Substitute Senate Bill No. 247

Public Act No. 18-45

AN ACT CONCERNING PROBATE COURT OPERATIONS.

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

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 Section 17b-751a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

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

(b) The Probate Court Administrator may designate one or more Probate Courts to administer grants from the Kinship Fund and Grandparents and Relatives Respite Fund and may transfer grant funds to such courts at such times and in such amounts as the administrator determines necessary to ensure the efficient processing of grants from all eligible applicants. Each such court shall establish and maintain separate checking accounts to hold and manage grant funds for the Kinship Fund and the Grandparents and Relatives

Respite Fund. The accounts shall be in the name of the court at a financial institution, as defined in section 36a-330. The court shall deposit into the respective accounts all grant funds transferred from the administrator and disburse from the accounts all grants approved by the court. The court shall not commingle grant funds with funds from any other source. The provisions of section 4-33 shall not apply to the management of grant funds under this section.

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 Section 45a-106a of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2019*):

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

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

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

applicable regulations, (O) conduct an in-court review to modify an order, (P) grant emancipation, (Q) grant approval to marry, (R) transfer funds to a custodian under sections 45a-557 to 45a-560b, inclusive, (S) appoint a successor custodian under section 45a-559c, (T) resolve a dispute concerning custodianship under sections 45a-557 to 45a-560b, inclusive, and (U) grant authority to purchase real estate;

(2) Determine paternity;

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

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

(5) Approve an adult adoption;

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

under section 45a-78, (O) terminate the conservatorship, and (P) grant a writ of habeas corpus;

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

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

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

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

(11) With respect to psychiatric disability: (A) Commit an individual for treatment, (B) issue a warrant for examination of an individual at a general hospital, (C) determine whether there is probable cause to continue an involuntary confinement, (D) review an involuntary confinement for possible release, (E) authorize shock therapy, (F) authorize medication for treatment of psychiatric disability, (G) review the status of an individual under the age of sixteen as a voluntary

patient, and (H) recommit an individual under the age of sixteen for further treatment;

(12) With respect to drug or alcohol dependency: (A) Commit an individual for treatment, (B) recommit an individual for further treatment, and (C) terminate an involuntary confinement;

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

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

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

(16) Authorize a fiduciary to establish a trust;

(17) Appoint a trustee for a missing person;

(18) Change a person's name;

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

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

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

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

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

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

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

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

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

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

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

(f) The fee for mediation conducted by a member of the panel

established by the Probate Court Administrator is three hundred fifty dollars per day or part thereof.

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

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

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

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

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

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

Sec. 3. Subsection (m) of section 45a-107 of the 2018 supplement to

the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2019*):

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

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

(2) If a tax return or a copy of a tax return required under subparagraph (D) of subdivision (3) of subsection (b) of section 12-392 is not filed with a Probate Court by the due date for such return or copy under subdivision (1) of subsection (b) of section 12-392 or by the date an extension under subdivision (4) of subsection (b) of section 12-392 expires, the fees that would have been due under this section if such return or copy had been filed by such due date or expiration date shall bear interest at the rate of one-half of one per cent per month or portion thereof from the date that is thirty days after such due date or expiration date, whichever is later, until paid. If a return or copy is filed with a Probate Court on or before such due date or expiration date, whichever is later, the fees assessed shall bear interest as provided in subdivision (1) of this subsection. No interest shall accrue under this subdivision on any portion of the fees that are based on damages recovered for injuries resulting in death;

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

(4) The interest requirements in subdivisions (1) and (2) of this

subsection shall not apply if:

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

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

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

(b) In the case of any proceeding commenced on motion of the court, the court may assess the fees and expenses provided for under sections 45a-106a, as amended by this act, 45a-107, as amended by this act, and 45a-109 against one or more parties in such proportion as the court determines equitable. No fee shall be charged under this subsection for a hearing on the court's own motion to remove a fiduciary for failure to file required documents.

