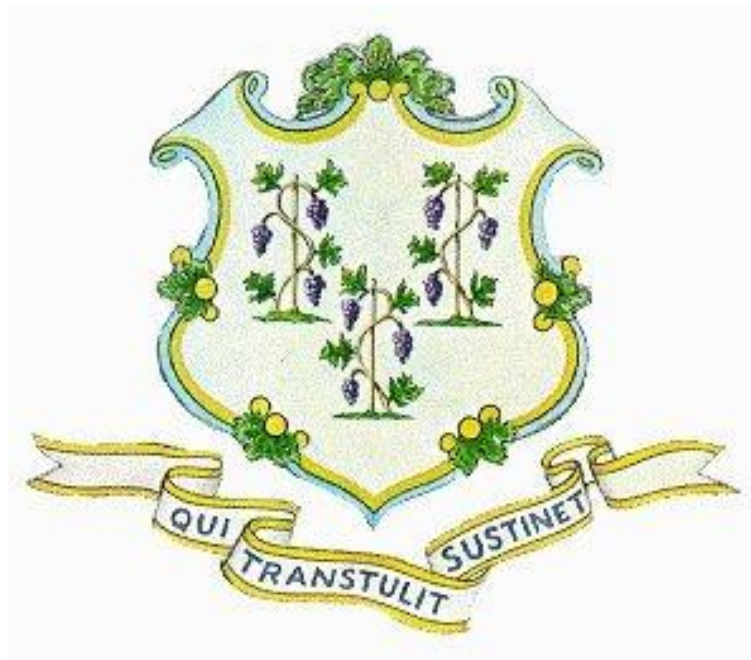


Office of the Probate Court Administrator

2012 Legislative Summary



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STATE OF CONNECTICUT

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To: All Judges and Court Staff

**From: Paul J. Knierim
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Re: 2012 Legislative Summary

The probate system achieved another successful legislative session in 2012. The legislation introduced by probate administration and the Probate Assembly passed both chambers unanimously and was signed by the Governor. I thank all of you who worked to develop and advocate for our bills.

The material in this packet includes a summary of each bill, together with a copy of the public act. The summaries are not meant to replace the public acts and are offered only to present a general understanding of the legislation. Always consult the public acts directly if any questions arise. Bracketed text in the public acts indicates deletions and underlined text indicates additions. Please note the effective dates of each act.

The Office of Legislative Research at the General Assembly provided much of the information enclosed in this packet. The material will be reviewed at the Judges Institute on October 10th and the court staff training on October 24th.

As always, please feel free to contact this office with any questions.

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Public Act 12-22 (HB 5150)

An Act Concerning the Connecticut Uniform Adult Protective Proceedings Jurisdiction Act

SUMMARY

The act establishes procedures for courts to determine which state should hear a conservatorship matter when the respondent has contacts in more than one jurisdiction. It also establishes procedures for the transfer of conservatorships between states and for the registration and enforcement of out-of-state conservatorships.

Effective Date: October 1, 2012

Section 1: Names the act the “Connecticut Uniform Adult Protective Proceedings Jurisdiction Act.”

Section 2: Definitions

Section 3: Effective dates: The provisions of the act modifying the basis for exercising jurisdiction apply to cases commenced on or after October 1, 2012. The provisions regarding the determination of which state should exercise jurisdiction, the transfer of cases between states and the registration and enforcement of out-of-state conservatorships apply to all cases, whether commenced before or after October 1, 2012.

Section 4: Permits the court to treat foreign countries as states when applying the act.

Section 5: Allows communication between a CT Probate Court and a court in another state concerning proceedings under the act. Parties are allowed to participate in the communications. The Probate Court must make an audio recording of the communication. Prior to determination of jurisdiction, any party may present facts and legal arguments. Any communications concerning strictly administrative functions, such as scheduling and record transfers, may take place without a recording or the parties’ participation.

Section 6: Permits a Probate Court conducting a proceeding for involuntary representation to ask a court of another state to do any of the following:

- Hold an evidentiary hearing
- Order a person in another state to produce evidence or give testimony
- Order an evaluation or assessment of the respondent, subject to C.G.S. § 45a-132a
- Order an investigation of a person involved in a proceeding

- Forward a certified copy of the transcript or other record of a hearing, evidence or any evaluation or assessment prepared in compliance with an order
- Issue an order to assure appearance of a person in court
- Issue an order authorizing release of medical, financial, criminal or other relevant information in that state, including protected health information

A CT Probate Court may exercise jurisdiction to comply with a request for any of the above by the court of another state.

Section 7: Testimony of a witness in another state may be taken by deposition or any other method allowed under CT law. The court may permit a witness in another state to testify by telephone, audiovisual or other electronic means. The court may not exclude documentary evidence transferred by technological means on the ground that the original writing has not been produced.

Sections 8 through 16 and 25 — Probate Court Jurisdiction

The act replaces the current provisions on appointing a conservator for an individual not domiciled in CT with the following provisions.

Sections 8 through 11

A CT Probate Court has jurisdiction to appoint a conservator if any of the following are met:

- Connecticut is the respondent's home state (see below)
- On the date the petition is filed, Connecticut is a significant-connection state (see below)
- The CT Probate Court does not otherwise have jurisdiction, but the respondent's home state and all significant-connection states decline jurisdiction because Connecticut is the more appropriate forum and jurisdiction in Connecticut is consistent with the statutes and the U.S. and CT constitutions
- The requirements for special jurisdiction are met (see below)

The court shall give the parties an opportunity to present facts and arguments before it makes a decision on jurisdiction.

The act defines a "home state" as the state in which the respondent was physically present for at least six consecutive months immediately before the filing of a petition for a conservator of the estate or before a conservator of the person was appointed.

Significant-connection State Jurisdiction

The act defines a "significant-connection state" as a state where the respondent has a significant connection, other than mere physical presence, and in which substantial evidence is available concerning the respondent. To decide whether

a person has a significant connection with a state, the bill requires the court to consider all of the following:

- Location of the respondent's family and others who must be notified of the proceeding
- Length of time the respondent was physically present in the state and the duration of any absence
- Location of the respondent's property
- Extent of the respondent's ties to the state, such as voter registration, state or local tax return filing, vehicle registration, driver's license, social relationships and receipt of services

For jurisdiction based on Connecticut as a significant-connection state, one of the following conditions must apply:

- The respondent does not have a home state
- The respondent has a home state, but a court in that state declines jurisdiction because Connecticut is a more appropriate forum
- The respondent has a home state, but no petition is pending in the home state or another significant-connection state at any time prior to issuance of an order, no party objects and the court concludes that it is an appropriate forum under section 13(c) of the act

Special Jurisdiction

A CT Probate Court that does not otherwise have jurisdiction has special jurisdiction to appoint a temporary conservator of the person or estate if either of the following applies:

- The respondent is physically present in Connecticut and the court finds grounds for the emergency appointment of a temporary conservator under C.G.S. § 45a-654(a)
- The court of another state has issued a provisional order to transfer a conservatorship proceeding to Connecticut.

The Probate Court must dismiss any temporary conservatorship proceeding on request of the home state. The court, on written request of a respondent, shall hold a hearing under the CT temporary conservatorship statute. The maximum duration of a temporary conservatorship order is 60 days.

Section 12: A CT Probate Court that appointed a conservator has exclusive and continuing jurisdiction over the proceeding until the court terminates the conservatorship or the appointment or order expires by its terms. This does not apply when the court exercises special jurisdiction under C.G.S. § 11.

Section 13: A CT Probate Court may decline to exercise jurisdiction if it determines at any time that a court of another state is a more appropriate forum. The court may dismiss the proceeding or issue a stay of no longer than 90 days to allow a petition to be filed in another jurisdiction.

To determine whether the CT Probate Court is the appropriate forum, the act requires the court to consider all relevant factors, including:

- Any expressed preference by the respondent
- Whether he or she was, or is likely to be, abused, neglected or exploited, and which state will best protect the person
- The length of time the respondent was physically present in or a legal resident of Connecticut or another state
- The respondent's physical distance from the court in each state
- The financial circumstances of the respondent's estate
- The nature and location of the evidence
- The ability of the court in each state to decide the issue with due process and without undue delay
- The procedures necessary to present evidence
- The familiarity of the court of each state with the facts and issues in the proceeding
- The court's ability to monitor the conservator's conduct

The bill requires the court to make specific written findings on its basis for determining the most appropriate forum.

Section 14: If a court determines at any time that it acquired jurisdiction to appoint a conservator because of a party's unjustifiable conduct, the court can decline to exercise jurisdiction, dismiss the case and rescind any order. The court may exercise limited jurisdiction for up to 90 days before dismissal to avoid immediate and irreparable harm to the person's mental or physical health or financial or legal affairs and to prevent a repetition of the unjustifiable conduct.

The court may assess a party who engaged in unjustifiable conduct necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, medical examination expenses, witness fees and expenses, and travel expenses. It cannot assess fees, costs or expenses of any kind against the state unless authorized by other law.

Section 15: If a petition for involuntary representation is brought in a CT court but Connecticut is not the person's home state, the court shall give notice in accordance with the requirements of CT law and the law of the home state.

Section 16: If more than one jurisdiction has a pending petition for the same respondent and neither petition is dismissed or withdrawn, the following rules may apply:

- If the CT Probate Court has jurisdiction under the act, it can proceed unless a court in another state acquires jurisdiction under similar provisions before the CT court appoints a conservator
- If the CT Probate Court does not have home-state or significant-connection jurisdiction, it must stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court shall dismiss the petition unless the court in the other state determines that the CT Probate Court is a more appropriate forum and jurisdiction in Connecticut is consistent with this state's statutes and the state and U.S. constitutions.

These rules do not apply when a court exercises special jurisdiction over a petition for appointment of a temporary conservator in an emergency.

Sections 17 and 18 — Transfer of Conservatorship between States

Section 17: Except for an individual under voluntary representation, the act allows a conserved person, his or her attorney, a conservator or anyone entitled to notice of an involuntary representation proceeding to petition the court to transfer the conservatorship to another state.

Provisional Orders

The court shall issue a provisional order granting a transfer petition and direct the conservator to petition for conservatorship in another state if all of the following apply:

- The court is satisfied that a court in the other state will accept the conservatorship
- The conserved person is physically present in or is reasonably expected to move permanently to the other state
- No objection to the transfer is made, or any objecting party fails to establish that the transfer would be contrary to the conserved person's interests, including the person's reasonable and informed expressed preferences
- Plans for the conserved person's care or financial management in the other state are reasonable and sufficient and have been made after allowing the conserved person the opportunity to participate meaningfully in decision making
- The requirements of CT law are met regarding termination of the person's tenancy or lease, disposal of his or her real property or household furnishings, change of residence or placement in a long-term care institution

The court shall issue a final order confirming the transfer and terminating the conservatorship when it receives a provisional order from the court of the other

state accepting the proceeding and documents required to terminate a conservatorship in Connecticut.

Section 18: A conservator seeking to confirm the transfer of a conservatorship from another state to Connecticut must petition the Probate Court to accept the conservatorship. The petition must include a certified copy of the other state's provisional order of transfer. The court shall give notice of the hearing in accordance with the requirements of CT law and the law of the other state.

The court shall issue a provisional order granting a petition unless either of the following applies:

- An objecting party establishes that the transfer would be contrary to the person's interests, including the person's reasonable and informed expressed preferences
- The conservator is ineligible for appointment as a conservator in Connecticut

At least 30 days before issuing a final order accepting a transfer to Connecticut, the Probate Court must ensure that the conserved person is represented by counsel and receives notice of his or her rights under CT law.

The court shall issue a final order accepting the proceeding and appointing the conservator in Connecticut when it receives a final order from the other court. In granting a petition, the court must recognize any conservatorship order from the other state, including the determination of the person's incapacity and the appointment of the conservator.

Within 90 days after issuing a final order accepting the transfer, the court must determine whether the conservatorship needs to be modified to conform to CT law.

When a Probate Court grants a petition to accept a conservatorship from another state, the conserved person has the same rights as if the conservator was originally appointed in Connecticut, and the conservator has the same responsibilities and duties as those imposed on a conservator by CT law.

A Probate Court's denial of a transfer petition does not affect the ability of the conservator to apply for involuntary representation if the court otherwise has jurisdiction.

Sections 19 through 21 — Registration and Enforcement of Out-of-state Conservatorships

The act allows a conservator appointed in another state to register the conservatorship order in Connecticut by filing certified copies of the order as a

foreign judgment in the Probate Court for the district where the conserved person resides, is domiciled or is located at the time of filing. Conservators of the estate must also submit any bond and may submit certified copies of the documents for recording on the land records in a town where a conserved person owns real property.

The act requires each Probate Court to maintain a public registry of out-of-state conservatorship orders.

Once registered, a conservator from another state may exercise in Connecticut all powers authorized in the order of appointment, except as prohibited by CT law. An out-of-state order may be enforced by the Probate Court or, to the extent it lacks jurisdiction, the Superior Court.

The registration of a conservatorship of the person lapses 120 days after registration, but the court may extend the registration for an additional 120 days for good cause.

Section 22: The act should be applied and construed in a manner that promotes uniformity.

Section 23: The act specifies that it modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, and that it does not modify, limit or supersede consumer protections specified in federal law, nor does it authorize electronic delivery of the following notices specified in federal law:

- Court notices or documents required to be executed in connection with court proceedings
- Notices about the cancellation or termination of utility services
- Default, acceleration, repossession, foreclosure or eviction, or the right to cure, under a credit agreement secured by, or rental agreement for, an individual's primary residence
- The cancellation or termination of health or life insurance benefits and
- The recall or material failure of a product that risks health or safety

The remaining sections of the act make conforming changes to existing statutes.

Public Act 12-25 (HB 5287)

An Act Concerning the Appointment of a Guardian Ad Litem for a Person who is Subject to a Conservatorship Proceeding or a Proceeding Concerning Administration of Treatment for a Psychiatric Disability

SUMMARY

The act prohibits the appointment of a guardian ad litem (GAL) in conservatorship matters before a determination of incapacity has been made, or

in an involuntary medication matter before a determination that the patient is incapable of giving informed consent.

Only after a court has determined that a person lacks the ability to give informed consent, or is incapable of caring for himself or herself or managing his or her affairs, may a GAL be appointed. The court may not appoint a GAL for a person under guardianship or involuntary conservatorship who brings a habeas corpus proceeding.

The court may appoint a GAL for a conserved person for limited, specific purposes following a finding of need or when the person's attorney is unable to ascertain the person's preferences. In appointing a GAL, the court must specify the scope and duration of the appointment. The appointment ends when the GAL submits a report to the court, or sooner, if the court so orders.

Effective date: October 1, 2012

Public Act 12-45 (SB 248)

An Act Concerning Probate Fees

SUMMARY

Sections 1 through 8: Amend the Probate Court fee statutes so that the term *fee* is used consistently throughout the sections. Currently, the statutes use several terms, including *fee*, *charge*, *cost* and *expense*.

Sections 2 through 4: Repeal the \$25 fee for multiple hearings on the same matter and the \$25 per hour fee for hearings exceeding one hour. The authority of the court to assess a \$50 fee against a party who seeks a continuance remains in force.

Section 3: Establishes an exception from the minimum \$25 estate fee for the Department of Administrative Services (DAS) when acting as legal representative under C.G.S. § 4a-16, under which DAS pays the balance remaining after payment of funeral expenses. This section also repeals an obsolete subsection of C.G.S. § 45a-107 for estates in which proceedings began before July 1, 1983.

Section 5: Establishes a \$25 fee for providing a digital copy of an audio recording of a probate hearing.

Section 9: Repeals a statute calling for a study of alternate methods of calculating the gross estate.

Effective date: January 1, 2013 (Section 9 was effective July 1, 2012.)

Public Act 12-66 (SB 309)

An Act Concerning Probate Court Operations

SUMMARY

The act amends technical and administrative statutes affecting the Probate Court system.

Sections 1 through 4: Clarify that compensation for services as an administrative judge for a regional children's probate court or special assignment probate judge is included in pension calculations.

Effective date: July 1, 2012

Section 5: Clarifies eligibility for pension benefits of a surviving spouse of a deceased probate judge.

Effective date: Effective from passage

Section 6: Deletes the words "or any other benefit" from the first sentence of C.G.S. § 45a-55(2) to bring state law on retiree health insurance benefits in line with federal law with respect to appeals. The Insurance Department will handle appeals involving benefits other than pension.

Effective date: October 1, 2012

Section 7: Changes the frequency of the probate court administrator's report from an annual report to a biennial one, aligning it with the fiscal year. The report is due by April 1 of even-numbered years.

Effective date: October 1, 2012

Section 8: Deletes the second sentence of C.G.S. § 45a-287(d) to correct a technical error related to section 16 of P.A. 11-128.

Effective date: Effective from passage

Sections 9 and 10: Permit the transfer of removal and termination matters to a regional children's probate court or to the Superior Court on the court's own motion.

Effective date: January 1, 2013

Section 11: Enumerates the functions that may be assigned to probate court officers in matters before the regional children's probate courts. A probate court officer's report is admissible into evidence, and the officer may be required to testify in court.

Effective date: October 1, 2012

Sections 12 through 14: Adopt the new term *estate examiner* for an individual appointed for the sole purpose of investigating a potential claim in connection with an estate. The act exempts the estate examiner from inventory and accounting requirements.

Effective date: January 1, 2013

Section 15: Eliminates the requirement that court-appointed attorneys for individuals with intellectual disability submit written reports to the court. Instead, attorneys must verify in writing that they have met with their client and notify the court if a hearing is requested. The guardian and a professional or team from the Department of Developmental Services will continue to submit reports, and the court will provide copies to the attorney for the ward.

Effective date: October 1, 2012

Sections 16 and 17: Clarify that in matters involving out-of-state fiduciaries, service of process may be delivered to the Probate Court or served personally upon the judge.

Effective date: January 1, 2013

Sections 18 through 24: Eliminates statutory inconsistencies in establishing policy for the management of Probate Court records. The probate court administrator, often consulting with the public records administrator, may issue regulations or policies on the management, preservation and disposition of Probate Court records.

Effective date: October 1, 2012

Public Act 12-82 (HB 5217)

An Act Concerning Revisions to Statutes Concerning the Department of Children and Families

SUMMARY

The act revises several statutes involving the Department of Children and Families (DCF). Below are the sections that affect the Probate Courts.

Section 4: Reconciles statutes to permit Probate Courts to disclose confidential records received from DCF to be disclosed to parties if specifically authorized by statute.

Effective date: October 1, 2012

Sections 16 through 19: Permit the commissioner of DCF to file a petition for adoption in Superior Court if that court terminated parental rights and appointed the commissioner as statutory parent. Jurisdiction is concurrent with the Probate Court, and the DCF commissioner may file for adoption in Probate Court. The confidentiality provisions contained in Title 45a apply to adoptions records in the Superior Court.

Effective date: October 1, 2012

Public Act 12-87 (HB 5299)

An Act Concerning Disposition of Remains of Military Personnel

SUMMARY

This act permits an adult in the armed forces of the state or the United States to use Department of Defense Form 93, "Record for Emergency Data," to provide for the disposition of his or her remains after death or to designate a person to have the custody of his or her remains.

Effective date: Effective from passage

Public Act 12-93 (SB 31)

An Act Establishing a Commission on Judicial Compensation

SUMMARY

The act creates a Commission on Judicial Compensation and establishes a method for determining adjustments to the compensation of judges. The commission must submit a report on its findings and recommendations by January 2, 2013, and every four years thereafter.

Effective date: July 1, 2011

Section 1: Establishes the Commission on Judicial Compensation and outlines administrative procedures, including how commission members are appointed. The commission will examine the need for adjusting the compensation of judicial positions in the Supreme, Appellate and Superior Courts. The commission has no direct authority over the compensation of probate judges, but any changes affecting Superior Court judges will automatically modify the compensation of probate judges under C.G.S. § 45a-95a.

