



General Assembly

February Session, 2016

***Raised Bill No. 5255***

LCO No. 1221



Referred to Committee on HUMAN SERVICES

Introduced by:  
(HS)

***AN ACT CONCERNING GUARDIANSHIP OF PERSONS WITH INTELLECTUAL DISABILITY.***

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

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 Section 45a-669 of the general statutes is repealed and the  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

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

6 (a) ["Plenary guardian of a person with intellectual disability"]  
7 "Plenary guardian" means a person, legally authorized state official, [or  
8 private nonprofit] corporation, limited liability company, partnership  
9 or other entity recognized under the laws of this state, whether or not  
10 operated for profit, except a hospital, nursing home facility, as defined  
11 in section 19a-521, or residential care home, as defined in section 19a-  
12 521, appointed by a [court of probate] Probate Court pursuant to the  
13 provisions of sections 45a-669 to [45a-684] 45a-683, inclusive, as  
14 amended by this act, to supervise all aspects of the care of an adult

15 person, as enumerated in subsection (d) of section 45a-677, as amended  
16 by this act, for the benefit of such adult, who by reason of the severity  
17 of [his or her] intellectual disability, has been determined to be totally  
18 unable to meet essential requirements for his or her physical health or  
19 safety and totally unable to make informed decisions about matters  
20 related to his or her care.

21 (b) "Legally competent" means having the legal power to direct  
22 one's personal and financial affairs. All persons in this state eighteen  
23 years of age and over are legally competent unless determined  
24 otherwise by a court in accordance with the provisions of sections 45a-  
25 669 to [45a-684] 45a-683, inclusive, as amended by this act, or unless  
26 otherwise provided by law.

27 (c) ["Limited guardian of a person with intellectual disability"]  
28 "Limited guardian" means a person, legally authorized state official,  
29 [or a private nonprofit] corporation, limited liability company,  
30 partnership or other entity recognized under the laws of this state,  
31 whether or not operated for profit, except a hospital or nursing home,  
32 as defined in section 19a-521, appointed by a [court of probate] Probate  
33 Court pursuant to the provisions of sections 45a-669 to [45a-684] 45a-  
34 683, inclusive, as amended by this act, to supervise certain specified  
35 aspects of the care of an adult person, as enumerated in subsection (d)  
36 of section 45a-677, as amended by this act, for the benefit of such adult,  
37 who by reason of the severity of [his] intellectual disability, has been  
38 determined to be able to do some, but not all, of the tasks necessary to  
39 meet essential requirements for his or her physical health or safety or  
40 to make some, but not all, informed decisions about matters related to  
41 his or her care.

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

45 (e) "Respondent" means an adult person for whom [an application]

46 a petition for guardianship or limited guardianship of the person has  
47 been filed.

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

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

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

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

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

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

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

104 (c) All records of cases related to guardianship under sections 45a-  
105 669 to 45a-683, inclusive, as amended by this act, shall be confidential  
106 and shall not be open to public inspection by or disclosed to any  
107 person, except that (1) such records shall be available to (A) the parties  
108 in any such case and their counsel, (B) the Department of  
109 Developmental Services, and (C) the Office of the Probate Court

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

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

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

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

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

137       Sec. 4. Section 45a-672 of the general statutes is repealed and the  
138 following is substituted in lieu thereof (*Effective October 1, 2016*):

139       The notice required by subsection (a) of section 45a-671, as amended

140 by this act, shall inform such respondent of (1) whether the  
141 guardianship sought is a plenary or a limited guardianship and that  
142 the court, notwithstanding which type of guardianship is sought, may  
143 appoint a plenary guardian or a limited guardian [of the person with  
144 intellectual disability] with such limitations as the court determines; (2)  
145 the legal consequences of both plenary and limited guardianships; (3)  
146 the facts alleged in the [application] petition and the limitations on the  
147 guardian's authority, if any, specifically applied for; and (4) the right to  
148 be represented by counsel.

