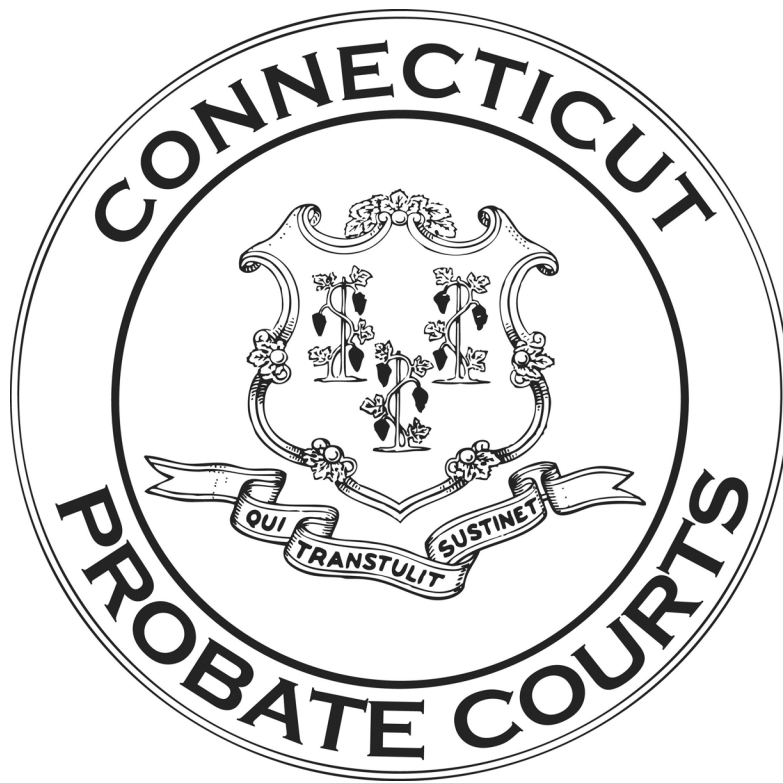


# 2019 LEGISLATIVE SUMMARY



Prepared  
by the  
Office of the Probate Court Administrator



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To: All Judges and Court Staff

From: Beverly K. Streit-Kefalas  
Probate Court Administrator

Re: 2019 Legislative Summary

Date: September 26, 2019

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The General Assembly enacted several important pieces of legislation affecting the Connecticut Probate Court system during the 2019 session. This packet includes a summary of each bill and a link to the text of the public act. Within the public acts, bracketed text indicates deletions, and underlined text indicates additions.

These summaries are not meant to replace the public acts, but are rather a basic outline of the legislation. We will present continuing education seminars on the new legislation at the Judges Institute and Clerks Roundtables in October. A joint Probate Assembly-Connecticut Bar Association seminar in November will specifically address the new Uniform Trust Code.

Please contact us with any questions.

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# Public Act 19-16 An Act Combatting Sexual Assault and Sexual Harassment

## Substitute for SB 3

EFFECTIVE DATE: October 1, 2019, except as otherwise noted

### SUMMARY

This act makes various changes concerning sexual harassment, sexual assault, discrimination complaints filed with the Commission on Human Rights and Opportunities (CHRO), and related matters. For example, it:

- Expands requirements for employers to train employees on sexual harassment laws (section 1);
- Extends the time to file a CHRO complaint alleging employer discrimination, including sexual harassment (section 6);
- Allows courts to order punitive damages in discrimination cases released from CHRO jurisdiction (section 10);
- Extends the time to file a civil lawsuit related to sexual abuse or related conduct for victims under age 21 (section 13); and
- Eliminates the criminal statute of limitations for sexual assault crimes against minors and extends it for such crimes against adults (section 17).

**Sections 1 and 3: Sexual Harassment Training and Information Requirements for Employers:** Currently, CHRO requires employers with at least 50 employees to provide supervisory employees with two hours of training on federal and state sexual harassment laws and remedies available to victims. The act expands this requirement to all employers.

The new training must occur within one year of October 1, 2019, except that any employer who provided the act's training after October 1, 2018, is not required to provide it a second time.

The act requires CHRO to develop a free, online training and education video or other interactive method that fulfills the act's training requirements. As long as CHRO does so, the required employee training must take place within six months of the hiring date, starting October 1, 2019.

Under the act, the employers must provide supplemental training at least every 10 years.

Existing law requires employers with three or more employees to post a notice in a prominent and accessible place stating that sexual harassment is illegal and the remedies available to victims. The act requires these employers to also send a copy of this information to employees by email within three months of their hire if the employer has an email account for the employee. The email's subject line must be similar to "Sexual Harassment Policy."

The act requires CHRO to develop and include on its website a link about the illegality of sexual harassment and the remedies available to victims. An employer can comply with the requirement above by providing this link to employees by email, text message, or in writing.

**Section 2:** Expands the definition of "discriminatory practice" in the CHRO statutes to include, among other things, an employer's failure to provide sexual harassment training or post certain notices. The act expands the definition of "discriminatory practice" in the CHRO statutes to include violations of the following requirements for:

- Employers to provide training and information to employees (as specified above) about sexual harassment and available remedies; and
- State agencies to provide diversity training and education to employees, annually report on the training, and submit information demonstrating compliance as part of their affirmative action plans.

By adding these violations to the definition of discriminatory practice, the act allows individuals aggrieved by

any such violation, or CHRO itself, to file a complaint with CHRO alleging discrimination.

**Section 4:** Addresses how employers can appropriately take corrective action in response to alleged sexual harassment cases. The act prohibits an employer, when taking immediate corrective action in response to an employee's sexual harassment claim, from modifying the claimant's conditions of employment unless the claimant agrees in writing to the modification. This includes actions such as (1) relocating the employee, (2) assigning him or her to a different work schedule, or (3) making other substantive changes to the terms and conditions of employment.

## [Public Act 19-25](#) **An Act Concerning Paid Family and Medical Leave**

### **Substitute for Senate Bill 1**

EFFECTIVE DATE: Upon passage

Employee collections begin January 2021

Employers begin providing paid leave January 2022

### **SUMMARY**

The act creates the Family and Medical Leave Insurance (FMLI) program to provide wage replacement benefits to employees taking leave for reasons allowed under the state's Family and Medical Leave Act (FMLA) or the family violence leave law. It provides up to 12 weeks of FMLI benefits over a 12-month period and additional benefits for incapacitation during pregnancy.

Individuals who earned at least \$2,325 during their highest earning quarter within their base period (the first four of the five most recently completed quarters) and were employed in the previous 12 weeks are eligible for benefits.

