

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-103—sSB 154
Judiciary Committee

AN ACT CONCERNING PROBATE COURT OPERATIONS

SUMMARY: This act makes various revisions in probate statutes.

It allows the probate court administrator to establish a second pilot truancy clinic in New Haven, in addition to the one in Waterbury (§ 9). It allows probate courts, when appointing a conservator, to designate a successor. It also allows people to designate their own successor conservators (§§ 10-13).

Among other changes affecting civil commitment, it shifts jurisdiction of civil commitment review hearings from the probate court that ordered the commitment to the court for the district where the hospital is located (§ 1). For court actions involving someone committed to a psychiatric hospital, it eliminates the requirement that process or other documents be served on the administrative services (DAS) commissioner (§ 4). It specifies that the rules of evidence for Superior Court civil matters apply in probate court hearings on involuntary civil commitments and requests for release from psychiatric hospitals (§§ 1 & 3). (The law already allowed objections to the admissibility of evidence in accordance with such rules.)

Among other things, the act also:

1. specifies that all rules of civil evidence that apply to Superior Court civil cases, not just judge-adopted rules, apply to conservatorship hearings (§§ 5 & 6);
2. transfers responsibility for administering the Kinship Fund and Grandparents and Relatives Respite Fund from the Department of Social Services (DSS) to the probate court administrator (§§ 7 & 8);
3. requires the probate court, before approving a transfer of jurisdiction over a conserved person who has moved, to determine that the person prefers the transfer (§ 14);
4. eliminates a Probate Court Budget Committee annual reporting requirement (§ 15); and
5. repeals a largely redundant statute on payment of probate court fees by credit card (§ 16).

The act also makes several minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2014, except as noted below.

CIVIL COMMITMENT

§ 1 — Certain Involuntary Commitment Documents

The act requires the probate court administrator, rather than the Department of Mental Health and Addiction Services (DMHAS), to provide the form to be

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completed by the court-selected examining physicians for initial commitment hearings and reviews of committed patients.

§ 1 — Jurisdiction over Commitment Review Hearings

Under prior law, if someone committed to a hospital for psychiatric disabilities requested a hearing, the court that ordered the commitment held the hearing. The act instead requires the court for the district where the hospital is located to hold the hearing.

The act makes a corresponding change regarding the requirement that hospitals provide probate courts with a monthly list of patients involuntarily committed to the hospital for one year since the previous annual review or the original commitment. It requires that this list go to the probate court where the hospital is located.

§ 2 — Court Records

The act eliminates the requirement that courts, after ordering someone committed to a hospital for psychiatric disabilities, provide the DMHAS commissioner with copies of the commitment orders. It still requires such courts to provide the commissioner with access to identifying information on the committed individuals within three business days of the order.

The act requires the probate court administrator, rather than the attorney general, to prescribe forms for courts when committing someone to a psychiatric hospital, including forms for commitment applications, orders, and other papers. The act eliminates the requirement for DMHAS to have blanks of these forms printed and furnished at the state's expense.

§ 4 — Service Requirements

The act makes changes regarding service of process, notices, and other documents on someone committed to a psychiatric facility. Prior law set certain requirements for documents that had to be served on such a person either in person, at home, or by mail. The act instead (1) provides that the required mailing and proof of delivery satisfy any legal requirements where personal service is not required and (2) deems this equivalent to service under these laws.

It eliminates a requirement that the notice be served on the DAS commissioner. It requires that only one copy, rather than two copies, be sent to the facility's superintendent or his or her representative, who still must deliver a copy to the confined person.

These provisions apply to (1) people committed by court order, by emergency certificate, or voluntarily and (2) any court action or proceeding in which the person is a party or that may affect the person's property rights.

By law, failure to send or serve documents does not abate the action or proceeding, although the court may order compliance.

§§ 7 & 8 — KINSHIP FUND AND GRANDPARENTS AND RELATIVES RESPITE FUND

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The act transfers responsibility for administering the Kinship Fund and Grandparents and Relatives Respite Fund to the probate court administrator. Under prior law, DSS administered the funds through the probate court.

By law, a relative who is appointed guardian of a child, and who does not receive foster care payments or subsidized guardianship benefits from the Department of Children and Families, may apply for grants from these funds. The act specifies that the funds are available to people appointed guardians by the probate court, not just by the Superior Court as under prior law.

