



House Bill No. 5255

Public Act No. 16-49

AN ACT CONCERNING GUARDIANSHIP OF PERSONS WITH INTELLECTUAL DISABILITY.

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

Section 1. Section 45a-669 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

For purposes of sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, the following terms shall have the following meanings:

(a) ["Plenary guardian of a person with intellectual disability"] "Plenary guardian" means a person, legally authorized state official, [or private nonprofit] corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital, nursing home facility, as defined in section 19a-521, or residential care home, as defined in section 19a-521, appointed by a [court of probate] Probate Court pursuant to the provisions of sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, to supervise all aspects of the care of an adult person, as enumerated in subsection (d) of section 45a-677, as amended by this act, for the benefit of such adult, who by reason of the severity of [his or her] intellectual disability, has been determined to be totally

House Bill No. 5255

unable to meet essential requirements for his or her physical health or safety and totally unable to make informed decisions about matters related to his or her care.

(b) "Legally competent" means having the legal power to direct one's personal and financial affairs. All persons in this state eighteen years of age and over are legally competent unless determined otherwise by a court in accordance with the provisions of sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, or unless otherwise provided by law.

(c) ["Limited guardian of a person with intellectual disability"] "Limited guardian" means a person, legally authorized state official, [or a private nonprofit] corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital or nursing home, as defined in section 19a-521, appointed by a [court of probate] Probate Court pursuant to the provisions of sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, to supervise certain specified aspects of the care of an adult person, as enumerated in subsection (d) of section 45a-677, as amended by this act, for the benefit of such adult, who by reason of the severity of [his] intellectual disability, has been determined to be able to do some, but not all, of the tasks necessary to meet essential requirements for his or her physical health or safety or to make some, but not all, informed decisions about matters related to his or her care.

(d) ["Person with intellectual disability"] "Intellectual disability" means [a person who has a] the condition defined as intellectual disability pursuant to section 1-1g.

(e) "Respondent" means an adult person for whom [an application] a petition for guardianship or limited guardianship of the person has been filed.

House Bill No. 5255

(f) "Unable to meet essential requirements for his or her physical health or safety" means the inability through one's own efforts and through acceptance of assistance from family, friends and other available private and public sources, to meet one's needs for medical care, nutrition, clothing, shelter, hygiene or safety so that, in the absence of a guardian, [of the person with intellectual disability] serious physical injury, illness or disease is likely to occur.

(g) "Unable to make informed decisions about matters related to [one's] his or her care" means the inability of a person with intellectual disability to achieve a rudimentary understanding, after conscientious efforts at explanation, of information necessary to make decisions about his or her need for physical or mental health care, food, clothing, shelter, hygiene, protection from physical abuse or harm, or other care.

(h) ["Ward"] "Protected person" means a person for whom a guardianship is granted under sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act.

Sec. 2. Section 45a-670 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) [An application] A petition for guardianship may be filed [by the court on its own motion or] by any adult person. [The application and all records of Probate Court proceedings held as a result of the filing of such application, except for the name of any guardian of the respondent, shall be sealed and shall be made available only to the respondent or the respondent's counsel or guardian, and to the Commissioner of Developmental Services or the commissioner's designee, unless the Probate Court, after hearing held with notice to the respondent or the respondent's counsel or guardian, and to the commissioner or the commissioner's designee, determines that such application and records should be disclosed for cause shown. An application filed by the court on its own motion shall contain a

House Bill No. 5255

statement of the facts on which the court bases its motion, and such statement of facts shall be included in any notice to the respondent.] Any [other application] petition filed shall allege that a respondent, by reason of the severity of the respondent's intellectual disability, is unable to meet essential requirements for the respondent's physical health and safety and unable to make informed decisions about matters relating to the respondent's care. Such [application] petition shall be filed in [the court of probate] Probate Court in the district in which the respondent resides, [or] is domiciled or is located at the time of the filing of the petition. Such [application] petition shall state: (1) Whether there is, in any jurisdiction, a guardian, limited guardian, or conservator for the respondent; (2) the extent of the respondent's inability to meet essential requirements for the respondent's physical health or safety, and the extent of the respondent's inability to make informed decisions about matters related to the respondent's care; (3) any other facts upon which guardianship is sought; and (4) in the case of a limited guardianship, the specific areas of protection and assistance required for the respondent.

