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**2017 Edition**

# Child Abuse and Neglect in Connecticut

A Guide to Resources in the Law Library

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<http://www.jud.ct.gov/policies.htm>

# Introduction

*A Guide to Resources in the Law Library*

- **Abused:** "A child or youth may be found 'abused' who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment" Conn. Gen. Stats. [§ 46b-120](#)(7) (2017).
- **Neglected:** "A child or youth may be found 'neglected' who, for reasons other than being impoverished, (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth" Conn. Gen. Stats. [§ 46b-120](#)(6) (2017).
- **Uncared for:** "A child or youth may be found 'uncared for' (A) who is homeless, (B) whose home cannot provide the specialized care that the physical, emotional or mental condition of the child or youth requires, or (C) who has been identified as a victim of trafficking, as defined in section 46a-170. For the purposes of this section, the treatment of any child or youth by an accredited Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute neglect or maltreatment" Conn. Gen. Stats. [§ 46b-120](#)(8) (2017)
- **Person responsible for the health, welfare or care of a child or youth:** "means a child's or a youth's parent, guardian or foster parent; an employee of a public or private residential home, agency or institution or other person legally responsible in a residential setting; or any staff person providing out-of-home care, such as the provision of child care services, as described in section 19a-77, in a child care center, group child care home or family child care home" Conn. Gen. Stats. [§ 17a-93](#)(12) (2017).
- **Person entrusted with the care of a child or youth:** "means a person given access to a child or youth by a person responsible for the health, welfare or care of a child or youth for the purpose of providing education, child care, counseling, spiritual guidance, coaching, training, instruction, tutoring or mentoring of such child or youth." Conn. Gen. Stats. [§ 17a-93](#)(15) (2017).
- **Civil proceedings:** "Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature . . . Here, where the court was required to look at the well-being of an infant and there was medical evidence that revealed a fracture in the arm of that ten week old child, the exclusionary rule would not apply." [In re Nicholas R.](#), 92 Conn. App. 316, 321, 884 A.2d 1059 (2005).

# Section 1: Duty to Report Child Abuse

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to the duty to report suspected child abuse to the proper authorities.

## **DEFINITIONS:**

**Mandated Reporters:** "The following persons shall be mandated reporters: (1) Any physician or surgeon licensed under the provisions of chapter 370, (2) any resident physician or intern in any hospital in this state, whether or not so licensed, (3) any registered nurse, (4) any licensed practical nurse, (5) any medical examiner, (6) any dentist, (7) any dental hygienist, (8) any psychologist, (9) any school employee, as defined in section 53a-65, (10) any social worker, (11) any person who holds or is issued a coaching permit by the State Board of Education, is a coach of intramural or interscholastic athletics and is eighteen years of age or older, (12) any individual who is employed as a coach or director of youth athletics and is eighteen years of age or older, (13) any individual who is employed as a coach or director of a private youth sports organization, league or team and is eighteen years of age or older, (14) any paid administrator, faculty, staff, athletic director, athletic coach or athletic trainer employed by a public or private institution of higher education who is eighteen years of age or older, excluding student employees, (15) any police officer, (16) any juvenile or adult probation officer, (17) any juvenile or adult parole officer, (18) any member of the clergy, (19) any pharmacist, (20) any physical therapist, (21) any optometrist, (22) any chiropractor, (23) any podiatrist, (24) any mental health professional, (25) any physician assistant, (26) any person who is a licensed or certified emergency medical services provider, (27) any person who is a licensed or certified alcohol and drug counselor, (28) any person who is a licensed marital and family therapist, (29) any person who is a sexual assault counselor or a domestic violence counselor, as defined in section 52-146k, (30) any person who is a licensed professional counselor, (31) any person who is a licensed foster parent, (32) any person paid to care for a child in any public or private facility, child care center, group child care home or family child care home licensed by the state, (33) any employee of the Department of Children and Families, (34) any employee of the Department of Public Health, (35) any employee of the Office of Early Childhood who is responsible for the licensing of child care centers, group child care homes, family child care homes or youth camps, (36) any paid youth camp director or assistant director, (37) the Child Advocate and any employee of the Office of the Child Advocate, and (38) any family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department." Conn. Gen. Stats. [§ 17a-101](#)(b) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Stat. (2017)

- Chapter 166. Teachers and superintendents
  - Part I. Teachers
    - [§ 10-149a](#). Felony conviction or fine pursuant to mandated reporting provisions. Notification by state's attorney.
- Chapter 319a. Child welfare
  - Part I. Dependent and neglected children
    - [§ 17a-93](#). Definitions
    - [§ 17a-101](#). Protection of children from abuse. Mandated reporters. Educational and training programs. Model mandated reporting policy.
    - [§ 17a-101a](#). Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney.
    - [§ 17a-101b](#). Oral report by mandated reporter, Notification of law enforcement when allegation of sexual abuse or serious physical abuse. Notification of person in charge of institution, facility or school when staff member suspected of abuse or neglect.
    - [§ 17a-101c](#). Written report by mandated reporter.
    - [§ 17a-101d](#). Contents of oral and written reports.
    - [§ 17a-101e](#). Employer prohibited from discriminating or retaliating against employee who makes good faith report or testifies re child abuse or neglect. Immunity from civil or criminal liability. False report of child abuse. Referral to office of the Chief State's Attorney. Penalty.
    - [§ 17a-103](#). Reports by others. False reports. Notification to law enforcement agency.
    - [§ 17a-103a](#). Telephone hotline to receive reports of child abuse or neglect.
- Chapter 813a. Office of victim advocate. Office of the child advocate
  - Part II. Office of the child advocate
    - [§ 46a-13f](#). Child Advocate's duties. Child fatality review panel. Reports to the Governor and the General Assembly. Investigations.
- Chapter 435. Dogs and Other Companion Animals. Kennels and Pet Shops.
  - [§ 22-329b](#). Reporting of neglected or cruelly treated animals.

## **FEDERAL STATUTES:**

Federal Laws

- Adoption Assistance and Child Welfare Act of 1980 (AACWA), P.L. 96-272, 94 Stat. 500 (June 17, 1980)
- Child Abuse Prevention and Treatment Act of 1974 (CAPTA), P.L. 93-247, 88 Stat. 4 (1974)

You can visit your local law library or [search the most recent U.S. Code](#) on the U.S. Code website to confirm that you are accessing the most up-to-date laws.

### **INDIAN LAW:**

- [42 U.S.C. §§ 5101 to 5107](#). Child Abuse Prevention and Treatment and Adoption Reform.
- [42 U.S.C. § 5106a](#). Grants for States for child abuse or neglect prevention and treatment programs.  
See § 5106a(b)(2)(B)(i) for provision related to reporting procedures)
- Indian Child Welfare Act of 1978, P.L. 95-608 § 2, 92 Stat. 3069 (Nov. 8, 1978), [25 U.S.C. § 1901](#).
- Indian Child Protection and Family Violence Prevention Act, P.L. 101-630, Title IV, § 402, 104 Stat. 4544 (Nov. 28, 1990), [25 U.S.C. §§ 3201 to 3211](#).  
[§ 3203](#). Reporting Procedures
- [Mashantucket Pequot Tribal Laws](#). Title II, ch. 5, §§ 1-3 (2008).  
[Child Neglect and Abuse Reporting](#)

### **LEGISLATIVE:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- Katherine Dwyer, *Mandated Reporters of Child Abuse and Neglect*, Connecticut General Assembly. Office of Legislative Research Report No. [2016-R-0197](#) (September 30, 2016).
- Michelle Kirby and Katherine Dwyer, *Violent Crimes Against Children*. Office of Legislative Research Report No. [2013-R-0329](#) (September 27, 2013). *Victimization reporting (and underreporting)*.
- Robin K. Cohen, *Suspected Child Sexual Abuse Reporting by the State's Colleges and Universities*. Office of Legislative Research Report No. [2013-R-0283](#) (September 9, 2013).
- Susan Price, *Penalties for Failing to Report Suspected Child Abuse*, Connecticut General Assembly. Office of Legislative Research Report No. [2012-R-0058](#) (January 23, 2012).
- Robin K. Cohen, *Mandated Reporting of Child Sexual Abuse*, Connecticut General Assembly. Office of Legislative Research Report No. [2011-R-0397](#) (November 30, 2011).

### **STATE REGULATIONS:**

You can visit your local law library or browse the [recently adopted regulations page](#) on the Secretary of the State website to check if a regulation has been updated.

- Conn. Agencies Regs. [§§ 17a-101-1\(e\)–17a-101\(e\)-6](#)  
Reports of child abuse and neglect
  - § 17a-101(e)-1. Scope of regulations
  - § 17a-101(e)-2. Definitions
  - § 17a-101(e)-3. Reports of child abuse or neglect
  - § 17a-101(e)-4. Investigation of reports of child abuse or neglect by the department
  - § 17a-101(e)-5. Notification of law enforcement agencies – removal of child from home – child to remain in own home
  - § 17a-101(e)-6. Termination of protective services
- Conn. Agencies Regs. [§ 19a-87b-10\(j\)\(3\)](#)  
Family day care homes  
“The provider shall report actual or suspected child abuse or neglect of any child to the nearest office of the Department of Children and Families as mandated by Section 17a-101 and 17a-102 of the Connecticut General Statutes.”

**ATTORNEY  
GENERAL  
OPINIONS:**

- Honorable Kristine D. Ragaglia, J.D., Department of Children and Families, [2002-033 Formal Opinion](#), Attorney General of Connecticut. "You have asked for an opinion interpreting Conn. Gen. Stats. § 17a-101a, the mandated reporter statute. Section 17a-101a requires certain individuals enumerated in Conn. Gen. Stats. § 17a-101(b) to notify the Department of Children and Families (the Department or DCF) or a law enforcement agency when they have 'reasonable cause to suspect or believe' that child abuse or neglect, as defined in Conn. Gen. Stats. § 46a-120, has occurred. Your question concerns the obligations of a mandated reporter who becomes aware that a minor under the age of sixteen is engaged in a sexual relationship."

**CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- Doe v. Hartford Bd. of Educ., Superior Court, Judicial District of Hartford, No. CV14-6049842S (Aug. 31, 2016) (2016 WL 5798794). "In the present case, count one states a viable cause of action for negligence per se. The complaint alleges that Bell violated § 17a-101a by failing to report instances of alleged child abuse communicated to her by the plaintiff. Also, the complaint alleges that the plaintiff was a student at the Fred D. Wish School at which Bell was a social worker. Further, the complaint alleges that Bell's failure to report the abuse was a direct result of the plaintiff's injury. The plaintiff's allegations establish a duty of care owed to the plaintiff arising by virtue of § 17a-101a because the statute was intended to protect her as an abused child and her injury was the type of harm the statute was intended to prevent. See *Ward v. Greene*, supra, 267 Conn. 560 ('[T]he class of persons protected by § 17a-101 is limited to those children who have been abused or neglected and are, or should have been, the subject of a mandated report'). Therefore, as a matter of law count one states a viable cause of action for negligence per se pursuant to § 17a-101a."
- Doe v. Kennedy, Superior Court, Judicial District of Waterbury, No. CV09-5013921 (Nov. 29, 2012) (55 Conn. L. Rptr. 193) (2012 WL 6743547). "Conn. Gen. Stat. § 46b-120 defines 'abused' to include any child or youth, including any unemancipated sixteen or seventeen year old, who is 'in a condition that is the result of maltreatment, including but not limited to...sexual molestation or exploitation...' These statutes do not admit of any exercise of judgment or discretion on the part of a police officer, and also do not require that the police officer know for sure that the child is being sexually molested or exploited, only that the police officer has 'reasonable cause to suspect or believe' that the child has been so abused. Rather these statutes involve a mandatory duty, one that is ministerial rather than discretionary. In such a situation, the municipality is not entitled to the cloak of governmental immunity when the municipal official fails to adhere to this duty. See, e.g., *Wright v. Brown*, 167 Conn. 464, 356 A.2d 176 (1975)"

- [Perez-Dickson v. City of Bridgeport](#), 304 Conn. 483, 508, 43 A.3d 69 (2012). "Both the contours of the right created by § 17a-101e and the specific remedy for a violation of the right are plain and unambiguous. Nothing in the text of the statute even remotely suggests that, contrary to this plain and unambiguous language, the legislature intended to authorize private citizens to bring actions on their own behalf pursuant to the statute....Accordingly, we conclude that §17a-101e does not provide a private cause of action and that the trial court therefore lacked subject matter jurisdiction over the plaintiff's claim pursuant to that statute."
- [Doe v. Yale University](#), Superior Court, Judicial District of Waterbury, No. CV08-5010994-S (July 06, 2009) (2009 WL 2357998). "Defendant has argued that requiring a professor to report suspected child abuse would do little to promote the Legislature's intent and likely result in professors making a high percentage of unsubstantiated reports. This very concern was expressed by the Supreme Court in the Ward decision. However, the Court in Ward was concerned with unidentifiable victims whom it ruled were not in the class protected by the statute. In this case we have an identifiable victim. In reality, if professors are considered to be school teachers, the public policy of the state would be furthered by providing protection to minors who may otherwise be denied the protection afforded to them merely by virtue of the varying circumstances of their education, where they attend secondary school, and the age at which they enter college."
- [Ward v. Greene](#), 267 Conn. 539, 555, 839 A.2d 1259 (2004). "The confidentiality requirements, taken together with the fact that the statute requires that only information relating to the abused or neglected child be reported and not information relating to other known children in the care of the suspected abuser, strongly suggests that the class of persons protected by the statute is limited to the children who have been abused or neglected and are, or should have been, the subject of a mandated report."
- [Manifold v. Ragaglia](#), 272 Conn. 410, 420-421, 862 A.2d 292 (2004). "In furtherance of this public policy goal of protecting children from abuse, the statute provides a comprehensive list of persons who are 'mandated reporters,' many of whom are health care providers, including physicians either licensed in Connecticut or acting as interns or residents at our hospitals. See General Statutes § 17a-101 (b). Thus, the statute prescribes that a 'mandated reporter . . . who in the ordinary course of [his or her] employment or profession has reasonable cause to suspect or believe that any child under the age of eighteen years (1) has been abused or neglected . . . (2) has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (3) is placed at imminent risk of serious harm, shall report or cause a report to be made [to the department]. . . .' General

Statutes § 17a-101a. Indeed, 'mandated reporters' who fail to report reasonable suspicions of child abuse are subject to a fine and compulsory participation in an appropriate training program. See General Statutes § 17a-101a."

- [In re Nicholas R.](#), 92 Conn. App. 316, 321, 884 A.2d 1059 (2005). "Child neglect proceedings are civil proceedings, which are not quasi-criminal in nature."
- [Morales v. Kagel](#), 58 Conn. App. 776, 783, 755 A.2d 915 (2000). " ... we conclude that the defendant in this case did not owe a duty to the plaintiff to investigate the accusations against him prior to making a good faith report."
- [Doe v. Vibert](#), Superior Court, Judicial District of New Britain, Docket No. CV97-048332S (July 12, 1999) (1999 WL 545746). "...plaintiff has alleged that defendant Wartonick was negligent for failing to report to the Board of Education her stated suspicion of defendant's ... misconduct toward the plaintiff... This court concludes that the plaintiffs' complaint states a viable cause of action for negligence per se in that the plaintiffs allege the violation of a statute and plead facts sufficient to allege a causal link between the statutory violation and the alleged injury."

**WEST KEY NUMBERS:**

- Child Abuse Reporting #111 Infants 1501-1530

**ENCYCLOPEDIAS:**

- Jimmie E. Tinsley, *Failure to Report Suspected Case of Child Abuse*, 6 Am. Jur. POF2d 345 (1975).
- Frederick E. John, *Child Abuse -The Battered Child Syndrome*, 2 Am. Jur. POF 2d 365 (1974).
- Thomas L. Gowen & Richard J. Kohlman, *Professional Liability for Failure to Report Child Abuse*, 38 Am. Jur. Trials 1 (1989).