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

151 At any hearing for appointment of a plenary guardian or limited  
152 guardian, [of the person with intellectual disability,] the court shall  
153 receive evidence as to the condition of the respondent, including a  
154 written report or testimony by a Department of Developmental  
155 Services assessment team appointed by the Commissioner of  
156 Developmental Services or his or her designee, no member of which is  
157 related by blood, marriage or adoption to either the [applicant]  
158 petitioner or the respondent and each member of which has personally  
159 observed or examined the respondent within forty-five days next  
160 preceding such hearing. The assessment team shall be comprised of at  
161 least two representatives from among appropriate disciplines having  
162 expertise in the evaluation of persons alleged to have intellectual  
163 disability. The assessment team members shall make their report on a  
164 form provided for that purpose by the office of the Probate Court  
165 Administrator and shall answer questions on such form as fully and  
166 completely as possible. The report shall contain specific information  
167 regarding the severity of the intellectual disability of the respondent  
168 and those specific areas, if any, in which [he] the respondent needs the  
169 supervision and protection of a guardian, and shall state upon the  
170 form the reasons for such opinions. The [applicant] petitioner,  
171 respondent or [his] the respondent's counsel shall have the right to  
172 present evidence and cross-examine witnesses who testify at any

173 hearing on the [application. If such] petition. If the respondent or [his]  
174 the respondent's counsel notifies the court not less than three days  
175 before the hearing that he or she wishes to cross-examine the  
176 witnesses, the court shall order such witnesses to appear. The fees for  
177 such assessment team shall be paid from funds appropriated to the  
178 Department of Developmental Services.

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

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

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

192 (a) If the court finds, by clear and convincing evidence, that the  
193 respondent is, by reason of the severity of the respondent's intellectual  
194 disability, totally unable to meet essential requirements for the  
195 respondent's physical health or safety and totally unable to make  
196 informed decisions about matters related to the respondent's care, the  
197 court shall appoint a plenary guardian or plenary coguardians [of the  
198 person with intellectual disability] who shall have all those powers  
199 and duties provided for in section 45a-677, as amended by this act.

200 (b) If the court finds by clear and convincing evidence that the  
201 respondent is able to do some, but not all, of the tasks necessary to  
202 meet essential requirements for the respondent's physical health or  
203 safety or that the respondent is able to make some, but not all,

204 informed decisions about matters related to the respondent's care, the  
205 court shall appoint a limited guardian or limited coguardians. [of the  
206 person with intellectual disability.]

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

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

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

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

225 (g) No person shall be excluded from serving as a plenary guardian  
226 or limited guardian solely because such person is employed by the  
227 Department of Developmental Services, except that (1) no such  
228 employee may be appointed as a plenary guardian or limited guardian  
229 of a person [with intellectual disability] residing in a state-operated  
230 residential facility for persons with intellectual disability located in the  
231 Department of Developmental Services region in which such person is  
232 employed; and (2) no such employee shall be so appointed unless no  
233 other suitable person to serve as plenary guardian or limited guardian  
234 can be found. Any appointment of an employee of the Department of



235 Developmental Services as a plenary guardian or limited guardian  
236 shall be made for a limited purpose and duration. During the term of  
237 appointment of any such employee, the Commissioner of  
238 Developmental Services shall search for a suitable person who is not  
239 an employee of the department to replace such employee as plenary  
240 guardian or limited guardian.

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

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

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

262 (a) The court may assign to a limited guardian [of a person with  
263 intellectual disability] any portion of the duties and powers listed in  
264 subsection (d) of this section for those particular areas in which the  
265 [respondent] protected person lacks the capacity to meet the essential

266 requirements for [such respondent's] the protected person's physical or  
267 mental health or safety.

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

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

289 (d) The court may assign to a limited guardian the custody of the  
290 [ward] protected person for the purpose of exercising any, but not all,  
291 of the following limited duties and powers, in order to assist the  
292 [ward] protected person in achieving self-reliance: (1) To assure and  
293 consent to a place of abode outside the natural family home, (2) to  
294 consent to specifically designed educational, vocational or behavioral  
295 programs, (3) to consent to the release of clinical records and  
296 photographs, (4) to assure and consent to routine, elective and  
297 emergency medical and dental care, and (5) other specific limited

298 powers to assure and consent to services necessary to develop or  
299 regain to the maximum extent possible the [ward's] protected person's  
300 capacity to meet essential requirements. All plenary guardians and  
301 limited guardians appointed pursuant to sections 45a-669 to [45a-684]  
302 45a-683, inclusive, as amended by this act, shall also have a duty to  
303 assure the care and comfort of the [ward] protected person within the  
304 limitations of their appointment, and within the limitations of the  
305 resources available to the [ward] protected person either through the  
306 [ward's] protected person's own estate or by reason of private or public  
307 assistance.

