



General Assembly

February Session, 2000

**Raised Bill No. 5782**

LCO No. 1989

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***An Act Concerning Probate Matters.***

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

1 Section 1. Section 45a-596 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) The [surviving] parent of [any] an unmarried minor, except a  
4 parent who has been removed as guardian of the person of the minor,  
5 may by will or other writing signed by the parent and attested by at  
6 least two witnesses appoint a person or persons as guardian or  
7 coguardians of the person of such minor, [a] as guardian or  
8 coguardians of the estate, or both, to serve if the parents who are  
9 guardians of the minor are dead. If two or more instruments, whether  
10 by will or other writing, contain an appointment, the latest effective  
11 appointment made by the last surviving parent has priority. Such  
12 appointment shall not supersede the previous appointment of a  
13 guardian made by the court of probate having jurisdiction.

14 (b) The ward of such a [testamentary] guardian may, when he or she  
15 is over the age of twelve, apply to the court of probate in which such  
16 ward resides, for the substitution of a guardian or coguardians of [his]

17 the person to supersede the [testamentary] appointed guardian. The  
18 court of probate may, upon such application and hearing, substitute  
19 [such] the guardian or coguardians chosen by [such] the ward to be the  
20 guardian or coguardians of the person of the ward after consideration  
21 of the standards set forth in section 45a-617.

22 (c) A parental appointment becomes effective when the guardian's  
23 written acceptance is filed in the court in which the nominating  
24 instrument is probated, or, in the case of a non-testamentary  
25 nominating instrument, in the court where the minor resides. Any  
26 guardian or coguardians appointed pursuant to this section shall  
27 receive the [trust] appointment subject to the control of the court of  
28 probate [as specified in this section] and subject to the provisions and  
29 restrictions to which the [trust] last surviving parent, as guardian, was  
30 subject [in the hands of the parent] at the time of [his] such parent's  
31 decease. [A guardian or coguardians of the person shall furnish a  
32 written acceptance of guardianship and, if] If the court deems it  
33 necessary for the protection of the minor, a guardian or coguardians of  
34 the person shall furnish a probate bond. A guardian or coguardians of  
35 the estate shall furnish a probate bond. Upon such acceptance of  
36 guardianship or furnishing such bond, [such] the guardian or  
37 coguardians shall have the same power over the person and estate of  
38 such minor as guardians appointed by the court of probate.

39 Sec. 2. Subsection (g) of section 45a-92 of the general statutes is  
40 repealed and the following is substituted in lieu thereof:

41 (g) Upon the completion of each calendar year, and in any event on  
42 or before the first day of [March] April of the succeeding calendar year,  
43 each person required to make payment under this section shall make a  
44 report signed under penalty of false statement to the Probate Court  
45 Administrator, upon forms prescribed by and subject to regulations  
46 promulgated by the administrator, of the following: (1) The gross  
47 income received by virtue of such office; (2) actual expenses incurred  
48 in connection with the office; (3) the net income of such office prior to

49 the payment of the assessment instalments hereinbefore provided; (4)  
50 the amount paid during the preceding calendar year to the State  
51 Treasurer on account of the foregoing estimate; and (5) the amount of  
52 the difference, if any, between the amount so paid and the amount  
53 actually due. This report shall be open to public inspection.

54 Sec. 3. Section 17a-11 of the general statutes, as amended by section  
55 18 of public act 99-26, is repealed and the following is substituted in  
56 lieu thereof:

57 (a) The commissioner may, in his discretion, admit to the  
58 department on a voluntary basis any child or youth who, in his  
59 opinion, could benefit from any of the services offered or administered  
60 by, or under contract with, or otherwise available to, the department.  
61 Application for voluntary admission shall be made in writing by the  
62 parent or guardian of a child under fourteen years of age or by such  
63 person himself if he is a child fourteen years of age or older or a youth.

64 (b) A child or youth voluntarily admitted to the department shall be  
65 deemed to be within the care of the commissioner until such admission  
66 is terminated. The commissioner shall terminate the admission of any  
67 child or youth voluntarily admitted to the department within ten days  
68 after receipt of a written request for termination from a parent or  
69 guardian of any child under fourteen or from a child if fourteen years  
70 of age or over, or youth, unless prior to the expiration of that time the  
71 commissioner has sought and received from the Superior Court an  
72 order of temporary custody as provided by law. The commissioner  
73 may terminate the admission of any child or youth voluntarily  
74 admitted to the department after giving reasonable notice in writing to  
75 the parent or guardian of any child under fourteen years of age and to  
76 a child over fourteen, and to any youth. Any child or youth admitted  
77 voluntarily to the department may be placed in, or transferred to, any  
78 resource, facility or institution within the department or available to  
79 the commissioner except Long Lane School\*, provided the  
80 commissioner shall give written notice to such child or youth and to

81 the parent or guardian of the child of his intention to make a transfer at  
82 least ten days prior to any actual transfer, unless written notice is  
83 waived by those entitled to receive it, or unless an emergency  
84 commitment of such child is made pursuant to section 17a-502.