Section 2: Requires the Judicial Branch to include in its biennial budget request estimates of expenditures due to changes in compensation.

Section 3: Removes judicial compensation from the auspices of the compensation commission established under C.G.S. § 2-9a.

Public Act 12-104 (HB 5557)

An Act Making Adjustments to State Expenditures for the Fiscal Year Ending June 30, 2012

SUMMARY

The act makes adjustments to the second year of the biennial budget. This summary highlights changes made to the Probate Court system.

Effective Date: Effective from passage

Section 1: Increases the appropriation to the Children's Trust Fund, fully funding the Kinship and Respite Funds.

Section 17: Outlines the appropriation of surplus funds in the Probate Court Administrative Fund at the end of fiscal year 2012. The General Assembly will reallocate the surplus to other state initiatives.

Public Act 12-133 (HB 5365)

An Act Concerning Court Operations and Victim Services

SUMMARY

The act is the Judicial Branch's annual operations bill. One section affects the Probate Court system.

Effective date: October 1, 2012

Section 6: Permits decisions rendered by all courts to be transmitted to attorneys and other parties by electronic delivery as well as by mail. Electronic delivery includes e-mail, fax or other technology that meets established procedures and standards set by the chief court administrator and, in the Probate Court system, by the probate court administrator.

Public Act 12-136 (HB 5437)

An Act Concerning the Definitions of Mental Retardation and Intellectual Disability

SUMMARY

The act refines the definition of "mental retardation" as "a significant limitation in intellectual functioning and deficits in adaptive behavior that originated during the developmental period before age 18" and defines "significant limitation in intellectual functioning" as "an intelligence quotient (I.Q.) more than two standard deviations below the mean." It also requires that I.Q. be measured by general intellectual function tests that are individualized, standardized and clinically and culturally appropriate to the individual.

Effective date: October 1, 2012

Public Act 12-163 (HB 5241)

An Act Concerning Delayed Birth Registration

SUMMARY

The act changes the process for requesting a delayed birth certificate, which is a birth certificate that is registered one year or more after birth. Requests for delayed birth certificates must be filed with the Department of Public Health (DPH), rather than the town registrar of vital statistics. In addition to the affidavit currently required, the requesting person must also submit documentary evidence in support of the facts of the birth.

If DPH denies the registration, the party may appeal to the Probate Court for the district where the birth occurred. The Probate Court must schedule a hearing with notice to all of the following:

- The petitioner
- If the petitioner is seeking the delayed registration for a minor, the minor's parent or legal guardian and the minor if he or she is at least 12 years old
- The DPH commissioner
- Any interested party so named by the court

The person seeking the court order must prove by a preponderance of the evidence that the birth occurred on the date and at the place alleged. The court may issue an order indicating its findings regarding the person's name, sex, date of birth, place of birth and other appropriate identifying information and directing DPH to prepare a delayed birth certificate.

Probate Courts may order DNA testing to determine parentage. The tests must be performed by a hospital, accredited laboratory or qualified physician or other person designated by the court. Petitioners pay for DNA testing. DPH pays for DNA testing for a petitioner who is found to be indigent.

Effective date: October 1, 2012

Public Act 12-1 (HB 6001)

An Act Implementing Provisions of the Budget for the Fiscal Year Beginning July 1, 2012

SUMMARY

The act implements the budget adjustments adopted in P.A. 12-104. This summary highlights the sections affecting the Probate Court system.

Section 116: Adds initiatives to the list set forth in section 17 of P.A. 12-104 (see above).

Effective date: Upon passage

Sections 274 through 279: Permit Probate Courts to establish a permanent guardianship for a minor under which the parent may not seek reinstatement, but parental rights are not terminated.

To appoint a permanent guardian without terminating parental rights, a court must find that all of the following has been proved by clear and convincing evidence:

- Permanent guardianship is in the best interests of the child
- One of the grounds for termination of parental rights has been met, or the parents have voluntarily agreed to the appointment
- Adoption of the minor is not possible or appropriate
- A minor who is at least 12 years old consents to the appointment, or if the minor is under 12, the permanent guardian is a relative or is already serving as permanent guardian for the minor's siblings
- The minor has lived with the permanent guardian for at least one year
- The proposed permanent guardian is suitable, worthy and committed to remaining the permanent guardian until the minor reaches the age of majority

Once a permanent guardian has been appointed, a parent who has been removed as guardian may not seek reinstatement unless the permanent guardian becomes unable or unwilling to serve. In that event, the court may appoint a successor permanent guardian or reinstate a parent if it finds that the factors that resulted in the removal of the parent have been resolved and that reinstatement is the best interests of the minor.

Effective date: October 1, 2012



House Bill No. 5150

Public Act No. 12-22

AN ACT CONCERNING THE CONNECTICUT UNIFORM ADULT PROTECTIVE PROCEEDINGS JURISDICTION ACT.

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

Section 1. (NEW) (*Effective October 1, 2012*) Sections 1 to 23, inclusive, of this act may be cited as the "Connecticut Uniform Adult Protective Proceedings Jurisdiction Act".

Sec. 2. (NEW) (*Effective October 1, 2012*) As used in sections 1 to 23, inclusive, of this act:

- (1) "Adult" means an individual who is at least eighteen years of age.
- (2) "Conservator of the estate" means (A) a conservator of the estate, as defined in section 45a-644 of the general statutes, as amended by this act, or (B) a person, except a hospital or nursing home facility, appointed by a court outside of this state to manage the property of an adult.
- (3) "Conservator of the person" means (A) a conservator of the person, as defined in section 45a-644 of the general statutes, as amended by this act, or (B) a person, except a hospital or nursing home facility, appointed by a court outside of this state to make decisions regarding the person of an adult.
- (4) "Conservator of the person order" means (A) an order appointing a conservator of the person pursuant to part IV of chapter 802h of the general statutes, or (B) an order by a court outside of this state appointing a conservator of the person.
- (5) "Conservator of the person proceeding" means (A) a judicial proceeding held pursuant to part IV of chapter 802h of the general statutes in which an order for the appointment of a conservator of the person is sought or has been issued, or

(B) a judicial proceeding held outside of this state in which an order for the appointment of a conservator of the person is sought or has been issued.

(6) "Involuntary representation" means involuntary representation, as defined in section 45a-644 of the general statutes, as amended by this act.

(7) "Party" means the respondent, petitioner, conservator of the person or conservator of the estate or any other person allowed by a court to participate in a conservator of the person proceeding or a conservator of the estate proceeding.

(8) "Person", except as used in the term "conserved person", means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(9) "Conserved person" means a conserved person, as defined in section 45a-644 of the general statutes, as amended by this act, or an adult for whom a conservator of the person or conservator of the estate has been appointed in a judicial proceeding outside of this state.

(10) "Conservator of the estate order" means (A) an order appointing a conservator of the estate pursuant to part IV of chapter 802h of the general statutes, (B) an order by a court outside of this state appointing a conservator of the estate, or (C) any other order by a court related to the management of the property of an adult.

(11) "Conservator of the estate proceeding" means (A) a judicial proceeding held pursuant to part IV of chapter 802h of the general statutes, or (B) a judicial proceeding held outside of this state in which a conservator of the estate order is sought or has been issued.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Respondent" means a respondent, as defined in section 45a-644 of the general statutes, as amended by this act, or an adult for whom the appointment of a conservator of the person or a conservator of the estate order is sought outside of this state.

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 3. (NEW) (*Effective October 1, 2012*) (a) Sections 1 to 23, inclusive, of this act and sections 45a-644 of the general statutes, as amended by this act, 45a-648 of the general statutes, as amended by this act, and 45a-649 of the general statutes, as amended by this act, apply to conservator of the person proceedings and conservator of the estate proceedings begun on or after October 1, 2012.

(b) Sections 1 to 7, inclusive, of this act and sections 17 to 23, inclusive, of this act apply to conservator of the person proceedings and conservator of the estate proceedings begun before October 1, 2012, regardless of whether a conservator of the person order or conservator of the estate order has been issued.

Sec. 4. (NEW) (*Effective October 1, 2012*) A court of probate may treat a foreign country as if it were a state for the purpose of applying sections 1 to 18, inclusive, of this act and sections 22 and 23 of this act.

Sec. 5. (NEW) (*Effective October 1, 2012*) (a) A court of probate may communicate with a court in another state concerning a proceeding arising under sections 1 to 23, inclusive, of this act or part IV of chapter 802h of the general statutes. The court of probate shall allow the parties to participate in the communication.

(b) The court of probate shall make an audio recording of the communication.

(c) The court of probate shall grant the parties access to the audio recording of the communication.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, courts of probate may communicate concerning schedules, calendars, court records and other administrative matters without making a record or allowing the parties to participate in the communication.

(e) Nothing in this section shall limit any party's right to present facts and legal arguments before a decision on jurisdiction is entered pursuant to the provisions of sections 8 to 16, inclusive, of this act.

Sec. 6. (NEW) (*Effective October 1, 2012*) (a) In a proceeding for involuntary representation in this state, a court of probate may request, to the extent permitted or required by the laws of this state, the appropriate court of another state to do any of the following:

(1) Hold an evidentiary hearing;

(2) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;

(3) Order that an evaluation or assessment be made of the respondent, subject to the provisions of section 45a-132a of the general statutes;

(4) Order any appropriate investigation of a person involved in a proceeding;

(5) Forward to the Court of Probate a certified copy of the transcript or other record of a hearing under subdivision (1) of this subsection, or any other proceeding, any evidence otherwise produced under subdivision (2) of this subsection, and any evaluation or assessment prepared in compliance with an order issued under subdivision (3) or (4) of this subsection;

(6) Issue an order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or conserved person, subject to the provisions of subsection (e) of section 45a-649 of the general statutes, as amended by this act, subsection (e) of section 45a-650 of the general statutes or subsection (g) of section 45a-656b of the general statutes; or

(7) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state, including protected health information as defined in 45 CFR 160. 103, as amended from time to time, subject to the provisions of subsection (g) of section 45a-649a of the general statutes.

(b) If a court of another state in which a conservator of the person proceeding or conservator of the estate proceeding is pending requests assistance of the kind provided in subsection (a) of this section, a court of probate has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request, subject to the laws of this state.

Sec. 7. (NEW) (*Effective October 1, 2012*) (a) In a proceeding for involuntary representation in this state, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. A court of probate on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a proceeding for involuntary representation in this state, a court of probate may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of probate shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of probate by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

Sec. 8. (NEW) (*Effective October 1, 2012*) (a) As used in this section and sections 9 to 16, inclusive, of this act:

(1) "Emergency" means a circumstance that will result in immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent and includes a circumstance in which a temporary conservator of the person or temporary conservator of the estate may be appointed and may serve under subsection (a) of section 45a-654 of the general statutes;

(2) "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a conservator of the estate order or the appointment of a conservator of the person, or, if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition;

(3) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under section 10 of this act and subsection (e) of section 17 of this act whether a respondent has a significant connection with a particular state, the court shall consider:

(1) The location of the respondent's family and other persons required to be notified of the conservator of the person proceeding or conservator of the estate proceeding;

(2) The length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) The location of the respondent's property; and

(4) The extent to which the respondent has ties to the state such as voter registration, state or local tax return filing, vehicle registration, driver's license, social relationship and receipt of services.

Sec. 9. (NEW) (*Effective October 1, 2012*) A proceeding for involuntary representation in this state shall be subject to the provisions of part IV of chapter 802h of the general statutes, except that (1) jurisdiction shall be determined in accordance with sections 8 to 16, inclusive, of this act, and (2) the court of probate shall grant the parties the opportunity to present facts and legal arguments before issuing a decision on jurisdiction.

Sec. 10. (NEW) (*Effective October 1, 2012*) A court of probate in this state has jurisdiction to appoint a conservator of the person or conservator of the estate for a respondent pursuant to part IV of chapter 802h of the general statutes if:

(1) This state is the respondent's home state;

(2) On the date a petition for involuntary representation is filed, this state is a significant-connection state, and:

(A) The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(B) The respondent has a home state, a petition for appointment of a conservator of the person or issuance of a conservator of the estate order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

(i) A petition for an appointment or order is not filed in the respondent's home state;

(ii) An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) The Court of Probate concludes that it is an appropriate forum under the factors set forth in subsection (c) of section 13 of this act;

(3) A court of probate in this state does not have jurisdiction under subdivision (1) or (2) of this subsection, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the statutes of this state and the Constitution of this state and the Constitution of the United States; or

(4) The requirements for special jurisdiction under section 11 of this act are met.

Sec. 11. (NEW) (*Effective October 1, 2012*) (a) Except as provided in subsections (b) and (c) of this section, a court of probate lacking jurisdiction under subdivisions (1) to (3), inclusive, of section 10 of this act has special jurisdiction to do any of the following if the court of probate makes the necessary findings set forth in subdivisions (1) to (3), inclusive, of subsection (a) of section 45a-654 of the general statutes:

(1) Appoint a temporary conservator of the person or a temporary conservator of the estate in an emergency pursuant to subsection (a) of section 45a-654 of the

general statutes for a term not exceeding sixty days for a respondent who is physically present in this state; or

(2) Appoint a temporary conservator of the person or a temporary conservator of the estate for a conserved person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to those in section 17 of this act.

(b) If an application for the appointment of a temporary conservator of the person or a temporary conservator of the estate in an emergency is brought in this state and this state was not the respondent's home state on the date the application was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

(c) In any proceeding under this section, the court of probate shall hold a hearing, in the manner set forth in section 45a-654 of the general statutes, upon written request of the respondent or person subject to the order in the proceeding.

Sec. 12. (NEW) (*Effective October 1, 2012*) Except as otherwise provided in section 11 of this act, a court that has appointed a conservator of the person or issued a conservator of the estate order consistent with the requirements of sections 1 to 23, inclusive, of this act and part IV of chapter 802h of the general statutes has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

Sec. 13. (NEW) (*Effective October 1, 2012*) (a) A court of probate having jurisdiction under section 10 of this act to appoint a conservator of the person or to issue a conservator of the estate order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a court of probate declines to exercise its jurisdiction under subsection (a) of this section, the court of probate shall either dismiss the proceeding or stay the proceeding for not more than ninety days to allow for a petition to be filed in a more appropriate forum that has jurisdiction to appoint a conservator of the person or issue a conservator of the estate order.

(c) In determining whether it is an appropriate forum, the Court of Probate shall consider all relevant factors, including:

(1) Any expressed preference of the respondent;

(2) Whether abuse, neglect or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect or exploitation;

- (3) The length of time the respondent was physically present in or was a legal resident of this or another state;
 - (4) The distance of the respondent from the court in each state;
 - (5) The financial circumstances of the respondent's estate;
 - (6) The nature and location of the evidence;
 - (7) The ability of the court in each state to decide the issue in accordance with due process of law and without undue delay;
 - (8) The procedures necessary to present evidence;
 - (9) The familiarity of the court of each state with the facts and issues in the proceeding; and
 - (10) If an appointment were made, the court's ability to monitor the conduct of the conservator of the person or conservator of the estate within this state and outside of this state, if applicable.
- (d) The court shall make specific written findings as to the basis for its determination of appropriate forum.

Sec. 14. (NEW) (*Effective October 1, 2012*) (a) If at any time a court of probate determines that it acquired jurisdiction to appoint a conservator of the person or issue a conservator of the estate order because of unjustifiable conduct of a party, the court shall:

- (1) Decline to exercise jurisdiction and dismiss the case if the court has not entered an order in the case; or
 - (2) Rescind any order issued in the case and dismiss the case, except that, prior to dismissing the case, the court may exercise limited jurisdiction for not more than ninety days for the limited purpose of fashioning an appropriate remedy to avoid immediate and irreparable harm to the mental or physical health or financial or legal affairs of the person for whom a conservator of the person was appointed or who was subject to the conservator of the estate order to prevent a repetition of the unjustifiable conduct.
- (b) A court of probate that determines it has acquired or maintained jurisdiction because a party seeking or having sought to invoke its jurisdiction engaged in unjustifiable conduct may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, medical examination expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs or

expenses of any kind against this state or a governmental subdivision, agency or instrumentality of this state unless authorized by law other than sections 1 to 23, inclusive, of this act.

Sec. 15. (NEW) (*Effective October 1, 2012*) If a petition for involuntary representation is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of section 45a-649 of the general statutes, as amended by this act, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given under section 45a-649 of the general statutes, as amended by this act.

Sec. 16. (NEW) (*Effective October 1, 2012*) Except for a petition for the appointment of a temporary conservator of the person or a temporary conservator of the estate in an emergency under subdivision (1) of subsection (a) of section 11 of this act, if a petition for involuntary representation is filed in this state and a petition for appointment of a conservator of the person or issuance of a conservator of the estate order is filed in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the Court of Probate has jurisdiction under section 10 of this act, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to those in section 10 of this act before the appointment or issuance of the order.

(2) If the Court of Probate does not have jurisdiction under subdivision (1) or (2) of section 10 of this act, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the Court of Probate shall dismiss the petition unless the court in the other state determines that the Court of Probate is a more appropriate forum and jurisdiction in this state is consistent with the statutes of this state and the Constitution of this state and the Constitution of the United States.

Sec. 17. (NEW) (*Effective October 1, 2012*) (a) Except for an individual under voluntary representation as provided in section 45a-647 of the general statutes, a conserved person, a conserved person's attorney, a conservator of the person or a conservator of the estate appointed in this state or any person who has received notice pursuant to subdivision (2) of subsection (a) of section 45a-649 of the general statutes, as amended by this act, may petition a court of probate to transfer the conservatorship of the person or the conservatorship of the estate, or both, to another state.

(b) Notice of a petition under subsection (a) of this section shall be given to the persons that would be entitled to notice of a petition in this state for the appointment of a conservator of the person or conservator of the estate, or both.

(c) On the court's own motion or on request of the conserved person, the conserved person's attorney, the conservator of the person or the conservator of the estate or other person required to be notified of the petition, the court of probate shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

(d) The court of probate shall issue a provisional order granting a petition to transfer a conservatorship of the person and shall direct the conservator of the person to petition for conservatorship of the person in the other state if the court of probate is satisfied that the conservatorship of the person will be granted by the court in the other state and the court finds that:

(1) The conserved person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the conserved person, including the reasonable and informed expressed preferences of the conserved person;

(3) Plans for care and services for the conserved person in the other state are reasonable and sufficient, have been made after allowing the conserved person the opportunity to participate meaningfully in decision making in accordance with the conserved person's abilities, and include assisting the conserved person in removing obstacles to independence, assisting the conserved person in achieving self-reliance, ascertaining the conserved person's views, making decisions in conformance with the reasonable and informed expressed preferences of the conserved person, and making all reasonable efforts to make decisions in conformance with the conserved person's expressed health care preferences, including health care instructions and other wishes, if any, described in any validly executed health care instructions or otherwise; and

(4) If the transfer involves the termination of a tenancy or lease of a conserved person, the sale or disposal of any real property or household furnishings of the conserved person, a change in the conserved person's residence or the placement of the conserved person in an institution for long-term care, as defined in section 45a-656b of the general statutes, the requirements in section 45a-656b of the general statutes have been met.

(e) The court of probate shall issue a provisional order granting a petition to transfer a conservatorship of the estate and shall direct the conservator of the estate to petition for conservatorship of the estate in the other state if the court of

probate is satisfied that the conservatorship of the estate will be accepted by the court of the other state and the court finds that:

(1) The conserved person is physically present in or is reasonably expected to move permanently to the other state, or the conserved person has a significant connection to the other state considering the factors set forth in subsection (b) of section 8 of this act;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the conserved person, including the reasonable and informed expressed preferences of the conserved person;

(3) Adequate arrangements will be made for management of the conserved person's property, and that such arrangements will be made in accordance with subsection (a) of section 45a-655 of the general statutes; and

(4) The transfer is made in accordance with section 45a-656b of the general statutes.