308 (e) A plenary guardian or limited guardian [of a person with  
309 intellectual disability] shall not have the power or authority: (1) To  
310 cause the [ward] protected person to be admitted to any institution for  
311 treatment of the mentally ill, except in accordance with the provisions  
312 of sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive,  
313 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to  
314 17a-576, inclusive, 17a-615 to 17a-618, inclusive, and 17a-621 to 17a-  
315 664, inclusive, and chapter 420b; (2) to cause the [ward] protected  
316 person to be admitted to any training school or other facility provided  
317 for the care and training of persons with intellectual disability if there  
318 is a conflict concerning such admission between the guardian and the  
319 protected person [with intellectual disability] or next of kin, except in  
320 accordance with the provisions of sections 17a-274 and 17a-275; (3) to  
321 consent on behalf of the [ward] protected person to a sterilization,  
322 except in accordance with the provisions of sections 45a-690 to 45a-700,  
323 inclusive; (4) to consent on behalf of the [ward] protected person to  
324 psychosurgery, except in accordance with the provisions of section  
325 17a-543; (5) to consent on behalf of the [ward] protected person to the  
326 termination of the [ward's] protected person's parental rights, except in  
327 accordance with the provisions of sections 45a-706 to 45a-709,  
328 inclusive, 45a-715 to 45a-718, inclusive, 45a-724 to 45a-737, inclusive,  
329 and 45a-743 to 45a-757, inclusive; (6) to consent on behalf of the [ward]  
330 protected person to the performance of any experimental biomedical

331 or behavioral medical procedure or participation in any biomedical or  
332 behavioral experiment, unless it (A) is intended to preserve the life or  
333 prevent serious impairment of the physical health of the [ward]  
334 protected person, (B) is intended to assist the [ward] protected person  
335 to regain the [ward's] protected person's abilities and has been  
336 approved for the [ward] protected person by the court, or (C) has been  
337 (i) approved by a recognized institutional review board, as defined by  
338 45 CFR 46, 21 CFR 50 and 21 CFR 56, as amended from time to time,  
339 which is not a part of the Department of Developmental Services, (ii)  
340 endorsed or supported by the Department of Developmental Services,  
341 and (iii) approved for the [ward] protected person by such [ward's]  
342 protected person's primary care physician; (7) to admit the [ward]  
343 protected person to any residential facility operated by an organization  
344 by whom such guardian is employed, except in accordance with the  
345 provisions of section 17a-274; (8) to prohibit the marriage or divorce of  
346 the [ward] protected person; and (9) to consent on behalf of the [ward]  
347 protected person to an abortion or removal of a body organ, except in  
348 accordance with applicable statutory procedures when necessary to  
349 preserve the life or prevent serious impairment of the physical or  
350 mental health of the [ward] protected person.

351 (f) A plenary guardian or limited guardian shall submit a report to  
352 the court: (1) Annually; (2) when the court orders additional reports to  
353 be filed; (3) when there is a significant change in the capacity of the  
354 [ward] protected person to meet the essential requirements for the  
355 [ward's] protected person's physical health or safety; (4) when the  
356 plenary guardian or limited guardian resigns or is removed; and (5)  
357 when the guardianship is terminated.

358 (g) Such reports shall be submitted on a form provided by the office  
359 of the Probate Court Administrator and shall contain the following  
360 information: (1) Significant changes in the capacity of the [ward]  
361 protected person to meet the essential requirements for the [ward's]  
362 protected person's physical health or safety; (2) the services being  
363 provided to the [ward] protected person and the relationship of those

364 services to the individual guardianship plan; (3) the significant actions  
365 taken by the limited guardian [of a person with intellectual disability]  
366 or plenary guardian [of a person with intellectual disability] during the  
367 reporting period; (4) any significant problems relating to the  
368 guardianship which have arisen during the reporting period; and (5)  
369 whether such guardianship, in the opinion of the guardian, should  
370 continue, be modified, or be terminated, and the reasons therefor.

