



# Senate

General Assembly

**File No. 267**

January Session, 2013

Substitute Senate Bill No. 984

*Senate, April 2, 2013*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING PROBATE COURT OPERATIONS.**

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

1 Section 1. Section 45a-78 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) The Probate Court Administrator shall, from time to time,  
4 recommend to the judges of the Supreme Court, for adoption and  
5 promulgation pursuant to the provisions of section 51-14, uniform  
6 rules [for practice and] of procedure in the [courts of probate] Probate  
7 Courts. Any rules [for practice and] of procedure so adopted and  
8 promulgated shall be mandatory upon all [courts of probate] Probate  
9 Courts. To assist [him] the Probate Court Administrator in formulating  
10 such recommendations, the Probate Court Administrator shall meet  
11 with the Probate Assembly at least annually, and may meet with  
12 members of the bar of this state and with the general public.

13 (b) The Probate Court Administrator shall, from time to time,  
14 [compile into a probate practice book all rules regarding practice and

15 procedure in the courts of probate and all forms prescribed for use in  
16 probate courts] publish the rules of procedure for the Probate Courts.  
17 The Probate Court Administrator [shall cause the probate practice  
18 book to be published, shall pay for the probate practice book] may pay  
19 the expenses of publication from the fund established under section  
20 45a-82 and shall sell the [probate practice] book of Probate Court rules  
21 of procedure, at a price determined by the Probate Court  
22 Administrator. The proceeds from the sales shall be added to and shall  
23 become a part of said fund.

24 Sec. 2. Section 45a-176 of the general statutes is repealed and the  
25 following is substituted in lieu thereof (*Effective October 1, 2013*):

26 [Except when any beneficiary is a trustee of a testamentary or inter  
27 vivos trust, if any fiduciary of a decedent's estate is one of the  
28 beneficiaries of the residue of the estate, and if all dispositions, if any,  
29 to other beneficiaries are bequests of specific personal property or of  
30 an amount certain or devises of specific real property, any fiduciary  
31 may, in lieu of any other accounting required under this chapter, file  
32 with the court of probate having jurisdiction of the estate a statement  
33 under the penalties of false statement that all debts, funeral expenses,  
34 taxes and expenses of administration have been paid, and all bequests  
35 and devises have been or will be distributed. The statement shall  
36 include the total of any amount reported on the return of claims filed  
37 under section 45a-397, an itemized list of all funeral expenses, taxes  
38 and expenses of administration, and a representation that all  
39 distributees have received a copy of the statement. Any distributee or  
40 other interested party not satisfied with the adequacy or content of the  
41 statement may request the filing of an account under section 45a-175 or  
42 object to the statement by petitioning the court for a hearing at any  
43 time prior to the court's approval of the statement. The court may, for  
44 cause shown, refuse to accept the statement and require an accounting  
45 from the fiduciary. The court of probate] If a fiduciary is permitted to  
46 submit a financial report in lieu of an account pursuant to rules of  
47 procedure adopted under section 45a-78, as amended by this act, and  
48 the Probate Court approves the financial report, the Probate Court may

49 enter a decree releasing [and discharging] the fiduciary and the  
50 sureties on [his] the fiduciary's bond, if any, from any further liability  
51 with respect to all items shown on the financial report.

52 Sec. 3. Section 17a-525 of the general statutes is repealed and the  
53 following is substituted in lieu thereof (*Effective October 1, 2013*):

54 Any person aggrieved by an order, denial or decree of [the Court of  
55 Probate] a Probate Court under sections 17a-75 to 17a-83, inclusive,  
56 17a-450 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to  
57 17a-550, inclusive, 17a-560 to 17a-576, inclusive, and 17a-615 to 17a-  
58 618, inclusive, including any relative or friend, on behalf of any person  
59 found to have psychiatric disabilities, shall have the right of appeal [as  
60 in other cases] in accordance with sections 45a-186 to 45a-193,  
61 inclusive, as amended by this act. [The Court of Probate, on an appeal,  
62 shall make all necessary orders of notice to the parties to the  
63 proceedings and to such other persons as it deems advisable and may  
64 require the appellant to give bond, with sufficient surety, to the state to  
65 prosecute such appeal to effect and to pay all the legal costs and  
66 expenses thereof if unsuccessful, and may refuse to allow such appeal  
67 unless such bond is given or, at its discretion, allow such appeal  
68 without such bond.] On the trial of an appeal, the Superior Court may  
69 require the state's attorney or, in [his] the state's attorney's absence,  
70 some other practicing attorney of the court to be present for the  
71 protection of the interests of the state and of the public.

72 Sec. 4. Section 45a-186 of the general statutes is repealed and the  
73 following is substituted in lieu thereof (*Effective October 1, 2013*):

74 (a) Except as provided in sections 45a-187 and 45a-188, any person  
75 aggrieved by any order, denial or decree of a [court of probate] Probate  
76 Court in any matter, unless otherwise specially provided by law, may,  
77 not later than forty-five days after the mailing of an order, denial or  
78 decree for a matter heard under any provision of section 45a-593, 45a-  
79 594, 45a-595 or 45a-597, sections 45a-644 to 45a-677, inclusive, or  
80 sections 45a-690 to 45a-705, inclusive, and not later than thirty days  
81 after mailing of an order, denial or decree for any other matter in a

82 [court of probate] Probate Court, appeal therefrom to the Superior  
83 Court. Such an appeal shall be commenced by filing a complaint in the  
84 superior court in the judicial district in which such [court of probate]  
85 Probate Court is located, or, if the [court of probate] Probate Court is  
86 located in a probate district that is in more than one judicial district, by  
87 filing a complaint in a superior court that is located in a judicial district  
88 in which any portion of the probate district is located, except that (1)  
89 an appeal under subsection (b) of section 12-359, subsection (b) of  
90 section 12-367 or subsection (b) of section 12-395 shall be filed in the  
91 judicial district of Hartford, and (2) an appeal in a matter concerning  
92 removal of a parent as guardian, termination of parental rights or  
93 adoption shall be filed in any superior court for juvenile matters  
94 having jurisdiction over matters arising in any town within such  
95 probate district. The complaint shall state the reasons for the appeal. A  
96 copy of the order, denial or decree appealed from shall be attached to  
97 the complaint. Appeals from any decision rendered in any case after a  
98 recording is made of the proceedings under section 17a-498, 17a-543,  
99 17a-543a or 17a-685, [45a-650,] sections 45a-644 to 45a-667v, inclusive,  
100 or section 51-72 or 51-73 shall be on the record and shall not be a trial  
101 de novo.