(b) [An application] A petition for guardianship may be filed by the parent or guardian of a minor child up to one hundred eighty days prior to the date such child attains the age of eighteen if the parent or guardian anticipates that such minor child will require a guardian upon attaining the age of eighteen. The court may grant such [application] petition in accordance with this section, provided such order shall take effect no earlier than the date the child attains the age of eighteen.

(c) All records of cases related to guardianship under sections 45a-669 to 45a-683, inclusive, as amended by this act, shall be confidential and shall not be open to public inspection by or disclosed to any person, except that (1) such records shall be available to (A) the parties in any such case and their counsel, (B) the Department of

House Bill No. 5255

Developmental Services, and (C) the office of the Probate Court Administrator; (2) if the court appoints a guardian, the names of the guardian and the protected person shall be public; and (3) the court may, after hearing with notice to the respondent, the respondent's counsel, the guardian and the Department of Developmental Services, permit records to be disclosed for cause shown.

Sec. 3. Section 45a-671 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Not later than forty-five days after the date of filing [an application] a petition for guardianship with the Probate Court, such court shall assign a time and place for hearing such [application] petition. Notwithstanding the provisions of section 45a-7, the court may hold the hearing on the [application] petition at a place within the state other than its usual courtroom if it would facilitate the presence of the respondent. Such court shall cause a citation and notice to be served upon the respondent by personal service made by a state marshal, constable or an indifferent person not less than seven days prior to the date of such hearing.

(b) The court shall direct notice by first class mail to the following: (1) The [applicant] petitioner; (2) the parents of the respondent; (3) the spouse of the respondent; (4) children of the respondent; [, if any;] (5) the siblings of the respondent or their representatives, if the respondent has no living parents; and (6) the person in charge of the hospital, nursing home, residential facility or other institution in which the respondent may reside.

(c) The court in its discretion may order such notice as it directs to other persons having an interest in the respondent.

Sec. 4. Section 45a-672 of the general statutes is repealed and the

House Bill No. 5255

following is substituted in lieu thereof (*Effective October 1, 2016*):

The notice required by subsection (a) of section 45a-671, as amended by this act, shall inform such respondent of (1) whether the guardianship sought is a plenary or a limited guardianship and that the court, notwithstanding which type of guardianship is sought, may appoint a plenary guardian or a limited guardian [of the person with intellectual disability] with such limitations as the court determines; (2) the legal consequences of both plenary and limited guardianships; (3) the facts alleged in the [application] petition and the limitations on the guardian's authority, if any, specifically applied for; and (4) the right to be represented by counsel.

Sec. 5. Section 45a-674 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

At any hearing for appointment of a plenary guardian or limited guardian, [of the person with intellectual disability,] the court shall receive evidence as to the condition of the respondent, including a written report or testimony by a Department of Developmental Services assessment team appointed by the Commissioner of Developmental Services or his or her designee, no member of which is related by blood, marriage or adoption to either the [applicant] petitioner or the respondent and each member of which has personally observed or examined the respondent within forty-five days next preceding such hearing. The assessment team shall be comprised of at least two representatives from among appropriate disciplines having expertise in the evaluation of persons alleged to have intellectual disability. The assessment team members shall make their report on a form provided for that purpose by the office of the Probate Court Administrator and shall answer questions on such form as fully and completely as possible. The report shall contain specific information regarding the severity of the intellectual disability of the respondent and those specific areas, if any, in which [he] the respondent needs the

House Bill No. 5255

supervision and protection of a guardian, and shall state upon the form the reasons for such opinions. The [applicant] petitioner, respondent or [his] the respondent's counsel shall have the right to present evidence and cross-examine witnesses who testify at any hearing on the [application. If such] petition. If the respondent or [his] the respondent's counsel notifies the court not less than three days before the hearing that he or she wishes to cross-examine the witnesses, the court shall order such witnesses to appear. The fees for such assessment team shall be paid from funds appropriated to the Department of Developmental Services.

Sec. 6. Section 45a-675 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

The respondent shall be present at any hearing for his or her guardianship, [provided] except that the court may exclude [him] the respondent from such portions of the hearing at which testimony is given which the court determines would be seriously detrimental to his or her emotional or mental condition. Any person having knowledge that the respondent is or will be medicated at that time, shall inform the court of such fact and to the extent he or she knows the same, shall inform the court of the common effects of such medication.