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Paul Chill, [Burden of Proof Begone: The Pernicious Effect of Emergency Removal In Child Protective Proceedings](#) (July 1, 2004). University of Connecticut School of Law. University of Connecticut School of Law Articles and Working Papers. Paper 55.
- Paul Chill, [The Law of Child Abuse and Neglect in Connecticut](#) (1997).
  - Chapter 2: Abuse and Neglect
  - 5. Reporting
    - A. Historical overview
    - B. Mandated reporters
    - C. Reporting by other persons
    - D. Legal protection for reporters
- Thomas A. Jacobs, [Children & the Law: Rights & Obligations](#). (2012 ed.)
  - Chapter 2. Protection of children (Dependency process)
  - III. Entry into system: Voluntary vs. involuntary removal
  - §2:13. Mandatory reporting laws

- Thomas B. Mooney, [A Practical Guide to Connecticut School Law](#) (8th ed., 2014).  
Chapter 4. Students  
F. Child abuse and neglect
- 2 Thomas R. Young, [Legal Rights of Children](#) (3d ed. 2015).  
Part IV. Substantive Legal Protection for Children.
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (3d ed. 2009).  
Chapter 12. Dependency and neglect actions  
Chapter 16. Proving sexual abuse  
Chapter 17. Proving physical abuse  
Chapter 18. Proving neglect, abandonment, and emotional abuse
- Martin R. Gardner, [Understanding Juvenile Law](#) (4<sup>th</sup> ed. 2014)  
Chapter 4. Child abuse  
§4.02 Child abuse legislation  
[B] Duty to report
- Traci Truly, [Teen Rights](#) (2002).  
Chapter 40. Dependency and neglect cases
- 5 Sandra Morgan Little, [Child Custody and Visitation Law & Practice](#) (2011).  
Chapter 31. Allegations of abuse  
§ 31.03. Reporting laws

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Ronald Bard, *Connecticut's Child Abuse Law*, 48 Conn. Bar J. 260 (1974).
- Douglas J. Besharov, *Child Abuse and Neglect: Liability for Failure to Report*, 22 Trial, August 1986, at 67.
- Howard Davidson, *Reporting Suspicions of Child Abuse: What Must a Family Lawyer Do?* 17 Fam. Advoc., Winter 1995, at 50.
- Margaret H. Meriwether, *Child Abuse Reporting Laws: Time for a Change*, 20 Fam. L. Q. 141 (1986).
- David L. Walther, *Duty to Report Abuse*, 26 Amer. J. Fam. L., 201 (Winter 2013).

# Section 2: Investigations in Child Abuse or Neglect Cases

*A Guide to Resources in the Law Library*

**SCOPE:**

Bibliographic resources relating to the investigation of allegations of child abuse and/or child neglect.

**SEE ALSO:**

- [Section 6: Child Abuse Prevention](#)

**DEFINITIONS:**

- **ABUSE:**  
"A child or youth may be found 'abused' who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment." Conn. Gen. Stats. [§ 46b-120](#)(7) (2017); Operational Definitions of Child Abuse and Neglect, [DCF Policy Manual § 34-2-7](#)
- **NEGLECT:**  
"A child or youth may be found 'neglected' who, for reasons other than being impoverished, (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth." Conn. Gen. Stats. [§ 46b-120](#)(6) (2017); Operational Definitions of Child Abuse and Neglect, [DCF Policy Manual § 34-2-7](#)
- **UNCARED FOR:**  
"A child or youth may be found 'uncared for' who is homeless or whose home cannot provide the specialized care that the physical, emotional or mental condition of the child or youth requires. For the purposes of this section, the treatment of any child or youth by an accredited Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute neglect or maltreatment." Conn. Gen. Stats. [§ 46b-120](#)(8) (2017)

**STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stats. (2017)
- Chapter 166. Teachers and superintendents  
Part I. Teachers  
[§ 10-145b](#)(i)(2)(E). Teaching certificates.  
[§ 10-149a](#). Felony conviction or fine pursuant to mandated reporting provisions. Notification by state's attorney.
  - Chapter 319. Department of Children and Families  
[§ 17a-28](#). Definitions. Confidentiality and access to

records; exceptions. Procedure for aggrieved persons.

- [§ 17a-47](#). Legal division re child abuse and neglect
- Chapter 319a. Child welfare
  - Part I. Dependent and neglected children
    - [§ 17a-100](#). Ill treatment of children.
    - [§ 17a-101f](#). Examination by physician. Diagnostic tests and procedures to detect child abuse.
    - [§ 17a-101g](#). Classification and evaluation of reports. Home visit. Removal of child in imminent risk of harm.
    - [§ 17a-101h](#). Coordination of investigatory activities. Interview with child. Consent.
    - [§ 17a-101i](#). Abuse of child by school employee. Suspension.
    - [§ 17a-101j](#). Notification of law enforcement and prosecutorial authorities when reasonable belief of sexual abuse or serious physical abuse. Notification of agency responsible for licensure of institution or facility where abuse or neglect has occurred.
    - [§ 17a-101k](#). Registry of findings maintained by Commissioner of Children and Families.
    - [§ 17a-103b](#). Notice to parent or guardian of substantiated complaint of child abuse or neglect.
    - [§ 17a-105](#). Temporary custody of abused child upon arrest of parent or guardian.
    - [§ 17a-105a](#). Child abuse and neglect unit within Division of State Police to assist investigation of child abuse and neglect.
    - [§ 17a-106](#). Cooperation in relation to ... investigation of child abuse and neglect.
    - [§ 17a-106b](#). Impact of family violence in child abuse cases.
    - [§ 17a-110](#). Permanency plans for children.
    - [§ 17a-111b](#). Commissioner of Children and Families' duties re reunification of child with parent. Court determination that reunification efforts are not required. Permanency plans.
- Chapter 802h. Protected persons and their property
  - Part II. Guardians of the person of a minor
    - §§ [45a-607](#) to [45a-625](#) *Removal and appointment of guardians of a minor in Probate Court*
    - [§ 45a-619](#). Investigation by Commissioner of Children and Families.
    - [§ 45a-623](#). Transfer of proceeding to Superior Court or regional children's probate court.
- Chapter 813a. Office of the Child Advocate
  - §§ [46a-13k](#) to [46a-13r](#) Office of the Child Advocate.
- Chapter 815t. Juvenile matters
  - [§ 46b-121](#). "Juvenile matters" defined. Authority of

court.

- [§ 46b-129](#). Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianships and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children.
- [§ 46b-129a](#). Examination by physician, psychiatrist or psychologist. Counsel and guardian ad litem.
- Chapter 939. Offenses against the person
  - [§ 53-20](#). Cruelty to persons.
  - [§ 53-21](#). Injury or risk of injury to, or impairing morals of, children. Sale of children.
- Chapter 952. Penal code: Offenses
  - [§ 53a-71](#). Sexual assault in the second degree: Class C or B felony.
  - [§ 53a-73a](#). Sexual assault in the fourth degree: Class A misdemeanor or class D felony.

**FEDERAL STATUTES:**

You can visit your local law library or [search the most recent U.S. Code](#) on the U.S. Code website to confirm that you are accessing the most up-to-date laws.

United States Code (2017)

- [25 U.S.C. §§ 3201 to 3211](#). Indian Child Protection and Family Violence Prevention
- [42 U.S.C. § 5106c](#). Grants to states for programs relating to investigation and prosecution of child abuse and neglect cases.

[Mashantucket Pequot Tribal Laws](#) (2012-14 supp)

- Title V. Child welfare
  - [Chapter 3. Reporting of child neglect and abuse](#)
    - § 1. Notification of child abuse reports
    - § 2. Interviews and examinations
    - § 3. Emergency removal
    - § 4. Procedures for removal
    - § 5. Hearing
    - § 6. Court findings
    - § 7. Review of placement and supervision
    - § 8. Placement preferences
    - § 9. Emergency authorization of medical treatment
    - § 10. Confidentiality and Records
    - § 11. Modification, revocation or extension of court orders
    - § 12. Appeals

**CONNECTICUT REGULATIONS:**

- [Conn. Agencies Regs.](#)  
**Reports of child abuse by a certified school employee**

You can visit your local law library or browse the [recently adopted regulations page](#) on the Secretary of the State website to check if a regulation has been updated.

§ 10-145g-1. Reports of child abuse by a certified school employee.

**Circumstances requiring immediate removal of a child from his/her home 96 hour hold**

§ 17a-101-11. Scope of regulations.

§ 17a-101-12. Circumstances requiring immediate removal.

§ 17a-101-13. Procedures for immediate removal.

**Reports of child abuse or neglect**

§ 17a-101-(e)-1. Scope of regulations.

§ 17a-101-(e)-2. Definitions.

§ 17a-101-(e)-3. Reports of child abuse or neglect.

§ 17a-101-(e)-4. Investigations of reports of child abuse or neglect by the department.

§ 17a-101-(e)-5. Notification of law enforcement agencies—removal of child from the home—child to remain in own home.

§ 17a-101-(e)-6. Termination of protective services.

**Operation of child-caring agencies and facilities**

§ 17a-145-54. Causes for revoking or refusing to renew license.

**Family day care homes**

§ 19a-87b-14. Complaint investigations.

**DCF POLICY MANUAL:**

- [34-2-7. Operational Definitions of Child Abuse and Neglect](#)

**COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal, and posted [online](#).

- Conn. Practice Book (2017 Edition)
  - [Chap. 32a](#). Rights of Parties. Neglected, Abused and Uncared for Children and Termination of Parental Rights.
  - [Chap. 33a](#). Petitions for Neglect, Uncared for, Dependency and Termination of Parental Rights: Initiation of Proceedings, Orders of Temporary Custody and Preliminary Hearings.
  - [Chap. 34a](#). Pleadings, Motions and Discovery....
  - [Chap. 35a](#). Hearings Concerning Neglected and Uncared for Children and Termination of Parental Rights.

**LEGISLATIVE REPORTS:**

- Katherine Dwyer, [Child Abuse or Neglect Investigations](#), Connecticut General Assembly, Office of Legislative Research, Report No. 2016-R-0209 (Oct. 6, 2016).
- Katherine Dwyer, [Alleged Child Abuse or Neglect by School Employees](#), Connecticut General Assembly, Office of Legislative Research, Report No. 2016-R-0219 (Oct. 19, 2016).

**CASES:**

- [Robinson-Maresca v. Commissioner, Department of Children & Families](#), Superior Court, Judicial District of Waterbury, No. CV-13-6020031-S (November 2, 2016) (63 Conn. L. Rptr. 346). "In the present case, given that the department statement was issued close in time to the Ansonia Police Department press release and after the Medical Examiner's

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

Office had ruled the death a homicide by blunt force trauma, it is undisputed that information regarding Kyle's death was either already public or that the Commissioner could reasonably believe that it would be made public. Public interest in the circumstances surrounding the homicide death of a five-month-old boy was a virtual certainty. As such, the statute clearly allowed the Commissioner to disclose information with respect to the department's investigation of Kyle's death and 'in general terms, any action taken by the department.' General Statutes (Rev. to 2009) §17a-28(c)."

- [Matthew M. v. Dep't of Children & Families](#), 143 Conn. App. 813, 831-32, 71 A.3d 603, 614-15 (2013). "The plaintiff next argues that the violation of the department's policy manual § 34-5 rendered the investigation improper and any findings based upon it not legally supportable, and that the court improperly placed the burden on the plaintiff to prove that he was prejudiced by the department's failure to follow its policy and interview him. The department contends that the burden of proof rests with the plaintiff and that the trial court properly found that he had failed to satisfy this burden. We agree with the department."
- [Doe v. Connecticut Department of Children and Youth Services](#), 712 F.Supp. 277 (1989), *aff'd*, 911 F.2d 868 (1990). *DCF workers entitled to "qualified immunity" from liability.*
- [Williams v. Hauser](#), 948 F.Supp. 164 (D. Conn. 1996). *DCF workers not entitled to "absolute prosecutorial immunity".*
- [In re Brian D. and Shannon D.](#), Superior Court, Juvenile Matters at New Haven, April 27, 1999, 5 Conn. Ops. 582 (May 24, 1999). *Foster parents' motion to intervene in an abuse and neglect action brought by DCF; motion denied.*
- [DeShaney v. Winnebago County Department of Social Services](#), 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989).

**WEST KEY NUMBERS:**

**TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Child Abuse Reports and Investigations #211 Infants 1439
- Paul Chill, [The Law of Child Abuse and Neglect in Connecticut](#) (1997).
  - Chapter 2. Abuse and neglect
  - Chapter 6. D.C.F. investigations
- Samuel M. Davis, [Rights of Juveniles 2d: the Juvenile Justice System](#) (2015 ed.).
  - Chapter 6. The adjudicatory process: Child abuse cases
    - § 6:1. General
    - § 6:2. Family autonomy or state intervention
    - § 6:3. Definition of child maltreatment
    - § 6:4. —Neglect and dependency
    - § 6:5. —Abuse

- § 6:6. Determination of the incidence of abuse
- § 6:7. Evidentiary problems in child abuse cases
- § 6:8. Competency and credibility of child witness
- § 6:9. Evidence of child's extrajudicial statements
- § 6:10. Waiver of privileges—Spouse privilege
- § 6:11. —Physician/patient privilege
- § 6:12. Use of character evidence

- Martin R. Gardner, [Understanding Juvenile Law](#) (4<sup>th</sup> ed. 2014).

Chapter 3. The child and the family  
§ 3.03. Parental neglect

- Jean Koh Peters, [Representing Children in Child Protective Proceedings: Ethical and Practical Dimensions](#) (2007).

### **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Eric B. Martin, *Maintaining Sibling Relationships for Children Removed from Their Parents*, *Children's Legal Rts. J.*, Winter 2002-2003, at 47.
- National Association of Counsel for Children, *Recommendations for Representation of Children in Abuse and Neglect Cases*, *Children's Legal Rts. J.*, Winter 2001-2002, at 36.
- Peter J. Schmiedel, Charles P. Golbert & Adrienne Giorgolo, *Rights of Abused and Neglected Children to Safe and Adequate Foster Care under the Guarantees of the Fourteenth Amendment*, *Children's Legal Rts. J.*, Summer 2000, at 14.
- Howard Davidson, *The Legal Aspects of Corporal Punishment in the Home: When Does Physical Discipline Cross the Line to Become Child Abuse?*, *Children's Legal Rts. J.*, Fall 1997, at 18.
- Dyanne C. Greer, *Child Abuse and Discipline: A Parental and Prosecutorial Dilemma*, *Children's Legal Rts. J.*, Fall 1997, at 30.
- Michael R. Beeman, *Investigating Child Abuse: the Fourth Amendment and Investigatory Home Visits*, 89 *Col. L. Rev.* 1034 (1989).
- Allen F. Anderson, *Commentary on Nursing Mothers, Drugs, and the Limits of the Criminal Process*, 48 *Juv. & Fam. Ct. J.*, Winter 1997, at 53.
- Amy Sinden, *In Search of Affirmative Duties Toward Children Under a Post -Deshaney Constitution*, 39 *Univ. Pa. L. Rev.* 227 (1990).
- Douglas J. Gesharov, *Combating Child Abuse: Guidelines for Cooperation between Law Enforcement and Child Protective Agencies*, 24 *Fam. L. Q.* 209 (1990).
- Shauneen M. Garrahan and Andrew W. Eichner, *Tipping the Scale: A Place for Childhood Obesity in the Evolving Legal Framework of Child Abuse and Neglect*, 12 *Yale J. Health Policy L. & Ethics* 336 (Summer 2012).

# Section 3: Immediate Removal of Child

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to circumstances which warrant the immediate removal of a child from his or her home environment and the procedures for removal.