Employee contributions will fund the program, with collections beginning in January 2021. The Paid Family and Medical Leave Insurance Authority must annually determine the employee contribution rate, which cannot exceed 0.5%. The act caps the amount of an employee's earnings subject to contributions at the same amount of earnings subject to Social Security taxes (currently \$132,900).

Provisions of the act include:

- Lowering the employee work threshold to qualify for job-protected leave from (a) 12 months of employment and 1,000 work-hours with the employer to (b) three months of employment with the employer, with no minimum requirement for hours worked;
- Changing the maximum FMLA leave allowed from 16 weeks over a 24-month period to 12 weeks over a 12-month period and allowing an additional two weeks of leave due to a serious health condition that results in incapacitation during pregnancy;
- Limiting the extent to which an employer may require an employee taking FMLA leave to use his or her employer-provided paid leave;
- Adding to the family members for whom an employee can take FMLA leave to include the employee's siblings, grandparents, grandchildren, and anyone else related by blood or affinity whose close association the employee shows to be the equivalent of a spouse, sibling, son or daughter, grandparent, grandchild, or parent; and
- Expansion of the family members for which employers must allow their employees to use up to two weeks of any employer-provided paid sick leave. Relatives now covered under the state's amended FMLA law include siblings, grandparents, grandchildren and anyone else related by blood or whose close association is the equivalent of a family member.

## [Public Act 19-42](#) **An Act Concerning Participation by a Resident of a Nursing Home Facility or Residential Care Home in a Receivership Proceeding**

### **Substitute for SB 1088**

EFFECTIVE DATE: July 1, 2019

#### **SUMMARY**

By law, a court may appoint a receiver for a nursing home or residential care home if the home is substantially unsafe or experiencing serious financial loss, among other things. (section 19a-543)

This act amends section 19a-542 to require a court to allow (1) a resident of a nursing home or residential care home that is the subject of a receivership application or (2) the resident's legally liable relative, conservator, or guardian, to be heard at the hearing on the application without having to appear as a party. Existing law allows the above listed individuals to appear as a party to such proceedings.

## [Public Act 19-44](#) **An Act Concerning a Children in Care Bill of Rights and Expectations and the Sibling Bill of Rights**

### **Substitute for HB 6403**

EFFECTIVE DATE: July 1, 2019

#### **SUMMARY**

This act establishes a bill of rights and expectations for children placed by the Department of Children and Families (DCF) in out-of-home care pursuant to a temporary custody or commitment order. The Children in Care Bill of Rights and Expectations ensures certain rights for such children, absent extraordinary circumstances related to the child's health or safety or unless otherwise indicated in his or her case plan. If the child is of an appropriate age, the child's caseworker is required to provide and explain these rights to the child annually and at any time the child is placed in a new out-of-home placement,.

Beginning January 1, 2020, the caseworker is also required to provide and explain the Sibling Bill of Rights to the child, if applicable. The DCF Sibling Bill of Rights lists ways to protect the relationships of siblings separated as a result of DCF intervention. This bill of rights includes the right to (1) placement with siblings, (2) consistent and regular contact with siblings, and (3) notification of a sibling's change of placement.

## [Public Act 19-47](#) **An Act Concerning Probate Court Operations**

### **Substitute for HB 7130**

EFFECTIVE DATE: See sections

#### **SUMMARY**

The Probate Assembly and Probate Court Administration jointly developed the provisions contained in this act.

**Section 1** establishes the statutory framework for the Probate Court eFiling system. It permits a court to send notice or other document electronically through the eFiling system to a person who has eFiling access to the case unless personal service is required.

*(Effective upon passage)*

**Section 2** amends section 17a-101j to require the Department of Children and Families to notify the Probate Court when an investigation substantiates abuse or neglect by a member of the guardian's household.

*(Effective January 1, 2020)*

**Section 3** amends section 45a-2a to authorize the Probate Court Administrator to name or rename Probate Courts at any time.

*(Effective upon passage)*

**Section 4** increases the filing fee to \$250 for most petitions, with the exception of decedents' estates and accounts, to cover eFiling costs.

*(Effective July 1, 2019)*

**Section 5** amends section 45a-616(a) to specify the persons who may apply for the appointment of a guardian of person for a minor if the minor has no guardian. The section also eliminates the ability of a Probate Court to appoint a guardian on its own motion.

*(Effective January 1, 2020)*

**Section 6** amends section 45a-678 to eliminate the requirement of personal service on the protected person for a petition to remove the guardian of an adult with intellectual disability.

*(Effective October 1, 2019)*

**Section 7** amends section 45a-716 to require notice to a minor child age 12 or older if the child is the subject of a termination of parental rights (TPR) matter.

*(Effective October 1, 2019)*

**Section 8** amends section 45a-717(b) to provide that a child in a TPR matter is responsible for the payment of his or her counsel fees unless the child is indigent, in which case the fees are paid by the Probate Court Administration Fund. The provisions in the TPR statute are now aligned with the removal statute.

This section also amends section 45a-717(d) regarding the payment for examinations by a physician, psychiatrist or psychologist in a TPR matter to align with the payment provisions under 45a-132a governing examinations in any matter before the Probate Court in which the capacity of a party is at issue. Section 45a-132a provides that the court may apportion the expense of the examination among the petitioner, respondent and party seeking the examination and the PCAF pays the share of an indigent party.

*(Effective October 1, 2019)*

**Section 9** amends section 45a-718 to allow notice of a proceeding concerning the appointment of a statutory parent to be sent by first class mail rather than certified mail.

*(Effective October 1, 2019)*

**Sections 10 and 13** amend sections 45a-186 and 45a-187, respectively, to establish that the period for filing a probate appeal is calculated from the date on which the court sent an order, denial or decree by mail or by electronic service, whichever is later. These changes are made in anticipation of the eFiling system.

*(Effective upon passage)*

**Sections 11 and 12** amend sections 45a-186a and 186b, respectively, to clearly specify the statutes under which an appeal is taken on the record.

*(Effective upon passage)*



**Sections 14 and 15** make minor technical change to sections 45a-188 and 45a-193, respectively.

*(Effective October 1, 2019)*

**Section 16** amends section 45a-715(e) to reference the changes in section 7 of this act requiring notice to a child 12 years of age or older in a TPR matter.

*(Effective October 1, 2019)*

**Section 17** repeals section 45a-653, which permitted a petitioner to freeze the assets of a respondent pending an involuntary conservatorship proceeding by filing a certified copy of the petition with a financial institution or recording a copy on the land records.