102 (b) Each person who files an appeal pursuant to this section shall  
103 [mail a copy of the complaint to the court of probate that rendered the  
104 order, denial or decree appealed from, and] serve a copy of the  
105 complaint on each interested party. The failure of any person to make  
106 such service shall not deprive the Superior Court of jurisdiction over  
107 the appeal. Notwithstanding the provisions of section 52-50, service of  
108 the copy of the complaint shall be by state marshal, constable or an  
109 indifferent person. Service shall be in hand or by leaving a copy at the  
110 place of residence of the interested party being served or at the address  
111 for the interested party on file with [said court of probate] the Probate  
112 Court, except that service on a respondent or conserved person in an  
113 appeal from an action under part IV of chapter 802h shall be in hand  
114 by a state marshal, constable or an indifferent person.

115 (c) In addition to the notice given under subsection (b) of this

116 section, each person who files an appeal pursuant to this section shall  
117 mail a copy of the complaint to the Probate Court that rendered the  
118 order, denial or decree appealed from. The Probate Court and the  
119 judge of probate that rendered the order, denial or decree appealed  
120 from shall not be made parties to the appeal and shall not be named in  
121 the complaint as parties.

122 [(c)] (d) Not later than fifteen days after a person files an appeal  
123 under this section, the person who filed the appeal shall file or cause to  
124 be filed with the clerk of the Superior Court a document containing (1)  
125 the name, address and signature of the person making service, and (2)  
126 a statement of the date and manner in which a copy of the complaint  
127 was served on [the court of probate and] each interested party and  
128 mailed to the Probate Court that rendered the order, denial or decree  
129 appealed from.

130 [(d)] (e) If service has not been made on an interested party, the  
131 Superior Court, on motion, shall make such orders of notice of the  
132 appeal as are reasonably calculated to notify any necessary party not  
133 yet served.

134 [(e)] (f) A hearing in an appeal from probate proceedings under  
135 section 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a,  
136 17a-685, 45a-650, as amended by this act, 45a-654, 45a-660, 45a-674,  
137 45a-676, 45a-681, 45a-682, 45a-699, 45a-703 or 45a-717 shall commence,  
138 unless a stay has been issued pursuant to subsection [(f)] (g) of this  
139 section, not later than ninety days after the appeal has been filed.

140 [(f)] (g) The filing of an appeal under this section shall not, of itself,  
141 stay enforcement of the order, denial or decree from which the appeal  
142 is taken. A motion for a stay may be made to the [Court of] Probate  
143 Court or the Superior Court. The filing of a motion with the [Court of]  
144 Probate Court shall not preclude action by the Superior Court.

145 [(g)] (h) Nothing in this section shall prevent any person aggrieved  
146 by any order, denial or decree of a [court of probate] Probate Court in  
147 any matter, unless otherwise specially provided by law, from filing a

148 petition for a writ of habeas corpus, a petition for termination of  
149 involuntary representation or a petition for any other available  
150 remedy.

151 [(h)] (i) (1) Except for matters described in subdivision (3) of this  
152 subsection, in any appeal filed under this section, the appeal may be  
153 referred by the Superior Court to a special assignment probate judge  
154 appointed in accordance with section 45a-79b, who is assigned by the  
155 Probate Court Administrator for the purposes of such appeal, except  
156 that such appeal shall be heard by the Superior Court if any party files  
157 a demand for such hearing in writing with the Superior Court not later  
158 than twenty days after service of the appeal.

159 (2) An appeal referred to a special assignment probate judge  
160 pursuant to this subsection shall proceed in accordance with the rules  
161 for references set forth in the rules of the judges of the Superior Court.

162 (3) The following matters shall not be referred to a special  
163 assignment probate judge pursuant to this subsection: Appeals under  
164 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to  
165 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,  
166 inclusive, children's matters as defined in subsection (a) of section 45a-  
167 8a, sections 45a-644 to 45a-663, inclusive, 45a-668 to 45a-684, inclusive,  
168 and 45a-690 to 45a-700, inclusive, and any matter in a [court of  
169 probate] Probate Court heard on the record in accordance with  
170 sections 51-72 and 51-73.

171 Sec. 5. Section 45a-295 of the general statutes is repealed and the  
172 following is substituted in lieu thereof (*Effective October 1, 2013*):

173 (a) When it appears to any [court of probate] Probate Court,  
174 pending proceedings before it for the settlement of the estate of a  
175 deceased person as a testate estate, that the will under which such  
176 proceedings were commenced and have been continued had been  
177 revoked in accordance with the provisions of subsection (b) of section  
178 45a-257 of the general statutes, revision of 1958, revised to January 1,  
179 1995, with respect to any will executed on or after October 1, 1967, and

180 prior to January 1, 1997, or in accordance with the provisions of section  
181 45a-257 with respect to any will executed on or after January 1, 1997,  
182 the court shall have power to revoke, annul and set aside any order or  
183 decree proving or approving the will so revoked and any other order  
184 or decree made and passed by such court in the settlement of the estate  
185 under such will.

186 (b) The court may thereafter proceed with the settlement of the  
187 estate under a subsequent will if there is one or, if there is no  
188 subsequent will, may grant administration on the estate of such  
189 deceased person and proceed with the settlement of the estate as an  
190 intestate estate upon such notice to all parties in interest as the court  
191 orders.

192 Sec. 6. Section 45a-436 of the general statutes is repealed and the  
193 following is substituted in lieu thereof (*Effective October 1, 2013*):

194 (a) On the death of a spouse, the surviving spouse may elect, as  
195 provided in subsection (c) of this section, to take a statutory share of  
196 the real and personal property passing under the will of the deceased  
197 spouse. The "statutory share" means a life estate of one-third in value  
198 of all the property passing under the will, real and personal, legally or  
199 equitably owned by the deceased spouse at the time of his or her  
200 death, after the payment of all debts and charges against the estate.  
201 The right to such third shall not be defeated by any disposition of the  
202 property by will to other parties.

