



General Assembly

Substitute Bill No. 219

February Session, 2016

* SB00219JUD__031416__ *

AN ACT CONCERNING PROBATE COURT OPERATIONS.

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

1 Section 1. (NEW) (*Effective October 1, 2016*) (a) If a Probate Court
2 finds, after notice and hearing on any petition, application or motion,
3 that the court does not have jurisdiction to hear the petition,
4 application or motion but that another Probate Court of this state does
5 have jurisdiction to hear the petition, application or motion, the court
6 may order that the file be transferred to the court that has jurisdiction
7 or may dismiss the petition, application or motion for lack of
8 jurisdiction. If the transferring court finds that more than one Probate
9 Court has jurisdiction over the petition, application or motion, the
10 transferring court may order that the file be transferred to the Probate
11 Court that the transferring court finds is the most convenient forum for
12 the parties. The transferring court shall make written findings on the
13 basis for its finding that the transferee court has jurisdiction over the
14 petition, application or motion, and, if applicable, which court is the
15 most convenient forum for the parties. The transferring court's
16 findings shall be conclusive for all further proceedings on the petition,
17 application or motion, except that a transfer order under this section
18 shall be subject to appeal as provided in section 45a-186 of the general
19 statutes.

20 (b) Upon issuance of a transfer order under subsection (a) of this

21 section, the transferring court shall cause certified copies of all
22 documents in the transferring court's file to be delivered to the
23 transferee court. The transferee court shall proceed on the underlying
24 petition, application or motion as if it had originally been filed with the
25 transferee court. No additional filing fee shall apply with respect to the
26 transferred petition, application or motion.

27 (c) Nothing in this section shall prevent a court that has jurisdiction
28 over a case from transferring the case to another court under a statute
29 authorizing such transfer.

30 Sec. 2. Section 45a-288 of the general statutes is repealed and the
31 following is substituted in lieu thereof (*Effective October 1, 2016*):

32 (a) When a will conveying property situated in this state has been
33 proved and established out of this state by a court of competent
34 jurisdiction, the executor of such will or any person interested in such
35 property may present to the [court of probate] Probate Court in the
36 district determined under the provisions of section 45a-287 [.] an
37 authenticated and exemplified copy of such will and of the record of
38 the proceedings proving and establishing the will and may request
39 that such copies be filed and recorded. The request shall be
40 accompanied by a complete statement in writing of the property and
41 estate of the decedent in this state. If, upon a hearing, after such notice
42 to the [Commissioner of Revenue Services and other] parties in interest
43 as the court orders, no sufficient objection is shown, the [court of
44 probate] Probate Court shall order such copies to be filed and
45 recorded, and they shall thereupon become a part of the files and
46 records of such court, and shall have the same effect as if such will had
47 been originally proved and established in such court. [of probate.
48 Notwithstanding any objection by said commissioner to the domicile
49 of the decedent as claimed on an application to place a will on file, the
50 court may, in the absence of objection by any other interested party,
51 order the copies to be filed and recorded subject only to a subsequent
52 and final finding of domicile as provided in section 45a-309.]

53 (b) Nothing in this section shall give effect to a will made in this
54 state by [an inhabitant thereof] a resident of this state which has not
55 been executed according to the laws of this state.

56 (c) If the [court of probate] Probate Court finds sufficient objection
57 to such will, the applicant shall offer competent proof of the contents
58 and legal sufficiency of the will, except that the original thereof need
59 not be produced unless so directed by the [court of probate] Probate
60 Court.

61 Sec. 3. Subsection (g) of section 45a-656b of the general statutes is
62 repealed and the following is substituted in lieu thereof (*Effective*
63 *October 1, 2016*):

64 (g) A person under conservatorship may waive the right to a
65 hearing required under this section if the attorney for the person under
66 conservatorship has consulted with the person under conservatorship
67 and the attorney has filed with the court a record of the waiver. Such a
68 waiver shall be invalid if the waiver does not represent the wishes of
69 the person under conservatorship. If a person under voluntary
70 representation pursuant to section 45a-646 is not represented by an
71 attorney, the court shall conduct a hearing to determine whether the
72 waiver represents the person's wishes.