(f) The court of probate shall issue a final order confirming the transfer and terminating the conservatorship of the person or conservatorship of the estate on its receipt of:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to those in section 18 of this act; and

(2) The documents required to terminate a conservatorship of the person or conservatorship of the estate in this state.

Sec. 18. (NEW) (*Effective October 1, 2012*) (a) To confirm the transfer of a conservatorship of the person or a conservatorship of the estate transferred to this state under provisions similar to those in section 17 of this act, the conservator of the person or conservator of the estate shall petition the Court of Probate to accept the conservatorship of the person or conservatorship of the estate. The petition shall include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under subsection (a) of this section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a conservator of the person or issuance of a conservator of the estate order in both the transferring state and this state. The notice shall be given in the same manner as notice is required to be given under section 45a-649 of the general statutes, as amended by this act.

(c) On the court's own motion or on request of the conservator of the person, the conservator of the estate, the conserved person or other person required to be notified of the proceeding, the court of probate shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

(d) The court of probate shall issue a provisional order granting a petition filed under subsection (a) of this section unless:

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the conserved person, including the reasonable and informed expressed preferences of the conserved person; or

(2) The conservator of the person or conservator of the estate is ineligible for appointment as a conservator of the person or conservator of the estate in this state.

(e) The court of probate shall issue a final order accepting the proceeding and appointing the conservator of the person as conservator of the person in this state or appointing the conservator of the estate as conservator of the estate in this state on its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to those in section 17 of this act transferring the proceeding to this state.

(f) Not later than thirty days before the issuance of a final order accepting the transfer of a conservatorship of the person or conservatorship of the estate to this state, the court of probate shall ensure that (1) the conserved person is represented by counsel in accordance with the provisions of section 45a-649a of the general statutes, and (2) such person receives notice of his or her rights under the laws of this state with respect to such transfer.

(g) Not later than ninety days after the issuance of a final order accepting transfer of a conservatorship of the person or conservatorship of the estate to this state, the court of probate shall determine whether the conservatorship of the person or conservatorship of the estate needs to be modified to conform to the laws of this state, and, if so, the court of probate shall order such modifications.

(h) In granting a petition under this section, the court of probate shall recognize a conservatorship of the person order or conservatorship of the estate order from the other state, including the determination of the conserved person's incapacity and the appointment of the conservator of the person or conservator of the estate.

(i) The denial by a court of probate of a petition to accept a conservatorship of the person or conservatorship of the estate transferred from another state does not affect the ability of the conservator of the person or conservator of the estate to seek involuntary representation under section 45a-648 of the general statutes,

as amended by this act, if the court has jurisdiction to grant the involuntary representation other than by reason of the provisional order of transfer.

(j) The granting by a court of probate of a petition to accept a conservatorship of the person or conservatorship of the estate transferred from another state shall:

(1) Grant to the conserved person the same rights as if such person had originally had a conservator of the person or conservator of the estate appointed under part IV of chapter 802h of the general statutes, including, but not limited to, the right to review and termination of appointment of a conservator under section 45a-660 of the general statutes; and

(2) Impose upon the conservator of the person or conservator of the estate the same responsibilities and duties imposed upon a conservator of the person or conservator of the estate under the laws of this state.

Sec. 19. (NEW) (*Effective October 1, 2012*) (a) If a conservator of the person has been appointed in another state and a petition for the appointment of a conservator of the person is not pending in this state, the conservator of the person appointed in the other state, after giving notice to the appointing court of an intent to register the conservator of the person order in this state, may register the conservator of the person order in this state as a conservatorship of the person by filing, as a foreign judgment, certified copies of the order and letters of office in the court of probate in the district in which the conserved person resides, is domiciled or is located at the time of the filing of the certified copies.

(b) Each court of probate shall maintain a registry, accessible by the public, of conservator of the person orders registered under subsection (a) of this section.

Sec. 20. (NEW) (*Effective October 1, 2012*) (a) If a conservator of the estate has been appointed in another state and a petition for the appointment of a conservator of the estate is not pending in this state, the conservator of the estate appointed in the other state, after giving notice to the appointing court of an intent to register the conservator of the estate order in this state, may (1) register the conservator of the estate order in this state as a conservator of the estate order by filing, as a foreign judgment, certified copies of the order and letters of office and of any bond in the court of probate in the district in which the conserved person resides, is domiciled or is located at the time of the filing of the certified copies, and (2) file certified copies of the conservator of the estate order with the town clerk of the town in which any real property of the conserved person is located for recording on the land records.

(b) Each court of probate shall maintain a registry, accessible by the public, of conservator of the estate orders registered under subsection (a) of this section.

Sec. 21. (NEW) (*Effective October 1, 2012*) (a) On registration in this state under section 19 of this act of a conservator of the person order from another state or under section 20 of this act of a conservator of the estate order from another state, the conservator may exercise in this state all powers authorized in the order of appointment, except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the conservator is not a resident of this state, subject to any conditions imposed on nonresident parties. The registration of a conservator of the person order under section 19 of this act shall lapse one hundred twenty days after such registration, except that the registration may be extended for good cause for an additional one hundred twenty days by the court of probate in this state having jurisdiction over the location within this state where the person under the conservator of the person order resides, is domiciled or is located.

(b) A court of probate or, to the extent it lacks jurisdiction, the Superior Court may grant any relief available under sections 1 to 23, inclusive, of this act, section 45a-644 of the general statutes, as amended by this act, section 45a-648 of the general statutes, as amended by this act, and section 45a-649 of the general statutes, as amended by this act, and other law of this state to enforce a registered order.

Sec. 22. (NEW) (*Effective October 1, 2012*) In applying and construing the provisions of sections 1 to 23, inclusive, of this act, section 45a-644 of the general statutes, as amended by this act, section 45a-648 of the general statutes, as amended by this act, and section 45a-649 of the general statutes, as amended by this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact such uniform provisions, consistent with the need to protect individual civil rights and in accordance with due process.

Sec. 23. (NEW) (*Effective October 1, 2012*) This section, sections 1 to 22, inclusive, of this act, section 45a-644 of the general statutes, as amended by this act, section 45a-648 of the general statutes, as amended by this act, and section 45a-649 of the general statutes, as amended by this act, modify, limit and supersede the Electronic Signatures in Global and National Commerce Act, 15 USC 7001 et seq. , but do not modify, limit or supersede Section 101 of said act, 15 USC 7001(a), or authorize electronic delivery of any of the notices described in Section 103 of said act, 15 USC 7003(b).

Sec. 24. Section 45a-644 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

For the purposes of sections 45a-644 to 45a-663, inclusive, [as amended by this act](#), the following terms shall have the following meanings:

(a) "Conservator of the estate" means a person, a municipal or state official, or a private profit or nonprofit corporation except a hospital or nursing home [facility](#) as defined in section 19a-521, appointed by the Court of Probate under the provisions of sections 45a-644 to 45a-663, inclusive, [as amended by this act](#), to supervise the financial affairs of a person found to be incapable of managing his or her own affairs or of a person who voluntarily asks the Court of Probate for the appointment of a conservator of the estate, and includes a temporary conservator of the estate appointed under the provisions of section 45a-654.

(b) "Conservator of the person" means a person, a municipal or state official, or a private profit or nonprofit corporation, except a hospital or nursing home [facility](#) as defined in section 19a-521, appointed by the Court of Probate under the provisions of sections 45a-644 to 45a-663, inclusive, [as amended by this act](#), to supervise the personal affairs of a person found to be incapable of caring for himself or herself or of a person who voluntarily asks the Court of Probate for the appointment of a conservator of the person, and includes a temporary conservator of the person appointed under the provisions of section 45a-654.

(c) "Incapable of caring for one's self" or "incapable of caring for himself or herself" means that a person has a mental, emotional or physical condition that results in such person being unable to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to meet essential requirements for personal needs.

(d) "Incapable of managing his or her affairs" means that a person has a mental, emotional or physical condition that results in such person being unable to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to perform the functions inherent in managing his or her affairs, and the person has property that will be wasted or dissipated unless adequate property management is provided, or that funds are needed for the support, care or welfare of the person or those entitled to be supported by the person and that the person is unable to take the necessary steps to obtain or provide funds needed for the support, care or welfare of the person or those entitled to be supported by the person.

(e) "Involuntary representation" means the appointment of a conservator of the person or a conservator of the estate, or both, after a finding by the Court of Probate that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself.

(f) "Respondent" means an adult person for whom an application for involuntary representation has been filed or an adult person who has requested voluntary representation.

(g) "Voluntary representation" means the appointment of a conservator of the person or a conservator of the estate, or both, upon request of the respondent,

without a finding that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself.

(h) "Conserved person" means a person for whom involuntary representation is granted under sections 45a-644 to 45a-663, inclusive, [as amended by this act](#).

(i) "Personal needs" means the needs of a person including, but not limited to, the need for food, clothing, shelter, health care and safety.

(j) "Property management" means actions to (1) obtain, administer, manage, protect and dispose of real and personal property, intangible property, business property, benefits and income, and (2) deal with financial affairs.

(k) "Least restrictive means of intervention" means intervention for a conserved person that is sufficient to provide, within the resources available to the conserved person either from the conserved person's own estate or from private or public assistance, for a conserved person's personal needs or property management while affording the conserved person the greatest amount of independence and self-determination.

Sec. 25. Section 45a-648 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) An application for involuntary representation may be filed by any person alleging that a respondent is incapable of managing his or her affairs or incapable of caring for himself or herself and stating the reasons for the alleged incapability. The application shall be filed in the court of probate in the district in which the respondent resides, is domiciled or is located at the time of the filing of the application.

(b) An application for involuntary representation for a nondomiciliary of the state **[made pursuant to subsection (a) of this section shall not be granted unless the court finds the (1) respondent is presently located in the probate district in which the application is filed; (2) applicant has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649 concerning the respondent; (3) respondent has been provided an opportunity to return to the respondent's place of domicile, and has been provided the financial means to return to the respondent's place of domicile within the respondent's resources, and has declined to return, or the applicant has made reasonable but unsuccessful efforts to return the respondent to such respondent's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met]** [shall be made pursuant to the provisions of sections 8 to 16, inclusive, of this act](#).

[(c) If, after the appointment of a conservator for a nondomiciliary of the state the nondomiciliary becomes domiciled in this state, the provisions of this section regarding involuntary representation of a nondomiciliary shall no longer apply.]

(d) The court shall review any involuntary representation of a nondomiciliary ordered by the court pursuant to subsection (b) of this section every sixty days. Such involuntary representation shall expire sixty days after the date such involuntary representation was ordered by the court or sixty days after the most recent review ordered by the court, whichever is later, unless the court finds the (1) conserved person is presently located in the state; (2) conservator has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649 concerning the conserved person; (3) conserved person has been provided an opportunity to return to the conserved person's place of domicile and has been provided the financial means to return to the conserved person's place of domicile within the conserved person's resources, and has declined to return, or the conservator has made reasonable but unsuccessful efforts to return the conserved person to the conserved person's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met. As part of its review under this subsection, the court shall receive and consider reports from the conservator and from the attorney for the conserved person regarding the requirements of this subsection.]

[(e)] (c) A person is guilty of fraudulent or malicious application or false testimony when such person (1) wilfully files a fraudulent or malicious application for involuntary representation or appointment of a temporary conservator, (2) conspires with another person to file or cause to be filed such an application, or (3) wilfully testifies either in court or by report to the court falsely to the incapacity of any person in any proceeding provided for in sections 45a-644 to 45a-663, inclusive, as amended by this act. Fraudulent or malicious application or false testimony is a class D felony.

Sec. 26. Subsection (a) of section 45a-649 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) (1) Upon an application for involuntary representation, the court shall issue a citation to the following enumerated parties to appear before it at a time and place named in the citation, which shall be served on the parties at least ten days before the hearing date, or in the case of an application made pursuant to section 17a-543 or 17a-543a, at least seven days before the hearing date, which date in any event shall not be more than thirty days after the receipt of the application by the Court of Probate unless continued for cause shown. Notice of the hearing shall be sent within thirty days after receipt of the application. In addition to such notice, (A) notice for a matter brought under sections 8 to 16, inclusive, of this act shall be given in the manner provided in section 15 of this act, and (B) notice for

[a matter brought under section 17 of this act shall be given in the manner provided in section 18 of this act.](#)

(2) The court shall direct that personal service of the citation be made, by a state marshal, constable or an indifferent person, upon the following: The respondent and the respondent's spouse, if any, if the spouse is not the applicant, except that in cases where the application is for involuntary representation pursuant to section 17b-456, and there is no spouse, the court shall order notice by certified mail to the children of the respondent and if none, the parents of the respondent and if none, the brothers and sisters of the respondent or their representatives, and if none, the next of kin of such respondent.

(3) The court shall order such notice as it directs to the following: (A) The applicant; (B) the person in charge of welfare in the town where the respondent is domiciled or resident and, if there is no such person, the first selectman or chief executive officer of the town if the respondent is receiving assistance from the town; (C) the Commissioner of Social Services, if the respondent is in a state-operated institution or receiving aid, care or assistance from the state; (D) the Commissioner of Veterans' Affairs if the respondent is receiving veterans' benefits or the Veterans' Home, or both, if the respondent is receiving aid or care from such home, or both; (E) the Commissioner of Administrative Services, if the respondent is receiving aid or care from the state; (F) the children of the respondent and if none, the parents of the respondent and if none, the brothers and sisters of the respondent or their representatives; (G) the person in charge of the hospital, nursing home or some other institution, if the respondent is in a hospital, nursing home or some other institution.

(4) The court, in its discretion, may order such notice as it directs to other persons having an interest in the respondent and to such persons the respondent requests be notified.

(5) If personal service of the notice required in subsection (b) of this section is not made as required in subdivision (2) of this subsection, the court shall be deprived of jurisdiction over the application.

Signed by Governor May 14, 2012



House Bill No. 5287

Public Act No. 12-25

AN ACT CONCERNING THE APPOINTMENT OF A GUARDIAN AD LITEM FOR A PERSON WHO IS SUBJECT TO A CONSERVATORSHIP PROCEEDING OR A PROCEEDING CONCERNING ADMINISTRATION OF TREATMENT FOR A PSYCHIATRIC DISABILITY.

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

Section 1. Section 45a-132 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) **[In]** (1) Except as provided in subdivisions (2) and (3) of this subsection, in any proceeding before a court of probate or the Superior Court including the Family Support Magistrate Division, whether acting upon an appeal from probate or otherwise, the judge or magistrate may appoint a guardian ad litem for any minor or incompetent, undetermined or unborn person, or may appoint one guardian ad litem for two or more of such minors or incompetent, undetermined or unborn persons, if it appears to the judge or magistrate that one or more persons as individuals, or as members of a designated class or otherwise, have or may have an interest in the proceedings, and that one or more of them are minors, incompetent persons or persons undetermined or unborn at the time of the proceeding.

(2) No judge or magistrate may appoint a guardian ad litem for (A) a patient in a proceeding under section 17a-543 or 17a-543a, prior to a determination by a court of probate that the patient is incapable of giving informed consent under either of said sections, or (B) a respondent in a proceeding under sections 45a-644 to 45a-663, inclusive, prior to a determination by a court of probate that the respondent is incapable of caring for himself or herself or incapable of managing his or her affairs. No judge or magistrate may appoint a guardian ad litem for an applicant under section 45a-705a.

(3) No judge or magistrate may appoint a guardian ad litem for a conserved person in a proceeding under section 17a-543 or 17a-543a or sections 45a-644 to 45a-663, inclusive, unless (A) the judge or magistrate makes a specific finding of a need to appoint a guardian ad litem for a specific purpose or to answer specific questions to assist the judge or magistrate in making a determination, or (B) the conserved person's attorney is unable to ascertain the preferences of the person, including preferences previously expressed by the person. Prior to appointing a guardian ad litem for a person under subparagraph (B) of this subdivision, the judge or magistrate may question the person to determine the person's preferences or inability to express such preferences. If the judge or magistrate appoints a guardian ad litem under this subdivision, the judge's or magistrate's order shall (i) limit the appointment in scope and duration, and (ii) direct the guardian ad litem to take only the specific action required or to answer specific questions posed by the judge or magistrate, including questions designed to ascertain whether the attorney's or conservator's proposed course of action is the least restrictive means of intervention available to assist the person in managing his or her affairs or caring for himself or herself. Any appointment of a guardian ad litem under this subdivision shall terminate upon the guardian ad litem's report to the judge or magistrate in accordance with the order appointing the guardian ad litem, or earlier upon the order of the judge or magistrate.

(4) For the purposes of this subsection, "conserved person", "incapable of caring for himself or herself", "incapable of managing his or her affairs", "least restrictive means of intervention" and "respondent" have the meanings set forth in section 45a-644 and "conservator" means a conservator of the person or conservator of the estate, as those terms are defined in section 45a-644.

(b) The appointment of a guardian ad litem shall not be mandatory, but shall be within the discretion of the judge or magistrate.

(c) Any order or decree passed or action taken in any such proceeding shall affect all the minors, incompetent persons or persons thereafter born or determined for whom the guardian ad litem has been appointed, in the same manner as if they had been of the age of majority and competent and present in court after legal notice at the time of the action or the issuance of the order or decree.

(d) Any appointment of a guardian ad litem may be made with or without notice and, if it appears to the judge or magistrate that it is for the best interests of a minor having a parent or guardian to have as guardian ad litem some person other than the parent or guardian, the judge or magistrate may appoint a disinterested person to be the guardian ad litem.

(e) **[When]** Except as provided in subdivisions (2) and (3) of subsection (a) of this section, when the appointment of a guardian ad litem is made in connection with the settlement of a decedent's estate or the settlement of the account of a trustee

or other fiduciary, the person so appointed shall be authorized to represent the minor or incompetent, undetermined or unborn person in all proceedings for the settlement of the estate or account and subsequent accounts of the trustee or other fiduciary, or until **[his]** [the person's](#) appointment is terminated by death, resignation or removal.

(f) The guardian ad litem may be removed by the judge or magistrate which appointed **[him]** [the guardian ad litem](#), without notice, whenever it appears to the judge or magistrate to be in the best interests of the ward or wards of the guardian.

(g) Any guardian ad litem appointed under the provisions of this section may be allowed reasonable compensation by the judge or magistrate appointing **[him]** [the guardian ad litem](#) and shall be paid as a part of the expenses of administration.

Signed by Governor May 14, 2012



Substitute Senate Bill No. 248

Public Act No. 12-45

AN ACT CONCERNING PROBATE FEES.

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

Section 1. Section 45a-105 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

The **[costs]** **fees** charged by courts of probate shall be uniform for all of the probate districts established by law. **[Costs]** **Fees** shall be assessed in accordance with sections 45a-106 to 45a-112, inclusive, as amended by this act.

Sec. 2. Section 45a-106 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

The basic **[costs]** **fees** payable to courts of probate for any proceeding other than in connection with the settlement of the estate of a deceased person or periodic accounts of trustees, guardians, conservators or other fiduciaries shall be as follows:

(1) Except for such proceedings for which basic **[costs]** **fees** are specified in subdivision **[(7) or (8)]** **(4), (5) or (6)** of this section or are otherwise specified or exempted in section 45a-111, as amended by this act, or elsewhere in the general statutes, there shall be payable to the Court of Probate with respect to each application, petition or motion filed with the court to commence a matter before it, an entry fee of one hundred fifty dollars which shall be paid by the person making the application, petition or motion.

(2) On each matter commenced by the court on its own motion, an entry fee of one hundred fifty dollars shall be payable by an interested party as determined by the court.

[(3) If more than one hearing is held in any matter so entered, an additional charge of twenty-five dollars shall be payable to the court by the party paying the entry fee in the matter, or, in the discretion of the court, by any interested party against whom the court shall assess such additional charge.

