



Senate

General Assembly

File No. 514

February Session, 2018

Substitute Senate Bill No. 247

Senate, April 16, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PROBATE COURT OPERATIONS.

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

1 Section 1. Section 17b-751a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) [A grandparent or other relative caregiver] An individual who is
4 appointed as a guardian of a child or children by the Superior Court or
5 Probate Court and who is not a recipient of subsidized guardianship
6 subsidies under section 17a-126 or foster care payments from the
7 Department of Children and Families shall, within available
8 appropriations, be eligible to apply for grants under the Kinship Fund
9 and Grandparents and Relatives Respite Fund administered by the
10 Probate Court Administrator.

11 (b) The Probate Court Administrator may designate one or more
12 Probate Courts to administer grants from the Kinship Fund and
13 Grandparents and Relatives Respite Fund and may transfer grant

14 funds to such courts at such times and in such amounts as the
15 administrator determines necessary to ensure the efficient processing
16 of grants from all eligible applicants. Each such court shall establish
17 and maintain separate checking accounts to hold and manage grant
18 funds for the Kinship Fund and the Grandparents and Relatives
19 Respite Fund. The accounts shall be in the name of the court at a
20 financial institution, as defined in section 36a-330. The court shall
21 deposit into the respective accounts all grant funds transferred from
22 the administrator and disburse from the accounts all grants approved
23 by the court. The court shall not commingle grant funds with funds
24 from any other source. The provisions of section 4-33 shall not apply to
25 the management of grant funds under this section.

26 Sec. 2. Section 45a-106a of the 2018 supplement to the general
27 statutes is repealed and the following is substituted in lieu thereof
28 (*Effective January 1, 2019*):

29 (a) The fees set forth in this section apply to each filing made in a
30 Probate Court [on or after January 1, 2018,] in any matter other than a
31 decedent's estate.

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

34 (1) With respect to a minor child: (A) Appoint a temporary
35 guardian, temporary custodian, guardian, coguardian, permanent
36 guardian or statutory parent, (B) remove a guardian, including the
37 appointment of another guardian, (C) reinstate a parent as guardian,
38 (D) terminate parental rights, including the appointment of a guardian
39 or statutory parent, (E) grant visitation, (F) make findings regarding
40 special immigrant juvenile status, (G) approve placement of a child for
41 adoption outside this state, (H) approve an adoption, (I) validate a
42 foreign adoption, (J) review, modify or enforce a cooperative
43 postadoption agreement, (K) review an order concerning contact
44 between an adopted child and his or her siblings, (L) resolve a dispute
45 concerning a standby guardian, (M) approve a plan for voluntary
46 services provided by the Department of Children and Families, (N)

47 determine whether the termination of voluntary services provided by
48 the Department of Children and Families is in accordance with
49 applicable regulations, (O) conduct an in-court review to modify an
50 order, (P) grant emancipation, (Q) grant approval to marry, (R)
51 transfer funds to a custodian under sections 45a-557 to 45a-560b,
52 inclusive, (S) appoint a successor custodian under section 45a-559c, (T)
53 resolve a dispute concerning custodianship under sections 45a-557 to
54 45a-560b, inclusive, and (U) grant authority to purchase real estate;

55 (2) Determine paternity;

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

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

63 (5) Approve an adult adoption;

64 (6) With respect to a conservatorship: (A) Appoint a temporary
65 conservator, conservator or special limited conservator, (B) change
66 residence, terminate a tenancy or lease, sell or dispose household
67 furnishings, or place in a long-term care facility, (C) determine
68 competency to vote, (D) approve a support allowance for a spouse, (E)
69 grant authority to elect the spousal share, (F) grant authority to
70 purchase real estate, (G) give instructions regarding administration of
71 a joint asset or liability, (H) distribute gifts, (I) grant authority to
72 consent to involuntary medication, (J) determine whether informed
73 consent has been given for voluntary admission to a hospital for
74 psychiatric disabilities, (K) determine life-sustaining medical
75 treatment, (L) transfer to or from another state, (M) modify the
76 conservatorship in connection with a periodic review, (N) excuse
77 accounts under rules of procedure approved by the Supreme Court
78 under section 45a-78, (O) terminate the conservatorship, and (P) grant

79 a writ of habeas corpus;

80 (7) With respect to a power of attorney: (A) Compel an account by
81 an agent, (B) review the conduct of an agent, (C) construe the power of
82 attorney, and (D) mandate acceptance of the power of attorney;

83 (8) Resolve a dispute concerning advance directives or life-
84 sustaining medical treatment when the individual does not have a
85 conservator or guardian;

86 (9) With respect to an elderly person as defined in section 17b-450:
87 (A) Enjoin an individual from interfering with the provision of
88 protective services to such elderly person, and (B) authorize the
89 Commissioner of Social Services to enter the premises of such elderly
90 person to determine whether such elderly person needs protective
91 services;

92 (10) With respect to an adult with intellectual disability: (A) Appoint
93 a temporary limited guardian, guardian or standby guardian, (B) grant
94 visitation, (C) determine competency to vote, (D) modify the
95 guardianship in connection with a periodic review, (E) determine life-
96 sustaining medical treatment, (F) approve an involuntary placement,
97 (G) review an involuntary placement, (H) authorize a guardian to
98 manage the finances of such adult, and (I) grant a writ of habeas
99 corpus;

100 (11) With respect to psychiatric disability: (A) Commit an individual
101 for treatment, (B) issue a warrant for examination of an individual at a
102 general hospital, (C) determine whether there is probable cause to
103 continue an involuntary confinement, (D) review an involuntary
104 confinement for possible release, (E) authorize shock therapy, (F)
105 authorize medication for treatment of psychiatric disability, (G) review
106 the status of an individual under the age of sixteen as a voluntary
107 patient, and (H) recommit an individual under the age of sixteen for
108 further treatment;

109 (12) With respect to drug or alcohol dependency: (A) Commit an

110 individual for treatment, (B) recommit an individual for further
111 treatment, and (C) terminate an involuntary confinement;

112 (13) With respect to tuberculosis: (A) Commit an individual for
113 treatment, (B) issue a warrant to enforce an examination order, and (C)
114 terminate an involuntary confinement;

115 (14) Compel an account by the trustee of an inter vivos trust,
116 custodian under sections 45a-557 to 45a-560b, inclusive, or treasurer of
117 an ecclesiastical society or cemetery association;

118 (15) With respect to a testamentary or inter vivos trust: (A)
119 Construe, divide, reform or terminate the trust, (B) enforce the
120 provisions of a pet trust, and (C) excuse a final account under rules of
121 procedure approved by the Supreme Court under section 45a-78;

122 (16) Authorize a fiduciary to establish a trust;

123 (17) Appoint a trustee for a missing person;

124 (18) Change a person's name;

125 (19) Issue an order to amend the birth certificate of an individual
126 born in another state to reflect a gender change;

127 (20) Require the Department of Public Health to issue a delayed
128 birth certificate;

129 (21) Compel the board of a cemetery association to disclose the
130 minutes of the annual meeting;

131 (22) Issue an order to protect a grave marker;

132 (23) Restore rights to purchase, possess and transport firearms;

133 (24) Issue an order permitting sterilization of an individual;

134 (25) Approve the transfer of structured settlement payment rights;
135 and

136 (26) With respect to any case in a Probate Court other than a
137 decedent's estate: (A) Compel or approve an action by the fiduciary,
138 (B) give advice or instruction to the fiduciary, (C) authorize a fiduciary
139 to compromise a claim, (D) list, sell or mortgage real property, (E)
140 determine title to property, (F) resolve a dispute between cofiduciaries
141 or among fiduciaries, (G) remove a fiduciary, (H) appoint a successor
142 fiduciary or fill a vacancy in the office of fiduciary, (I) approve
143 fiduciary or attorney's fees, (J) apply the doctrine of cy pres or
144 approximation, (K) reconsider, modify or revoke an order, and (L)
145 decide an action on a probate bond.