203 (b) If the deceased spouse has by will devised or bequeathed a  
204 portion of his or her property to his or her surviving spouse, such  
205 provision shall be taken to be in lieu of the statutory share unless the  
206 contrary is expressly stated in the will or clearly appears therein; but,  
207 in any such case, the surviving spouse may elect to take the statutory  
208 share in lieu of the provision of the will.

209 (c) The surviving spouse, or the conservator or guardian of the  
210 estate of the surviving spouse, with the approval, after notice and  
211 hearing, of the [court of probate] Probate Court by which such

212 conservator or guardian was appointed, shall, not later than one  
213 hundred fifty days [from the date of the appointment of the first  
214 fiduciary, as defined in section 45a-353] after the mailing of the decree  
215 admitting the will to probate, file a notice, in writing, of his or her  
216 intention to take the statutory share with the [court of probate] Probate  
217 Court before which the estate is in settlement, and if such notice is not  
218 so filed, the surviving spouse shall be barred of such statutory share.

219 (d) If the [court of probate] Probate Court has allowed a support  
220 allowance under section 45a-320 from the deceased spouse's estate for  
221 support of the surviving spouse and for the support of his or her  
222 family, the surviving spouse shall not take his or her statutory share  
223 until the expiration of the time for which the support allowance is  
224 made.

225 (e) The statutory share shall be set out by the fiduciary charged with  
226 the administration of the estate or, in the discretion of the [probate  
227 court] Probate Court on its own motion or on application by any  
228 interested person, by distributors appointed by the [court of probate]  
229 Probate Court. The statutory share may consist of personal property or  
230 real property, or both, according to the judgment of the fiduciary or  
231 distributors.

232 (f) The provisions of this section with regard to the statutory share  
233 of the surviving spouse in the property of the deceased spouse shall  
234 not apply to any case in which, by written contract made before or  
235 after marriage, either party has received from the other what was  
236 intended as a provision in lieu of the statutory share.

237 (g) A surviving [husband or wife] spouse shall not be entitled to a  
238 statutory share, as provided in subsection (a) of this section, or an  
239 intestate share, as provided in section 45a-437, in the property of the  
240 other if such surviving spouse, without sufficient cause, abandoned  
241 the other and continued such abandonment to the time of the other's  
242 death.

243 (h) The provisions of this section shall apply to estates of all persons



244 dying on or after July 1, 1985.

245 Sec. 7. Section 45a-484 of the general statutes is repealed and the  
246 following is substituted in lieu thereof (*Effective October 1, 2013*):

247 (a) Except as otherwise provided by the trust or section 45a-520 with  
248 respect to charitable trusts, a [probate court] Probate Court having  
249 jurisdiction under this section may terminate a trust, in whole or in  
250 part, on application therefor by the trustee, by any beneficiary entitled  
251 to income from the trust, or by such beneficiary's legal representative,  
252 after reasonable notice to all beneficiaries who are known and in being  
253 and who have vested or contingent interests in the trust, and after  
254 holding a hearing, if the court determines that all of the following  
255 apply: (1) The continuation of the trust is (A) uneconomic when the  
256 costs of operating the trust, probable income and other relevant factors  
257 are considered, or (B) not in the best interest of the beneficiaries; (2) the  
258 termination of the trust is equitable and practical; and (3) the current  
259 market value of the trust does not exceed the sum of one hundred fifty  
260 thousand dollars.

261 (b) If the [probate court] Probate Court orders termination of the  
262 trust, in whole or in part, it shall direct that the principal and  
263 undistributed income be distributed to the beneficiaries in such  
264 manner as the [probate court] Probate Court determines is equitable.  
265 The [probate court] Probate Court may also make such other order as  
266 it deems necessary or appropriate to protect the interests of the  
267 beneficiaries.

268 (c) No trust may be terminated over the objection of its settlor or  
269 where the interest of the beneficiaries cannot be ascertained. The  
270 provisions of this section shall not apply to spendthrift trusts.

271 (d) A [probate court] Probate Court may terminate a testamentary  
272 trust pursuant to this section if the [probate court] Probate Court has  
273 jurisdiction over the accounts of the testamentary trustee. A [probate  
274 court] Probate Court may terminate an inter vivos trust pursuant to  
275 this section if the trustee or settlor has his or its principal place of

276 business in, or resides in, that probate district.

277 Sec. 8. Section 45a-648 of the general statutes is repealed and the  
278 following is substituted in lieu thereof (*Effective October 1, 2013*):

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

286 (b) An application for involuntary representation for a  
287 nondomiciliary of the state shall be made pursuant to the provisions of  
288 sections 45a-667g to 45a-667o, inclusive.

289 (c) An application for involuntary representation may be filed by  
290 the parent or guardian of a minor child up to one hundred eighty days  
291 prior to the date such child attains eighteen years of age if the parent  
292 or guardian anticipates that such minor child will require a  
293 conservator upon attaining eighteen years of age. The hearing on such  
294 application shall be held not more than thirty days prior to the date  
295 such child attains eighteen years of age. The court may grant such  
296 application, provided such order shall take effect no earlier than the  
297 date the child attains eighteen years of age.

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

307 Sec. 9. Subdivision (1) of subsection (a) of section 45a-649 of the  
308 general statutes is repealed and the following is substituted in lieu  
309 thereof (*Effective October 1, 2013*):

310 (a) (1) Upon an application for involuntary representation, the court  
311 shall issue a citation to the following enumerated parties to appear  
312 before it at a time and place named in the citation, which shall be  
313 served on the parties at least ten days before the hearing date, or in the  
314 case of an application made pursuant to section 17a-543 or 17a-543a, at  
315 least seven days before the hearing date. [ , which date in any event]  
316 Except as provided in subsection (c) of section 45a-648, as amended by  
317 this act, or unless continued by the court for cause shown, the hearing  
318 on an application under this section shall be held not [be] more than  
319 thirty days after the receipt of the application by the [Court of] Probate  
320 [unless continued for cause shown] Court. Notice of the hearing shall  
321 be sent [within] not more than thirty days after receipt of the  
322 application. In addition to such notice, (A) notice for a matter brought  
323 under sections 45a-667g to 45a-667o, inclusive, shall be given in the  
324 manner provided in section 45a-667n, and (B) notice for a matter  
325 brought under section 45a-667p, as amended by this act, shall be given  
326 in the manner provided in section 45a-667q.