73 Sec. 4. Section 45a-106a of the 2016 supplement to the general
74 statutes is repealed and the following is substituted in lieu thereof
75 (*Effective October 1, 2016*):

76 (a) The fees set forth in this section apply to each filing made in a
77 Probate Court on or after January 1, 2016, in any matter other than a
78 decedent's estate.

79 (b) The fee to file each of the following motions, petitions or
80 applications in a Probate Court is two hundred twenty-five dollars:

81 (1) With respect to a minor child: (A) Appoint a temporary
82 guardian, temporary custodian, guardian, coguardian, permanent

83 guardian or statutory parent, (B) remove a guardian, including the
84 appointment of another guardian, (C) reinstate a parent as guardian,
85 (D) terminate parental rights, including the appointment of a guardian
86 or statutory parent, (E) grant visitation, (F) make findings regarding
87 special immigrant juvenile status, (G) approve placement of a child for
88 adoption outside this state, (H) approve an adoption, [(H)] (I) validate
89 a foreign adoption, [(I)] (J) review, modify or enforce a cooperative
90 postadoption agreement, (K) review an order concerning contact
91 between an adopted child and his or her siblings, (L) resolve a dispute
92 concerning a standby guardian, [(J)] (M) approve a plan for voluntary
93 services provided by the Department of Children and Families, [(K)]
94 (N) determine whether the termination of voluntary services provided
95 by the Department of Children and Families is in accordance with
96 applicable regulations, (O) conduct an in-court review to modify an
97 order, [(L)] (P) grant emancipation, [(M)] (Q) grant approval to marry,
98 [(N)] (R) transfer funds to a custodian under sections 45a-557 to 45a-
99 560b, inclusive, [(O)] (S) appoint a successor custodian under section
100 45a-559c, (T) resolve a dispute concerning custodianship under
101 sections 45a-557 to 45a-560b, inclusive, and [(P)] (U) grant authority to
102 purchase real estate;

103 (2) Determine paternity;

104 (3) Determine the age and date of birth of an adopted person born
105 outside the United States;

106 (4) With respect to adoption records: (A) Appoint a guardian ad
107 litem for a biological relative who cannot be located or appears to be
108 incompetent, (B) appeal the refusal of an agency to release information,
109 (C) release medical information when required for treatment, and (D)
110 grant access to an original birth certificate;

111 (5) Approve an adult adoption;

112 (6) With respect to a conservatorship: (A) Appoint a temporary
113 conservator, conservator or special limited conservator, (B) change

114 residence, terminate a tenancy or lease, sell or dispose household
115 furnishings, or place in a long-term care facility, (C) determine
116 competency to vote, (D) approve a support allowance for a spouse, (E)
117 grant authority to elect the spousal share, (F) grant authority to
118 purchase real estate, (G) give instructions regarding administration of
119 a joint asset or liability, (H) distribute gifts, (I) grant authority to
120 consent to involuntary medication, (J) determine whether informed
121 consent has been given for voluntary admission to a hospital for
122 psychiatric disabilities, (K) determine life-sustaining medical
123 treatment, [(K)] (L) transfer to or from another state, [(L)] (M) modify
124 the conservatorship in connection with a periodic review, [(M)] (N)
125 excuse accounts under rules of procedure approved by the Supreme
126 Court under section 45a-78, (O) terminate the conservatorship, and
127 [(N)] (P) grant a writ of habeas corpus;

128 (7) Resolve a dispute concerning advance directives or life-
129 sustaining medical treatment when the individual does not have a
130 conservator or guardian;

131 (8) With respect to an elderly person as defined in section 17b-450:
132 (A) Enjoin an individual from interfering with the provision of
133 protective services to [an elderly person] such elderly person, and (B)
134 authorize the Commissioner of Social Services to enter the premises of
135 such elderly person to determine whether such elderly person needs
136 protective services;