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

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

155 (e) The fee to register a conservator of the person or conservator of
156 the estate order from another state under section 45a-667r or 45a-667s,
157 or to register both types of orders for the same person at the same time,
158 is one hundred fifty dollars.

159 (f) The fee for mediation conducted by a member of the panel
160 established by the Probate Court Administrator is three hundred fifty
161 dollars per day or part thereof.

162 (g) The fee to request a continuance in a Probate Court is fifty
163 dollars, plus the actual expenses of rescheduling the hearing that are
164 payable under section 45a-109, except that the court, for cause shown,
165 may waive either the fifty-dollar fee or the actual expenses of
166 rescheduling the hearing, or both. The fee shall be payable by the party
167 who requests the continuance of a scheduled hearing or whose failure

168 to appear necessitates the continuance.

169 (h) The fee to file a motion to permit an attorney who has not been
170 admitted as an attorney under the provisions of section 51-80 to appear
171 pro hac vice in a matter in the Probate Court is two hundred fifty
172 dollars.

173 (i) The fee to file an affidavit concerning the possessions and
174 personal effects of a deceased occupant under section 47a-11d is one
175 hundred fifty dollars.

176 [(i)] (j) Except as provided in subsection (d) of section 45a-111, fees
177 imposed under this section shall be paid at the time of filing.

178 [(j)] (k) If a statute or rule of procedure approved by the Supreme
179 Court under section 45a-78 specifies filings that may be combined into
180 a single motion, petition or application, the fee under this section for
181 the combined filing is the amount equal to the largest of the individual
182 filing fees applicable to the underlying motions, petitions or
183 applications.

184 [(k)] (l) No fee shall be charged under this section if exempted or
185 waived under section 45a-111 or any other provision of the general
186 statutes.

187 Sec. 3. Subsection (m) of section 45a-107 of the 2018 supplement to
188 the general statutes is repealed and the following is substituted in lieu
189 thereof (*Effective January 1, 2019*):

190 (m) In the case of decedents who die on or after January 1, 2011:

191 (1) Any fees assessed under this section that are not paid within
192 thirty days of the date of an invoice from the Probate Court shall bear
193 interest at the rate of one-half of one per cent per month or portion
194 thereof until paid;

195 (2) If a tax return or a copy of a tax return required under
196 subparagraph (D) of subdivision (3) of subsection (b) of section 12-392

197 is not filed with a Probate Court by the due date for such return or
198 copy under subdivision (1) of subsection (b) of section 12-392 or by the
199 date an extension under subdivision (4) of subsection (b) of section 12-
200 392 expires, the fees that would have been due under this section if
201 such return or copy had been filed by such due date or expiration date
202 shall bear interest at the rate of one-half of one per cent per month or
203 portion thereof from the date that is thirty days after such due date or
204 expiration date, whichever is later, until paid. If a return or copy is
205 filed with a Probate Court on or before such due date or expiration
206 date, whichever is later, the fees assessed shall bear interest as
207 provided in subdivision (1) of this subsection. No interest shall accrue
208 under this subdivision on any portion of the fees that are based on
209 damages recovered for injuries resulting in death;

210 (3) A Probate Court may extend the time for payment of any fees
211 under this section, including interest, if it appears to the court that
212 requiring payment by such due date or expiration date would cause
213 undue hardship. No additional interest shall accrue during the period
214 of such extension. A Probate Court may not waive interest outside of
215 any extension period;

216 (4) The interest requirements in subdivisions (1) and (2) of this
217 subsection shall not apply if:

218 (A) The basis for fees for the estate does not exceed forty thousand
219 dollars; or

220 (B) The basis for fees for the estate does not exceed five hundred
221 thousand dollars and any portion of the property included in the basis
222 for fees passes to a surviving spouse.

223 Sec. 4. Subsection (b) of section 45a-110 of the general statutes is
224 repealed and the following is substituted in lieu thereof (*Effective from*
225 *passage*):

226 (b) In the case of any proceeding commenced on motion of the
227 court, the court may assess the fees and expenses provided for under

228 sections 45a-106a, as amended by this act, 45a-107, as amended by this
229 act, and 45a-109 against one or more parties in such proportion as the
230 court determines equitable. No fee shall be charged under this
231 subsection for a hearing on the court's own motion to remove a
232 fiduciary for failure to file required documents.

233 Sec. 5. Section 45a-175 of the 2018 supplement to the general statutes
234 is repealed and the following is substituted in lieu thereof (*Effective*
235 *October 1, 2018*):

236 (a) Probate Courts shall have jurisdiction of the interim and final
237 accounts of testamentary trustees, trustees appointed by the Probate
238 Courts, conservators, guardians, [persons appointed by Probate Courts
239 to sell the land of minors,] executors [] and administrators, [and
240 trustees in insolvency,] and, to the extent provided for in this section,
241 shall have jurisdiction of accounts of the actions of trustees of inter
242 vivos trusts and agents acting under powers of attorney.

243 (b) A trustee or settlor of an inter vivos trust or the successor of the
244 trustee, settlor or his or her legal representative may [make
245 application] petition to the Probate Court for the district where the
246 trustee, or any one of them, has any place of business or to the Probate
247 Court for the district where the trustee or any one of them or the settlor
248 resides or, in the case of a deceased settlor, to the Probate Court having
249 jurisdiction over the estate of the settlor or for the district in which the
250 settlor resided immediately prior to death for submission to the
251 jurisdiction of the court of an account for allowance of the trustee's
252 actions under such trust.

253 (c) (1) Any beneficiary of an inter vivos trust may petition a Probate
254 Court having jurisdiction under this section for an accounting by the
255 trustee or trustees. The court may, after hearing with notice to all
256 interested parties, grant the petition and require an accounting for
257 such periods of time as it determines are reasonable and necessary on
258 finding that: (A) The beneficiary has an interest in the trust sufficient to
259 entitle him or her to an accounting, (B) cause has been shown that an
260 accounting is necessary, and (C) the petition is not for the purpose of

261 harassment.

262 (2) A Probate Court shall have jurisdiction to require an accounting
263 under subdivision (1) of this subsection if (A) a trustee of the trust
264 resides in its district, (B) in the case of a corporate trustee, the trustee
265 has any place of business in the district, (C) any of the trust assets are
266 maintained or evidences of intangible property of the trust are situated
267 in the district, or (D) the settlor resides in the district or, in the case of a
268 deceased settlor, resided in the district immediately prior to death.

269 (3) As used in subdivision (1) of this subsection, "beneficiary" means
270 any person currently receiving payments of income or principal from
271 the trust, or who may be entitled to receive income or principal or both
272 from the trust at some future date, or the legal representative of such
273 person.

274 (d) Any of the persons specified in section 1-350o may [make
275 application to] petition the Probate Court for the district where the
276 agent has any place of business or to the Probate Court for the district
277 where the agent or the principal resides or, in the case of a deceased
278 principal, to the Probate Court having jurisdiction over the estate of
279 the principal or for the district in which the principal resided
280 immediately prior to death, for an accounting or other relief as
281 provided in section 1-350o. The court shall grant the petition if filed by
282 the principal, agent, guardian, conservator or other fiduciary acting for
283 the principal. The court may grant a petition filed by any other person
284 specified in section 1-350o if it finds that (1) the petitioner has an
285 interest sufficient to entitle him to the relief requested, (2) cause has
286 been shown that such relief is necessary, and (3) the petition is not for
287 the purpose of harassment.