85 (c) Not more than one hundred twenty days after admitting a child  
86 or youth on a voluntary basis, the department shall petition the  
87 probate court for the district in which a parent or guardian of the child  
88 or youth resides for a determination as to whether continuation in care  
89 is in the child's best interest and, if so, whether there is an appropriate  
90 case service plan. Upon receipt of such application, the court shall set a  
91 time and place for hearing to be held within thirty days of receipt of  
92 the application, unless continued by the court for cause shown. The  
93 court shall order notice of the hearing to be given by regular mail at  
94 least five days prior to the hearing to the Commissioner of Children  
95 and Families, and by certified mail, return receipt requested, at least  
96 five days prior to the hearing to the parents or guardian of the child  
97 and the minor, if over twelve years of age. If the whereabouts of the  
98 parent or guardian are unknown, or if delivery cannot reasonably be  
99 effected, then notice shall be ordered to be given by publication. In  
100 making its determination the court shall consider the items specified in  
101 subsection (d) of this section. The court shall possess continuing  
102 jurisdiction in proceedings under this section and shall conduct a  
103 further dispositional hearing whenever it deems necessary or  
104 desirable, but at least every twelve months.

105 (d) Not more than twelve months after a child or youth is admitted  
106 to the department on a voluntary basis, the commissioner shall file a  
107 motion in the probate court [for the district in which a parent or  
108 guardian of the child or youth resides] requesting a dispositional  
109 hearing on the status of the child or youth. Upon receipt of such  
110 motion, the court shall set a time and place for hearing to be held  
111 within thirty days of receipt of the motion, unless continued by the  
112 court for cause shown. The court shall order notice of the hearing to be  
113 given in accordance with subsection (c) of this section. At the

114 dispositional hearing, all parties shall be heard and oral or written  
115 reports, containing recommendations as to the best interests of the  
116 child or youth may be presented. In determining its order of  
117 disposition, the court shall consider among other things: (1) The  
118 appropriateness of the department's plan for service to the child or  
119 youth and his family; (2) the treatment and support services that have  
120 been offered and provided to the child or youth to strengthen and  
121 reunite the family; (3) if return home is not likely for the child or  
122 youth, the efforts that have been made or should be made to evaluate  
123 and plan for other modes of care; and (4) any further efforts which  
124 have been or will be made to promote the best interests of the child or  
125 youth. At the conclusion of the hearing, the court shall, in accordance  
126 with the best interests of the child or youth, enter an appropriate order  
127 of disposition. The order may: (A) Direct that the services being  
128 provided, or the placement of the child or youth and reunification  
129 efforts, be continued if the court, after hearing, determines that  
130 continuation of the child or youth in services or placement is in the  
131 child or youth's best interests or (B) direct that the child or youth's  
132 services or placement be modified to reflect the child or youth's best  
133 interest. [The court shall possess continuing jurisdiction in proceedings  
134 under this section and shall conduct a further dispositional hearing  
135 whenever it deems necessary or desirable, but at least every twelve  
136 months.]

137 (e) The commissioner shall adopt regulations in accordance with  
138 chapter 54 describing the documentation required for voluntary  
139 admission and for informal administrative case review, upon request,  
140 of any denial of an application for voluntary admission.

141 (f) Any person aggrieved by a decision of the commissioner denying  
142 voluntary services may appeal such decision through an  
143 administrative hearing held pursuant to chapter 54.

144 (g) Notwithstanding any provision of sections 17a-1 to 17a-26,  
145 inclusive, and 17a-28 to 17a-49, inclusive, to the contrary, any person

146 already under the care and supervision of the Commissioner of  
147 Children and Families who has passed his eighteenth birthday but has  
148 not yet reached his twenty-first birthday, may be permitted to remain  
149 voluntarily under the supervision of the commissioner, provided said  
150 commissioner, in his discretion determines that such person would  
151 benefit from further care and support from the Department of  
152 Children and Families.

153 (h) Upon motion of any interested party in a probate court  
154 proceeding under this section, the probate court of record may transfer  
155 the file for cause shown to a probate court for a district other than the  
156 district in which the initial or dispositional hearing was held. The file  
157 shall be transferred by the probate court of record making copies of all  
158 recorded documents in the court file, certifying each of them, and  
159 delivering the certified copies to the probate court to which the matter  
160 is transferred.

***Statement of Purpose:***

To adopt the policy of the Uniform Probate Code permitting parents to designate a guardian for their children without waiting for one parent to die or rewriting and executing a will; to change the income reporting date for probate judges from March to April; and to make changes to avoid the appearance that Probate Court only has jurisdiction after subsequent hearing and other conflicts.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*