*(Effective July 1, 2019)*

## **[Public Act 19-116](#) An Act Concerning Registries of Persons Found Responsible for Assaults or Other Abuse, Neglect, Exploitation or Abandonment of Elderly Persons or Persons with Disabilities**

### **Substitute for SB 832**

EFFECTIVE DATE: October 1, 2019

#### **SUMMARY**

This act requires the Commission on Women, Children, and Seniors to (1) provide a portal on its website with links to databases and (2) convene a working group to raise public awareness of these databases to people hiring care providers for adults aged 60 and older, children or individuals with disabilities.

The act expands the list of offenses that prohibit someone from being hired as a direct care employee or volunteer at a long-term care facility to include conviction of specified assault and abuse crimes against the elderly and individuals with disabilities.

## **[Public Act 19-117](#) An Act Concerning the State Budget for the Biennium Ending June 30, 2021, and Making Appropriations Therefor, and Implementing Provisions of the Budget**

### **HB 7424**

EFFECTIVE DATE: July 1, 2019

#### **SUMMARY**

This act appropriates funds for state agencies and programs for FYs 20 and 21 and makes numerous policy changes.

The biennial budget funds the Probate Court system at the level of \$7.2 million in FY 20, and \$12.5 million in FY 21, returning the Probate Court funding level to normal funding. It also prohibits the sweep of surplus funds from the Probate Court Administration Fund (PCAF) on June 30, 2019.

**Section 12:** Prohibits the reallocation of any Probate Court funds at the end of FY 20 and FY 21.



**Section 34:** Suspends the automatic “sweep” of surplus funds above 15% of the Probate Court Administration authorized expenditures from the PCAF on June 30, 2019, preventing a revenue loss of \$2.5 million.

**Section 312:** Amends section 17b-131 to increase the allowance that the state pays for funeral and burial expenses for indigent person from \$1200.00 to \$1350.00.

(Effective July 1, 2019)

**Section 313:** Amends section 17b-84 to increase the allowance that the state pays for funeral and burial expenses for the beneficiaries of the state supplement or temporary family assistance program from \$1200.00 to \$1350.00.

(Effective July 1, 2019)

## [Public Act 19-137](#) **An Act Concerning Adoption of the Connecticut Uniform Trust Code**

### **Substitute for HB 7104**

EFFECTIVE DATE: January 1, 2020

### **SUMMARY**

This act adopts the Connecticut Uniform Trust Code, codifying the law of trusts in Connecticut, including establishing rules governing the creation, modification, termination and enforcement of trusts.

The Act also outlines a framework for the administration of directed trusts (in which a person other than a trustee has power over specified aspects of the trust’s administration) and the creation of self-settled asset protection trusts.

**Sections 1-80** of the act establish the “**Connecticut Uniform Trust Code**” (“**CUTC**”).

**Sections 2** establishes the CUTC’s scope. The CUTC applies to testamentary and inter vivos trusts and to express trusts created by statute, judgment or decree. The provisions of the CUTC do not apply to statutory trusts or to charitable trusts, except as specifically provided. With respect to special needs trusts established under 42 USC 1396p(d)(4), provisions of the act must not be interpreted in a manner that is inconsistent with federal law.

**Section 3** defines the terms used in the CUTC, including the following:

“Beneficiary” means a person that has a present or future interest in trust, vested or contingent or, in a capacity other than trustee, holds a power of appointment over trust property.

“Current beneficiary” means a beneficiary that, on the date the beneficiary’s qualification is determined, is a distributee or permissible distributee of trust income or principal.

“Court” means a court of this state having jurisdiction over the matter pursuant to sections 15 and 16 of this act or a court of another state having jurisdiction under the law of the other state.

“Designated representative” means a person designated in the terms of a trust to receive notice on behalf of, and in lieu of, a trust beneficiary.

“Inter vivos trust” means a trust that is not a testamentary trust.

“Qualified beneficiary” means a beneficiary that, on the date the beneficiary’s qualification is determined: (A) is a distributee or permissible distributee of trust income or principal; (B) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subparagraph (A) of this subdivision terminated on such date without causing the trust to terminate; or (C) would be a distributee or permissible distributee of trust income or principal if the trust terminated on such date.

“Testamentary trust” means a trust created under a will and any trust established pursuant to an order of the Probate Court.

**Section 4** specifies when a person is deemed to have knowledge of a fact involving a trust. The provision specifies the circumstances under which an organization, such as a bank, is held responsible for information that an employee is aware of.

**Section 5** provides that, in general, the CUTC is a set of default rules that a settlor can modify in the terms of a trust. It also establishes a list of mandatory rules that a settlor may not override. Examples of CUTC that are mandatory include:

- The power of a court to modify or terminate a trust, require a bond, adjust a trustee’s compensation, or exercise jurisdiction as provided in sections 15 and 16 of the act or as necessary in the interests of justice;
- The authority of a court to supervise a testamentary trust;
- The trustee’s duty to notify a qualified beneficiary of the existence of the trust, the identity of the trustee and the right to request a trustee’s report or information about the trust;
- The trustee’s liability for breach of trust; and
- The statute of limitation for commencing a judicial action against a trustee.

**Section 6** provides that common law of trusts and the principles of equity supplement the CUTC, except to the extent as modified by the act or other statutes.

**Section 7** provides rules for determining which state’s laws will govern a trust.

**Section 8** sets forth rules relating to a trust’s principal place of administration, including required procedures when a trustee wishes to transfer the principal place of administration to another state or jurisdiction outside the United States.

In addition, section 45a-477(b) was amended by section 115 of the act to provide that a Connecticut resident, who is beneficiary of a trust that is administered outside of Connecticut, may petition the Probate Court to assume jurisdiction of the trust. Section 45a-477(a) was deleted.

**Section 9** establishes the manner in which a trustee is required to give notice and when notice is not required or may be waived.

Notice of a judicial proceeding is governed by the applicable rules of procedure.

**Section 10** requires that, when notice to qualified beneficiaries is required, notice must also be given to designated representatives and other beneficiaries who have requested notice. The Attorney General has the rights of a qualified beneficiary if there is a charitable beneficiary.

**Section 11** addresses matters that may be resolved by nonjudicial settlement agreements. A party may request a court to approve a nonjudicial settlement agreement.

**Section 12** establishes the circumstances under which a trustee has an insurable interest in the life of an individual insured under a life insurance policy owned by a trust.

**Sections 13** codifies existing law by specifying that testamentary trusts, but not inter vivos trusts, are subject to continuing judicial supervision.

**Section 14** identifies the factors that give rise to a court's exercise of personal jurisdiction over trustees and beneficiaries.

**Section 15** of the act provides a roadmap of how jurisdiction relating to testamentary and inter vivos trusts is allocated between the Probate Courts and the Superior Court. In most cases, the grant of jurisdiction includes a cross-reference to the statute that governs the type of matter.