288 (e) The action to submit an accounting to the court, whether by an
289 inter vivos trustee or agent acting under a power of attorney or
290 whether pursuant to petition of another party, shall not subject the
291 trust or the power of attorney to the continuing jurisdiction of the
292 Probate Court.

293 (f) If the court finds such appointment to be necessary and in the
294 best interests of the estate, the court upon its own motion may appoint
295 an auditor to be selected from a list provided by the Probate Court
296 Administrator, to examine accounts over which the court has
297 jurisdiction under this section, except those accounts on matters in
298 which the fiduciary or cofiduciary is a corporation having trust
299 powers. The list of auditors compiled by the Probate Court
300 Administrator shall be comprised of individuals who hold a license
301 from the State Board of Accountancy as a certified public accountant or
302 public accountant. The Probate Court Administrator may from time to
303 time establish hourly rates and allowable expenses for the
304 compensation of auditors under this section. Costs of the audit may be
305 charged to the fiduciary, any party in interest and the estate, in such
306 proportion as the court shall direct if the court finds such charge to be
307 equitable. Any such share may be paid from the fund established
308 under section 45a-82, subject to the approval of the Probate Court
309 Administrator, if it is determined that the person obligated to pay such
310 share is unable to pay or to charge such amount to the estate would
311 cause undue hardship.

312 (g) Upon the allowance of any such account, the court shall
313 determine the rights of the fiduciaries or the agent under a power of
314 attorney rendering the account and of the parties interested in the
315 account, including the relief authorized under section 1-350p, subject
316 to appeal as in other cases. The court shall cause notice of the hearing
317 on the account to be given in such manner and to such parties as it
318 directs.

319 (h) In any action under this section, the Probate Court shall have, in
320 addition to powers pursuant to this section, all the powers available to
321 a judge of the Superior Court at law and in equity pertaining to
322 matters under this section.

323 Sec. 6. Section 45a-180 of the general statutes is repealed and the
324 following is substituted in lieu thereof (*Effective October 1, 2018*):

325 Whenever an executor, administrator, conservator, guardian [,

326 trustee in insolvency] or trustee of any testamentary trust dies before
327 completing and accounting for his or her trust, the executor or
328 administrator of the deceased fiduciary shall settle the deceased
329 fiduciary's account in the [Court of] Probate Court. The amount found
330 due from or to the deceased fiduciary shall be paid in the same manner
331 as it would have been paid to or by him or her if the account had been
332 settled in his or her lifetime.

333 Sec. 7. Section 45a-242 of the general statutes is repealed and the
334 following is substituted in lieu thereof (*Effective October 1, 2018*):

335 The [court of probate] Probate Court having jurisdiction may, upon
336 its own motion or upon the [application and complaint] petition of any
337 person interested or of the surety upon the fiduciary's probate bond,
338 after notice and hearing, remove any fiduciary if: (1) The fiduciary
339 becomes incapable of executing such fiduciary's trust, neglects to
340 perform the duties of such fiduciary's trust, wastes the estate in such
341 fiduciary's charge, or fails to furnish any additional or substitute
342 probate bond ordered by the court, (2) lack of cooperation among
343 cofiduciaries substantially impairs the administration of the estate, (3)
344 because of unfitness, unwillingness or persistent failure of the
345 fiduciary to administer the estate effectively, the court determines that
346 removal of the fiduciary best serves the interests of the beneficiaries, or
347 (4) there has been a substantial change of circumstances or removal is
348 requested by all of the beneficiaries, the court finds that removal of the
349 fiduciary best serves the interests of all the beneficiaries and is not
350 inconsistent with a material purpose of the governing instrument and
351 a suitable cofiduciary or successor fiduciary is available. A successor
352 corporate fiduciary shall not be removed in such a manner as to
353 discriminate against state banks or national banking associations, nor
354 shall any consolidated state bank or national banking association or
355 any receiving state bank or national banking association be removed
356 solely because it is a successor fiduciary, as defined in section 45a-245a.

357 (b) The [court of probate] Probate Court, after notice and hearing,
358 may accept or reject the written resignation of any fiduciary, but such

359 resignation shall not [be accepted until] relieve such fiduciary [has]
360 from the obligation to fully and finally [accounted] account to the court
361 for the administration of such fiduciary's trust. [to the acceptance of
362 such court.] The fiduciary shall submit a final account to the court
363 within sixty days of the acceptance of his or her resignation.

364 (c) Trustees appointed by a testator to execute a trust created by will
365 and testamentary guardians may resign or be removed, and the
366 vacancies filled by the court having jurisdiction in the manner
367 provided under this section, unless otherwise provided by the will.

368 (d) Except as otherwise provided in subsection (c) of this section,
369 upon the death, removal or acceptance of the resignation of any
370 fiduciary before the completion of such fiduciary's duties, the [court of
371 probate] Probate Court may appoint a suitable person to fill the
372 resultant vacancy and such successor fiduciary shall give a probate
373 bond.

374 (e) All suits in favor of or against the original fiduciary shall survive
375 to and may be prosecuted by or against the person appointed to
376 succeed such fiduciary.

377 Sec. 8. Section 45a-599 of the 2018 supplement to the general statutes
378 is repealed and the following is substituted in lieu thereof (*Effective*
379 *January 1, 2019*):

380 (a) On the petition of a party or on the court's own motion, a
381 Probate Court may transfer a matter concerning the guardianship of
382 the person of a minor under sections 45a-603 to 45a-625, inclusive, or
383 termination of parental rights under sections 45a-715 to 45a-719,
384 inclusive, to another Probate Court where a prior matter concerning
385 the same minor is pending or continuing, provided the transferring
386 court finds that the transfer is in the best interest of the minor.

387 (b) When any minor for whom a guardian has been appointed
388 becomes a resident of any town in the state in a probate district other
389 than the one in which a guardian was appointed, such court in that

390 district may, upon motion of any person deemed by the court to have
391 sufficient interest in the welfare of the respondent, including, but not
392 limited to, the guardian or a relative of the minor under guardianship,
393 transfer the file to the probate district in which the minor under
394 guardianship resides at the time of the [application] motion, provided
395 the transfer is in the best interest of the minor.

396 (c) Upon issuance of an order to transfer a file under this section, the
397 transferring court shall transmit a digital image of each document in
398 the court file to the transferee court using the document management
399 system maintained by the Office of the Probate Court Administrator.
400 The transferee court shall thereupon assume jurisdiction over the
401 guardianship.

402 Sec. 9. Section 45a-611 of the general statutes is repealed and the
403 following is substituted in lieu thereof (*Effective October 1, 2018*):

404 (a) Except as provided in subsection (d) of this section, any parent
405 who has been removed as the guardian of the person of a minor may
406 apply to the [court of probate] Probate Court which removed him or
407 her for reinstatement as the guardian of the person of the minor, if in
408 his or her opinion the factors which resulted in removal have been
409 resolved satisfactorily.

410 (b) In the case of a parent who seeks reinstatement, the court shall
411 hold a hearing following notice to the guardian, to the parent or
412 parents and to the minor, if over twelve years of age, [as provided in
413 section 45a-609] by first class mail not less than ten days before the
414 date of the hearing. If the court determines that the factors which
415 resulted in the removal of the parent have been resolved satisfactorily,
416 the court may remove the guardian and reinstate the parent as
417 guardian of the person of the minor, if it determines that it is in the
418 best interests of the minor to do so. At the request of a parent,
419 guardian, counsel or guardian ad litem representing one of the parties,
420 filed within thirty days of the decree, the court shall make findings of
421 fact to support its conclusions.

422 (c) The provisions of this section shall also apply to the
423 reinstatement of any guardian of the person of a minor other than a
424 parent.