371 (h) When any protected person [with intellectual disability for  
372 whom a guardian has been appointed] becomes a resident of any  
373 [town in the state in a] probate district in this state other than the one  
374 in which a guardian was appointed, or becomes a resident of any  
375 [town in the state] probate district in this state other than the one to  
376 which the guardianship file has been transferred under this section,  
377 [such] the court in [that district] which the guardianship matter is on  
378 file may, upon motion of any person deemed by the court to have  
379 sufficient interest in the welfare of the [respondent] protected person,  
380 including, but not limited to, the guardian, the Commissioner of  
381 Developmental Services or the commissioner's designee, or a relative  
382 of the protected person, [under guardianship,] transfer the file to the  
383 probate district in which the protected person [under guardianship]  
384 resides at the time of the [application] motion, provided the transfer is  
385 in the protected person's best interest. [of the person with intellectual  
386 disability.] A transfer of the file shall be accomplished by the [probate  
387 court] Probate Court in which the guardianship matter is on file by  
388 making copies of all documents in the court and certifying each of  
389 them and then causing them to be delivered to the court for the district  
390 in which the protected person [under guardianship] resides. When the  
391 transfer is made, the [court of probate] Probate Court in which the  
392 protected person [under guardianship] resides at the time of transfer  
393 shall thereupon assume jurisdiction over the guardianship and all  
394 further accounts shall be filed with such court.

395 (i) A plenary guardian or limited guardian [of a person with  
396 intellectual disability] and, to the extent appropriate, [such] the

397 protected person shall be the primary decision maker with respect to  
398 programs needed by [such] the protected person and policies and  
399 practices affecting the well-being of [such] the protected person within  
400 the authority granted by the court pursuant to this section, provided  
401 any such decision does not conflict with the requirements of section  
402 17a-238. In making any such decision, the plenary guardian or limited  
403 guardian shall consult with the [ward] protected person and  
404 appropriate members of the [ward's] protected person's family, where  
405 possible. A limited guardian shall be the primary decision maker only  
406 with respect to such duties assigned to the limited guardian by the  
407 court. The provisions of this subsection shall be included in any court  
408 order appointing a plenary guardian or limited guardian. [of a person  
409 with intellectual disability.]

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

412 Any plenary guardian or limited guardian [of the person with  
413 intellectual disability] serving in accordance with the provisions of  
414 sections 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act,  
415 may be removed by the [court of probate] Probate Court which  
416 appointed such guardian and another person appointed guardian [of  
417 the person with intellectual disability] if the court [of probate] making  
418 such appointment, after notice and hearing as required in section 45a-  
419 671, as amended by this act, finds such removal and appointment of a  
420 new plenary guardian or limited guardian [of the person with  
421 intellectual disability] to be in the best interest of the [respondent]  
422 protected person. In the event [an application] a petition for removal  
423 has been filed under this section, the attorney of record for the  
424 [respondent] protected person shall have access to all of the records of  
425 the respondent.

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

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

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

440 Whenever a [court of probate] Probate Court appoints a plenary  
441 guardian or limited guardian, [of the person with intellectual  
442 disability,] such court may appoint a standby plenary guardian or a  
443 standby limited guardian. [of the person with intellectual disability.]  
444 Such standby shall act if the appointed plenary guardian or limited  
445 guardian [of the person with intellectual disability] dies, becomes  
446 incapable, or renounces his or her plenary guardianship or limited  
447 guardianship. The standby plenary guardian or standby limited  
448 guardian shall immediately inform the [court of probate] Probate  
449 Court which has jurisdiction over such guardianship of his or her  
450 assumption of the guardianship and the reason therefor. The standby  
451 guardian, in the event of the guardian's death, incapacity or  
452 renunciation, shall, upon furnishing a probate bond if such a bond had  
453 been required from the plenary guardian or limited guardian whose  
454 duties are being assumed, but without further proceedings, be  
455 empowered to assume the duties of his or her office immediately upon  
456 the death or adjudication of incompetency of the plenary guardian [of  
457 the person] or limited guardian, [of the person of the person with  
458 intellectual disability,] subject only to confirmation of his or her  
459 appointment by the [court of probate] Probate Court within sixty days  
460 following assumption of his or her duties of office.

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

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

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

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

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

488 (4) Each written report shall be submitted to the court not later than  
489 forty-five days after the court's request for such report. On receipt of a  
490 written report from the guardian or a Department of Developmental  
491 Services professional or assessment team, the court shall provide a



492 copy of the report to the attorney for the [ward] protected person.

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

503 (6) If the [ward] protected person is unable to request or obtain an  
504 attorney, the court shall appoint an attorney for the [ward] protected  
505 person. If the [ward] protected person is unable to pay for the services  
506 of the attorney, the reasonable compensation of such attorney shall be  
507 established by, and paid from funds appropriated to, the Judicial  
508 Department; however, if funds have not been included in the budget  
509 of the Judicial Department for such purposes, such compensation shall  
510 be established by the Probate Court Administrator and paid from the  
511 Probate Court Administration Fund.