Sec. 7. Section 45a-676 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) If the court finds, by clear and convincing evidence, that the respondent is, by reason of the severity of the respondent's intellectual disability, totally unable to meet essential requirements for the respondent's physical health or safety and totally unable to make informed decisions about matters related to the respondent's care, the court shall appoint a plenary guardian or plenary coguardians [of the person with intellectual disability] who shall have all those powers

House Bill No. 5255

and duties provided for in section 45a-677, as amended by this act.

(b) If the court finds by clear and convincing evidence that the respondent is able to do some, but not all, of the tasks necessary to meet essential requirements for the respondent's physical health or safety or that the respondent is able to make some, but not all, informed decisions about matters related to the respondent's care, the court shall appoint a limited guardian or limited coguardians. [of the person with intellectual disability.]

(c) For the purposes of sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, any alleged inability of the respondent must be evidenced by recent behavior that would cause harm or create a risk of harm, by clear and convincing proof.

(d) The court shall take from any such plenary guardian or limited guardian a written acceptance of such guardianship and, if the court deems it necessary for the protection of the respondent, a probate bond.

(e) The court shall make written findings of fact that support each grant of authority to the plenary guardian or limited guardian. If the court in reaching its conclusion is relying on incidents of behavior that occurred more than six months prior to the date of hearing, the court findings shall include its reasoning for relying upon such incidents.

(f) In selecting a plenary guardian or limited guardian, [of the person with intellectual disability,] the court shall be guided by the best interests of the respondent, including, but not limited to, the preference of the respondent as to who should be appointed as plenary guardian or limited guardian.

(g) No person shall be excluded from serving as a plenary guardian or limited guardian solely because such person is employed by the Department of Developmental Services, except that (1) no such

House Bill No. 5255

employee may be appointed as a plenary guardian or limited guardian of a person [with intellectual disability] residing in a state-operated residential facility for persons with intellectual disability located in the Department of Developmental Services region in which such person is employed; and (2) no such employee shall be so appointed unless no other suitable person to serve as plenary guardian or limited guardian can be found. Any appointment of an employee of the Department of Developmental Services as a plenary guardian or limited guardian shall be made for a limited purpose and duration. During the term of appointment of any such employee, the Commissioner of Developmental Services shall search for a suitable person who is not an employee of the department to replace such employee as plenary guardian or limited guardian.

(h) No person shall be excluded from serving as a plenary guardian or limited guardian solely because such person is employed by a private facility funded or licensed by the Department of Developmental Services, except that (1) no such employee may be appointed as a plenary guardian or limited guardian of a person [with intellectual disability] residing in a residential facility in which such employee is employed, and (2) no such employee shall be so appointed unless no other suitable person to serve as plenary guardian or limited guardian can be found.

(i) No person shall be excluded from serving as a plenary guardian or limited guardian solely because such person is licensed by the Department of Developmental Services to operate a community companion home, except that (1) no such licensee, nor any of such licensee's relatives or household members, may be appointed as a plenary guardian or limited guardian of a person [with intellectual disability] residing in a community companion home operated by such licensee, and (2) no such licensee shall be so appointed unless no other suitable person to serve as plenary guardian or limited guardian can

House Bill No. 5255

be found.

Sec. 8. Section 45a-677 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) The court may assign to a limited guardian [of a person with intellectual disability] any portion of the duties and powers listed in subsection (d) of this section for those particular areas in which the [respondent] protected person lacks the capacity to meet the essential requirements for [such respondent's] the protected person's physical or mental health or safety.

(b) A limited guardian may also be assigned the duty to assist the [respondent] protected person in those particular areas in which the capacity of the [respondent] protected person to meet the essential requirements of such [respondent's] protected person's physical or mental health or safety, protect such [respondent's] protected person's rights, obtain necessary services, or to fulfill such [respondent's] protected person's civil duties is impaired, as well as in other ways not specifically prohibited by sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act.

(c) A limited guardian [of a person with intellectual disability] shall have only such of the duties and responsibilities and powers of a guardian [of a person with intellectual disability] under subsection (d) of this section as the court shall specify based upon its findings with regard to the individual need of the [respondent] protected person for supervision. The guardian shall have the duty to report to the [probate court which] Probate Court that appointed such limited guardian at least annually the condition of the [respondent] protected person. The preceding duties, responsibilities and powers shall be carried out within the limitations of the resources available to the [ward] protected person, either through the [ward's] protected person's own estate or by reason of private or public assistance.