327 Sec. 10. Subsection (e) of section 45a-649 of the general statutes is  
328 repealed and the following is substituted in lieu thereof (*Effective*  
329 *October 1, 2013*):

330 (e) If the respondent or conserved person notifies the court in any  
331 manner that the respondent or conserved person wants to attend the  
332 hearing on [the] an application under sections 45a-644 to 45a-663,  
333 inclusive, but is unable to do so, the court shall schedule the hearing  
334 on the application at a place that would facilitate attendance by the  
335 respondent or conserved person.

336 Sec. 11. Subsection (b) of section 45a-650 of the general statutes is  
337 repealed and the following is substituted in lieu thereof (*Effective*  
338 *October 1, 2013*):

339 (b) The rules of evidence in civil actions adopted by the judges of  
340 the Superior Court shall apply to all hearings pursuant to [this section]  
341 sections 45a-644 to 45a-667v, inclusive. All testimony at a hearing held  
342 pursuant to [this section] sections 45a-644 to 45a-667v, inclusive, shall  
343 be given under oath or affirmation.

344 Sec. 12. Section 45a-656b of the general statutes is repealed and the  
345 following is substituted in lieu thereof (*Effective October 1, 2013*):

346 (a) (1) For the purposes of this section: (A) "Institution for long-term  
347 care" means a facility that has been federally certified as a skilled  
348 nursing facility, an intermediate care facility, a residential care home,  
349 an extended care facility, a nursing home, a rest home or a  
350 rehabilitation hospital or facility; and (B) "person under  
351 conservatorship" means a conserved person or a person under  
352 voluntary representation pursuant to section 45a-646.

353 [(a)] (2) Except as provided in subsections (b), (c), (d), (e) and (f) of  
354 this section, a conservator may not terminate a tenancy or lease of a  
355 [conserved] person [, as defined in section 45a-644] under  
356 conservatorship, sell or dispose of any real property or household  
357 furnishings of the [conserved] person under conservatorship, or  
358 change the [conserved person's] residence of the person under  
359 conservatorship unless a [court of probate] Probate Court finds, after a  
360 hearing, that such termination, sale, disposal or change is necessary or  
361 that the [conserved] person under conservatorship agrees to such  
362 termination, sale, disposal or change.

363 (b) If the conservator determines it is necessary to cause the  
364 [conserved] person under conservatorship to be placed in an  
365 institution for long-term care or to change the [conserved person's]  
366 residence of the person under conservatorship, the conservator shall  
367 file a report of the intended placement in an institution for long-term  
368 care or change of residence with the [court of probate] Probate Court  
369 that appointed the conservator. The court shall hold a hearing to  
370 consider the report. If, after the hearing, the conservator obtains  
371 permission of the court for the intended placement or change of

372 residence, the conservator may make such a placement or implement  
373 such a change of residence. The hearing shall be held not less than five  
374 days after the filing of the report, excluding Saturdays, Sundays and  
375 holidays, and not less than seventy-two hours before the placement in  
376 the institution for long-term care or the change of residence, except  
377 that if the placement in an institution for long-term care results from  
378 the [conserved person's] discharge from a hospital of a person under  
379 conservatorship, the conservator may make the placement before filing  
380 the report, provided the conservator (1) files the report not later than  
381 five days after making such placement, and (2) includes in the report a  
382 statement as to the hospital discharge and related circumstances  
383 requiring the placement of the [conserved] person under  
384 conservatorship in the institution for long-term care. No such  
385 placement made before the filing of the report of the conservator shall  
386 continue unless ordered by the [Court of] Probate Court after a hearing  
387 held pursuant to this section.

388 (c) A report filed under subsection (b) of this section with respect to  
389 placement in an institution for long-term care shall set forth the basis  
390 for the conservator's determination, what community resources are  
391 available and have been considered to avoid the placement, and the  
392 reasons why the [conserved person's] physical, mental and  
393 psychosocial needs of the person under conservatorship cannot be met  
394 in a less restrictive and more integrated setting. Such community  
395 resources include, but are not limited to, resources provided by the  
396 area agencies on aging, the Department of Social Services, the Office of  
397 Protection and Advocacy for Persons with Disabilities, the Department  
398 of Mental Health and Addiction Services, the Department of  
399 Developmental Services, any center for independent living, as defined  
400 in section 17b-613, any residential care home or any congregate or  
401 subsidized housing. The conservator shall give notice of the placement  
402 of the [conserved] person under conservatorship in an institution for  
403 long-term care and a copy of such report to the [conserved] person  
404 under conservatorship, the [conserved person's] attorney for the  
405 person under conservatorship and any interested parties as  
406 determined by the court. Service shall be by first-class mail. The

407 conservator shall provide a certification to the court that service was  
408 made in the manner prescribed by this subsection.

409 (d) The [conserved] person under conservatorship may, at any time,  
410 request a hearing by the court on the person's placement in an  
411 institution for long-term care which hearing may determine the  
412 availability of a less restrictive alternative for the person's placement.  
413 On request of the [conserved] person under conservatorship made  
414 after the initial hearing held under subsection (b) of this section, the  
415 court shall hold a hearing on the placement not later than ten days,  
416 excluding Saturdays, Sundays and holidays, after receipt by the court  
417 of such request. The court shall not be required to conduct a hearing  
418 under this subsection more than three times in any twelve-month  
419 period following the hearing held under subsection (b) of this section  
420 authorizing the initial placement, except that the court shall conduct a  
421 hearing whenever information not previously available to the court is  
422 submitted with a request for a hearing.

423 (e) After the initial hearing held under subsection (b) of this section,  
424 the court may hold a hearing on a conservator's report and the  
425 placement of the [conserved] person under conservatorship in an  
426 institution for long-term care in any case even if no request for a  
427 hearing is made.

428 (f) If the court, after a hearing on the placement of the [conserved]  
429 person under conservatorship in an institution for long-term care,  
430 determines that the [conserved person's] physical, mental and  
431 psychosocial needs of the person under conservatorship can be met in  
432 a less restrictive and more integrated setting within the resources  
433 available to the [conserved] person under conservatorship, either  
434 through the [conserved person's own] estate of the person under  
435 conservatorship or through private or public assistance, the court shall  
436 order that the [conserved] person under conservatorship be placed and  
437 maintained in a less restrictive and more integrated setting.

