



General Assembly

January Session, 2001

Raised Bill No. 6571

LCO No. 3279

Referred to Committee on Public Health

Introduced by:
(PH)

AN ACT CONCERNING GUARDIANSHIP OF PERSONS WITH MENTAL RETARDATION.

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

1 Section 45a-677 of the general statutes is repealed and the following
2 is substituted in lieu thereof:

3 (a) The court may assign to a limited guardian of [the] a mentally
4 retarded person any portion of the duties and powers listed in
5 subsection (d) of this section for those particular areas in which the
6 respondent lacks the capacity to meet the essential requirements for
7 [his] such respondent's physical or mental health or safety.

8 (b) A limited guardian may also be assigned the duty to assist the
9 respondent in those particular areas in which the capacity of [such
10 person] the respondent to meet the essential requirements of [his] such
11 respondent's physical or mental health or safety, protect [his] such
12 respondent's rights, obtain necessary services, or to fulfill [his] such
13 respondent's civil duties is impaired, as well as in other ways not
14 specifically prohibited by sections 45a-668 to 45a-684, inclusive.

15 (c) A limited guardian of [the] a mentally retarded person shall have
16 only such of the duties and responsibilities and powers of a guardian
17 of [the] a mentally retarded person under subsection (d) of this section
18 as the court shall specify based upon its findings with regard to the
19 individual need of the respondent for supervision. The guardian shall
20 have the duty to report to the probate court which appointed such
21 limited guardian at least annually the condition of the respondent. The
22 preceding duties, responsibilities and powers shall be carried out
23 within the limitations of the resources available to the ward, either
24 through [his] the ward's own estate or by reason of private or public
25 assistance.

26 (d) The court may assign to a limited guardian the custody of the
27 ward for the purpose of exercising any, but not all, of the following
28 limited duties and powers, in order to assist the ward in achieving
29 self-reliance: (1) To assure and consent to a place of abode outside the
30 natural family home, (2) to consent to specifically designed
31 educational, vocational or behavioral programs, (3) to consent to the
32 release of clinical records and photographs, (4) to assure and consent
33 to routine, elective and emergency medical and dental care, and (5)
34 other specific limited powers to assure and consent to services
35 necessary to develop or regain to the maximum extent possible the
36 ward's capacity to meet essential requirements. All plenary guardians
37 and limited guardians appointed pursuant to sections 45a-668 to
38 45a-684, inclusive, shall also have a duty to assure the care and comfort
39 of the ward within the limitations of their appointment, and within the
40 limitations of the resources available to the ward either through [his]
41 the ward's own estate or by reason of private or public assistance.

42 (e) A plenary guardian or limited guardian of [the] a mentally
43 retarded person shall not have the power or authority: (1) To cause the
44 ward to be admitted to any institution for treatment of the mentally ill,
45 except in accordance with the provisions of sections 17a-75 to 17a-83,
46 inclusive, 17a-456 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive,
47 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, 17a-615 to

48 17a-618, inclusive, and 17a-621 to 17a-664, inclusive, and chapter 420b;
49 (2) to cause the ward to be admitted to any training school or other
50 facility provided for the care and training of the mentally retarded if
51 there is a conflict concerning such admission between the guardian
52 and the mentally retarded person or next of kin, except in accordance
53 with the provisions of sections 17a-274 and 17a-275; (3) to consent on
54 behalf of the ward to a sterilization, except in accordance with the
55 provisions of sections 45a-690 to 45a-700, inclusive; (4) to consent on
56 behalf of the ward to psychosurgery, except in accordance with the
57 provisions of section 17a-543; (5) to consent on behalf of the ward to
58 the termination of [that person's] the ward's parental rights, except in
59 accordance with the provisions of sections 45a-706 to 45a-709,
60 inclusive, 45a-715 to 45a-718, inclusive, 45a-724 to 45a-737, inclusive,
61 and 45a-743 to 45a-757, inclusive; (6) to consent on behalf of the ward
62 to the performance of any experimental biomedical or behavioral
63 medical procedure or participation in any biomedical or behavioral
64 experiment, unless it is intended to preserve the life or prevent serious
65 impairment of the physical health of the ward or it is intended to assist
66 the ward to regain [his] the ward's abilities and has been approved for
67 [that person] the ward by the court; (7) to admit the ward to any
68 residential facility operated by an organization by whom such
69 guardian is employed, except in accordance with the provisions of
70 section 17a-274; (8) to prohibit the marriage or divorce of the ward;
71 and (9) to consent on behalf of the ward to an abortion or removal of a
72 body organ, except in accordance with applicable statutory procedures
73 when necessary to preserve the life or prevent serious impairment of
74 the physical or mental health of the [respondent] ward.

75 (f) A plenary guardian or limited guardian shall submit a report to
76 the court: (1) Annually; (2) when the court orders additional reports to
77 be filed; or (3) when there is a significant change in the capacity of the
78 ward to meet the essential requirements for [his] the ward's physical
79 health or safety; (4) when the plenary guardian or limited guardian
80 resigns or is removed; and (5) when the guardianship is terminated.

81 (g) Such reports shall be submitted on a form provided by the Office
82 of the Probate Court Administrator and shall contain the following
83 information: (1) Significant changes in the capacity of the ward to meet
84 the essential requirements for [his] the ward's physical health or safety;
85 (2) the services being provided to the ward and the relationship of
86 those services to the individual guardianship plan; (3) the significant
87 actions taken by the limited guardian of [the] a mentally retarded
88 person or plenary guardian of [the] a mentally retarded person during
89 the reporting period; (4) any significant problems relating to the
90 guardianship which have arisen during the reporting period; and (5)
91 whether such guardianship, in the opinion of the guardian, should
92 continue, be modified, or be terminated, and the reasons therefor.

93 (h) When any mentally retarded person for whom a guardian has
94 been appointed becomes a resident of any town in the state in a
95 probate district other than the one in which a guardian was appointed,
96 or becomes a resident of any town in the state to which the
97 guardianship file has been transferred under this section, such court in
98 that district may, upon motion of any person deemed by the court to
99 have sufficient interest in the welfare of the respondent, including, but
100 not limited to, the guardian, the Commissioner of Mental Retardation
101 or [his] the commissioner's designee, or a relative of the person under
102 guardianship, transfer the file to the probate district in which the
103 person under guardianship resides at the time of the application,
104 provided the transfer is in the best interest of the mentally retarded
105 person. A transfer of the file shall be accomplished by the probate
106 court in which the guardianship matter is on file by making copies of
107 all documents in the court and certifying each of them and then
108 causing them to be delivered to the court for the district in which the
109 person under guardianship resides. When the transfer is made, the
110 court of probate in which the person under guardianship resides at the
111 time of transfer shall thereupon assume jurisdiction over the
112 guardianship and all further accounts shall be filed with such court.

113 (i) A plenary guardian or limited guardian of a mentally retarded

114 person and, to the extent possible, such person and such person's
115 family, are the primary decision makers with respect to programs
116 needed by such person and the policies and practices affecting the
117 well-being of such person. The duties and powers of a plenary
118 guardian or limited guardian under this section may not be
119 diminished or otherwise encumbered by any regulation, rule or
120 ordinance of any state agency or municipality. The provisions of this
121 subsection shall be included in any court order appointing a plenary
122 guardian or limited guardian of a mentally retarded person.

Statement of Purpose:

To establish families and guardians of persons with mental retardation as the primary decision makers when such persons are unable to make decisions on their own behalf and to make technical changes.

[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.]