425 (d) Notwithstanding the provisions of this section, and subject to the
426 provisions of subsection (b) of section 45a-616a, as amended by this
427 act, a parent who has been removed as guardian of the person of a
428 minor may not petition for reinstatement as guardian if a court has
429 established a permanent guardianship for the person of the minor
430 pursuant to section 45a-616a, as amended by this act.

431 Sec. 10. Section 45a-616 of the general statutes is repealed and the
432 following is substituted in lieu thereof (*Effective October 1, 2018*):

433 (a) If any minor has no parent or guardian of his or her person, the
434 [court of probate] Probate Court for the district in which the minor
435 resides, is domiciled or is located at the time of the filing of the petition
436 may, on its own motion, appoint a guardian or coguardians of the
437 person of the minor, taking into consideration the standards provided
438 in section 45a-617. Such court shall take of such guardian or
439 coguardians a written acceptance of guardianship and, if the court
440 deems it necessary for the protection of the minor, a probate bond.

441 (b) If any minor has a parent or guardian, who is the sole guardian
442 of the person of the child, the [court of probate] Probate Court for the
443 district in which the minor resides, is domiciled or is located at the
444 time of the filing of the petition may, on the [application] petition of
445 the parent or guardian of such child or of the Commissioner of
446 Children and Families with the consent of such parent or guardian and
447 with regard to a child within the care of the commissioner, appoint one
448 or more persons to serve as coguardians of the child. When appointing
449 a guardian or guardians under this subsection, the court shall take into
450 consideration the standards provided in section 45a-617. The court
451 may order that the appointment of a guardian or guardians under this
452 subsection take effect immediately or, upon request of the parent or
453 guardian, upon the occurrence of a specified contingency, including,
454 but not limited to, the mental incapacity, physical debilitation or death

455 of that parent or guardian. Upon the occurrence of such contingency
456 and notice thereof by written affidavit to the [probate] court by the
457 appointed guardian or guardians, such appointment shall then take
458 effect and continue until the further order of the court, provided the
459 court may hold a hearing to verify the occurrence of such contingency.
460 The court shall take of such guardian or coguardians a written
461 acceptance of guardianship, and if the court deems it necessary for the
462 protection of the minor, a probate bond.

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

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

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

485 Sec. 11. Section 45a-616a of the 2018 supplement to the general
486 statutes is repealed and the following is substituted in lieu thereof
487 (*Effective October 1, 2018*):

488 (a) [In appointing a guardian of the person of a minor pursuant to
489 section 45a-616 or at any time following such appointment, the Court
490 of Probate] Upon removing a parent as guardian pursuant to section
491 45a-610 or at any time after such removal, the Probate Court may
492 establish a permanent guardianship if the court provides notice, [to
493 each] as provided in section 45a-609, to the removed parent that the
494 parent may not petition for reinstatement as guardian or petition to
495 terminate the permanent guardianship, except as provided in
496 subsection (b) of this section, or the court indicates on the record why
497 such notice could not be provided, and the court finds by clear and
498 convincing evidence that the establishment of a permanent
499 guardianship is in the best interests of the minor and that the following
500 have been proven by clear and convincing evidence:

501 (1) One of the grounds for termination of parental rights, as set forth
502 in subparagraphs (A) to (H), inclusive, of subdivision (2) of subsection
503 (g) of section 45a-717 exists, or the [parents have] removed parent has
504 voluntarily consented to the appointment of a permanent guardian;

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

506 (3) (A) If the minor is at least twelve years of age, such minor
507 consents to the proposed appointment of a permanent guardian, or (B)
508 if the minor is under twelve years of age, the proposed permanent
509 guardian is a relative or already serving as the permanent guardian of
510 at least one of the minor's siblings;

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

513 (5) The proposed permanent guardian is suitable and worthy and
514 committed to remaining the permanent guardian and assuming the
515 rights and responsibilities for the minor until the minor reaches the age
516 of majority.

517 (b) If a permanent guardian appointed under this section becomes
518 unable or unwilling to serve as permanent guardian, the court may

519 appoint a successor guardian or permanent guardian in accordance
520 with this section and sections 45a-616 and 45a-617, as amended by this
521 act, or may reinstate a parent of the minor who was previously
522 removed as guardian of the person of the minor if the court finds that
523 the factors that resulted in the removal of the parent as guardian have
524 been resolved satisfactorily, and that it is in the best interests of the
525 child to reinstate the parent as guardian.

526 Sec. 12. Section 45a-622 of the general statutes is repealed and the
527 following is substituted in lieu thereof (*Effective October 1, 2018*):

528 (a) Any parent or guardian of the person of a minor may apply to
529 the [court of probate] Probate Court for the district in which the minor
530 [lives] resides, is domiciled or is located at the time of the filing of the
531 petition for the appointment of a temporary guardian of the person to
532 serve for no longer than one year if the appointing parent or guardian
533 is unable to care for the minor for any reason including, but not limited
534 to, illness and absence from the jurisdiction. The temporary guardian
535 will cease to serve when the appointing parent or guardian notifies the
536 [probate] court and the temporary guardian to that effect.

537 (b) The rights and obligations of the temporary guardian shall be
538 those described in subdivisions (5) and (6) of section 45a-604. A
539 temporary guardian is not liable as a guardian pursuant to section 52-
540 572.

541 Sec. 13. Subsection (c) of section 45a-648 of the general statutes is
542 repealed and the following is substituted in lieu thereof (*Effective*
543 *October 1, 2018*):

544 (c) An application for involuntary representation may be filed by
545 the parent or guardian of a minor child up to [one hundred eighty]
546 forty-five days prior to the date such child attains eighteen years of age
547 if the parent or guardian anticipates that such minor child will require
548 a conservator upon attaining eighteen years of age. The hearing on
549 such application shall be held not more than thirty days prior to the
550 date such child attains eighteen years of age. The court may grant such

551 application, provided such order shall take effect no earlier than the
552 date the child attains eighteen years of age.

553 Sec. 14. Section 45a-654 of the general statutes is repealed and the
554 following is substituted in lieu thereof (*Effective October 1, 2018*):

555 (a) Upon written [application] petition for appointment of a
556 temporary conservator brought by any person considered by the
557 [court] Probate Court to have sufficient interest in the welfare of the
558 respondent, including, but not limited to, the spouse or any relative of
559 the respondent, the first selectman, chief executive officer or head of
560 the department of welfare of the town of residence or domicile of any
561 respondent, the Commissioner of Social Services, the board of directors
562 of any charitable organization, as defined in section 21a-190a, or the
563 chief administrative officer of any nonprofit hospital or such officer's
564 designee, the [Court of Probate] court may appoint a temporary
565 conservator if the court finds by clear and convincing evidence that: (1)
566 The respondent is incapable of managing his or her affairs or incapable
567 of caring for himself or herself, (2) immediate and irreparable harm to
568 the mental or physical health or financial or legal affairs of the
569 respondent will result if a temporary conservator is not appointed, and
570 (3) appointment of a temporary conservator is the least restrictive
571 means of intervention available to prevent such harm. The court shall
572 require the temporary conservator to give a probate bond. The court
573 shall limit the duties and authority of the temporary conservator to the
574 circumstances that gave rise to the application and shall make specific
575 findings, by clear and convincing evidence, of the immediate and
576 irreparable harm that will be prevented by the appointment of a
577 temporary conservator and that support the appointment of a
578 temporary conservator. In making such specific findings, the court
579 shall consider the present and previously expressed wishes of the
580 respondent, the abilities of the respondent, any prior appointment of
581 an attorney-in-fact, health care representative, trustee or other
582 fiduciary acting on behalf of the respondent, any support service
583 otherwise available to the respondent and any other relevant evidence.
584 In appointing a temporary conservator pursuant to this section, the

585 court shall set forth each duty or authority of the temporary
586 conservator. The temporary conservator shall have charge of the
587 property or of the person of the conserved person, or both, for such
588 period or for such specific occasion as the court finds to be necessary,
589 provided a temporary appointment shall not be valid for more than
590 thirty days, unless at any time while the appointment of a temporary
591 conservator is in effect, [an application] a petition is filed for
592 appointment of a conservator of the person or estate under section 45a-
593 650, as amended by this act. The court may (A) extend the
594 appointment of the temporary conservator until the disposition of such
595 [application] petition under section 45a-650, as amended by this act, or
596 for an additional thirty days, whichever occurs first, or (B) terminate
597 the appointment of a temporary conservator upon a showing that the
598 circumstances that gave rise to the [application] petition for
599 appointment of a temporary conservator no longer exist. No
600 appointment of a temporary conservator under this section may be in
601 effect for more than sixty days from the date of the initial appointment.