438 (g) A [conserved] person under conservatorship may waive the  
439 right to a hearing required under this section if the [conserved]

440 person's] attorney for the person under conservatorship has consulted  
441 with the [conserved] person under conservatorship and the attorney  
442 has filed with the court a record of the waiver. Such a waiver shall be  
443 invalid if the waiver does not represent the [conserved person's own]  
444 wishes of the person under conservatorship.

445 [(h) For purposes of this section, an "institution for long-term care"  
446 means a facility that has been federally certified as a skilled nursing  
447 facility, an intermediate care facility, a residential care home, an  
448 extended care facility, a nursing home, a rest home or a rehabilitation  
449 hospital or facility.]

450 Sec. 13. Section 45a-317a of the general statutes is repealed and the  
451 following is substituted in lieu thereof (*Effective October 1, 2013*):

452 Any person interested in the estate of a deceased person and having  
453 a need to obtain financial information concerning the deceased person  
454 for the limited purpose of determining whether the estate may be  
455 settled as a small estate under section 45a-273, or having a need to  
456 obtain financial or medical information concerning the deceased  
457 person for the limited purpose of investigating a potential cause of  
458 action of the estate, surviving spouse, children, heirs or other  
459 dependents of the deceased person, or a potential claim for benefits  
460 under a workers' compensation act, an insurance policy or other  
461 benefits in favor of the estate, surviving spouse, children, heirs or other  
462 dependents of the deceased person, may apply to the [court of probate]  
463 Probate Court having jurisdiction of the estate of the deceased person  
464 for the appointment of an estate examiner. The [court of probate]  
465 Probate Court may grant the application and appoint an estate  
466 examiner for such limited purpose if the court finds that such  
467 appointment would be in the interests of the estate or in the interests of  
468 the surviving spouse, children, heirs or other dependents of the  
469 deceased person. If the court appoints an estate examiner under this  
470 section, the court may require a probate bond or may waive such bond  
471 requirement. The court shall limit the authority of the estate examiner  
472 to disclose the information obtained by the estate examiner, as

473 appropriate, and may issue an appropriate order for the disclosure of  
474 such information. Any order appointing an estate examiner under this  
475 section, and any certificate of the appointment of a fiduciary issued by  
476 the clerk of the court, shall indicate (1) the duration of the estate  
477 examiner's appointment, and (2) that such estate examiner has no  
478 authority over the assets of the deceased person.

479 Sec. 14. Section 45a-364 of the general statutes is repealed and the  
480 following is substituted in lieu thereof (*Effective October 1, 2013*):

481 (a) Whenever a claim has been rejected, in whole or in part, as  
482 provided in section 45a-360, the person whose claim has been rejected  
483 may, within thirty days from and including the date of such rejection,  
484 make application to the [Court of] Probate Court to hear and decide  
485 such claim or, in the alternative, may apply to said court [for the  
486 appointment of one or more disinterested persons, at least one of  
487 whom shall be an attorney-at-law, admitted to practice in this state, to  
488 be a commissioner or commissioners to hear and decide] to refer the  
489 claim to a probate magistrate or attorney probate referee to hear such  
490 claim. [The Court of Probate shall not appoint as a commissioner any  
491 officer or employee of the Court of Probate or any person employed by  
492 or associated in the practice of law with the judge of said court.] The  
493 court may, in its discretion, grant the application, hear and decide such  
494 claim if the application so requests or [appoint such commissioner or  
495 commissioners to hear and decide] refer such claim to a probate  
496 magistrate or attorney probate referee if the application so requests.  
497 The court shall notify the applicant and the fiduciary of its action  
498 granting or denying the application within fifteen days after receipt of  
499 the application.

500 [(b) Upon application of such commissioner or commissioners or  
501 upon its own motion, the Court of Probate shall give notice of the time  
502 and place set forth for the hearing to decide such claim to such persons  
503 as the court may direct at least ten days before the hearing date.]

504 [(c)] (b) If the application to receive and decide such claim by the  
505 court or for the [appointment of a commissioner or commissioners]



506 referral of such claim to a probate magistrate or attorney probate  
507 referee is denied, the claimant shall commence suit within one  
508 hundred twenty days from and including the date of the denial of [his]  
509 the claimant's application or be barred from asserting or recovering on  
510 such claim from the fiduciary, the estate of the decedent or any  
511 creditor or beneficiary of the estate.

512 [(d) (1) If the Court of Probate appoints more than one  
513 commissioner, it shall appoint an odd number of commissioners and a  
514 determination by a majority of such commissioners shall constitute the  
515 decision of the commissioners. (2) When any commissioner is unable  
516 to complete his duties, the Court of Probate may appoint a successor  
517 commissioner or allow the remaining commissioners to complete the  
518 duties of the commissioners. (3) The Court of Probate may remove any  
519 commissioner for cause and appoint another in his place.

520 (e) The determination of such commissioner or commissioners shall  
521 be final on the date the report of such commissioner or commissioners  
522 is filed in the Court of Probate, and the court shall thereupon enter an  
523 order approving the report unless the court finds that the  
524 commissioner or commissioners were guilty of misconduct  
525 substantially affecting the validity of the report or that the report is  
526 clearly erroneous. Upon rejection of the report, the Court of Probate  
527 may hear and determine such claim or appoint a different  
528 commissioner or commissioners to hear and determine such claim as  
529 otherwise provided in this section.

530 (f) Such commissioner or commissioners may be allowed such  
531 reasonable compensation and expenses as the Court of Probate shall  
532 determine, the cost of which may be apportioned between the creditor  
533 and the estate as the court shall direct. In the event that the Court of  
534 Probate shall receive and decide a claim, costs shall not be assessed  
535 other than those permitted by sections 45a-105 and 45a-107.]

536 (c) If the Probate Court refers the claim to a probate magistrate or  
537 attorney probate referee, the provisions of section 45a-123 shall govern  
538 the proceedings.