- Section 15(a) identifies the matters over which Probate Courts have sole original jurisdiction over testamentary trusts.
- Section 15(b) identifies the matters over which the Probate Courts and the Superior Court have concurrent original jurisdiction over testamentary trusts.
- Section 15(c) addresses the exceptional circumstances under which the Superior Court has original jurisdiction over a testamentary trust that would otherwise be subject only to Probate Court jurisdiction.
- Section 15(d) provides that the Superior Court has jurisdiction over all matters related to inter vivos trusts and identifies the matters over which the Probate Courts and the Superior Court have concurrent original jurisdiction over inter vivos trusts.
- Section 15(e) clarifies that the court that has jurisdiction over any matter relating to a trust also has jurisdiction to hear and decide a trustee's request for instruction or approval of an action or a party's request to compel or prohibit an action by a trustee.

Under section 15(a), Probate Courts have sole original jurisdiction over testamentary trusts to:

1. Determine the validity of a will establishing a trust (§45a-98(a)(2))
2. Compel a trustee to account (§45a-98(a)(6))
3. Approve a trustee's account or proposed final distribution (§§45a-175 to 45a-179; 45a-181)
4. Hear and decide the petition of a trustee to approve a proposed action, ratify a previously taken action or provide instructions to address a specific situation, or hear and decide a petition of a beneficiary to compel or prohibit an action by a trustee
5. Approve the settlement of a disputed claim (§45a-151)
6. Approve the sale of personal property (§45a-163)
7. Approve the sale or mortgage of real property (§45a-164)
8. Remove or accept the resignation of a trustee (sections 48 and 49(b))
9. Appoint a successor trustee in the event of a vacancy or anticipated vacancy (section 47)
10. Order a trustee to furnish a probate bond (section 45)
11. Assume jurisdiction of an out of state trust (§45a-477)
12. Order distribution of a decedent's estate or testamentary trust to the beneficiaries of an inoperative trust (§45a-482)
13. Authorize a trustee to disclaim an interest (§45a-579)
14. Authorize a trustee to combine two or more trusts or divide a trust into two or more separate trusts (section 38)
15. Terminate a charitable trust (§45a-520)

Under section 15(b), Probate Courts have concurrent original jurisdiction with Superior Court over testamentary trusts to:

1. Determine title or rights of possession and use in and to any property that constitutes or may constitute property of a trust (§45a-98(a)(3))
2. Determine the validity and construe the meaning and effect of a trust (§45a-98(a)(4))
3. Apply the doctrine of cy pres (§45a-98(a)(5))
4. Recover on a probate bond for breach of fiduciary duty (§§45a-144 and 45a-145))
5. Reform a trust to qualify for marital deductions, for charitable deductions, or for a charitable remainder unitrust (§45a-485)
6. Authorize the transfer of the principal place of administration of a trust to another jurisdiction (§45a-519)
7. Modify or terminate a noncharitable trust (sections 31, 32, 35, 36 and 37)
8. Hear and decide the petition of a directed trustee for instruction (section 88(d))

Under section 15(c), the Superior Court has original jurisdiction over testamentary trusts, even though the Probate Courts would also have original jurisdiction over the trust, if:

1. The Superior Court consolidates with another proceeding involving the same trust over which the Superior Court has original jurisdiction; or
2. The Superior Court has statutory authority or has powers or remedies that are not available to the Probate Courts.

Under section 15(d), Superior Court has original jurisdiction over all matters relating to inter vivos trusts. Probate Courts have concurrent original jurisdiction over inter vivos trusts to:

1. Compel a trustee to account (§45a-98(a)(6))
2. Approve a trustee's account (§45a-175)
3. With respect to an action that could be reported in a subsequent account, hear and decide the petition of a trustee to approve a proposed action, ratify a previously taken action or provide instruction to address a specific situation or compel or prohibit an action by a trustee (§45a-175)
4. Remove a trustee (section 49(b))
5. Appoint a successor trustee in the event of a vacancy or anticipated vacancy (sections 47, 102 or 105(g))
6. Recover on a probate bond for breach of fiduciary duty (§§45a-144 and 45a-145)
7. Authorize a trustee to disclaim an interest (§45a-579)
8. Authorize a trustee to combine two or more trusts or divide a trust (section 38)
9. Terminate a charitable trust (§45a-520)

10. Determine title or rights of possession and use in any real property that is the property of a trust (§45a-98(a))
11. Determine the validity and construe a trust (§45a-98(a)(4))
12. Apply the doctrine of cy pres (§45a-98(a)(5))
13. Reform a trust to achieve the settlor's tax objectives (section 37)
14. Authorize the transfer of the principal place of administration for a trust to another jurisdiction (section 8)
15. Modify or terminate a noncharitable trust (sections 31, 32, 35, 36 and 37)
16. Hear and decide the petition of a directed trustee for instruction (section 88(d))

**Section 16(b)** establishes a uniform rule to determine which of the Probate Courts within the state a petition may be filed to commence a testamentary trust or inter vivos trust matter. This section consolidates numerous (and often inconsistent) provisions governing Probate Court venue that are currently dispersed throughout Title 45a into a single cohesive section.

Various statutes, including sections 45a-175, 45a-747, 45a-485, 45a-489a, 45a-519, 45a-520, and 45a-521 are amended by the act to apply uniform rule governing the Probate Court in which a trust matter may be commenced.

**Sections 17 to 20** update the existing virtual representation statutes and incorporate the provisions into the CUTC. Sections 45a-487 to 45a-487f concerning virtual representation are repealed by section 123 of the act.

**Section 18** specifies when a holder of a power of appointment may virtually represent a person whose interests are subject to the power.

**Section 19** allows certain fiduciaries to virtually represent and bind a beneficiary or protected person, provided there is no conflict of interest between the fiduciary and the person represented. A minor, incapacitated or unborn individual or a person whose identity or location is unknown may be virtually represented by another person having a substantially identical interest in the trust matter, provided there is no conflict of interest between the represented and the person represented.

**Section 20** provides that a court may appoint a guardian ad litem who may represent and bind a minor, incapacitated or unborn individual or a person whose identity or location is unknown if the person's interest is not adequately represented.

**Section 21** provides that a settlor may designate in the trust instrument one or more persons other than the settlor to represent and bind a noncharitable beneficiary and to receive notice, information, an accounting or report on behalf of the beneficiary. The CUTC refers to the person as the "designated representative." The settlor may also authorize a person or persons in the trust instrument, other than the trustee, who may designate a representative. The section also specifies when a designated representative may be precluded from acting in this capacity.

