with sections 45a-716 and 45a-717. The Superior Court, after hearing, in accordance with the provisions of subsection (i) or (j) of this section, may, in lieu of granting the petition filed pursuant to section 46b-129,

grant the petition for termination of parental rights as provided in section 45a-717.

(m) Nothing contained in this section and sections 17a-113, 45a-187, 45a-606, 45a-607, 45a-707 to 45a-709, inclusive, 45a-715 to 45a-718, inclusive, 45a-724, 45a-725, 45a-727, 45a-733, 45a-754 and 52-231a shall negate the right of the Commissioner of Children and Families to subsequently petition the Superior Court for revocation of a commitment of a child as to whom parental rights have been terminated in accordance with the provisions of this section. The Superior Court may appoint a statutory parent at any time after it has terminated parental rights if the petitioner so requests.

(n) If the parental rights of only one parent are terminated, the remaining parent shall be the sole parent and, unless otherwise provided by law, guardian of the person.

(o) In the case where termination of parental rights is granted, the guardian of the person or statutory parent shall report to the court not later than thirty days after the date judgment is entered on a case plan, as defined by the federal Adoption and Safe Families Act of 1997, as amended from time to time, for the child which shall include measurable objectives and time schedules. At least every three months thereafter, such guardian or statutory parent shall make a report to the court on the progress made on implementation of the plan. The court may convene a hearing upon the filing of a report and shall convene and conduct a permanency hearing pursuant to subsection (k) of section 46b-129 for the purpose of reviewing the permanency plan for the child not more than twelve months from the date judgment is entered or from the date of the last permanency hearing held pursuant to subsection (k) of section 46b-129, whichever is earlier, and at least once a year thereafter while the child remains in the custody of the Commissioner of Children and Families. For children where the commissioner has determined that adoption is appropriate, the report on the implementation of the plan shall include a description of the reasonable efforts the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts. At such hearing, the court shall determine whether the department has made reasonable efforts to achieve the permanency plan. If the court determines that the department has not made reasonable efforts to place a child in an adoptive placement or that reasonable efforts have not resulted in the placement of the child, the court may order the Department of Children and

Families, within available appropriations, to contract with a child-placing agency to arrange for the adoption of the child. The department, as statutory parent, shall continue to provide care and services for the child while a child-placing agency is arranging for the adoption of the child.

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

(q) The provisions of this section shall be liberally construed in the best interests of any child for whom a petition under this section has been filed.