

## Center for Children's Advocacy

### **TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY IN SUPPORT OF RAISED BILL NO. 219 *AN ACT CONCERNING PROBATE COURT OPERATIONS*, WITH PROPOSED AMENDMENTS TO SECTION 4 REGARDING THE DEFINITION OF MINOR CHILD.**

This testimony is submitted on behalf of the Center for Children's Advocacy, a private, non-profit legal organization affiliated with the University of Connecticut School of Law. The Center provides holistic legal services for poor children in Connecticut's communities through individual representation and systemic advocacy.

The Center for Children's Advocacy **urges you to amend Section 4 of Raised Bill No. 219** to extend probate court jurisdiction in order to adjudicate petitions for appointment of guardian pursuant to sections 45a-616 through 45a-617 of the general statutes for persons under the age of twenty-one who are dependent on a competent caregiver and seek to obtain findings pursuant to section 45a-608n of the general statutes, in connection with a petition to the United States Citizenship and Immigration Services for designation of the minor child as having special immigrant juvenile status under 8 USC 1101(a) (27) (J). There is a need to fully implement the intent of the federal law seeking to protect vulnerable young people. Inconsistencies between state law and federal law hinder an individual youth's ability to obtain the state court findings that are necessary to apply for an existing immigration benefit.

Youth like Luis, who a month shy of turning eighteen years old was resettled by the Office of Refugee Resettlement (ORR)<sup>1</sup> to live with his aunt in Connecticut while awaiting removal proceedings. Luis was abandoned at birth by his mother and left in the care of a relative who also abandoned him when he was just five years old. By the time he reached the age of 15, Luis had lived with numerous caregivers who were significantly abusive and neglectful. At one point he felt such suffering and despair that he contemplated ending his life. He chose homelessness over the abuse and sometime later found work driving a moto-taxi in San Pedro Sula, Honduras, ranked as the most violent city in the world.<sup>2</sup> After living on his own for two years he found himself subject to a death threat when he refused to be coerced into joining a deadly criminal gang in his native Honduras.

Having no place and no one to go to and with only \$2.00 in his pocket, Luis fled Honduras to avoid certain death. He walked, jumped onto moving trains and swam across a river arriving at Eagle Pass Texas only to be apprehended by U.S. immigration authorities. Fortunately, an aunt now living in Connecticut was contacted

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<sup>1</sup> ORR is an office of the Federal Administration for Children and Families.

<sup>2</sup> See San Pedro Sula, Honduras: Nearly a War Zone <http://www.lawg.org/action-center/lawg-blog/69-general/1421-san-pedro-sula-honduras-nearly-a-war-zone>. See also United Nations Office on Drugs and Crime's 2011 Global Study on Homicide available at: [https://www.unodc.org/documents/congress/backgroundinformation/Crime Statistics/Global\\_Study\\_on\\_Homicide\\_2011.pdf](https://www.unodc.org/documents/congress/backgroundinformation/Crime%20Statistics/Global_Study_on_Homicide_2011.pdf)

and was allowed to take him home while he awaited removal proceedings. Our present definition of minor child makes it extremely difficult if not impossible for youth like Luis to seek the protection of the Probate court in order to have a competent guardian appointed and seek the special findings which would afford an existing federal benefit that if granted, could save them from certain harm.

Raised Bill No. 219 places an emphasis on streamlining and addressing a number of contemporary issues that appear before the Probate courts. However, Raised Bill No. 219 fails to address the reality of many youth who like Luis need a competent caregiver beyond the age of eighteen as a result of having arrived in our State at a critical time in their lives.

**I. AMENDING SECTION 4 OF RAISED BILL 219 TO EXPAND THE DEFINITION OF MINOR CHILD IS NECESSARY TO PROTECT VULNERABLE YOUTH IN OUR STATE.**

Since October 2013, more than 800 unaccompanied children have been resettled in Connecticut by the ORR.<sup>3</sup> A significant portion of these children have fled their countries of origin due to abuse, neglect and abandonment. Special Immigrant Juvenile Status (SIJS) is a form of immigration relief designed to protect children up to the age of twenty-one who have been abandoned, abused or neglected by allowing them to regularize their immigration status.<sup>4</sup>

However, because of our statutory definition of minor child, this form of relief becomes quickly unavailable as children may be on the cusp of turning eighteen or they have reached this threshold age by the time they enter our State. However, many of these children are still dependent on a competent caregiver for their physical and emotional needs as they are not allowed to work under federal and state law; are attending school (sometimes for the first time in years) and addressing other unmet basic needs due to their traumatic childhood experiences.