137 (9) With respect to an adult with intellectual disability: (A) Appoint
138 a temporary limited guardian, guardian or standby guardian, (B) grant
139 visitation, (C) determine competency to vote, (D) modify the
140 guardianship in connection with a periodic review, [(D)] (E) determine
141 life-sustaining medical treatment, [(E)] (F) approve an involuntary
142 placement, [(F)] (G) review an involuntary placement, and [(G)] (H)
143 grant a writ of habeas corpus;

144 (10) With respect to psychiatric disability: (A) Commit an individual
145 for treatment, (B) issue a warrant for examination of an individual at a

146 general hospital, (C) determine whether there is probable cause to
147 continue an involuntary confinement, (D) review an involuntary
148 confinement for possible release, (E) authorize shock therapy, (F)
149 authorize medication for treatment of psychiatric disability, (G) review
150 the status of an individual under the age of sixteen as a voluntary
151 patient, and (H) recommit an individual under the age of sixteen for
152 further treatment;

153 (11) With respect to drug or alcohol dependency: (A) Commit an
154 individual for treatment, (B) recommit an individual for further
155 treatment, and (C) terminate an involuntary confinement;

156 (12) With respect to tuberculosis: (A) Commit an individual for
157 treatment, (B) issue a warrant to enforce an examination order, and (C)
158 terminate an involuntary confinement;

159 (13) Compel an account by the trustee of an inter vivos trust,
160 attorney-in-fact, custodian under sections 45a-557 to 45a-560b,
161 inclusive, or treasurer of an ecclesiastical society or cemetery
162 association;

163 (14) With respect to a testamentary or inter vivos trust: (A)
164 Construe, divide, reform or terminate the trust, [(B) appoint a trustee
165 to fill a vacancy in the office of trustee, (C) determine title to property,
166 (D) apply the doctrine of cy pres or approximation, (E) authorize the
167 trustee to disclaim an interest in property, and (F)] (B) enforce the
168 provisions of a pet trust, and (C) excuse a final account under rules of
169 procedure approved by the Supreme Court under section 45a-78;

170 (15) Authorize a fiduciary to establish a trust;

171 (16) Appoint a trustee for a missing person;

172 (17) Change a person's name;

173 (18) Issue an order to amend the birth certificate of an individual
174 born in another state to reflect a gender change;

175 (19) Require the Department of Public Health to issue a delayed
176 birth certificate;

177 (20) Compel the board of a cemetery association to disclose the
178 minutes of the annual meeting;

179 (21) Issue an order to protect a grave marker;

180 (22) Restore rights to purchase, possess and transport firearms;

181 (23) Issue an order permitting sterilization of an individual; and

182 (24) With respect to any case in a Probate Court other than a
183 decedent's estate: (A) Compel or approve an action by the fiduciary,
184 (B) give advice or instruction to the fiduciary, (C) authorize a fiduciary
185 to compromise a claim, (D) list, sell or mortgage real property, (E)
186 determine title to property, (F) resolve a dispute between cofiduciaries
187 or among fiduciaries, (G) remove a fiduciary, (H) appoint a successor
188 fiduciary or fill a vacancy in the office of fiduciary, (I) approve
189 fiduciary or attorney's fees, (J) apply the doctrine of cy pres or
190 approximation, (K) reconsider, modify or revoke an order, and (L)
191 decide an action on a probate bond.

192 (c) The fee to file a petition for custody of the remains of a deceased
193 person in a Probate Court is one hundred fifty dollars, except that the
194 court shall waive the fee if the state is obligated to pay funeral and
195 burial expenses under section 17b-84.

196 (d) The fee for a fiduciary to request the release of funds from a
197 restricted account in a Probate Court is one hundred fifty dollars,
198 except that the court shall waive the fee if the court approves the
199 request without notice and hearing in accordance with the rules of
200 procedure adopted by the Supreme Court under section 45a-78.

201 (e) The fee for mediation conducted by a member of the panel
202 established by the Probate Court Administrator is three hundred fifty
203 dollars per day or part thereof.