(4) If the total time of any one hearing in the matter exceeds one hour, an additional charge of twenty-five dollars per hour for each hour in excess of the first hour shall be payable to the court by the party paying the entry fee in the matter, or, in the discretion of the court, by any interested party against whom the court shall assess the additional charge, provided the additional charge shall not exceed three hundred dollars.]

[(5) (3) For purposes of establishing [charges] fees payable to courts of probate [hereunder] under this section, all applications, petitions and motions filed and proceedings thereunder, in connection with a matter which has been entered as above, which are necessary to enter a final decree in and are incidental to the action of the court being sought in the matter so entered shall be covered by the entry fee and by any additional [charge] fee or expense under [subdivisions (3) and (4)] subdivision (6) of this section that may have become payable in such matter. No additional [charges] fees under this section shall be [made] charged for any such incidental applications, petitions or motions, [provided] except that once a final decree is entered in any matter and, thereafter, additional action or actions are sought in the court in connection therewith, such additional action or actions shall be treated as a new matter [hereunder] under this section.

[(6) (4) For proceedings brought under section 46b-30, the [cost] fee shall be twenty-five dollars.

[(7) (5) For filing a will in the Probate Court, the [cost] fee shall be five dollars. For filing any other document in the probate court under the provisions of any statute if the court is not required to take any action, the [cost] fee shall be twenty-five dollars, in addition to any applicable recording [charge] fee. [The cost] Any fee under this subdivision shall be payable by the person filing such will or document.

[(8) (6) A [charge] fee of fifty dollars, plus the actual [costs] expenses of rescheduling the adjourned hearing that are payable under section 45a-109, as amended by this act, shall be payable to the court by any party who requests an adjournment of a scheduled hearing or whose failure to appear necessitates an adjournment, [provided] except that the court, for cause shown, may waive either the [charge] fifty-dollar fee or [the costs] the actual expenses of rescheduling the adjourned hearing, or both.

Sec. 3. Section 45a-107 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(a) The basic **[costs]** **fees** for all proceedings in the settlement of the estate of any deceased person, including succession and estate tax proceedings, shall be in accordance with the provisions of this section.

(b) For estates in which proceedings were commenced on or after January 1, 2011, **[costs]** **fees** shall be computed as follows:

(1) The basis for **[costs]** **fees** shall be (A) the greatest of (i) the gross estate for succession tax purposes, as provided in section 12-349, (ii) the inventory, including all supplements thereto, (iii) the Connecticut taxable estate, as defined in section 12-391, or (iv) the gross estate for estate tax purposes, as provided in chapters 217 and 218, except as provided in subdivisions **[(4) and]** (5) **and (6)** of this subsection, plus (B) all damages recovered for injuries resulting in death, minus any hospital and medical expenses for treatment of such injuries resulting in death, minus any hospital and medical expenses for treatment of such injuries that are not reimbursable by medical insurance, and minus the attorney's fees and other costs and expenses of recovering such damages. Any portion of the basis for **[costs]** **fees** that is determined by property passing to the surviving spouse shall be reduced by fifty per cent. Except as provided in **[subdivision (3)]** **subdivisions (3) and (4)** of this subsection, in no case shall the minimum **[cost]** **fee** be less than twenty-five dollars.

(2) Except as provided in **[subdivision]** **subdivisions (3) and (4)** of this subsection, **[costs]** **fees** shall be assessed in accordance with the following table:

Basis for Computation Of [Costs] Fees	Total [Cost] Fee
0 to \$ 500	\$ 25
\$ 501 to \$ 1,000	\$ 50
\$ 1,000 to \$ 10,000	\$ 50, plus 1% of all in excess of \$ 1,000
\$ 10,000 to \$ 500,000	\$ 150, plus . 35% of all in excess of \$ 10,000
\$ 500,000 to \$ 4,754,000	\$ 1,865, plus . 25% of all in excess of \$ 500,000
\$ 4,754,000 and over	\$ 12,500

(3) Notwithstanding the provisions of subdivision (1) of this subsection, if the basis for **[costs]** **fees** is less than ten thousand dollars and a full estate is opened, the minimum **[cost]** **fee** shall be one hundred fifty dollars.

(4) In any matter in which the Commissioner of Administrative Services is the legal representative of the estate pursuant to section 4a-16, the fee shall be the lesser of (A) the amount calculated under subdivisions (1) and (2) of this

subsection, or (B) the amount collected by the Commissioner of Administrative Services after paying the expense of funeral and burial in accordance with section 17b-84.

[(4)] (5) In the case of a deceased person who was domiciled in this state on the date of his or her death, the gross estate for estate tax purposes shall, for the purpose of determining the basis for **[costs] fees** pursuant to subdivision (1) of this subsection, be reduced by the fair market value of any real property or tangible personal property of the deceased person situated outside of this state.

[(5)] (6) In the case of a deceased person who was not domiciled in this state on the date of his or her death but who owned real property or tangible personal property situated in this state on the date of his or her death, only the fair market value of such real property or tangible personal property situated in this state shall be included in the basis for **[costs] fees** pursuant to subdivision (1) of this subsection.

(c) For estates in which proceedings were commenced on or after April 1, 1998, and prior to January 1, 2011, **[costs] fees** shall be computed as follows:

(1) The basis for **[costs] fees** shall be (A) the gross estate for succession tax purposes, as provided in section 12-349, the inventory, including all supplements thereto, the Connecticut taxable estate, as defined in section 12-391, or the gross estate for estate tax purposes, as provided in chapters 217 and 218, whichever is greater, plus (B) all damages recovered for injuries resulting in death, minus any hospital and medical expenses for treatment of such injuries resulting in death, minus any hospital and medical expenses for treatment of such injuries that are not reimbursable by medical insurance and minus the attorney's fees and other costs and expenses of recovering such damages. Any portion of the basis for **[costs] fees** that is determined by property passing to the surviving spouse shall be reduced by fifty per cent. Except as provided in subdivision (3) of this subsection, in no case shall the minimum **[cost] fee** be less than twenty-five dollars.

(2) Except as provided in subdivisions (3) and (4) of this subsection, **[costs] fees** shall be assessed in accordance with the following table:

Basis for Computation Of [Costs] Fees	Total [Cost] Fee
0 to \$ 500	\$ 25
\$ 501 to \$ 1,000	\$ 50
\$ 1,000 to \$ 10,000	\$ 50, plus 1% of all in excess of \$ 1,000
\$ 10,000 to \$ 500,000	\$ 150, plus . 35% of all in excess of \$ 10,000

\$ 500,000 to \$ 4,754,000	\$ 1,865, plus . 25% of all in excess of \$ 500,000
\$ 4,754,000 and over	\$ 12,500

(3) Notwithstanding the provisions of subdivision (1) of this subsection, if the basis for [costs] fees is less than ten thousand dollars and a full estate is opened, the minimum [cost] fee shall be one hundred fifty dollars.

(4) In estates where the gross taxable estate is less than six hundred thousand dollars, in which no succession tax return is required to be filed, a probate fee of . 1 per cent shall be charged against non-solely-owned real estate, in addition to any other fees computed under this section.

(d) For estates in which proceedings were commenced on or after July 1, 1993, and prior to April 1, 1998, costs shall be computed as follows:

(1) The basis for costs shall be: (A) The gross estate for succession tax purposes, as provided in section 12-349, or the inventory, including all supplements thereto, whichever is greater, plus (B) all damages recovered for injuries resulting in death minus any hospital and medical expenses for treatment of such injuries that are not reimbursable by medical insurance and minus the attorney's fees and other costs and expenses of recovering such damages. Any portion of the basis for costs that is determined by property passing to the surviving spouse shall be reduced by fifty per cent. Except as provided in subdivision (3) of this subsection, in no case shall the minimum cost be less than ten dollars.

(2) Except as provided in subdivision (3) of this subsection, costs shall be assessed in accordance with the following table:

Basis for Computation Of Costs	Total Cost
0 to \$ 1,000	\$ 10. 00
\$ 1,000 to \$ 10,000	\$ 10, plus 1% of all in excess of \$ 1,000
\$ 10,000 to \$ 500,000	\$ 100, plus . 30% of all in excess of \$ 10,000
\$ 500,000 to \$ 4,715,000	\$ 1,570, plus . 20% of all in excess of \$ 500,000
\$ 4,715,000 and over	\$ 10,000

(3) If the basis for costs is less than ten thousand dollars and a full estate is opened, the minimum cost shall be one hundred dollars.

(e) For estates in which proceedings were commenced on or after July 1, 1983, and prior to July 1, 1993, costs shall be computed as follows:

(1) The basis for costs shall be: (A) The gross estate for succession tax purposes, as provided in section 12-349, minus one-third of the first fifty thousand dollars of any part of the gross estate for succession tax purposes that passes other than by will or under the laws of intestacy, plus (B) all damages recovered for injuries resulting in death minus any hospital and medical expenses for treatment of such injuries that are not reimbursable by medical insurance and minus the attorney's fees and other costs and expenses of recovering such damages.

(2) Costs shall be assessed in accordance with the following table:

Basis for Computation Of Costs	Total Cost
0 to \$ 1,000	\$ 10. 00
\$ 1,000 to \$ 10,000	\$ 10, plus 1% of all in excess of \$ 1,000
\$ 10,000 to \$ 100,000	\$ 100, plus . 30% of all in excess of \$ 10,000
\$ 100,000 to \$ 200,000	\$ 370, plus . 25% of all in excess of \$ 100,000
\$ 200,000 to \$ 500,000	\$ 620, plus . 2% of all in excess of \$ 200,000
\$ 500,000 to \$ 1,000,000	\$ 1,220, plus . 15% of all in excess of \$ 500,000
\$ 1,000,000 to \$ 5,000,000	\$ 1,970, plus . 125% of all in excess of \$ 1,000,000
\$ 5,000,000 and over	\$ 6,970, plus . 1% of all in excess of \$ 5,000,000

[(f) For estates in which proceedings were commenced prior to July 1, 1983, costs shall be computed as follows:

With respect to any
estate in which any
proceedings were
commenced or succession
tax documents filed:
Prior to January 1, 1968

Costs computed under:

Section 45-17 of the

Prior to July 1, 1969, but
on or after January 1, 1968

Prior to July 1, 1978, but
on or after July 1, 1969

Prior to July 1, 1983, but
on or after July 1, 1978

1961 supplement to
the general statutes
Section 45-17a of the
1967 supplement to
the general statutes
Section 45-17a of the
1969 supplement to
the general statutes
Section 45-17a of the
general statutes,
revised to
January 1, 1983

(g) If more than one hearing is held in any matter under this section, an additional charge of twenty-five dollars shall be payable to the court by the estate, or, in the discretion of the court, by any interested party against whom the court shall assess such additional charge.

(h) If the total time of any one hearing in the matter exceeds one hour, an additional charge of twenty-five dollars per hour for each hour in excess of the first hour shall be payable to the court by the estate, or at the discretion of the court by any interested party against whom the court shall assess the additional charge, provided the additional charge shall not exceed three hundred dollars.]

[(i)] (f) A [charge] fee of fifty dollars shall be payable to the court by any creditor applying to the Court of Probate pursuant to section 45a-364 or 45a-401 for consideration of a claim. If such claim is allowed by the court, the court may order the fiduciary to reimburse the [charge] amount of such fee from the estate.

[(j)] (g) A [charge] fee of fifty dollars, plus the actual [costs] expenses of rescheduling the adjourned hearing that are payable under section 45a-109, as amended by this act, shall be payable to the court by any party who requests an adjournment of a scheduled hearing or whose failure to appear necessitates an adjournment, [provided] except that the court, for cause shown, may waive either the [charge and costs for cause shown] fifty-dollar fee or the actual expenses of rescheduling the adjourned hearing, or both.

[(k)] (h) In no event shall any fee exceed ten thousand dollars for any estate in which proceedings were commenced prior to April 1, 1998, and twelve thousand five hundred dollars for any estate in which proceedings were commenced on or after April 1, 1998.

[(l)] (i) In the case of decedents who die on or after January 1, 2011:

(1) Any [costs] fees assessed under this section that are not paid within thirty days of the date of an invoice from the court of probate shall bear interest at the rate of one-half of one per cent per month or portion thereof until paid;

(2) If a tax return or a copy of a tax return required under subparagraph (D) of subdivision (3) of subsection (b) of section 12-392 is not filed with a court of probate by the due date for such return or copy under subdivision (1) of subsection (b) of section 12-392 or by the date an extension under subdivision (4) of subsection (b) of section 12-392 expires, the [costs] fees that would have been due under this section if such return or copy had been filed by such due date or expiration date shall bear interest at the rate of one-half of one per cent per month or portion thereof from the date that is thirty days after such due date or expiration date, whichever is later, until paid. If a return or copy is filed with a court of probate on or before such due date or expiration date, whichever is later, the [costs] fees assessed shall bear interest as provided in subdivision (1) of this subsection;

(3) A court of probate may extend the time for payment of any [costs] fees under this section, including interest, if it appears to the court that requiring payment by such due date or expiration date would cause undue hardship. No additional interest shall accrue during the period of such extension. A court of probate may not waive interest outside of any extension period;

(4) The interest requirements in subdivisions (1) and (2) of this subsection shall not apply if:

(A) The basis for [costs] fees for the estate does not exceed forty thousand dollars; or

(B) The basis for [costs] fees for the estate does not exceed five hundred thousand dollars and any portion of the property included in the basis for [costs] fees passes to a surviving spouse.

Sec. 4. Section 45a-108 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(a) (1) Except with respect to a decedent's estate, the basic [costs] fees for all proceedings in connection with allowance and settlement of a periodic or other account, after notice and hearing, regardless of the date of origin of the estate in which such account is filed, shall be in accordance with the following schedule:

If the book value or market value or receipts, whichever is larger, is:	[Cost] Fee
Less than \$ 25,000	\$ 50. 00
\$ 25,000 to \$ 375,000	. 20% thereof

\$ 375,000 and over

\$ 750. 00

(2) If more than one account is the subject of a hearing, the **[charges]** fees shall be based on the values in the most recent account being heard.

[(b) If more than one hearing is held in any matter under this section, an additional charge of twenty-five dollars shall be payable to the court by the moving party, or, in the discretion of the court, by any interested party against whom the court shall assess such additional charge.

(c) If the total time of any one hearing in the matter exceeds one hour, an additional charge of twenty-five dollars per hour for each hour in excess of the first hour shall be payable to the court by the moving party, or in the discretion of the court, by any interested party against whom the court shall assess the additional charge, provided the additional charge shall not exceed three hundred dollars.]

[(d) (b) A **[charge] fee of fifty dollars, plus the actual **[costs]** expenses of rescheduling the adjourned hearing that are payable under section 45a-109, as amended by this act, shall be payable to the court by any party who requests an adjournment of a scheduled hearing or whose failure to appear necessitates an adjournment, **[provided]** except that the court, for cause shown, may waive either the **[charge and costs for cause shown]** fifty-dollar fee or the actual expenses of rescheduling the adjourned hearing, or both.**

Sec. 5. Section 45a-109 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

In addition to the basic **[charges and costs]** fees specified in sections 45a-106 to 45a-108, inclusive, as amended by this act, the following expenses shall be payable to the courts of probate: (1) For recording each page or fraction thereof after the first five pages of any one document, three dollars; (2) for each notice in excess of two with respect to any hearing or continued hearing, two dollars; (3) for any expenses incurred by the court of probate for newspaper publication of notices, certified or registered mailing of notices, or for service of process or notice, the actual amount of the expenses so incurred; (4) for providing copies of any document from a file in the court of any matter within the jurisdiction of the court, five dollars for a copy of any such document up to five pages in length and one dollar per copy for each additional page or fractional part thereof as the case may be, **[provided]** except that there shall be furnished without charge to the fiduciary or, if none, to the petitioner with respect to any probate matter one uncertified copy of each decree, certificate or other court order setting forth the action of the court on any proceeding in such matter; (5) for certifying copies of any document from a file in the court of any matter before the court, five dollars per each copy certified for the first two pages of a document, and two dollars for

each copy certified for each page after the second page of such document, **[provided]** except that no charge shall be made for any copy certified or otherwise that the court is required by statute to make; (6) for retrieval of a file not located on the premises of the court, the actual **[cost]** expense or ten dollars, whichever is greater; **[and]** (7) for copying probate records through the use of a hand-held scanner, as defined in section 1-212, twenty dollars per day; and (8) for providing a digital copy of an audio recording of a hearing, twenty-five dollars.

Sec. 6. Section 45a-110 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(a) The **[costs, fees, charges]** fees and expenses provided for in connection with proceedings under section 45a-107, as amended by this act, with respect to a decedent's estate shall be paid for by the executor or administrator **[,]** or, if there is no such fiduciary, by the transferee filing the succession tax return under section 12-359 or a tax return under section 12-392.

(b) The **[costs, fees, charges]** fees and expenses provided for in connection with proceedings under section 45a-108, as amended by this act, with respect to an accounting shall be paid by the trustee, guardian, conservator or other fiduciary.

(c) In the case of any proceeding under sections 45a-106 to 45a-112, inclusive, as amended by this act, commenced on motion of the court, such **[costs, fees, charges]** fees and expenses shall be paid by the party against whom such **[costs]** fees and expenses are assessed by the court.

(d) In all other cases, the petitioner shall pay the **[costs, fees, charges]** fees and expenses provided for by sections 45a-106 to 45a-112, inclusive, as amended by this act, unless otherwise provided by law.

Sec. 7. Section 45a-111 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(a) No **[cost]** fee or expense shall be charged for any proceedings in the settlement of the estate of any member of the armed forces who died while in service in time of war as defined in section 27-103.

(b) No fees or expenses shall be charged under sections 45a-106 to 45a-112, inclusive, as amended by this act, or under section 45a-727 for adoption proceedings involving special needs children.

(c) If a petitioner or applicant to a court of probate claims that unless his or her obligation to pay the fees and the necessary **[costs]** expenses of the action, including the **[cost]** expense of service of process, is waived, such petitioner or applicant will be deprived by reason of his or her indigency of his or her right to bring a petition or application to such court or that he or she is otherwise unable

to pay the fees and necessary **[costs]** [expenses](#) of the action, he or she may file with the clerk of such court of probate an application for waiver of payment of such fees and necessary **[costs]** [expenses](#). Such application shall be signed under penalty of false statement, shall state the applicant's financial circumstances, and shall identify the fees and **[costs]** [expenses](#) sought to be waived and the approximate amount of each. If the court finds that the applicant is unable to pay such fees and **[costs]** [expenses](#), it shall order such fees and **[costs]** [expenses](#) waived. If such **[costs]** [expenses](#) include the **[cost]** [expense](#) of service of process, the court, in its order, shall indicate the method of service authorized and the **[cost]** [expense](#) of such service shall be paid from funds appropriated to the Judicial Department, **[however]** [except that](#), if funds have not been included in the budget of the Judicial Department for such **[costs]** [expenses](#), such **[costs]** [expenses](#) shall be paid from the Probate Court Administration Fund.

(d) The court may, in its discretion, postpone payment of any entry fee or other **[charge]** [fee or expense](#) due under sections 45a-106 to 45a-112, inclusive, [as amended by this act](#), and enter any matter if it appears to the court that to require such entry fee [or other fee or expense](#) to accompany submission of the matter would cause undue delay or hardship, but in such case the applicant, petitioner or moving party shall be liable for the entry fee and all other **[charges]** [fees and expenses](#) upon receipt of an invoice therefor from the court of probate.

(e) Any fee [or expense](#) charged under the provisions of sections 45a-106 to 45a-112, inclusive, [as amended by this act](#), shall not be subject to the tax imposed under chapter 219.

Sec. 8. Section 45a-112 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

When the state or any of its agencies is an applicant, petitioner or moving party commencing a matter in a court of probate, or is otherwise liable for the **[charges]** [fees or expenses](#) under sections 45a-106 to 45a-112, inclusive, [as amended by this act](#), the court shall accept such matter without the entry fee accompanying the filing thereof, and shall bill the entry fee or other **[charge]** [fee or expense](#) to the appropriate agency for subsequent payment, which payment shall be due and payable upon receipt of such bill.