**Section 22-23** provides the methods and requirements for the creation of a trust.

**Section 24** identifies which state's laws govern the validity of an inter vivos trust, including a trust created in another jurisdiction.

**Section 25** provides that a trust must be for a lawful purpose and not contrary to public policy.

**Section 26** sets forth particular requirements for the creation and enforcement of a charitable trust.

**Section 27** provides that a trust is void to the extent its creation was induced by fraud.

**Section 28** provides that a trust need not be in writing, but the creation and terms of an oral trust must be established by clear and convincing evidence.

**Section 29** governs noncharitable trusts created without an ascertainable beneficiary but with a valid purpose to be selected by the trustee.

**Section 30-37** establishes rules governing the **modification and termination of a trust**.

**Section 30** lists the usual means by which a trust will terminate, including revocation and expiration by the terms of the trust. The section specifies that proceedings to approve or disapprove a modification or termination of a trust by other methods, as provided in sections 31 to 37, may be commenced by a trustee or beneficiary. The trustee is a necessary party to any proceeding to modify or terminate a trust.

**Consent: Section 31** provides that a court may modify or terminate a noncharitable irrevocable trust if the settlor, trustee and all beneficiaries consent to the modification or termination of a trust that becomes irrevocable after January 1, 2020.

A court may also (1) approve a modification of a noncharitable irrevocable trust if all beneficiaries consent and the court concludes that the modification is not inconsistent with a material purpose; and (2) approve the termination of a trust if all beneficiaries consent and the continuation of the trust is not necessary to achieve any material purpose. The court may approve a modification or termination of the trust under limited circumstances even if all beneficiaries do not consent.

Upon termination, the trustee must distribute the trust property as agreed by the beneficiaries and approved by the court.

A court may not terminate a special needs trust under 42 UCS 1396p(d)(4)(A), and may only modify the trust to comply with federal law.

**Unanticipated Circumstances: Section 32** provides that a court may modify the administrative or dispositive terms or terminate a noncharitable trust, if there are circumstances not anticipated by the settlor and modification or termination will further the purposes of the trust. The court may modify administrative terms of a trust if continuation on existing terms would be impractical or wasteful. Special restrictions apply to modification or termination of a charitable trust. The court may not terminate a special needs trust under 42 UCS 1396p(d)(4)(A) and may only modify its terms to ensure compliance with the requirements of federal law.

**Cy Pres: Section 33-34** codifies the court's inherent authority to apply cy pres if a trust's charitable purpose becomes unlawful, impracticable, impossible to achieve or wasteful. The court's authority to apply cy pres is limited if the provisions of a charitable trust provide for a distribution of trust property to a noncharitable beneficiary upon failure of a particular charitable purpose.

**Uneconomic Trust: Section 35** provides for the modification or termination of an uneconomic noncharitable trust. After thirty days' notice to the qualified beneficiaries, a trustee of an inter vivos trust having a value of less than \$200,000, may terminate the trust if the trustee concludes that the trust property is insufficient to justify the costs of administration.

The court may modify or terminate a noncharitable testamentary or inter vivos trust if it determines that the value of the trust property is insufficient to justify the costs of administration relative to the material purpose of the trust. The court may not terminate a special needs trust under 42 UCS 1396p(d)(4)(A) and may only modify its terms to ensure compliance with the requirements of federal law.

Section 45a-484 authorizing the termination of small trusts with a market value of \$150,000 or less is repealed by section 123 of the act.

**Mistake: Section 36** provides that a court may reform the terms of a noncharitable trust, even if unambiguous, to conform the terms to the settlor's intention if proved by clear and convincing evidence and the terms were



affected by mistake of fact or law.

**Tax objectives: Section 37** provides that a court may modify terms of a trust to achieve the settlor's tax objectives.

**Section 38** requires a testamentary trustee to obtain court approval to combine two or more trusts into a single trust or divide a trust into two or more separate trusts. A trustee of an inter vivos trust may act after thirty days' notice to qualified beneficiaries. The result must not impair the rights of a beneficiary or adversely affect the purposes of the trust.

Section 45a-488 governing the division of a trust is repealed by section 123 of the act.

**Section 39** provides that trust property is not subject to the personal obligations of the trustee.

**Section 40** addresses the rights of creditors of trust beneficiaries to reach a trust to collect a debt. It provides that a creditor of a beneficiary (except if the beneficiary is the settlor of the trust) cannot attach or compel a distribution of property that is subject to a power of withdrawal held by the beneficiary under IRS sections 2041(b)(2) or 2514(e), or 2503(b) and to certain discretionary or mandatory powers held by the trustee to make distributions to or for the benefit of the beneficiary.

The CUTC is silent as to the claims of a creditor of a settlor upon the settlor's death. The trust's liability for such claims continues to be governed by the trust instrument and common law.

**Sections 41-42** establish rules governing the revocation of, and amendments to, revocable trusts. Unless the terms of the trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust.

Section 41(f) provides that, unless specifically prohibited by the terms of the trust, a conservator of the settlor may, with the approval of the trustee and court that has jurisdiction over the conservatorship, exercise the settlor's powers to revoke, amend or distribute trust property.

**Section 43** specifies the time period within which a person may commence a judicial proceeding to contest the validity of a trust that was revocable on the settlor's death.

Upon the death of the settlor of a revocable trust, the trustee may proceed to distribute trust property and is not liable for doing so, unless the trustee knows of a pending or potential judicial proceeding contesting the validity of the trust or has failed to notify beneficiaries of the existence of the trust under section 63.

**Section 44** identifies the various means by which a trustee accepts the position of trust. For a testamentary trust, the trustee files an acceptance of trust in the court that has jurisdiction over the trust.

The section also provides for the rejection of a trusteeship by a designated trustee and the permissible actions of the designated trustee who does not accept the position of trust.

**Section 45** changes current law to require a trustee to post a probate bond only if the court finds that:

- a bond is needed to protect the beneficiaries, or
- the bond is required by the terms of the trust and, in the case of a noncharitable trust, the court has not dispensed with the requirement of a bond.

Section 45a-473, which is repealed by section 123 of the act, mandated that the court require a testamentary trustee to post bond unless excused by the will.

If bond is required, the court may specify the amount of bond, its liabilities and sureties. Rule 35 of the Probate Court Rules of Procedure, concerning the amount of the bond and the surety required, still applies to probate bonds.

In order to serve as trustee, a foreign corporation must comply with section 45a-206, which provides that the court has discretion to require the corporation to post bond.



**Section 46** concerns actions taken by cotrustees. The provisions of this section change current law to allow cotrustees to act by majority decision if they are unable to reach a unanimous decision.

