

45a-132. (Formerly Sec. 45-54). Appointment of guardian ad litem for minors and incompetent, undetermined and unborn persons.

Connecticut Statutes

Title 45A. PROBATE COURTS AND PROCEDURE

Chapter 801B. PROBATE COURT PROCEDURES

Current through the 2013 Legislative Session

45a-132. (Formerly Sec. 45-54). Appointment of guardian ad litem for minors and incompetent, undetermined and unborn persons

- (a) (1) Except as provided in subdivisions (2) and (3) of this subsection, in any proceeding before a court of probate or the Superior Court including the Family Support Magistrate Division, whether acting upon an appeal from probate or otherwise, the judge or magistrate may appoint a guardian ad litem for any minor or incompetent, undetermined or unborn person, or may appoint one guardian ad litem for two or more of such minors or incompetent, undetermined or unborn persons, if it appears to the judge or magistrate that one or more persons as individuals, or as members of a designated class or otherwise, have or may have an interest in the proceedings, and that one or more of them are minors, incompetent persons or persons undetermined or unborn at the time of the proceeding.
- (2) No judge or magistrate may appoint a guardian ad litem for (A) a patient in a proceeding under section 17a-543 or 17a-543a, prior to a determination by a court of probate that the patient is incapable of giving informed consent under either of said sections, or (B) a respondent in a proceeding under sections 45a-644 to 45a-663, inclusive, prior to a determination by a court of probate that the respondent is incapable of caring for himself or herself or incapable of managing his or her affairs. No judge or magistrate may appoint a guardian ad litem for an applicant under section 45a-705a.
- (3) No judge or magistrate may appoint a guardian ad litem for a conserved person in a proceeding under section 17a-543 or 17a-543a or sections 45a-644 to 45a-663, inclusive, unless (A) the judge or magistrate makes a specific finding of a need to appoint a guardian ad litem for a specific purpose or to answer specific questions to assist the judge or magistrate in making a determination, or (B) the conserved person's attorney is unable to ascertain the preferences of the person, including preferences previously expressed by the person. Prior to appointing a guardian ad litem for a person under subparagraph (B) of this subdivision, the judge or magistrate may question the person to determine the person's preferences or

inability to express such preferences. If the judge or magistrate appoints a guardian ad litem under this subdivision, the judge's or magistrate's order shall (i) limit the appointment in scope and duration, and (ii) direct the guardian ad litem to take only the specific action required or to answer specific questions posed by the judge or magistrate, including questions designed to ascertain whether the attorney's or conservator's proposed course of action is the least restrictive means of intervention available to assist the person in managing his or her affairs or caring for himself or herself. Any appointment of a guardian ad litem under this subdivision shall terminate upon the guardian ad litem's report to the judge or magistrate in accordance with the order appointing the guardian ad litem, or earlier upon the order of the judge or magistrate.

- (4) For the purposes of this subsection, "conserved person", "incapable of caring for himself or herself", "incapable of managing his or her affairs", "least restrictive means of intervention" and "respondent" have the meanings set forth in section 45a-644 and "conservator" means a conservator of the person or conservator of the estate, as those terms are defined in section 45a-644.
- (b) The appointment of a guardian ad litem shall not be mandatory, but shall be within the discretion of the judge or magistrate.
- (c) Any order or decree passed or action taken in any such proceeding shall affect all the minors, incompetent persons or persons thereafter born or determined for whom the guardian ad litem has been appointed, in the same manner as if they had been of the age of majority and competent and present in court after legal notice at the time of the action or the issuance of the order or decree.
- (d) Any appointment of a guardian ad litem may be made with or without notice and, if it appears to the judge or magistrate that it is for the best interests of a minor having a parent or guardian to have as guardian ad litem some person other than the parent or guardian, the judge or magistrate may appoint a disinterested person to be the guardian ad litem.
- (e) Except as provided in subdivisions (2) and (3) of subsection (a) of this section, when the appointment of a guardian ad litem is made in connection with the settlement of a decedent's estate or the settlement of the account of a trustee or other fiduciary, the person so appointed shall be authorized to represent the minor or incompetent, undetermined or unborn person in all proceedings for the settlement of the estate or account and subsequent accounts of the trustee or other fiduciary, or until the person's appointment is terminated by death, resignation or removal.
- (f) The guardian ad litem may be removed by the judge or magistrate which appointed the guardian ad litem, without notice, whenever it appears to the judge or magistrate to be in the best interests of the ward or wards of the guardian.

- (g) Any guardian ad litem appointed under the provisions of this section may be allowed reasonable compensation by the judge or magistrate appointing the guardian ad litem and shall be paid as a part of the expenses of administration.

Cite as Conn. Gen. Stat. 45a-132

Source:

(1949 Rev., S. 6861; 1951, S. 2902d; 1957, P.A. 210; P.A. 75-384, S. 7, 9; P.A. 76-436, S. 640, 681; P.A. 80-476, S. 65; P.A. 87-316, S. 6.)

History. Amended by P.A. 12-0025, S. 1 of the 2012 Regular Session, eff. 10/1/2012.

P.A. 75-384 applied provisions to proceedings before the juvenile court; P.A. 76-436 omitted reference to proceedings before court of common pleas or juvenile court, those courts having been abolished, effective July 1, 1978; P.A. 80-476 rephrased provisions and divided section into Subsecs; P.A. 87-316 applied provisions to the family support magistrate division and substituted "judge or magistrate" for "court" where appearing; Sec. 45-54 transferred to Sec. 45a-132 in 1991.

Cross References:

See Sec. 45a-754 re maintenance of records concerning guardianship in locked files.