Sec. 9. Section 45a-107a of the general statutes is repealed. (*Effective July 1, 2012*)

Signed by Governor May 31, 2012



Substitute Senate Bill No. 309

Public Act No. 12-66

AN ACT CONCERNING PROBATE COURT OPERATIONS.

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

Section 1. Section 45a-34 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

The following words and phrases as used in sections 45a-34 to 45a-54, inclusive, [as amended by this act](#), and [section](#) 45a-75 except as otherwise provided, shall have the following meanings:

(1) "Average final compensation" means, [\(A\)](#) in the case of a judge of probate, the average annual compensation for the three highest paid years of service while serving in the probate court to which the judge was elected or by citation to any other court or courts, [including any compensation received for service \(i\) on or after June 1, 2004, as an administrative judge for a regional children's probate court under section 45a-8a, as amended by this act, or \(ii\) on or after July 1, 2007, as a special assignment probate judge under section 45a-79b, as amended by this act](#), provided, for [the](#) purposes of this section, the compensation for any one year shall not exceed the maximum net annual income currently allowed by law, and, [\(B\)](#) in the case of an employee, the average annual rate of pay during the employee's three highest paid years of employment;

(2) "Credited service" means [\(A\)](#) all periods during which a person held the office of judge of probate and [\(i\)](#) any period of service elected by a judge pursuant to section 45a-36a, [and \(ii\) any period of service as an administrative judge for a regional children's probate court after such judge ceases to serve as a probate judge, provided such administrative judge works as an administrative judge at least one thousand hours per year](#), or [\(B\)](#) **[any period]** [all periods](#) during which a person served as an employee of any probate court, or [\(C\)](#) subject to the requirements of subsections (a) and (b) of section 45a-54, a period of not more than three years for service as a member of the General Assembly and military

service, or (D) the aggregate of any periods of service provided for in subparagraphs (A), (B) and (C) of this [\[subsection\]](#) [subdivision](#);

(3) "Employee" means (A) with respect to a person employed or who serves prior to January 1, 2011, a person employed by any probate court for more than four hundred thirty hours per year or a person who served for more than four hundred thirty hours per year performing under any contract of employment with any court of probate, and (B) with respect to a person first employed or who first serves on or after January 1, 2011, a person employed by any probate court for at least one thousand hours per year or a person who serves at least one thousand hours per year performing under any contract of employment with any court of probate;

(4) "Fund" means the retirement fund established by section 45a-35;

(5) "Judge" means a judge of probate, except that, with respect to a judge first elected for a term beginning on or after January 5, 2011, judge means a person who holds the office of judge of probate and works in such judge's capacity as a judge of probate for at least one thousand hours per year as determined pursuant to information filed by the judge of probate with the Probate Court Administrator pursuant to subsection (h) of section 5-259;

(6) "Member" means any judge of probate or employee who is or may become eligible for retirement benefits under sections 45a-34 to 45a-54, inclusive, [as amended by this act](#), and 45a-75;

(7) "Normal retirement age" means the age of sixty-two for any judge of probate or any employee;

(8) "Old Age and Survivors System" means the system established under Title II of the Social Security Act, as amended;

(9) "Pay" means the salary, wages or earnings of an employee, but does not include any fees or allowances for expenses;

(10) "Retirement Commission" means the State Retirement Commission; and

(11) "Social Security Act" means the Act of Congress, approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the Social Security Act, including regulations issued pursuant thereto, as such act has been and may from time to time be amended.

Sec. 2. Subsection (a) of section 45a-45 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

(a) Each judge of probate shall contribute to the fund three and three-quarters per cent of that portion of the judge's annual compensation, [including any](#)

[compensation received as an administrative judge for a regional children's probate court under section 45a-8a, as amended by this act, or as a special assignment probate judge under section 45a-79b, as amended by this act](#), with respect to which contributions are not made to the Federal Old Age and Survivors System as provided for in sections 7-452 to 7-459, inclusive, and one per cent of that portion from which such contributions are made. The Probate Court Administrator shall deduct the judge's contributions from the judge's compensation and shall forward such contributions to the Retirement Commission to be credited to the retirement fund on the judge's account.

Sec. 3. Subdivision (1) of subsection (f) of section 45a-8a of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

(f) (1) The Probate Court Administrator, with the advice of the participating probate judges of the districts located in the designated region, shall appoint an administrative judge for each regional children's probate court. The administrative judge shall be a probate judge at the time of such appointment. If the administrative judge ceases to serve as a probate judge after such appointment, the administrative judge may continue to serve as administrative judge at the pleasure of the Probate Court Administrator, but shall not have the powers granted to an elected probate judge and shall not hear and determine children's matters before such regional children's probate court. Subject to the approval of the Chief Court Administrator, the Probate Court Administrator shall fix the compensation of the administrative judge and such compensation shall be paid from the Probate Court Administration Fund. Such compensation, together with the administrative judge's compensation as a probate judge of the district to which he or she was elected, shall not exceed the compensation provided for a judge of probate under subdivision (4) of subsection (a) of section 45a-95a. The administrative judge shall have such benefits as may inure to him or her as a probate judge and shall receive no additional benefits, except for compensation provided under this section [and retirement benefits calculated in accordance with sections 45a-34 to 45a-54, inclusive, as amended by this act](#).

Sec. 4. Subsection (b) of section 45a-79b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

(b) Subject to the approval of the Chief Court Administrator, the Probate Court Administrator shall fix the compensation of special assignment probate judges appointed pursuant to this section. Such compensation shall, on the order of the Probate Court Administrator, be paid from the Probate Court Administration Fund established under section 45a-82. Such compensation, including compensation that a special assignment probate judge receives as a judge of probate of the district to which the judge was elected, shall not exceed the compensation provided for a judge of probate under subdivision (4) of subsection (a) of section 45a-95a. A special assignment probate judge shall have such benefits as may

inure to him or her as a judge of probate and shall receive no additional benefits, except compensation provided under this subsection [and retirement benefits calculated in accordance with sections 45a-34 to 45a-54, inclusive, as amended by this act.](#)

Sec. 5. Subsection (b) of section 45a-43 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Except as provided in subsection (c) of this section, if any member who has not exercised his option under subsection (a) of this section dies after January 1, 1968, and before [\[his\] having elected retirement or before his](#) retirement income payments begin, but after [\[completion of the age and service\]](#) [satisfying the requirements of sections 45a-36 to 45a-39, inclusive, as amended by this act,](#) that would permit him to retire on his own application, and [\[he\] such member](#) is survived by a spouse, a retirement income shall be paid monthly to his spouse, commencing at his death and ending upon the death of the spouse. The amount payable shall be the average of (1) fifty per cent of the retirement allowance payable to the member for his lifetime if no payments were to continue after the member's death, and (2) fifty per cent of the reduced retirement allowance that such member would have received if he had retired on the date of his death with the provision that after his death his spouse would receive one-half of the amount payable to the member.

Sec. 6. Section 45a-55 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Any claim for a pension [\[or any other benefit\]](#) which may become available in accordance with the provisions of sections 45a-1 to 45a-12, inclusive, 45a-18 to 45a-26, inclusive, 45a-34 to 45a-56, inclusive, [as amended by this act,](#) 45a-62 to 45a-68, inclusive, 45a-74 to 45a-83, inclusive, [as amended by this act,](#) 45a-90 to 45a-93, inclusive, 45a-98, 45a-99, 45a-105, 45a-119 to 45a-123, inclusive, 45a-128, 45a-130, 45a-131, 45a-133, 45a-199 and 45a-202, may be submitted in writing to the commission. Any such claim will be reviewed and decided by the commission. The claimant shall be advised of the processing status of [\[his\] the](#) claim upon reasonable request.

(b) If any claim is denied, a claimant may request that the decision be reviewed and reconsidered by the commission. Thereafter, any contested case shall be heard and decided in accordance with chapter 54.

Sec. 7. Section 45a-76 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

The Probate Court Administrator shall file with the Chief Court Administrator, on or before the first day of April of each [even-numbered](#) year, a report of the business of the office of the Probate Court Administrator during the [\[year\]](#)

biennium ending on the [previous thirty-first day of December] preceding June thirtieth, together with any information [which] that the Chief Court Administrator may request.

Sec. 8. Subsection (d) of section 45a-287 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) All property of a testator whose will is proved under this section shall be subject to the laws of this state relating to the taxation of inheritances and successions, except that such laws shall not be applied on the basis that the testator was a domiciliary of this state unless there is a finding that such person was domiciled in this state as provided in section 45a-309. [Costs of the court of probate under section 45a-105, for proceedings in the settlement of the estate of a nondomiciliary testator whose will is proved under this section, shall be determined on the basis of an assumed gross taxable value equal to the sum of (1) the actual gross taxable estate determined under section 12-349 and (2) the value set forth in the inventory of such estate under section 45a-341 of all property therein which is not part of the actual gross taxable estate, excluding any insurance proceeds exempt from taxation under section 12-342.]

Sec. 9. Section 45a-623 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

[In any proceeding] Before a hearing on the merits in any case under sections 45a-603 to 45a-622, inclusive, that is contested, the Court of Probate shall, [upon] on motion of any party other than a party who made application for the removal of a parent as a guardian, [under rules adopted by the judges of the Supreme Court] or may, on the court's own motion or motion of the party who made application for the removal of a parent as a guardian, transfer the case to the Superior Court in accordance with rules adopted by the judges of the Supreme Court. In addition to the provisions of this section, the Court of Probate may, on the court's own motion or [that] motion of any interested party, transfer any proceeding under sections 45a-603 to 45a-622, inclusive, to [another judge of probate, which judge shall be appointed by the Probate Court Administrator from a panel of qualified probate judges who specialize in children's matters. Such panel shall be proposed by the Probate Court Administrator and approved by the executive committee of the Connecticut Probate Assembly] a regional children's probate court established pursuant to section 45a-8a, as amended by this act. If the case is transferred and venue altered, the clerk of the Court of Probate shall transmit to the clerk of the Superior Court [,] or the regional children's probate court to which the case was transferred, the original files and papers in the case.

Sec. 10. Subsection (g) of section 45a-715 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(g) Before a hearing on the merits in any case in which a petition for termination of parental rights is contested in a court of probate, the court of probate shall, on the motion of any legal party except the petitioner, or may on its own motion or that of the petitioner, **[under rules adopted by the judges of the Supreme Court,]** transfer the case to the Superior Court in accordance with rules adopted by the judges of the Supreme Court. In addition to the provisions of this section, the probate court may, on the court's own motion or that of any interested party, transfer any termination of parental rights case to **[another judge of probate, which judge shall be appointed by the Probate Court Administrator from a panel of qualified probate judges who specialize in children's matters. Such panel shall be proposed by the Probate Court Administrator and approved by the executive committee of the Connecticut Probate Assembly]** a regional children's probate court established pursuant to section 45a-8a, as amended by this act. If the case is transferred, the clerk of the Court of Probate shall transmit to the clerk of the Superior Court **[,]** or the regional children's probate court to which the case was transferred, the original files and papers in the case. The Superior Court or the regional children's probate court to which the case was transferred, upon hearing after notice as provided in sections 45a-716 and 45a-717, may grant the petition as provided in section 45a-717.

Sec. 11. (NEW) (*Effective October 1, 2012*) (a) A matter being heard at a regional children's probate court may be assigned to a probate court officer to perform any of the following functions:

- (1) Conduct conferences with interested parties, attorneys for interested parties, representatives from the Department of Children and Families and social service providers, when appropriate;
 - (2) Facilitate the development of the family's plan for the care of the minor;
 - (3) Facilitate the development of a visitation plan;
 - (4) Coordinate with the Department of Children and Families to facilitate a thorough review of the matter being heard;
 - (5) Assess whether the family's plan for the care of the minor, if any, is in the minor's best interests;
 - (6) Assist the family in accessing community services; and
 - (7) Conduct follow-up regarding orders of the court.
- (b) The probate court officer may file with the court a report that may include:
- (1) An assessment of the minor's and family's history;

(2) An assessment of the parent's and any proposed guardian's involvement with the minor;

(3) Information regarding the physical, social and emotional status of the interested parties;

(4) An assessment of the family's plan for the care of the minor; and

(5) Any other information or data that is relevant to determine if the proposed court action is in the best interests of the minor.

(c) Any report filed by a probate court officer pursuant to subsection (b) of this section shall be admissible in evidence. If a party or an attorney for a party notifies the court prior to a scheduled hearing that such party or attorney wishes to examine the probate court officer who filed the report, the court shall order such probate court officer to appear at the hearing.

Sec. 12. Section 45a-316 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

[(a)] Whenever, upon the application of a creditor or other person interested in the estate of a deceased person, it is found by the court of probate having jurisdiction of the estate that the granting of administration on the estate or the probating of the will of the deceased will be delayed, or that it is necessary for the protection of the estate of the deceased, the court may, with or without notice, appoint a temporary administrator to hold and preserve the estate until the appointment of an administrator or the probating of the will. The court shall require from such administrator a probate bond. If the court deems it more expedient, it may order any state marshal or constable to take possession of the estate until the appointment of an administrator or executor.

[(b)] Any person interested in the estate of a deceased person and having a need to obtain financial or medical information concerning the deceased person for the limited purpose of investigating a potential cause of action of the estate, surviving spouse, children, heirs or other dependents of the deceased person, or a potential claim for benefits under a workers' compensation act, an insurance policy or other benefits in favor of the estate, surviving spouse, children, heirs or other dependents of the deceased person, may apply to the court of probate having jurisdiction of the estate of the deceased person for the appointment of a temporary administrator. The court of probate may grant the application and appoint a temporary administrator for such limited purpose if the court finds that such appointment would be in the interests of the estate or in the interests of the surviving spouse, children, heirs or other dependents of the deceased person. If the court appoints a temporary administrator under this subsection, the court may require a probate bond or may waive such bond requirement. The court shall limit

the authority of the temporary administrator to disclose the information obtained by the temporary administrator, as appropriate, and may issue an appropriate order for the disclosure of such information. Any order appointing a temporary administrator under this subsection, and any certificate of the appointment of a fiduciary issued by the clerk of the court, shall indicate (1) the duration of the temporary administrator's appointment, and (2) that such temporary administrator has no authority over the assets of the deceased person.]

Sec. 13. Subsection (a) of section 45a-317 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(a) The temporary administrator or officer appointed pursuant to the provisions of [subsection (a) of] section 45a-316, [as amended by this act](#), shall take immediate possession of all the real and personal property of the deceased, collect the rents, debts and income thereof and do any additional acts necessary for the preservation of the estate that the court authorizes.

Sec. 14. (NEW) (*Effective January 1, 2013*) Any person interested in the estate of a deceased person and having a need to obtain financial or medical information concerning the deceased person for the limited purpose of investigating a potential cause of action of the estate, surviving spouse, children, heirs or other dependents of the deceased person, or a potential claim for benefits under a workers' compensation act, an insurance policy or other benefits in favor of the estate, surviving spouse, children, heirs or other dependents of the deceased person, may apply to the court of probate having jurisdiction of the estate of the deceased person for the appointment of an estate examiner. The court of probate may grant the application and appoint an estate examiner for such limited purpose if the court finds that such appointment would be in the interests of the estate or in the interests of the surviving spouse, children, heirs or other dependents of the deceased person. If the court appoints an estate examiner under this section, the court may require a probate bond or may waive such bond requirement. The court shall limit the authority of the estate examiner to disclose the information obtained by the estate examiner, as appropriate, and may issue an appropriate order for the disclosure of such information. Any order appointing an estate examiner under this section, and any certificate of the appointment of a fiduciary issued by the clerk of the court, shall indicate (1) the duration of the estate examiner's appointment, and (2) that such estate examiner has no authority over the assets of the deceased person.

Sec. 15. Section 45a-681 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The court shall review each guardianship of the person with intellectual disability or limited guardianship of the person with intellectual disability at least

every three years and shall either continue, modify or terminate the order for guardianship. [Pursuant to such review:](#)

(1) The court shall receive and review written evidence as to the condition of the ward. Except as provided in subdivision (2) of this subsection, the guardian [, **the attorney for the ward**] and a Department of Developmental Services professional or, if requested by the ward or by the court, an assessment team appointed by the Commissioner of Developmental Services or **[his]** [the commissioner's](#) designee shall each submit a written report to the court not later than forty-five days after the court's request for such report.

(2) In the case of a ward who is functioning adaptively and intellectually within the severe or profound range of intellectual disability, as determined by the Department of Developmental Services, the court shall receive and review written reports as to the condition of the ward only from the guardian, **[and the attorney for the ward, provided]** [except that](#) the court may require a Department of Developmental Services professional or assessment team to submit a written report as to the condition of such ward.

[\(3\) The Department of Developmental Services professional or assessment team shall personally observe or examine the ward within the forty-five-day period preceding the date it submits any report under subdivision \(4\) of this subsection.](#)

[\(4\) Each written report shall be submitted to the court not later than forty-five days after the court's request for such report. On receipt of a written report from the guardian or a Department of Developmental Services professional or assessment team, the court shall provide a copy of the report to the attorney for the ward.](#)

[\(5\) Not later than thirty days after the attorney for the ward receives a copy of a report pursuant to subdivision \(4\) of this subsection, the attorney for the ward shall \(A\) meet with the ward concerning the report, and \(B\) provide written notice to the court \(i\) that the attorney for the ward has met with the ward, and \(ii\) indicating whether a hearing is requested. Nothing in this section shall prevent the ward or the attorney for the ward from requesting a hearing at any other time as permitted by law.](#)

[(3)] (6) If the ward is unable to request or obtain an attorney, the court shall appoint an attorney for the ward. If the ward is unable to pay for the services of the attorney, the reasonable compensation of such attorney shall be established by, and paid from funds appropriated to, the Judicial Department; however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund. **[The Department of Developmental Services professional or assessment team shall**

personally observe or examine the ward within the forty-five-day period preceding the date of submission of its report.]

(b) If the court determines, after receipt of the reports from [the attorney for the ward,] the Department of Developmental Services professional or assessment team and the guardian, and notice from the attorney for the ward, that there has been no change in the condition of the ward since the last preceding review by the court, a hearing on the condition of the ward shall not be required, but the court, in its discretion, may hold such hearing. If the attorney for the ward, the Department of Developmental Services professional or assessment team or the guardian requests a hearing, the court shall hold a hearing within thirty days of such request. No order expanding or reducing the powers and responsibilities of a guardian shall be issued unless such hearing is held.

Sec. 16. Subsection (d) of section 52-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(d) Service upon the judge of probate as attorney for the nonresident fiduciary shall be sufficient service upon the nonresident fiduciary, and shall be made by leaving an attested copy of the process with such judge of probate [, who] or with the probate court that appointed the nonresident fiduciary, and such judge or court shall forthwith give notice thereof to such executor, administrator, conservator, guardian or trustee.

Sec. 17. Section 52-61 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

Process in civil actions against a nonresident executor, administrator, conservator, guardian or trustee, in his representative capacity, or in his individual capacity in any action founded upon or arising from his acts or omissions as such executor, administrator, conservator, guardian or trustee, may be served by leaving a true and attested copy thereof with the judge of probate [in the district where the estate is in settlement;] or probate court that appointed the nonresident executor, administrator, conservator, guardian or trustee, and such judge or court shall forthwith give notice thereof to such executor, administrator, conservator, guardian or trustee.

Sec. 18. Section 1-18 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

The original records, papers or documents [so] reproduced pursuant to this chapter may be disposed of in such manner as [may meet the approval of approved by (1)] the head of the political subdivision in charge thereof, [or the Probate Court Administrator in the case of probate records, with the approval of and (2)] the Public Records Administrator. All other original records, papers or

documents so reproduced may be disposed of at the option of the keeper thereof.