Absent specific provisions in the trust, this section requires a cotrustee to participate in the performance of a trustee's functions unless unavailable due to absence, illness, temporary incapacity or proper delegation of the function to another cotrustee.

In the event of the unavailability of a trustee or vacancy in the office of trustee, the remaining, or majority of the remaining, trustees may act.

A trustee who does not join in the action of a cotrustee is not liable for the action, provided that the trustee takes reasonable care to (1) prevent the cotrustee from committing a breach of trust and (2) compel the cotrustee to redress a serious breach of trust.

**Section 47** establishes when a vacancy occurs in a trusteeship, when a vacancy must be filled, and the procedures for filling the vacancy. In addition to declination, resignation, removal or death of a trustee, a vacancy occurs when a conservator is appointed for the individual serving as trustee.

Subsection (c) provides the order of succession for filling a vacancy. In a testamentary trust, the person designated by the terms of the trust to act as successor trustee and appointed by the Probate Court, has priority.

Subsection (d) provides that the court may appoint an additional trustee or special trustee, even if there is no vacancy, when necessary for the administration of the trust.

**Section 48** establishes rules governing the resignation of a trustee. Trustees of inter vivos trust may resign with or without court approval.

A testamentary trustee may resign with court approval. In approving the resignation, the court may issue orders as law and equity require to protect the trust property, beneficiaries and other trustees.

Bond is not discharged or affected by the trustee's resignation.

**Section 49** establishes rules governing the removal of a trustee, including who has standing to petition the court for removal and the grounds for removal. Section 45a-242 is amended by section 113 of the act to remove the reference to removal of a trustee, but the grounds for removal under section 45a-242 are incorporated in section 49.

**Section 50** addresses the continuing authority and duty of a resigning or removed trustee. Unless there is a cotrustee or the court orders otherwise, a resigning or removed trustee has the duty and authority to protect trust property until the property is delivered to a cotrustee or successor, which should be completed expeditiously.

Lawsuits in favor of or against the original trustee survive and may be prosecuted by or against the cotrustees or successor trustee.

**Section 51** establishes that the compensation of a trustee must be reasonable under the circumstances. This section codifies the standard of reasonable compensation in *Hayward v. Plant*, 98 Conn 374.

**Section 52** governs when a trustee is entitled to reimbursement from trust property for expenses.

**Sections 53-63** codify rules governing the duties of a trustee, including:

- Duty to administer the trust in good faith and in accordance with its terms and purposes and the interests of the beneficiaries (Section 53)
- Duty of loyalty; the court may appoint a special fiduciary to make a decision with respect to a proposed transaction that may violate the trustee's duty of loyalty (Section 54)

- Duty to act impartially (Section 55)
- Duty to administer trust prudently (Section 56)
- Duty to take reasonable steps to take control of and protect trust property (Section 59)
- Duty to keep adequate records of the administration of the trust and keep trust property separate from the trustee's own property (Section 60)
- Duty to take reasonable steps to enforce claims of the trust and defend claims against the trust (Section 61)
- Duty to take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee and redress a breach of trust committed by a former trustee (Section 62)
- Duty to keep beneficiaries informed (Section 63)

**Section 57:** A trustee is permitted to delegate duties and powers that a prudent trustee of comparable skills could properly delegate to an agent.

The trustee, who exercises reasonable care, skill and caution in selecting the agent, establishes the scope and terms of the delegation, and reviews the actions of the agent, is not liable to the beneficiaries or trust for actions of the agent. The agent owes a duty to the trustee to exercise reasonable care to comply with the terms of the delegation and submits to the jurisdiction of the courts of this state.

**Section 58:** A settlor is not deemed to have an interest in a trust merely because the trustee is authorized to pay or reimburse the settlor for taxes attributable to trust income or principal that is payable by the settlor or to pay the tax directly to the taxing authorities.

**Section 63:** A trustee is required to keep qualified beneficiaries of an irrevocable trust reasonably informed about the administration of the trust and of material facts necessary for the beneficiaries to protect their interests. The trustee is also required to promptly respond to a request of any beneficiary for information reasonably related to the administration of the trust.

The trustee is required to:

- provide a beneficiary, upon the request, with a copy of the relevant portions of the trust document;
- within sixty days after acceptance of the position of trust, notify qualified beneficiaries of the acceptance and the trustee's contact information;
- within sixty days after the trustee becomes aware of the creation of an irrevocable trust or that a revocable trust has become irrevocable, notify qualified beneficiaries of the trust's existence, the settlor's identity, and the right to request a copy of the trust and a trustee's report.

The trustee is obligated to send a report to the current beneficiaries, and other qualified beneficiaries of an irrevocable trust upon request, at least annually. The report may be formal or informal, but must include information relating to the trust property, liabilities, receipts, disbursements and a listing of current trust assets, including market value if feasible.

A beneficiary of a trust may petition a court for an accounting by the trustee. The court may grant the petition of (1) a qualified beneficiary of a testamentary trust if the court determines that the account is necessary to protect the interest of the beneficiary; and (2) any other beneficiary of a testamentary trust or a beneficiary of an inter vivos trust if the requirements of section 45a-175 (c) are satisfied.

The provisions of this section do not limit the testamentary trustee's obligation to account under section 45a-177. Section 45a-177 is amended by section 112 of the act to clarify that the provisions of a will excusing a trustee from rendering a periodic account does not excuse the trustee from rendering a final account upon termination of the trust as required by section 45a-481, except as otherwise provided in the Probate Court Rules of Procedure.

The provisions of this section do not limit the court's authority to determine the beneficiaries entitled to a copy of the trust or receive notice of the court proceeding. Judicial approval of the trustee's report forecloses claims of a beneficiary given notice of the proceedings as to matters disclosed in the report.

Sections 17 to 21 concerning representation of a beneficiary apply to and satisfy the notice provisions under section 63.

**Section 64:** A trustee is required to exercise a discretionary power in good faith and in accordance with the intent of the settlor and the interests of the beneficiaries.

A person, other than the settlor, who is a beneficiary and a trustee of a trust may only exercise a discretionary power in accordance with an ascertainable standard within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986. A trustee may not exercise a power to make a discretionary distribution to satisfy a legal obligation of support that the trustee personally owes another person.

If a trustee's power to make discretionary distributions is limited by this section, the majority of remaining trustees, or a special fiduciary granted the authority by a court, may exercise the power.

**Sections 65-66** codify the general and specific powers of a trustee. A trustee has all the powers delineated in these sections, except if the trust instrument reflects an intent to disallow the exercise of the power, or, with respect to a charitable trust, the exercise of the power would allow a deviation from a stated charitable purpose or violate restricted gift.