602 (b) Unless the court waives the medical evidence requirement
603 pursuant to subsection (e) of this section, an appointment of a
604 temporary conservator shall not be made unless a report is filed with
605 the [application] petition for appointment of a temporary conservator,
606 signed by a physician licensed to practice medicine or surgery in this
607 state, stating: (1) That the physician has examined the respondent and
608 the date of such examination, which shall not be more than three days
609 prior to the date of presentation to the judge; (2) that it is the opinion of
610 the physician that the respondent is incapable of managing his or her
611 affairs or incapable of caring for himself or herself; and (3) the reasons
612 for such opinion. Any physician's report filed with the court pursuant
613 to this subsection shall be confidential. The court shall provide for the
614 disclosure of the medical information required pursuant to this
615 subsection to the respondent on the respondent's request, to the
616 respondent's attorney and to any other party considered appropriate
617 by the court.

618 (c) Upon receipt of [an application] a petition for the appointment of

619 a temporary conservator, the court shall issue notice to the respondent,
620 appoint counsel for the respondent and conduct a hearing on the
621 [application] petition in the manner set forth in sections 45a-649, 45a-
622 649a and 45a-650, as amended by this act, except that (1) notice to the
623 respondent shall be given not less than five days before the hearing,
624 which shall be conducted not later than seven days after the
625 [application] petition is filed, excluding Saturdays, Sundays and
626 holidays, or (2) where [an application] a petition has been made ex
627 parte for the appointment of a temporary conservator, notice shall be
628 given to the respondent not more than forty-eight hours after the ex
629 parte appointment of a temporary conservator, with the hearing on
630 such ex parte appointment to be conducted not later than three days
631 after the ex parte appointment, excluding Saturdays, Sundays and
632 holidays. Service on the respondent of the notice of the [application]
633 petition for the appointment of a temporary conservator shall be in
634 hand and shall be made by a state marshal, constable or an indifferent
635 person. Notice shall include (A) a copy of the [application] petition for
636 appointment of a temporary conservator and any physician's report
637 filed with the [application] petition pursuant to subsection (b) of this
638 section, (B) a copy of an ex parte order, if any, appointing a temporary
639 conservator, and (C) the date, time and place of the hearing on the
640 [application] petition for the appointment of a temporary conservator.
641 The court may not appoint a temporary conservator until the court has
642 made the findings required in this section and held a hearing on the
643 [application] petition, except as provided in subsection (d) of this
644 section. If notice is provided to the next of kin with respect to [an
645 application] a petition filed under this section, the physician's report
646 shall not be disclosed to the next of kin except by order of the court.

647 (d) (1) If the court determines that the delay resulting from giving
648 notice and appointing an attorney to represent the respondent as
649 required in subsection (c) of this section would cause immediate and
650 irreparable harm to the mental or physical health or financial or legal
651 affairs of the respondent, the court may, ex parte and without prior
652 notice to the respondent, appoint a temporary conservator upon
653 receiving evidence and making the findings required in subsection (a)

654 of this section, provided the court makes a specific finding in any
655 decree issued on the [application] petition stating the immediate or
656 irreparable harm that formed the basis for the court's determination
657 and why such hearing and appointment was not required before
658 making an ex parte appointment. If an ex parte order of appointment
659 of a temporary conservator is made, a hearing on the [application]
660 petition for appointment of a temporary conservator shall be
661 commenced not later than three days after the ex parte order was
662 issued, excluding Saturdays, Sundays and holidays. An ex parte order
663 shall expire not later than three days after the order was issued unless
664 a hearing on the order that commenced prior to the expiration of the
665 three-day period has been continued for good cause.

666 (2) After a hearing held under this subsection, the court may
667 appoint a temporary conservator or may confirm or revoke the ex
668 parte appointment of the temporary conservator or may modify the
669 duties and authority assigned under such appointment.

670 (e) The court may waive the medical evidence requirement under
671 subsection (b) of this section if the court finds that the evidence is
672 impossible to obtain because of the refusal of the respondent to be
673 examined by a physician. In any such case the court may, in lieu of
674 medical evidence, accept other competent evidence. In any case in
675 which the court waives the medical evidence requirement as provided
676 in this subsection, the court may not appoint a temporary conservator
677 unless the court finds, by clear and convincing evidence, that (1) the
678 respondent is incapable of managing his or her affairs or incapable of
679 caring for himself or herself, and (2) immediate and irreparable harm
680 to the mental or physical health or financial or legal affairs of the
681 respondent will result if a temporary conservator is not appointed
682 pursuant to this section. In any case in which the court waives the
683 requirement of medical evidence as provided in this subsection, the
684 court shall make a specific finding in any decree issued on the
685 [application] petition stating why medical evidence was not required.

686 (f) Upon the termination of the temporary conservatorship, the

687 temporary conservator shall file, [a written report with the court and,]
688 if applicable, a final accounting as directed by the court, of his or her
689 actions as temporary conservator.

690 Sec. 15. Section 46b-150 of the general statutes is repealed and the
691 following is substituted in lieu thereof (*Effective October 1, 2018*):

692 Any minor who has reached such minor's sixteenth birthday and is
693 residing in this state, or any parent or guardian of such minor, may
694 petition the superior court for juvenile matters or the [probate court]
695 Probate Court for the district in which either the minor or the parents
696 or guardian of such minor resides for a determination that the minor
697 named in the petition be emancipated. The petition shall be verified
698 and shall state plainly: (1) The facts which bring the minor within the
699 jurisdiction of the court, (2) the name, date of birth, sex and residence
700 of the minor, (3) the name and residence of the minor's parent, parents
701 or guardian, and (4) the name of the petitioner and the petitioner's
702 relationship to the minor. Upon the filing of the petition in the
703 Superior Court, the court shall cause a summons to be issued to the
704 minor and the minor's parent, parents or guardian, in the manner
705 provided in section 46b-128. Service on an emancipation petition filed
706 in the superior court for juvenile matters pursuant to this section shall
707 not be required on the petitioning party. Upon the filing of the petition
708 in the Probate Court, the court shall assign a time, not later than thirty
709 days thereafter, and a place for hearing such petition. The court shall
710 cause a citation and notice to be served on the minor and the minor's
711 parent, if the parent is not the petitioner, by personal service or service
712 at the minor's place of abode and the parent's place of abode, at least
713 seven days prior to the hearing date, by a state marshal, constable or
714 indifferent person. The court shall direct notice by first class mail to the
715 parent, if the parent is the petitioner or if the parent resides out of or is
716 absent from the state. The court shall order such notice as it directs to:
717 (A) The Commissioner of Children and Families, (B) the Attorney
718 General, and (C) other persons having an interest in the minor. The
719 Attorney General may file an appearance and shall be and remain a
720 party to the action if the child is receiving or has received aid or care

721 from the state, or if the child is receiving child support enforcement
722 services, as defined in subdivision (2) of subsection (b) of section 46b-
723 231.

