



House of Representatives

General Assembly

File No. 8

February Session, 2018

Substitute House Bill No. 5185

House of Representatives, March 15, 2018

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING GUARDIANSHIP APPOINTMENTS FOR INDIVIDUALS SEEKING SPECIAL IMMIGRANT JUVENILE STATUS.

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

1 Section 1. Section 45a-106a of the general statutes is amended by
2 adding subsection (l) as follows (*Effective July 1, 2018*):

3 (NEW) (l) For purposes of this section, "minor child" means (1) a
4 person under the age of eighteen, or (2) an unmarried person under
5 the age of twenty-one who (A) is dependent on a competent caregiver,
6 (B) has consented to the appointment or continuation of a guardian
7 after attaining the age of eighteen, and (C) has filed a petition for
8 findings pursuant to section 45a-608n, as amended by this act.

9 Sec. 2. Section 45a-608n of the general statutes is repealed and the
10 following is substituted in lieu thereof (*Effective July 1, 2018*):

11 (a) For the purposes of this section and section 45a-608o, a minor
12 child shall be considered dependent upon the court if the court has (1)

13 removed a parent or other person as guardian of the minor child, (2)
14 appointed a guardian or coguardian for the minor child, (3) terminated
15 the parental rights of a parent of the minor child, or (4) approved the
16 adoption of the minor child.

17 (b) At any time during the pendency of a petition to remove a
18 parent or other person as guardian under section 45a-609 or 45a-610, or
19 to appoint a guardian or coguardian under section 45a-616, as
20 amended by this act, a party may file a petition requesting the Probate
21 Court to make findings under this section to be used in connection
22 with a petition to the United States Citizenship and Immigration
23 Services for designation of the minor child as having special immigrant
24 juvenile status under 8 USC 1101(a)(27)(J). The Probate Court shall
25 cause notice of the hearing on the petition to be given by first class
26 mail to each person listed in subsection (b) of section 45a-609, and such
27 hearing may be held at the same time as the hearing on the underlying
28 petition for removal or appointment. If the court grants the petition to
29 remove the parent or other person as guardian or appoint a guardian
30 or coguardian, the court shall make written findings on the following:
31 (1) The age of the minor child; (2) the marital status of the minor child;
32 (3) whether the minor child is dependent upon the court; (4) whether
33 reunification of the minor child with one or both of the minor child's
34 parents is not viable due to any of the grounds sets forth in
35 subdivisions (2) to (5), inclusive, of section 45a-610; and (5) whether it
36 is not in the best interests of the minor child to be returned to the
37 minor child's or parent's country of nationality or last habitual
38 residence.

39 (c) If the court has previously granted a petition to remove a parent
40 or other person as guardian under section 45a-609 or 45a-610 or to
41 appoint a guardian or coguardian under section 45a-616, as amended
42 by this act, a parent, guardian or attorney for the minor child may file a
43 petition requesting that the court make findings under this section to
44 be used in connection with a petition to the United States Citizenship
45 and Immigration Services for designation of the minor child as having
46 special immigrant juvenile status under 8 USC 1101(a)(27)(J). The court

47 shall cause notice of the hearing on the petition to be given by first
48 class mail to each parent, guardian and attorney for the minor child, to
49 the minor child if the minor child is twelve years of age or older and to
50 other persons as the court determines. The court shall make written
51 findings on the petition in accordance with subsection (b) of this
52 section.

53 (d) Notwithstanding the definition of "minor child" pursuant to
54 section 45a-604, for purposes of this section, "minor child" means (1) a
55 person under the age of eighteen, or (2) an unmarried person under
56 the age of twenty-one who (A) is dependent on a competent caregiver,
57 (B) has consented to the appointment or continuation of a guardian
58 after attaining the age of eighteen, and (C) has filed a petition for
59 findings pursuant to section 45a-608n, as amended by this act.