**Sections 67** establishes procedures for distribution of the assets of an inter vivos trust upon termination or partial termination of the trust.

Section 67 does not apply to testamentary trusts.

**Section 68** provides that a trustee's violation of a duty owed to a beneficiary is a breach of trust.

**Section 69** provides that a trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, but, absent a breach of trust, the trustee is not liable to the beneficiary for a loss or depreciation in the value of trust property or for failing to make a profit.

**Section 70** establishes the time period in which a beneficiary of an inter vivos trust may commence a proceeding against a trustee for breach of trust.

Section 70 does not apply to testamentary trusts.

**Section 71** provides that a trustee is not liable to a beneficiary for breach of trust concerning actions taken in reasonable reliance on the express terms of the trust.

**Section 72** provides that a trustee who has exercised reasonable care to ascertain an event that affects the administration of a trust, such as divorce or death, is not liable for loss resulting from the trustee's lack of knowledge of the event.

**Section 73** provides that a term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that (1) the breach was committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries or (2) the term was inserted as a result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor. If the term was drafted or caused to be drafted by the trustee, it is invalid unless the trustee proves the exculpatory term is fair under the circumstances and was communicated to the settlor.

**Section 74** governs the liability of a trustee of an inter vivos trust to a beneficiary for a breach of trust if the beneficiary consents to the conduct constituting the breach, releases the trustee from liability, or ratifies such action unless the beneficiary's consent, release or ratification was induced by improper action on behalf of the trustee, or the beneficiary lacked knowledge of the beneficiary's rights or material facts relating to the breach.

Section 74 does not apply to testamentary trusts.

**Section 75** provides that, unless the contract provides otherwise, a trustee is not personally liable for a contract properly entered into in the trustee's fiduciary capacity, which is disclosed in the contract.

The trustee is personally liable for torts committed while administering the trust, or obligations arising from owning or controlling trust property, only if the trustee is personally at fault.

The trustee may be sued in his or her fiduciary capacity for claims based on contract, tort, or obligation whether or not the trustee is personally liable.

**Section 76** addresses the personal liability of a trustee who holds an interest as a general partner in a general or limited partnership for a contract entered into by the partnership and for the partnership's torts or obligations arising from the ownership or control of the interest. If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for the partnership's contracts and obligations as if the settlor were a general partner.

**Section 77** provides that a person, other than a beneficiary, is protected from liability if he or she in good faith assists a trustee or former trustee, or in good faith and for value deals with a trustee or former trustee without knowing that the trustee is improperly exercising his or her powers or that the trusteeship had been terminated.

The section also specifies that comparable protective provisions of other laws relating to commercial transactions or transfers of securities by fiduciaries prevail over the protections under the CUTC.

**Section 78** allows a trustee to provide a certification of trust instead of providing a copy of the trust instrument to a person other than a beneficiary. The certification need not contain dispositive terms of the trust and may be signed by any trustee.

A person who demands the full trust instrument may be liable for damages if a court determines that he or she did not act in good faith in demanding a copy of the trust. The section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

**Sections 79-80** establish a rule of construction to promote uniformity and severability of invalid provisions of the CUTC.

**Sections 81-98** of the act establishes the "**Connecticut Uniform Directed Trust Act**" and outlines the powers and obligations of parties administering directed trusts in which a person other than a trustee has power over some aspect of the trust's administration. The nontrustee who holds the power is a "trust director." The power granted to a trust director is called the "power of direction." A "directed trust" is a trust for which the terms of the trust grant a power of direction. The power of direction may include a power over the investment, management, or distribution of trust property or administration of trust matters. A trustee who is subject to the power of direction is a "directed trustee".

Reference is made to section 3 of the CUTC for the full definitions of these terms.

**Section 82** provides that the provisions of the Connecticut Uniform Directed Trust Act apply to a trust that has its principal place of administration in Connecticut. If the trust is created prior to January 1, 2020, the act only applies to a decision or action occurring on or after January 1, 2020. If the principal place of business is changed to Connecticut, the act only applies to a decision or action occurring on or after the date of the change.

**Section 83** provides that common law and principles of equity supplement the provisions of the act, except to the extent modified by the act or other laws of this state.

**Section 84** lists the powers of a trustee that may not be granted to a trust director by the terms of a trust, including a power of appointment, a power to appoint or remove a trustee, a settlor's power to revoke a trust, and a beneficiary's power to affect the beneficiary's beneficial interest.

**Section 85** provides that, unless the terms of the trust provide otherwise, in addition to the power of direction, a trust director may exercise any further power that is appropriate to the trust director's exercise of express powers.

Trust directors with joint powers must act by majority decision.

**Section 86-87** provides that, except as modified by the terms of the directed trust, a trust director has the same fiduciary duty and liability in the exercise or nonexercise of a power as a trustee in a like position and under similar circumstances. Section 86 specifies that the rules applicable to a trustee apply to a directed trustee regarding a charitable interest in a trust and the payback provision in a special needs trust to comply with the reimbursement requirements under 42 USC 1396(d)(4)(A).

**Section 88** requires a directed trustee to take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction, except if by complying the trustee would engage in willful misconduct.

The section also imposes limits on a trust director's ability to release a trustee or other director from liability.

A directed trustee that has reasonable doubt about its duty under this section may petition the court for instructions. The Probate Court has concurrent jurisdiction with the Superior Court to provide instruction.

**Section 89** requires trustees and trust directors to keep one another informed to the extent that information is reasonably related to each party's powers or obligations. Trustees or trust directors that act in reliance on the relayed information are shielded from liability for breach of trust unless they engage in willful misconduct.

**Section 90** specifies that, unless the terms of the trust provide otherwise, trustees are not required to monitor a trust director or inform or give advice to a settlor, beneficiary, trustee or trust director when the trustee might have acted differently than the director. Similarly, a trust director does not have these obligations with respect to trustees or other directors.

**Section 92** specifies that an action against a trust director for breach of trust must be commenced within the timeframe applicable to an action against a trustee in a like position and under similar circumstance.

**Section 93** provides that trust directors may assert the same defense that a trustee in a similar position or circumstance may assert.

**Section 94** provides that, by accepting the position of trust director, the director submits to personal jurisdiction of Connecticut courts with respect to matters relating to the director's powers and duties.

**Section 95** requires that trust directors comply with the provisions of the CUTC regarding acceptance of a trusteeship, bonds, vacancy and appointment of a successor, resignation, removal and reasonable compensation of a trustee.

**Section 96** requires that, in construing the provisions of the Uniform Connecticut Directed Trust Act, consideration is given to the need to promote uniformity of the laws with respect to its subject matter among the states that enacted the uniform law.