## **DEFINITIONS:**

- **Immediate Removal:** "If the Commissioner of Children and Families, or the commissioner's designee, has probable cause to believe that the child or any other child in the household is in imminent risk of physical harm from the child's surroundings and that immediate removal from such surroundings is necessary to ensure the child's safety, the commissioner, or the commissioner's designee, shall authorize any employee of the department or any law enforcement officer to remove the child and any other child similarly situated from such surroundings without the consent of the child's parent or guardian. The commissioner shall record in writing the reasons for such removal and include such record with the report of the investigation conducted under subsection (b) of this section." Conn. Gen. Stats. [§ 17a-101g](#)(e) (2017).
- **96-hour hold:** "The removal of a child pursuant to subsection (e) of this section shall not exceed ninety-six hours. During the period of such removal, the commissioner, or the commissioner's designee, shall provide the child with all necessary care, including medical care, which may include an examination by a physician or mental health professional with or without the consent of the child's parents, guardian or other person responsible for the child's care, provided reasonable attempts have been made to obtain consent of the child's parents or guardian or other person responsible for the care of such child. During the course of a medical examination, a physician may perform diagnostic tests and procedures necessary for the detection of child abuse or neglect. If the child is not returned home within such ninety-six-hour period, with or without protective services, the department shall proceed in accordance with section 46b-129." Conn. Gen. Stats. [§ 17a-101g](#)(f) (2017).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Stat. (2017)

- Chapter 319a. Child welfare
  - [§ 17a-101f](#). Examination by physician. Diagnostic tests and procedures to detect child abuse.
  - [§ 17a-101g](#). Classification and evaluation of reports. Determination of abuse or neglect of child. Investigation. Notice, entry of recommended finding. Referral to local law enforcement authority. Home visit. Removal of child in imminent risk of harm. Family assessment response program. Regulations. Disclosure of

- information to providers.
- [§ 17a-105](#). Temporary custody of abused child upon arrest of parent or guardian.
- [§ 17a-113](#). Custody of child pending application for removal of guardian or termination of parental rights; enforcement by warrant.
- Chapter 802h. Protected persons and their property
  - [§ 45a-607](#). Temporary custody of minor pending application to probate court for removal of guardian or termination of parental rights. [including ex parte orders]
  - [§ 45a-609](#). Application for removal of parent as guardian. Hearing. Notice....
  - [§ 45a-610](#). Removal of parent as guardian.
- Chapter 815t. Juvenile matters
  - [§ 46b-129\(b\)](#). Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianships and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children.

### **INDIAN LAW:**

[Mashantucket Pequot Tribal Laws](#) (2012-14 supp)

Title V. Child welfare

Chapter 3. Reporting of child neglect and abuse

[§ 3](#). Emergency removal

[§ 4](#). Procedures for removal

### **REGULATIONS:**

You can visit your local law library or browse the [recently adopted regulations page](#) on the Secretary of the State website to check if a regulation has been updated.

- [Conn. Agencies Regs.](#)
  - [§ 17a-101-12](#). Circumstances for immediate removal (96-Hour Hold).
  - [§ 17a-101-13](#). Procedures for immediate removal.
  - [§ 17a-101\(e\)-5](#). Notification of law enforcement agencies - removal of child from the home - child to remain in own home.

### **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal, and posted [online](#).

- Conn. Practice Book (2017).
  - [§ 33a-6](#). Order of Temporary Custody; Ex Parte Orders and Orders to Appear.
  - [§ 33a-7](#). Preliminary Hearing
  - [§ 33a-8](#). Emergency, Life-Threatening Medical Situations – Procedures.

### **FORMS:**

- [Motion/Order of Temporary Custody/Order to Appear](#), Rev. 9-09.
- [Notice of Temporary Custody/Order to Appear](#), Rev. 9-11.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Custody Affidavit](#), Rev. 10-12.
- [Teresa T. v. Ragaglia](#), 272 Conn. 734, 749-50, 865 A.2d 428, 436-37 (2005). "The remedies provided in §§ 46b-129(b) and 17a-101g(c) are available only upon a finding that there is probable cause to believe that the child is in unsafe surroundings and that immediate removal is necessary to protect the child from harm. If, however, we were to determine that a finding of probable cause requires a ninety-six hour hold under § 17a-101g(c), instead of leaving the choice of a remedy to the commissioner's discretion, the commissioner would not have the option of petitioning the court for a hearing or for an ex parte order under § 46b-129(b) until after a ninety-six hour hold had been invoked. Significantly, there is no language suggesting that § 46b-129 applies solely to children who are in the commissioner's custody pursuant to § 17a-101g(c). Accordingly, the only logical construction of the statutory scheme is to view the finding of probable cause as a threshold determination that permits the commissioner to choose among these and other available remedies to ensure the child's safety."
- [Tenenbaum v. Williams](#), 193 F.3d 581, 596 (2d Cir. 1999), *U.S. cert. denied* 529 U.S. 1098, 120 S. Ct. 1832 (2000). "Because we now hold that it is unconstitutional for a state official to effect a child's removal on an 'emergency' basis where there is reasonable time safely to obtain judicial authorization consistent with the child's safety, caseworkers can no longer claim, as did the defendants here, that they are immune from liability for such actions because the law is not 'clearly established.'"
- [Pamela B. v. Ment](#), 244 Conn. 296, 299, 709 A.2d 1089 (1998). "The plaintiff... brought this action ... seeking a declaratory judgment ... and injunctive relief on behalf of herself and a class of persons consisting of all parents in the state whose children have been or may be seized by the state department of children and families, and who have been or may be denied their statutory and constitutional right to challenge the state's temporary custody in a timely evidentiary hearing."
- [Williams v. Hauser](#), 948 F. Supp. 164 (D. Conn. 1996). *Mother brought action against DCF social workers and four police officers alleging they violated her rights when they secured a court order to obtain custody of her children.* "... the motion to dismiss based on absolute immunity is denied. Qualified immunity sufficiently protects the interests of DCF employees and ensures the right balance between an efficient judicial process and the responsible removal of children" (167).
- [Doe v. Connecticut Department of Children and Youth Services](#), 712 Fed. Supp. 277 (D. Conn. 1989), affirmed 911 F.2d 868 (1990). "Civil rights action was brought against state child welfare officials arising out of emergency removal

and temporary custody of child based on allegations of child abuse.”

**TEXTS &  
TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

**LAW REVIEWS:**

- Paul Chill, [The Law of Child Abuse and Neglect in Connecticut](#) (1997).
  - Chapter 7. Emergency removal and temporary custody
    - A. Overview
    - B. 96-hour hold
    - C. 96-hour hold by physician
    - D. Orders of temporary custody
  
- Eliot R. Clauss, *Ex Parte Order in Child Abuse Cases: Minimizing Judicial Process Trauma*, 4 Conn. Fam. Law., Winter 1989, at 38.

Table 1: Circumstances requiring immediate removal

Circumstances requiring immediate removal Regulations of Connecticut State Agencies	
<p><a href="#">§ 17a-101-12</a></p> <p>You can visit your local law library or browse the <a href="#">recently adopted regulations page</a> on the Secretary of the State website to check if a regulation has been updated.</p>	<p>Under the following circumstances, the Commissioner in accordance with Section 17a-101-13 may immediately remove a child from his surroundings for a period not to exceed 96 hours.</p> <p>(a) Presence of serious physical illness or serious physical injury.</p> <p>(1) When there is probable cause to believe that immediate removal of the child and custody of a child is necessary to prevent either the child's imminent death or imminent and serious danger to the child's physical well-being, and</p> <p>(2) The child's parent(s) or caretaker(s) is unable or unwilling to protect the child from such imminent death or imminent and serious danger to the child's physical well-being.</p> <p>(b) Presence of immediate physical danger from surroundings.</p> <p>(1) When the risk to the child appears created solely because the child has been left unattended at home, and the child's parent(s) or caretaker(s) has not returned or sufficient time has elapsed to indicate that the parent(s) or caretaker(s) does not intend to return.</p> <p>(c) Child unattended outside the home and all other circumstances involving immediate physical danger to a child from surroundings.</p> <p>(1) When there is probable cause to believe that immediate removal of the child and custody of the child is necessary to prevent either the child's imminent death or imminent serious danger to the child's physical well-being, and</p> <p>(2) The child's parent(s) or other such caretaker(s) is unable or unwilling to protect the child from such imminent death or serious injury.</p> <p>(d) Treatment by Christian Science Practitioner.</p> <p>For the purpose of these regulations, the treatment of any child by a Christian Science Practitioner in lieu of treatment by a licensed practitioner of the healing arts shall not of itself constitute maltreatment.</p>

Table 2: Procedures for immediate removal

Procedures for immediate removal Regulations of Connecticut State Agencies	
<p><a href="#">§ 17a-101-13</a></p> <p>You can visit your local law library or browse the <a href="#">recently adopted regulations page</a> on the Secretary of the State website to check if a regulation has been updated.</p>	<p>(a) Persons authorized to remove a child. The Commissioner of the Department of Children and Families or his designee may authorize any employee of his Department or any law enforcement officer to remove a child when the conditions of Section 17a-101-12 are met.</p> <p>(b) Procedures prior to removal. Prior to the immediate removal of a child the authorized Department of Children and Families employee shall</p> <p>(1) investigate the situation and evaluate it on the basis of regulation 17a-101-12;</p> <p>(2) determine if the child or family is listed in the Child Abuse and Neglect Registry. If time does not permit this investigation prior to removal, it shall be accomplished within 24 hours after the time of removal.</p> <p>(3) obtain approval of the Commissioner of Department of Children and Families or his designee for the removal.</p> <p>(c) Procedures upon removal. If the Commissioner of Department of Children and Families or his designee authorizes the employee to remove the child without the consent of the child's parent or guardian and the employee determines that immediate removal is required, the employee shall</p> <p>(1) notify the parent(s), guardian, or caretaker(s) of the determination and the reason for it within 24 hours;</p> <p>(2) cooperate with and accompany the designated law officer authorized to remove the child, or request the local law enforcement officials to accompany the employee if necessary.</p> <p>(3) Placement Planning for the child shall give consideration to</p> <p>(A) relatives who are reliable caretakers;            (B) licensed foster home;            (C) state-owned shelter care facilities or licensed, contracted child-caring facilities;            (D) hospital - if required.</p> <p>(4) Make every attempt to place siblings together and maintain family ties.</p>

	<p>(d) Procedures during the 96-hour hold.</p> <p>Upon removal, the employee shall within 96 hours either:</p> <p>(1) return the child to his parent(s), guardian or caretaker(s) with appropriate follow-up services, or</p> <p>(2) assist the parent(s) or guardian in voluntarily placing the child in some other mutually acceptable living arrangement, or</p> <p>(3) if the parent(s) or guardian refuses to place the child voluntarily, petition the Superior Court - Juvenile Matters for commitment of the child and an order for temporary custody.</p>
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Table 3: Notification of law enforcement agencies: Removal of child from home

Notification of law enforcement agencies - removal of child from the home - child to remain in own home	
<p><a href="#">§ 17a-101(e)-5</a></p> <p>You can visit your local law library or browse the <a href="#">recently adopted regulations page</a> on the Secretary of the State website to check if a regulation has been updated.</p>	<p>If the investigation produces evidence that the child has been abused or neglected in the manner described in 17a-101(b) of the Connecticut General Statutes, the Department will take action deemed necessary to protect the child. Such action may include:</p> <p>(1) Immediate notification to the appropriate law enforcement agencies (which shall consist of a verbal report confirmed in writing within twenty-four (24) hours by the Department form designated for this purpose) indicating the name and age of the child(ren), the name and address of the parent(s) or other child-caring person, a description of the incident(s), the name and address of the alleged offender or perpetrator and the action taken by the Department. This notification will be provided whenever one or more of the following situations are found to exist:</p> <p>(A) The child has been so abused or neglected by parent(s) or other caretaker that death results.</p> <p>(B) The child is suffering from a serious illness and must be removed immediately to insure his safety, and the parent(s) and/or other child-caring person will not cooperate.</p> <p>(C) The child has incurred non-accidental, serious, physical injuries or serious injuries at variance with the history given of them such as significant burns, wounds from a stabbing or shooting, severe lacerations, ruptured viscera, broken bones or any series of injuries.</p> <p>(D) Sexual assault of the child such as sexual intercourse or other intentional sexual contact with the child.</p> <p>(E) Sexual exploitation of the child including, but not limited to, selling the child to others for sexual purposes and child pornography.</p> <p>(F) The child left alone in a locked house or vehicle and is unable to get out.</p> <p>(G) Demonstrated threats of violence or death to the child.</p> <p>(2) Removal of the Child from the home.</p> <p>(A) Removal of the child from the home with the written consent of the parent(s) or guardian.</p> <p>(B) Removal of the child from the home after securing Court Order of Temporary Custody from the Superior Court-Juvenile Matters.</p>

	<p>(C) Immediate removal of the child from the home pursuant to a 96-Hour Hold as provided for in 17a-101-11 to 17a-101-13 of the Regulations of Connecticut State Agencies.</p> <p>(D) If temporary removal and placement of the child out of the home is determined to be essential, the Department will provide services to the family as may be necessary and seek to return the child to the family home as soon as this action is deemed appropriate based on an assessment of the child's needs and the parent's willingness and ability to meet those needs.</p> <p>(3) Child to Remain in Own Home.</p> <p>(A) In cases where the results of the investigation indicate that the child may be properly cared for in his own home, services shall be provided to the parents or other child-care persons to assist them to more adequately respond to and meet the needs of the child under the supervision of the Department, including but not limited to:</p> <ul style="list-style-type: none"><li>(i) Counseling services;</li><li>(ii) Referral to and utilization of other community resources such as social, health, education and employment services.</li></ul> <p>(B) If after providing these services for a reasonable period of time, the Department determines that the child can not be properly cared for in his own home, the Department may petition the Superior Court-Juvenile matters for the child's commitment.</p>
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# Section 4: Commitment of Child or Youth in Connecticut to DCF

*A Guide to Resources in the Law Library*

## **SCOPE:**

- Bibliographic resources related to commitment of child or youth to the Commissioner of the Department of Children and Families (DCF) in Connecticut

## **DEFINITIONS:**

- **Commitment:** “means an order of the judicial authority whereby custody and/or guardianship of a child or youth are transferred to the Commissioner of the Department of Children And Families.” Conn. Practice Book [§ 26-1\(b\)](#) (2017).
- “An **Order of Temporary Custody (OTC)** is a court order to safeguard the immediate welfare of a child which may be issued without a hearing and vests the care and custody of the child concerned in the person or agency named in the order pending the adjudication on the merits of the petition.” Department of Children and Families Policy Manual [§ 34-10-5](#).
- “An **Order of Temporary Custody (OTC) with Neglect Petition** is an ex parte order by a judge that is granted to the Department to safeguard the immediate safety of a child without a hearing. When granted by the judge, the OTC vests the care and custody of the child concerned in the person or agency (usually the Department) named in the OTC pending the adjudication on the merits of the neglect petition. The OTC does not transfer legal guardianship of the child or affect parental rights except as to physical custody.” Department of Children and Families Policy Manual [§ 46-3-19](#).
- “An **ex parte order** is an order that is granted immediately and for the benefit of one party only and without notice to, or an opportunity to contest by, any person adversely affected by the order.” Department of Children and Families Policy Manual [§ 46-3-19](#).
- **Immediate Removal:** “If the Commissioner of Children and Families, or the commissioner’s designee, has probable cause to believe that the child or any other child in the household is in imminent risk of physical harm from the child’s surroundings and that immediate removal from such surroundings is necessary to ensure the child’s safety, the commissioner, or the commissioner’s designee, shall authorize any employee of the department or any law enforcement officer to remove the child and any other child similarly situated from such surroundings without the consent of the child’s parent or guardian. The commissioner shall record in writing the reasons for such removal and include such record with the report of the investigation conducted under subsection (b) of this section.” Conn. Gen. Stats. [§ 17a-101g\(e\)](#) (2017).
- **96-hour hold:** “The removal of a child pursuant to subsection (e) of this section shall not exceed ninety-six hours. During the period of such removal, the commissioner, or the commissioner’s designee, shall provide the child with all

necessary care, including medical care, which may include an examination by a physician or mental health professional with or without the consent of the child’s parents, guardian or other person responsible for the child’s care, provided reasonable attempts have been made to obtain consent of the child’s parents or guardian or other person responsible for the care of such child. During the course of a medical examination, a physician may perform diagnostic tests and procedures necessary for the detection of child abuse or neglect. If the child is not returned home within such ninety-six-hour period, with or without protective services, the department shall proceed in accordance with section 46b-129.” Conn. Gen. Stats. [§ 17a-101g](#)(f) (2017).

