

TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY
IN SUPPORT OF
Raised Bill No. 417
"An Act Concerning Juvenile Matters and Permanent Guardianships"
March 23, 2012

This testimony is submitted on behalf of the Center for Children's Advocacy, a non-profit organization based at the University of Connecticut School of Law. The Center provides holistic legal services for poor children in Connecticut's communities through individual representation and systemic advocacy. The Center's Child Abuse Project seeks to improve the response of the child welfare, mental health and education systems to Connecticut's most vulnerable children.

We strongly support the concept of Raised Bill 417 which will increase permanency options for abused and neglected children by empowering courts to transfer "permanent legal guardianship" of a child to a suitable and worthy adult.

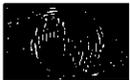
Permanent Legal Guardianships Have Substantial Benefits to the Child

Raised Bill 417 provides the Juvenile and Probate Courts authority to award permanent legal guardianship of a child to a "suitable and worthy" adult where such guardianship serves the best interests of the child and the parent is unable to meet the child's needs. "Permanent legal guardianship" is essentially a hybrid between termination of parental rights and a traditional, but more easily dissolved, transfer of guardianship. The key differences between a "permanent legal guardianship" and a traditional transfer of guardianship are: 1) while a parent typically has the ability to ask the court to undo a transfer of guardianship order, a parent *would not be able to* file a motion to terminate a "*permanent* legal guardianship"; 2) "permanent legal guardianship" is only available where the criteria for terminating the parents' rights can be proven by clear and convincing evidence; and 3) any child over the age of twelve must consent to a "permanent legal guardianship."

Permanent legal guardianship provides greater stability for the child by preventing the parent from repeatedly returning to court to restore his or her custodial rights. Children may be serially traumatized by continual changes in custodial rights because currently there are no limitations on the number of petitions for custodial changes a parent may initiate. Accordingly, the Center supports Raised Bill 417 which will provide the court with the authority to grant permanent legal guardianships, offering the child increased stability and permanence.

The Center Respectfully Offers the Following Suggestions Regarding the Proposed Permanent Guardianship language:

1. The bill should specifically address the right of the child and parent to ongoing visitation



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Because a parent's parental rights are not terminated when a permanent legal guardianship is granted, the parent still retains legal rights regarding the child. We respectfully request that this bill be amended to explicitly provide that a court, when issuing an award of permanent guardianship to a suitable and worthy adult, may also issue an order for ongoing visitation or other contact between a parent and child so long as such contact is in the best interests of the child.¹

2. The standard for terminating the permanent guardianship should consider whether circumstances have changed and/or whether termination of the guardian's rights serves the best interests of the child.

The current standard proposed in Raised Bill 417 is that the permanent guardianship may be terminated when the guardian is no longer "suitable and worthy." The standard does not clearly permit the court to terminate the guardianship or award guardianship to another individual where doing so is in the best interests of the child, the key operating standard in juvenile and custodial matters. Indeed Bill 417 provides that permanent guardianship may only be awarded when such an order is in the best interests of the child. Accordingly, we respectfully suggest that Bill 417 permit termination of the permanent guardianship upon a "material change in circumstances" and/or when it is in the best interests of the child.²

3. The bill should specify that a youth may seek to terminate the permanent guardianship.

Because children and youth are legal parties in Juvenile Court proceedings, language should be added to the bill to provide for the right of a youth to petition the court to terminate the permanent guardianship. Other states have statutes specifically allowing the youth the right to petition the court in this regard. For example, Tennessee allows for a child aged sixteen or older to petition for termination of a guardianship on their own behalf.³ Currently, after a Connecticut juvenile court transfers guardianship of a youth to a third party, the case closes and the youth no longer has ready access to court-appointed counsel who could seek to revoke the guardianship if the need arose. The bill could provide that opportunity to the youth himself and in the event that a youth petitions the court to terminate the permanent guardianship, counsel may then be appointed to represent that child's interests.

In sum, the Center strongly supports the creation of a "permanent legal guardian" option and asks that this Committee pass Raised Bill 417. We respectfully request this Committee consider our proposed amendments.

Respectfully submitted,



Sarah Healy Eagan, JD
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¹ For proposed language, see VT. STAT. ANN. tit. 14, § 2663 (2012); DEL. CODE ANN. tit. 13 § 2358 (2011).

² See DEL. CODE ANN. tit. 13 § 2359 (2011); TENN. CODE ANN. § 37-1-806 (2012); VT. STAT. ANN. tit. 14, § 2662 (2012); N.M. STAT. ANN. § 32A-4-31 (West 2011).

³ TENN. CODE ANN. § 37-1-806 (2012).