House Bill No. 5255

(d) The court may assign to a limited guardian the custody of the [ward] protected person for the purpose of exercising any, but not all, of the following limited duties and powers, in order to assist the [ward] protected person in achieving self-reliance: (1) To assure and consent to a place of abode outside the natural family home, (2) to consent to specifically designed educational, vocational or behavioral programs, (3) to consent to the release of clinical records and photographs, (4) to assure and consent to routine, elective and emergency medical and dental care, and (5) other specific limited powers to assure and consent to services necessary to develop or regain to the maximum extent possible the [ward's] protected person's capacity to meet essential requirements. All plenary guardians and limited guardians appointed pursuant to sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, shall also have a duty to assure the care and comfort of the [ward] protected person within the limitations of their appointment, and within the limitations of the resources available to the [ward] protected person either through the [ward's] protected person's own estate or by reason of private or public assistance.

(e) A plenary guardian or limited guardian [of a person with intellectual disability] shall not have the power or authority: (1) To cause the [ward] protected person to be admitted to any institution for treatment of the mentally ill, except in accordance with the provisions of sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, 17a-615 to 17a-618, inclusive, and 17a-621 to 17a-664, inclusive, and chapter 420b; (2) to cause the [ward] protected person to be admitted to any training school or other facility provided for the care and training of persons with intellectual disability if there is a conflict concerning such admission between the guardian and the protected person [with intellectual disability] or next of kin, except in accordance with the provisions of sections 17a-274 and 17a-275; (3) to

House Bill No. 5255

consent on behalf of the [ward] protected person to a sterilization, except in accordance with the provisions of sections 45a-690 to 45a-700, inclusive; (4) to consent on behalf of the [ward] protected person to psychosurgery, except in accordance with the provisions of section 17a-543; (5) to consent on behalf of the [ward] protected person to the termination of the [ward's] protected person's parental rights, except in accordance with the provisions of sections 45a-706 to 45a-709, inclusive, 45a-715 to 45a-718, inclusive, 45a-724 to 45a-737, inclusive, and 45a-743 to 45a-757, inclusive; (6) to consent on behalf of the [ward] protected person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment, unless it (A) is intended to preserve the life or prevent serious impairment of the physical health of the [ward] protected person, (B) is intended to assist the [ward] protected person to regain the [ward's] protected person's abilities and has been approved for the [ward] protected person by the court, or (C) has been (i) approved by a recognized institutional review board, as defined by 45 CFR 46, 21 CFR 50 and 21 CFR 56, as amended from time to time, which is not a part of the Department of Developmental Services, (ii) endorsed or supported by the Department of Developmental Services, and (iii) approved for the [ward] protected person by such [ward's] protected person's primary care physician; (7) to admit the [ward] protected person to any residential facility operated by an organization by whom such guardian is employed, except in accordance with the provisions of section 17a-274; (8) to prohibit the marriage or divorce of the [ward] protected person; and (9) to consent on behalf of the [ward] protected person to an abortion or removal of a body organ, except in accordance with applicable statutory procedures when necessary to preserve the life or prevent serious impairment of the physical or mental health of the [ward] protected person.

(f) A plenary guardian or limited guardian shall submit a report to the court: (1) Annually; (2) when the court orders additional reports to

House Bill No. 5255

be filed; (3) when there is a significant change in the capacity of the [ward] protected person to meet the essential requirements for the [ward's] protected person's physical health or safety; (4) when the plenary guardian or limited guardian resigns or is removed; and (5) when the guardianship is terminated.

(g) Such reports shall be submitted on a form provided by the office of the Probate Court Administrator and shall contain the following information: (1) Significant changes in the capacity of the [ward] protected person to meet the essential requirements for the [ward's] protected person's physical health or safety; (2) the services being provided to the [ward] protected person and the relationship of those services to the individual guardianship plan; (3) the significant actions taken by the limited guardian [of a person with intellectual disability] or plenary guardian [of a person with intellectual disability] during the reporting period; (4) any significant problems relating to the guardianship which have arisen during the reporting period; and (5) whether such guardianship, in the opinion of the guardian, should continue, be modified, or be terminated, and the reasons therefor.