**RECENT PUBLIC ACTS:**

- Public Act [15-199](#) *An Act Expanding Guardianship Opportunities For Children And Implementing Provisions Of The Federal Preventing Sex Trafficking And Strengthening Families Act.*

**STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stats. (2017)
- Chapter 815t. Juvenile matters
    - [§ 46b-120](#). Definitions.
    - [§ 46b-121](#). “Juvenile matters” defined. Authority of court
    - [§ 46b-129](#). Commitment of child or youth. Petition for neglected, uncared for or abused child or youth. Hearing re temporary custody, order to appear or petition. Review of permanency plan. Cost of care and maintenance of child or youth; reimbursement. Revocation of commitment. Legal guardianships and permanent legal guardianships. Applicability of provisions re placement of child from another state and Interstate Compact on the Placement of Children.
    - [§ 46b-129a](#). Examination by physician, psychiatrist or psychologist. Counsel and guardian ad litem.
    - [§ 46b-135](#). Right to counsel and cross-examination.
    - [§ 46b-136](#). Appointment of attorney to represent child or youth and parent or guardian.

**COURT RULES:**

- Conn. Practice Book (2017)
  - Superior Court—Procedure in juvenile matters
  - [Chapter 26](#). Definitions.
  - [§ 26-1](#). Definitions applicable to proceedings on juvenile matters

**CASES:**

- [In re Brianna C.](#), 98 Conn. App. 797, 805, 912 A.2d 505 (2006). “We first note that the commitment in this case is not one of ‘permanency,’ such as a judgment of termination of parental rights, but one that requires, pursuant to § 46b-129(j), the court to ‘order specific steps which the parent must take to facilitate the return of the child or youth to the custody of such parent.’ The commitment was a difficult, nobody wins

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

situation that makes it necessary to choose whether the interest of the child to have a constant twenty-four hour per day, year-round relationship with the respondent is in the child's best interest when weighed against the possibility that the respondent is unable to prevent the child's father from causing injury to the well-being of the child in the event that he fails to medicate himself appropriately. In this case, there may be no 'best,' but only a 'better,' solution."

- [In re Ja-Lyn R.](#), 132 Conn. App. 31, 324, 31 A.3d 441 (2011). "Here, the court committed Ja-lyn to the custody of the commissioner after finding that the respondent was unable to care for him safely on the basis of the respondent's prior history with the department, her anger management issues and her inability to work with the department to improve her parenting skills."
- [In Re Juvenile Appeal \(1983-4\)](#), 39 Conn. Supp. 490, 493, 466 A.2d 798 (1983). "The defendant further claims that the court erred in committing the child to the custody of the DCYS. State intervention in family matters is only justified when it is in the best interests of the child. *In re Juvenile Appeal (83-CD)*, 189 Conn. 276, 285, 455 A.2d 1313 (1983). In making its disposition, the trial court must balance the child's interests in safety and in a stable family environment with the mother's interest in the integrity of the family. It is only when 'the child's interest no longer coincides with that of the parent, thereby diminishing the magnitude of the parent's right to family integrity; *In re Angelia P.*, 28 Cal.3d 908, 916-17 [171 Cal.Rptr. 637], 623 P.2d 198 (1981);' *In re Juvenile Appeal (83-CD)*, supra, 189 Conn. 287-88, 455 A.2d 1313; that the state may intervene to protect the child."

#### **FORMS:**

(CT Judicial Branch)

- [Custody Affidavit](#), Rev. 10-12.
- [Motion/Order of Temporary Custody/Order to Appear](#)
- [Petition: Neglected, Uncared-Form, Abused Child/Youth](#), Rev. 9-11.
- [Plea of Nolo Contendere](#), Rev. 7-12
- [Adjudicatory/Dispositional Orders](#), 4-12.
- [Specific Steps](#), Rev. 1-11.
- [Notice/Summons and Order For Hearing - Termination of Parental Rights](#), Rev. 6/13.
- [Motion, Permanent Legal Guardianship](#), New 10-12.
- [Affidavit/Consent to Termination of Parental Rights](#), Rev. 7-11.

#### **ENCYCLOPEDIAS:**

- Elizabeth O'Connor Tomlinson, *Termination of Parental Rights Under Adoption and Safe Families Act (ASFA)*, 115 Am. Jur. Trials 465 (2010).
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#### **TEXTS & TREATISES:**

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Basic principles: Neglect and Termination of parental rights cases, pp. 518-519

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Neglect, Initiation of a neglect case, pp. 519-524  
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- Paul Chill, [The Law of Child Abuse and Neglect in Connecticut](#) (1997).
  - Chapter 7. Emergency removal and temporary custody
    - A. Overview
    - B. 96-hour hold
    - C. 96-hour hold by physician
    - D. Orders of temporary custody
- Ralph H. Folsom and Gayle B. Wilhelm, Connecticut Estates Practice Series: [Incapacity, Powers of Attorney and Adoption in Connecticut](#) (2014).
  - Chapter 1. Commitments and Placements
    - § 1:21. Commitment in juvenile proceedings; termination of parental rights, statutory parent
- Thomas A. Jacobs, [Children & the Law: Rights & Obligations](#) (2012 Ed.)
  - Chapter 2. Protection of children (Dependency process)
    - III. Entry into system: Voluntary vs. involuntary removal
      - §2:16 – 2:31. Involuntary commitment

Table 4: Temporary Custody and Commitment procedures

<b>Temporary Custody and Commitment Procedures</b> Conn. Gen. Stats. <a href="#">§ 46b-129</a> (2017)	
<b>Petition</b>	(a) Any selectman, town manager, or town, city or borough welfare department, any probation officer, or the Commissioner of Social Services, the Commissioner of Children and Families or any child-caring institution or agency approved by the Commissioner of Children and Families, a child or such child’s representative or attorney or a foster parent of a child, having information that a child or youth is neglected, uncared for or abused may file with the Superior Court that has venue over such matter a verified petition plainly stating such facts as bring the child or youth within the jurisdiction of the court as neglected, uncared for or abused within the meaning of section 46b-120, the name, date of birth, sex and residence of the child or youth, the name and residence of such child’s parents or guardian, and praying for appropriate action by the court in conformity with the provisions of this chapter.
<b>Summons</b>	Upon the filing of such a petition, except as otherwise provided in subsection (k) of section 17a-112, the court shall cause a summons to be issued requiring the parent or parents or the guardian of the child or youth to appear in court at the time and place named, which summons shall be served not less than fourteen days before the date of the hearing in the manner prescribed by section 46b-128, and the court shall further give notice to the petitioner and to the Commissioner of Children and Families of the time and place when the petition is to be heard not less than fourteen days prior to the hearing in question.
<b>Order to Appear</b>  or  <b>Ex Parte Order of Temporary Custody</b>	(b) If it appears from the specific allegations of the petition and other verified affirmations of fact accompanying the petition and application, or subsequent thereto, that there is reasonable cause to believe that (1) the child or youth is suffering from serious physical illness or serious physical injury or is in immediate physical danger from the child’s or youth’s surroundings, and (2) as a result of said conditions, the child’s or youth’s safety is endangered and immediate removal from such surroundings is necessary to ensure the child’s or youth’s safety, the court shall <b>either (A) issue an order to the parents or other person having responsibility for the care of the child or youth to appear at such time as the court may designate to determine whether the court should vest the child’s or youth’s temporary care and custody in a person related to the child or youth by blood or marriage or in some other person or suitable agency pending disposition of the petition, or (B) issue an order ex parte vesting the child’s or youth’s temporary care and custody in a person related to the child or youth by blood or marriage or in some other person or suitable agency.</b> [Emphasis added]
<b>Preliminary hearing on:</b>  <b>Ex Parte Order of</b>	A preliminary hearing on any ex parte custody order or order to appear issued by the court shall be held not later than ten days after the issuance of such order. The service of such orders may be made by any officer authorized by law to serve process, or by any probation officer appointed in accordance with section 46b-123, investigator from the

<p><b>Temporary Custody</b></p> <p><b>or</b></p> <p><b>Order to Appear</b></p>	<p>Department of Administrative Services, state or local police officer or indifferent person. Such orders shall include a conspicuous notice to the respondent written in clear and simple language containing at least the following information: (i) That the order contains allegations that conditions in the home have endangered the safety and welfare of the child or youth; (ii) that a hearing will be held on the date on the form; (iii) that the hearing is the opportunity to present the parents' position concerning the alleged facts; (iv) that an attorney will be appointed for parents who cannot afford an attorney; (v) that such parents may apply for a court-appointed attorney by going in person to the court address on the form and are advised to go as soon as possible in order for the attorney to prepare for the hearing; (vi) that such parents, or a person having responsibility for the care and custody of the child or youth, may request the Commissioner of Children and Families to investigate placing the child or youth with a person related to the child or youth by blood or marriage who might serve as a licensed foster parent or temporary custodian for such child or youth. The commissioner, where practicable, shall investigate such relative or relatives prior to the preliminary hearing and provide a report to the court at such hearing as to such relative's suitability; and (vii) that if such parents have any questions concerning the case or appointment of counsel, any such parent is advised to go to the court or call the clerk's office at the court as soon as possible. Upon application for appointed counsel, the court shall promptly determine eligibility and, if the respondent is eligible, promptly appoint counsel. The expense for any temporary care and custody shall be paid by the town in which such child or youth is at the time residing, and such town shall be reimbursed for such expense by the town found liable for the child's or youth's support, except that where a state agency has filed a petition pursuant to the provisions of subsection (a) of this section, the agency shall pay such expense. The agency shall give primary consideration to placing the child or youth in the town where such child or youth resides. The agency shall file in writing with the clerk of the court the reasons for placing the child or youth in a particular placement outside the town where the child or youth resides. Upon issuance of an ex parte order, the court shall provide to the commissioner and the parent or guardian specific steps necessary for each to take to address the ex parte order for the parent or guardian to retain or regain custody of the child or youth. Upon the issuance of such order, or not later than sixty days after the issuance of such order, the court shall make a determination whether the Department of Children and Families made reasonable efforts to keep the child or youth with his or her parents or guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the child's or youth's best interests, including the child's or youth's health and safety. Any person or agency in which the temporary care and custody of a child or youth is vested under this section shall have the following rights and duties regarding the child or youth: (I) The obligation of care and control; (II) the authority to make decisions regarding emergency medical, psychological, psychiatric or surgical treatment; and (III) such other rights and duties that the court having jurisdiction may order.</p>
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<p><b>Purpose of preliminary hearing</b></p>	<p>(c) The preliminary hearing on the order of temporary custody or order to appear or the first hearing on a petition filed pursuant to subsection (a) of this section shall be held in order for the court to:</p> <ol style="list-style-type: none"> <li>(1) Advise the parent or guardian of the allegations contained in all petitions and applications that are the subject of the hearing and the parent's or guardian's right to counsel pursuant to subsection (b) of section 46b-135;</li> <li>(2) Ensure that an attorney, and where appropriate, a separate guardian ad litem has been appointed to represent the child or youth in accordance with subsection (b) of section 51-296a and sections 46b-129a and 46b-136;</li> <li>(3) Upon request, appoint an attorney to represent the respondent when the respondent is unable to afford representation, in accordance with subsection (b) of section 51-296a;</li> <li>(4) Advise the parent or guardian of the right to a hearing on the petitions and applications, to be held not later than ten days after the date of the preliminary hearing if the hearing is pursuant to an order of temporary custody or an order to show cause;</li> <li>(5) Accept a plea regarding the truth of the allegations;</li> <li>(6) Make any interim orders, including visitation orders, that the court determines are in the best interests of the child or youth. The court, after a hearing pursuant to this subsection, shall order specific steps the commissioner and the parent or guardian shall take for the parent or guardian to regain or to retain custody of the child or youth;</li> <li>(7) Take steps to determine the identity of the father of the child or youth, including, if necessary, inquiring of the mother of the child or youth, under oath, as to the identity and address of any person who might be the father of the child or youth and ordering genetic testing, and order service of the petition and notice of the hearing date, if any, to be made upon him;</li> <li>(8) If the person named as the father appears and admits that he is the father, provide him and the mother with the notices that comply with section 17b-27 and provide them with the opportunity to sign a paternity acknowledgment and affirmation on forms that comply with section 17b-27. Such documents shall be executed and filed in accordance with chapter 815y and a copy delivered to the clerk of the superior court for juvenile matters. The clerk of the superior court for juvenile matters shall send the original paternity acknowledgment and affirmation to the Department of Public Health for filing in the paternity registry maintained under section 19a-42a, and shall maintain a copy of the paternity acknowledgment and affirmation in the court file;</li> <li>(9) If the person named as a father appears and denies that he is the father of the child or youth, order genetic testing to determine paternity in accordance with section 46b-168. If the results of the genetic tests indicate a ninety-nine per cent or greater probability that the person named as father is the father of the child or youth, such results shall constitute a rebuttable presumption that the person named as father is the father of the child or youth, provided the court finds evidence that sexual intercourse occurred between the mother and the person named as father during the period of time in which the child was conceived. If the court finds such rebuttable presumption, the court may issue judgment adjudicating paternity after providing the</li> </ol>
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<p><b>Identify persons related to the child or youth for placement</b></p>	<p>father an opportunity for a hearing. The clerk of the court shall send a certified copy of any judgment adjudicating paternity to the Department of Public Health for filing in the paternity registry maintained under section 19a-42a. If the results of the genetic tests indicate that the person named as father is not the biological father of the child or youth, the court shall enter a judgment that he is not the father and the court shall remove him from the case and afford him no further standing in the case or in any subsequent proceeding regarding the child or youth;</p> <p>(10) Identify any person or persons related to the child or youth by blood or marriage residing in this state who might serve as licensed foster parents or temporary custodians and order the Commissioner of Children and Families to investigate and report to the court, not later than thirty days after the preliminary hearing, the appropriateness of placing the child or youth with such relative or relatives; and</p> <p>(11) In accordance with the provisions of the Interstate Compact on the Placement of Children pursuant to section 17a-175, identify any person or persons related to the child or youth by blood or marriage residing out of state who might serve as licensed foster parents or temporary custodians, and order the Commissioner of Children and Families to investigate and determine, within a reasonable time, the appropriateness of placing the child or youth with such relative or relatives.</p>
<p><b>Motion to Intervene by relatives for temporary custody</b></p>	<p>(d) (1) (A) If not later than thirty days after the preliminary hearing, or within a reasonable time when a relative resides out of state, the Commissioner of Children and Families determines that there is not a suitable person related to the child or youth by blood or marriage who can be licensed as a foster parent or serve as a temporary custodian, and the court has not granted temporary custody to a person related to the child or youth by blood or marriage, any person related to the child or youth by blood or marriage may file, not later than ninety days after the date of the preliminary hearing, a motion to intervene for the limited purpose of moving for temporary custody of such child or youth. If a motion to intervene is timely filed, the court shall grant such motion except for good cause shown.</p> <p>(B) Any person related to a child or youth may file a motion to intervene for purposes of seeking temporary custody of a child or youth more than ninety days after the date of the preliminary hearing. The granting of such motion shall be solely in the court's discretion, except that such motion shall be granted absent good cause shown whenever the child's or youth's most recent placement has been disrupted or is about to be disrupted.</p> <p>(C) A relative shall appear in person, with or without counsel, and shall not be entitled to court appointed counsel or the assignment of counsel by the office of Chief Public Defender, except as provided in section 46b-136.</p> <p>(2) Upon the granting of intervenor status to such relative of the child or youth, the court shall issue an order directing the Commissioner of Children and Families to conduct an assessment of such relative and to file a written report with the court not later than forty days after such order, unless such relative resides out of state, in which case the assessment shall be ordered and requested in accordance with the provisions of the Interstate Compact on the Placement of Children,</p>