204 (f) The fee to request a continuance in a Probate Court is fifty
205 dollars, plus the actual expenses of rescheduling the hearing that are
206 payable under section 45a-109, except that the court, for cause shown,
207 may waive either the fifty-dollar fee or the actual expenses of
208 rescheduling the hearing, or both. The fee shall be payable by the party
209 who requests the continuance of a scheduled hearing or whose failure
210 to appear necessitates the continuance.

211 (g) The fee to file a motion to permit an attorney who has not been
212 admitted as an attorney under the provisions of section 51-80 to appear
213 pro hac vice in a matter in the Probate Court is two hundred fifty
214 dollars.

215 (h) Except as provided in subsection (d) of section 45a-111, fees
216 imposed under this section shall be paid at the time of filing.

217 (i) If a statute or rule of procedure approved by the Supreme Court
218 under section 45a-78 specifies filings that may be combined into a
219 single motion, petition or application, the fee under this section for the
220 combined filing is the amount equal to the largest of the individual
221 filing fees applicable to the underlying motions, petitions or
222 applications.

223 (j) No fee shall be charged under this section if exempted or waived
224 under section 45a-111 or any other provision of the general statutes.

225 Sec. 5. Section 45a-612 of the general statutes is repealed and the
226 following is substituted in lieu thereof (*Effective October 1, 2016*):

227 [The Court of Probate may grant the right of visitation to any person
228 who has been removed as guardian of any minor child or children, any
229 relative of the minor child or children or any parent who has been
230 denied temporary custody of any minor child or children pending the
231 hearing on a removal or termination of parental rights application
232 pursuant to the provisions of sections 45a-132, 45a-593 to 45a-597,
233 inclusive, 45a-603 to 45a-622, inclusive, and 45a-629 to 45a-638,
234 inclusive] In connection with any proceeding for removal of guardian,

235 appointment of guardian for a minor who has no guardian or
236 termination of parental rights pursuant to sections 45a-603 to 45a-622,
237 inclusive, and 45a-715 to 45a-719, inclusive, as amended by this act, the
238 Probate Court may grant visitation to (1) any parent or guardian if
239 temporary custody of the minor has been granted to another person
240 pending the hearing on removal or termination of parental rights, (2)
241 any person who has been removed as guardian of the minor, or (3) any
242 relative of the minor. Such order shall be [according to] made in
243 accordance with the best judgment of the court upon the facts of the
244 case and subject to such conditions and limitations as it deems
245 equitable. In making, modifying or terminating such an order, the
246 court shall be guided by the best [interest] interests of the [child]
247 minor, giving consideration to the wishes of such [child] minor if he or
248 she is of sufficient age and capable of forming an intelligent opinion.
249 The grant of such visitation rights shall not prevent any court of
250 competent jurisdiction from thereafter acting upon the custody of such
251 [child] minor, the parental rights with respect to such [child] minor or
252 the adoption of such [child] minor, and any such court may include in
253 its decree an order terminating such visitation rights.

254 Sec. 6. Subsection (a) of section 45a-614 of the 2016 supplement to
255 the general statutes is repealed and the following is substituted in lieu
256 thereof (*Effective October 1, 2016*):

257 (a) Except as provided in subsection (b) of this section, the following
258 persons may [apply to] petition the Probate Court [for the district in
259 which the minor resides] for the removal as guardian of one or both
260 parents of the minor: (1) Any adult relative of the minor, including
261 those by blood or marriage; (2) a person with actual physical custody
262 of the minor at the time the petition is filed; or (3) counsel for the
263 minor. The petition shall be filed in the Probate Court in the district in
264 which the minor resides, is domiciled or is located at the time of the
265 filing of the petition.

266 Sec. 7. Subsection (e) of section 45a-715 of the 2016 supplement to
267 the general statutes is repealed and the following is substituted in lieu

268 thereof (*Effective October 1, 2016*):

269 (e) A petition under this section shall be filed in the Probate Court
270 for the district in which (1) the petitioner [or] resides, (2) the child
271 resides, [or,] is domiciled or is located at the time of the filing of the
272 petition, or (3) in the case of a minor who is under the guardianship of
273 any child care facility or child-placing agency, in the Probate Court for
274 the district in which [the main office or any local] any office of the
275 agency is located. If the petition is filed with respect to a child born out
276 of wedlock, the petition shall state whether there is a putative father to
277 whom notice shall be given under subdivision (2) of subsection (b) of
278 section 45a-716.

