Testimony of Attorney Joanne Lewis
On behalf of Connecticut Legal Services, Inc.

Connecticut Legal Services is a non profit law firm which handles many legal issues for children who are abused, neglected and abandoned. We urge you to support HB5185 which seeks to extend Probate Court jurisdiction to unmarried persons between the ages of 18 and 21 who are under the care of a competent caregiver and voluntarily consent to be under the appointment or continuation of guardianship after the age of 18. This bill is necessary to help vulnerable youth and to enable them to receive the protection of the Special Immigrant Juvenile Status which can be awarded up until the age of 21 by the U.S. to children who have been abandoned, neglected or abused.

This bill is necessary for several reasons:

1. The Supreme Court in the case of *Henrry P. B-P*[1], urged the General Assembly to deal with this issue of abandoned, neglected and abused children between the ages of 18 and 21. They expressed concern for children like Henrry, who turned 18 during the pendency of a Probate Court guardianship proceeding, resulting in the court's dismissal of the case. Had the court not acted, Henrry would be ineligible for an immigration program called Special Immigrant Juvenile Status or SIJS. By Federal statute, they can be granted SIJS until the age of 21, but that status requires certain findings by a court of juvenile jurisdiction. This legislature dealt with SIJS before, when it passed CGS Section 45a-608n, which requires Probate courts to make the necessary findings after it finds abandonment, abuse or neglect. But our Probate courts lose jurisdiction over juveniles at age 18. The Supreme Court expressly recognized a concern for children caught in this gap period.[2]

2. Many of these children have endured extremely traumatic childhoods, were forced to leave school early, and do not have the skills to care for themselves without guidance and care from a responsible adult. An example is Carmen[3] whose mother was completely unable to care for and protect her after her father died. Carmen left school at a young age and at age 14-15 was repeatedly exploited and raped by predatory men more than twice her age. When she arrived in the U.S. to live with an older relative, she was 16 and approximately 6 months pregnant by one of the rapists. She had no idea how to care for herself, let alone for her baby. Her relative applied to be guardian, but had trouble controlling the traumatized child, and dropped her guardianship petition. Carmen was able to find an adult willing to care for her and teach her how to care for her child, and that caregiver reapplied for to be her guardian. Because of the delay, the Probate Court didn't award guardianship until days before her 18th birthday. A few days later and she would have been in the same situation as *Henrry.* Although she is now more than 18, she remains in the care of her guardian, who continues to help her.

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[1] *In re Henrry P. B-P*, 327 Conn. 312 (2017)
[2] *In Re Henrry P. B-P, Supra n. 18.*
[3] not her real name

3. Changing the statute would put these our law in conformance with our neighboring states of New York, New Jersey and Massachusetts, which have raised the age to 21 for children in this position. California, Washington and Maryland also provide protection to children in this situation.

4. We would like to suggest substitute language for this bill. Special Immigrant Juvenile status is a two part process. The Probate Court makes the findings of abuse or neglect and special findings pursuant to CGS Section 45a-608n. It is immigration, and not the Connecticut courts or legislature which makes decisions about Special Immigrant Juvenile Status. That term, and the citations to the U.S. code, should not be a part of our state statute. I am attaching language which my colleagues and I urge the committee to adopt when approving this legislation. Our language has been dicussed with the Probate court and has been approved by the Department of Children and families.

Thank you.

Joanne Lewis
Managing Attorney
Connecticut Legal Services

Proposed Substitute Language for HB 5185, LCO 326
(This version reflects only proposed changes from the original statute. It does not contain the LCO version. Additions are underlined.)

February Session, 2018

[AN ACT CONCERNING SPECIAL IMMIGRANT JUVENILE STATUS.]

AN ACT CONCERNING GUARDIANSHIP APPOINTMENT FOR VULNERABLE YOUTH

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

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

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

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

(c) If the court has previously granted a petition to remove a parent or other person as guardian under section 45a-609 or 45a-610 or to appoint a guardian or coguardian under section 45a-616, **as amended by this act**, a parent, guardian or attorney for the minor child may file a petition requesting that the court make findings under this section to be used in connection with a petition to the United States Citizenship and Immigration Services for designation of the minor child as having special immigrant juvenile status under 8 USC 1101(a)(27)(J). The court shall cause notice of the hearing on the petition to be given by first class mail to each parent, guardian and attorney for the minor child, to the minor child if the minor child is twelve years of age or

older and to other persons as the court determines. The court shall make written findings on the petition in accordance with subsection (b) of this section.

(d) Notwithstanding the definitions of "minor" and "minor child" pursuant to section 45a-604, for purposes of this section, "minor" or "minor child" means (1) a person under the age of eighteen, or (2) an unmarried person under the age of twenty-one who is dependent on a competent caregiver, consents to the appointment or continuation of a guardian after attaining the age of eighteen, and submits a petition for findings pursuant to section 45a-608n(b).

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

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

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

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

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

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

(f) Notwithstanding the definitions of "minor" and "minor child" pursuant to section 45a-604, for purposes of this section, "minor" or "minor child" means (1) a person under the age of eighteen, or (2) an unmarried person under the age of twenty-one who is dependent on a competent caregiver, consents to the appointment or continuation of a guardian after attaining the age of eighteen, and submits a petition for findings pursuant to section 45a-608n(b).

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

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

(b) Notwithstanding the definitions of "minor" and "minor child" pursuant to section 45a-604, for purposes of this section, "minor" or "minor child" means (1) a person under the age of eighteen, or (2) an unmarried person under the age of twenty-one who is dependent on a competent caregiver, consents to the appointment or continuation of a guardian after attaining the age of eighteen, and submits a petition for findings pursuant to section 45a-608n(b).

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. 4	*July 1, 2018*	45a-617

Statement of Purpose:

To permit certain vulnerable unmarried youth under the age of twenty-one who submit a petition for findings pursuant to section 45a-608n(b) to have a competent guardian appointed to meet their physical, emotional and educational needs.

[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.]