



# House of Representatives

**File No. 621**

General Assembly

February Session, 2018

**(Reprint of File No. 8)**

Substitute House Bill No. 5185  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 20, 2018

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 Section 45a-608n of the general statutes is repealed and  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

3 (a) For the purposes of this section and section 45a-608o, a minor  
4 child shall be considered dependent upon the court if the court has (1)  
5 removed a parent or other person as guardian of the minor child, (2)  
6 appointed a guardian or coguardian for the minor child, (3) terminated  
7 the parental rights of a parent of the minor child, or (4) approved the  
8 adoption of the minor child.

9 (b) At any time during the pendency of a petition to remove a  
10 parent or other person as guardian under section 45a-609 or 45a-610, or  
11 to appoint a guardian or coguardian under section 45a-616, as  
12 amended by this act, a party may file a petition requesting the Probate  
13 Court to make findings under this section to be used in connection  
14 with a petition to the United States Citizenship and Immigration

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

31 (c) If the court has previously granted a petition to remove a parent  
32 or other person as guardian under section 45a-609 or 45a-610 or to  
33 appoint a guardian or coguardian under section 45a-616, as amended  
34 by this act, a parent, guardian or attorney for the minor child may file a  
35 petition requesting that the court make findings under this section to  
36 be used in connection with a petition to the United States Citizenship  
37 and Immigration Services for designation of the minor child as having  
38 special immigrant juvenile status under 8 USC 1101(a)(27)(J). The court  
39 shall cause notice of the hearing on the petition to be given by first  
40 class mail to each parent, guardian and attorney for the minor child, to  
41 the minor child if the minor child is twelve years of age or older and to  
42 other persons as the court determines. The court shall make written  
43 findings on the petition in accordance with subsection (b) of this  
44 section.

45 (d) Notwithstanding the provisions of section 45a-604, for purposes  
46 of this section and section 45a-106a, "minor child" means (1) a person  
47 under the age of eighteen, or (2) an unmarried person under the age of  
48 twenty-one who (A) is dependent on a competent caregiver, (B) has

49 consented to the appointment or continuation of a guardian after  
50 attaining the age of eighteen, and (C) files or on whose behalf is filed a  
51 petition for findings pursuant to this section.

52 Sec. 2. Section 45a-616 of the general statutes is repealed and the  
53 following is substituted in lieu thereof (*Effective July 1, 2018*):

54 (a) If any minor has no parent or guardian of his or her person, the  
55 court of probate for the district in which the minor resides may, on its  
56 own motion, appoint a guardian or coguardians of the person of the  
57 minor, taking into consideration the standards provided in section 45a-  
58 617, as amended by this act. Such court shall take of such guardian or  
59 coguardians a written acceptance of guardianship and, if the court  
60 deems it necessary for the protection of the minor, a probate bond.

61 (b) If any minor has a parent or guardian, who is the sole guardian  
62 of the person of the child, the court of probate for the district in which  
63 the minor resides may, on the application of the parent or guardian of  
64 such child or of the Commissioner of Children and Families with the  
65 consent of such parent or guardian and with regard to a child within  
66 the care of the commissioner, appoint one or more persons to serve as  
67 coguardians of the child. When appointing a guardian or guardians  
68 under this subsection, the court shall take into consideration the  
69 standards provided in section 45a-617, as amended by this act. The  
70 court may order that the appointment of a guardian or guardians  
71 under this subsection take effect immediately or, upon request of the  
72 parent or guardian, upon the occurrence of a specified contingency,  
73 including, but not limited to, the mental incapacity, physical  
74 debilitation or death of that parent or guardian. Upon the occurrence  
75 of such contingency and notice thereof by written affidavit to the  
76 probate court by the appointed guardian or guardians, such  
77 appointment shall then take effect and continue until the further order  
78 of the court, provided the court may hold a hearing to verify the  
79 occurrence of such contingency. The court shall take of such guardian  
80 or coguardians a written acceptance of guardianship, and if the court  
81 deems it necessary for the protection of the minor, a probate bond.

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

92 (d) The rights and obligations of the guardian or coguardians shall  
93 be those described in subdivisions (5) and (6) of section 45a-604 and  
94 shall be shared with the parent or previously appointed guardian of  
95 the person of the minor. The rights and obligations of guardianship  
96 may be exercised independently by those who have such rights and  
97 obligations. In the event of a dispute between guardians or between a  
98 coguardian and a parent, the matter may be submitted to the court of  
99 probate which appointed the guardian or coguardian.

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

103 (f) Notwithstanding the provisions of section 45a-604, for purposes  
104 of this section and section 45a-106a, "minor" or "minor child" means (1)  
105 a person under the age of eighteen, or (2) an unmarried person under  
106 the age of twenty-one who (A) is dependent on a competent caregiver,  
107 (B) has consented to the appointment or continuation of a guardian  
108 after attaining the age of eighteen, and (C) files or on whose behalf is  
109 filed a petition for findings pursuant to section 45a-608n, as amended  
110 by this act.

111 Sec. 3. Section 45a-617 of the general statutes is repealed and the  
112 following is substituted in lieu thereof (*Effective July 1, 2018*):

113 (a) When appointing a guardian, coguardians or permanent

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

127 (b) Notwithstanding the provisions of section 45a-604, for purposes  
 128 of this section and section 45a-106a, "minor" or "minor child" means (1)  
 129 a person under the age of eighteen, or (2) an unmarried person under  
 130 the age of twenty-one who (A) is dependent on a competent caregiver,  
 131 (B) has consented to the appointment or continuation of a guardian  
 132 after attaining the age of eighteen, and (C) files or on whose behalf is  
 133 filed a petition for findings pursuant to section 45a-608n, as amended  
 134 by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2018	45a-608n
Sec. 2	July 1, 2018	45a-616
Sec. 3	July 1, 2018	45a-617

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.

House "A" makes definitional changes and does not result in a fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

---

**OLR Bill Analysis****sHB 5185 (as amended by House "A")\*****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.

\*House Amendment "A" (1) makes a minor revision to the definition of a "minor child" under the bill and (2) makes other minor and technical 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) files, or someone files on his or her behalf, 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)