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

524 hearing is held.

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

527 (a) [An application] A petition for a temporary limited guardian  
528 may be filed by any interested party alleging that the respondent is in  
529 need of elective surgical, medical or dental procedures or treatment  
530 involving the use of general anesthesia, and that by reason of the  
531 severity of [his] intellectual disability, he or she is unable to give  
532 informed consent to such treatment. Such [application] petition shall  
533 include two certificates, one signed by a physician licensed to practice  
534 medicine or surgery in this state and one signed by a licensed  
535 psychologist, stating that each has, within thirty days prior to the filing  
536 of the [application] petition, examined the respondent and in his or her  
537 opinion (1) the respondent's condition renders him or her incapable of  
538 giving informed consent to said procedure, and (2) without such  
539 treatment, the respondent will suffer deterioration of his or her  
540 physical or mental health or serious discomfort.

541 (b) Immediately upon receipt of the [application] petition, the court  
542 shall order such notice of the [application] petition and the date and  
543 time of hearing as it may direct to the respondent, the respondent's  
544 parents or spouse, if any, and to the Office of Protection and Advocacy  
545 for Persons with Disabilities. A hearing shall be held promptly, taking  
546 into consideration the condition of the respondent. If, after hearing, the  
547 court finds that the respondent by reason of the severity of the  
548 respondent's intellectual disability is incapable of giving informed  
549 consent to such procedure, and that the respondent will suffer  
550 deterioration of the respondent's physical or mental health or serious  
551 discomfort if such procedure or treatment, or both, is not ordered, the  
552 court may appoint a temporary limited guardian for the purpose of  
553 consenting to such procedure or treatment, or both. In making such  
554 appointment, the court shall give preference to the parent, next of kin  
555 or other person whom the court deems proper. The court may appoint

556 the Commissioner of Developmental Services, or the commissioner's  
557 designee, to serve in such capacity if it is unable to find a suitable  
558 guardian. The appointment shall not be valid for more than sixty days.  
559 A temporary limited guardian shall be subject to all limitations set  
560 forth in section 45a-677, as amended by this act.

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

563 Any plenary guardian, [of a person with intellectual disability,]  
564 temporary limited guardian or limited guardian [of a person with  
565 intellectual disability] who acts in good faith or pursuant to order of a  
566 [court of probate] Probate Court pursuant to the provisions of sections  
567 45a-669 to [45a-684] 45a-683, inclusive, as amended by this act, shall be  
568 immune from civil liability, except that such immunity shall not extend  
569 to gross negligence.

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

573 (a) The administrator of an institution, as defined in subsection (a)  
574 of section 9-159q, a residential facility for persons with intellectual  
575 disability licensed pursuant to section 17a-227, or a community  
576 residence, as defined in section 19a-507a, shall use his or her best  
577 efforts to provide written notice pursuant to subsection (b) of this  
578 section to any conservator or guardian appointed to manage the affairs  
579 of a resident of such institution, facility or residence pursuant to  
580 sections 45a-644 to 45a-663, inclusive, or sections 45a-669 to [45a-684]  
581 45a-683, inclusive, as amended by this act, at least seven days prior to  
582 the date any voter registration or voting opportunity is presented to  
583 the resident with respect to a primary, referendum or election. As used  
584 in this section, "voter registration" or "voting opportunity" includes,  
585 but is not limited to, the solicitation or completion of: (1) An  
586 application for admission as an elector; or (2) an absentee ballot,

587 regardless of whether supervised absentee ballot voting will take place  
588 at such institution. The administrator of such institution, facility or  
589 residence shall also use his or her best efforts to provide written notice  
590 to any such conservator or guardian at least seven days prior to the  
591 date when the resident may be brought to a polling place to vote in  
592 person. The notification provisions of this section shall not apply when  
593 a member of the resident's immediate family provides the resident  
594 with an absentee ballot application or brings the resident to a polling  
595 place to vote.