Sec. 19. Section 11-8 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Under the direction of the State Library Board, the State Librarian shall be responsible for developing and directing a records management program for the books, records, papers and documents of all state agencies within the executive department, and the books, records, papers and documents of the several towns, cities, boroughs, districts and other political subdivisions of the state, **[including the probate districts,]** pursuant to the provisions of section 11-8a, as amended by this act. The State Librarian shall also supervise the operation of state records centers; provide photoduplication and microfilming service and document repair and restoration service for state and local records; approve security storage facilities, within or without the state, or establish and operate such facilities within the state, for the safe storage of original public records or security copies thereof; and carry out a program for the identification and preservation of essential records of the state and of its political subdivisions. **[He]** The State Librarian shall, with the approval of the State Library Board, and in accordance with the provisions of chapter 54, adopt regulations for the creation and preservation of the records of the several towns, cities, boroughs and districts **[, including probate districts,]** of the state. Such regulations shall establish the physical characteristics required for papers, inks, typewriter ribbons, carbon papers, loose-leaf binders, photographic films or other supplies and materials, including photographic or other processes for recording documents, used in the creation of public records; and the design, construction and degree of fire resistance required for safes, cabinets, vaults and file rooms in which public records are housed. **[He]** The State Librarian shall ascertain from time to time whether the provisions of the general statutes and of such regulations relating to the recording, filing, indexing, maintenance and disposition of such records are being carried out. **[He]** The State Librarian may order any person having the care and custody of such records to comply with such statutes or with such regulations. **[He]** The State Librarian shall send a copy of such order to the chief administrative officer of the town, city, borough or district to which the records relate. The order shall specify the time within which **[it]** the order shall be complied with. **[; and, in]** In setting such time for compliance, **[he]** the State Librarian shall take into consideration the availability of facilities or equipment or the need for the construction or purchase thereof. The State Librarian may cause the enforcement of any such order by application to the Superior Court, or to any judge thereof if said court is not then sitting, to issue an appropriate decree or process, which application shall be brought and the proceedings thereon conducted by the Attorney General.

(b) The State Librarian shall, subject to the provisions of chapter 67, appoint an assistant who shall be the Public Records Administrator. All powers, functions

and duties assigned to the Examiner of Public Records are hereby transferred to the Public Records Administrator.

Sec. 20. Subsections (a) and (b) of section 11-8a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The State Librarian shall, in the performance of his duties pursuant to section 11-8, [as amended by this act](#), consult with the Attorney General, **[the Probate Court Administrator and]** the chief executive officers of the Connecticut Town Clerks Association and the Municipal Finance Officers Association of Connecticut, or their duly appointed representatives.

(b) The State Librarian may require each such state agency, or each political subdivision of the state, **[including each probate district,]** to inventory all books, records, papers and documents under its jurisdiction and to submit to **[him]** [the State Librarian](#) for approval retention schedules for all such books, records, papers and documents, or **[he]** [the State Librarian](#) may undertake such inventories and establish such retention schedules, based on the administrative need of retaining such books, records, papers and documents within agency offices or in suitable records centers. Each agency head, and each local official concerned, shall notify the State Librarian of any changes in the administrative requirements for the retention of any book, record, paper or document subsequent to the approval of retention schedules by the State Librarian.

Sec. 21. Subsection (a) of section 7-24 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Each town clerk who is charged with the custody of any public record shall provide suitable books, files or systems, acceptable to the Public Records Administrator, for the keeping of such records and may purchase such stationery and other office supplies as are necessary for the proper maintenance of the town clerk's office. Such books, files or systems, and such stationery and supplies shall be paid for by the town, and the selectmen of the town, on presentation of the bill for such books, [files, systems, stationary](#) and supplies properly certified to by the town clerk, shall draw their order on the treasurer in payment for the same. Each person who has the custody of any public record books of any town, city **[,]** [or](#) borough **[or probate district]** shall, at the expense of such town, city **[,]** [or](#) borough, **[or probate district,]** cause them to be properly and substantially bound. Such person shall have any such records which have been left incomplete made up and completed from the usual files and memoranda, so far as practicable. Such person shall cause fair and legible copies to be seasonably made of any records which are worn, mutilated or becoming illegible, and shall cause the originals to be repaired, rebound or renovated, or such person may cause any such records to be placed in the custody of the Public Records Administrator, who may have them repaired, renovated or rebound at

the expense of the town, city [,] or borough [or probate district] to which they belong. Any custodian of public records who so causes such records to be completed or copied shall attest [them] such records and shall certify, under the seal of such custodian's office, that [they] such records have been made from such files and memoranda or are copies of the original records. Such records and all copies of records made and certified to as provided in this section and on file in the office of the legal custodian of such records shall have the force of the original records. All work done under the authority of this section shall be paid for by the town, city [,] or borough [or probate district] responsible for the safekeeping of such records, but in no case shall expenditures exceeding three hundred dollars be made for repairs or copying records in any one year in any town. [or any probate district comprising one town only, unless the same are authorized by a vote of the town, or in any probate district comprising two or more towns, unless the same are authorized by the first selectmen of all the towns included in such district] city or borough.

Sec. 22. Section 45a-10 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Each judge of probate shall keep the records and files of the court of probate for the district in a fire-resistant safe or vault, in office space provided for that purpose by the town or towns comprising the district in which [he is] the judge serves, except when the records and files are in actual use for the purpose of examination, recording, copying [,] or entry, or when the records and files, after being recorded or copied, are placed in storage as records and files not in current use. If such safe or vault or office space is not provided for [that] such purpose, the chief administrative officers of the town or towns comprising the district shall provide the safe or vault or office space. [at the expense of the town or towns] The expense of providing such safe or vault or office space shall be paid by the town or towns comprising the district in such proportion as the towns may determine by agreement, or, in the absence of such agreement, in proportion to their grand lists last perfected.

(b) If the proper authorities in any probate district fail to provide such safe or vault or office space, the Public Records Administrator may order the proper authorities in the probate district to provide such safe or vault or office space. If such provision is not made within a reasonable time thereafter, the Public Records Administrator shall so advise the State Librarian, who may seek enforcement of compliance with the order. [as provided in section 11-8.] The State Librarian shall send a copy of such order to the chief administrative officers of the town or towns comprising the district, the Probate Court Administrator and the judge of the probate district. The order shall specify the time within which the order shall be complied with. In setting such time for compliance, the State Librarian shall take into consideration the availability of facilities or equipment or the need for the construction or purchase thereof. The State Librarian may cause the enforcement of any such order by application to the Superior Court, or to any

judge thereof if said court is not then sitting, to issue an appropriate decree or process, which application shall be brought and the proceedings thereon conducted by the Attorney General.

(c) All fire-resistant rooms or vaults and all safes for the safekeeping of any such public records shall conform to regulations adopted by the Public Records Administrator, in accordance with chapter 54, and shall be furnished with fittings of a noncombustible nature.

Sec. 23. Section 45a-77 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The Probate Court Administrator may attend to any matters that the Probate Court Administrator considers necessary for the efficient operation of the courts of probate and for the expeditious dispatch and proper conduct of the business of such courts. The Probate Court Administrator shall administer and enforce the provisions of this chapter and the regulations issued under this section, and shall ensure performance of the duties of judges of probate and clerks of the courts of probate in accordance with the provisions of this chapter and such regulations. The Probate Court Administrator may make recommendations to the General Assembly for legislation for the improvement of the administration of the courts of probate.

(b) The Probate Court Administrator may issue and shall enforce regulations, provided such regulations are approved in accordance with subsection ~~[(c)]~~ (d) of this section. Such regulations shall be binding on all courts of probate and shall concern the following matters for the administration of the probate court system: (1) Auditing, accounting, statistical, billing, recording, filing, ~~[record maintenance]~~ records management and other court procedures; (2) reassignment and transfer of cases; (3) training of court personnel and continuing education programs for judges of probate, probate magistrates, attorney probate referees and court personnel; (4) remitting funds received by the courts of probate under section 45a-7a to the Probate Court Administration Fund; (5) administering the compensation plan established under section 45a-85 for employees of the courts of probate; (6) establishing criteria for staffing levels for the courts of probate for the purposes of subsection (b) of section 45a-85; (7) establishing criteria for the development and approval of miscellaneous office budgets for the courts of probate for the purposes of subsection (b) of section 45a-85; (8) expending funds from the Probate Court Administration Fund for the purposes set forth in the regulations adopted pursuant to subdivisions (4) to (7), inclusive, of this subsection; and (9) the enforcement of the provisions of this chapter and the regulations issued pursuant to this section, including, but not limited to, recovery of expenses associated with any such enforcement, as permitted by such regulations.

(c) The Probate Court Administrator may, in consultation with the Public Records Administrator, issue and enforce regulations under subsection (b) of this section, or establish policies or retention schedules, for the management, preservation and disposition of judicial records, papers and documents and administrative records maintained by the courts of probate.

[(c)] (d) (1) Either the Probate Court Administrator or the executive committee of the Connecticut Probate Assembly may propose regulations authorized under subsection (b) of this section. Any regulation proposed by the Probate Court Administrator shall be submitted to the executive committee of the Connecticut Probate Assembly for approval. Any regulation proposed by the executive committee of the Connecticut Probate Assembly shall be submitted to the Probate Court Administrator for approval. If either the Probate Court Administrator or the executive committee of the Connecticut Probate Assembly fails to approve a proposed regulation, such proposed regulation may be submitted to a panel of three Superior Court judges appointed by the Chief Justice of the Supreme Court. The panel of judges, after consideration of the positions of the Probate Court Administrator and the executive committee of the Connecticut Probate Assembly, shall either approve the proposed regulation or reject the proposed regulation.

(2) Any proposed new regulation and any change in an existing regulation issued under this section on or after July 1, 2007, shall be submitted to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary for approval or disapproval in its entirety, provided, if more than one proposed new regulation or change in an existing regulation is submitted at the same time, said committee shall approve or disapprove all such proposed new regulations and changes in existing regulations together in their entirety. Unless disapproved by said committee within ninety days of the date of such submittal, each such regulation shall become effective on the date specified in such regulation, but not in any event until ninety days after promulgation.

[(d)] (e) The Probate Court Administrator shall regularly review the auditing, accounting, statistical, billing, recording, filing, **[record maintenance]** records management, administrative and other procedures of the courts of probate.

[(e)] (f) The Probate Court Administrator shall, personally, or by an authorized designee of the Probate Court Administrator who has been admitted to the practice of law in this state for at least five years, visit each court of probate at least once during each two-year period to examine the records and files of such court in the presence of the judge of the court or the judge's authorized designee. The Probate Court Administrator shall make any additional inquiries that the Probate Court Administrator considers appropriate to ascertain whether the business of the court, including the charging of costs and payments to the State Treasurer, has been conducted in accordance with law, rules of the courts of probate, regulations issued under this section and the canons of judicial ethics,

and to obtain information concerning the business of the courts of probate which is necessary for the Probate Court Administrator to perform properly the duties of the office.

Sec. 24. Subsection (b) of section 45a-8b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(b) The Probate Court Administrator shall adopt regulations, in accordance with subsection [(c)] (d) of section 45a-77, [as amended by this act](#), to implement the provisions of this section. The regulations shall establish the criteria for (1) becoming a guardian or an assisted care provider under the program, (2) the awarding of grants pursuant to subsection (a) of this section, (3) the provision of services pursuant to subsection (a) of this section, and (4) obtaining and paying for studies from private child-placing agencies in connection with guardianship proceedings.

Signed by Governor May 31, 2012



Substitute House Bill No. 5217

Public Act No. 12-82

AN ACT CONCERNING REVISIONS TO STATUTES CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES.

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

Sec. 4. Subsection (d) of section 17a-28 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(d) Any information disclosed from a person's record shall not be further disclosed to another individual or entity without the written consent of the person, except [pursuant to] (1) [pursuant to](#) section 19a-80 or 19a-80f, provided such disclosure is otherwise permitted pursuant to subsections (b) and (c) of this section, [or] (2) [pursuant to](#) the order of a court of competent jurisdiction, or (3) [as otherwise provided by law](#).

Sec. 16. (NEW) (*Effective October 1, 2012*) (a) If the Superior Court grants a petition to terminate parental rights and appoints the Commissioner of Children and Families as statutory parent, the commissioner may, after the expiration of any appeal or appeal period, file a petition for adoption, together with a written agreement of adoption, in the Superior Court that granted the termination of parental rights.

(b) All social studies, psychological reports and court documents previously filed in the termination of parental rights proceeding shall be available to the court, subject to the rules of evidence, for review and consideration in acting upon the petition for adoption of such child. The court shall, to the extent possible, protect the confidentiality of biological relatives, unless such information has been previously disclosed.

(c) The Department of Children and Families shall prepare and submit with the petition for adoption an adoption social study regarding the proposed adoption, which shall include, but not be limited to, information required in reports filed with

courts of probate pursuant to subdivisions (2) and (3) of subsection (b) of section 45a-727 of the general statutes. All studies and reports filed with or subsequent to the filing of the petition for adoption shall be available to the adoptive parents. The studies and reports shall be admissible in evidence subject to the right of any interested party to require that the person making it appear as a witness, if available, and such person shall be subject to examination. The court shall, to the extent possible, protect the confidentiality of the biological relatives, unless such information has been previously disclosed.

(d) Upon receipt of the petition and the adoption social study, the court shall set a time and date for a hearing and shall give reasonable notice to the Department of Children and Families and all other parties of the adoption agreement, the child, if over twelve years of age, the attorney for the child, and any such other parties, as the court may require.

(e) Prior to acting on the petition, the court may continue the matter for further investigation and report, issue orders of notice or take other action. At the hearing, the court may deny the petition, or, if the court is satisfied that the adoption is in the best interests of the child, the court shall enter a decree approving the adoption.

(f) The adoptive parents shall be entitled to receive copies of the records and other information relating to the history of the child maintained by the commissioner. The adoptive parents shall be entitled to receive copies of the records, provided, if required by law, the copies have been edited to protect the identity of the biological parents and any other person whose identity is confidential.

(g) The provisions of subdivision (3) of subsection (c) of section 45a-727 of the general statutes, sections 45a-731, 45a-732, 45a-736, 45a-737, 45a-743 to 45a-746, inclusive, 45a-748 to 45a-753, inclusive, 45a-755 and 45a-756 of the general statutes shall apply to adoption proceedings in the Superior Court and the Superior Court shall have all the powers granted to probate courts under said subdivision and sections.

Sec. 17. Subdivision (1) of subsection (a) of section 46b-121 of the 2012 supplement to the general statutes, as amended by section 83 of public act 09-7 of the September special session and section 6 of public act 11-240, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) (1) Juvenile matters in the civil session include all proceedings concerning uncared-for, neglected or abused children and youths within this state, termination of parental rights of children committed to a state agency, [adoption proceedings pursuant to section 501 of this act](#), matters concerning families with service needs, contested matters involving termination of parental rights or removal of guardian transferred from the Probate Court and the emancipation of

minors, but does not include matters of guardianship and adoption or matters affecting property rights of any child or youth over which the Probate Court has jurisdiction, except that appeals from probate concerning adoption, termination of parental rights and removal of a parent as guardian shall be included.

Sec. 18. Section 46b-124 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) For the purposes of this section, "records of cases of juvenile matters" includes, but is not limited to, court records, records regarding juveniles maintained by the Court Support Services Division, records regarding juveniles maintained by an organization or agency that has contracted with the Judicial Branch to provide services to juveniles, records of law enforcement agencies including fingerprints, photographs and physical descriptions, and medical, psychological, psychiatric and social welfare studies and reports by juvenile probation officers, public or private institutions, social agencies and clinics.

(b) All records of cases of juvenile matters, as provided in section 46b-121, [as amended by this act](#), except delinquency proceedings, or any part thereof, and all records of appeals from probate brought to the superior court for juvenile matters pursuant to section 45a-186, shall be confidential and for the use of the court in juvenile matters, and open to inspection or disclosure to any third party, including bona fide researchers commissioned by a state agency, only upon order of the Superior Court, except that: (1) The records concerning any matter transferred from a court of probate pursuant to section 45a-623 or subsection (g) of section 45a-715 or any appeal from probate to the superior court for juvenile matters pursuant to subsection (b) of section 45a-186 shall be available to the court of probate from which such matter was transferred or from which such appeal was taken; (2) such records shall be available to (A) the attorney representing the child or youth, including the Division of Public Defender Services, in any proceeding in which such records are relevant, (B) the parents or guardian of the child or youth until such time as the child or youth reaches the age of majority or becomes emancipated, (C) an adult adopted person in accordance with the provisions of sections 45a-736, 45a-737 and 45a-743 to 45a-757, inclusive, (D) employees of the Division of Criminal Justice who in the performance of their duties require access to such records, (E) employees of the Judicial Branch who in the performance of their duties require access to such records, (F) another court under the provisions of subsection (d) of section 46b-115j, (G) the subject of the record, upon submission of satisfactory proof of the subject's identity, pursuant to guidelines prescribed by the Office of the Chief Court Administrator, provided the subject has reached the age of majority or has been emancipated, (H) the Department of Children and Families, and (I) the employees of the Division of Public Defender Services who, in the performance of their duties related to Division of Public Defender Services assigned counsel, require access to such records; and (3) all or part of the records concerning a

youth in crisis with respect to whom a court order was issued prior to January 1, 2010, may be made available to the Department of Motor Vehicles, provided such records are relevant to such order. Any records of cases of juvenile matters, or any part thereof, provided to any persons, governmental and private agencies, and institutions pursuant to this section shall not be disclosed, directly or indirectly, to any third party not specified in subsection (d) of this section, except as provided by court order or in the report required under section 54-76d or 54-91a.

(c) All records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be confidential and for the use of the court in juvenile matters and shall not be disclosed except as provided in this section.

(d) Records of cases of juvenile matters involving delinquency proceedings shall be available to (1) Judicial Branch employees who, in the performance of their duties, require access to such records, and (2) employees and authorized agents of state or federal agencies involved in (A) the delinquency proceedings, (B) the provision of services directly to the child, or (C) the design and delivery of treatment programs pursuant to section 46b-121j. Such employees and authorized agents include, but are not limited to, law enforcement officials, state and federal prosecutorial officials, school officials in accordance with section 10-233h, court officials including officials of both the regular criminal docket and the docket for juvenile matters and officials of the Division of Criminal Justice, the Division of Public Defender Services, the Department of Children and Families, the Court Support Services Division and agencies under contract with the Judicial Branch. Such records shall also be available to (i) the attorney representing the child, including the Division of Public Defender Services, in any proceeding in which such records are relevant, (ii) the parents or guardian of the child, until such time as the subject of the record reaches the age of majority, (iii) the subject of the record, upon submission of satisfactory proof of the subject's identity, pursuant to guidelines prescribed by the Office of the Chief Court Administrator, provided the subject has reached the age of majority, (iv) law enforcement officials and prosecutorial officials conducting legitimate criminal investigations, (v) a state or federal agency providing services related to the collection of moneys due or funding to support the service needs of eligible juveniles, provided such disclosure shall be limited to that information necessary for the collection of and application for such moneys, and (vi) members and employees of the Board of Pardons and Paroles and employees of the Department of Correction who, in the performance of their duties, require access to such records, provided the subject of the record has been convicted of a crime in the regular criminal docket of the Superior Court and such records are relevant to the performance of a risk and needs assessment of such person while such person is incarcerated, the determination of such person's suitability for release from incarceration or for a pardon, or the determination of the supervision and treatment needs of such person while on parole or other supervised release. Records disclosed pursuant to this subsection shall not be further disclosed,

except that information contained in such records may be disclosed in connection with bail or sentencing reports in open court during criminal proceedings involving the subject of such information.

(e) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, may be disclosed upon order of the court to any person who has a legitimate interest in the information and is identified in such order. Records disclosed pursuant to this subsection shall not be further disclosed, except as specifically authorized by a subsequent order of the court.