(h) When any protected person [with intellectual disability for whom a guardian has been appointed] becomes a resident of any [town in the state in a] probate district in this state other than the one in which a guardian was appointed, or becomes a resident of any [town in the state] probate district in this state other than the one to which the guardianship file has been transferred under this section, [such] the court in [that district] which the guardianship matter is on file may, upon motion of any person deemed by the court to have sufficient interest in the welfare of the [respondent] protected person, including, but not limited to, the guardian, the Commissioner of Developmental Services or the commissioner's designee, or a relative of the protected person, [under guardianship,] transfer the file to the probate district in which the protected person [under guardianship]

House Bill No. 5255

resides at the time of the [application] motion, provided the transfer is in the protected person's best interest. [of the person with intellectual disability.] A transfer of the file shall be accomplished by the [probate court] Probate Court in which the guardianship matter is on file by making copies of all documents in the court and certifying each of them and then causing them to be delivered to the court for the district in which the protected person [under guardianship] resides. When the transfer is made, the [court of probate] Probate Court in which the protected person [under guardianship] resides at the time of transfer shall thereupon assume jurisdiction over the guardianship and all further accounts shall be filed with such court.

(i) A plenary guardian or limited guardian [of a person with intellectual disability] and, to the extent appropriate, [such] the protected person shall be the primary decision maker with respect to programs needed by [such] the protected person and policies and practices affecting the well-being of [such] the protected person within the authority granted by the court pursuant to this section, provided any such decision does not conflict with the requirements of section 17a-238. In making any such decision, the plenary guardian or limited guardian shall consult with the [ward] protected person and appropriate members of the [ward's] protected person's family, where possible. A limited guardian shall be the primary decision maker only with respect to such duties assigned to the limited guardian by the court. The provisions of this subsection shall be included in any court order appointing a plenary guardian or limited guardian. [of a person with intellectual disability.]

Sec. 9. Section 45a-678 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

Any plenary guardian or limited guardian [of the person with intellectual disability] serving in accordance with the provisions of sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act,

House Bill No. 5255

may be removed by the [court of probate] Probate Court which appointed such guardian and another person appointed guardian [of the person with intellectual disability] if the court [of probate] making such appointment, after notice and hearing as required in section 45a-671, as amended by this act, finds such removal and appointment of a new plenary guardian or limited guardian [of the person with intellectual disability] to be in the best interest of the [respondent] protected person. In the event [an application] a petition for removal has been filed under this section, the attorney of record for the [respondent] protected person shall have access to all of the records of the respondent.

Sec. 10. Section 45a-679 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

If a [ward] protected person or conserved person has both a plenary guardian or limited guardian [of the person with intellectual disability] and a conservator of the estate or person or a temporary conservator who are not the same person and a conflict arises between the two concerning the duties and responsibilities or authority of either, the matter shall be submitted to the [court of probate] Probate Court making the appointment of such guardian or conservator and such court shall, after a hearing, order the course of action which in its discretion is in the best interest of the [ward] protected person or conserved person.

Sec. 11. Section 45a-680 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

Whenever a [court of probate] Probate Court appoints a plenary guardian or limited guardian, [of the person with intellectual disability,] such court may appoint a standby plenary guardian or a standby limited guardian, [of the person with intellectual disability.] Such standby shall act if the appointed plenary guardian or limited

House Bill No. 5255

guardian [of the person with intellectual disability] dies, becomes incapable, or renounces his or her plenary guardianship or limited guardianship. The standby plenary guardian or standby limited guardian shall immediately inform the [court of probate] Probate Court which has jurisdiction over such guardianship of his or her assumption of the guardianship and the reason therefor. The standby guardian, in the event of the guardian's death, incapacity or renunciation, shall, upon furnishing a probate bond if such a bond had been required from the plenary guardian or limited guardian whose duties are being assumed, but without further proceedings, be empowered to assume the duties of his or her office immediately upon the death or adjudication of incompetency of the plenary guardian [of the person] or limited guardian, [of the person of the person with intellectual disability,] subject only to confirmation of his or her appointment by the [court of probate] Probate Court within sixty days following assumption of his or her duties of office.

Sec. 12. Section 45a-681 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) The court shall review each guardianship [of the person with intellectual disability or limited guardianship of the person with intellectual disability] at least every three years and shall either continue, modify or terminate the order for guardianship. Pursuant to such review:

(1) The court shall receive and review written evidence as to the condition of the [ward] protected person. Except as provided in subdivision (2) of this subsection, the guardian and a Department of Developmental Services professional or, if requested by the [ward] protected person or by the court, an assessment team appointed by the Commissioner of Developmental Services or the commissioner's designee shall each submit a written report to the court not later than forty-five days after the court's request for such report.