Expanding the definition of minor child in order for youth to access the support of a competent caregiver is supported by best practice models including a resolution approved by the American Bar Association Commission on Youth At Risk urging changes in child welfare practice to ensure that each youth who transitions from dependent situations has a permanent, significant connection to at least one appropriate adult.<sup>5</sup>

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<sup>3</sup> See Office of Refugee Resettlement, *Unaccompanied Children Released to Sponsors by State*, available at: <http://www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors> retrieved on 1/19/2016.

<sup>4</sup> SIJS is a two part process: if the state court pursuant to a guardianship or a child abuse or neglect proceeding makes some specific findings as to the immigrant child, he or she can then take the state court order and apply for the SIJS protection with the federal government.

<sup>5</sup> See American Bar Association, Commission On Youth At Risk, Commission On Homelessness And Poverty, Report To The House Of Delegates, Resolution 109A, February 2014, available at: [http://www.americanbar.org/content/dam/aba/images/abanews/2014mym\\_hodres/109a.pdf](http://www.americanbar.org/content/dam/aba/images/abanews/2014mym_hodres/109a.pdf)

**II. AMENDING SECTION 4 OF RAISED BILL 219 TO EXPAND THE DEFINITION OF MINOR CHILD WILL ENSURE THAT OUR STATE IS ON THE FOREFRONT OF ADDRESSING INCONSISTENCIES BETWEEN STATE STATUTES AND FEDERAL LAW THAT DEPRIVE YOUTH OF AN EXISTING FEDERAL PROTECTION.**

Federal law allows an unmarried person under the age of 21 to petition to the United States Citizenship and Immigration Services for designation as having special immigrant juvenile status under 8 USC 1101(a) (27) (J). States like New York<sup>6</sup> in 2008, and most recently Maryland<sup>7</sup> in 2014 have expanded the definition of minor child to extend the jurisdiction of their courts bringing them in line with the protections afforded under 8 USC 1101(a) (27) (J).

**We strongly urge you to consider the proposed amendments set forth in Exhibit A attached in order to ensure that youth in need of a competent caregiver have the protection of our judicial system.**

Respectfully submitted,  
Edwin D. Colon, Esq.  
Staff Attorney

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<sup>6</sup> Pursuant to a 2008 amendment, New York Family Court Act §661(a) was amended as follows: "... the terms infant or minor shall include a person who is less than twenty-one years old who consents to the appointment or continuation of a guardian after the age of eighteen."

<sup>7</sup> In 2014, House Bill 315 became effective in Maryland and defines the term "child" to mean an unmarried individual under the age of twenty-one years.

## EXHIBIT A

### Proposed Amendments

#### *Raised Bill No. 219, AN ACT CONCERNING PROBATE COURT OPERATIONS.*

**Purpose:** To extend probate court jurisdiction in order to adjudicate petitions for appointment of guardian pursuant to sections 45a-616 through 45a-617 of the general statutes for persons under the age of twenty-one who seek to obtain findings pursuant to section 45a-608n of the general statutes, in connection with a petition to the United States Citizenship and Immigration Services for designation of the minor child as having special immigrant juvenile status under 8 USC 1101(a) (27) (J).

#### **Section 4 of Raised Bill No. 219 should be amended as follows:**

Sec. 4. Section 45a-604 (4) of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(4) "Minor" or "minor child" means a person under the age of eighteen; however, for purposes of appointment of a guardian pursuant to sections 45a-616 through 45a-617 and section 45a-608n the term minor shall also include an unmarried person under the age of twenty-one who is dependent on a competent caregiver in accordance with section 45a-617 and consents to the appointment of a guardian after the age of eighteen.

Section 45a-616 (*NEW*) (*Effective October 1, 2016*):

(f) A minor who consents to the appointment of a guardian after the age of eighteen can revoke such consent by providing written notice filed with the court within 30 days of the date when the appointment is to terminate.

Section 45a-620 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

The Court of Probate may appoint counsel to represent or appear on behalf of any minor in proceedings brought under sections 45a-603 to 45a-622, inclusive, and sections 45a-715 to 45a-717, inclusive. In any proceeding in which abuse or neglect, as defined in section 46b-120, is alleged by the applicant, or reasonably suspected by the court, a minor shall be represented by counsel appointed by the court to represent the minor except such appointment is not necessary in cases where the minor is over the age of eighteen.

Section 45a-625 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):

Any person appointed as guardian of the person of a minor pursuant to sections 45a-603 to 45a-624g, inclusive, shall report at least annually to the probate court which appointed the guardian regarding the condition of the minor except such report is not required for a minor over the age of eighteen.