**Sections 97-98** provide that the Uniform Connecticut Directed Trust Act modifies, limits and supersedes certain provisions of the Electronic Signatures in Global and National Commerce Act.

**Sections 99-108** establish the "**Connecticut Qualified Dispositions In Trust Act**" and establishes a framework for creating self-settled asset protection trusts (APT), the assets of which (1) the grantor may still personally benefit from and (2) creditors generally cannot reach. A self-settled trust is an irrevocable trust that includes the grantor (transferor) as a beneficiary. Under this act, grantors can make "qualified dispositions" of real property, tangible and intangible personal property, and interests in property to a "qualified trustee."

A "qualified disposition" means a distribution by or from a transferor, with or without consideration, by means of a trust instrument.



A “qualified trustee” is any person, other than the transferor, who is a resident of Connecticut or is a state or federally chartered bank or trust company having a place of business and authorized to act as trustee in Connecticut. The trustee must maintain some or all of the APT property and materially participate in the administration of the trust in Connecticut.

**Section 100** defines the terms and establishes the criteria for the trust in order to qualify for protection under the act.

To qualify as an APT, the trust instrument must:

- expressly provide that Connecticut law governs the validity, construction and administration of the trust;
- be irrevocable;
- provide that the interests of the transferor or other beneficiary in the trust property or income may not be transferred or otherwise encumbered before the qualified trustee actually distributes the property or income to the beneficiary and the spendthrift provisions of the trust must be enforceable under applicable nonbankruptcy law; and
- appoint a qualified trustee, other than the transferor.

**Section 101** provides that, under the terms of the directed trust, the transferor may appoint trust directors with authority to (1) appoint and remove qualified trustees or trust directors, and (2) direct, consent or disapprove distributions from the trust.

A transferor may serve as a trust director but only with the limited power to veto a distribution from the trust.

**Section 102** provides the procedures for filling a vacancy if the trustee fails to meet the requirements of a qualified trustee. A trustee who is not a qualified trustee may transfer assets of the trust to a qualified trustee.

**Section 103** lists the powers and interests that a transferor may retain under the trust instrument without rendering the trust revocable.

**Section 104** provides that a qualified disposition is subject to the act’s provisions in spite of the retention of any rights by the transferor. Any powers, rights, or agreement purporting to grant or permit retention of any greater rights or authority than allowed by the act or provided in the trust instrument are void.

**Section 105** establishes the rules that protect APTs from creditor’s claims. No action of any kind shall be brought at law or in equity for an attachment or other provisional remedy against property that is subject to a qualified disposition or for avoidance of a qualified disposition, unless the action is brought pursuant to the Uniform Fraudulent Transfer Act. In such action, the creditor has the burden of proof by clear and convincing evidence.

**Section 106** provides that, notwithstanding the provisions of section 105, the act does not apply to defeat a claim for:

- the transferor’s breach of an agreement or court order of child support or alimony
- death, injury or property damage for which the transferor is liable.

**Section 107** permits a qualified disposition to be avoided only to the extent necessary to satisfy the transferor’s debt to the creditor at whose instance the disposition has been avoided, together with any costs that the court allows. Actions to avoid a qualified disposition must be filed in the Superior Court.

**Section 108** provides that the Connecticut Qualified Dispositions in Trust Act applies to all qualified dispositions made on or after January 1, 2020.

**Section 109** provides that, unless the act provides otherwise, the act applies to all trusts regardless of the date created; to all judicial proceedings involving trusts commenced on or after January 1, 2020; and to judicial proceedings commenced prior to January 1, 2020, unless the court finds that applying a particular provision would substantially interfere with the proceedings or prejudice the parties.

**Sections 110 to 122** amend various statutes to comply with the act.

**Section 119** amends sections 45a-491 through 45a-495 to modify the rule against perpetuities, by extending the period in which future interests must vest from 99 years to 800 years in order to be valid.

**Section 123** repeals sections 45a-473, 45a-484, 45a-487 to 45a-487f inclusive and 45a-488.

## **[Public Act 19-157](#) **An Act Concerning the Department of Aging and Disability Services****

### **Substitute for HB 7163**

EFFECTIVE DATE: October 1, 2019

#### **SUMMARY**

This act changes the name of the Department of Rehabilitation Services (DORS) throughout the general statutes to “the Department of Aging and Disability Services” and adds the new agency title to the statutory list of executive branch agencies.

P.A. 18-169 previously transferred the functions, powers, duties, and personnel of the former State Department on Aging from the Department of Social Services (DSS) to DORS.

## **[Public Act 19-186](#) **An Act Concerning the Department of Revenue Services’ Recommendations for Tax Administration and Minor Revisions to the Tax and Related Statutes****

EFFECTIVE DATE: Section 31, upon passage

**Section 31** of the act establishes conditions under which real and tangible personal property owned by a pass-through entity (i.e., partnership, S corporation, or a single member limited liability company that is disregarded for federal income tax purposes) is treated as personally owned by a nonresident decedent for estate tax purposes.

Under the act, real and tangible personal property owned by a pass-through entity must be treated as personally owned by the nonresident decedent in proportion to his or her constructive ownership in the pass-through entity if the:

- entity does not actively carry on a business for profit or gain;
- entity did not own the property for a valid business purpose; or
- property was not acquired through a bona fide sale for full and adequate consideration and the decedent retained power with respect to or interest in the property that would bring the real property located in the state within the decedent’s federal gross estate.

This provision does not impose a lien in favor of the state against any real property included in the nonresident decedent’s estate to any greater extent than if the nonresident decedent was a resident decedent owning an interest in a pass-through entity owning real property located in Connecticut.

## **[Public Act 19-191](#) **An Act Addressing Opioid Use****

### **Substitute for H.B. 7159**

EFFECTIVE DATE: Various



## SUMMARY

This act makes various changes in the statutes to prevent and treat opioid use disorder. Among other things:

**Section 5** prohibits life insurance and annuity policies or contracts from excluding coverage solely based on an individual having received a prescription for naloxone (an opioid antagonist).

*(Effective October 1, 2019)*

**Section 9** generally requires DMHAS-operated or approved treatment programs to educate patients with opioid use disorder, and their relatives and significant others, on opioid antagonists and how to administer them.

*(Effective October 1, 2019)*

**Section 11** requires hospitals, starting January 1, 2020, to administer a mental health screening or assessment on patients treated for a nonfatal opioid drug overdoses if it is medically appropriate to do so.

*(Effective October 1, 2019)*

**Section 13** requires DMHAS to report on the protocol for police detention of someone suspected of overdosing on an opioid drug and the implications of involuntarily transporting such a person to an emergency department.

*(Effective from passage)*