(f) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be available to the victim of the crime committed by such child to the same extent as the record of the case of a defendant in a criminal proceeding in the regular criminal docket of the Superior Court is available to a victim of the crime committed by such defendant. The court shall designate an official from whom such victim may request such information. Records disclosed pursuant to this subsection shall not be further disclosed, except as specifically authorized by a subsequent order of the court.

(g) Information concerning a child who has escaped from a detention center or from a facility to which he has been committed by the court or for whom an arrest warrant has been issued with respect to the commission of a felony may be disclosed by law enforcement officials.

(h) Nothing in this section shall be construed to prohibit any person employed by the Judicial Branch from disclosing any records, information or files in his possession to any person employed by the Division of Criminal Justice as a prosecutorial official, inspector or investigator who, in the performance of his duties, requests such records, information or files, or to prohibit any such employee of said division from disclosing any records, information or files in his possession to any such employee of the Judicial Branch who, in the performance of his duties, requests such records, information or files.

(i) A state's attorney shall disclose to the defendant or his counsel in a criminal prosecution, without the necessity of a court order, exculpatory information and material contained in any record disclosed to such state's attorney pursuant to this section and may disclose, without a court order, information and material contained in any such record which could be the subject of a disclosure order.

(j) Notwithstanding the provisions of subsection (d) of this section, any information concerning a child that is obtained during any mental health screening or assessment of such child, during the provision of services pursuant to subsection (b) of section 46b-149, or during the performance of an educational evaluation pursuant to subsection (e) of section 46b-149, shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the files of the entity providing such services or performing such

screening, assessment or evaluation. Such information may be further disclosed only for the purposes of any court-ordered evaluation or treatment of the child or provision of services to the child, or pursuant to sections 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such information shall not be subject to subpoena or other court process for use in any other proceeding or for any other purpose.

(k) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, containing information that a child has been convicted as delinquent for a violation of subdivision (e) of section 1-1h, subsection (c) of section 14-147, subsection (a) of section 14-215, section 14-222, subsection (b) of section 14-223, subsection (a), (b) or (c) of section 14-224, section 30-88a or subsection (b) of section 30-89, shall be disclosed to the Department of Motor Vehicles for administrative use in determining whether administrative sanctions regarding such child's motor vehicle operator's license are warranted. Records disclosed pursuant to this subsection shall not be further disclosed.

[\(l\) Records of cases of juvenile matters involving adoption proceedings, or any part thereof, shall be confidential and may only be disclosed pursuant to sections 45a-743 to 45a-757, inclusive.](#)

Sec. 19. Subdivision (2) of subsection (a) of section 45a-727 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(2) The application shall incorporate a declaration that to the best of the knowledge and belief of the declarant there is no other proceeding pending or contemplated in any other court affecting the custody of the child to be adopted, or if there is such a proceeding, a statement in detail of the nature of the proceeding and affirming that the proposed adoption would not conflict with or interfere with the other proceeding. The court shall not proceed on any application which does not contain such a declaration. **[The application shall be signed by one or more of the parties to the agreement, who may waive notice of any hearing on it.]** For the purposes of this declaration, visitation rights granted by any court shall not be considered as affecting the custody of the child.

Signed by Governor June 6, 2012



Substitute House Bill No. 5299

Public Act No. 12-87

AN ACT CONCERNING THE DISPOSITION OF REMAINS OF MILITARY PERSONNEL.

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

Section 1. Section 45a-318 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any person eighteen years of age or older, and of sound mind, may execute in advance of such person's death a written document, subscribed by such person and attested by two witnesses, either: (1) Directing the disposition of such person's body upon the death of such person, which document may also designate an individual to have custody and control of such person's body and to act as agent to carry out such directions; or (2) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such person's body upon the death of such person. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment and cryogenic preservation. Any such document may designate an alternate to an individual designated under subdivision (1) or (2) of this subsection.

(b) No person may challenge a funeral director's decision to carry out the directions for disposition contained in a document executed for the purposes of subsection (a) or (f) of this section if the funeral director's decision and conduct in carrying out such directions for disposition in reliance on such document was reasonable and warranted under the circumstances.

(c) In the absence of a written designation of an individual pursuant to subsection (a) of this section, or in the event that an individual and any alternate designated pursuant to subsection (a) of this section decline to act or cannot be located within forty-eight hours after the time of death or the discovery of the body, the following individuals, in the priority listed, shall have the right to custody and

control of the disposition of a person's body upon the death of such person, subject to any directions for disposition made by such person pursuant to subdivision (1) of subsection (a) of this section:

- (1) The deceased person's spouse, unless such spouse abandoned the deceased person prior to the deceased person's death or has been adjudged incapable by a court of competent jurisdiction;
- (2) The deceased person's surviving adult children;
- (3) The deceased person's surviving parents;
- (4) The deceased person's surviving siblings;
- (5) Any adult person in the next degree of kinship in the order named by law to inherit the deceased person's estate, provided such adult person shall be of the third degree of kinship or higher;
- (6) Such adult person as the Probate Court shall determine.

(d) A document executed by a person for the purposes of subsection (a) or (f) of this section shall revoke any document previously executed by such person for the purposes of said subsection or any prior cremation authorization or other authorization for the disposition of remains executed by such person. **[and]**

(e) A document executed by a person for the purposes of subsection (a) of this section may be in substantially the following form, but the use of such form shall not preclude the use of any other form:

DISPOSITION OF REMAINS AND

APPOINTMENT OF AGENT

I, , of , being of sound mind, make known that upon my death my body shall be disposed of in the following manner:

(Insert desired disposition directions)

I appoint , having an address and telephone number of , to have custody and control of my body to act as my agent to carry out the disposition directions expressed in this document, and in the absence of disposition directions, to have custody and control of my body and to determine the disposition of my body. If shall decline to act or cannot be located within forty-eight hours of my death or the discovery of my body, then , having an address and telephone number of , shall act in that person's place and stead.

Executed at (insert location of execution), Connecticut on (insert date of execution).

.....

(Signature)

Signed in our presence by who, at the time of the execution of this document, appeared to be of sound mind and over eighteen years old.

..... of

.....

(Signature of witness)

..... of

.....

(Signature of witness)

[\(f\) A DD Form 93, "Record of Emergency Data", executed by a member of the armed forces of the state or the United States shall be given the same legal effect as a document executed for the purposes of subsection \(a\) of this section.](#)

[(e)] (g) The court of probate for the district of the domicile or residence of a deceased person shall have jurisdiction to hear and decide any issue regarding the custody, control or disposition of the deceased person's body, upon the petition of any individual designated by the deceased person pursuant to subsection (a) or (f) of this section, the individual entitled to custody and control under subsection (c) of this section if no designation is made pursuant to subsection (a) of this section, the first selectman, chief executive officer or director of health of the town in which the deceased person's body is being held, or the funeral director or any other person or institution holding the deceased person's body, and upon such notice to interested parties as the court shall determine.

[(f)] (h) This section shall not (1) apply to the disposition of the body of a deceased person under the provisions of sections 19a-270 and 54-102, (2) affect the powers and duties of the Chief Medical Examiner under the provisions of sections 19a-406 to 19a-408, inclusive, or (3) affect the making of anatomical gifts under the provisions of sections 14-42 and 19a-289 to 19a-289v, inclusive.

Signed by Governor June 6, 2012



Substitute Senate Bill No. 31

Public Act No. 12-93

AN ACT ESTABLISHING A COMMISSION ON JUDICIAL COMPENSATION.

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

Section 1. (NEW) (*Effective July 1, 2012*) (a) There is established a Commission on Judicial Compensation for the purpose of examining and making recommendations with respect to judicial compensation. The commission shall consist of the following members: (1) Four appointed by the Governor; (2) one appointed by the president pro tempore of the Senate; (3) one appointed by the speaker of the House of Representatives; (4) one appointed by the majority leader of the Senate; (5) one appointed by the majority leader of the House of Representatives; (6) one appointed by the minority leader of the Senate; (7) one appointed by the minority leader of the House of Representatives; and (8) two appointed by the Chief Justice of the Supreme Court. To the extent practicable, each appointing authority shall appoint members who have experience in financial management, human resource administration or the determination of executive compensation. Each member of the commission shall serve a term of four years, and no member may be appointed to more than one four-year term, except that any member may continue to serve until such member's successor is appointed and qualified. Any vacancy on the commission shall be filled for the unexpired portion of the term by the appointing authority having the power to make the original appointment. The commission shall elect a chairperson from among its members. A majority of the members of the commission shall constitute a quorum for the transaction of any business.

(b) Not later than January 2, 2013, and every four years thereafter, the commission shall:

(1) Examine the adequacy and need for adjustment of compensation, for each of the following four fiscal years, for (A) the Chief Justice of the Supreme Court, (B) the Chief Court Administrator if a judge of the Supreme Court, Appellate Court or Superior Court, (C) each associate judge of the Supreme Court, (D) the Chief

Judge of the Appellate Court, (E) each judge of the Appellate Court, (F) the Deputy Chief Court Administrator if a judge of the Superior Court, (G) each judge of the Superior Court, (H) the judge designated as the administrative judge of the appellate system, (I) each Superior Court judge designated as the administrative judge of a judicial district, (J) each Superior Court judge designated as chief administrative judge, (K) the Chief Family Support Magistrate, and (L) each Family Support Magistrate; and

(2) Examine the adequacy and need for adjustment of per diem compensation, for each of the following four fiscal years, for senior judges, judge trial referees and family support referees.

(c) In conducting its examination under subsection (b) of this section, the commission shall take into account all appropriate factors including, but not limited to: (1) The overall economic climate in the state; (2) the rate of inflation; (3) the levels of compensation received by judges of other states and of the federal government; (4) the levels of compensation received by attorneys employed by government agencies, academic institutions and private and nonprofit organizations; (5) the state's interest in attracting highly qualified and experienced attorneys to serve in judicial capacities; (6) compensation adjustments applicable to employees of the state during applicable fiscal years; and (7) the state's ability to fund increases in compensation.

(d) Not later than January 2, 2013, and every four years thereafter, the commission shall submit a report on its findings, in accordance with section 11-4a of the general statutes, to the Governor, the Secretary of the Office of Policy and Management, the General Assembly, the Chief Justice of the Supreme Court and the Chief Court Administrator. Not later than January 9, 2013, and every four years thereafter, the Chief Court Administrator shall transmit estimates of expenditure requirements to implement the recommendations in the report for each fiscal year of the next biennium, and for each fiscal year of the subsequent biennium, to the Secretary of the Office of Policy and Management, on blanks to be furnished by him, and to the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, through the Office of Fiscal Analysis, and the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary.

Sec. 2. Subsection (g) of section 4-73 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

(g) (1) The appropriations recommended for the Judicial Department shall be the estimates of expenditure requirements transmitted to the Secretary of the Office of Policy and Management by the Chief Court Administrator pursuant to section 4-77 [plus the estimates of expenditure requirements for the biennium transmitted](#)

[by said administrator pursuant to section 1 of this act](#), and the recommended adjustments and revisions of such estimates shall be the recommended adjustments and revisions, if any, transmitted by said administrator pursuant to section 4-77.

(2) The appropriations recommended for the Division of Public Defender Services shall be the estimates of expenditure requirements transmitted to the Secretary of the Office of Policy and Management by the Chief Public Defender pursuant to section 4-77 and the recommended adjustments and revisions of such estimates shall be the recommended adjustments and revisions, if any, transmitted by said administrator pursuant to section 4-77.

Sec. 3. Section 2-9a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

(a) (1) There is created a Compensation Commission consisting of eleven members, three of whom shall be appointed by the Governor, two of whom shall be appointed by the president pro tempore of the Senate, two of whom shall be appointed by the speaker of the House of Representatives, two of whom shall be appointed by the minority leader of the Senate and two of whom shall be appointed by the minority leader of the House of Representatives. All members of said commission shall be appointed on or before July 1, 1971, and quadrennially thereafter, to serve for a term of four years. No person shall be appointed to said commission who is an official or employee of the state of Connecticut or any department, agency or political subdivision thereof, or who is an official or employee of any agency or institution more than ten per cent of the gross annual income of which is from state funds. Members shall not be compensated for their services as such but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

(2) On or before July 15, 1971, and biennially thereafter, the commission shall elect a chairman from its members. A majority of the members of said commission shall constitute a quorum for the transaction of any business. Any action taken by said commission shall be by majority vote of those present.

(b) The Compensation Commission shall recommend to the General Assembly, on or before February fifteenth, in odd-numbered years, legislative proposals for salary, expenses, pension, workers' compensation and any other benefits to be paid to the Governor, Lieutenant Governor, Secretary of the State, Attorney General, Treasurer, Comptroller [.] [and](#) members of the General Assembly. [\[and judges of the courts of the state, except judges of probate.\]](#) In its discretion, the commission also may submit its recommendation for such legislative proposals, on or before February fifteenth in even-numbered years. The General Assembly shall take action on such proposals at the session to which they are submitted. No proposals for legislative salary, if enacted by the General Assembly, shall become effective until the first Wednesday following the first Monday of the

January succeeding the next election of members of the General Assembly. No proposals for salaries shall be effective as to the Governor, Lieutenant Governor, Secretary of the State, Attorney General, Treasurer and Comptroller until the first Wednesday following the first Monday of the January succeeding the next election of said officers. Any other proposals of benefits, if enacted, shall be applicable with respect to the incumbents in the offices covered. Said commission may recommend different rates of salary, expenses and allowances for members of the General Assembly for session and interim periods and may recommend rates of salary, expenses and allowances for members of the General Assembly who are officers which are different from that established for other members.

Signed by Governor June 8, 2012



House Bill No. 5557

Public Act No. 12-104

AN ACT MAKING ADJUSTMENTS TO STATE EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 2013.

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

DEPARTMENT OF SOCIAL SERVICES

Children's Trust Fund [13,067,430] [13,133,084](#)

JUDICIAL DEPARTMENT

Probate Court [7,300,000] [7,275,000](#)

Sec. 17. Subsection (b) of section 50 of public act 11-6, as amended by section 42 of public act 11-48 and section 100 of public act 11-61, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Notwithstanding the provisions of subsection (j) of section 45a-82 of the general statutes, on June 30, 2012, (1) the sum of \$ 1,000,000 shall be transferred from the surplus funds in the Probate Court Administration Fund to the Kinship Fund and Grandparents and Relatives Respite Fund administered by the Children's Trust Fund Council and the Department of Social Services through the Probate Court, (2) the sum of \$ 50,000 shall be transferred from said surplus funds to the Judicial Department, for Other Expenses, to support the expansion of the Children in Placement, Inc. program in Danbury, (3) the sum of \$ 50,000 shall be transferred from said surplus funds to the Judicial Department, for Other Expenses, for a grant to the Child Advocates of Connecticut to provide child advocacy services in the Stamford/Norwalk and Danbury Judicial Districts, [and] (4) the sum of \$ 150,000 shall be transferred from said surplus funds to the Judicial Department, for Other Expenses, for a grant to the Ralphola Taylor Community Center YMCA in Bridgeport, (5) [the sum of \\$100,000 shall be transferred from said surplus funds to the Judicial Department, for Children of](#)

Incarcerated Parents, for a grant to the Greater Hartford Male Youth Leadership Program, provided such director submits a report to said department on the director's expenditures and programs during the fiscal year ending June 30, 2012, (6) the sum of \$300,000 shall be transferred from said surplus funds to the Judicial Department, for Forensic Sex Evidence Exams, (7) the sum of \$250,000 shall be transferred from said surplus funds to the Judicial Department, for Other Expenses, for a grant to the Justice Education Center, Inc. for the ECHO program, (8) the sum of \$50,000 shall be transferred from said surplus funds to the Department of Children and Families, for Other Expenses, for a grant to African Caribbean American Parents of Children with Disabilities, Inc., (9) the sum of \$25,000 shall be transferred from said surplus funds to the Department of Education, for Neighborhood Youth Centers, for a grant to Arte Inc. in New Haven, (10) the sum of \$100,000 shall be transferred from said surplus funds to the Department of Economic and Community Development, for Other Expenses, for a grant to the city of Norwich for the Norwich Freedom Bell, (11) the sum of \$75,000 shall be transferred from said surplus funds to the Department of Education, for Other Expenses, for a grant to the Boys and Girls Club of Southeastern Connecticut, (12) the sum of \$65,000 shall be transferred from said surplus funds to the Department of Energy and Environmental Protection, for Other Expenses, for a grant to the Connecticut Greenways Council, (13) the sum of \$15,000 shall be transferred from said surplus funds to the Department of Economic and Community Development, for Other Expenses, for a grant to the Nutmeg State Games, (14) the sum of \$100,000 shall be transferred from said surplus funds to the Judicial Department, for Other Expenses, for a grant to the Justice Policy Division of the Institute for Municipal and Regional Policy, (15) the sum of \$500,000 shall be transferred from said surplus funds to the Department of Education, for Other Expenses, to provide grants for technology improvements or initiatives at education reform districts, (16) the sum of \$50,000 shall be transferred from said surplus funds to the Department of Education, for Neighborhood Youth Centers, for a grant to Neighborhood Music School in New Haven to provide scholarships, (17) the sum of \$25,000 shall be transferred from said surplus funds to the Department of Social Services, for Other Expenses, for a grant to the Perlas Hispanas Center in New Britain, (18) the sum of \$35,000 shall be transferred from said surplus funds to the Judicial Department, for Children of Incarcerated Parents, for a grant to Connecticut Pardon Team, Inc., (19) the sum of \$20,000 shall be transferred from said surplus funds to the Department of Children and Families, for Other Expenses, for a grant to the Saint Joseph Parenting Center in Stamford, (20) the sum of \$250,000 shall be transferred from said surplus funds to the Department of Social Services, for Community Services, for the John S. Martinez Fatherhood Initiative, (21) the sum of \$125,000 shall be transferred from said surplus funds to the Department of Education, for Regional Vocational-Technical School System, for a grant to A.I. Prince Technical High School in Hartford for an adult education training program to offer training in carpentry, manufacturing and information systems, (22) the sum of \$36,000 shall be transferred from said surplus funds to the Department of Public Health, for Other Expenses, for a grant to Yale University to study

pediatric autoimmune neuropsychiatric disorder associated with streptococcal infections, and (23) the sum of \$150,000 shall be transferred from said surplus funds to the Department of Economic and Community Development, for Other Expenses, for a grant to the Windsor Arts Center in Windsor.

Signed by Governor June 8, 2012



Substitute House Bill No. 5365

Public Act No. 12-133

AN ACT CONCERNING COURT OPERATIONS AND VICTIM SERVICES.

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

Sec. 6. Section 51-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Whenever any court, including a court of probate, or the judge of any such court acting in any matter coming before him as a judge, makes or renders any decision, order, decree, denial or ruling, unless it is made or rendered in the presence of counsel in the matter, the clerk of the court shall immediately notify counsel and any appearing party, in writing by mail or electronic delivery, of the decision, order, decree, denial or ruling. Electronic delivery may be by computer or facsimile transmission or by employing other technology in accordance with procedures and technical standards established by the Office of the Chief Court Administrator or the Probate Court Administrator, as the case may be. Notice delivered electronically shall have the same validity and status as notice delivered by mail.

(b) The time limited by law for commencing appellate proceedings on the decision, order, decree, denial or ruling shall date from the time when such notice is issued by the clerk.

Signed by Governor June 15, 2012



Substitute House Bill No. 5437

Public Act No. 12-136

AN ACT CONCERNING THE DEFINITIONS OF MENTAL RETARDATION AND INTELLECTUAL DISABILITY.

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

Section 1. Section 1-1g of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) For the purposes of sections 17a-210b and 38a-816, "mental retardation" means **[a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period]** a significant limitation in intellectual functioning and deficits in adaptive behavior that originated during the developmental period before eighteen years of age.