279 Sec. 8. Section 45a-644 of the general statutes is repealed and the
280 following is substituted in lieu thereof (*Effective October 1, 2016*):

281 For the purposes of [sections 45a-644] this section and sections 45a-
282 645 to 45a-663, inclusive, the following terms shall have the following
283 meanings:

284 (a) "Conservator of the estate" means a person, [a] municipal or state
285 official, [or a private profit or nonprofit] corporation, limited liability
286 company, partnership or other entity recognized under the laws of this
287 state, whether or not operated for profit, except a hospital, nursing
288 home facility, as defined in section 19a-521, or residential care home, as
289 defined in section 19a-521, appointed by the [Court of] Probate Court
290 under the provisions of [sections 45a-644] this section and sections 45a-
291 645 to 45a-663, inclusive, to supervise the financial affairs of a person
292 found to be incapable of managing his or her own affairs or of a person
293 who voluntarily asks the [Court of] Probate Court for the appointment
294 of a conservator of the estate, and includes a temporary conservator of
295 the estate appointed under the provisions of section 45a-654.

296 (b) "Conservator of the person" means a person, [a] municipal or
297 state official, [or a private profit or nonprofit] corporation, limited
298 liability company, partnership or other entity recognized under the

299 laws of this state, whether or not operated for profit, except a hospital
300 or nursing home facility as defined in section 19a-521, appointed by
301 the [Court of] Probate Court under the provisions of [sections 45a-644]
302 this section and sections 45a-645 to 45a-663, inclusive, to supervise the
303 personal affairs of a person found to be incapable of caring for himself
304 or herself or of a person who voluntarily asks the [Court of] Probate
305 Court for the appointment of a conservator of the person, and includes
306 a temporary conservator of the person appointed under the provisions
307 of section 45a-654.

308 (c) "Incapable of caring for one's self" or "incapable of caring for
309 himself or herself" means that a person has a mental, emotional or
310 physical condition that results in such person being unable to receive
311 and evaluate information or make or communicate decisions to such
312 an extent that the person is unable, even with appropriate assistance,
313 to meet essential requirements for personal needs.

314 (d) "Incapable of managing his or her affairs" means that a person
315 has a mental, emotional or physical condition that results in such
316 person being unable to receive and evaluate information or make or
317 communicate decisions to such an extent that the person is unable,
318 even with appropriate assistance, to perform the functions inherent in
319 managing his or her affairs, and the person has property that will be
320 wasted or dissipated unless adequate property management is
321 provided, or that funds are needed for the support, care or welfare of
322 the person or those entitled to be supported by the person and that the
323 person is unable to take the necessary steps to obtain or provide funds
324 needed for the support, care or welfare of the person or those entitled
325 to be supported by the person.

326 (e) "Involuntary representation" means the appointment of a
327 conservator of the person or a conservator of the estate, or both, after a
328 finding by the [Court of] Probate Court that the respondent is
329 incapable of managing his or her affairs or incapable of caring for
330 himself or herself.

331 (f) "Respondent" means an adult person for whom an application for
332 involuntary representation has been filed or an adult person who has
333 requested voluntary representation.

334 (g) "Voluntary representation" means the appointment of a
335 conservator of the person or a conservator of the estate, or both, upon
336 request of the respondent, without a finding that the respondent is
337 incapable of managing his or her affairs or incapable of caring for
338 himself or herself.

339 (h) "Conserved person" means a person for whom involuntary
340 representation is granted under [sections 45a-644] this section and
341 sections 45a-645 to 45a-663, inclusive.

342 (i) "Personal needs" means the needs of a person including, but not
343 limited to, the need for food, clothing, shelter, health care and safety.