	<p>pursuant to section 17a-175. The court may also request such relative to release such relative's medical records, including any psychiatric or psychological records and may order such relative to submit to a physical or mental examination. The expenses incurred for such physical or mental examination shall be paid as costs of commitment are paid. Upon receipt of the assessment, the court shall schedule a hearing on such relative's motion for temporary custody not later than fifteen days after the receipt of the assessment. If the Commissioner of Children and Families, the child's or youth's attorney or guardian ad litem, or the parent or guardian objects to the vesting of temporary custody in such relative, the agency or person objecting at such hearing shall be required to prove by a fair preponderance of the evidence that granting temporary custody of the child or youth to such relative would not be in the best interests of such child or youth.</p> <p>(3) If the court grants such relative temporary custody during the period of such temporary custody, such relative shall be subject to orders of the court, including, but not limited to, providing for the care and supervision of such child or youth and cooperating with the Commissioner of Children and Families in the implementation of treatment and permanency plans and services for such child or youth. The court may, on motion of any party or the court's own motion, after notice and a hearing, terminate such relative's intervenor status if such relative's participation in the case is no longer warranted or necessary.</p> <p>(4) Any person related to a child or youth may file a motion to intervene for purposes of seeking guardianship of a child or youth more than ninety days after the date of the preliminary hearing. The granting of such motion to intervene shall be solely in the court's discretion, except that such motion shall be granted absent good cause shown whenever the child's or youth's most recent placement has been disrupted or is about to be disrupted. The court may, in the court's discretion, order the Commissioner of Children and Families to conduct an assessment of such relative granted intervenor status pursuant to this subdivision.</p> <p>(5) Any relative granted intervenor status pursuant to this subsection shall not be entitled to court-appointed counsel or representation by Division of Public Defender Services assigned counsel, except as provided in section 46b-136.</p>
<b>Failure to appear</b>	(e) If any parent or guardian fails, after service of such order, to appear at the preliminary hearing, the court may enter or sustain an order of temporary custody.
<b>Hearing</b>	(f) Upon request, or upon its own motion, the court shall schedule a hearing on the order for temporary custody or the order to appear to be held not later than ten days after the date of the preliminary hearing. Such hearing shall be held on consecutive days except for compelling circumstances or at the request of the parent or guardian.
<b>Contested hearing</b>	(g) At a contested hearing on the order for temporary custody or order to appear, credible hearsay evidence regarding statements of the child or youth made to a mandated reporter or to a parent may be offered by the parties and admitted by the court upon a finding that the statement is reliable and trustworthy and that admission of such statement is reasonably necessary. A signed statement executed by a mandated reporter under oath may be admitted by the court without the need for the mandated reporter to appear and testify unless called

	<p>by a respondent or the child, provided the statement: (1) Was provided at the preliminary hearing and promptly upon request to any counsel appearing after the preliminary hearing; (2) reasonably describes the qualifications of the reporter and the nature of his contact with the child; and (3) contains only the direct observations of the reporter, and statements made to the reporter that would be admissible if the reporter were to testify to them in court and any opinions reasonably based thereupon. If a respondent or the child gives notice at the preliminary hearing that he intends to cross-examine the reporter, the person filing the petition shall make the reporter available for such examination at the contested hearing.</p>
<b>Default judgment</b>	<p>(h) If any parent or guardian fails, after due notice of the hearing scheduled pursuant to subsection (g) of this section and without good cause, to appear at the scheduled date for a contested hearing on the order of temporary custody or order to appear, the court may enter or sustain an order of temporary custody.</p>
<b>Mental and physical examination</b>	<p>(i) When a petition is filed in said court for the commitment of a child or youth, the Commissioner of Children and Families shall make a thorough investigation of the case and shall cause to be made a thorough physical and mental examination of the child or youth if requested by the court. The court after hearing may also order a thorough physical or mental examination, or both, of a parent or guardian whose competency or ability to care for a child or youth before the court is at issue. The expenses incurred in making such physical and mental examinations shall be paid as costs of commitment are paid.</p>
<p><b>Adjudication: uncared for, neglected or abused</b></p> <p><b>Disposition: commitment, transfer of guardianship, permanent legal guardianship, protective supervision</b></p>	<p>(j) (1) For the purposes of this subsection and subsection (k) of this section, (A) "permanent legal guardianship" means a permanent guardianship, as defined in section 45a-604, and (B) "caregiver" means (i) a fictive kin caregiver, as defined in section 17a-114, who is caring for a child, (ii) a relative caregiver, as defined in section 17a-126, or (iii) a person who is licensed or approved to provide foster care pursuant to section 17a-114.</p> <p>(2) Upon finding and adjudging that any child or youth is uncared for, neglected or abused the court may (A) commit such child or youth to the Commissioner of Children and Families, and such commitment shall remain in effect until further order of the court, except that such commitment may be revoked or parental rights terminated at any time by the court; (B) vest such child's or youth's legal guardianship in any private or public agency that is permitted by law to care for neglected, uncared for or abused children or youths or with any other person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage; (C) vest such child's or youth's permanent legal guardianship in any person or persons found to be suitable and worthy of such responsibility by the court, including, but not limited to, any relative of such child or youth by blood or marriage in accordance with the requirements set forth in subdivision (5) of this subsection; or (D) place the child or youth in the custody of the parent or guardian with protective supervision by the Commissioner of Children and Families subject to conditions established by the court.</p>

<p><b>Specific Steps</b></p>	<p>(3) If the court determines that the commitment should be revoked and the child's or youth's legal guardianship or permanent legal guardianship should vest in someone other than the respondent parent, parents or former guardian, or if parental rights are terminated at any time, there shall be a rebuttable presumption that an award of legal guardianship or permanent legal guardianship upon revocation to, or adoption upon termination of parental rights by, any caregiver or person or who is, pursuant to an order of the court, the temporary custodian of the child or youth at the time of the revocation or termination, shall be in the best interests of the child or youth and that such caregiver is a suitable and worthy person to assume legal guardianship or permanent legal guardianship upon revocation or to adopt such child or youth upon termination of parental rights. The presumption may be rebutted by a preponderance of the evidence that an award of legal guardianship or permanent legal guardianship to, or an adoption by, such caregiver would not be in the child's or youth's best interests and such caregiver is not a suitable and worthy person. The court shall order specific steps that the parent must take to facilitate the return of the child or youth to the custody of such parent.</p>
<p><b>Commitment</b></p>	<p>(4) The commissioner shall be the guardian of such child or youth for the duration of the commitment, provided the child or youth has not reached the age of eighteen years, or until another guardian has been legally appointed, and in like manner, upon such vesting of the care of such child or youth, such other public or private agency or individual shall be the guardian of such child or youth until such child or youth has reached the age of eighteen years or, in the case of a child or youth in full-time attendance in a secondary school, a technical high school, a college or a state-accredited job training program, until such child or youth has reached the age of twenty-one years or until another guardian has been legally appointed. The commissioner may place any child or youth so committed to the commissioner in a suitable foster home or in the home of a fictive kin caregiver, relative caregiver, or in a licensed child-caring institution or in the care and custody of any accredited, licensed or approved child-caring agency, within or without the state, provided a child shall not be placed outside the state except for good cause and unless the parents or guardian of such child are notified in advance of such placement and given an opportunity to be heard, or in a receiving home maintained and operated by the Commissioner of Children and Families. In placing such child or youth, the commissioner shall, if possible, select a home, agency, institution or person of like religious faith to that of a parent of such child or youth, if such faith is known or may be ascertained by reasonable inquiry, provided such home conforms to the standards of said commissioner and the commissioner shall, when placing siblings, if possible, place such children together. Upon the issuance of an order committing the child or youth to the Commissioner of Children and Families, or not later than sixty days after the issuance of such order, the court shall determine whether the Department of Children and Families made reasonable efforts to keep the child or youth with his or her parents or guardian prior to the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the child's or youth's best interests,</p>
<p><b>Reasonable Efforts finding</b></p>	<p></p>

<p><b>Custody beyond 18 years of age</b></p>	<p>including the child's or youth's health and safety.</p> <p>(5) A youth who is committed to the commissioner pursuant to this subsection and has reached eighteen years of age may remain in the care of the commissioner, by consent of the youth and provided the youth has not reached the age of twenty-one years of age, if the youth is (A) enrolled in a full-time approved secondary education program or an approved program leading to an equivalent credential; (B) enrolled full time in an institution which provides postsecondary or vocational education; or (C) participating full time in a program or activity approved by said commissioner that is designed to promote or remove barriers to employment. The commissioner, in his or her discretion, may waive the provision of full-time enrollment or participation based on compelling circumstances. Not more than one hundred twenty days after the youth's eighteenth birthday, the department shall file a motion in the superior court for juvenile matters that had jurisdiction over the youth's case prior to the youth's eighteenth birthday for a determination as to whether continuation in care is in the youth's best interest and, if so, whether there is an appropriate permanency plan. The court, in its discretion, may hold a hearing on said motion.</p>
<p><b>Permanent legal guardianship</b></p>	<p>(6) Prior to issuing an order for permanent legal guardianship, the court shall provide notice to each parent that the parent may not file a motion to terminate the permanent legal guardianship, or the court shall indicate on the record why such notice could not be provided, and the court shall find by clear and convincing evidence that the permanent legal guardianship is in the best interests of the child or youth and that the following have been proven by clear and convincing evidence:</p> <p>(A) One of the statutory grounds for termination of parental rights exists, as set forth in subsection (j) of section 17a-112, or the parents have voluntarily consented to the establishment of the permanent legal guardianship;</p> <p>(B) Adoption of the child or youth is not possible or appropriate;</p> <p>(C) (i) If the child or youth is at least twelve years of age, such child or youth consents to the proposed permanent legal guardianship, or (ii) if the child is under twelve years of age, the proposed permanent legal guardian is: (I) A relative, (II) a caregiver, or (III) already serving as the permanent legal guardian of at least one of the child's siblings, if any;</p> <p>(D) The child or youth has resided with the proposed permanent legal guardian for at least a year; and</p> <p>(E) The proposed permanent legal guardian is (i) a suitable and worthy person, and (ii) committed to remaining the permanent legal guardian and assuming the right and responsibilities for the child or youth until the child or youth attains the age of majority.</p> <p>(7) An order of permanent legal guardianship may be reopened and</p>

	<p>modified and the permanent legal guardian removed upon the filing of a motion with the court, provided it is proven by a fair preponderance of the evidence that the permanent legal guardian is no longer suitable and worthy. A parent may not file a motion to terminate a permanent legal guardianship. If, after a hearing, the court terminates a permanent legal guardianship, the court, in appointing a successor legal guardian or permanent legal guardian for the child or youth shall do so in accordance with this subsection.</p>
<p><b>Permanency plan</b></p>	<p>(k) (1) (A) Nine months after placement of the child or youth in the care and custody of the commissioner pursuant to a voluntary placement agreement, or removal of a child or youth pursuant to section 17a-101g or an order issued by a court of competent jurisdiction, whichever is earlier, the commissioner shall file a motion for review of a permanency plan if the child or youth has not reached his or her eighteenth birthday. Nine months after a permanency plan has been approved by the court pursuant to this subsection or subdivision (5) of subsection (j) of this section, the commissioner shall file a motion for review of the permanency plan. Any party seeking to oppose the commissioner's permanency plan, including a relative of a child or youth by blood or marriage who has intervened pursuant to subsection (d) of this section and is licensed as a foster parent for such child or youth or is vested with such child's or youth's temporary custody by order of the court, shall file a motion in opposition not later than thirty days after the filing of the commissioner's motion for review of the permanency plan, which motion shall include the reason therefor. A permanency hearing on any motion for review of the permanency plan shall be held not later than ninety days after the filing of such motion. The court shall hold evidentiary hearings in connection with any contested motion for review of the permanency plan and credible hearsay evidence regarding any party's compliance with specific steps ordered by the court shall be admissible at such evidentiary hearings. The commissioner shall have the burden of proving that the proposed permanency plan is in the best interests of the child or youth. After the initial permanency hearing, subsequent permanency hearings shall be held not less frequently than every twelve months while the child or youth remains in the custody of the Commissioner of Children and Families or, if the youth is over eighteen years of age, while the youth remains in voluntary placement with the department. The court shall provide notice to the child or youth, the parent or guardian of such child or youth, and any intervenor of the time and place of the court hearing on any such motion not less than fourteen days prior to such hearing.</p> <p>(B) (i) If a child is at least twelve years of age, the child's permanency plan, and any revision to such plan, shall be developed in consultation with the child. In developing or revising such plan, the child may consult up to two individuals participating in the department's case plan regarding such child, neither of whom shall be the foster parent or caseworker of such child. One individual so selected by such child may be designated as the child's advisor for purposes of developing or revising the permanency plan.</p> <p>(ii) If a child is at least twelve years of age, the commissioner shall</p>

notify the parent or guardian, foster parent and child of any administrative case review regarding such child's commitment not less than five days prior to such review and shall make a reasonable effort to schedule such review at a time and location that allows the parent or guardian, foster parent and child to attend.

(iii) If a child is at least twelve years of age, such child shall, whenever possible, identify not more than three adults with whom such child has a significant relationship and who may serve as a permanency resource. The identity of such adults shall be recorded in the case plan of such child.

(iv) Not later than January 1, 2016, and annually thereafter, the commissioner shall submit a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to children and the judiciary, on the number of case plans in which children have identified adults with whom they have a significant relationship and who may serve as a permanency resource.

(2) At a permanency hearing held in accordance with the provisions of subdivision (1) of this subsection, the court shall approve a permanency plan that is in the best interests of the child or youth and takes into consideration the child's or youth's need for permanency. The child's or youth's health and safety shall be of paramount concern in formulating such plan. Such permanency plan may include the goal of (A) revocation of commitment and reunification of the child or youth with the parent or guardian, with or without protective supervision; (B) transfer of guardianship or permanent legal guardianship; (C) filing of termination of parental rights and adoption; or (D) for a child sixteen years of age or older, another planned permanent living arrangement ordered by the court, provided the Commissioner of Children and Families has documented a compelling reason why it would not be in the best interests of the child or youth for the permanency plan to include the goals in subparagraphs (A) to (C), inclusive, of this subdivision. Such other planned permanent living arrangement shall, whenever possible, include an adult who has a significant relationship with the child, and who is willing to be a permanency resource, and may include, but not be limited to, placement of a youth in an independent living program or long term foster care with an identified foster parent.