House Bill No. 5255

(2) In the case of a [ward] protected person who is functioning adaptively and intellectually within the severe or profound range of intellectual disability, as determined by the Department of Developmental Services, the court shall receive and review written reports as to the condition of the [ward] protected person only from the guardian, except that the court may require a Department of Developmental Services professional or assessment team to submit a written report as to the condition of [such ward] the protected person.

(3) The Department of Developmental Services professional or assessment team shall personally observe or examine the [ward] protected person within the forty-five-day period preceding the date it submits any report under subdivision (4) of this subsection.

(4) Each written report shall be submitted to the court not later than forty-five days after the court's request for such report. On receipt of a written report from the guardian or a Department of Developmental Services professional or assessment team, the court shall provide a copy of the report to the attorney for the [ward] protected person.

(5) Not later than thirty days after the attorney for the [ward] protected person receives a copy of a report pursuant to subdivision (4) of this subsection, the protected person's attorney [for the ward] shall (A) meet with the [ward] protected person concerning the report, and (B) provide written notice to the court (i) that the protected person's attorney [for the ward] has met with the [ward] protected person, and (ii) indicating whether a hearing is requested. Nothing in this section shall prevent the [ward] protected person or the protected person's attorney [for the ward] from requesting a hearing at any other time as permitted by law.

(6) If the [ward] protected person is unable to request or obtain an attorney, the court shall appoint an attorney for the [ward] protected person. If the [ward] protected person is unable to pay for the services

House Bill No. 5255

of the attorney, the reasonable compensation of such attorney shall be established by, and paid from funds appropriated to, the Judicial Department; however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(b) If the court determines, after receipt of the reports from the Department of Developmental Services professional or assessment team and the guardian, and notice from the attorney for the [ward] protected person, that there has been no change in the condition of the [ward] protected person since the last preceding review by the court, a hearing on the condition of the [ward] protected person shall not be required, but the court, in its discretion, may hold such hearing. If the protected person's attorney, [for the ward,] the Department of Developmental Services professional or assessment team or the guardian requests a hearing, the court shall hold a hearing within thirty days of such request. No order expanding or reducing the powers and responsibilities of a guardian shall be issued unless such hearing is held.

Sec. 13. Section 45a-682 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) [An application] A petition for a temporary limited guardian may be filed by any interested party alleging that the respondent is in need of elective surgical, medical or dental procedures or treatment involving the use of general anesthesia, and that by reason of the severity of [his] intellectual disability, he or she is unable to give informed consent to such treatment. Such [application] petition shall include two certificates, one signed by a physician licensed to practice medicine or surgery in this state and one signed by a licensed psychologist, stating that each has, within thirty days prior to the filing of the [application] petition, examined the respondent and in his or her

House Bill No. 5255

opinion (1) the respondent's condition renders him or her incapable of giving informed consent to said procedure, and (2) without such treatment, the respondent will suffer deterioration of his or her physical or mental health or serious discomfort.

(b) Immediately upon receipt of the [application] petition, the court shall order such notice of the [application] petition and the date and time of hearing as it may direct to the respondent, the respondent's parents or spouse, if any, and to the Office of Protection and Advocacy for Persons with Disabilities. A hearing shall be held promptly, taking into consideration the condition of the respondent. If, after hearing, the court finds that the respondent by reason of the severity of the respondent's intellectual disability is incapable of giving informed consent to such procedure, and that the respondent will suffer deterioration of the respondent's physical or mental health or serious discomfort if such procedure or treatment, or both, is not ordered, the court may appoint a temporary limited guardian for the purpose of consenting to such procedure or treatment, or both. In making such appointment, the court shall give preference to the parent, next of kin or other person whom the court deems proper. The court may appoint the Commissioner of Developmental Services, or the commissioner's designee, to serve in such capacity if it is unable to find a suitable guardian. The appointment shall not be valid for more than sixty days. A temporary limited guardian shall be subject to all limitations set forth in section 45a-677, as amended by this act.