60 Sec. 3. Section 45a-616 of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective July 1, 2018*):

62 (a) If any minor has no parent or guardian of his or her person, the
63 court of probate for the district in which the minor resides may, on its
64 own motion, appoint a guardian or coguardians of the person of the
65 minor, taking into consideration the standards provided in section 45a-
66 617, as amended by this act. Such court shall take of such guardian or
67 coguardians a written acceptance of guardianship and, if the court
68 deems it necessary for the protection of the minor, a probate bond.

69 (b) If any minor has a parent or guardian, who is the sole guardian
70 of the person of the child, the court of probate for the district in which
71 the minor resides may, on the application of the parent or guardian of
72 such child or of the Commissioner of Children and Families with the
73 consent of such parent or guardian and with regard to a child within
74 the care of the commissioner, appoint one or more persons to serve as
75 coguardians of the child. When appointing a guardian or guardians
76 under this subsection, the court shall take into consideration the
77 standards provided in section 45a-617, as amended by this act. The
78 court may order that the appointment of a guardian or guardians
79 under this subsection take effect immediately or, upon request of the

80 parent or guardian, upon the occurrence of a specified contingency,
81 including, but not limited to, the mental incapacity, physical
82 debilitation or death of that parent or guardian. Upon the occurrence
83 of such contingency and notice thereof by written affidavit to the
84 probate court by the appointed guardian or guardians, such
85 appointment shall then take effect and continue until the further order
86 of the court, provided the court may hold a hearing to verify the
87 occurrence of such contingency. The court shall take of such guardian
88 or coguardians a written acceptance of guardianship, and if the court
89 deems it necessary for the protection of the minor, a probate bond.

90 (c) Upon receipt by the court of an application pursuant to this
91 section, the court shall set a time and place for a hearing to be held
92 within thirty days of the application, unless the court requests an
93 investigation in accordance with the provisions of section 45a-619, in
94 which case the court shall set a day for hearing not more than thirty
95 days following receipt of the results of the investigation. The court
96 shall order notice of the hearing to be given to the minor, if over twelve
97 years of age, by first class mail at least ten days prior to the date of the
98 hearing. In addition, notice by first class mail shall be given to the
99 petitioner and all other parties in interest known by the court.

100 (d) The rights and obligations of the guardian or coguardians shall
101 be those described in subdivisions (5) and (6) of section 45a-604 and
102 shall be shared with the parent or previously appointed guardian of
103 the person of the minor. The rights and obligations of guardianship
104 may be exercised independently by those who have such rights and
105 obligations. In the event of a dispute between guardians or between a
106 coguardian and a parent, the matter may be submitted to the court of
107 probate which appointed the guardian or coguardian.

108 (e) Upon the death of the parent or guardian, any appointed
109 guardians of the person of a minor child shall become the sole
110 guardians or coguardians of the person of that minor child.

111 (f) Notwithstanding the definitions of "minor" and "minor child"
112 pursuant to section 45a-604, for purposes of this section, "minor" or

113 "minor child" means (1) a person under the age of eighteen, or (2) an
114 unmarried person under the age of twenty-one who (A) is dependent
115 on a competent caregiver, (B) has consented to the appointment or
116 continuation of a guardian after attaining the age of eighteen, and (C)
117 has filed a petition for findings pursuant to section 45a-608n, as
118 amended by this act.

119 Sec. 4. Section 45a-617 of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective July 1, 2018*):

121 (a) When appointing a guardian, coguardians or permanent
122 guardian of the person of a minor, the court shall take into
123 consideration the following factors: (1) The ability of the prospective
124 guardian, coguardians or permanent guardian to meet, on a
125 continuing day to day basis, the physical, emotional, moral and
126 educational needs of the minor; (2) the minor's wishes, if he or she is
127 over the age of twelve or is of sufficient maturity and capable of
128 forming an intelligent preference; (3) the existence or nonexistence of
129 an established relationship between the minor and the prospective
130 guardian, coguardians or permanent guardian; and (4) the best
131 interests of the child. There shall be a rebuttable presumption that
132 appointment of a grandparent or other relative related by blood or
133 marriage as a guardian, coguardian or permanent guardian is in the
134 best interests of the minor child.