539 Sec. 15. Subsection (a) of section 45a-667p of the general statutes is  
540 repealed and the following is substituted in lieu thereof (*Effective from*  
541 *passage*):

542 (a) Except for an individual under voluntary representation as  
543 provided in section [45a-647] 45a-646, a conserved person, a conserved  
544 person's attorney, a conservator of the person or a conservator of the  
545 estate appointed in this state or any person who has received notice  
546 pursuant to subdivision (2) of subsection (a) of section 45a-649 may  
547 petition a [court of probate] Probate Court to transfer the  
548 conservatorship of the person or the conservatorship of the estate, or  
549 both, to another state.

550 Sec. 16. Section 46a-81a of the general statutes is repealed and the  
551 following is substituted in lieu thereof (*Effective July 1, 2013*):

552 For the purposes of sections 4a-60a [, 45a-726a] and 46a-81b to 46a-  
553 81q, inclusive, "sexual orientation" means having a preference for  
554 heterosexuality, homosexuality or bisexuality, having a history of such  
555 preference or being identified with such preference, but excludes any  
556 behavior which constitutes a violation of part VI of chapter 952.

557 Sec. 17. Section 45a-353 of the general statutes is repealed and the  
558 following is substituted in lieu thereof (*Effective July 1, 2013*):

559 For the purposes of sections 45a-266, 45a-353 to 45a-384, inclusive,  
560 [45a-390] and 45a-436, as amended by this act, the following terms  
561 shall have the following meanings, unless otherwise specifically  
562 provided:

563 (a) "Fiduciary" means an ancillary or domiciliary executor,  
564 administrator, administrator c.t.a., administrator d.b.n., administrator  
565 c.t.a.d.b.n. and temporary administrator of the estate of a decedent;

566 (b) "Assets" means all property and property interests, whether real  
567 or personal, tangible or intangible, corporeal or incorporeal, and  
568 choate or inchoate, of a decedent at the time of his death or of the  
569 estate of a decedent;

570 (c) "Beneficiary" means any person entitled to legal title to any assets  
571 (1) under the statutes governing descent and distribution, (2) under the  
572 provisions of a will or codicil, (3) by virtue of a right of election, (4) in  
573 settlement of a will contest, or (5) by mutual distribution; but shall not  
574 include the recipient of assets pursuant to a widow's allowance or  
575 family allowance paid by order of the [Court of] Probate Court;

576 (d) "Claim" means all claims against a decedent (1) existing at the  
577 time of the decedent's death or (2) arising after the decedent's death,  
578 including, but not limited to, claims which are mature, unmatured,  
579 liquidated, unliquidated, contingent, founded in tort, or in the nature  
580 of exoneration, specific performance or replevin;

581 (e) "Creditor" means any person having a claim;

582 (f) "Demonstrative disposition" means a testamentary disposition to  
583 be taken out of specified or identified property;

584 (g) "Distributee" means a person who receives assets under the  
585 statutes governing descent and distribution;

586 (h) "First fiduciary" means the fiduciary first appointed by the [court  
587 of probate] Probate Court to administer the estate of a decedent;

588 (i) "General disposition" means a testamentary disposition not  
589 amounting to a demonstrative, residuary or specific disposition;

590 (j) "Newspaper notice" means notice published in a newspaper  
591 having a substantial general circulation in the probate district in which  
592 an estate is in settlement;

593 (k) "Notice" means a written instrument containing the required  
594 information sent to the person to whom the notice is to be given by  
595 certified mail or registered mail and the date on which such notice  
596 shall be deemed given shall be the date of mailing; provided in the  
597 case of notice required to be given by a [court of probate] Probate  
598 Court, the term "notice" shall include such forms of notification in  
599 addition to certified or registered mail as the [Court of] Probate Court

600 shall in its discretion direct;

601 (l) "Person" means a natural person, association, board, corporation,  
602 limited liability company, partnership or other firm or entity;

603 (m) "Specific disposition" means a testamentary disposition of a  
604 specified or identified item;

605 (n) "Testamentary disposition" means a disposition of assets by will.

606 Sec. 18. Subsection (g) of section 45a-369 of the general statutes is  
607 repealed and the following is substituted in lieu thereof (*Effective July*  
608 *1, 2013*):

609 (g) (1) If at any time payment with respect to an obligation  
610 described in subsection (a) of section 45a-368, as amended by this act,  
611 is made by a beneficiary having a lower order of liability than another  
612 beneficiary or beneficiaries, or out of assets due such beneficiary  
613 having a lower order of liability, then the beneficiary having a lower  
614 order of liability shall be entitled to recover the amount so paid from  
615 any beneficiary prior in liability to him under subsection (a) of this  
616 section who remains liable under sections 45a-266, 45a-353 to 45a-384,  
617 inclusive, as amended by this act, [45a-390] and 45a-436, as amended  
618 by this act, without regard to the limitations of sections 45a-370 and  
619 45a-373. (2) If by application of subdivision (1) of subsection (g) of this  
620 section any beneficiary has paid more than his ratable obligation, as  
621 defined in section 45a-370, such beneficiary shall be entitled to  
622 contribution from any beneficiary within the same order of liability  
623 without regard to the limitations of sections 45a-370 and 45a-373.

624 Sec. 19. Subsection (f) of section 45a-107 of the general statutes is  
625 repealed and the following is substituted in lieu thereof (*Effective July*  
626 *1, 2013*):

627 (f) A fee of fifty dollars shall be payable to the court by any creditor  
628 applying to the [Court of] Probate Court pursuant to section 45a-364,  
629 as amended by this act, [or 45a-401] for consideration of a claim. If  
630 such claim is allowed by the court, the court may order the fiduciary to

631 reimburse the amount of such fee from the estate.

632 Sec. 20. Subsection (a) of section 45a-368 of the general statutes is  
633 repealed and the following is substituted in lieu thereof (*Effective July*  
634 *1, 2013*):

635 (a) Subject to the provisions of sections 45a-369 to 45a-375, inclusive,  
636 as amended by this act, a beneficiary is liable, in an action or actions, to  
637 the extent of the fair market value on the date of distribution of any  
638 assets received by him as a beneficiary from the estate of a decedent,  
639 for the expenses of administering the estate, claims, funeral expenses  
640 of the decedent, and all taxes for which the estate is liable, which have  
641 not previously been recovered out of assets held by the fiduciary or  
642 from any other source described in subsection (b) of this section. [or in  
643 section 45a-409.] For purposes of this section, the date of distribution of  
644 real estate specifically devised and real estate passing under the laws  
645 of descent and distribution shall be the date of the decedent's death.