Sec. 14. Section 45a-683 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

Any plenary guardian, [of a person with intellectual disability,] temporary limited guardian or limited guardian [of a person with intellectual disability] who acts in good faith or pursuant to order of a [court of probate] Probate Court pursuant to the provisions of sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, shall be

House Bill No. 5255

immune from civil liability, except that such immunity shall not extend to gross negligence.

Sec. 15. Subsection (a) of section 9-159s of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) The administrator of an institution, as defined in subsection (a) of section 9-159q, a residential facility for persons with intellectual disability licensed pursuant to section 17a-227, or a community residence, as defined in section 19a-507a, shall use his or her best efforts to provide written notice pursuant to subsection (b) of this section to any conservator or guardian appointed to manage the affairs of a resident of such institution, facility or residence pursuant to sections 45a-644 to 45a-663, inclusive, or sections 45a-669 to ~~45a-684~~ 45a-683, inclusive, as amended by this act, at least seven days prior to the date any voter registration or voting opportunity is presented to the resident with respect to a primary, referendum or election. As used in this section, "voter registration" or "voting opportunity" includes, but is not limited to, the solicitation or completion of: (1) An application for admission as an elector; or (2) an absentee ballot, regardless of whether supervised absentee ballot voting will take place at such institution. The administrator of such institution, facility or residence shall also use his or her best efforts to provide written notice to any such conservator or guardian at least seven days prior to the date when the resident may be brought to a polling place to vote in person. The notification provisions of this section shall not apply when a member of the resident's immediate family provides the resident with an absentee ballot application or brings the resident to a polling place to vote.

Sec. 16. Section 17a-281 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

House Bill No. 5255

Any person who is a resident of Connecticut at the time an application is made by such resident or on behalf of such resident under the provisions of this section, and who is, or appears to be, or believes himself or herself to be a person with intellectual disability, may apply, in writing, to the Commissioner of Developmental Services, on a form prescribed by the commissioner, for admission to any facility for persons with intellectual disability. Such application shall be accompanied by a medical history of the applicant, including any medical or physical condition requiring special attention, treatment or precautions, a written psychological report provided by a psychologist either licensed under the provisions of chapter 383 or employed by the Department of Developmental Services, who has personally examined the applicant prior to the filing of application for residential placement or a copy of the determination of eligibility made in accordance with section 17a-212 and the regulations adopted thereunder. The written psychological report shall include (1) a statement that the psychologist has personally examined the applicant not more than ninety days prior to the date of filing of the application, (2) the results of a psychometric assessment conducted not more than one year prior to the date of filing of the application, and (3) an evaluation of the applicant's current level of adaptive functioning, including self-care, mental health, social, academic and vocational needs. In the event of an emergency, admission to a residential facility may be made and the required medical history and psychologist's report may be submitted not later than thirty days after the date of such admission. The application for such person, if such person is a minor, may be made by a parent, guardian of the person of, or person having custody of, such minor. If such person is an adult who has had a guardian appointed pursuant to sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, such person's guardian may apply for admission and the commissioner may admit such person, provided the commissioner is satisfied that there is no conflict concerning the admission between the guardian and his or her ward or

House Bill No. 5255

the ward's next of kin. If such conflict exists, the applicant may only be admitted under the provisions of section 17a-274. The commissioner may approve any such application for admission if the person on whose behalf application is made is suitable for admission and if space is available and may terminate such admission at any time when the commissioner feels such person will not profit from continued placement. The provisions of this section shall not apply to persons who apply to the commissioner for respite care services for a period not to exceed thirty days.

Sec. 17. Subdivision (3) of subsection (i) of section 45a-186 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(3) The following matters shall not be referred to a special assignment probate judge pursuant to this subsection: Appeals under sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688, inclusive, children's matters as defined in subsection (a) of section 45a-8a, sections 45a-644 to 45a-663, inclusive, 45a-668 to ~~[45a-684]~~ 45a-683, inclusive, as amended by this act, and 45a-690 to 45a-700, inclusive, and any matter in a Probate Court heard on the record in accordance with sections 51-72 and 51-73.

Sec. 18. Subdivision (7) of section 46a-11a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(7) "Guardian" means the guardian or limited guardian of a person with intellectual disability appointed pursuant to sections 45a-669 to ~~[45a-684]~~ 45a-683, inclusive, as amended by this act;

Sec. 19. Section 45a-684 of the 2016 supplement to the general statutes is repealed. (*Effective July 1, 2016*)

House Bill No. 5255

Approved May 25, 2016