(b) For the purposes of sections 2c-2b, 4a-60, 4b-28, 4b-31, 8-2g, 8-3e, 8-119t, 9-159s, 10-91f, 12-81, 17a-210, 17a-210b, 17a-215c, 17a-217 to 17a-218a, inclusive, 17a-220, 17a-226 to 17a-227a, inclusive, 17a-228, 17a-231 to 17a-233, inclusive, 17a-247 to 17a-247b, inclusive, 17a-270, 17a-272 to 17a-274, inclusive, 17a-276, 17a-277, 17a-281, 17a-282, 17a-580, 17a-593, 17a-594, 17a-596, 17b-226, 19a-638, 45a-598, 45a-669, 45a-670, 45a-672, 45a-674, 45a-676, 45a-677, 45a-678, 45a-679, 45a-680, 45a-681, 45a-682, 45a-683, 46a-11a to 46a-11g, inclusive, 46a-51, 46a-60, 46a-64, 46a-64b, 46a-66, 46a-70, 46a-71, 46a-72, 46a-73, 46a-75, 46a-76, 46b-84, 52-146o, 53a-46a, 53a-59a, 53a-60b, 53a-60c, 53a-61a, 53a-181i, 53a-320, 53a-321, 53a-322, 53a-323, 54-56d and 54-250, "intellectual disability" shall have the same meaning as "mental retardation" as defined in subsection (a) of this section.

(c) As used in subsection (a) of this section, **["general intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for that purpose and standardized on a significantly adequate population and administered by a**

person or persons formally trained in test administration; "significantly subaverage" means an intelligence quotient more than two standard deviations below the mean for the test;] "significant limitation in intellectual functioning" means an intelligence quotient more than two standard deviations below the mean as measured by tests of general intellectual functioning that are individualized, standardized and clinically and culturally appropriate to the individual; and "adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for the individual's age and cultural group [; and "developmental period" means the period of time between birth and the eighteenth birthday] as measured by tests that are individualized, standardized and clinically and culturally appropriate to the individual.

Signed by Governor June 15, 2012



Substitute House Bill No. 5241

Public Act No. 12-163

AN ACT CONCERNING DELAYED BIRTH REGISTRATION.

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

Section 1. Section 7-57 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Any adult or the parent or legal guardian [~~of the person~~] of any minor who is one year of age or older, for whose birth no certificate is on file, may [~~, with~~] request a delayed registration of birth by submitting to the department his or her affidavit and the affidavits of two other persons having first hand knowledge of the facts [~~, make, under oath, an affidavit as to the matters required to be set forth in a birth certificate under the provisions of section 7-48 and file the same in the office of the registrar of vital statistics of the town in which such birth occurred. Such registrar~~] relating to such birth, made under oath and in the manner and form prescribed by the commissioner. An adult, parent or legal guardian requesting a delayed registration of birth shall also submit to the department documentary evidence of the name, date and place of birth of the person for whom a delayed registration of birth is requested. Such documentary evidence shall be sufficient to enable the department to determine that the birth did, in fact, occur on the date and at the place alleged by the adult, parent or legal guardian making the request. If the department determines that the evidence submitted is sufficient to determine the facts of the birth, the department shall [~~thereupon~~] prepare a birth certificate based upon the information contained in [~~such affidavit and file the same with such affidavit in the same manner as any other birth certificate, including filing~~] the affidavits and other documentary evidence submitted to the department. The department shall transmit a copy of such certificate [~~with the department~~] to the registrar of the town where the birth occurred and to the registrar of the town where the mother resided at the time of birth.

(b) If ~~[unable to furnish an affidavit satisfactory to the registrar of such town]~~ the department denies the request for a delayed registration of birth, such adult, ~~[or]~~ parent or legal guardian may [apply to] petition the court of probate for the district where such birth occurred for an order requiring ~~[such registrar]~~ the department to prepare a certificate of birth of such adult or such minor. [containing the matters so required to be set forth] The petitioner shall include with the petition the affidavits and other documentary evidence submitted to the department in accordance with subsection (a) of this section. Such court shall ~~[, with or without notice and hearing, ascertain the facts as to the matters so required and issue an order directing such registrar to issue such a certificate based upon the facts set forth in such order. After issuing any such certificate, such registrar shall make a record of such birth, including in such record reference to such certificate and the affidavit or order of the court.]~~ schedule a hearing and cause notice of the hearing to be given to the following persons: (1) The petitioner; (2) if the delayed registration of birth is sought for a minor, (A) the parent or legal guardian of the minor, and (B) if the minor is twelve years of age or older, the minor; (3) the commissioner; and (4) any such other person as the court may determine has an interest in the hearing. The commissioner or the commissioner's authorized representative may appear and testify at such hearing. The petitioner shall have the burden of proving the facts of the birth. If the court finds by a preponderance of the evidence that the birth occurred on the date and at the place alleged by the petitioner, the court shall issue an order containing the person's name, sex, date of birth, place of birth and any other identifying information as the court deems appropriate and directing the department to issue a delayed birth certificate. Upon receipt of a certified copy of any such order, the department shall prepare a birth certificate based on the facts set forth in the court's order and transmit a copy of the certificate to the registrar of the town where the birth occurred and to the registrar of the town where the mother resided at the time of birth.

(c) In any proceeding under subsection (b) of this section, the court, on the motion of any party or on the court's own motion, may order genetic tests, which shall mean deoxyribonucleic acid tests, to be performed by a hospital, accredited laboratory, qualified physician or other qualified person designated by the court to determine parentage. The petitioner shall be responsible for the cost of any genetic test required by the court, except the department shall pay such cost for any petitioner who is found by the court to be indigent. If the results of such test indicate a ninety-nine per cent or greater probability that a person is the mother or father of the adult or minor for whom a delayed registration of birth is sought, the results shall constitute a rebuttable presumption that the person is, in fact, the mother or father of the adult or minor for whom a delayed registration of birth is sought.

(d) Birth certificates registered one year or more after the date of birth shall be marked "delayed" and indicate (1) the date of the delayed registration, ~~[. The provisions of sections 7-42 and 7-73 shall apply to the acts of the registrar under this section]~~ (2) the person's name, sex, date of birth, place of birth and any other

identifying information prescribed by the commissioner, as such facts of the birth have been determined based upon the evidence presented to the department or stated in a court order, as the case may be, and (3) when the facts of the birth are determined by court order, a statement that the birth is registered pursuant to court order.

Signed by the Governor June 15, 2012



House Bill No. 6001

June 12 Special Session, Public Act No. 12-1

AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2012.

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

Sec. 116. Subsection (b) of section 50 of public act 11-6, as amended by section 42 of public act 11-48, section 100 of public act 11-61 and section 17 of public act 12-104, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) Notwithstanding the provisions of subsection (j) of section 45a-82 of the general statutes, on June 30, 2012, [(1)] the following amounts shall be transferred from the surplus funds in the Probate Court Administration Fund, and made available for the following purposes, for the fiscal year ending June 30, 2013. (A) the sum of \$1,000,000 [shall be transferred from the surplus funds in the Probate Court Administration Fund] to the Kinship Fund and Grandparents and Relatives Respite Fund administered by the Children's Trust Fund Council and the Department of Social Services through the Probate Court, [(2)] (B) the sum of \$50,000 [shall be transferred from said surplus funds] to the Judicial Department, for Other Expenses, to support the expansion of the Children in Placement, Inc. program in Danbury, [(3)] (C) the sum of \$50,000 [shall be transferred from said surplus funds] to the Judicial Department, for Other Expenses, for a grant to the Child Advocates of Connecticut to provide child advocacy services in the Stamford/Norwalk and Danbury Judicial Districts, [(4)] (D) the sum of \$150,000 [shall be transferred from said surplus funds] to the Judicial Department, for Other Expenses, for a grant to the Ralphola Taylor Community Center YMCA in Bridgeport, [(5)] (E) the sum of [\$100,000 shall be transferred from said surplus funds] \$225,000 to the Judicial Department, for Children of Incarcerated Parents, for a grant to the Greater Hartford Male Youth Leadership Program, provided such director submits a report to said department on the director's expenditures and programs during the fiscal year ending June 30, 2012, [(6)] (F) the sum of \$300,000 [shall be transferred from said surplus

funds] to the Judicial Department, for Forensic Sex Evidence Exams, [(7)] (G) the sum of \$250,000 **[shall be transferred from said surplus funds]** to the Judicial Department, for **[Other Expenses]** [Justice Education Center, Inc.](#), for a grant to the Justice Education Center, Inc. for the ECHO program, [(8)] (H) the sum of \$50,000 **[shall be transferred from said surplus funds]** to the Department of Children and Families, for Other Expenses, for a grant to African Caribbean American Parents of Children with Disabilities, Inc., [(9)] (I) the sum of \$25,000 **[shall be transferred from said surplus funds]** to the Department of Education, for Neighborhood Youth Centers, for a grant to Arte Inc. in New Haven, [(10)] (J) the sum of \$100,000 **[shall be transferred from said surplus funds]** to the Department of Economic and Community Development, for Other Expenses, for a grant to the city of Norwich for the Norwich Freedom Bell, [(11)] (K) the sum of \$75,000 **[shall be transferred from said surplus funds]** to the Department of Education, for **[Other Expenses]** [Neighborhood Youth Centers](#), for a grant to the Boys and Girls Club of Southeastern Connecticut, [(12)] (L) the sum of \$65,000 **[shall be transferred from said surplus funds]** to the Department of Energy and Environmental Protection, for Other Expenses, for a grant to the Connecticut Greenways Council, [(13)] (M) the sum of \$15,000 **[shall be transferred from said surplus funds]** to the Department of Economic and Community Development, for Other Expenses, for a grant to the Nutmeg State Games, [(14)] (N) the sum of \$100,000 **[shall be transferred from said surplus funds]** to the Judicial Department, for Other Expenses, for a grant to the Justice Policy Division of the Institute for Municipal and Regional Policy, [(15)] (O) the sum of \$500,000 **[shall be transferred from said surplus funds]** to the Department of Education, for Other Expenses, to provide grants for technology improvements or initiatives at education reform districts, [(16)] (P) the sum of \$50,000 **[shall be transferred from said surplus funds]** to the Department of **[Education, for Neighborhood Youth Centers]** [Economic and Community Development](#), for a grant to Neighborhood Music School in New Haven to provide scholarships, [(17)] (Q) the sum of \$25,000 **[shall be transferred from said surplus funds]** to the Department of Social Services, for Other Expenses, for a grant to the Perlas Hispanas Center in New Britain, [(18)] (R) the sum of \$35,000 **[shall be transferred from said surplus funds]** to the Judicial Department, for Children of Incarcerated Parents, for a grant to Connecticut Pardon Team, Inc., [(19)] (S) the sum of \$20,000 **[shall be transferred from said surplus funds]** to the Department of Children and Families, for Other Expenses, for a grant to the Saint Joseph Parenting Center in Stamford, [(20)] (T) the sum of \$250,000 **[shall be transferred from said surplus funds]** to the Department of Social Services, for Community Services, for the John S. Martinez Fatherhood Initiative, [(21)] (U) the sum of \$125,000 **[shall be transferred from said surplus funds]** to the Department of Education, for Regional Vocational-Technical School System, for a grant to A.I. Prince Technical High School in Hartford for an adult education training program to offer training in carpentry, manufacturing and information systems, [(22)] (V) the sum of **[\$36,000]** [\\$40,000](#) **[shall be transferred from said surplus funds]** to the Department of Public Health, for Other Expenses, for a grant to **[Yale University to study pediatric autoimmune neuropsychiatric disorder associated with**

streptococcal infections, and (23)] PANDAS Resource Network for a comprehensive analysis that shall include, but not be limited to, research involved in the diagnoses made and treatment prescribed for pediatric autoimmune neuropsychiatric disorder in other states and countries and an evaluation of the level and of recognition of the disorder in the medical community, laboratory assessment and treatment evaluation and insurance coverage issues and a retrospective study of PANDAS/PANS patients on a variety of antibiotics, (W) the sum of \$150,000 [shall be transferred from said surplus funds] to the Department of Economic and Community Development, for Other Expenses, for a grant to the Windsor Arts Center in Windsor, (X) the sum of \$250,000 to the Department of Social Services, Other Expenses, for a grant to the Norwich/New London Continuum of Care to facilitate rapid rehousing and homelessness prevention in southeastern Connecticut, (Y) the sum of \$150,000 to the Department of Education, After School Program, for a grant to the city of Bridgeport for the Lighthouse After School Program, (Z) the sum of \$50,000 to the Department of Education, Connecticut Writing Project and (AA) the sum of \$510,517 to the Judicial Department, Other Expenses, for electronic monitoring of persons pursuant to subsection (f) of section 46b-38c of the general statutes, as amended by this act.

(2) Not later than February 1, 2013, the Commissioner of Public Health shall transmit, in accordance with the provisions of section 11-4a of the general statutes, the comprehensive analysis conducted by the PANDAS Resource Network under subdivision (1) of this subsection to the joint standing committees of the General Assembly having cognizance of matters relating to public health and insurance.

Sec. 143. Subdivision (1) of subsection (a) of section 45a-727 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) (1) [Each] Except as provided in section 16 of public act 12-82, each adoption matter shall be instituted by filing an application in a Court of Probate, together with the written agreement of adoption, in duplicate. One of the duplicates shall be sent immediately to the Commissioner of Children and Families.

Sec. 274. Section 45a-604 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

As used in sections 45a-603 to 45a-622, inclusive, and section 275 of this act:

(1) "Mother" means a woman who can show proof by means of a birth certificate or other sufficient evidence of having given birth to a child and an adoptive mother as shown by a decree of a court of competent jurisdiction or otherwise;

(2) "Father" means a man who is a father under the law of this state including a man who, in accordance with section 46b-172, executes a binding acknowledgment of paternity and a man determined to be a father under chapter 815y;

(3) "Parent" means a mother as defined in subdivision (1) of this section or a "father" as defined in subdivision (2) of this section;

(4) "Minor" or "minor child" means a person under the age of eighteen;

(5) "Guardianship" means guardianship of the person of a minor, and includes: (A) The obligation of care and control; (B) the authority to make major decisions affecting the minor's education and welfare, including, but not limited to, consent determinations regarding marriage, enlistment in the armed forces and major medical, psychiatric or surgical treatment; and (C) upon the death of the minor, the authority to make decisions concerning funeral arrangements and the disposition of the body of the minor;

(6) "Guardian" means **[one]** [a person](#) who has the authority and obligations of "guardianship", as defined in subdivision (5) of this section;

(7) "Termination of parental rights" means the complete severance by court order of the legal relationship, with all its rights and responsibilities, between the child and the child's parent or parents so that the child is free for adoption, except that it shall not affect the right of inheritance of the child or the religious affiliation of the child;

[\(8\) "Permanent guardianship" means a guardianship, as defined in subdivision \(5\) of this section, that is intended to endure until the minor reaches the age of majority without termination of the parental rights of the minor's parents; and](#)

[\(9\) "Permanent guardian" means a person who has the authority and obligations of a permanent guardianship, as defined in subdivision \(8\) of this section.](#)

Sec. 275. (NEW) (*Effective October 1, 2012*) (a) In appointing a guardian of the person of a minor pursuant to section 45a-616 of the general statutes, or at any time following such appointment, the court of probate may establish a permanent guardianship if the court provides notice to each parent that the parent may not petition for reinstatement as guardian or petition to terminate the permanent guardianship, except as provided in subsection (b) of this section, or the court indicates on the record why such notice could not be provided, and the court finds by clear and convincing evidence that the establishment of a permanent guardianship is in the best interests of the minor and that the following have been proven by clear and convincing evidence:

(1) One of the grounds for termination of parental rights, as set forth in subparagraphs (A) to (G), inclusive, of subdivision (2) of subsection (g) of section 45a-717 of the general statutes exists, or the parents have voluntarily consented to the appointment of a permanent guardian;

(2) Adoption of the minor is not possible or appropriate;

(3) (A) If the minor is at least twelve years of age, such minor consents to the proposed appointment of a permanent guardian, or (B) if the minor is under twelve years of age, the proposed permanent guardian is a relative or already serving as the permanent guardian of at least one of the minor's siblings;

(4) The minor has resided with the proposed permanent guardian for at least one year; and

(5) The proposed permanent guardian is suitable and worthy and committed to remaining the permanent guardian and assuming the rights and responsibilities for the minor until the minor reaches the age of majority.

(b) If a permanent guardian appointed under this section becomes unable or unwilling to serve as permanent guardian, the court may appoint a successor guardian or permanent guardian in accordance with this section and sections 45a-616 and 45a-617 of the general statutes, as amended by this act, or may reinstate a parent of the minor who was previously removed as guardian of the person of the minor if the court finds that the factors that resulted in the removal of the parent as guardian have been resolved satisfactorily, and that it is in the best interests of the child to reinstate the parent as guardian.

Sec. 276. Section 45a-611 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) **[Any]** [Except as provided in subsection \(d\) of this section, any](#) parent who has been removed as the guardian of the person of a minor may apply to the court of probate which removed him or her for reinstatement as the guardian of the person of the minor, if in his or her opinion the factors which resulted in removal have been resolved satisfactorily.

(b) In the case of a parent who seeks reinstatement, the court shall hold a hearing following notice to the guardian, to the parent or parents and to the minor, if over twelve years of age, as provided in section 45a-609. If the court determines that the factors which resulted in the removal of the parent have been resolved satisfactorily, the court may remove the guardian and reinstate the parent as guardian of the person of the minor, if it determines that it is in the best interests of the minor to do so. At the request of a parent, guardian, counsel or guardian ad litem representing one of the parties, filed within thirty days of the decree, the court shall make findings of fact to support its conclusions.

(c) The provisions of this section shall also apply to the reinstatement of any guardian of the person of a minor other than a parent.

(d) Notwithstanding the provisions of this section, and subject to the provisions of subsection (b) of section 275 of this act, a parent who has been removed as guardian of the person of a minor may not petition for reinstatement as guardian if a court has established a permanent guardianship for the person of the minor pursuant to section 275 of this act.

Sec. 277. Section 45a-613 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Any guardian, **[or]** coguardians or permanent guardian of the person of a minor appointed under section 45a-616 or section 275 of this act, or appointed by a court of comparable jurisdiction in another state, may be removed by the court of probate which made the appointment, and another guardian, **[or]** coguardian or permanent guardian appointed, in the same manner as that provided in sections 45a-603 to 45a-622, inclusive, for removal of a parent as guardian.

(b) Any removal of a guardian, coguardian or permanent guardian under subsection (a) of this section shall be preceded by notice to the guardian, **[or]** coguardians or permanent guardian, the parent or parents and the minor if over twelve years of age, as provided by section 45a-609.

(c) If a new guardian, coguardian or permanent guardian is appointed, the court shall send a copy of that order to the parent or parents of the minor.

Sec. 278. Section 45a-614 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) [The] Except as provided in subsection (b) of this section, the following persons may apply to the court of probate for the district in which the minor resides for the removal as guardian of one or both parents of the minor: (1) Any adult relative of the minor, including those by blood or marriage; (2) the court on its own motion; or (3) counsel for the minor.

(b) A parent may not petition for the removal of a permanent guardian appointed pursuant to section 275 of this act.

Sec. 279. Section 45a-617 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

When appointing a guardian, **[or]** coguardians or permanent guardian of the person of a minor, the court shall take into consideration the following factors: (1) The ability of the prospective guardian, **[or]** coguardians or permanent guardian to meet, on a continuing day to day basis, the physical, emotional, moral and

educational needs of the minor; (2) the minor's wishes, if he or she is over the age of twelve or is of sufficient maturity and capable of forming an intelligent preference; (3) the existence or nonexistence of an established relationship between the minor and the prospective guardian, ~~or~~ [coguardians](#) [or permanent guardian](#); and (4) the best interests of the child. There shall be a rebuttable presumption that appointment of a grandparent or other relative related by blood or marriage as a guardian, [coguardian or permanent guardian](#) is in the best interests of the minor child.

Signed by the Governor in the original June 15, 2012