(3) If the permanency plan for a child sixteen years of age or older includes the goal of another planned permanent living arrangement pursuant to subparagraph (D) of subdivision (2) of this subsection or subdivision (3) of subsection (c) of section 17a-111b, the department shall document for the court: (A) The manner and frequency of efforts made by the department to return the child home or to secure placement for the child with a fit and willing relative, legal guardian or adoptive parent; and (B) the steps the department has taken to ensure (i) the child's foster family home or child care institution is following a reasonable and prudent parent standard, as defined in section 17a-114d; and (ii) the child has regular opportunities to engage in age

	<p>appropriate and developmentally appropriate activities, as defined in section 17a-114d.</p> <p>(4) At a permanency hearing held in accordance with the provisions of subdivision (1) of this subsection, the court shall (A) (i) ask the child or youth about his or her desired permanency outcome, or (ii) if the child or youth is unavailable to appear at such hearing, require the attorney for the child or youth to consult with the child or youth regarding the child's or youth's desired permanency outcome and report the same to the court, (B) review the status of the child or youth, (C) review the progress being made to implement the permanency plan, (D) determine a timetable for attaining the permanency plan, (E) determine the services to be provided to the parent if the court approves a permanency plan of reunification and the timetable for such services, and (F) determine whether the commissioner has made reasonable efforts to achieve the permanency plan. The court may revoke commitment if a cause for commitment no longer exists and it is in the best interests of the child or youth.</p> <p>(5) If the permanency plan for a child sixteen years of age or older includes the goal of another planned permanent living arrangement pursuant to subparagraph (D) of subdivision (2) of this subsection, the court shall (A) (i) ask the child about his or her desired permanency outcome, or (ii) if the child is unavailable to appear at a permanency hearing held in accordance with the provisions of subdivision (1) of this subsection, require the attorney for the child to consult with the child regarding the child's desired permanency outcome and report the same to the court; (B) make a judicial determination that, as of the date of hearing, another planned permanent living arrangement is the best permanency plan for the child; and (C) document the compelling reasons why it is not in the best interest of the child to return home or to be placed with a fit and willing relative, legal guardian or adoptive parent.</p> <p>(6) If the court approves the permanency plan of adoption: (A) The Commissioner of Children and Families shall file a petition for termination of parental rights not later than sixty days after such approval if such petition has not previously been filed; (B) the commissioner may conduct a thorough adoption assessment and child-specific recruitment; and (C) the court may order that the child be photo-listed within thirty days if the court determines that such photo-listing is in the best interests of the child or youth. As used in this subdivision, "thorough adoption assessment" means conducting and documenting face-to-face interviews with the child or youth, foster care providers and other significant parties and "child specific recruitment" means recruiting an adoptive placement targeted to meet the individual needs of the specific child or youth, including, but not limited to, use of the media, use of photo-listing services and any other in-state or out-of-state resources that may be used to meet the specific needs of the child or youth, unless there are extenuating circumstances that indicate that such efforts are not in the best interests of the child or youth.</p>
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<p><b>Cost of care and maintenance of child or youth</b></p>	<p>(l) The Commissioner of Children and Families shall pay directly to the person or persons furnishing goods or services determined by said commissioner to be necessary for the care and maintenance of such child or youth the reasonable expense thereof, payment to be made at intervals determined by said commissioner; and the Comptroller shall draw his or her order on the Treasurer, from time to time, for such part of the appropriation for care of committed children or youths as may be needed in order to enable the commissioner to make such payments. The commissioner shall include in the department's annual budget a sum estimated to be sufficient to carry out the provisions of this section. Notwithstanding that any such child or youth has income or estate, the commissioner may pay the cost of care and maintenance of such child or youth. The commissioner may bill to and collect from the person in charge of the estate of any child or youth aided under this chapter, or the payee of such child's or youth's income, the total amount expended for care of such child or youth or such portion thereof as any such estate or payee is able to reimburse, provided the commissioner shall not collect from such estate or payee any reimbursement for the cost of care or other expenditures made on behalf of such child or youth from (1) the proceeds of any cause of action received by such child or youth; (2) any lottery proceeds due to such child or youth; (3) any inheritance due to such child or youth; (4) any payment due to such child or youth from a trust other than a trust created pursuant to 42 USC 1396p, as amended from time to time; or (5) the decedent estate of such child or youth.</p>
<p><b>Motion to revoke commitment</b></p>	<p>(m) The commissioner, a parent or the child's attorney may file a motion to revoke a commitment, and, upon finding that cause for commitment no longer exists, and that such revocation is in the best interests of such child or youth, the court may revoke the commitment of such child or youth. No such motion shall be filed more often than once every six months.</p>
<p><b>Motion for reinstatement of guardianship</b></p>	<p>(n) If the court has ordered legal guardianship of a child or youth to be vested in a suitable and worthy person pursuant to subsection (j) of this section, the child's or youth's parent or former legal guardian may file a motion to reinstate guardianship of the child or youth in such parent or former legal guardian. Upon the filing of such a motion, the court may order the Commissioner of Children and Families to investigate the home conditions and needs of the child or youth and the home conditions of the person seeking reinstatement of guardianship, and to make a recommendation to the court. A party to a motion for reinstatement of guardianship shall not be entitled to court-appointed counsel or representation by Division of Public Defender Services assigned counsel, except as provided in section 46b-136. Upon finding that the cause for the removal of guardianship no longer exists, and that reinstatement is in the best interests of the child or youth, the court may reinstate the guardianship of the parent or the former legal guardian. No such motion may be filed more often than once every six months.</p>
<p><b>Surrender of child or youth to custodian</b></p>	<p>(o) Upon service on the parent, guardian or other person having control of the child or youth of any order issued by the court pursuant to the provisions of subsections (b) and (j) of this section, the child or youth concerned shall be surrendered to the person serving the order who shall forthwith deliver the child or youth to the person, agency,</p>

	<p>department or institution awarded custody in the order. Upon refusal of the parent, guardian or other person having control of the child or youth to surrender the child or youth as provided in the order, the court may cause a warrant to be issued charging the parent, guardian or other person having control of the child or youth with contempt of court. If the person arrested is found in contempt of court, the court may order such person confined until the person complies with the order, but for not more than six months, or may fine such person not more than five hundred dollars, or both.</p>
<b>Foster parent(s)</b>	<p>(p) A foster parent, prospective adoptive parent or relative caregiver shall receive notice and have the right to be heard for the purposes of this section in Superior Court in any proceeding concerning a foster child living with such foster parent, prospective adoptive parent or relative caregiver. A foster parent, prospective adoptive parent or relative caregiver who has cared for a child or youth shall have the right to be heard and comment on the best interests of such child or youth in any proceeding under this section which is brought not more than one year after the last day the foster parent, prospective adoptive parent or relative caregiver provided such care.</p>
<b>Siblings</b>	<p>(q) Upon motion of any sibling of any child committed to the Department of Children and Families pursuant to this section, such sibling shall have the right to be heard concerning visitation with, and placement of, any such child. In awarding any visitation or modifying any placement, the court shall be guided by the best interests of all siblings affected by such determination.</p>
<b>Interstate Compact on the Placement of Children</b>	<p>(r) The provisions of section 17a-152, regarding placement of a child from another state, and section 17a-175, regarding the Interstate Compact on the Placement of Children, shall apply to placements pursuant to this section. In any proceeding under this section involving the placement of a child or youth in another state where the provisions of section 17a-175 are applicable, the court shall, before ordering or approving such placement, state for the record the court's finding concerning compliance with the provisions of section 17a-175. The court's statement shall include, but not be limited to: (1) A finding that the state has received notice in writing from the receiving state, in accordance with subsection (d) of Article III of section 17a-175, indicating that the proposed placement does not appear contrary to the interests of the child, (2) the court has reviewed such notice, (3) whether or not an interstate compact study or other home study has been completed by the receiving state, and (4) if such a study has been completed, whether the conclusions reached by the receiving state as a result of such study support the placement.</p>
<b>Out-of-state placement, notice</b>	<p>(s) In any proceeding under this section, the Department of Children and Families shall provide notice to each attorney of record for each party involved in the proceeding when the department seeks to transfer a child or youth in its care, custody or control to an out-of-state placement.</p>

# Section 5: Child Witnesses in Connecticut

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to the vulnerability of child witnesses and the reliability of child testimony.

## **CONSTITUTION:**

- [U.S. Const.](#) amend. VI.
- [Conn. Const.](#) art. I, § 8.

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Statutes (2017)

- Chapter 4. Oaths
  - [§ 1-25](#) Oath for witnesses 12 years of age or younger
- Chapter 815j. Dissolution of marriage, legal separation and annulment
  - [§ 46b-49](#) Private hearing.
- Chapter 815t. Juvenile matters
  - [§ 46b-138a](#) Testimony of accused juvenile, parent or guardian in juvenile proceeding.
- Chapter 961. Trial and proceedings after conviction
  - [§ 54-86g](#) Testimony of victim of child abuse.
  - [§ 54-86h](#) Competency of child as witness.

United States Code (2017)

- [18 U.S.C. § 3509](#) Child victims' and child witnesses' rights

## **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal, and posted [online](#).

- Conn. Practice Book (2017)
  - Chapter 25. Superior Court—Procedure in family matters
    - [§ 25-59](#). Closure of courtroom in family matters.
  - Chapter 32a. Rights of parties: Neglected, uncared for and dependent children and termination of parental rights
    - [§ 32a-1](#). Right to Counsel and to Remain Silent
    - [§ 32a-2](#). Hearing procedure; Subpoena
    - [§ 32a-3](#). Standard of proof
    - [§ 32a-4](#). Child or Youth Witness
    - [§ 32a-5](#). Consultation with Child or Youth

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [State v. Devon D.](#), 321 Conn. 656, 686, 138 A.3d 849, 867 (2016). "We conclude that the trial court may exercise its discretion to permit a dog to provide comfort and support to a testifying witness. Before doing so, the court must balance the extent to which the accommodation will help the witness to testify reliably and completely against any possible prejudice to the defendant's right to a fair trial. The trial court should consider the particular facts and circumstances for the request to have a dog accompany the particular witness, the extent to which the dog's presence will permit the witness to testify truthfully, completely and reliably, and the extent to which the dog's presence will obviate the need for more drastic measures to secure the witness' testimony. The trial court should balance these factors against the potential prejudice to the defendant and the availability of measures to mitigate any prejudice, such as limiting

instructions and procedures to limit the jury's view of the dog.”

- [In re Tayler F.](#), 296 Conn. 524, 544-45, 995 A.2d 611, 626-27 (2010). “Consistent with these authorities and our jurisprudence, we conclude that a trial court properly may conclude that a child is unavailable if there is competent evidence that the child will suffer psychological harm from testifying. The court's determination must be based, however, on evidence specific to the child and the circumstances, not a generalized presumption that testifying is per se harmful. We further conclude that, although the nature of the conduct that is the subject of the testimony may be a relevant consideration, we decline to limit the court's discretion to deem the child unavailable to only cases involving sexual abuse, as the respondent appears to suggest. This state's policies, as reflected in our statutes and rules of practice, support a broader view of the protection of child witnesses. See General Statutes § 54-86g (providing special procedures for testimony of child in criminal prosecution of offense involving assault, sexual assault or abuse of child twelve years of age or younger); Practice Book § 32a-4 (providing alternative to in-court testimony and confrontation of parent for child witness, irrespective of conduct at issue). This is especially true in neglect proceedings, in which the sole focus is the safety and general well-being of the child. *In re Allison G.*, 276 Conn. 146, 158-59, 164, 883 A.2d 1226 (2005); *In re T.K.*, 105 Conn.App. 502, 505-506, 939 A.2d 9, cert. denied, 286 Conn. 914, 945 A.2d 976 (2008).”
- [State v. Ruiz](#), 124 Conn. App. 118, 3 A.3d 1021 (2010). “The defendant also claims that he was deprived of his constitutional right to confrontation under *Crawford v. Washington*, 541 U.S. 36, 68, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004), which held that testimonial hearsay is admissible against a criminal defendant at trial only if the defendant had a prior opportunity for cross-examination and the witness is unavailable to testify at trial. The defendant does not claim that the court failed to follow the procedures identified in § 54-86g or *Jarzbek*. Rather, he claims that his right to confrontation requires N to testify in court so that he may confront his accuser face-to-face and that our Supreme Court should reconsider *Jarzbek* in light of *Crawford*. This claim must fail in light of our Supreme Court's ruling in *State v. Arroyo*, supra, 284 Conn. at 597, 935 A.2d 975, in which the court considered the precise constitutional claims raised by the defendant. The *Arroyo* court, like the court in *Jarzbek*, considered the importance of face-to-face confrontation. The court noted that criminal defendants do not have ‘the absolute right to a face-to-face meeting with witnesses against them at trial’; (emphasis in original; internal quotation marks omitted) *id.*, at 622, 935 A.2d 975; but, rather, ‘under appropriate circumstances, the state's interest in securing reliable testimony from the particular child victim

in question may outweigh a defendant's right of face-to-face confrontation.' *Id.*, at 623, 935 A.2d 975."

- [State v. Bronson](#), 258 Conn. 42, 50, 779 A.2d 95 (2001). "In the exercise of discretion, the trial court must conduct an assessment of the victim's reliability as a witness pursuant to the test set forth in *Jarzbek* ... We conclude that the defendant's request for an expert's assessment should have been granted."
- [State v. Aponte](#), 249 Conn. 735, 738 A.2d 117 (1999) "We conclude that the actions of the prosecutor in giving the victim a Barney doll prior to her testifying, along with the trial court's limitations on the defendant's ability to expose to the jury the impact that such conduct may have had on her testimony, harmfully deprived the defendant of due process..." (737).  
"This four year old's inability to immediately 'shift gears' does not demonstrate a lack of comprehension such that her testimony should have been disallowed" (760).
- [State v. Jarzbek](#), 204 Conn. 683, 704, 529 A.2d 1245 (1987), *cert. denied*, 484 U.S. 1061, 108 S.Ct. 1017, 98 L.Ed.2d 982 (1989). "We conclude that, in criminal prosecutions involving the alleged sexual abuse of children of tender years, the practice of videotaping the testimony of a minor victim outside the physical presence of the defendant is, in appropriate circumstances, constitutionally permissible... We ... mandate a cases-by-case analysis, whereby a trial court must balance the individual defendant's right of confrontation against the interest of the state in obtaining reliable testimony from the particular minor victim in question... Under the approach we adopt today, a trial court must determine, at an evidentiary hearing, whether the state has demonstrated a compelling need for excluding the defendant from the witness room during the videotaping of a minor victim's testimony."
- [State v. Angell](#), 237 Conn. 321, 331, 677 A.2d 912 (1996). "The defendant in this case has similarly failed to establish that the trial court's refusal to grant his request for a child credibility instruction constituted an abuse of discretion."
- [State v. Marquis](#), 241 Conn. 823, 824-825, 699 A.2d 893 (1997). "The issue in this certified appeal is whether a trial court has the discretion, under *State v. Jarzbek*, .... and General Statutes § 54-86g, to order that a child witness be examined by an expert witness for the defense before deciding whether to grant the state's motion for videotaped testimony pursuant to § 54-86g(a). We conclude that the trial court has the discretion to order such an examination ..."
- [Globe Newspaper Co. v. Superior Court](#), 457 U.S. 596, 102 S.Ct. 2613 (1982). "This case addresses the constitutionality of a Massachusetts statute which, 'as construed by the Massachusetts Supreme Judicial Court, requires trial judges, at trials for specified sexual offenses involving a victim under the age of 18, to exclude the press and general public from

the courtroom during the testimony of that victim.” (p. 598)  
Held: “... § 16A, as construed by the Massachusetts  
Supreme Judicial Court, violates the First Amendment to the  
Constitution.” (p. 610-611)

**WEST KEY  
NUMBERS:**

- Child Witnesses 410 Witnesses 45(2)

**ENCYCLOPEDIAS:**

- 81 Am. Jur. 2d *Witnesses* (2015).
  - § 198. Test of competency
  - § 199. Duty and discretion of court
  - § 200. Examination by court
  - § 201. Effect of statute
  - § 203. —Manner and extent of examination
  - § 204. —Participation of counsel
  - § 205. —Failure to conduct examination
  - § 206. Examination by psychiatrist or psychologist
  - § 208. Particular factors of child competency. Age and intelligence of child. Generally
  - § 209. Presumption of competence
  - § 210. —Effect of statute
  - § 211. Particular ages of competency
  - § 212. Sensibility of child to obligation of oath. Generally
- 98 C.J.S. *Witnesses* (2012).
  - § 128. Competency of particular persons, Children. Test of competency
  - § 129. Presumptions; children under certain ages
  - § 130. Special rules in sex offense cases
  - § 131. Time of competency
  - § 132. Understanding duty to tell truth. Generally
  - § 133. Knowledge of legal terms and consequences
  - § 134. Religious belief
  - § 135. Special rules in sex offence and other criminal cases
  - § 136. Particular factors affecting child’s competency. Coaching and rehearsing
  - § 137. Mental retardation and disorders; commitment to juvenile facility
  - § 139. Uncertainties; reluctance to testify
  - § 140. Examination of child. Generally
  - § 141. Types of questions
  - § 142. Examination by psychiatrist

**TEXTS &  
TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Paul Chill, [The Law of Child Abuse and Neglect in Connecticut](#) (1997).
  - Chapter 14 Trials
    - F. Rules of evidence: Child witnesses (p. 81).
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (3<sup>rd</sup> ed.).
  - Chapter 21. Trial techniques: Basic strategies
    - § 21.7. The child witness
  - Chapter 24. Children’s development, memory, and

testimony

- § 24.7. Importance of developmental level for child abuse/neglect issues
  - § 24.10. Children's memory in general
  - § 24.11. Memory for personally significant details
  - § 24.12. Memory for traumatic events
  - § 24.13. Suggestibility
  - § 24.14. Testimonial aids to children's memory
  - § 24.15. False Memory Syndrome
  - § 24.16. Testimonial relevance of children's memory
  - § 24.17. Competency
  - § 24.18. Preparing the child
  - § 24.19. Accommodations for child witness
  - § 24.20. Expert testimony in preparation for child's testimony
  - § 24.21. How to ask children questions they can understand
  - § 24.22. Ensuring fair cross-examination
- Thomas A. Jacobs, [Children & the Law: Rights & Obligations](#) (2012 Ed.)
    - Chapter 2. Protection of children (Dependency process)
    - IV. Judicial process
    - §2:65 Child witness
  - Martin R. Gardner, [Understanding Juvenile Law](#) (4<sup>th</sup> ed. 2014)
    - Chapter 4. Child abuse
    - § 4.03 The judicial process
    - [B] Children's testimony
  - Sherrie Bourg Carter, [Children in the Courtroom](#) (2<sup>nd</sup> ed. 2009)
  - Jonathan Spodnick, *Competency of the Child Witness in Sexual Assault Cases: Examining the Constitutionality of Connecticut General Statute §54-86h*, 10 Univ. of Bridgeport L. Rev. 135 (1989).
  - Kerry R. Callahan, *Protecting Child Sexual Abuse Victims in Connecticut*, 21 Conn. L. Rev. 411 (1989).
  - Nancy W. Perry and Larry L. Teply, *Interviewing, Counseling, and In-Court Examination of Children: Practical Approaches for Attorneys*, 18 Creighton L. Rev. 1369 (1985), reprinted in
  - Julie A. Dale, *Ensuring Reliable Testimony From Child Witnesses in Sexual Abuse Cases: Applying Social Science Evidence to a New Fact-Finding Method*, 57 Albany L. Rev. 187 (1993).