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

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

(b) A trustee or settlor of an inter vivos trust or the successor of the trustee, settlor or his or her legal representative may **[**make

application**]** petition to the Probate Court for the district where the trustee, or any one of them, has any place of business or to the Probate Court for the district where the trustee or any one of them or the settlor resides or, in the case of a deceased settlor, to the Probate Court having jurisdiction over the estate of the settlor or for the district in which the settlor resided immediately prior to death for submission to the jurisdiction of the court of an account for allowance of the trustee's actions under such trust.

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

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

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

(d) Any of the persons specified in section 1-350o may **[**make

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

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

(f) If the court finds such appointment to be necessary and in the best interests of the estate, the court upon its own motion may appoint an auditor to be selected from a list provided by the Probate Court Administrator, to examine accounts over which the court has jurisdiction under this section, except those accounts on matters in which the fiduciary or cofiduciary is a corporation having trust powers. The list of auditors compiled by the Probate Court Administrator shall be comprised of individuals who hold a license from the State Board of Accountancy as a certified public accountant or public accountant. The Probate Court Administrator may from time to time establish hourly rates and allowable expenses for the compensation of auditors under this section. Costs of the audit may be charged to the fiduciary, any party in interest and the estate, in such

proportion as the court shall direct if the court finds such charge to be equitable. Any such share may be paid from the fund established under section 45a-82, subject to the approval of the Probate Court Administrator, if it is determined that the person obligated to pay such share is unable to pay or to charge such amount to the estate would cause undue hardship.

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

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

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

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

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

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

(b) The **[**court of probate**]** Probate Court, after notice and hearing, may accept or reject the written resignation of any fiduciary, but such resignation shall not **[**be accepted until**]** relieve such fiduciary **[**has**]** from the obligation to fully and finally **[**accounted**]** account to the court for the administration of such fiduciary's trust. **[**to the acceptance of such court.**]** The fiduciary shall submit a final account to the court within sixty days of the acceptance of his or her resignation.

(c) Trustees appointed by a testator to execute a trust created by will and testamentary guardians may resign or be removed, and the

vacancies filled by the court having jurisdiction in the manner provided under this section, unless otherwise provided by the will.

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

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

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

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

(b) When any minor for whom a guardian has been appointed becomes a resident of any town in the state in a probate district other than the one in which a guardian was appointed, such court in that district may, upon motion of any person deemed by the court to have sufficient interest in the welfare of the respondent, including, but not limited to, the guardian or a relative of the minor under guardianship, transfer the file to the probate district in which the minor under guardianship resides at the time of the **[**application**]** motion, provided

the transfer is in the best interest of the minor.

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

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

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

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

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

parent.

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

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

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

(b) If any minor has a parent or guardian, who is the sole guardian of the person of the child, the **[**court of probate**]** Probate Court for the district in which the minor resides, is domiciled or is located at the time of the filing of the petition may, on the **[**application**]** petition of the parent or guardian of such child or of the Commissioner of Children and Families with the consent of such parent or guardian and with regard to a child within the care of the commissioner, appoint one or more persons to serve as coguardians of the child. When appointing a guardian or guardians under this subsection, the court shall take into consideration the standards provided in section 45a-617. The court may order that the appointment of a guardian or guardians under this subsection take effect immediately or, upon request of the parent or guardian, upon the occurrence of a specified contingency, including,

but not limited to, the mental incapacity, physical debilitation or death of that parent or guardian. Upon the occurrence of such contingency and notice thereof by written affidavit to the **[**probate**]** court by the appointed guardian or guardians, such appointment shall then take effect and continue until the further order of the court, provided the court may hold a hearing to verify the occurrence of such contingency. The court shall take of such guardian or coguardians a written acceptance of guardianship, and if the court deems it necessary for the protection of the minor, a probate bond.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. Subsection (c) of section 45a-648 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective*

October 1, 2018):

(c) An application for involuntary representation may be filed by the parent or guardian of a minor child up to **[**one hundred eighty**]** forty-five days prior to the date such child attains eighteen years of age if the parent or guardian anticipates that such minor child will require a conservator upon attaining eighteen years of age. The hearing on such application shall be held not more than thirty days prior to the date such child attains eighteen years of age. The court may grant such application, provided such order shall take effect no earlier than the date the child attains eighteen years of age.