646 Sec. 21. Sections 45a-190, 45a-390 to 45a-419, inclusive, 45a-726a and  
647 45a-727b of the general statutes are repealed. (*Effective July 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	45a-78
Sec. 2	<i>October 1, 2013</i>	45a-176
Sec. 3	<i>October 1, 2013</i>	17a-525
Sec. 4	<i>October 1, 2013</i>	45a-186
Sec. 5	<i>October 1, 2013</i>	45a-295
Sec. 6	<i>October 1, 2013</i>	45a-436
Sec. 7	<i>October 1, 2013</i>	45a-484
Sec. 8	<i>October 1, 2013</i>	45a-648
Sec. 9	<i>October 1, 2013</i>	45a-649(a)(1)
Sec. 10	<i>October 1, 2013</i>	45a-649(e)
Sec. 11	<i>October 1, 2013</i>	45a-650(b)
Sec. 12	<i>October 1, 2013</i>	45a-656b
Sec. 13	<i>October 1, 2013</i>	45a-317a
Sec. 14	<i>October 1, 2013</i>	45a-364
Sec. 15	<i>from passage</i>	45a-667p(a)

Sec. 16	<i>July 1, 2013</i>	46a-81a
Sec. 17	<i>July 1, 2013</i>	45a-353
Sec. 18	<i>July 1, 2013</i>	45a-369(g)
Sec. 19	<i>July 1, 2013</i>	45a-107(f)
Sec. 20	<i>July 1, 2013</i>	45a-368(a)
Sec. 21	<i>July 1, 2013</i>	Repealer section

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes various changes to Probate Court processes to streamline court procedures and eliminate obsolete provisions, which do not result in a fiscal impact.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sSB 984*****AN ACT CONCERNING PROBATE COURT OPERATIONS.*****SUMMARY:**

This bill makes various revisions to probate statutes. It makes several changes affecting conservatorships. For example, it (1) extends to people under voluntary conservatorship the law's protections for involuntary conservatorship regarding placement in long-term care institutions and (2) provides that the rules of evidence apply in all conservatorship proceedings, rather than only hearings on applications for involuntary conservatorship.

The bill substitutes a financial report as provided by the probate court rules of procedure for current law's statement in lieu of an accounting. The bill expands the types of probate appeals that are on the record rather than a trial de novo, and makes other changes concerning probate appeals. It increases the maximum value of a non-charitable trust that the probate court can terminate.

The bill repeals several statutes, such as provisions allowing a prospective adoptive or foster parent's sexual orientation to be considered before placing the child with the person. It makes changes affecting other matters, such as the probate court rules of procedure; probate orders passed under a revoked will; spousal elections; estate examiners; and disputed claims against estates.

The bill also makes various minor, technical, and conforming changes.

**EFFECTIVE DATE:** October 1, 2013, except (1) the repealer section (§ 21) is effective July 1, 2013 and (2) certain technical changes are effective upon passage (§ 15) or July 1, 2013 (§§ 16-20).



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**§ 1 — PROBATE COURT RULES OF PROCEDURE**

Existing law requires the Probate Court Administrator to recommend to the Supreme Court, for adoption and promulgation, mandatory rules of procedure for probate courts. The bill conforms to the most recent edition of the compiled rules by referring to it as the probate court rules of procedure, rather than the practice book. The bill also allows, rather than requires, the administrator to pay for the publication of this book from the Probate Court Administration Fund.

On November 7, 2012, the justices of the Supreme Court adopted the most recent revision to the probate rules, to take effect July 1, 2013.

**§ 2 — FINANCIAL REPORT IN LIEU OF ACCOUNTING**

Current law generally allows a fiduciary of an estate who is also a beneficiary of the estate to file a statement in lieu of an accounting. The statement, filed under penalties of false statement, must provide that all debts, funeral expenses, taxes, and expenses of administration have been paid, and all bequests and devises have been or will be distributed. The court can refuse to accept the statement, and instead require a full accounting, upon the petition of an interested party and a showing of cause after a hearing.

The bill repeals these provisions and instead refers to a financial report in lieu of an account pursuant to the probate court rules of procedure. As is the case if the court approves the statement in lieu of accounting under current law, the bill provides that if the probate court approves such a financial report, the court can enter a decree releasing the fiduciary, and sureties on any bond, from any further liability. The bill specifies that this release of liability would be with respect to all items shown in the report.

The new probate court rules of procedure define a financial report as a simplified form of accounting, meeting specified requirements, by which a fiduciary provides summary information about the management of an estate. Rule 37 lists the specific requirements.

**§ 3 — APPEALS IN CIVIL COMMITMENT PROCEEDINGS**

The bill repeals obsolete provisions concerning appeals of probate court orders, denials, or decrees under the involuntary commitment law and related provisions. The provisions (1) require the probate court to make all necessary orders of notice to the parties and to such other persons as it deems advisable and (2) allow the probate court to require the appellant to post a bond and to pay all legal costs and expenses if unsuccessful.

Other provisions of existing law, unchanged by the bill, (1) provide for notifying interested parties about probate appeals; (2) allow costs of a probate appeal to be taxed in favor of the prevailing party as such costs are allowed in Superior Court judgments; and (3) allow appellants to apply for a waiver of costs in probate appeals, including any required bond.

#### **§ 4 — PROBATE APPEALS**

Under current law, an appeal from involuntary conservator appointments is on the record (examining the prior decision), while other appeals related to conservatorship proceedings are upon a trial de novo (new trial). The bill makes all conservatorship-related appeals where there is a record, as well as appeals from the following matters with a record, on the record rather than upon a trial de novo:

1. involuntary medication or surgery for psychiatric disabilities (including psychosurgery or shock therapy) and
2. involuntary administration of psychiatric medication to criminal defendants committed to the Department of Mental Health and Addiction Services for treatment to restore their competency to stand trial.

The bill specifies that in probate appeals, the probate court and the judge that rendered the decision being appealed must not be made parties to the appeal or named as parties in the complaint. The bill also clarifies that the appealing party is required only to mail a copy of the complaint to the probate court, not to serve the complaint on the court.