EFFECTIVE DATE: July 1, 2014

§ 9 — NEW HAVEN TRUANCY CLINIC

The act allows the probate court administrator, within available appropriations, to establish a pilot truancy clinic in the New Haven regional children's probate court. He already has authority to establish such a clinic in the Waterbury regional children's probate court.

The act applies the same conditions to the New Haven truancy clinic as apply to the Waterbury clinic. For example:

1. the regional children's probate court administrative judge administers the clinic (the act specifies that for either clinic, the judge can delegate the clinic's administration);
2. an elementary or middle school principal or his or her designee can refer the parent or guardian of a truant child, or one at risk of becoming a truant, to the clinic;
3. a parent's or guardian's participation is voluntary after his or her appearance as required by the court's citation and summons;
4. the administrative judge may refer any truancy clinic matter to a probate magistrate or attorney probate referee;
5. the clinic must establish participation protocols and programs and relationships with schools and other individuals and organizations to provide support services to clinic participants; and
6. the administrative judge must submit annual reports to the probate court administrator, due each September 1, on the clinic's effectiveness.

Under prior law, the probate court administrator had to report on the Waterbury clinic's effectiveness to the Judiciary and Education committees by January 1, 2015. The act requires the report to cover both clinics, and extends its due date to January 1, 2016.

EFFECTIVE DATE: Upon passage

§§ 10-13 — SUCCESSOR CONSERVATORS

§ 10 — *Probate Court Appointment*

The act allows probate courts, when appointing a conservator of the person or a conservator of the estate, to also appoint a successor conservator.

Under the act, the successor must act as conservator if the (1) court accepts the conservator's resignation or removes the conservator or (2) conservator dies or is adjudicated incapable. The successor may assume conservator duties

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immediately upon the occurrence of any of these events, with one exception. If a conservator of the estate had to furnish a probate bond or provide proof of a restricted account, the successor must do so as well before assuming conservator duties.

The act requires a successor conservator, immediately after assuming the conservator role, to inform the probate court with jurisdiction that he or she has assumed that role and the reason why. It allows the probate court to issue a decree, without notice and hearing, confirming the successor conservator's appointment after these requirements are met.

EFFECTIVE DATE: July 1, 2014

§§ 11 & 12 — Designation by the Person in Event of Future Incapacity

The act allows an adult, when designating someone to serve as conservator for himself or herself in the event of future incapacity, to designate a successor conservator.

§ 13 — Designation by Conserved Person

By law, a conserved person or someone subject to a conservatorship hearing may choose someone to serve as his or her conservator. The act also allows such a person to choose someone to serve as successor conservator. As under existing law, the court must accept the appointment unless the nominee is unwilling or unable to serve or there is substantial evidence to disqualify the person.

By law, if the person does not nominate someone to serve as conservator or if the court does not appoint that nominee, the court must consider certain factors when deciding whom to appoint as conservator. The act requires the court to consider the same factors when choosing a successor conservator.

§ 14 — TRANSFER OF JURSDICTION OVER CONSERVATORSHIP

By law, if a person under conservatorship moves to a probate district other than the one where the conservator was appointed, various individuals can file a motion to transfer jurisdiction of the conservatorship to the district where the person now resides. The act allows the court to approve the transfer only if it determines that the person under conservatorship prefers the transfer.

The people who can make such a motion include the conserved person, a spouse or another relative, the conservator, or the new town's first selectman or municipal chief executive officer.

§ 15 — ELIMINATION OF PROBATE COURT BUDGET COMMITTEE REPORTING REQUIREMENT

The act eliminates the requirement that the Probate Court Budget Committee annually report to the governor and General Assembly on the committee's efforts to reduce costs and any potential cost-saving measures resulting from probate court mergers that took effect on or after June 9, 2009.

EFFECTIVE DATE: July 1, 2014

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§ 16 — PAYMENT OF COSTS BY CREDIT CARD

PA 13-247, § 65, allows probate courts to accept payment of fees by credit, charge, or debit card, and to charge related service fees (which cannot exceed the card issuer's charge, including the discount rate).

This act repeals another statute (CGS § 45a-113) which also allowed probate court costs to be paid by credit card. Unlike the provision in PA 13-247, this statute specified that (1) the probate court administrator determined the service fees and (2) credit card payments had to be made at the time and under conditions as the administrator prescribed.

EFFECTIVE DATE: Upon passage

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