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

# Section 6: Child Abuse Prevention

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to state and federal programs and activities developed to prevent child abuse and neglect.

## **RECENT PUBLIC ACTS:**

- Public Act [15-205](#) *An Act Protecting School Children.*

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Statutes (2017)

- Chapter 104. Municipal police and fire protection
  - [§ 7-294g](#). State and local police training programs to provide training re domestic violence, child abuse, and suicide intervention procedures.
- Chapter 319. Department of Children and Families
  - [§ 17a-3](#). Powers and duties of the department. Comprehensive strategic plan.
  - [§ 17a-49](#). Grants for programs to treat and prevent child abuse and neglect....
- Chapter 319a. Child welfare
  - [§ 17a-101](#). Protection of children from abuse. Mandated reporters. Educational and training programs.
  - [§ 17a-106](#). Cooperation in relation to prevention, identification and investigation of child abuse and neglect.
- Chapter 319rr. Child care and protection
  - [§ 17b-751](#). Children's Trust Fund established. Regulations. Report.
  - [§ 17b-751b](#). Nurturing Families Network.
  - [§ 17b-751d](#). Department of Social Services designated as state agency responsible for programs and activities to prevent child abuse and neglect. Report.
- Chapter 368a. Department of Public Health
  - [§ 19a-4i](#). Office of Injury Prevention.
- Chapter 813a. Office of the Child Advocate
  - [§ 46a-13k](#) et seq. Office of the Child Advocate.

United States Code (2017)

- [42 USC § 5101 et seq.](#) Child Abuse Prevention and Treatment Act

## **REGULATIONS:**

You can visit your local law library or browse the [recently adopted regulations page](#) on the Secretary of the State website to check if a regulation has been updated.

- [Conn. Agencies Regs.](#) §§ 17a-50-1 to 17a-50-7
  - [§17a-50-1\(c\)](#) "'Children's Trust Fund' means a designated account operated and maintained by the Department to provide financial support for community based child abuse prevention activities."
- [45 C.F.R. Part 1340](#) (revised to October 1, 2014) Child abuse and neglect prevention and treatment.

## **LEGISLATIVE REPORTS:**

- Mark Randall, "[Predictive Neglect](#)" Cases Based on Parent's Mental Health, Connecticut General Assembly, Office of Legislative Research, Report No. 2012-R-0103 (Feb. 16, 2012).
- Saul Spigel, [Child Abuse Prevention and Punishment](#), Connecticut General Assembly, Office of Legislative Research, Report No. 2002-R-0836 (Oct. 18, 2002).

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Joseph W.](#), 305 Conn. 633, 46 A.3d 59 (2012). "We conclude, therefore, that the trial court must find that it is more likely than not that, if the child remained in the current situation, the child would be 'denied proper care and attention, physically, educationally, emotionally or morally'; General Statutes (Rev. to 2011) § 46b-120 (8)(B); or would be 'permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth....' General Statutes (Rev. to 2011) § 46b-120 (8)(C); see also *Stuart v. Stuart*, 297 Conn. 26, 38, 996 A.2d 259 (2010) ('the general rule [is] that when a civil statute is silent as to the applicable standard of proof, the preponderance of the evidence standard governs factual determinations required by that statute' [internal quotation marks omitted] ). We further conclude that, in neglect proceedings involving the doctrine of predictive neglect, the petitioner is required to meet this standard with respect to each parent who has contested the neglect petition and who has expressed a desire, or at least a willingness, to care for the child independently of the other parent."
- [In re Michael D.](#), 58 Conn. App. 119, 123-124, 752 A.2d 1135 (2000), *cert. denied* 254 Conn. 911 (2000). "By its terms, § 17a-101(a) connotes a responsibility on the state's behalf to act before the actual occurrence of injury or neglect has taken place... Our statutes clearly and explicitly recognize the state's authority to act before harm occurs to protect children whose health and welfare may be adversely affected and not just children whose welfare has been affected."
- [In re Kelly S.](#), 29 Conn. App. 600, 613, 616 A.2d 1161 (1992). "The trial court found that the respondent was not capable of providing the necessary care. The evidence fully supports that conclusion... Actual incidents of abuse or neglect are not required in determining that a child is uncared for under the 'specialized needs' section of the statute... For purposes of commitment of a child to the custody of the commissioner pursuant to § 46b-129, proof of ongoing parenting deficiencies is sufficient to satisfy the statute where those deficiencies mean that the child's home is unable to provide the care required for her special needs."

## **LAW REVIEWS:**

- Donna J. Goldsmith, *In the Best Interests of an Indian Child: The Indian Child Welfare Act*, 53 *Juvenile and Family Court Journal*, Fall 2002, at 9.
- Richard R. Fields, Book Note, *The Future of Child Protection:*

Public access to law review databases is available on-site at each of our law libraries.

- How to Break the Cycles of Abuse and Neglect*, 3 J.L. & Fam. Stud. 243 (2001).
- Jennifer L. Reichert, *Judges' Group Releases Guidelines for Protecting Victims of Family Violence*, 35 Trial, August 1999, at 83.
  - Howard A. Davidson, *Protecting America's Children: a Challenge*, 35 Trial, January 1999, at 22.
  - Michael S. Wald & Sophia Cohen, *Preventing Child Abuse—What Will It Take?*, 20 Fam. L. Q. 281 (1986).
  - *Innovations in Child Abuse and Neglect Prevention*, 31 No. 10 Child L. Prac. 143 (2012).
  - Philippa M. Eve, Mitchell K. Byrne, Cinzia R. Gagliard, *What is Good Parenting? The Perspectives of Different Professionals*, 50 Fam. Ct. Rev. 114 (2014).

# Section 7: Safe Havens Act

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to Connecticut's Safe Havens Act for Newborns.

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Statutes (2017)

- Chapter 319. Department of Children and Families
  - [§ 17a-57](#). Designation of emergency room nursing staff to take physical custody of infant voluntarily surrendered.
  - [§ 17a-58](#). Physical custody of infant upon voluntary surrender by parent or agent. Mother's surrender of custody of infant in hospital. Medical history. Identification bracelet.
  - [§ 17a-59](#). Notification of custody. Assumption of care and control by commissioner.
  - [§ 17a-60](#). Reunification of parent with infant. Confidentiality of information provided designated employee.
  - [§ 17a-61](#). Public information program.
- Chapter 939. Offenses against the person
  - [§ 53-21](#)(b). Injury or risk of injury to, or impairing morals of, children.
  - [§ 53-23](#)(b). Abandonment of child under the age of six years.

## **CASES:**

- In re Doe, Superior Court, Judicial District of Fairfield, No. M08CP14012304A (Nov. 4, 2014) (2014 WL 7156188). "By leaving newborn Baby Boy Doe at the hospital on July 21, 2014 pursuant to the Safe Haven Act, the surrendering mother, or the agent who acted on her behalf, made it clear that she intended to abandon the child, abdicating to others all responsibilities for meeting the infant's basic and fundamental needs for love, food, shelter, clothing, medical care, and parental supervision. As found in Part II, there are no grounds upon which the court could reasonably attribute the surrendering woman's conduct to be related to issues of impoverishment. Moreover, the court has drawn the reasonable inference that the hospital where Baby Boy Doe was surrendered fulfilled its statutory obligation to deliver information concerning the legal ramifications of such surrender to the unidentified woman who left him there, prior to her departure from the hospital grounds."
- In re Baby Girl Doe, Superior Court, Judicial District of Fairfield, No. F04CP12009701A, (Mar. 12, 2013) (2013 WL 1365004). "Pursuant to General Statutes § 17a-112(j)(1), the court finds that DCF has used its best efforts to identify the parents and to unify the child with the parents within the strictures of the Safe Haven Act. Because of the mother's assertion of the Safe Haven Act, the court concludes that unification efforts are not required. The court further finds

that: the parents have abandoned the child under General Statutes § 17A-112(j)(2)(A); and the parents do not have a parent-child relationship with the child under § 17A-112(j)(D). It would be detrimental to the child's best interests for the parents to receive more time to establish such a relationship. The court also finds that DCF has proven that the termination of parental rights is in the child's best interests. See General Statutes § 17a-112(j)(2)."

**ADMINISTRATIVE  
AGENCIES -  
RESOURCES**

- State of Connecticut, Department of Children and Families, ["What is the Safe Havens Act for Newborns?"](#), available on the DCF website.
- State of Connecticut, Department of Children and Families, Policy Manual, [§ 34-12-4](#).

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Ana L. Partida, Note, *The Case for "Safe Haven" Laws: choosing the Lesser of Two Evils in a Disposable Society*, 28 New Eng. J. on Crim & Civ. Confinement 61 (2002).
- Sarah Biehl, *Validating Oppression: Safe Haven Laws as Perpetuation of Society's Demonization of "Bad" Mothers*, Children's Legal Rights Journal, Winter 2002-03, at 17.
- Karen Vassilian, *A Band-Aid or a Solution? Child Abandonment Laws in California*, 32 McGeorge L. Rev. 752 (2001).

# Section 8: False Allegations of Child Abuse

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to false reports or false allegations of child abuse.

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Statutes (2017)

- Chapter 319a. Child welfare
  - [§ 17a-101e\(c\)](#). False report of child abuse. Penalty.
  - [§ 17a-103](#). Reports by others. False reports. Notification to law enforcement agency.
- Chapter 802h. Protected persons and their property
  - [§ 45a-615](#). False or malicious application for removal of guardian. Penalty.

## **REGULATIONS:**

- [Conn. Agencies Regs.](#)
  - § 17a-101k-16. Expunged Reports and Investigations.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Kruger v. Grauer](#), Superior Court, Judicial District of New Haven, No. CV13-6036257S (July 28, 2015) (2015 WL 5134601). "In sum, whether a report of suspected abuse is mandatory or discretionary, the legislature has expressly determined that the immunity provided may be lost through the reporter's failure to exercise good faith. If this court were to recognize an absolute privilege under the common law in this context, the legislature's determination that only good faith reporters may escape liability would be rendered toothless. By invoking an absolute privilege under the common law, if one were recognized, one who falsely and maliciously reported another for child abuse could make an end run around the existing good faith statutory immunity. Accordingly, this court declines the defendant's invitation to undermine the existing conditional statutory immunity by recognizing an absolute privilege under the common law."
- [Bhatia v. Debek](#), 287 Conn. 397, 416, 948 A.2d 1009, 1023 (2008). "For substantially the same reasons, we reject the defendant's claim that she is entitled to statutory immunity pursuant to § 17a-101e(b), which provides immunity from criminal liability to persons who 'in good faith' report child abuse. Although the statute does not define the term 'good faith,' it is not necessary to engage in a lengthy statutory interpretation to resolve the defendant's claim, because, given the trial court's well supported factual findings that the defendant acted with malice and without probable cause, the meaning of the term 'good faith' does not support a conclusion that the defendant acted with good faith in reporting the alleged sexual abuse."
- [Vargas v. LaBella](#), Superior Court, Judicial District of Fairfield at Bridgeport, No. CV06-5001941-S (Mar. 8, 2007) (43 Conn. L. Rptr. 22) (2007 WL 901813). "Third, the plaintiff's

allegations imply the legal conclusion that maliciousness, in the form of making a false report of sexual abuse, is a dangerous propensity. The plaintiff's memorandum has offered no legal authority for that proposition and the court is unaware of any such authority. Thus, the second count insufficiently alleges a claim of negligent supervision of a child and is stricken."

- Riedl v. Plourde, Superior Court, Judicial District of Litchfield, No. CV-02-0088965-S (Feb. 10, 2003) (2003 WL 541191). "The defendants were not mandated reporters and can not expect to receive any greater immunity than accorded to mandated reporters. In fact, any person who makes a knowingly false report of child abuse may be fined not more than \$2,000 or imprisoned not more than on year or both. It would be incongruous if the defendants were immune from civil liability in this situation. For these reasons the motion to strike is denied."
- Wilkinson v. Wiegand, Superior Court, Judicial District of Hartford, Docket No. FA92-0517285 (Jan. 27, 1995) (1995 WL 43693). *In this dissolution of marriage case, the plaintiff husband was awarded a \$500,000 lump sum alimony payment.* "Of particular note is the intolerable cruelty which the defendant has caused by subjecting the plaintiff to false allegations of sexual abuse, and the humiliation which resulted from that..."
- Butler v. Butler, Superior Court, Judicial District of Hartford, Docket No. FA90-027128-S (Feb. 19, 1992). *A child custody dispute where allegations of child sexual abuse were made by the mother. The allegations were eventually found to be invalid. The parties were granted joint legal custody, and primary physical custody was given to the Plaintiff father.*

### **TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 5 Sandra Morgan Little, [Child Custody and Visitation Law & Practice](#) (2011).
  - Chapter 31. Allegations of abuse in child custody and visitation proceedings
    - § 31.03. Reporting rules
      - [1] Introduction
      - [2] Purpose, operation, and effect of reporting statutes
      - [3] Problems with and concerns about reporting laws
        - [a] Underreporting
        - [b] Substantiation of cases
        - [c] Misperceptions concerning allegations of sexual abuse
        - [d] Disposition of unfounded cases

### **LAW REVIEWS:**

- Terese L. Fitzpatrick, *Innocent Until Proven Guilty: Shallow Words for the Falsely Accused in a Criminal Prosecution for Child Sexual Abuse*, 12 Univ. Bridg. L. Rev. 175 (1991).
- Corey L. Gordon, *False Accusations of Child Abuse in Child*

Public access to law review databases is available on-site at each of our law libraries.

- *Custody Disputes*, 4 Conn. Fam. L. J. 11 (1985).
- Richard A. Gardner, *Differentiating Between Bona fide and Fabricated Allegations of Sexual Abuse of Children*, 5 J. Am. Acad. Matrim. Law. 1 (1989).
- Curtis M. Loveless, *Sexual Abuse Allegations in Child Custody Cases—Some Practical Considerations*, 5 J. Am. Acad. Matrim. Law. 47 (1989).
- Meredith Sherman Fahn, *Allegations of Child Sexual Abuse in Custody Disputes: Getting to the Truth of the Matter*, 25 Fam. L. Q. 193 (1991).
- Ann M. Haralambie, *Child Sexual Abuse: Defending the Alleged Abuser*, 17 Fam. Advoc, Winter 1995, at 52.
- Rachel M. Kane, *Cause of Action Against Health Care Provider, School, or Other Statutory Reporter by Parent Wrongfully Accused of Child Abuse or Neglect*, 60 Medical Trial Technique Quarterly 1 (Winter 2013).
- Sally Small Inada, *Liability Protections for Professionals in Child Abuse and Neglect Cases*, 32 No. 12 Child L. Prac. 188 (2013).

