



General Assembly

Substitute Bill No. 984

January Session, 2013



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 Section 45a-78 of the general statutes is repealed and the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 Section 45a-176 of the general statutes is repealed and the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.*