344 (j) "Property management" means actions to (1) obtain, administer,
345 manage, protect and dispose of real and personal property, intangible
346 property, business property, benefits and income, and (2) deal with
347 financial affairs.

348 (k) "Least restrictive means of intervention" means intervention for a
349 conserved person that is sufficient to provide, within the resources
350 available to the conserved person either from the conserved person's
351 own estate or from private or public assistance, for a conserved
352 person's personal needs or property management while affording the
353 conserved person the greatest amount of independence and self-
354 determination.

355 Sec. 9. Section 45a-177 of the general statutes is repealed and the
356 following is substituted in lieu thereof (*Effective October 1, 2016*):

357 (a) All conservators, guardians [, persons appointed by the Court of
358 Probate to sell land of minors] and trustees, including those entrusted
359 with testamentary trusts unless excused by the will creating the trust,
360 shall render periodic accounts of their trusts signed under penalty of

361 false statement to the [Court of] Probate Court having jurisdiction for
362 allowance, at least once during each three-year period and more
363 frequently if required [to do so] by the court or by the will or trust
364 instrument creating the trust. [Periodic accounts for filing only may be
365 submitted to the court at any time during each three-year period.
366 Upon receipt of a periodic account, the court shall cause notice of it
367 and of its availability for examination at the court to be given in such
368 manner and to such parties as it deems reasonable. Any such party
369 may apply to the court for a hearing on the account. If an application
370 for such a hearing is not received by the court from a party in interest
371 within the time stated in the notice, the periodic account will be filed
372 without hearing thereon and without allowance or disallowance
373 thereof, and shall not be recorded.] At the end of each three-year
374 period from the date of the last allowance of a periodic account, or
375 upon the earlier receipt of a final account, there shall be a hearing on
376 all periodic accounts not previously allowed, and the final account, if
377 any, in accordance with sections 45a-178 and 45a-179, as amended by
378 this act.

379 [(b) Each such periodic account shall include an inventory of the
380 trust estate showing fully how the principal of the fund is invested and
381 the items of income and expenditure. If there has been no change in
382 the identity of the items comprising the principal of the fund since the
383 last account which has been accepted and approved, it shall not be
384 necessary to include an inventory of the trust estate.]

385 [(c)] (b) If the estate held by any person in any such fiduciary
386 capacity is less than two thousand dollars, or, in the case of a corporate
387 fiduciary under the supervision of the Banking Commissioner or any
388 other fiduciary bonded by a surety company authorized to do business
389 in this state, ten thousand dollars, such fiduciary shall not be required
390 to render such account unless so ordered by the court.

391 Sec. 10. Section 45a-179 of the general statutes is repealed and the
392 following is substituted in lieu thereof (*Effective October 1, 2016*):

393 (a) When a conservator, guardian [, trustee in insolvency] or trustee
 394 of a testamentary trust exhibits his or her final account to the [Court of]
 395 Probate Court for allowance, the court shall appoint a time and place
 396 for a hearing on the account and shall cause notice of the hearing to be
 397 given as it directs. Such fiduciary shall sign the account under penalty
 398 of false statement.

399 (b) The court shall, before approving a final account of an executor
 400 or administrator, hold a hearing thereon for which notice may be given
 401 as the court shall direct, unless all parties interested in the estate sign
 402 and file in court a written waiver of such notice.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	45a-288
Sec. 3	<i>October 1, 2016</i>	45a-656b(g)
Sec. 4	<i>October 1, 2016</i>	45a-106a
Sec. 5	<i>October 1, 2016</i>	45a-612
Sec. 6	<i>October 1, 2016</i>	45a-614(a)
Sec. 7	<i>October 1, 2016</i>	45a-715(e)
Sec. 8	<i>October 1, 2016</i>	45a-644
Sec. 9	<i>October 1, 2016</i>	45a-177
Sec. 10	<i>October 1, 2016</i>	45a-179

Statement of Legislative Commissioners:

In section 2(b), "an inhabitant thereof" has been bracketed and replaced with "a resident of this state" for statutory consistency.

JUD *Joint Favorable Subst.*