724 Sec. 16. Subsection (a) of section 45a-98 of the general statutes is
725 repealed and the following is substituted in lieu thereof (*Effective*
726 *October 1, 2018*):

727 (a) Probate Courts in their respective districts shall have the power
728 to (1) grant administration of intestate estates of persons who have
729 died domiciled in their districts and of intestate estates of persons not
730 domiciled in this state which may be granted as provided by section
731 45a-303; (2) admit wills to probate of persons who have died domiciled
732 in their districts or of nondomiciliaries whose wills may be proved in
733 their districts as provided in section 45a-287; (3) except as provided in
734 section 45a-98a or as limited by an applicable statute of limitations,
735 determine title or rights of possession and use in and to any real,
736 tangible or intangible property that constitutes, or may constitute, all
737 or part of any trust, any decedent's estate, or any estate under control
738 of a guardian or conservator, which trust or estate is otherwise subject
739 to the jurisdiction of the Probate Court, including the rights and
740 obligations of any beneficiary of the trust or estate and including the
741 rights and obligations of any joint tenant with respect to survivorship
742 property; (4) except as provided in section 45a-98a, construe the
743 meaning and effect of (A) any will or trust agreement if a construction
744 is required in connection with the administration or distribution of a
745 trust or estate otherwise subject to the jurisdiction of the Probate
746 Court; (B) an inter vivos trust upon a petition that meets the
747 requirements for a petition for an accounting pursuant to subsection
748 (b) or (c) of section 45a-175, as amended by this act, provided such an
749 accounting need not be required; or (C) a power of attorney pursuant
750 to section 1-350o; (5) except as provided in section 45a-98a, apply the
751 doctrine of cy pres or approximation; (6) to the extent provided for in
752 section 45a-175, as amended by this act, call executors, administrators,
753 trustees, guardians, conservators, [persons appointed to sell the land of
754 minors,] and agents acting under powers of attorney created in

755 accordance with sections 1-350 to 1-353b, inclusive, to account
756 concerning the estates entrusted to their charge or for other relief as
757 provided in sections 1-350 to 1-353b, inclusive; and (7) make any
758 lawful orders or decrees to carry into effect the power and jurisdiction
759 conferred upon them by the laws of this state.

760 Sec. 17. Subsection (a) of section 45a-153 of the general statutes is
761 repealed and the following is substituted in lieu thereof (*Effective*
762 *October 1, 2018*):

763 (a) An executor, administrator, conservator, guardian [, trustee in
764 insolvency] or trustee appointed, or whose appointment has been
765 approved, by a [court of probate] Probate Court, may apply in writing
766 to the [court of probate] Probate Court having jurisdiction of his or her
767 trust for an order authorizing [him] the applicant to submit the matter
768 in controversy to the arbitration of persons who are mutually agreed
769 upon by the applicant and the other party to any matter in controversy
770 which is described in [subsections (a) and] this subsection or
771 subsection (b) of this section, if: (1) [He] The applicant has any claim in
772 [his] the applicant's capacity as such fiduciary, or on behalf of the
773 interest which he or she represents, against any person or to any
774 property; or (2) any person has any claim against or to any property
775 which is in [his] the applicant's control in [his] the applicant's capacity
776 as such fiduciary.

777 Sec. 18. Section 45a-132a of the general statutes is repealed and the
778 following is substituted in lieu thereof (*Effective October 1, 2018*):

779 In any matter before a [court of probate] Probate Court in which the
780 capacity of a party to the action is at issue, the court may order an
781 examination of the allegedly incapable party by a physician or
782 psychiatrist or, where appropriate, a psychologist, licensed to practice
783 in the state, except that a conserved person, as defined in section 45a-
784 644, the respondent to an application for involuntary representation
785 made under section 45a-648, as amended by this act, or a respondent to
786 [an application] a petition for appointment of a temporary conservator
787 made under section 45a-654, as amended by this act, may refuse to

788 undergo an examination ordered by the court under this section. The
789 expense of such examination may be charged against the petitioner,
790 the respondent, the party who requested such examination or the
791 estate of the allegedly incapable party in such proportion as the judge
792 of the court determines. If any such party is unable to pay such
793 expense and files an affidavit with the court demonstrating the
794 inability to pay, the reasonable compensation shall be established by,
795 and paid from funds appropriated to, the Judicial Department, except
796 that if funds have not been included in the budget of the Judicial
797 Department for such purposes, such compensation shall be established
798 by the Probate Court Administrator and paid from the Probate Court
799 Administration Fund.

800 Sec. 19. Subsection (b) of section 45a-667j of the general statutes is
801 repealed and the following is substituted in lieu thereof (*Effective*
802 *October 1, 2018*):

803 (b) If [an application] a petition for the appointment of a temporary
804 conservator of the person or a temporary conservator of the estate in
805 an emergency is brought in this state and this state was not the
806 respondent's home state on the date the application was filed, the court
807 shall dismiss the proceeding at the request of the court of the home
808 state, if any, whether dismissal is requested before or after the
809 emergency appointment.

810 Sec. 20. Section 45a-650 of the general statutes is repealed and the
811 following is substituted in lieu thereof (*Effective October 1, 2018*):

812 (a) At any hearing on [an application] a petition for involuntary
813 representation, before the court receives any evidence regarding the
814 condition of the respondent or of the respondent's affairs, the court
815 shall require clear and convincing evidence that the court has
816 jurisdiction, that the respondent has been given notice as required in
817 section 45a-649, and that the respondent has been advised of the right
818 to retain an attorney pursuant to section 45a-649a and is either
819 represented by an attorney or has waived the right to be represented
820 by an attorney. The respondent shall have the right to attend any

821 hearing held under this section.

822 (b) The rules of evidence applicable to civil matters in the Superior
823 Court shall apply to all hearings pursuant to this section. All testimony
824 at a hearing held pursuant to this section shall be given under oath or
825 affirmation.

826 (c) (1) After making the findings required under subsection (a) of
827 this section, the court shall receive evidence regarding the respondent's
828 condition, the capacity of the respondent to care for himself or herself
829 or to manage his or her affairs, and the ability of the respondent to
830 meet his or her needs without the appointment of a conservator.
831 Unless waived by the court pursuant to subdivision (2) of this
832 subsection, medical evidence shall be introduced from one or more
833 physicians licensed to practice medicine in this state who have
834 examined the respondent not more than forty-five days prior to the
835 hearing, except that for a person with intellectual disability, as defined
836 in section 1-1g, psychological evidence may be introduced in lieu of
837 such medical evidence from a psychologist licensed pursuant to
838 chapter 383 who has examined the respondent not more than forty-five
839 days prior to the hearing. The evidence shall contain specific
840 information regarding the respondent's condition and the effect of the
841 respondent's condition on the respondent's ability to care for himself
842 or herself or to manage his or her affairs. The court may also consider
843 such other evidence as may be available and relevant, including, but
844 not limited to, a summary of the physical and social functioning level
845 or ability of the respondent, and the availability of support services
846 from the family, neighbors, community or any other appropriate
847 source. Such evidence may include, if available, reports from the social
848 work service of a general hospital, municipal social worker, director of
849 social service, public health nurse, public health agency, psychologist,
850 coordinating assessment and monitoring agencies, or such other
851 persons as the court considers qualified to provide such evidence.

852 (2) The court may waive the requirement that medical evidence be
853 presented if it is shown that the evidence is impossible to obtain

854 because of the absence of the respondent or the respondent's refusal to
855 be examined by a physician or that the alleged incapacity is not
856 medical in nature. If such requirement is waived, the court shall make
857 a specific finding in any decree issued on the [application] petition
858 stating why medical evidence was not required.