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

(a) Upon written **[**application**]** petition for appointment of a temporary conservator brought by any person considered by the **[**court**]** Probate Court to have sufficient interest in the welfare of the respondent, including, but not limited to, the spouse or any relative of the respondent, the first selectman, chief executive officer or head of the department of welfare of the town of residence or domicile of any respondent, the Commissioner of Social Services, the board of directors of any charitable organization, as defined in section 21a-190a, or the chief administrative officer of any nonprofit hospital or such officer's designee, the **[**Court of Probate**]** court may appoint a temporary conservator if the court finds by clear and convincing evidence that: (1) The respondent is incapable of managing his or her affairs or incapable of caring for himself or herself, (2) immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent will result if a temporary conservator is not appointed, and (3) appointment of a temporary conservator is the least restrictive means of intervention available to prevent such harm. The court shall require the temporary conservator to give a probate bond. The court shall limit the duties and authority of the temporary conservator to the

circumstances that gave rise to the application and shall make specific findings, by clear and convincing evidence, of the immediate and irreparable harm that will be prevented by the appointment of a temporary conservator and that support the appointment of a temporary conservator. In making such specific findings, the court shall consider the present and previously expressed wishes of the respondent, the abilities of the respondent, any prior appointment of an attorney-in-fact, health care representative, trustee or other fiduciary acting on behalf of the respondent, any support service otherwise available to the respondent and any other relevant evidence. In appointing a temporary conservator pursuant to this section, the court shall set forth each duty or authority of the temporary conservator. The temporary conservator shall have charge of the property or of the person of the conserved person, or both, for such period or for such specific occasion as the court finds to be necessary, provided a temporary appointment shall not be valid for more than thirty days, unless at any time while the appointment of a temporary conservator is in effect, **[**an application**]** a petition is filed for appointment of a conservator of the person or estate under section 45a-650, as amended by this act. The court may (A) extend the appointment of the temporary conservator until the disposition of such **[**application**]** petition under section 45a-650, as amended by this act, or for an additional thirty days, whichever occurs first, or (B) terminate the appointment of a temporary conservator upon a showing that the circumstances that gave rise to the **[**application**]** petition for appointment of a temporary conservator no longer exist. No appointment of a temporary conservator under this section may be in effect for more than sixty days from the date of the initial appointment.

(b) Unless the court waives the medical evidence requirement pursuant to subsection (e) of this section, an appointment of a temporary conservator shall not be made unless a report is filed with the **[**application**]** petition for appointment of a temporary conservator,

signed by a physician licensed to practice medicine or surgery in this state, stating: (1) That the physician has examined the respondent and the date of such examination, which shall not be more than three days prior to the date of presentation to the judge; (2) that it is the opinion of the physician that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself; and (3) the reasons for such opinion. Any physician's report filed with the court pursuant to this subsection shall be confidential. The court shall provide for the disclosure of the medical information required pursuant to this subsection to the respondent on the respondent's request, to the respondent's attorney and to any other party considered appropriate by the court.

(c) Upon receipt of **[**an application**]** a petition for the appointment of a temporary conservator, the court shall issue notice to the respondent, appoint counsel for the respondent and conduct a hearing on the **[**application**]** petition in the manner set forth in sections 45a-649, 45a-649a and 45a-650, as amended by this act, except that (1) notice to the respondent shall be given not less than five days before the hearing, which shall be conducted not later than seven days after the **[**application**]** petition is filed, excluding Saturdays, Sundays and holidays, or (2) where **[**an application**]** a petition has been made ex parte for the appointment of a temporary conservator, notice shall be given to the respondent not more than forty-eight hours after the ex parte appointment of a temporary conservator, with the hearing on such ex parte appointment to be conducted not later than three days after the ex parte appointment, excluding Saturdays, Sundays and holidays. Service on the respondent of the notice of the **[**application**]** petition for the appointment of a temporary conservator shall be in hand and shall be made by a state marshal, constable or an indifferent person. Notice shall include (A) a copy of the **[**application**]** petition for appointment of a temporary conservator and any physician's report filed with the **[**application**]** petition pursuant to subsection (b) of this

section, (B) a copy of an ex parte order, if any, appointing a temporary conservator, and (C) the date, time and place of the hearing on the **[**application**]** petition for the appointment of a temporary conservator. The court may not appoint a temporary conservator until the court has made the findings required in this section and held a hearing on the **[**application**]** petition, except as provided in subsection (d) of this section. If notice is provided to the next of kin with respect to **[**an application**]** a petition filed under this section, the physician's report shall not be disclosed to the next of kin except by order of the court.