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**§ 5 — ORDERS PASSED UNDER A REVOKED WILL**

Existing law permits probate courts to revoke, annul, and set aside (1) orders or decrees proving or approving a will which has been revoked and (2) other orders or decrees made in settlement of the estate under the will. The bill specifies that for this purpose, the applicable law regarding whether the will has been properly revoked is the law in effect when the will was executed. (The will revocation statute, CGS § 45a-257, was last amended in 1996, effective January 1, 1997.)

These provisions apply to wills executed on or after October 1, 1967. The bill does not specify what version of the statute applies to wills executed before then.

**§ 6 — SPOUSAL ELECTION**

The bill changes the timeframe for a surviving spouse to elect to take a statutory share of property rather than accept the bequests to the surviving spouse under the deceased spouse's will. The bill requires the filing of intention to take the spousal election within 150 days of the mailing of the decree admitting the will to probate. Current law requires the filing within 150 days of the appointment of the first fiduciary.

By law, a surviving spouse may elect to take a life-estate of one-third of the value of property passing under the deceased spouse's will, after the estate's debts and charges are paid.

**§ 7 — TERMINATION OF SMALL TRUSTS**

The bill authorizes a probate court to completely or partially terminate a non-charitable trust valued at up to \$150,000, instead of up to \$100,000, if it determines that (1) continuation is uneconomic when operating costs, probable income, and other relevant factors are considered or continuation is not in the beneficiaries' best interest and (2) termination is equitable and practical.

By law, the court may do so only after notice to all beneficiaries and a hearing. When a probate court orders the termination of a trust, it

must direct the principal and undistributed income to be distributed to the beneficiaries in an equitable manner.

Existing law already authorizes probate courts to terminate charitable trusts valued at up to \$150,000 (CGS § 45a-520).

### **§§ 8-9 — INVOLUNTARY CONSERVATORSHIP**

The bill appears to allow a minor's parent or guardian who anticipates that the minor will need involuntary conservatorship after turning age 18 to file a conservatorship application during the 180 days preceding the minor's 18th birthday. A hearing on such an application must be held within 30 days before the minor turns 18. A probate court order approving such an application can take effect no earlier than the minor's 18th birthday.

### **§§ 10, 15-20 — TECHNICAL CHANGES**

These sections make minor, technical, and conforming changes to probate statutes.

### **§ 11 — RULES OF EVIDENCE IN CONSERVATORSHIP PROCEEDINGS**

The bill provides that the rules of evidence apply in all conservatorship proceedings, and all testimony at a conservatorship hearing must be given under oath or affirmation. Current law applies these provisions to hearings on applications for involuntary conservatorship but not to other conservatorship proceedings.

### **§ 12 — SAFEGUARDS DURING VOLUNTARY CONSERVATORSHIP**

The bill extends to people under a voluntary conservatorship the law's procedural safeguards that already apply to involuntary conservatorships regarding the conservator's authority to change the person's residence or dispose of the person's property.

Among other things, these safeguards:

1. generally prohibit a conservator from ending the person's tenancy or lease, selling or disposing of the person's real

- property or household furnishings, or changing the person's residence unless a probate court holds a hearing and finds that (a) the termination, sale, disposal, or change is necessary or (b) the person agrees to it;
2. require the conservator to file a report, and the court to hold a hearing, before changing the person's residence (including placing the person in a long-term care institution);
  3. require the court to order a different placement of a person under conservatorship in an institution for long-term care if the court determines that the person's needs can be met in a less restrictive and more integrated setting within the person's resources; and
  4. allow a person under conservatorship, who is placed in an institution for long-term care, to request a hearing at any time regarding that placement.

### **§ 13 — ESTATE EXAMINER**

Existing law allows anyone with an interest in a deceased person's estate, and who needs financial or medical information about the deceased person for purposes of a potential lawsuit or claim for benefits, to apply to the probate court to appoint an estate examiner.

The bill expands who may apply for an estate examiner by including someone with an interest in an estate who needs financial information about the deceased to determine whether the estate may be settled under the small estate statute. (CGS § 45a-273 provides a simplified procedure for settling estates if the total value of the estate is \$40,000 or less.)

### **§ 14 — DISPUTED CLAIMS BY CREDITORS IN DECEDENTS' ESTATES**

Under current law, when an estate fiduciary rejects (in whole or in part) a claim against the estate, the rejected claimant can (1) file suit in Superior Court, (2) apply to the probate court to hear and decide the

claim, or (3) apply to the probate court to appoint one or more disinterested persons (called commissioners) to hear and decide it. At least one commissioner must be an attorney, and commissioners must not be probate court employees or associated in legal practice with the probate judge.

The bill eliminates the option of applying to have commissioners appointed in such a matter. Instead, it allows the person to apply to probate court to refer the claim to a probate magistrate or attorney probate referee. It appears that probate magistrates or referees assigned in such matters can be associated in legal practice with the probate judge.

As is the case under current law regarding appointment of a commissioner, (1) a person with a rejected claim has 30 days to apply to probate court for referral to a probate magistrate or probate attorney referee; (2) the probate judge has discretion whether to grant the application for referral; and (3) if the application is denied, the person has 120 days to file suit.

Under the bill, if the court refers a claim to a probate magistrate or referee, the proceedings are governed by existing law's provisions regarding such referrals in probate matters. By law, a probate magistrate or attorney probate referee to whom a probate matter is referred must hear the matter and file with the court a report containing factual findings and conclusions drawn from those findings. The probate court must hold a hearing on the report and any amendments or objections to it. The court can accept, modify, or reject the report or any amendment to it.

## **§ 21 — REPEALERS**

The bill repeals statutes:

1. governing claims against estates of people who died before October 1, 1987 (CGS §§ 45a-390 to -419);
2. allowing the DCF commissioner or a child-placing agency to

consider the sexual orientation of the prospective adoptive or foster parent or parents when placing a child for adoption or in foster care (CGS § 45a-726a);

3. providing that the recruitment of minority families may not be a reason to delay placement of a child with an available family of a different race or ethnicity from that of the child (CGS § 45a-727b); and
4. concerning appeals from actions of probate commissioners (as explained above, § 14 eliminates the use of probate commissioners) (CGS § 45a-190).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (03/13/2013)