135 (b) Notwithstanding the definitions of "minor" and "minor child"
136 pursuant to section 45a-604, for purposes of this section, "minor" or
137 "minor child" means (1) a person under the age of eighteen, or (2) an
138 unmarried person under the age of twenty-one who (A) is dependent
139 on a competent caregiver, (B) has consented to the appointment or
140 continuation of a guardian after attaining the age of eighteen, and (C)
141 has filed a petition for findings pursuant to section 45a-608n, as
142 amended by this act.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2018</i>	45a-106a
Sec. 2	<i>July 1, 2018</i>	45a-608n
Sec. 3	<i>July 1, 2018</i>	45a-616
Sec. 4	<i>July 1, 2018</i>	45a-617

Statement of Legislative Commissioners:

In Section 2(d), the words "minor and" and "minor or" were deleted for accuracy.

KID *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill expands the definition of “minor” in specified circumstances to allow certain individuals to seek special immigrant juvenile status with U.S. Citizenship and Immigration Services, which allows the child to legally remain in the United States. As this change would occur as a part of an existing probate court hearing, there is no additional cost to the Probate Court.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis

sHB 5185

AN ACT CONCERNING GUARDIANSHIP APPOINTMENTS FOR INDIVIDUALS SEEKING SPECIAL IMMIGRANT JUVENILE STATUS.

SUMMARY

Existing law permits a party in a probate court case involving guardianship, parental rights, or adoption to petition the court to make certain findings that someone may use to apply to the U.S. Citizenship and Immigration Services (USCIS) for special immigrant juvenile status (SIJS) (see BACKGROUND). Under federal law, an immigrant child under age 21 who (1) has been abused, neglected, or abandoned and (2) meets certain other criteria, may apply for SIJS. If granted by the federal court, SIJS allows the child to legally remain in the United States.

For proceedings involving guardianship appointment or removal, this bill allows the probate court to issue those findings for certain SIJS applicants under age 21, instead of under age 18 as under current law. This change enables 18-, 19-, and 20-year-olds who are eligible to apply for SIJS under federal law, in certain circumstances, to petition the probate court for the findings they need to make that application (i.e., that they are dependent on the court).

The bill also makes conforming changes.

EFFECTIVE DATE: July 1, 2018

WRITTEN FINDINGS

By law, at any point during a pending probate court petition to remove a parent or other person as guardian or appoint a guardian or co-guardian, a party may petition the court to make written findings to

be used to apply for SIJS. A parent, guardian, or attorney for a minor child may also petition the court to make such findings if the court previously granted a petition to (1) remove a parent or other person as guardian or (2) appoint a guardian or co-guardian for the minor.

Under current law, the court may only issue such findings if the minor is under age 18. Under the bill, the court may additionally issue such findings if the minor (1) is under age 21 and unmarried, (2) is dependent on a competent caregiver, (3) has consented to the appointment or continuation of a guardian after turning 18, and (4) has filed a petition seeking such findings from the probate court.

As under existing law, if the court grants or has granted the removal or appointment petition, it must also issue the requested written findings, including:

1. the minor child's age and marital status;
2. whether the minor is dependent on the court (a minor is dependent on the court if the court removed the child's parent or another person as guardian, appointed a guardian or co-guardian for him or her, terminated the parental rights of his or her parent, or approved his or her adoption);
3. whether reunification with one or both parents is not viable for certain reasons (e.g., abandonment or abuse); and
4. whether it is not in the minor's best interest to be returned to the minor's or parents' country of nationality or last customary residence.

BACKGROUND

Special Immigrant Juvenile Status

By law, USCIS may grant SIJS to an immigrant if:

1. he or she was (a) declared dependent on a juvenile court or (b) legally committed to, or placed under the custody of, a state agency or department, or a person or entity appointed by a state

or juvenile court located in the United States;

2. his or her reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
3. an administrative or judicial proceeding determined that it would not be in his or her best interest to be returned to the child's or parent's previous country of nationality or last habitual residence (8 U.S.C. § 1101(a)(27)(J)).

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 13 Nay 0 (03/01/2018)