859 (3) Any hospital, psychiatric, psychological or medical record or
860 report filed with the court pursuant to this subsection shall be
861 confidential.

862 (d) Upon the filing of an application for involuntary representation
863 pursuant to section 45a-648, as amended by this act, the court shall
864 issue an order for the disclosure of the medical information required
865 pursuant to this section and any psychological information submitted
866 with respect to a person with intellectual disability pursuant to
867 subsection (c) of this section to the respondent's attorney and, upon
868 request, to the respondent. The court may issue an order for the
869 disclosure of such information to any other person as the court
870 determines necessary.

871 (e) Notwithstanding the provisions of section 45a-7, the court may
872 hold the hearing on the [application] petition at a place other than its
873 usual courtroom if it would facilitate attendance by the respondent.

874 (f) (1) If the court finds by clear and convincing evidence that the
875 respondent is incapable of managing the respondent's affairs, that the
876 respondent's affairs cannot be managed adequately without the
877 appointment of a conservator and that the appointment of a
878 conservator is the least restrictive means of intervention available to
879 assist the respondent in managing the respondent's affairs, the court
880 may appoint a conservator of his or her estate after considering the
881 factors set forth in subsection (g) of this section.

882 (2) If the court finds by clear and convincing evidence that the
883 respondent is incapable of caring for himself or herself, that the
884 respondent cannot be cared for adequately without the appointment of
885 a conservator and that the appointment of a conservator is the least

886 restrictive means of intervention available to assist the respondent in
887 caring for himself or herself, the court may appoint a conservator of his
888 or her person after considering the factors set forth in subsection (g) of
889 this section.

890 (3) No conservator may be appointed if the respondent's personal
891 needs and property management are being met adequately by an
892 agency or individual appointed pursuant to the provisions of sections
893 1-350g and 1-352, or section 19a-575a, 19a-577, 19a-580e or 19a-580g.

894 (g) When determining whether a conservator should be appointed
895 the court shall consider the following factors: (1) The abilities of the
896 respondent; (2) the respondent's capacity to understand and articulate
897 an informed preference regarding the care of his or her person or the
898 management of his or her affairs; (3) any relevant and material
899 information obtained from the respondent; (4) evidence of the
900 respondent's past preferences and life style choices; (5) the
901 respondent's cultural background; (6) the desirability of maintaining
902 continuity in the respondent's life and environment; (7) whether the
903 respondent had previously made adequate alternative arrangements
904 for the care of his or her person or for the management of his or her
905 affairs, including, but not limited to, the execution of a durable power
906 of attorney, springing power of attorney, the appointment of a health
907 care representative or health care agent, the execution of a living will
908 or trust or the execution of any other similar document; (8) any
909 relevant and material evidence from the respondent's family and any
910 other person regarding the respondent's past practices and
911 preferences; and (9) any supportive services, technologies or other
912 means that are available to assist the respondent in meeting his or her
913 needs.

914 (h) The respondent or conserved person may appoint, designate or
915 nominate a conservator or successor conservator pursuant to section
916 19a-575a, 19a-580e, 19a-580g or 45a-645, or may, orally or in writing,
917 nominate a conservator or successor conservator who shall be
918 appointed unless the court finds that the appointee, designee or

919 nominee is unwilling or unable to serve or there is substantial evidence
920 to disqualify such person. If there is no such appointment, designation
921 or nomination or if the court does not appoint the person appointed,
922 designated or nominated by the respondent or conserved person, the
923 court may appoint any qualified person, authorized public official or
924 corporation in accordance with subsections (a) and (b) of section 45a-
925 644. In considering whom to appoint as conservator or successor
926 conservator, the court shall consider (1) the extent to which a proposed
927 conservator has knowledge of the respondent's or conserved person's
928 preferences regarding the care of his or her person or the management
929 of his or her affairs, (2) the ability of the proposed conservator to carry
930 out the duties, responsibilities and powers of a conservator, (3) the cost
931 of the proposed conservatorship to the estate of the respondent or
932 conserved person, (4) the proposed conservator's commitment to
933 promoting the respondent's or conserved person's welfare and
934 independence, and (5) any existing or potential conflicts of interest of
935 the proposed conservator.

936 (i) If the court appoints a conservator of the estate of the respondent,
937 the court shall require a probate bond. The court may, if it considers it
938 necessary for the protection of the respondent, require a bond of any
939 conservator of the person appointed under this section.

940 (j) Absent the court's order to the contrary and except as otherwise
941 provided in subsection (b) of section 19a-580e, a conservator appointed
942 pursuant to this section shall be bound by all health care decisions
943 properly made by the conserved person's health care representative.

944 (k) In assigning the duties of a conservator under this section the
945 court may, in accordance with section 1-350g, limit, suspend or
946 terminate the authority of an agent designated by the conserved
947 person to act under a power of attorney; and the court shall enter a
948 specific order as to whether the authority of the agent is limited,
949 suspended or terminated.

950 (l) Except as provided in subsection (k) of this section, a conserved
951 person and his agent under a power of attorney shall retain all rights

952 and authority not expressly assigned to the conservator.

953 (m) The court shall assign to a conservator appointed under this
 954 section only the duties and authority that are the least restrictive
 955 means of intervention necessary to meet the needs of the conserved
 956 person. The court shall find by clear and convincing evidence that such
 957 duties and authority restrict the decision-making authority of the
 958 conserved person only to the extent necessary to provide for the
 959 personal needs or property management of the conserved person. Such
 960 personal needs and property management shall be provided in a
 961 manner appropriate to the conserved person. The court shall make a
 962 finding of the clear and convincing evidence that supports the need for
 963 each duty and authority assigned to the conservator.

964 (n) Nothing in this chapter shall impair, limit or diminish a
 965 conserved person's right to retain an attorney to represent such person
 966 or to seek redress of grievances in any court or administrative agency,
 967 including proceedings in the nature of habeas corpus arising out of
 968 any limitations imposed on the conserved person by court action taken
 969 under this chapter, chapter 319i, chapter 319j or section 45a-242, as
 970 amended by this act. In any other proceeding in which the conservator
 971 has retained counsel for the conserved person, the conserved person
 972 may request the court to direct the conservator to substitute an
 973 attorney chosen by the conserved person.

974 Sec. 21. Section 45a-328 of the general statutes is repealed. (*Effective*
 975 *October 1, 2018*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	17b-751a
Sec. 2	<i>January 1, 2019</i>	45a-106a
Sec. 3	<i>January 1, 2019</i>	45a-107(m)
Sec. 4	<i>from passage</i>	45a-110(b)
Sec. 5	<i>October 1, 2018</i>	45a-175
Sec. 6	<i>October 1, 2018</i>	45a-180
Sec. 7	<i>October 1, 2018</i>	45a-242

Sec. 8	<i>January 1, 2019</i>	45a-599
Sec. 9	<i>October 1, 2018</i>	45a-611
Sec. 10	<i>October 1, 2018</i>	45a-616
Sec. 11	<i>October 1, 2018</i>	45a-616a
Sec. 12	<i>October 1, 2018</i>	45a-622
Sec. 13	<i>October 1, 2018</i>	45a-648(c)
Sec. 14	<i>October 1, 2018</i>	45a-654
Sec. 15	<i>October 1, 2018</i>	46b-150
Sec. 16	<i>October 1, 2018</i>	45a-98(a)
Sec. 17	<i>October 1, 2018</i>	45a-153(a)
Sec. 18	<i>October 1, 2018</i>	45a-132a
Sec. 19	<i>October 1, 2018</i>	45a-667j(b)
Sec. 20	<i>October 1, 2018</i>	45a-650
Sec. 21	<i>October 1, 2018</i>	Repealer section

Statement of Legislative Commissioners:

In Section 3(m)(2), the new language was placed at the end of the subdivision for clarity, in Section 17 revisions were made for gender neutrality, and a new Section 20 was added to the bill for conformity with changes made in Section 14 and the remaining section was renumbered accordingly.