(d) (1) If the court determines that the delay resulting from giving notice and appointing an attorney to represent the respondent as required in subsection (c) of this section would cause immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent, the court may, ex parte and without prior notice to the respondent, appoint a temporary conservator upon receiving evidence and making the findings required in subsection (a) of this section, provided the court makes a specific finding in any decree issued on the **[**application**]** petition stating the immediate or irreparable harm that formed the basis for the court's determination and why such hearing and appointment was not required before making an ex parte appointment. If an ex parte order of appointment of a temporary conservator is made, a hearing on the **[**application**]** petition for appointment of a temporary conservator shall be commenced not later than three days after the ex parte order was issued, excluding Saturdays, Sundays and holidays. An ex parte order shall expire not later than three days after the order was issued unless a hearing on the order that commenced prior to the expiration of the three-day period has been continued for good cause.

(2) After a hearing held under this subsection, the court may appoint a temporary conservator or may confirm or revoke the ex parte appointment of the temporary conservator or may modify the

duties and authority assigned under such appointment.

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

(f) Upon the termination of the temporary conservatorship, the temporary conservator shall file**,** **[**a written report with the court and,**]** if applicable, a final accounting as directed by the court, of his or her actions as temporary conservator.

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

Any minor who has reached such minor's sixteenth birthday and is residing in this state, or any parent or guardian of such minor, may petition the superior court for juvenile matters or the **[**probate court**]** Probate Court for the district in which either the minor or the parents or guardian of such minor resides for a determination that the minor named in the petition be emancipated. The petition shall be verified and shall state plainly: (1) The facts which bring the minor within the

jurisdiction of the court, (2) the name, date of birth, sex and residence of the minor, (3) the name and residence of the minor's parent, parents or guardian, and (4) the name of the petitioner and the petitioner's relationship to the minor. Upon the filing of the petition in the Superior Court, the court shall cause a summons to be issued to the minor and the minor's parent, parents or guardian, in the manner provided in section 46b-128. Service on an emancipation petition filed in the superior court for juvenile matters pursuant to this section shall not be required on the petitioning party. Upon the filing of the petition in the Probate Court, the court shall assign a time, not later than thirty days thereafter, and a place for hearing such petition. The court shall cause a citation and notice to be served on the minor and the minor's parent, if the parent is not the petitioner, by personal service or service at the minor's place of abode and the parent's place of abode, at least seven days prior to the hearing date, by a state marshal, constable or indifferent person. The court shall direct notice by first class mail to the parent, if the parent is the petitioner or if the parent resides out of or is absent from the state. The court shall order such notice as it directs to: (A) The Commissioner of Children and Families, (B) the Attorney General, and (C) other persons having an interest in the minor. The Attorney General may file an appearance and shall be and remain a party to the action if the child is receiving or has received aid or care from the state, or if the child is receiving child support enforcement services, as defined in subdivision (2) of subsection (b) of section 46b-231.

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

(a) Probate Courts in their respective districts shall have the power to (1) grant administration of intestate estates of persons who have died domiciled in their districts and of intestate estates of persons not

