



General Assembly

February Session, 2018

***Raised Bill No. 5185***

LCO No. 326



Referred to Committee on COMMITTEE ON CHILDREN

Introduced by:  
(KID)

***AN ACT CONCERNING 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 Section 45a-608n of the general statutes is repealed and  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 definitions of "minor" and "minor child"  
46 pursuant to section 45a-604, for purposes of this section, "minor" or  
47 "minor child" means (1) a person under the age of eighteen, or (2) an  
48 unmarried person under the age of twenty-one who is dependent on a

49 competent caregiver and consents to the appointment or continuation  
50 of a guardian after attaining the age of eighteen, solely in connection  
51 with a petition to United States Citizenship and Immigration Services  
52 for designation of the person as having special immigrant juvenile  
53 status pursuant to 8 USC 1101(a)(27)(I).

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 Section 45a-616 of the general statutes is repealed and the  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

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

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

81 occurrence of such contingency. The court shall take of such guardian  
82 or coguardians a written acceptance of guardianship, and if the court  
83 deems it necessary for the protection of the minor, a probate bond.

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

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

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

105 (f) Notwithstanding the definitions of "minor" and "minor child"  
106 pursuant to section 45a-604, for purposes of this section, "minor" or  
107 "minor child" means (1) a person under the age of eighteen, or (2) an  
108 unmarried person under the age of twenty-one who is dependent on a  
109 competent caregiver and consents to the appointment or continuation  
110 of a guardian after attaining the age of eighteen, solely in connection  
111 with a petition to United States Citizenship and Immigration Services

112 for designation of the person as having special immigrant juvenile  
113 status pursuant to 8 USC 1101(a)(27)(I).

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

117 (a) In appointing a guardian of the person of a minor pursuant to  
118 section 45a-616, as amended by this act, or at any time following such  
119 appointment, the Court of Probate may establish a permanent  
120 guardianship if the court provides notice to each parent that the parent  
121 may not petition for reinstatement as guardian or petition to terminate  
122 the permanent guardianship, except as provided in subsection (b) of  
123 this section, or the court indicates on the record why such notice could  
124 not be provided, and the court finds by clear and convincing evidence  
125 that the establishment of a permanent guardianship is in the best  
126 interests of the minor and that the following have been proven by clear  
127 and convincing evidence:

128 (1) One of the grounds for termination of parental rights, as set forth  
129 in subparagraphs (A) to (H), inclusive, of subdivision (2) of subsection  
130 (g) of section 45a-717 exists, or the parents have voluntarily consented  
131 to the appointment of a permanent guardian;

132 (2) Adoption of the minor is not possible or appropriate;

133 (3) (A) If the minor is at least twelve years of age, such minor  
134 consents to the proposed appointment of a permanent guardian, or (B)  
135 if the minor is under twelve years of age, the proposed permanent  
136 guardian is a relative or already serving as the permanent guardian of  
137 at least one of the minor's siblings;

138 (4) The minor has resided with the proposed permanent guardian  
139 for at least one year; and

140 (5) The proposed permanent guardian is suitable and worthy and

141 committed to remaining the permanent guardian and assuming the  
142 rights and responsibilities for the minor until the minor reaches the age  
143 of majority.

144 (b) If a permanent guardian appointed under this section becomes  
145 unable or unwilling to serve as permanent guardian, the court may  
146 appoint a successor guardian or permanent guardian in accordance  
147 with this section and sections 45a-616 and 45a-617, as amended by this  
148 act, or may reinstate a parent of the minor who was previously  
149 removed as guardian of the person of the minor if the court finds that  
150 the factors that resulted in the removal of the parent as guardian have  
151 been resolved satisfactorily, and that it is in the best interests of the  
152 child to reinstate the parent as guardian.

153 (c) Notwithstanding the definitions of "minor" and "minor child"  
154 pursuant to section 45a 604, for purposes of this section, "minor" or  
155 "minor child" means (1) a person under the age of eighteen, or (2) an  
156 unmarried person under the age of twenty-one who is dependent on a  
157 competent caregiver and consents to the appointment or continuation  
158 of a guardian after attaining the age of eighteen, solely in connection  
159 with a petition to United States Citizenship and Immigration Services  
160 for designation of the person as having special immigrant juvenile  
161 status pursuant to 8 USC 1101(a)(27)(I).

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

164 (a) When appointing a guardian, coguardians or permanent  
165 guardian of the person of a minor, the court shall take into  
166 consideration the following factors: (1) The ability of the prospective  
167 guardian, coguardians or permanent guardian to meet, on a  
168 continuing day to day basis, the physical, emotional, moral and  
169 educational needs of the minor; (2) the minor's wishes, if he or she is  
170 over the age of twelve or is of sufficient maturity and capable of  
171 forming an intelligent preference; (3) the existence or nonexistence of

172 an established relationship between the minor and the prospective  
173 guardian, coguardians or permanent guardian; and (4) the best  
174 interests of the child. There shall be a rebuttable presumption that  
175 appointment of a grandparent or other relative related by blood or  
176 marriage as a guardian, coguardian or permanent guardian is in the  
177 best interests of the minor child.

178 (b) Notwithstanding the definitions of "minor" and "minor child"  
179 pursuant to section 45a-604, for purposes of this section, "minor" or  
180 "minor child" means (1) a person under the age of eighteen, or (2) an  
181 unmarried person under the age of twenty-one who is dependent on a  
182 competent caregiver and consents to the appointment or continuation  
183 of a guardian after attaining the age of eighteen, solely in connection  
184 with a petition to United States Citizenship and Immigration Services  
185 for designation of the person as having special immigrant juvenile  
186 status pursuant to 8 USC 1101(a)(27)(I).

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	45a-608n
Sec. 2	<i>July 1, 2018</i>	45a-616
Sec. 3	<i>July 1, 2018</i>	45a-616a
Sec. 4	<i>July 1, 2018</i>	45a-617

**Statement of Purpose:**

To permit certain unmarried persons under the age of twenty-one to be appointed a guardian solely in connection with a petition to United States Citizenship and Immigration Services for designation of the person as having special immigrant juvenile status.

*[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.]*