JUD *Joint Favorable Subst. -LCO*

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:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Probate Court	PCAF - Potential Revenue Gain	Minimal	Minimal

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

Section 2 of the bill creates a new \$150 filing fee for landlords who seek authorization to remove the possessions of a deceased tenant from a rental unit and results in revenue gain to the Probate Court Administration Fund of less than \$1,500 annually.

In addition, the bill makes various procedural changes to the probate courts that do not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 247*****AN ACT CONCERNING PROBATE COURT OPERATIONS.*****SUMMARY**

This bill makes changes to various unrelated laws that govern probate court operations.

Specifically, the bill:

1. expands eligibility for the Kinship and Respite Grant Programs to guardians who are not related to the children in their care (§ 1);
2. establishes a \$150 filing fee for a landlord seeking to remove a deceased tenant's possessions from a rental property (§ 2);
3. eliminates the interest that accrues on probate fees for failure to timely file an estate tax return, if the probate fee is based on damages recovered from wrongful death (§ 3);
4. exempts a hearing to remove a fiduciary that is held on the court's own motion from a filing fee (§ 4);
5. allows the court to accept a fiduciary's resignation but requires him or her to file a financial report within 60 days of the resignation (§ 7);
6. authorizes the probate court to transfer cases on children's matters to a probate court that already has an open case related to the same child (§ 8);
7. allows a petition to appoint a guardian, co-guardian, or temporary guardian to be made in the probate court where the

- child lives or is domiciled or located (§§ 10 & 12);
8. amends the notice requirement in certain probate court proceedings (§§ 9, 11 & 15);
 9. shortens, from six months to 45 days, the window for parents to petition the court for involuntary conservatorship before a child turns age 18 (§ 13); and
 10. eliminates the requirement for a temporary conservator to file a written report when the conservatorship terminates (§ 14).

The bill also makes minor, technical, and conforming changes, including eliminating obsolete references to trustees in insolvency and persons appointed to sell land belonging to minors (§§ 5-6 & 16-21).

EFFECTIVE DATE: October 1, 2018, except (1) the provisions on the landlord filing fee and accrued interest on probate fees are effective January 1, 2019, and (2) the provision on the court fee to remove a fiduciary is effective upon passage.

§ 1 — KINSHIP AND RESPITE GRANT PROGRAMS

Under current law, a grandparent or other relative caregiver who is a court-appointed guardian of a child and who does not receive guardianship subsidies or foster care payments from the Department of Children and Families is eligible to apply for grants under the Kinship Fund and Grandparents and Relatives Respite Fund administered by the probate court administrator. The bill expands eligibility for these grants to guardians who are not related to the children in their care.

§ 2 — FILING FEE FOR LANDLORD'S REMOVAL OF DECEASED TENANT'S POSSESSIONS

By law, when the sole tenant in a rental unit dies, and the landlord has complied with provisions in a lease that include the tenant's death as grounds for termination, the landlord may take specific actions to remove the deceased tenant's belongings and reclaim possession of the unit. Landlords that choose to follow this process must generally (1)

send notice to the deceased tenant's next of kin and emergency contact, if one is designated and (2) file an affidavit with the probate court. The bill imposes a \$150 probate court filing fee.

§ 3 — INTEREST ON PROBATE FEES

By law, unless extended for reasonable cause by the Commissioner of Revenue Services, a decedent's estate tax return must be filed within six months after the decedent's death and any taxes due must be paid without assessment or notice by that date.

Under current law, any unpaid portion of the fee accrues interest at a rate of 0.5% per month starting 30 days after the due date or the extension date, whichever is later. Under the bill, no interest may accrue on any portion of the probate fee that is based on damages recovered for injuries resulting in death.

§§ 4 & 7 — FIDUCIARIES

Court Fee to Remove Fiduciary (§ 4)

The law generally allows the court to assess probate fees and expenses against one or more parties in a proportion the court finds equitable. The bill specifies that a hearing to remove a fiduciary for failure to file required documents that the court holds on its own motion is exempt from a filing fee.

Fiduciary's Resignation (§ 7)

By law, the probate court, after notice and hearing, may accept or reject the written resignation of any fiduciary.

Under current law, the court must not accept the resignation until the fiduciary has fully and finally accounted for the administration of the fiduciary's trust to the court's acceptance. The bill, instead, allows the court to accept the resignation without the final accounting but requires the fiduciary to submit a final account to the court within sixty days of the court's acceptance of the resignation.

§§ 8, 10 & 12 — VENUE OF CHILDREN'S MATTERS

Transfer of Case (§ 8)

The bill allows the probate court, on a party's petition or on its own motion, to transfer cases concerning the guardianship of a child or termination of parental rights to another probate court where a prior matter concerning the same child is pending or continuing. The transferring court may do so if it finds that the transfer is in the child's best interest.

Petition for Guardian, Co-guardian, or Temporary Guardian (§§ 10 & 12)

Under current law, if a child has no parent or guardian the probate court for the district where the child resides may, on its own motion, appoint a guardian or co-guardian for the child. The bill allows the probate court for the district in which the child is domiciled or located to also do the same.

Existing law, unchanged by the bill, allows a child's parent or guardian to apply to the probate court for the district in which the child resides for the appointment of a temporary guardian to serve for up to one year if the parent or guardian is unable to care for the child. The bill allows a parent or guardian to also make such a petition in the probate court for the district in which the child is domiciled or located.

§§ 9, 11 & 15 — NOTICE IN CERTAIN PROCEEDINGS

Reinstatement of a Parent (§ 9)

By law, a parent who has been removed as the guardian of a minor may apply to the probate court that removed him or her for reinstatement as the guardian of the minor, if in his or her opinion the factors which resulted in removal have been resolved satisfactorily.

Under current law, the court must hold a hearing on the reinstatement after notifying the guardian, parent, and, if over age 12, the minor. The bill requires the court to give notice by first class mail at least 10 days before the hearing date, instead of in person in accordance with the notice requirements under law for removal of a parent or guardian.

Permanent Guardianship (§ 11)

Current law, allows the probate court to establish a permanent guardianship after removing a parent as guardian if the court gives specific notice to each parent. The bill requires the court to give such notice in-person in accordance with the notice requirements under law for removal of a parent or guardian.

Emancipation of a Child (§ 15)

By law, any minor who has reached age 16 and lives in the state, or his or her parent or guardian, may petition the juvenile or probate court for the district in which either the minor, parent, or guardian resides for a determination that the minor be emancipated.

Under current law, if the parent is the petitioner, the court must send notice by first class mail to the parent. Under the bill, the court must also send notice by first class mail to an out-of-state parent.

§§ 13 & 14 — CONSERVATORSHIP
Involuntary Conservatorship (§ 13)

By law, if a parent or guardian anticipates that a child will require a conservator when he or she turns age 18, the parent or guardian may apply to the probate court for involuntary representation. The bill shortens the window for parents or guardians to file this petition from 180 days before the child turns age 18 to 45 days before the child turns age 18.

Temporary Conservator's Written Report (§ 14)

The bill eliminates a requirement that a temporary conservator (i.e., one who serves no more than 60 days from the date of initial appointment) file a written report with the probate court when the temporary conservatorship ends. However, under the bill, as under existing law, the temporary conservator must file, if applicable, a final report as directed by the court, of his or her actions as a temporary conservator.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 39 Nay 0 (03/28/2018)