domiciled in this state which may be granted as provided by section 45a-303; (2) admit wills to probate of persons who have died domiciled in their districts or of nondomiciliaries whose wills may be proved in their districts as provided in section 45a-287; (3) except as provided in section 45a-98a or as limited by an applicable statute of limitations, determine title or rights of possession and use in and to any real, tangible or intangible property that constitutes, or may constitute, all or part of any trust, any decedent's estate, or any estate under control of a guardian or conservator, which trust or estate is otherwise subject to the jurisdiction of the Probate Court, including the rights and obligations of any beneficiary of the trust or estate and including the rights and obligations of any joint tenant with respect to survivorship property; (4) except as provided in section 45a-98a, construe the meaning and effect of (A) any will or trust agreement if a construction is required in connection with the administration or distribution of a trust or estate otherwise subject to the jurisdiction of the Probate Court; (B) an inter vivos trust upon a petition that meets the requirements for a petition for an accounting pursuant to subsection (b) or (c) of section 45a-175, as amended by this act, provided such an accounting need not be required; or (C) a power of attorney pursuant to section 1-350o; (5) except as provided in section 45a-98a, apply the doctrine of cy pres or approximation; (6) to the extent provided for in section 45a-175, as amended by this act, call executors, administrators, trustees, guardians, conservators, **[**persons appointed to sell the land of minors,**]** and agents acting under powers of attorney created in accordance with sections 1-350 to 1-353b, inclusive, to account concerning the estates entrusted to their charge or for other relief as provided in sections 1-350 to 1-353b, inclusive; and (7) make any lawful orders or decrees to carry into effect the power and jurisdiction conferred upon them by the laws of this state.

Sec. 17. Subsection (a) of section 45a-153 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective*

October 1, 2018):

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

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

In any matter before a **[**court of probate**]** Probate Court in which the capacity of a party to the action is at issue, the court may order an examination of the allegedly incapable party by a physician or psychiatrist or, where appropriate, a psychologist, licensed to practice in the state, except that a conserved person, as defined in section 45a-644, the respondent to an application for involuntary representation made under section 45a-648, as amended by this act, or a respondent to **[**an application**]** a petition for appointment of a temporary conservator made under section 45a-654, as amended by this act, may refuse to undergo an examination ordered by the court under this section. The expense of such examination may be charged against the petitioner, the respondent, the party who requested such examination or the estate of the allegedly incapable party in such proportion as the judge of the court determines. If any such party is unable to pay such

expense and files an affidavit with the court demonstrating the inability to pay, the reasonable compensation shall be established by, and paid from funds appropriated to, the Judicial Department, except that if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

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

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

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

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

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

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

(2) The court may waive the requirement that medical evidence be

presented if it is shown that the evidence is impossible to obtain because of the absence of the respondent or the respondent's refusal to be examined by a physician or that the alleged incapacity is not medical in nature. If such requirement is waived, the court shall make a specific finding in any decree issued on the **[**application**]** petition stating why medical evidence was not required.

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

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

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

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

(2) If the court finds by clear and convincing evidence that the respondent is incapable of caring for himself or herself, that the respondent cannot be cared for adequately without the appointment of a conservator and that the appointment of a conservator is the least restrictive means of intervention available to assist the respondent in caring for himself or herself, the court may appoint a conservator of his or her person after considering the factors set forth in subsection (g) of this section.

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

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

needs.

(h) The respondent or conserved person may appoint, designate or nominate a conservator or successor conservator pursuant to section 19a-575a, 19a-580e, 19a-580g or 45a-645, or may, orally or in writing, nominate a conservator or successor conservator who shall be appointed unless the court finds that the appointee, designee or nominee is unwilling or unable to serve or there is substantial evidence to disqualify such person. If there is no such appointment, designation or nomination or if the court does not appoint the person appointed, designated or nominated by the respondent or conserved person, the court may appoint any qualified person, authorized public official or corporation in accordance with subsections (a) and (b) of section 45a-644. In considering whom to appoint as conservator or successor conservator, the court shall consider (1) the extent to which a proposed conservator has knowledge of the respondent's or conserved person's preferences regarding the care of his or her person or the management of his or her affairs, (2) the ability of the proposed conservator to carry out the duties, responsibilities and powers of a conservator, (3) the cost of the proposed conservatorship to the estate of the respondent or conserved person, (4) the proposed conservator's commitment to promoting the respondent's or conserved person's welfare and independence, and (5) any existing or potential conflicts of interest of the proposed conservator.

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

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

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

(l) Except as provided in subsection (k) of this section, a conserved person and his agent under a power of attorney shall retain all rights and authority not expressly assigned to the conservator.

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

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

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

Approved May 31, 2018