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

598 Any person who is a resident of Connecticut at the time an  
599 application is made by such resident or on behalf of such resident  
600 under the provisions of this section, and who is, or appears to be, or  
601 believes himself or herself to be a person with intellectual disability,  
602 may apply, in writing, to the Commissioner of Developmental  
603 Services, on a form prescribed by the commissioner, for admission to  
604 any facility for persons with intellectual disability. Such application  
605 shall be accompanied by a medical history of the applicant, including  
606 any medical or physical condition requiring special attention,  
607 treatment or precautions, a written psychological report provided by a  
608 psychologist either licensed under the provisions of chapter 383 or  
609 employed by the Department of Developmental Services, who has  
610 personally examined the applicant prior to the filing of application for  
611 residential placement or a copy of the determination of eligibility made  
612 in accordance with section 17a-212 and the regulations adopted  
613 thereunder. The written psychological report shall include (1) a  
614 statement that the psychologist has personally examined the applicant  
615 not more than ninety days prior to the date of filing of the application,  
616 (2) the results of a psychometric assessment conducted not more than  
617 one year prior to the date of filing of the application, and (3) an  
618 evaluation of the applicant's current level of adaptive functioning,  
619 including self-care, mental health, social, academic and vocational

620 needs. In the event of an emergency, admission to a residential facility  
621 may be made and the required medical history and psychologist's  
622 report may be submitted not later than thirty days after the date of  
623 such admission. The application for such person, if such person is a  
624 minor, may be made by a parent, guardian of the person of, or person  
625 having custody of, such minor. If such person is an adult who has had  
626 a guardian appointed pursuant to sections 45a-669 to [45a-684] 45a-  
627 683, inclusive, as amended by this act, such person's guardian may  
628 apply for admission and the commissioner may admit such person,  
629 provided the commissioner is satisfied that there is no conflict  
630 concerning the admission between the guardian and his or her ward or  
631 the ward's next of kin. If such conflict exists, the applicant may only be  
632 admitted under the provisions of section 17a-274. The commissioner  
633 may approve any such application for admission if the person on  
634 whose behalf application is made is suitable for admission and if space  
635 is available and may terminate such admission at any time when the  
636 commissioner feels such person will not profit from continued  
637 placement. The provisions of this section shall not apply to persons  
638 who apply to the commissioner for respite care services for a period  
639 not to exceed thirty days.

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

643 (3) The following matters shall not be referred to a special  
644 assignment probate judge pursuant to this subsection: Appeals under  
645 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to  
646 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,  
647 inclusive, children's matters as defined in subsection (a) of section 45a-  
648 8a, sections 45a-644 to 45a-663, inclusive, 45a-668 to [45a-684] 45a-683,  
649 inclusive, as amended by this act, and 45a-690 to 45a-700, inclusive,  
650 and any matter in a Probate Court heard on the record in accordance  
651 with sections 51-72 and 51-73.

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

655        (7) "Guardian" means the guardian or limited guardian of a person  
 656 with intellectual disability appointed pursuant to sections 45a-669 to  
 657 [45a-684] 45a-683, inclusive, as amended by this act;

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

|   |                        |                  |
|---|------------------------|------------------|
| This act shall take effect as follows and shall amend the following sections: |                        |                  |
| Section 1   | <i>October 1, 2016</i> | 45a-669          |
| Sec. 2  | <i>October 1, 2016</i> | 45a-670          |
| Sec. 3  | <i>October 1, 2016</i> | 45a-671          |
| Sec. 4  | <i>October 1, 2016</i> | 45a-672          |
| Sec. 5  | <i>October 1, 2016</i> | 45a-674          |
| Sec. 6  | <i>October 1, 2016</i> | 45a-675          |
| Sec. 7  | <i>October 1, 2016</i> | 45a-676          |
| Sec. 8  | <i>October 1, 2016</i> | 45a-677          |
| Sec. 9  | <i>October 1, 2016</i> | 45a-678          |
| Sec. 10   | <i>October 1, 2016</i> | 45a-679          |
| Sec. 11   | <i>October 1, 2016</i> | 45a-680          |
| Sec. 12   | <i>October 1, 2016</i> | 45a-681          |
| Sec. 13   | <i>October 1, 2016</i> | 45a-682          |
| Sec. 14   | <i>October 1, 2016</i> | 45a-683          |
| Sec. 15   | <i>October 1, 2016</i> | 9-159s(a)        |
| Sec. 16   | <i>October 1, 2016</i> | 17a-281          |
| Sec. 17   | <i>October 1, 2016</i> | 45a-186(i)(3)    |
| Sec. 18   | <i>October 1, 2016</i> | 46a-11a(7)       |
| Sec. 19   | <i>July 1, 2016</i>    | Repealer section |

**Statement of Purpose:**

To remove obsolete terms and clarify confidentiality of records and other provisions in statutes concerning guardianships of persons with intellectual disabilities.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*