Table 5: False reports of child abuse

<b>Reports of Child Abuse</b> Conn. Gen. Stats. <a href="#">§ 17a-101e</a> (2017)	
Discrimination against employees	(a) No employer shall (1) discharge, or in any manner discriminate or retaliate against, any employee who in good faith makes a report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, testifies or is about to testify in any proceeding involving child abuse or neglect, or (2) hinder or prevent, or attempt to hinder or prevent, any employee from making a report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, or testifying in any proceeding involving child abuse or neglect. The Attorney General may bring an action in Superior Court against an employer who violates this subsection. The court may assess a civil penalty of not more than two thousand five hundred dollars and may order such other equitable relief as the court deems appropriate.
Immunity for reporting	(b) Any person, institution or agency which, in good faith, makes, or in good faith does not make, the report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103 shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such report provided such person did not perpetrate or cause such abuse or neglect.
False report of child abuse. Penalty	(c) Any person who is alleged to have knowingly made a false report of child abuse or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103 shall be referred to the office of the Chief State's Attorney for purposes of a criminal investigation.
False report - penalty	(d) Any person who knowingly makes a false report of child abuse or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103 shall be fined not more than two thousand dollars or imprisoned not more than one year or both.

# Section 9: Child Abuse and the Unborn

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to abuse or neglect of an unborn child and the extent to which a parent may be held accountable for prenatal injury.

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

Conn. Gen. Statutes (2017)

- Chapter 319a. Addiction services  
[§ 17a-710](#). Substance abuse treatment programs for pregnant women and their children.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [State v. Courchesne](#), 296 Conn. 622, 707, 998 A.2d 1 (2010). "It is evident, therefore, that the legislature's enactment of P.A. 03-21 'merely reflects a desire to afford greater protection to the unborn fetus than was available under common law, not less protection to a child who, despite the homicidal conduct of another, happens to survive past birth.' (Emphasis added.) *State v. Cotton*, supra, 197 Ariz. at 588, 5 P.3d 918. Of course, as a consequence of the enactment of P.A. 03-21, this court lacks the authority to reject the born alive rule in favor of an expansion of our murder statute to include the killing of a viable fetus that dies in utero because the legislature already has determined that such conduct shall be treated as an aggravated assault against the mother under P.A. 03-21 and not as a homicide."
- [In Re Valerie D.](#), 223 Conn. 492, 524, 613 A.2d 748 (1992). "We therefore infer from the legislative activity in 1990 and intent that § 45a-171(f)(2) does not contemplate a petition for termination of parental a petition for termination of parental rights based upon the prenatal drug use by the mother."
- [In the Interest of Cesar G.](#), Superior Court, Child Protection Session at Middletown (May 4, 2000) (1995 WL 43693). "In neither Ground F nor Ground E did the legislature provide that the conduct related to the 'other child' had to have occurred subsequent to the birth of the subject child. If it had intended that meaning, it easily could have included such language... Accordingly, the court holds that Ground F may apply to a child who was not born when the subject conduct occurred."

## **TEXTS & TREATISES:**

- Martin R. Gardner, [Understanding Juvenile Law](#) (4<sup>th</sup> ed. 2014)  
Chapter 3. The child and the family  
§3.02 Support and maintenance  
[A] "Necessary" support

#### [4] Unborn children

##### **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- David A. Hollander, *In Re Valerie D.: The New Word on the Street*, 13 Bridgeport L. Rev. 989 (1993).
- Margaret P. Spencer, *Prosecutorial Immunity: The Response to Prenatal Drug Use*, 25 Conn. L. Rev. 393 (1993).
- Tara Kole & Laura Kadetsky, *The Unborn Victims of Violence Act*, 39 Harv. L. on Legis. 215 (2002).
- Michael Holzapfel, Comment, *The Rights to Live, The Right to Choose, and The Unborn Victims of Violence Act*, J. Contemp. Health L. & Pol'y 431 (2002).
- Leslie Ayers, Note, *Is Mama a Criminal? An Analysis of Potential Criminal Liability of HIV-Infected Pregnant Women in the Context of Mandated Drug Therapy*, 50 Drake L. Rev. 293 (2002).
- Lori Fulton, *Protective Custody of the Unborn: Involuntary Commitment of Pregnant, Substance-Abusing Mothers for the Protection of Their Unborn Children*, 21 Children's Legal Rts. J.,\_Fall 2001, at 8.
- Sandy Banks, *Crime and the Myth of the Perfect Mother*, L.A. Times, May 27, 2001, at E-1. (Woman convicted of killing her unborn child by smoking cocaine)
- Nancy Kubasek & Melissa Hinds, *The Communitarian Case Against Prosecutions for Prenatal Drug Abuse*, 22 Women's Rights L. Rts. 1 (2000).
- Robyn M. Kaufman, *Legal Recognition of Independent Fetal Rights: The Trend Towards Criminalizing Prenatal Conduct*, 17 Children's Legal Rts. J.,\_Spring 1997, at 20.
- Timothy Lynch & Nancy Grace, *Individual Right: Is the Prosecution of 'Fetal Endangerment' Illegitimate*, 82 A.B.A. J., December 1996, at 72.
- Jessica Pearson & Nancy Thoennes, *What Happens to Pregnant Substance Abusers and Their Babies?*, 47 Juv. & Fam. Ct. J., Spring 1996, at 15.
- Shona Glink, *The Prosecution of Maternal Fetal Abuse: Is This the Answer*, 1991 Univ. Ill. L. Rev. 533 (1991).
- Dorothy E. Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right to Privacy*, 104 Harv. L. Rev. 1419 (1991).

# Section 10: Adult Memories of Child Abuse

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to adult memories of child abuse or "repressed memory syndrome".

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the CGA website.

Conn. Gen. Statutes (2017)

- Chapter 926. Statute of Limitations.  
[§ 52-577d](#). Limitation of action for damages to minor caused by sexual abuse, exploitation or assault.

## **LEGISLATIVE:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- James Orlando, [Statute Of Limitations For Prosecuting Child Sexual Assault Cases](#), Connecticut General Assembly, Office of Legislative Research Report No. 2013-R-0162 (February 25, 2013).
- Sandra Norman-Eady, [Child Sexual Abuse Prosecutions](#), Connecticut General Assembly, Office of Legislative Research Report No. 2012-R-0136 (April 5, 2012).

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Sherman v. Ronco](#), 294 Conn. 548, 563-564, 985 A.2d 1042 (2010). "Applying that principle to the present case, it is apparent that this case is analogous to *Sharp*, and not to *Gurliacci*. As we already have explained in this opinion, the allegations in the amended substitute complaint depend on different facts from those alleged in the original complaint, as reflected by the plaintiff's addition of new and different facts to support the new allegations of assault and battery and intentional infliction of emotional distress. Because the new theories of liability asserted in the amended substitute complaint would not have been supported by the factual allegations set forth in the original complaint, the relation back doctrine does not apply to the amended substitute complaint, and those counts are barred by the limitations period established by § 52-577d."
- [Doe v. Norwich Roman Catholic Diocesan Corp.](#), 279 Conn. 207, 209, 901 A.2d 673 (2006). "In this appeal, we are asked to decide when the thirty year statute of limitations period under General Statutes § 52-577d, triggered by a minor victim of sexual assault attaining the age of majority, begins to run for the plaintiff, David Doe, who was nineteen years old when the legislature lowered the age of majority from twenty-one years to eighteen years in 1972."
- [Borawick v. Shay](#), 68 F.3d 597, 606 (2d Cir. 1995), *cert. denied*, 597 U.S. 1229 (1996). "...the fact remains that the literature has not yet conclusively demonstrated that

hypnosis is a consistently effective means to retrieve repressed memories of traumatic, past experiences accurately..."

- [Henderson v. Woolley](#), 230 Conn. 472, 486, 644 A.2d 1303 (1994). "... the parental immunity doctrine does not bar an action by a minor child against his or her parent for personal injuries arising out of sexual abuse, sexual assault or sexual exploitation."

**ENCYCLOPEDIAS:**

- Charles S. Parnell, *Trial Report: Third Party Suit Against Therapists for Implanting False Memory of Childhood Molestation*, 57 Am. Jur. Trials 313 (1995).

**TEXTS & TREATISES:**

- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (3d ed.).  
§ 20.09. Delayed discovery

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Joseph A. Spadaro, *An Elusive Search for the Truth: the Admissibility of Repressed and Recovered Memories in Light of Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 30 Conn. L. Rev. 1147 (1998).
- Elaine Song, *A New Test for Painful 'Memories': The 2<sup>nd</sup> Circuit Lays Down the Law on Hypnosis Evidence in Sex-Abuse Cases*, 21 Conn. L. Trib., November 6, 1995, at 1.
- Cheryl L. Karp, *The Repressed Memory Controversy*, 17 Fam. Advoc., Winter 1995, at 70.
- Holly Metz, *Fact or Fantasy? the Debate Over 'Repressed Memory Syndrome' Enters the Courtroom*, 24 Student Law., December 1995, at 20.
- Cynthia Grant Bowman & Elizabeth Mertz, *What Should Courts do About Memories of Sexual Abuse? Toward a Balanced Approach*, 35 Judges' J., Fall 1996, at 7.
- Jacqueline Kanovitz, *Hypnotic Memories and Civil Sexual Abuse Trials*, 45 Vand. L. Rev. 1185 (1992).

# Section 11: Child Abuse and Neglect Registry

*A Guide to Resources in the Law Library*

## **SCOPE:**

Bibliographic resources relating to the Child Abuse and Neglect Central Registry.

## **RECENT PUBLIC ACTS:**

- Public Act [15-199](#) *An Act Expanding Guardianship Opportunities For Children And Implementing Provisions Of The Federal Preventing Sex Trafficking And Strengthening Families Act.*

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

Conn. Gen. Statutes (2017)

- Chapter 319. Department of Children and Families  
[§ 17a-28](#). Definitions. Confidentiality and access to records; exceptions. Procedure for aggrieved persons.
- Chapter 319a. Child welfare  
Part I. Dependent and neglected children  
[§ 17a-101g](#). Classification and evaluation of reports. Determination of abuse or neglect of child. Investigation. Notice, entry of recommended finding. Referral to local law enforcement authority. Home visit. Removal of child in imminent risk of harm.  
[§ 17a-101k](#). Registry of findings of abuse or neglect of children maintained by Commissioner of Children and Families. Notice of finding of abuse or neglect of child. Appeal of finding. Hearing procedure. Appeal after hearing. Confidentiality. Regulations.

## **LEGISLATIVE:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- Robin K. Cohen, [Child Abuse and Neglect Registry](#), Connecticut General Assembly, Office of Legislative Research Report No. 2012-R-0114 (March 2, 2012).
- Susan Price, [Parents' Appeal Rights When a Child Protection Agency Removes a Child from Their Home](#), Connecticut General Assembly, Office of Legislative Research Report No. 2011-R-0332 (September 29, 2011).
- R. F. O'Neil, [DCF Substantiation Hearing Process](#), Connecticut General Assembly, Office of Legislative Research Report No. 2006-R-0517 (August 21, 2006).

## **CASES:**

- [Isabella D. v. Dep't of Children & Families](#), 320 Conn. 215, 238, 128 A.3d 916, 930, cert. denied sub nom. [Isabella D. v. Connecticut Dep't of Children & Families](#), 137 S. Ct. 181, 196 L. Ed. 2d 124 (2016). "A review of the statutory scheme demonstrates that the alleged victim is not a party to the substantiation appeal process and, as we have discussed previously in this opinion, the process is designed to protect the community. Although the alleged victim is entitled to be notified of the outcome of the department's initial

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

investigation into the alleged victim's allegations of abuse or neglect; see Policy Manual, *supra*, § 34-3-6; the department's substantiation appeal process does not afford the alleged victim an opportunity to challenge the department's determination that such allegations are unfounded. Moreover, despite the fact that the department is required to provide the alleged perpetrator with notice of the substantiation hearing, no statute, regulation, or provision in the Policy Manual requires that the alleged victim be informed of the substantiation hearing or its outcome. Lastly, it is notable that the alleged victim who is the subject of the substantiation is prohibited from testifying at the substantiation hearing. Regs., Conn. State Agencies § 17a-101k-8 (h); see also Policy Manual, *supra*, § 22-12-7."

- [Frank v. Dept. of Children and Families](#), 312 Conn. 393, 416, 94 A.3d 588 (2014). "The department claims that the Appellate Court improperly determined that the relevant term, 'emotional abuse', is void for vagueness. Specifically, the department claims that the term is not unconstitutionally vague when one examines the department's regulations and policy manual in combination with the remainder of the statutory scheme and relevant case law. Moreover, the department contends that, as an educator, the plaintiff should have been on fair notice that his conduct would fall within the statutory definition of 'abuse', particularly in light of Connecticut's anti-bullying statute. In response, the plaintiff claims that the Appellate Court correctly held that § 46b-120(3) is unconstitutionally vague as applied to the facts in the present case because 'the plaintiff ... could [not] have been on notice that his cheek-pinching and name-calling behavior toward K could amount to child abuse within the meaning of §46b-120(3) as interpreted by the [department's] regulations.' *Frank v. Dept. of Children & Families*, 134 Conn. App. 288, 315, 37 A.3d 834 (2012). We agree with the department."
- [In re Alba P.-V.](#), 135 Conn. App. 744, 754, 42 A.3d 393 (2012). "The respondent contends that, under the department's policy, a failure to overturn the court's adjudications of neglect will result in the denial of her administrative hearings as a matter of course. The respondent points to § 17a-101k-4 (d) of the Regulations of Connecticut State Agencies and the department's policy manual in support of her argument. Section 17a-101k-4 (d) provides that a 'request for an internal review shall be denied by the department when a civil court proceeding has been finally disposed with a factual determination by the court that the identified person committed the act of child abuse or neglect that is the subject of the substantiation.' We reject the respondent's argument, again noting that the court's adjudications of neglect challenged on appeal are not findings about the respondent, but are directed at the status of her children."
- [Hogan v. Dept. of Children and Families](#), 290 Conn. 545, 964

A.2d 1213 (2009). "The defendant must consider the nature, extent and cause of the abuse or neglect—terms defined by statute—to determine whether the person responsible for the abuse poses a risk to the health, safety or well-being of children. This undoubtedly is a predictive exercise. As we previously have recognized, 'the legislative process would frequently bog down if the General Assembly were constitutionally required to appraise beforehand the myriad situations to which it wishes a particular policy to be applied.... To require any more specificity in the standards... would hamper the flexibility needed for the [defendant] to [carry out its duties].' (Citations omitted; internal quotation marks omitted.) *University of Connecticut Chapter, AAUP v. Governor*, 200 Conn. 386, 398-99, 512 A.2d 152 (1986)."

**REGULATIONS:**

You can visit your local law library or browse the [recently adopted regulations page](#) on the Secretary of the State website to check if a regulation has been updated.

- [Conn. Agencies Regs.](#)
  - Child Abuse and Neglect Registry**
    - § 17a-101k-2. Notice of Substantiation or Listing on Central Registry.
    - § 17a-101k-3. Criteria for registry finding that individual responsible for abuse or neglect of a child poses a risk to the health, safety or well-being of children.
    - § 17a-101k-4. Request for Internal Review
    - § 17a-101k-5. Conduct of the Internal Review
    - § 17a-101k-6. Request for an Administrative Hearing
    - § 17a-101k-8. Conduct of the Administrative Hearing
    - § 17a-101k-10. The Administrative Hearing Decision
    - § 17a-101k-11. Reconsideration and Appeal
    - § 17a-101k-13. Disclosure
    - § 17a-101k-15. Access to the Central Registry.
    - § 17a-101k-16. Expunged Reports and Investigations.

**DCF POLICY MANUAL:**

- [Chapter 22.](#) Administrative Hearings
  - [22-12-2](#) Substantiation Hearings – Introduction.
  - [22-12-3](#) Notice of Substantiation Hearing and Right to a Substantiation Hearing.
  - [22-12-4](#) Requesting a Substantiation Hearing.
  - [22-12-5](#) Scheduling Substantiation Hearings.
  - [22-12-6](#) Party Status in Substantiation.
  - [22-12-7](#) Conduct of Substantiation Hearing.
  - [22-12-8](#) Decision and Record of Hearing.
- [Chapter 33.](#) Child Protective Careline
  - [33-1](#) Child Abuse and Neglect Careline – Central Registry

**LAW REVIEWS:**

- Joan Owhe, *Indicated Reports of Child Abuse or Maltreatment: When Suspects Become Victims*, 51 Fam. Ct. Rev. 316 (2013)